

HEPBURN SHIRE COUNCIL

ORDINARY MEETING MINUTES

7pm Tuesday
20 March 2007
CLUNES TOWN HALL

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HEPBURN SHIRE COUNCIL – COUNCIL PLAN 2006-2011

VISION STATEMENT:

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

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

Objective One – Strengthening Communities

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

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

Objective Two – Service Delivery

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

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

Objective Three – Asset and Resource Management

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

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

Objective Four – Economic Development

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

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

Objective Five – Heritage and Environment

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

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

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

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

**MINUTES OF THE ORDINARY MEETING
OF THE HEPBURN SHIRE COUNCIL HELD AT
CLUNES TOWN HALL ON TUESDAY 20 MARCH 2007,
COMMENCING AT 7 PM**

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CR DAVID SMITH, JP
Mayor 2006-2007

23 MARCH 2007.

ACKNOWLEDGEMENT OF TRADITIONAL OWNERS

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

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

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

PRESENT:

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

IN ATTENDANCE:

Chief Executive Officer, Victor Szwed; Director Infrastructure & Development, Rod Conway; Director Corporate Services, Chris Cowley; Manager Planning, Sylvester Tan; Manager Tourism, Economic Development & Recreation, Geoff Ryan.

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

OPENING PRAYER

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

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

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

This we pray. Amen

1. **APOLOGIES:**
Nil.

2. **DECLARATION OF PECUNIARY INTEREST:**

Cr Janine Booth declared an interest in Item 6.5 Hepburn Newstead Road Culvert Rehabilitation and stated that she would not vote on this item.

3. **CONFIRMATION OF MINUTES:**

3.1 **ORDINARY MEETING OF 20 February 2007.**

Recommendation:

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

Moved the Officer's Recommendation

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

4. PETITIONS AND PUBLIC QUESTION TIME

This part of the Council Meeting allows 30 minutes for:

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

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

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

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

PETITIONS:

Cr Tim Hayes tabled a petition from Clunes Tourist & Development Association signed by retailers of Clunes who do not support any regulation and charges for A-frames, tables and chairs or any other street furniture in the Cameron Ward.

Moved: *That the petition be tabled and a report be provided at the April Meeting of Council.*

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

TABLED ITEM:

Cr Bill McClenaghan tabled an item of correspondence between Hepburn Shire Council & Mr Bryan McCormick, Saines & Partners, Barristers and Solicitors titled : Advice on 3 Tenth Street, Hepburn Springs and requested that it form part of the Minutes. This item has been scanned and is included as **Attachment No. 4.**

PUBLIC QUESTION TIME:

1. **Cosy Corner Café**
 - application query (Item 9.8) hours of operation

2. **Name Unknown** - Query on Item 9.5 to amend planning application.

5. REPORTS FROM COUNCILLORS

Cr Tim Hayes Cameron Ward

Councillors would be aware that in February I visited New Zealand for a three weeks period and during that time I had the opportunity of renewing acquaintances with members of the delegation that visited Hepburn Shire last year from the District Council of Matamata Piako. It was a most enjoyable visit and members of the delegation remember with fondness the hospitality extended to them by the Hepburn Shire.

In visiting the South Island I heard about a town called Arrowtown, about a half-hour drive from the popular tourist destination of Queenstown. Arrowtown is a former gold mining town with an infrastructure about the same size of Clunes and a population of about 350 people. I would be interested to learn more about how this town has developed because it is obviously a very popular tourist destination with numerous eateries, a great number of specialty shops and a first class museum.

Far from being the backwater that it once was, New Zealand is now a progressive country and I feel we could learn much from the way in which they have approached development.

As councillors would be aware, the Creative Clunes group in Clunes recently secured a \$15,000 government grant to undertake a study of the potential of Clunes to be developed as a centre for the promotion of all forms of the Arts and to encourage the development of Clunes as Australia's First Book Town.

To test the potential of Clunes as a Book Town, the Creative Clunes Group is conducting an event '*Clunes – A Book Town for A Day*' on Sunday 20 May. To date we have had 30 reputable booksellers agreeing to visit Clunes on that day. The number of rare and second hand books to be available on that day is expected to be between 15,000 and 20,000, as well as antique prints, memorabilia and book binding and book restoration demonstrations. Dr the Hon Barry Jones will be a guest speaker on the day and at the very least we expect 1000 visitors to the town but every indication is that it will be a much larger event.

On the 5 March, the Creative Clunes group hosted an information evening attended by about 30 representatives of various organisation and it was explained to this meeting how Cultural Tourism can lead to economic development and the occupation of our many disused public and commercial buildings. Since issuing invitations to booksellers from across Victoria, two have expressed an interest in re-locating to Clunes and one Sydney based owner of an empty shop, that has remained closed for probably 40 or more years, is visiting Clunes to discuss its future with the Creative Clunes group.

The proponents of the proposal to establish a wind farm at Smeaton held an Information Night at the Smeaton Bowling Club on Wednesday 7 March. The meeting was well attended, albeit poorly organised and controlled, however I do feel that most residents left the meeting more informed than when they arrived. It was disappointing that some opponents to the proposal focussed on personalities rather than the issue at hand and some were clearly aggrieved for no other reason than their property not being selected as a preferred site.

On Wednesday 14 March I presided at the election of a new Committee of Management for the Campbelltown Public Hall Reserve. Campbelltown could best be described as a hamlet, rather than a village or town, and recognition needs to be given to those people who continue to serve on these committees in order to ensure the retention of a much needed community facility. Mr. Albert Culvenor retired from the Committee after almost 40 years service. He felt he was 'getting on' a bit.

5. REPORTS FROM COUNCILLORS

A sense of community spirit was also evident at the Annual General Meeting of the Clunes & District Agricultural Society on Thursday 15 March and at which Mr. Peter Clarke was elected for a second term as President. During the evening, the Mayor not only gave an illuminating and humorous address about the International Plowing Competition movement but he also officially opened the Society's new Wool Pavilion.

Another great organisation in Clunes is the Clunes Community Centre Committee of Management and each year it hosts the Clunes Sportsperson of the Year Award. The award was announced at a function held at the Clunes Golf Club on Friday 16 March and this year's winner was Robert Hind, Jr. who plays for the Clunes Football Club.

Finally, can I mention that the Clunes Film and Amateur Theatre Society mounted its third production with four performances of Agatha Christie's *A Murder is Announced*. It should be noted that community theatre is not just for 'the oldies' but is a form of recreation enjoyed by younger participants. In this case the majority of the cast of 11 were in fact under the age of 21, indicating that the Society is providing a valuable outlet for our young people. All in all, over 200 people attended the performances held during the first two weekend of March.

Cr Heather Mutimer Coliban Ward

Councillor Mutimer highlighted various engagements she had attended on behalf of Council.

Cr Janine Booth Creswick Ward Councillor.

This month I have represented Council at the following events and meetings:
Hepburn Healthy Communities, Creswick Skate Park Creswick Arts Trail,
Creswick Development Committee and Doug Lindsay Recreation Reserve Committee
both of which I am currently Chairperson.

I have also attended a number of functions and briefings including
-The joint Tourism meeting of Macedon ranges officers and Councillors and the Federal Minister for Tourism Fran Bailey and others at the Grande in Hepburn Springs.
-The Jazz at Park Lake where several hundred enjoyed the sounds of various jazz bands including the Creswick Brass Band who are currently practicing very hard for their first ever appearance in the State Finals.

I attended The Land Stock and you Drought information evening held at Newlyn which was an initiative of our Drought Committee which provided our Community with access to information and services available to them to lessen the impact of drought.

.A highlight for this month was the successful and well attended Women's Honour Roll and International Women's Day function. The evening was again well supported and enjoyed by many from across the Shire thanks to the hard work of the IWD Committee with the wonderful knowledge and support of Barb Bennett and Mary Ashdown and our capable Economic Development officer Rowena Worth acting as MC.

I have also had the pleasure of being invited to both the North Creswick Primary School to present School Council Badges, and the Bullarto Primary School and St Augustines Primary School to talk to students and answer their questions on my role as Councillor.

5. REPORTS FROM COUNCILLORS

The Students asked a number of probing questions about our democratic system and levels of government including “what would you do if no-one votes for you”-.A possibility we may all have to consider at the next elections.

Cr. Bill McClenaghan Holcombe Ward.

In the last month I have attended a number of committee meetings as a Councillor representative; Tourism Advisory Committee, Audit Committee, Bathhouse Business & Community Liaison Group, Hepburn Pool Advisory Committee, Wombat Hill Botanic Gardens Advisory Committee. Meetings have started to clash with other meetings & duties & I missed meetings of the Heritage Advisory Committee & the Glenlyon Progress Association.

I also attended the Drought Forum at Newlyn to join in with the valuable information exchange and the support being offered to the rural communities in the Shire, all feeling the wide reaching effects of the prolonged drought. It was an excellent event and showed a great amount of community spirit.

I also attended the International Woman’s Day evening event and again witnessed another wonderful community function of support and information exchange.

Destination Daylesford is progressing well with the executive committee finalising the composition of the steering committee. The first steering committee meeting has now happened and, whilst there are plans to involve more members of the community, already there is a good gathering of knowledge, experience and expertise available. High yielding tourist destinations like Daylesford & Hepburn Springs should have a Destination Plan but currently do not. Other high profile destinations like Port Fairy & Echuca/Moama do and we must act decisively now if we are to avoid being left out or left behind. I commend this project to Council.

I also attended a quarterly Board Meeting of the Highlands Regional Waste Management Group as a Director of this State statutory authority. Although appointed because I am a Councillor, my first duty is to the Group itself which is an interesting dual role. The group considers matters of waste management & recycling and has recently awarded a tender for \$427,000 to build safety gates to be installed at member Councils’ transfer stations to overcome the safety issues associated with patrons falling from heights into the waste bins. Unfortunately at an early date there have been several malfunctions with the safety gates at various transfer stations (especially Daylesford) and repair works are being undertaken.

I can also report an interesting innovation of Ballarat City Council, the operator of the huge Smythesdale regional landfill, which is like a “super tip”. All landfills generate methane as a product of rotting buried waste and this is burned off in a “flarer” at Smythesdale. Now the flarer is to be fitted with a turbine for generating half a megawatt of electricity to be fed into the local grid to power about 500 homes. This is an interesting innovation in renewable energy.

Lastly, I must report some of the concerns that have been expressed to me from within the community. The Rural Land Use Strategy and the application of the new Rural Zones, particularly the farming zone, are causing numerous people considerable disquiet. We as Council will need to be very careful in how we implement these new rural zones as there appear to be lots of problems.

Other areas of concern have related to planning permit applications and the delay in getting them. We have some sensitive issues up for consideration this month. By far the

5. REPORTS FROM COUNCILLORS

greatest concerns expressed in the last month relate to the appearance & proposed appearance of wind farms in Hepburn Shire. There seems to be a very down side to wind farms in that they are creating terrible divisions in small rural communities and that is not the sort of thing that should be happening right now when times are tough on the land and communities need to be sticking together.

Cr David Smith Birch Ward

My fellow Councilors have already covered most of what has been going on over the past month.

The Drought Forum held by Hepburn Shire at the Newlyn Community Complex on the 21st February was a real highlight and was supported by the rural families of our Shire. Approx 350 people attending the function, together with the many support agencies – Centlink, Department of Agriculture and others who set up displays so the people attending could go around and speak to these people with any concerns they had. This was also followed up with a Drought Recovery Meeting which I attended, this was held three weeks after the event.

I also attended with Rhonda the Opening Day at the Trentham Golf Club.

Bullarto Tractor Pull again a most successful event , a larger than usual amount of people attending. Congratulations to the committee.

I attended International Women's Day function only for a short time before going to Smeaton to attend the public meeting which was held by the company who are proposing the build the Smeaton Wind Farm, this meeting was to inform the local residents and answer any questions on the proposal

The Daylesford Highland Gathering held its Annual General meeting which I attended.

Last week I was asked to attend the Clunes Agricultural Society for their Annual Meeting and also to officially open the New Wool Pavillion at the Clunes Showgrounds. This is a credit to the committee and the band of workers who have spent many voluntary hours working on this project. Congratulations go to all and a great addition to the Clunes Showgrounds.

I also attended Farm Expo in Ballarat yesterday and many of the rural people across the Shire were also in attendance.

There was the usual meetings Forward Planning, Agenda and meetings at Duke Street, as well as following up the usual telephone calls I have had from concerned ratepayers, and also a radio interview on 774 ABC this Thursday morning with local Mayors being interviewed and discussing current topics with Dominic Brain

Recommendation:

That Council:

5.1 *Receive and note the reports of Councillors.*

Moved the Officer Recommendation

Moved: Cr Heather Mutimer

5. REPORTS FROM COUNCILLORS

Seconded: *Cr Tim Hayes*
Carried.

6. GOVERNANCE MATTERS

6.1 REVIEW OF COMMUNICATION & CONSULTATION POLICY

(A/O – Chief Executive Officer)

File Ref: 12/06/01

Synopsis

In July 2005 Council adopted its reviewed Communications Policy and further updated that at its November 2005 Meeting. The 2006-2011 Council Plan – Action Plan includes Strategy 1.1.1 to review the Communication & Consultation policy to enhance how we consult, engage with the community and advocate on their behalf and within our organisation. At the December Forward Planning Meeting a report was presented following circulation of the current Policy and as a result a further report was presented to the 27 February Forward Planning Meeting where it was agreed:

That a report be presented to the March Council Meeting to:

- (1) *Adopt the VLGA Community Consultation resource Guide as an interim guide.*
- (ii) *Identify aspects of Council's Policy and the VLGA Guide which may warrant changing or adding to and report on/consider these at the March Forward Planning Meeting.*
- (iii) *Await the VLGA review of the Guide and make comments to them on any aspects identified.*
- (iv) *Consider the revised VLGA Guide and coordinate with that a revision of Council's Policy and Implementation Guide so that we end up with a well coordinated package which meets our needs. A community engagement process is to be developed to assist with this.*

Report

Councillors are referred to the December report to the Forward Planning meeting and that should be read in conjunction with this report. A copy of that report and the Policy were provided with the February Forward Planning report.

Councillor Mutimer has made reference to the VLGA and work they have done relating to community consultation. Attached is the "Community Consultation Resource Guide" (**attachment 2**) prepared by the VLGA with the State Government. This provides a very useful guide to community consultation and engagement. It highlights principles of consultation, processes, identifying why we want to consult, what the issues are, planning for consultation and so on. It includes valuable checklists.

Enquiries to the VLGA have indicated that this guide was prepared following consultative processes and seminars held in mid-2001. The VLGA advise that they have commenced a process of review of the Guide as there are some aspects that need to be updated. They advise that an updated guide should be available in a few months.

It is recommended that Council adopt this guide as an interim reference guide to assist our processes and that we identify complementary aspects which we need to incorporate at a local level. Council's Policy includes an extensive implementation strategy covering considerable detail of what we do. Feedback is sought from Councillors on these in parallel with the VLGA guide to identify what is missing or needs changing in addition to these two documents.

It is proposed that we:

1. Adopt the VLGA Guide as an interim step.
2. Review our Policy and Implementation Strategy to identify additional matters or changes needed.

6. GOVERNANCE MATTERS

3. Comment on any VLGA process of reviewing their Guide.
4. Assess their revised Guide when it is available and consider adopting that.
5. Also re-design our Policy and Implementation strategy to cover additional matters particularly local matters such as how we actually do things eg. Utilising local newspapers; community forums; brochures; media releases, etc.

Relevant Policies / Council Plan Objectives

Council Plan – Action plan Strategy 1.1.1 and relevant parts of the Council Plan.

Community / Engagement / Communication / Consultation:

This is specifically about that.

Financial & Resource Implications Initial & Ongoing

Not directly, however reviewing and changing how we consult and engage with the community will have some flow-on impacts.

Recommendation:

That Council:

- 6.1.1 *Adopt the VLGA Community Consultation resource Guide as an interim guide.*
- 6.1.2 *Identify aspects of Council's Policy and the VLGA Guide which may warrant changing or adding to and report on/consider these at the March Forward Planning Meeting.*
- 6.1.3 *Await the VLGA review of the Guide and make comments to them on any aspects identified.*
- 6.1.4 *Consider the revised VLGA Guide and coordinate with that a revision of Council's Policy and Implementation Guide so that we end up with a well coordinated package which meets our needs. A community engagement process is to be developed to assist with this.*

Moved the Officer's Recommendation

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

6. GOVERNANCE MATTERS

6.2 MONTHLY FINANCIAL REPORT 1/7/06 – 28/02/07

(A/O – Director Corporate Services)

File Ref: 30/08/14

Synopsis

A summary report on the Council's financial performance for the financial year to the 28 February 2007 is provided for information.

Report

The report shows the annual budget and year to date actuals with a percentage calculation based on the actual expenditure or income to the end of the reporting period. This should be viewed against the percentage of year completed which is shown in the report heading of 67%.

Hepburn Shire Council
Monthly Financial Report February 2007
Percentage of year complete 67%

	Annual Budget 000's	Actual Feb-07 000's	Percentage of Budget
1. Administration			
Expenditure	4,706	3036	65%
Income	(10,687)	(10018)	94%
1. Administration	(5,981)	(6982)	
2. Human And Community Services			
Expenditure	2,216	1379	62%
Income	(1,573)	(1065)	68%
2. Human And Community Services	643	313	
3. Regional Development/promotion			
Expenditure	1,750	1216	69%
Income	(466)	(425)	91%
3. Regional Development/promotion	1,284	791	
4. Public Safety			
Expenditure	586	358	61%
Income	(244)	(173)	71%
4. Public Safety	342	185	
5. Recreation			
Expenditure	1,124	853	76%
Income	(127)	(119)	94%
5. Recreation	997	734	
6. Infrastructure Development			
Expenditure	4,442	2455	55%
Income	(3,112)	(1859)	60%
6. Infrastructure Development	1,330	596	

6. GOVERNANCE MATTERS

**Hepburn Shire Council
Monthly Financial Report February 2007
Percentage of year complete 67%**

	Annual Budget 000's	Actual Feb-07 000's	Percentage of Budget
7. Waste & Environment			
Expenditure	1,314	752	57%
Income	(1,410)	(1408)	100%
7. Waste & Environment	(95)	(656)	
8. Unclassified			
Expenditure	86	1	1%
Income	(233)	0	0%
8. Unclassified	(147)	1	
9. Capital Works And Projects			
Expenditure	6,590	2199	33%
Income	(4,964)	(602)	12%
9. Capital Works And Projects	1,626	1597	
Report Total	(0)	(3419)	

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

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

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

Regional Development/Promotion - Income. 91% of budgeted planning permit fees already received.

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

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

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

Infrastructure Development - Expenditure. This is lumpy due to large contract works ie road seals which are traditionally undertaken in the second half of the year.

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

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

6. GOVERNANCE MATTERS

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

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

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

Relevant Policies / Council Plan Objectives

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

Community / Engagement / Communication / Consultation:

N/A

Financial & Resource Implications Initial & Ongoing

Nil.

Recommendation:

6.2.1 *That the February 2007 finance report be received and noted.*

Moved the Officer's Recommendation

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

6. GOVERNANCE MATTERS

6.3 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.

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

- Sewer & stormwater works;
- Internal demolition of change-rooms;
- Structural steel ordered;
- Earthworks for new building & pile footings poured;
- Canteen works completed and handed back to School;
- Theatre painted;
- Gym painted;
- Office completed;
- Cafeteria completed and handed back to School; and
- Steel columns erected for stadium.

Works in progress:

- Gymnasium renovations.
- Plumbing works change-rooms.
- Stage equipment fit out contract awarded.
- Tenders for Theatre sound and lighting equipment being arranged.

The main internal renovation works (school component) are practically completed with the new building (Council component) hand-over planned for November 2007, weather permitting.

Relevant Policies / Council Plan implications:

Council Plan – Service Delivery

Community / Engagement / Communication / Consultation:

Extensive community consultation and engagement has occurred with this project.

6. GOVERNANCE MATTERS

Financial & Resource Implications Initial & Ongoing

ARC - DAYLESFORD REC CENTRE BUDGET	REVISED BUDGET	ACTUALS 2002/2003	ACTUALS 2003/2004	ACTUALS 2004/2005	ACTUALS 2005/2006	ACTUALS 2006/2007	TOTAL ACTUAL 14-Mar-07	PROJECTIONS 14-Mar-07
EXPENDITURE - 9550 815	Dec-06					14-Mar-07		
Architect & Sub consultants	\$ 124,500			19,400	101,100	3,083	\$123,583	\$ 124,500
Contract Admin	\$ 5,500					1,032	\$1,032	\$ 5,500
Building 2 courts, entry, kiosk & amenities	\$ 1,529,228						\$0	\$ 1,529,228
Variations 2 courts, entry, kiosk, etc	\$ 75,000							\$ 75,000
Building School refurbishment	\$ 302,730					260,934	\$260,934	\$ 302,730
Variations School building refurbishment	\$ 257,270							\$ 257,270
Legals	\$ 1,500						\$0	\$ -
Planning Permit	\$ 2,100			96	1,975		\$2,071	\$ 2,100
Tender costs	\$ 1,500					676	\$676	\$ 1,500
Opening function & marketing	\$ 5,000				183	315	\$498	\$ 5,000
Fitout - equipment & furniture	\$ 25,000						\$0	\$ 25,000
Fundraising Committee	\$ 12,094	120	11,974				\$12,094	\$ 12,094
Carparking	\$ -						\$0	\$ -
Drainage & Authority Headworks Charges	\$ 70,000				66,646		\$66,646	\$ 70,000
Contingencies	\$ 30,578					237	\$237	\$ 32,078
TOTAL EXPENDITURE	\$ 2,442,000	\$ 120	\$ 11,974	\$ 19,496	\$ 169,904	\$ 266,276	\$467,770	\$ 2,442,000
								\$ -

INCOME - 9550948

SRV - (DVC)	\$ 500,000				100,035		\$100,035	\$ 500,000
COUNCIL	\$ 300,000		5,000		295,000		\$300,000	\$ 300,000
FEDERAL GRANT	\$ 120,000	-	-		26,620	69,380	\$96,000	\$ 120,000
COM FACILITIES GRANT (DET)	\$ 1,222,000					82,161	\$82,161	\$ 1,222,000
COMMUNITY FUNDRAISING	\$ 300,000		7,000				\$7,000	\$ 300,000
TOTAL INCOME	\$ 2,442,000	\$ -	\$ 12,000	\$ -	\$ 421,655	\$ 151,541	\$ 585,196	\$ 2,442,000

As at 14 March 2007:

Progress payments to builder \$260,934
Claims to be processed \$256,804

Approved variations to date:
School component of the building works \$88,383
Council component of the building works \$nil

Recommendation:

That Council:

6.3.1 Note & receive the ARC monthly report.

Moved the Officer's Recommendation

Moved: Cr Bill McClenaghan

Seconded: Cr Tim Hayes

Carried.

6. GOVERNANCE MATTERS

6.4 PUBLIC HALLS BUILDING MAINTENANCE GRANTS

(A/O – Director Infrastructure & Development)

File Ref: 06/06/01 &
4/0360/94350 & 2/1915/00100 &
4/1930/09850

Synopsis

The Leonards Hill Mechanics Institute (LHMI) as Committee of Management for the Leonards Hill Public Hall has made application to Council for a grant towards public hall maintenance works.

Report

Leonards Hill Mechanics Institute.

The Leonards Hill Mechanics Institute (LHMI) has obtained quotations for internal painting of the hall valued at \$ 4868.00

The LHMI has some funds for this work and seeks a grant from Council for \$2434.00 being 50% as per Council's policy.

Dean Hall & Mechanics Institute.

The Dean Hall & Mechanics Institute have obtained quotations for maintenance works to kitchen of hall, replacing benchtops, installing cupboard doors, etc plus some painting valued at \$6023-40

The DHMI has advised that they are seeking the maximum grant from Council being \$3,000.00 and have the balance of funds.

Bullarto Public Hall

The Bullarto Public Hall Committee (BPHC) has requested Council to obtain a quotation for external painting of the hall. The amount of the quote is \$3800.00

The BPHC has funds for this work and seeks a grant from Council for \$1900.00 being 50% as per Council's policy.

Relevant Policies / Council Plan implications:

Council Policy - No 42 - Public Buildings and Maintenance Grants.

Community / Engagement / Communication / Consultation:

Public Hall Committee were invited to apply for a grant as per Council's Policy No. 42. The grant applications are in response to the invitation.

6. GOVERNANCE MATTERS

Financial Implications

Council has allocated \$25,000 in the 2006/2007 budget for Public Buildings Maintenance. A/c No. 4060 109

Expenditure to date and committed expenditure amounts to \$12,532

Sufficient funds are available should Council wish to approve all or any of the applications.

Recommendation:

That Council approve the following grants:

- 6.4 .1 *\$2,434.00 grant to the Leonards Hill Mechanics Institute Hall Committee as the Crown Land Committee of Management for maintenance works to the Leonards Hill Hall.*

- 6.4.2 *\$3,000.00 grant to the Dean Hall & Mechanics Institute Inc for maintenance works to the Dean Hall.*

- 6.4.3 *\$1,900.00 grant to the Bullarto Public Hall Committee as the Crown Land Committee of Management for maintenance works to the Bullarto Public Hall.*

Moved the Officer's Recommendation

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

6. GOVERNANCE MATTERS

6.5 HEPBURN NEWSTEAD ROAD CULVERT REHABILITATION (A/O-Manager of Operations) File Ref: H176-2007

Synopsis

This report provides information on the tenders received as part of the steel culvert rehabilitation on Bald Hills Creek along the Hepburn Newstead Road at Shepherds Flat.

Report

Tenders were advertised in the Age and the Ballarat Courier on the 10th and 17th February 2007 and the Advocate on the 14th February 2007.

Eleven prospective tenderers requested documentation with the tenders closing at 5pm on Wednesday 7 March 2007.

The following tenders were received.

No.	Tenderer	Amount
1	Austress Freyssinet Vic Pty Ltd	\$176,683.90
2	Tyco Water Pty Ltd	\$351,335.00
3	Midwest Civil Pty Ltd	\$110,180.12

Tenders were opened in accordance with Council procedures in the presence of Richard Russell, Executive Engineer and Andrew Bourke, Manager Operations. The estimated project construction cost for these works is \$110,000. Overall works including additional pavement rehabilitation and guard fence works plus administration costs is \$120,000.

Based on the tenders received and the previous information provided to Council at the February Council meeting for the bridge program, it is recommended that contract for the invert repairs of the corrugated metal pipe culverts over Bald Hill Creek on the Hepburn Newstead Road, be awarded to Mid West Civil Pty Ltd.

Mid West Civil Pty Ltd has undertaken bridge works previously for Council on VicRoads funded bridge projects and delivered within the specified timelines and budgets.

Relevant Policies / Council Plan implications:

Council Plan - Objective 3.

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

Contract Procedures Manual.

Community / Engagement / Communication / Consultation:

Tender advertised in papers that are available in municipality

Financial Implications

As per information provided in February Agenda Capital Bridge report as listed below:-

6. GOVERNANCE MATTERS

Structure	Road Location /	Work Description	Total Amount	2006/07	
				Operating	Capital
				6010262	9560840
Twin Cell	Hepburn Newstead	Rehabilitation	\$120,000	\$95,000	\$25,000

Recommendation:

That Council:

6.5.1 *Award contract H176-2007 to Midwest Civil Pty Ltd of 7 Wiltshire Lane, Ballarat, Victoria for the amount of One Hundred and Ten Thousand , One Hundred and Eighty Dollars and Twelve Cents.(\$110,180.12)*

6.5.2 *Sign and seal the contract documents*

7.43pm *Cr Janine Booth Left the room.*

Moved the Officer's Recommendation

Moved: *Cr Bill McClenaghan*

Seconded: *Cr Tim Hayes*

Carried.

7.45pm *Cr Janine Booth returned.*

6. GOVERNANCE MATTERS

6.6 DESTINATION DAYLESFORD PROGRESS REPORT

(A/O –Manager Tourism Economic Development)

File Ref: 62/08/01

Synopsis

The Destination Daylesford Steering Committee has met and discussed a range of issues regarding the Destination Daylesford Tourism Development plan which are provided for Council's information and attention.

Report

Background

This project has been initiated by Tourism Victoria and is completely funded by Tourism Victoria. In response to discussions held with Council, the project will be a joint initiative between Council, HRTA, DMRCC, Regional Development Victoria, and local tourism operators. Tourism Minister John Pandazopoulos in November 2006 announced funding of \$50,000 for a Destination Daylesford Plan. Council at its December 2006 meeting resolved to undertake the plan as part of their agreement with Tourism Victoria and the Hepburn Region Tourism Association.

The plan will address a number of key issues that will allow both the industry and community to take a long term view on destination development for the Daylesford and Hepburn Springs region. Some specific objectives will be:

- Measure the economic, social and environmental impacts and benefits of tourism
- Ensure the integration of tourism planning with community development
- Prioritise the best use of scarce resource.

Following a meeting instigated by Bill Fox from Tourism Victoria between Council representatives and a representatives of the Hepburn Region Tourism Association, a working group was established to commence the task of preparing for this planning exercise.

Project Management

While Tourism Victoria is ultimately responsible for the project it is intended that the following structure will establish good coordination, industry ownership and extensive community consultation:

Executive Bill Fox Tourism Victoria, Nigel Dempster HRTA Chair, Cr Bill McClenaghan (appointed at the Council meeting held on February 20, 2007), Frank Page, Daylesford and Macedon Ranges Campaign Committee member and TAC Chair, (CEO Victor Szwed, Tourism and Recreation Manager Geoff Ryan ex officio and also appointed at the meeting on February 2007).The Executive will be responsible for project coordination and selection of consultants for appointment by Council.

Steering Committee

The Committee would have responsibility for drafting the project brief and providing input and advice on the project.

The Steering Committee will consist of the four (4) Executive Members, eight (8) Industry Representatives, four (4) non industry representatives and two (2) ex officio officers.

Reference Group

Broader consultation would occur in a number of ways with the following organizations:

6. GOVERNANCE MATTERS

BB&BLG – (Bathhouse Business & Community Liaison Group)
HRTA – (Hepburn Regional Tourism Association)
TAC – (Tourism Advisory Committee)
DMR CC- (Daylesford Macedon Ranges Campaign Committee)
Goldfields CC – (Goldfields Campaign Committee)
Daylesford Business Group
TRATA – (Trentham Residents and Traders Association)
Spa Therapy Assoc.
Neighbourhood house
Sporting groups
GDT (Great Dividing Trail)
Parks Vic
Events and Festivals
Community Reference Group
Friends of Wombat Hill
VMWC – (Victorian Mineral Water Committee)
Ballarat Uni
LTAs – (Local Tourism Associations)
VOGA (Villages of the Old Goldfields)
Daylesford Spa Country Railway
Other Groups as recommended

All Councillors would be welcome to attend any of the reference group workshop meetings.

Feedback from the first meeting

The first meeting of the Destination Daylesford Steering Committee was held on Friday March 2 2007 and discussed the following issues:

- Terms of reference - there was general agreement about the need for a destination plan and the importance of the opportunity.
- Industry ownership of the planning process- there was strong agreement that for the process to be effective all partners had to jointly own the plan and that industry must take considerable responsibility for its success.
- Method of appointment of the steering committee - there was agreement that all members of the steering committee should be appointed by the Executive rather than some by the executive and some by Council. This was considered to be a more consistent approach and would involve broader ownership of the appointments.
- Community verses non industry representatives on the committee - it was agreed that it was more accurate to include “non industry representatives” who do not have a direct involvement in tourism rather than describe them as “community members” it was felt that this term implied that tourism operators were not members of the community. It was also acknowledged that almost everybody in the Shire has access to a greater range of services that are only available because of the level of tourism in the Shire.
- Federal Government Participation- it was agreed that the Federal Government should be invited to participate in the planning process.

6. GOVERNANCE MATTERS

Relevant Policies / Council Plan implications:

Hepburn Shire Tourism Policy

Agreement between Tourism Victoria, Hepburn Shire and Hepburn Regional Tourism Association

Community / Engagement / Communication / Consultation:

These recommendations come directly from a community based meeting.

Financial Implications

Out of the planning process will come clear priorities for the development of tourism in the region. Council will need to anticipate considering an allocation of funding in 2007/08 to assist in the implementation of this plan in conjunction with funding from the other partners to the agreement. As with other Plans/Strategies one can expect that there will be specific actions/recommendations arising which the partners should implement. Various sources of funding will be pursued to spread these costs.

Recommendation:

That Council:

6.6.1 *Note the Destination Daylesford progress report*

6.6.2 *Refer the nominations it receives for the Steering Committee to the executive of the Destination Daylesford for their consideration.*

Motion Moved at Meeting:

6.6.1 *Note the Destination Daylesford progress report*

6.6.2 *That the Destination Daylesford executive be requested to agree to further advertise in the Advocate and Ballarat Courier for non-industry representatives for a period of 14 days from the first date of publication and that the Executive make further appointments.*

Moved: Cr Tim Hayes

Seconded: Cr Heather Mutimer

The Motion was lost.

Division Called:

For: Councillors Tim Hayes and Heather Mutimer

Against: Councillors David Smith, Janine Booth and Bill McClenaghan

Moved:

6.6.1 *Note the Destination Daylesford progress report*

6.6.2 *Refer the nominations it receives for the Steering Committee to the Executive of the Destination Daylesford for their consideration.*

Moved: Cr Janine Booth

Seconded: Cr Bill McClenaghan

Carried.

6. GOVERNANCE MATTERS

6. GOVERNANCE MATTERS

6.7 FLAG POLE REPORT

(A/O – Manager Tourism, Economic Development and Recreation) File Ref: 62/08/01

Synopsis

This report provides an update on the progress of installing a flag pole for promoting festivals and causes.

Report

In discussion between Councillors, Staff and Vic roads staff regarding the location of the proposed flag pole in Vincent St, Daylesford it has been concluded that the most suitable site is on the north side of the roundabout at the intersection of Vincent St and Central Springs Road, on the traffic island. A planning application is required and has been prepared. The likely cost for a white 8 metre flag pole is \$2,000.

Council's Flags and Banners Policy adopted in May 2006 states that "Flags. can be displayed on a flag pole at the Daylesford Regional Visitor Information Centre." In the light of the general agreement regarding the best site for the flagpole the policy needs to be adjusted to reflect the different site of the flag pole.

Relevant Policies / Council Plan implications:

Councils Flags and Banners policy adopted 16 May 2006

Community / Engagement / Communication / Consultation:

This matter has been discussed with the community and by various Council Committees over the last couple of years.

Financial & Resource Implications Initial & Ongoing

\$2000 for the installation and provision of the Flag pole. No allowance has been made in this year's budget and funding is to be sought in the 2007-08 Budget..

Recommendation:

That Council:

- 6.7.1 *Amend the Flags and Banners Policy to read: "Flags promoting a special cause or an event in which the local community has a direct interest or benefit can be displayed on a flag pole on the north side of the intersection of Vincent St. and Central Springs Road or at other information Centres in the Shire but not on any Council Town Halls".*
- 6.7.2 *Install a flag pole on the north side of the intersection of Vincent` Street and Central Springs Road subject to planning approval to be funded from the 2007/08 budget allocation. .*

Moved the Officer's Recommendation

Moved: Cr Bill McClenaghan

Seconded: Cr Tim Hayes

Carried.

6. GOVERNANCE MATTERS

6.8 RECREATION ADVISORY COMMITTEE - REAPPOINTMENT

(A/O – Manager Tourism and Recreation)

File Ref:

Synopsis

Nominations have been received for the vacant positions on the Shire's Recreation Advisory Committee.

Report

The Hepburn Shire Council Recreation Advisory Committee is the peak advisory body to Council on recreation issues. It was established in 1997 and has provided valuable assistance to Council attracting funding to the Shire for recreation projects. The Committee has maintained an objective and well considered approach to recreation planning throughout the Shire. The committee is recognized as a "best practice model" by the State Government. The Terms of Reference require half the members of the Committee to retire each year. Because the entire committee is being reappointed on this occasion, names were drawn out of a hat for the 2 and 1 year terms of appointment.

Nominations have been received from the following people:

Konrad Hartz – Previous Member of the Committee. Horse Riding, Walking, Cycling, Fencing, Table Tennis, Tennis, Volleyball, Basketball, Cricket and Football. Engineer - From Glenlyon.

Greg May – Previous member of the Committee. Football, Netball, Newlyn Community Sporting Complex, Tennis, Lawn Bowls and Golf. Organic Farmer from Blampied.

Michael Clark – Previous member of the Committee. Tennis, Scouts, Junior Football, Blue Light, Creswick Youth Alliance. Management and Youth Welfare. Retired from Creswick.

Ray Jenner – Previous original member of the Committee. Interests in golf, soccer, former draper in Daylesford, broad understanding of recreation. From Elevated Plains.

Vic Dunn – Previous member of the Committee. Interested in bowls. Lives in Clunes.

Georgie Patterson – Previous original member of the Committee. Interests in football, netball, cricket and horse riding. Lives in Trentham.

New nominations received from:

Stephanie Goetze-Thies – Interest in Youth Theatre, Yoga, Bellydancing, Tai Chi, Horse riding and Walking. Lives in Creswick.

Julia McGrath – Interested in soccer and member of the Youth Advisory Council. Year 11 student of Ballarat Secondary College. Lives in Creswick.

Peter Hanrahan – Has broad interest in recreation including football netball cricket walking and gardening . Lives in Clunes.

Nominations were called for through The Advocate, Ballarat Courier and Council website and closed on the 13 th of March 2007. All nominations have a good understanding of the meaning of recreation and meet the selection criteria for the Committee. Nine nominations were received and there are ten vacancies. A late nomination is also expected.

6. GOVERNANCE MATTERS

Relevant Policies / Council Plan Objectives

Recreation Advisory Committee Terms of Reference 1997
Recreation Development Policy 1997

Financial Implications

Council Staff provide administration and secretarial support for the Committee.

Recommendation:

That Council :

- 6.8.1 *Appoint to the Recreation advisory Committee for a term of two (2) years:
Ray Jenner, Konrad Hartz, Greg May, Peter Hanrahan and Julia McGrath*
- 6.8.2 *Appoint to the Recreation Advisory Committee for a term of one (1) year:
Vic Dunn, Georgie Patterson, Michael Clark and Stephanie Goetze-Thies*
- 6.8.3 *Appoint Konrad Hartz as Chair of the Recreation Advisory Committee.*

Moved the Officer's Recommendation

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

6. GOVERNANCE MATTERS

6.9 AUDIT MANAGEMENT LETTER FOR YEAR ENDED 30 JUNE 2006

(A/O – Director Corporate Services)

File Ref: 30/04/01

Synopsis

As part of the normal Audit process the Auditor General has produced a Management Letter for the year ended 30 June 2006. In his Management Letter, the Auditor General has raised eleven issues for Council consideration, these issues along with the corresponding management comments have been considered by the Councils Audit Committee.

The full management letter, management response and Audit Committee actions are included in the body of the report that follows.

Report

MANAGEMENT LETTER FOR THE YEAR ENDED 30 JUNE 2006 HEPBURN SHIRE COUNCIL

The purpose of this report is to bring to your attention the more significant matters arising from the audit of the Council's financial statements for the year ended 30 June 2006.

KEY AUDIT OBSERVATIONS AND RECOMMENDATIONS

1. Bathhouse Redevelopment Issues

The Hepburn Springs Bathhouse Redevelopment project is a multi million dollar project that will run over the next two years. The project is being jointly funded by the State and Federal Governments, the Victorian Mineral Water Committee and Council. The Council's contribution will be \$1.2 million which will be financed by a loan, the loan repayments will be covered by the lease payments on the Bathhouse facility.

There is a memorandum of understanding relating to the redevelopment of the Bathhouse facility whereby Council will temporarily cease to be the Committee of Management over the Bathhouse from October 2006 through to completion of the redevelopment in the 2007/08 financial year.

A new lease for the operation of the redeveloped Bathhouse will need to be prepared in a timely manner to facilitate the operation commencing upon the immediate conclusion of the redevelopment works.

Council should monitor the developments surrounding the redevelopment of the Hepburn Springs Bathhouse including issues regarding non-Council funding of the development, lease arrangements for the new tenant, the ability to arrange future loan financing and the accounting for the temporary cessation of Council as the Committee of Management over the Bathhouse.

6. GOVERNANCE MATTERS

Management Comment:

The Council is acutely aware of the many factors involved with this particular project. Council's CEO is taking a lead role in monitoring the project and regular briefings are provided to both the Council and the Audit Committee.

2. Hepburn Pool

The Council has now resolved the issue of public liability insurance for the Hepburn Pool with the State Government providing the necessary insurance together with \$100,000 to undertake risk mitigation works at the site.

Council should take care to ensure that the required risk mitigation works are undertaken within a reasonable time and within the funds budget allocated for this project.

Management Comment:

Agree with this comment, an advisory committee is being established to assist in the restoration process within the budget allocation. Expenditure will be closely monitored by Councils engineering and finance staff.

3. Asset Register

During the year a number of significant adjustments to property were identified, especially in respect of Crown land.

I recommend that adequate resources are applied to the completion of a comprehensive asset register identifying all property controlled by Council and separately identifying Crown land and buildings.

Management Comment:

This matter was discussed during a briefing to Council prior to the Council meeting to adopt the Annual Accounts in principle.

While no formal motion was moved the Council is supportive of officers undertaking this task.

4. Internal Audit

During the 2006 year Council did not have an internal audit function in place. Internal audit provides Council with an additional risk management tool as part of its overall risk strategy.

I recommend that Council develop an internal audit function in the immediate future.

Management Comment:

Council is aware of this issue and has increased it's budget allocation for the 2006/07 financial year. Two potential audit providers have expressed an interest and will be interviewed on the 19th September 2006 with the view of making an appointment for the next three years.

6. GOVERNANCE MATTERS

5. Annual Leave

Under the Victorian Local Authorities Interim Award (Part C), Para 48(d), annual leave should not be allowed to accumulate beyond 40 days. At the time of my visit, there were ten employees who had accumulated leave entitlements in excess of this limit.

While this was an improvement on the previous year, I recommend that processes of leave monitoring and management continue to ensure that staff members take annual leave as and when their entitlement is due.

Management Comment:

Regular reports are provided to line managers on outstanding leave entitlements and staff who are accumulating leave are strongly encouraged to bring their leave down to a reasonable level. This process will be continued in 2006/07.

6. Long Service Leave

Council presently has two employees with long service leave entitlements exceeding 20 years service resulting in a total liability of \$86,215.

I recommend that Council encourage employees with large long service leave entitlements to take some of their leave.

Management Comment:

Council is acutely aware of this situation and is actively encouraging staff to take leave where it can. We can not force people to take LSL and a too heavy handed approach may well jeopardise the good management staff relations we presently enjoy.

We also believe that this is an industry wide problem that perhaps needs to be looked at on an industry basis.

7. Discretionary Reserves

The Council maintains a number of discretionary reserves that appear irrelevant in light of alternative budgetary and other financial management practices within Council to fund future commitments.

I recommend that current financial practices be reviewed to enable discretionary reserves to be closed and the balances transferred to accumulated surplus. Council's cash requirements should be managed through the process of a three to five year rolling budget.

Management Comment:

We understand what you are referring to and will reduce the number of reserves we have in the coming financial year; however there are a number of reserves that we believe are needed for the good financial management and transparency of the Council's operations.

6. GOVERNANCE MATTERS

8. Policies and Procedures Manual

The Council does not have an updated policies and procedures manual covering all areas of financial operations.

I recommend that appropriate resources be allocated to the task of updating such a manual.

Management Comment:

Agree with comment, work has commenced on this and will be continued progressively over time however resources are an issue that we have to continually deal with.

9. Committees of Management

Council has a number of Committees of Management that are not consolidated with Council's operations as they are not considered material.

I recommend that Council develop a policy in respect to the size of Committees of Management that are not consolidated and monitors the operations of these special committees.

Management Comment:

Agree with the recommendation, all committees of management will be reviewed during 2006/07.

10. Asset Revaluation Reserve

Included in the asset revaluation reserve are amounts relating to equity in the library and artworks.

I recommend that these amounts be transferred from the reserve to accumulated surplus.

Management comment:

Agree with comment, will transfer the amounts in question during 2006/07 financial year.

11. Bank Reconciliation

The general account bank reconciliation as at 30 June 2006 revealed that two cheques have been outstanding more than 12 months.

I recommend that long outstanding cheques be followed up on a regular basis.

Management Comment:

Agree with comment, outstanding cheques are reviewed on a quarterly basis, we will investigate how these two slipped through the net.

6. GOVERNANCE MATTERS

General

The assistance provided by the management and staff during the course of the audit was appreciated.

HALL CHADWICK
For J W CAMERON
Auditor-General

The above letter and management comments were discussed at the December audit committee meeting. The minutes of this meeting are attached for the Councils information.

Also attached is a copy of the schedule of policies/procedures development that forms part of a report to be presented to the audit committee shortly that was requested at the committees last meeting.

As can be seen from this report a number of the actions have not been completed and signed off by the audit committee at the time of preparing this report, these will be worked on over the coming months and progress reports will be provided to the audit committee at each of it's meetings until they are completed.

Relevant Policies / Council Plan implications:

The external audit process is a statutory process undertaken under the direct supervision of Victorian Auditor Generals department. In line with Council's good governance practices the management letter which forms part of this process is referred to Council's Audit committee for consideration and action where appropriate.

Community / Engagement / Communication / Consultation:

Nil

Financial & Resource Implications Initial & Ongoing:

Nil

Recommendation:

That the audit management letter report for the year ended 30 June 2006 be received and noted

Motion Moved at the Meeting:

6.9.1 That the audit management letter report for the year ended 30 June 2006 be received and noted

6.9.2 That a further report be presented to Council by the Independent Audit Committee once all matters referred to in the management comments are addressed.

Moved: Cr Tim Hayes
Seconded: Heather Mutimer
Carried.

7. COUNCIL AS COMMITTEE OF MANAGEMENT OF CROWN LAND

Nil items received.

8. COUNCIL SECTION 86 ADVISORY AND COMMITTEES OF MANAGEMENT

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 Wombat Hill Gardens Advisory Committee meeting dated 7 February 2007

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:Wombat Hill Gardens Advisory Committee meeting dated 7 February 2007*

Moved the Officer's Recommendation.

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

9. STATUTORY MATTERS

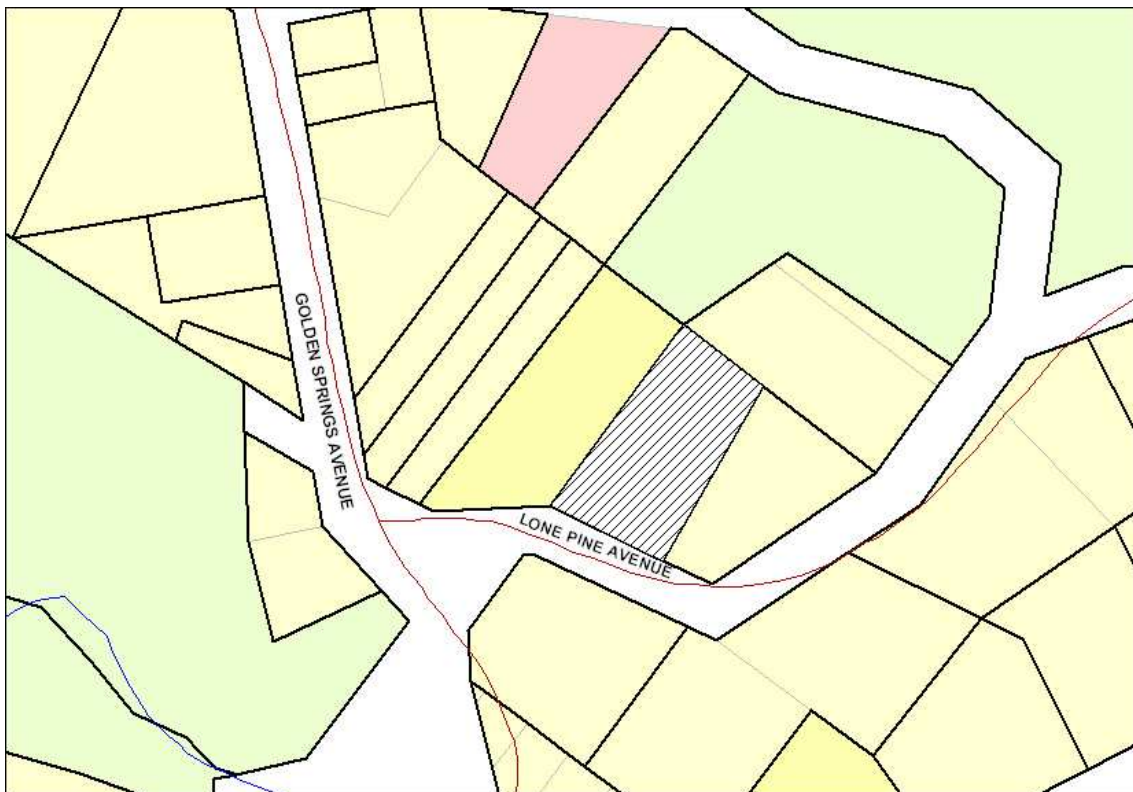
9.1 APPLICATION FOR AMENDMENT OF PERMIT NO 1999/5980: TO AMEND THE PERMIT TO INCLUDE ADDITIONAL TREATMENT ROOMS, DEVELOPMENT OF A CAR PARK, EDUCATION USE AND REMOVAL OF CONDITIONS

(A/O – Planning Officer 1)

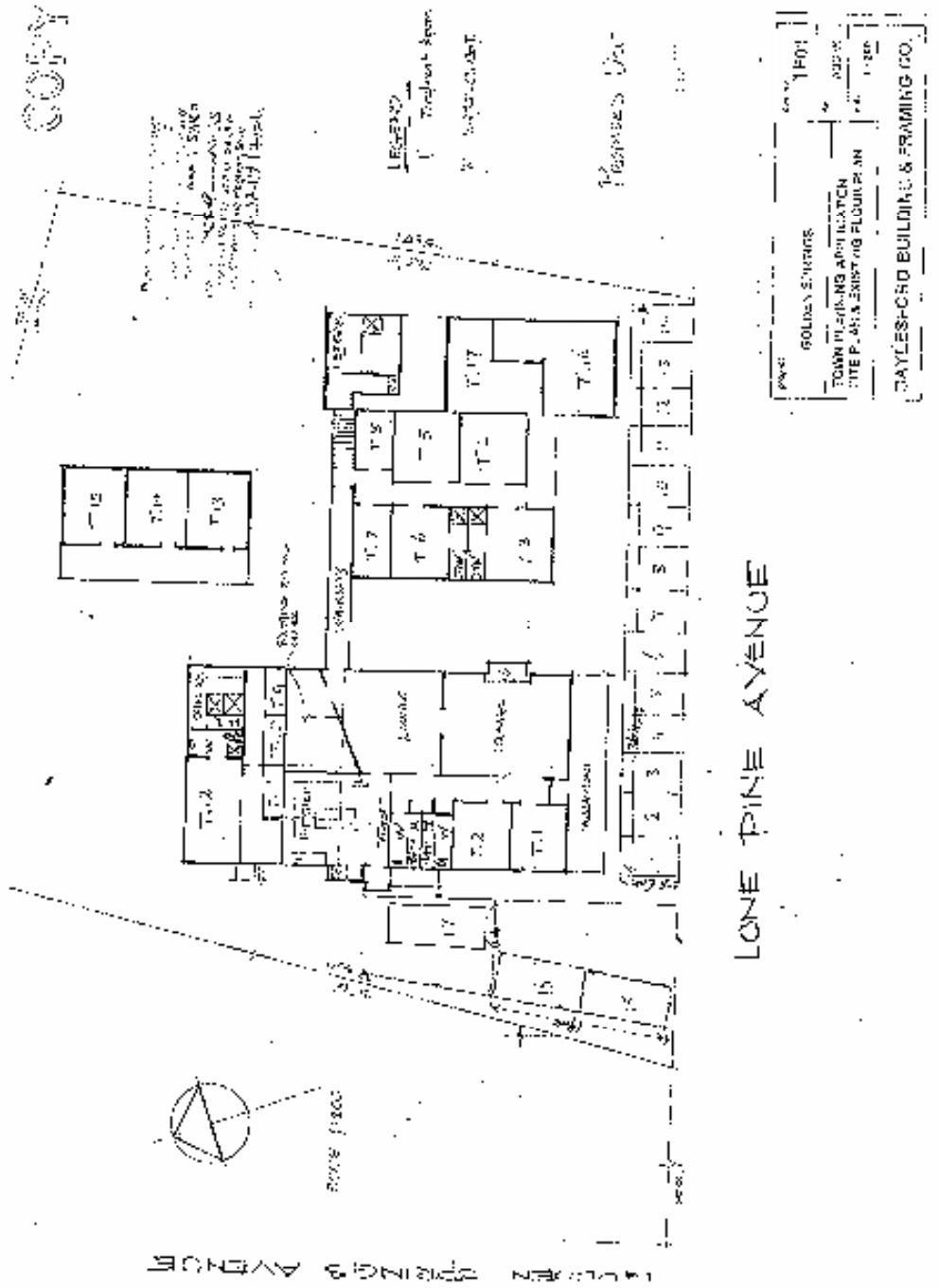
File Ref: 3/4110/00600/P

Synopsis

Applicant:	Mr. Noel Beare (on behalf of Hepburn Spa Pty Ltd)
Location:	6 Lone Pine Avenue, Hepburn Springs
Proposal:	Amend Planning Permit No 1999/5980 to: <ul style="list-style-type: none">• change description of “Beauty & Massage Rooms “ to “Treatment Rooms”,• increase total number of rooms from 10 to 17 within the existing building,• provide 17 car spaces on site,• use the premises for education purpose.• delete condition no 4 & 5 of this permit:
Zoning:	Low Density Residential (LDRZ)
Overlay Controls:	Environmental Significance Overlay - Schedule 1 (ESO1), Schedule 1 (ESO2).
No of Objections Received:	Six (6)
Recommendation:	Refuse to Grant an Amendment to a Permit



9. STATUTORY MATTERS



9. STATUTORY MATTERS

Report

BACKGROUND AND PROPOSAL IN DETAIL

The subject site generally known as Golden Springs Lodge is located at 6 Lone Pine Ave, Hepburn Springs. A search of Council archives indicate that planning approvals for the site since 1975 include various approvals for alterations and additions to an existing accommodation facility and on 12 February 2001 planning permit no. 1999/5980 was approved that allows the use of existing premises for massage rooms, beauty therapy and consultancy rooms. The permit allows seven (7) massage rooms and three (3) beauty rooms i.e. ten (10) rooms in total. There is small informal car park area in front of the subject site along Lone Pine Ave.

The current application is to amend planning permit no. 1999/5980 to include the following:

change description of "Beauty & Massage Rooms " to "Treatment Rooms",
increase total number of rooms from 10 to 17 within the existing building,
provide 17 car spaces on site,
use of the premises for education purpose.

The application also seeks to delete condition no 4 & 5 of this permit:

Condition 4

Staff parking will not be permitted on the property other than in emergency situations.

Condition 5

All patrons to the premises receiving therapy and services must be chauffeured at all times. Parking of patrons is not permitted on the property.

The site is relatively within a quite area and country nature of the locale is a particular attribute. The street is mostly residential in nature and about 50% of the buildings are used as holiday homes etc. with non permanent living. It should be noted that State Forest lie directly above and behind the streets – Lone Pine Ave and Golden Springs Ave.

Both the streets Lone Pine Ave and Golden Springs Ave are narrow roads with sharp blind corners and require drivers to take care. These roads are partly sealed.

REFERRAL AUTHORITIES

Department of Sustainability and Environment – no comments.
Goulburn Murray Water – no objection and no conditions required.
Central Highlands Water – no comments

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

9. STATUTORY MATTERS

REFERRAL WITHIN COUNCIL

Engineering Services – no comments.

Environmental Officer – no objection, requires the inclusion of permit conditions.

ADVERTISING/NOTICE OF APPLICATION

Public notification of the application was undertaken pursuant to Section 52 of the *Planning and Environment Act 1987*, by sending notices to the owners and occupiers of adjoining land and Notice in the newspaper. The notification has been carried out correctly.

OBJECTIONS

Council has received six (6) objections to date. The key issues that have planning merits raised in the objections are:

- Loss of amenity;
- Increased noise levels;
- Increased Traffic;
- Lack of car parking spaces. Plans for proposed parking area is inaccurate;
- Increased fire risk;
- Non compliance with zone provisions and purpose;
- Non compliance with existing permit (parking on site, staff and students, vehicle movements).

STATE PLANNING POLICY FRAMEWORK (SPPF)

At Clause 11.02 – Goal , the State Planning Policy Framework seeks to ensure that the objectives of Planning in Victoria (as set out in Section 4 of the Planning and Environment Act 1987) are fostered through appropriate land use and development planning policies and practices which integrate relevant environmental, social and economic factors in the interests of net community benefit and sustainable development.

At Clause 11.03-5 - Economic Well-Being, the State Policy Framework refers planning is to contribute to the economic well-being of communities and the State as a whole by supporting and fostering economic growth and development by providing land, facilitating decisions, and resolving land use conflicts, so that each district may build on its strengths and achieve its economic potential.

LOCAL PLANNING POLICY FRAMEWORK (LPPF)

At Clause 21.07 Economic Development, the Local Planning Policy Framework encourages high-quality and locally appropriate commercial and tourism development. Furthermore, it promotes and protects the tourism values of urban residential areas with valued neighbourhood character and supports high quality development in mixed use and residential areas where local amenity impacts can be adequately addressed.

9. STATUTORY MATTERS

ZONE, OVERLAY & SCHEME PROVISIONS

The following planning permissions are required:

- The proposed use is a Section 2 Use, requires a permit pursuant to Clause 32.03 – Low Density Residential Zone
- The buildings and works require permission pursuant to Clause 42.01-2 Environmental Significance Overlay Schedule 1 & 2
- Car Parking provisions in accordance with Clause 52.06 Car Parking

ASSESSMENT

The application proposes to intensify the current use and introduce new use (educational). The proposal for additional rooms, educational use and car park is a Section 2 use within the low density residential zone. The land is located in a low density residential area and is clearly intended to provide for a range and variety of land uses. However it is acknowledged that these benefits should not accrue at the expense of the amenity of the existing residents.

The parking provisions in Clause 52.06 have following main functions:

- set requirements for the provision of an appropriate number of car spaces having regard to the use of the land and the nature of the locality;
- require that new car spaces are designed and constructed to the satisfaction of the Responsible Authority;
- set out technical design and construction standards for car spaces, access and driveways;
- local traffic management;
- local amenity including pedestrian amenity

Pursuant to clause 52.06 - *Car Parking* - of the Hepburn Planning Scheme, the additional treatment rooms require 5 car spaces to each practitioner. With additional 7 treatment rooms being proposed, this equates to 35 new car spaces. Additionally education use (tertiary institution) requires 0.6 car spaces to each full-time student and three part-time students.

The proponent has proposed 17 on-site car parks. However, it is considered that the application does not make provision for the appropriate number of car spaces having regard to the use of the land and the nature of the locality. Also the area set aside for car parks does not allow the design and construction of a new car park that meets all the technical requirements. Inadequate on street parking is available near the subject land. In summary the car park provisions have been found to be inadequate.

9. STATUTORY MATTERS

Non compliance with existing permit (parking on site, staff and students, vehicle movements) is not a matter for consideration under this application and needs to be considered separately.

Permit Conditions

Section 62 of the *Planning and Environment Act 1987* deals with the inclusion of conditions on planning permits granted by the Responsible Authority. Section 62(1) makes provision for certain conditions which must, in particular circumstances, be included. Section 62(2), on the other hand, empowers the Responsible Authority to include "*any other conditions that it thinks fit including*" After that expression there are a number of paragraphs (a) to (m), although (h) and (k) have been repealed.

There is a well established body of law in relation to the validity of permit conditions, a comprehensive summary of which is contained in paragraphs 67 to 77 of the relatively recent Tribunal decision *Rosemeier and Others v City of Greater Geelong (No. 1)* (1996/45189) 20 AATR 86. The two key cases referred to in that decision, namely; *Pyx Granite Company Limited v Ministry of Housing and Local Government* and *271 William Street v City of Melbourne* form the basis of decisions.

A central finding in *Pyx Granite*, a case decided by the English Court of Appeal, was that to be valid a condition "*must fairly and reasonably relate to the permitted development*" and that planning authorities are not at liberty to use their powers "*for an ulterior motive, however desirable that object may seem to them in the public interest*".

In *271 William Street* the Victorian Supreme Court found that it is valid and not an ulterior motive where the condition is "*reasonably capable of being related to the implementation of planning policy*" to be discerned from the Act and relevant scheme and not some pre-conceived notion of planning.

Added to these tests for validity are the criteria of need, nexus, equity and accountability, first formulated in the now well known case *Eddie Baron Constructions Pty Ltd v Shire of Pakenham and Minister for Planning and Urban Growth* 6 AATR 10. These criteria were suggested as tests to determine the appropriateness of conditions.

Traffic and parking were key concerns of objectors within the vicinity of the subject site which have the potential to impact on the amenity of the locality in respect of parking and traffic matters.

It is considered that condition no 4 and 5 are fair and reasonable. These conditions were included to protect the amenity of the area so as not to cause adverse parking impacts on the area from any potential overflow of car parks. Therefore these conditions should not be deleted from the permit

Conclusion

On the balance it is concluded that this application to amend planning permit 1999/5980 is inappropriate and not worthy of Council's support. The application must be determined on its merits and how it supports the strategic framework of the Planning Scheme. Therefore any decision and/or conditions imposed must meet the tests of the *Planning and Environment Act 1987*, that being that they must be valid, certain, fair and relate to the application.

9. STATUTORY MATTERS

COMMUNITY/ENGAGEMENT/COMMUNICATION/CONSULTATION

Public notification of the application was undertaken pursuant to Section 52 of the *Planning and Environment Act 1987*, by sending notices to the owners and occupiers of adjoining land and Notice in Newspaper. The notification has been carried out correctly.

FINANCIAL & RESOURCE IMPLICATIONS INITIAL & ONGOING

Nil.

Recommendation

That Council having caused notice of Amendment to Planning Application No. 1999/5980 to be given under Section 52 of the Planning and Environment Act 1987 and having considered all the matters required under Section 60 of the Planning and Environment Act 1987 decides to refuse to grant an amendment to a permit under the provisions of Hepburn Planning Scheme in respect of the land known and described as 6 Lone Pine Avenue, Hepburn Springs for the change of description of "Beauty & Massage Rooms " to "Treatment Rooms", increase total number of rooms from 10 to 17 within the existing building, provision of 17 car spaces on site, use of premises for education purpose and removal of condition no 4 & 5 of this permit in accordance with the endorsed plans, with the application dated 12/09/2006 for the following reasons:

1. *The proposal is contrary to the orderly planning of the area.*
2. *The proposal will set an undesirable precedent.*
3. *The proposal is inconsistent with the Hepburn Planning Scheme, including the provisions relating to clause 52.06 - Car Parking.*
4. *Condition no 4 and 5 are fair and reasonable. Therefore these conditions should not be deleted from the permit.*

Moved the Officer's Recommendation

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

9. STATUTORY MATTERS

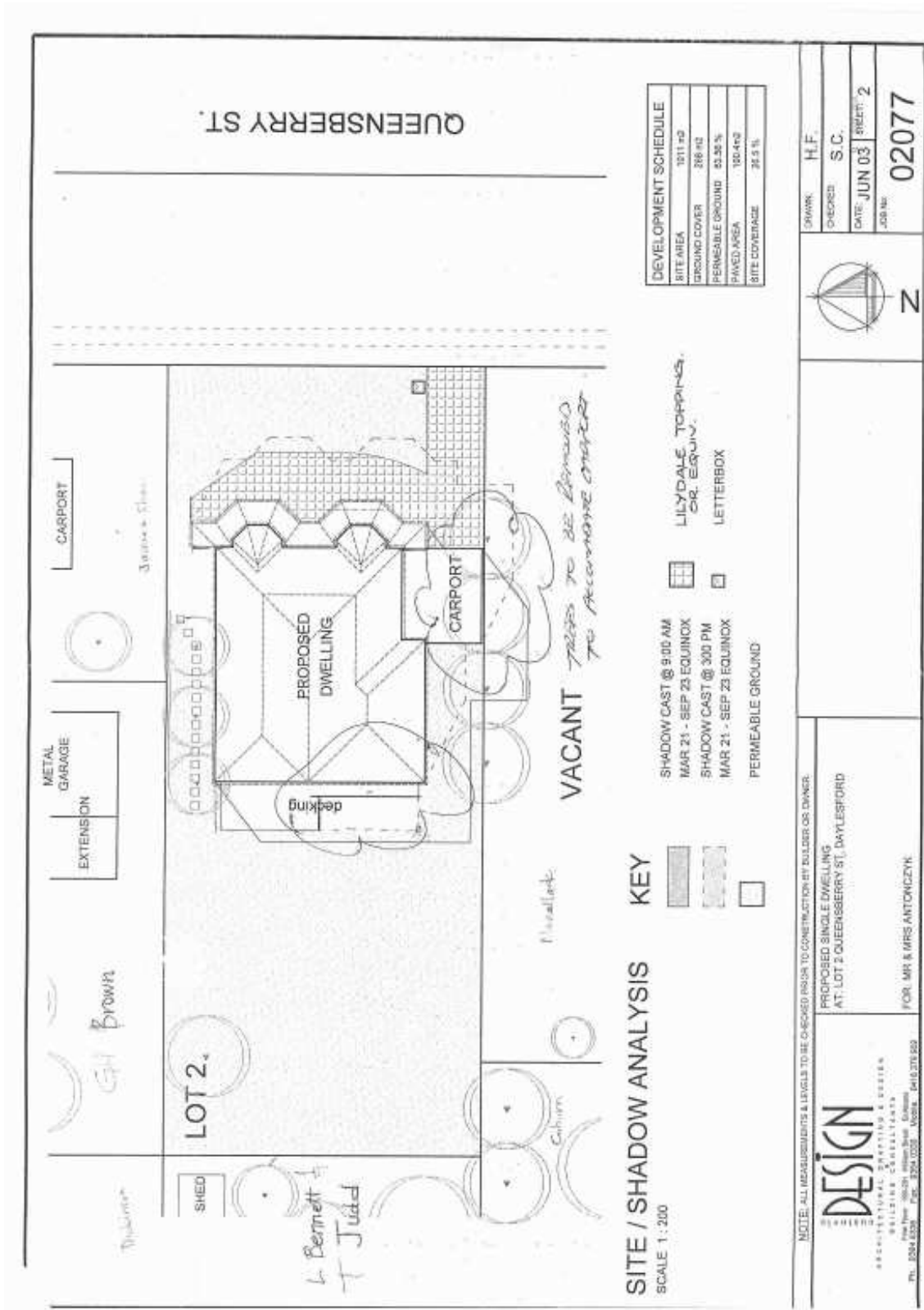
9.2 APPLICATION NO 2002/7377 A-1, PROPOSED: DECK AT 2A QUEENSBURY STREET, DAYLESFORD
(A/O – Planning Officer 2) File Ref: 5/5610/00101/P

Synopsis

Applicant	Edward Antonczyk
Location	2A Queensbury Street, near corner of Central Springs Rd, Daylesford
Proposal	Construction of deck at rear of dwelling
Zoning	Residential 1 Zone,
Overlay Controls	ESO1 & 2, NCO2 precinct 14
No of Objections received	2 households
Recommendation	Issue Notice of Decision to Grant an Amendment to a Permit



9. STATUTORY MATTERS



9. STATUTORY MATTERS

Report

INTRODUCTION

Land has a 20.9m frontage to Queensbury St, sloping down at 11-12%, 50.3m to the rear, area of about 1051m². Surrounding properties are of similar size, with dwellings, except for a vacant lot adjoining south. Two Central Springs Rd properties back on to the north side of the subject land.

Owners originally intended to develop the land with 2 dwellings in 2002, but were discouraged by the number of objections. They revised their plans to a single dwelling, about 16m x 15m, timber with steel hipped roof, set back 9-11m from the street frontage, carport to the south boundary, otherwise set back 3.6m from that side, and 3m from the north side, except front veranda is 1.4m closer; objections were not withdrawn, NOD was issued without appeal, and the plans were approved in December 2003; permit is valid until December 2007. A 1.3m deep cutting at the front was to leave the rear elevated about 1.5m+, from ground to floor level, according to the plans.

There were difficulties during construction. The roof appears to have been built at a slightly steeper slope, therefore slightly higher, than the plan depicted, and clad in 'Zincalume' instead of the 'Colorbond' indicated on the plan. Also not shown on the endorsed plan was 3m wide deck, across the rear of the dwelling, for which a frame was constructed, as high as 2.7m above ground level, at the southern end. Enforcement action followed, including a written order to remove the deck frame, but giving option to paint the roof an approved finish. A fine was levelled on the owner.

PROPOSAL

Owner has now lodged an application to amend the plans, to include the deck, but showing the southern half to be 1.2m wide, instead of 3m, thereby eliminating the highest portion. The roofing is shown as 'Zincalume.'

REFERRAL AUTHORITIES

None

REFERRAL WITHIN COUNCIL

None

ADVERTISING/NOTICE OF APPLICATION

Notice was given to adjoining owners, similarly to the original application. One of the Central Springs Rd neighbours backing onto the north side, towards the rear, objected, plus the Orford St neighbours directly to the rear of the subject land. Both were primarily concerned about loss of privacy from the deck, and at least one was also opposed to the higher roof with the reflecting finish. As such, both households object to the amendment of the plan

Relevant Policies / Council Plan implications:

STATE PLANNING POLICY FRAMEWORK (SPPF)

The proposed amendments would have no particular difficulties with state policies. The deck is less than 9m from the private open space of the side-adjointing neighbour, but could comply with ResCode with carefully place screens, no more than 25% transparent and 1.7m high from the deck level. The view to the rear would not have to be so screened, the property boundary over 20m from the deck, well in excess of 9m.

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LOCAL PLANNING POLICY FRAMEWORK (LPPF)

Neighbourhood Character is the most relevant local policy to these issues. Most aspects of the dwelling are positive for Precinct 14, eg the appropriate front and side setbacks, use of timber cladding, and ample room for landscaping. The 'Zincalume' roof clashes with the dominant pattern of non-reflecting roof finishes in the neighbourhood, but could be rectified by painting, as already ordered. The deck poses no particular difficulty with NCO's, mainly a ResCode issue, as above. It is noted that the reduction in the size of the deck tends to respond in some way to the privacy issue for the rear neighbours, removing the highest portion.

ZONE AND OVERLAY PROVISIONS

Relevant issues are covered above.

ASSESSMENT

The roof issue can be reasonably resolved by painting the roof a non-reflecting, neutral tone. The applicant has tried to respond to the deck issue by removing the highest portion, but must screen it in accordance with ResCode from the neighbour's private yard within 9m of the deck, at a viewing angle of 45degrees. ResCode places no similar obligation for the rear neighbours, being beyond 9m away; however, it is noted that a one metre high trellis would probably provide adequate privacy. Council could impose a further condition on the permit that a visual screen of vegetation must be planted around the periphery which would have other benefits as well; the rear neighbours could use a trellis for privacy in the meantime, at their own discretion.

Community / Engagement / Communication / Consultation:

Financial & Resource Implications Initial & Ongoing

Recommendation

That Council issue a notice of decision to grant the amendment to the permit and plans, subject to the following:

- 1. The deck must be screened in accordance with ResCode, Clause 54.04-6; and a visual screen of vegetation must be planted around the periphery of the subject land within 6 months of the issue of amendments, to the satisfaction of the Responsible Authority; and*
- 2. That further enforcement action be taken against the owner to ensure that the 'Zincalume' roof be painted a neutral-toned, non-reflecting finish within two months of the date of the issue of the amended permit and plans.*

Moved the Officer's Recommendation.

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

9. STATUTORY MATTERS

9.3 APPLICATION FOR AMENDMENT OF PERMIT NO 2005/8743: TO AMEND THE PERMIT FOR REMOVAL OF CONDITIONS

(A/O – Planning Officer 1)

File Ref: 2/4630/01144/P

Synopsis

Applicant: S Melotte, THA Landscape Architects
(On behalf of M Shalless)

Location: 1550 Midland Highway, Creswick

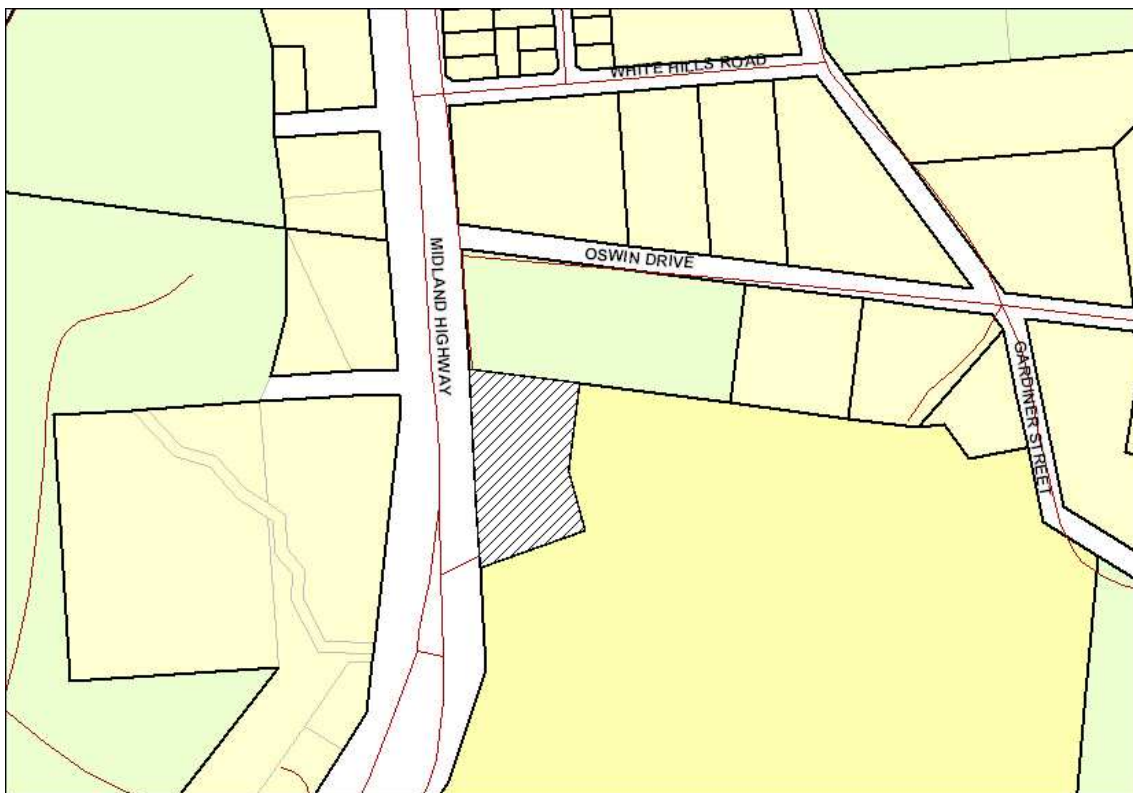
Proposal: Amend Planning Permit No 2005/8743 to delete condition no 7, 9, 10, 11, 12, and 13 of this permit.

Zoning: Rural Living Zone (RLZ)

Overlay Controls: Environmental Significance Overlay - Schedule 1 (ESO1)

No of Objections Received: One (1)

Recommendation: Refuse to Grant an Amendment to a Permit



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BACKGROUND AND PROPOSAL IN DETAIL

The subject site generally known as Tumblers Green is located on the eastern side of Midland Highway, south of the township of Creswick and has an access via an existing service/old road. The Forest Resort and Golf Club are located to the east and south of the site. Crown land is to the north of the site. Further north and west of the site across the Midland Highway the land is zoned Rural Living Zone including few private residences. The site is part of a parcel of land that has an area in excess of approximately 1,241 m² and is all surrounded by wooded areas.

A search of Council archives was undertaken. Planning permit No 4007D dated 24.6.96; 4988D dated 6.11.96 have been granted for addition/alterations to an existing restaurant, car park and landscaping. Planning Permit No 5354 dated 25.8.1998 was granted for further addition/alterations to the existing restaurant to cater for wedding functions and extension of liquor trading hours for up to 80 guests.

Planning Permit No. 2005/8743 was granted on 10.02.2006 and allows the use of the existing restaurant for a function centre & conference centre as well and also allows up to 120 guests and expand the licensed area to include the gardens. No change in the hours of trading or a different license that was in force has been allowed. The application seeks to remove the following conditions of this permit:

Condition 7

Prior to use commencing, a high quality surveillance system and a program for periodic review and maintenance of that system, including maintenance by an experienced consultant must be installed, implemented and maintained to the satisfaction of the Responsible Authority.

Condition 9

Before the use begins, all the external glass windows/ doors must be double glazed in accordance with the standard AS 1288 – as per the Building Code of Australia. The design of the double glazing must be prepared in consultation with/ by a suitably qualified acoustic engineer. The details of the design and acoustic qualities of the glazing must be to the satisfaction of the Responsible Authority.

Condition 10

The garden area shall not be used for parties etc. after 10pm.

Condition 11

No music shall be played in the garden area.

Condition 12

When music is played in the restaurant/conference centre/function room, all doors and windows must be kept closed at all times.

Condition 13

No public address system shall be installed

9. STATUTORY MATTERS

REFERRAL AUTHORITIES

Victoria Police – Strongly objected.

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

REFERRAL WITHIN COUNCIL

Not Applicable.

ADVERTISING/NOTICE OF APPLICATION

Public notification of the original planning permit application was undertaken by way of a letter to the landowners/occupiers of adjoining properties/sign on site and advertisement in the newspaper. One (1) submission was received. The objection raised in the submission that was considered to carry planning merit related to noise and amenity issues. Devaluation of the property was not considered to be a valid planning objection. The application to amend the permit conditions was notified to the original objector.

OBJECTIONS

Council has received one (1) objection to date. The objection raised in the submission that is considered to carry planning merit related to noise and amenity issues.

STATE PLANNING POLICY FRAMEWORK (SPPF)

At Clause 11.02 – Goal , the State Planning Policy Framework seeks to ensure that the objectives of Planning in Victoria (as set out in Section 4 of the Planning and Environment Act 1987) are fostered through appropriate land use and development planning policies and practices which integrate relevant environmental, social and economic factors in the interests of net community benefit and sustainable development.

At Clause 11.02-3 – Environment, the State Policy Framework refers to the various international and national agreements for ecologically sustainable development, including the Inter-Governmental Agreement on the Environment, the National Greenhouse Response Strategy and the National Strategy for the Conservation of Australia's Biological Diversity. The Strategies are stated to provide a '*broad framework*' for the development of strategies at the State level to encourage sustainable land use and development.

9. STATUTORY MATTERS

At Clause 11.03-5 - Economic Well-Being, the State Policy Framework refers planning is to contribute to the economic well-being of communities and the State as a whole by supporting and fostering economic growth and development by providing land, facilitating decisions, and resolving land use conflicts, so that each district may build on its strengths and achieve its economic potential.

LOCAL PLANNING POLICY FRAMEWORK (LPPF)

At Clause 21.07 Economic Development, the Local Planning Policy Framework encourages high-quality and locally appropriate commercial and tourism development. Furthermore it promotes and protects the tourism values of urban residential areas with valued neighbourhood character and supports high quality development in mixed use and residential areas where local amenity impacts can be adequately addressed.

ASSESSMENT

Permit Conditions

Section 62 of the *Planning and Environment Act 1987* deals with the inclusion of conditions on planning permits granted by the Responsible Authority. Section 62(1) makes provision for certain conditions which must, in particular circumstances, be included. Section 62(2), on the other hand, empowers the Responsible Authority to include "*any other conditions that it thinks fit including*" After that expression there are a number of paragraphs (a) to (m), although (h) and (k) have been repealed.

There is a well established body of law in relation to the validity of permit conditions, a comprehensive summary of which is contained in paragraphs 67 to 77 of the relatively recent Tribunal decision *Rosemeier and Others v City of Greater Geelong (No. 1)* (1996/45189) 20 AATR 86. The two key cases referred to in that decision, namely; *Pyx Granite Company Limited v Ministry of Housing and Local Government* and *271 William Street v City of Melbourne* form the basis of decisions.

A central finding in *Pyx Granite*, a case decided by the English Court of Appeal, was that to be valid a condition "*must fairly and reasonably relate to the permitted development*" and that planning authorities are not at liberty to use their powers "*for an ulterior motive, however desirable that object may seem to them in the public interest*".

In *271 William Street* the Victorian Supreme Court found that it is valid and not an ulterior motive where the condition is "*reasonably capable of being related to the implementation of planning policy*" to be discerned from the Act and relevant scheme and not some pre-conceived notion of planning.

Added to these tests for validity are the criteria of need, nexus, equity and accountability, first formulated in the now well known case *Eddie Baron Constructions Pty Ltd v Shire of Pakenham and Minister for Planning and Urban Growth* 6 AATR 10. These criteria were suggested as tests to determine the appropriateness of conditions.

Noise and amenity issues were key concerns of the objector within the vicinity of the

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subject site which have the potential to impact on the amenity of the locality in respect of noise related matters.

The subject site is within a Rural Living Zone. The main purpose of the zone is:

- to provide for residential use in a rural environment;
- to provide for agricultural land uses which do not adversely affect the amenity of surrounding land uses;
- to protect and enhance the natural resources, biodiversity and landscape and heritage values of the area;
- to encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision;

The subject site has a long history of noise complaints. The site has been subject to intermittent noise complaints from a nearby resident. Victoria Police has strongly objected to removal of these conditions.

It is considered that condition nos 7, 9, 10, 11 12 and 13 are fair and reasonable. The removal of these conditions would jeopardise the adequate control over the use of the site in terms of noise impacts. These conditions were included to protect the amenity of the area so as not to cause adverse noise and other amenity impacts on the area. Therefore these conditions should not be deleted from the permit

Conclusion

On the balance it is concluded that this application to amend planning permit 2005/8743 is inappropriate and not worthy of Council's support. The application must be determined on its merits and how it supports the strategic framework of the Planning Scheme. Therefore any decision and/or conditions imposed must meet the tests of the *Planning and Environment Act 1987*, that being that they must be valid, certain, fair and relate to the application.

COMMUNITY/ENGAGEMENT/COMMUNICATION/CONSULTATION

Public notification of the original planning permit application was undertaken by way of a letter to the landowners/occupiers of adjoining properties/sign on site and advertisement in the newspaper. The application to amend the permit conditions was notified to the original objector.

FINANCIAL & RESOURCE IMPLICATIONS INITIAL & ONGOING

Nil.

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Recommendation

That Council having caused notice of Amendment to Planning Application No. 2005/8743 to be given under Section 52 of the Planning and Environment Act 1987 and having considered all the matters required under Section 60 of the Planning and Environment Act 1987 decides to issue a Notice of Decision to Grant an Amendment to a permit under the provisions of Hepburn Planning Scheme in respect of the land known and described as 1550 Midland Highway, Creswick as follows:

1. *Delete Condition 7.*
2. *Amend & replace Condition 11 to read:*

Music played in the garden area must be played only at back ground levels such that normal conversation can take place within the garden and no music at all shall be played after 10-00pm
3. *Amend & replace Condition 13 to read:*

A public address system may be used, only at a sound level that it cannot be heard outside the boundaries of the site.
4. *Conditions 9, 10 & 12 to remain unaltered as they are fair, reasonable and required to ensure that the amenity of the area is not detrimentally affected.*

Motion moved at the Meeting:

That this item be deferred at the applicant's request.

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

9. STATUTORY MATTERS

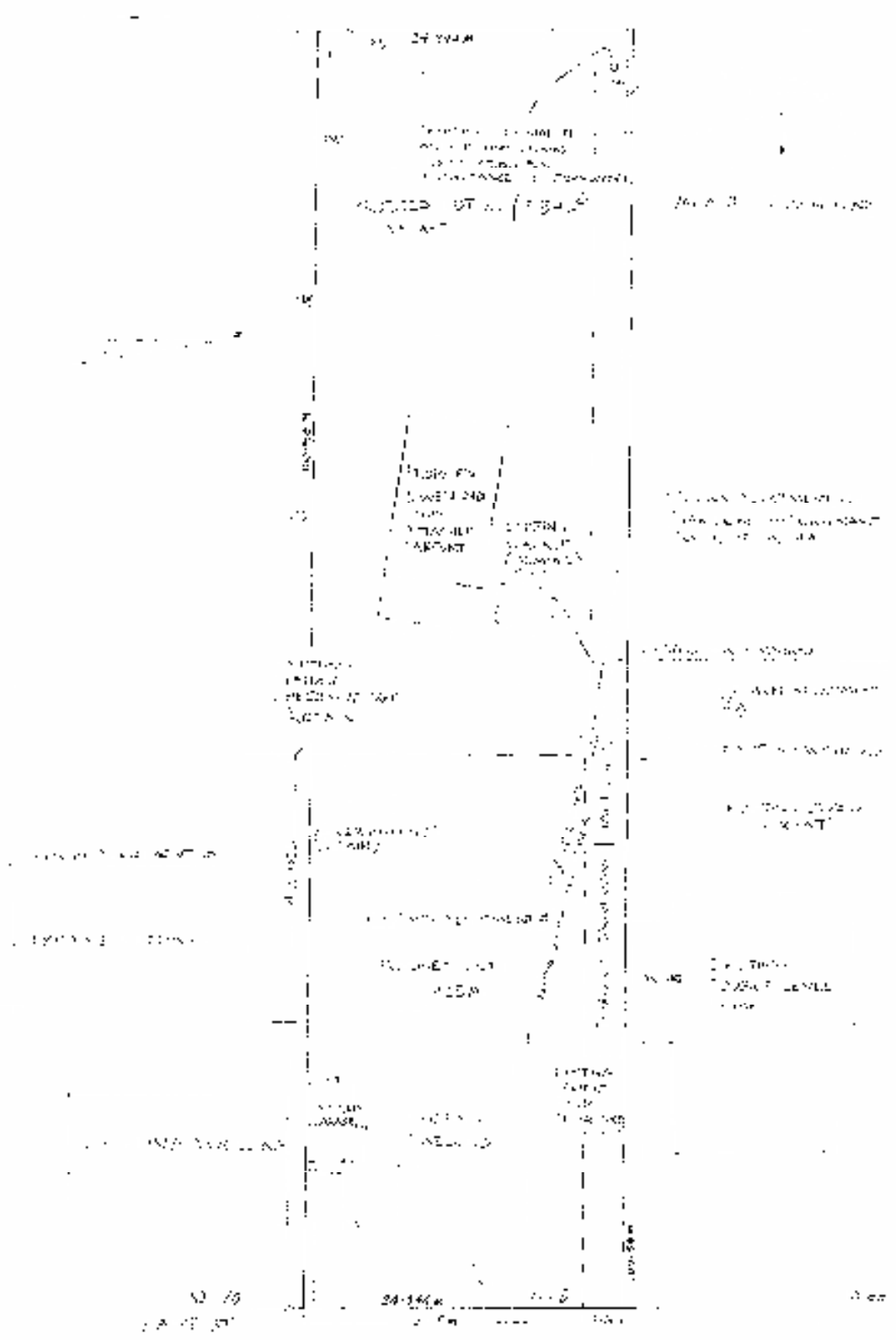
9.4 APPLICATION NO 2006/8892, PROPOSED: TWO (2) LOT SUBDIVISION AND CONSTRUCTION OF A DWELLING ON THE NEWLY CREATED LOT (A/O – Planning Officer 1) File Ref: 4/2150/1700/P

Synopsis

Applicant	P & D White P/L
Location	68 East Street, Daylesford
Proposal	Use and development of land for a two (2) lot subdivision and construction of a dwelling on the newly created lot
Zoning	Residential 1 (R1Z)
Overlay Controls	Environmental Significance Overlay - Schedule 1 (ESO1), Schedule 1 (ESO2).
No of Objections received	One (1)
Recommendation	Grant a Notice of Decision to Grant a Permit



9. STATUTORY MATTERS



9. STATUTORY MATTERS

Report

INTRODUCTION

The subject land is essentially rectangular in shape with a 100m north facing boundary running at right angles to East Street. The East Street frontage is approximately 24.94m in width with a cypress hedge along its alignment. There is an existing driveway and carport down the northern side. The property has presently a weatherboard cottage erected fronting East Street.

PROPOSAL

The proposed development involves creating two lots each sized approximately 925m² (Lot 1) and 1584m² (Lot 2) respectively, retaining the existing dwelling on the smaller lot and developing the newly created lot for a modest single dwelling. The section of land under Lot 2 is vacant of vegetation except for a walnut tree. The land has an excellent northern aspect with significant views to Wombat Hill.

REFERRAL AUTHORITIES

External Referrals/Notices Required by the Planning Scheme:

Section 55 Referrals:

Goulburn Murray Water Authority – No objection to the proposal, some conditions required.

Department of Sustainability and Environment – No objection to the proposal.

Section 52 Referrals:

Central Highlands Water Authority – No objection to the proposal, some conditions required.

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

REFERRAL WITHIN COUNCIL

No objection from Engineering, however, they do require the inclusion of nominated conditions to be included on any Planning Permit that may issue.

ADVERTISING/NOTICE OF APPLICATION

Two lot subdivisions are exempt from referral and notice provisions in accordance with clause 66 of the Hepburn Planning Scheme. Public notification of the application was not required.

OBJECTIONS

Council has received one (1) objection to date. The objection raised in the submission that is considered to carry planning merit related to environmental issues.

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Relevant Policies / Council Plan Implications:

STATE PLANNING POLICY FRAMEWORK (SPPF)

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

Clause 14 Settlement

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

Clause 15.02 Protection of catchments, waterways and groundwater

Clause 15.12 Energy Efficiency

Clause 19.01 Subdivision

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

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

LOCAL PLANNING POLICY FRAMEWORK (LPPF)

Clause 21.01-3 Municipal Overview – Settlement

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

Clause 21.01-9 Environment and Heritage Landscapes and Cultural Heritage

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

Clause 21.05 Settlement and Housing

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

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Clause 21.09 – Environment and Heritage

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

Clause 22.01 – Catchment and Land Protection

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

Clause 21.05 Settlement and Housing

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

Clause 22.0 Settlement

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

ZONE AND OVERLAY PROVISIONS

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

ASSESSMENT

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

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

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

9. STATUTORY MATTERS

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

Once the subdivision has been approved, titles released for the lots, as the lot sizes are greater than 500m² a single dwelling is a section 1 use, permit not required use in the zone. Therefore clause 55 Rescode assessment relating to dwelling development is not required for the application.

The site is also affected by an Environment Significance Overlay (ESO 1 & 2). ESO 1 is titled Proclaimed Catchment Protection and seeks to protect quality of water within the catchment. It is a requirement of the overlay that all effluent disposal and stormwater must be managed and discharged to the satisfaction of the Responsible Authority. ESO 2 relates specifically to mineral springs and ground water protection and a permit is required under the overlay for the construction of building and construction of carrying out of works. Decision guidelines in the schedule to the overlay requires the Responsible Authority to consider as appropriate a number of matters relating to the use and development of the land and the potential threats these may pose to mineral springs water quality. A permit is required however to construct the new dwelling or alter the existing dwelling pursuant to Clause 42.01-2 Environment Significance Overlay Schedule 2 (ESO 2) of the Scheme.

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

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

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

COMMUNITY/ENGAGEMENT/COMMUNICATION/CONSULTATION

Two lot subdivisions are exempt from referral and notice provisions in accordance with clause 66 of the Hepburn Planning Scheme. Public notification of the application was not required.

FINANCIAL & RESOURCE IMPLICATIONS INITIAL & ONGOING

Nil.

9. STATUTORY MATTERS

Recommendation

That Council having caused notice of Planning Application No. 2006/8892 to be given under Section 52 of the Planning and Environment Act 1987 and having considered all the matters required under Section 60 of the Planning and Environment Act 1987 decides to Grant a Notice of Decision to Grant a Permit under the provisions of Hepburn Planning Scheme in respect of the land known and described as 68 East Street, Daylesford for a two (2) lot subdivision, construction of a new dwelling and associated building and works in accordance with the endorsed plans, with the application dated 17/01/2006, subject to the following conditions:

SUBDIVISION

1. *The subdivision as shown on the endorsed plan must not be altered or modified without the written consent of the Responsible Authority.*
2. *All existing and proposed easements and sites for existing or required utility services and roads on the land must be set aside in the plan of subdivision submitted for certification in favour of the relevant authority for which the easement or site is to be created.*
3. *The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to the relevant authority in accordance with Section 8 of that Act.*
4. *The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities, electricity and telecommunications services to each lot shown on the endorsed plan in accordance with that authority's requirements and relevant legislation at the time.*
5. **Council's Engineering Services Department:**
 - 5.1 *Stormwater is to be directed to the legal point of discharge being the public purpose reserve at the rear of the property to the satisfaction of the Responsible Authority..*
 - 5.2 *3 metre drainage easement is to be created on the north property boundary of Lot 2 in favour of Lot 1.*
 - 5.3 *Vehicle access/crossing from East Street to the allotment is to be located and constructed of material to the satisfaction of the Responsible Authority (Refer attached) Permit No.: 512.*
 - 5.4 *All costs incurred in complying with the above conditions shall be borne by the applicant.*
6. **Goulburn-Murray Water:**
 - 6.1 *There must be no buildings constructed within 5m of the rear boundary of the vacant lot created by subdivision. This should be shown as a creation of restriction on any plan of subdivision submitted for certification.*
 - 6.2 *Any Plan of Subdivision lodged for certification must be referred to Goulburn-Murray Rural Water Authority pursuant to Section 8(1) (a) of the Subdivision Act.*
 - 6.3 *Each lot must be provided with connection to the reticulated sewerage system.*

9. STATUTORY MATTERS

7. **Central Highlands Region Water Authority:** (Subdivision)
- 7.1 *Any plan lodged for certification will be referred to the Central Highlands Region Water Authority pursuant to Section 8(1)(a) of the Subdivision Act.*
- 7.2 *Reticulated sewerage facilities must be provided to each lot by the owner of the land (or applicant, in anticipation of becoming the owner) to the satisfaction of the Central Highlands Region Water Authority. This will include the construction of works and the payment of major works contributions by the applicant.*
- 7.3 *A reticulated water supply must be provided to each lot by the owner of the land (or applicant, in anticipation of becoming the owner) to the satisfaction of the Central Highlands Region Water Authority. This will include the construction of works and the payment of major works contributions by the applicant.*
- 7.4 *The owner will provide easements to the satisfaction of the Central Highlands Region Water Authority, which will include easements for pipelines or ancillary purposes in favour of the Central Highlands Region Water Authority, over all existing and proposed sewerage facilities within the proposal.*
8. *This permit will expire if one of the following circumstances applies:*
- *the plan of subdivision is not certified within two (2) years of the issue date of this permit.*
 - *the development is not completed within five (5) years of the certification of the plan of subdivision under the Subdivision Act 1988.*

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

DWELLING

9. *The layout of the site and layout of the buildings and works as shown on the endorsed plans must not be altered or modified without the written consent of the Responsible Authority.*
10. *The development of dwelling permitted by this permit must not be commenced till the Statement of Compliance has been issued for the subdivision by the Responsible Authority.*

9. STATUTORY MATTERS

11. *Three copies of a detailed landscape plan prepared by a qualified landscape architect or a person of approved professional competence must be submitted to Council showing the following:*
- *planting layout;*
 - *schedule of species;*
 - *proposed planting and materials to be used on road/driveway, boundary fencing designs.*
 - *wattle tree or similar trees be replanted along the boundary.*

Such plan must be submitted to the Responsible Authority for approval and endorsement before the use starts.

12. *That all driveways and access roads, drains, banks, batter slopes, excavations and any other earthworks or structures appurtenant thereto associated with the development hereby permitted must be so constructed and maintained as not to create or increase soil erosions of the land, to the satisfaction of the Responsible Authority.*

13. **Central Highlands Region Water Authority: (Dwelling)**

13.1 *The applicants shall provide reticulated water and sewer to the proposed dwelling to the satisfaction of Central Highlands Water.*

13.2 *The finished floor level of the dwelling shall be no lower than 606.50m AHD and no sanitary fittings are permitted to be installed below this level.*

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

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

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

Notations:

a) Development

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

b) Building Approval Required

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

9. STATUTORY MATTERS

c) Vegetation Control

A planning permit is required to remove, destroy or lop vegetation on the land, except in accordance with an exemption specified in the State Section of the Planning Scheme; exemptions include the minimum area necessary for the construction of a dwelling and or buildings or vehicle access ways ancillary to a dwelling, or to comply with a fire prevention notice.

d) Prior to Issue of Statement of Compliance

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

e) ResCode Clause 55

As the lot sizes are more than 500m², no clause 55 ResCode assessment has been carried out.

Moved the Officer's Recommendation with the following Amendment to Page Item 8, second dot point correction underlined should read:

- **The subdivision is not completed within five (5) years of the certification of the plan of subdivision under the Subdivision Act 1988.**

Moved: Cr Janine Booth

Seconded: Cr Tim Hayes

Carried.

Against recorded as per request: Councillors Bill McClenaghan and Heather Mutimer.

9. STATUTORY MATTERS

9.5 APPLICATION NO 2006/9109, PROPOSED DEMOLITION OF A BUILDING, DEVELOPMENT OF SEVEN (7) DOUBLE STOREY DWELLINGS AND WAIVERING OF ONE VISITOR PARKING SPACE

(A/O – Planning Officer 3)

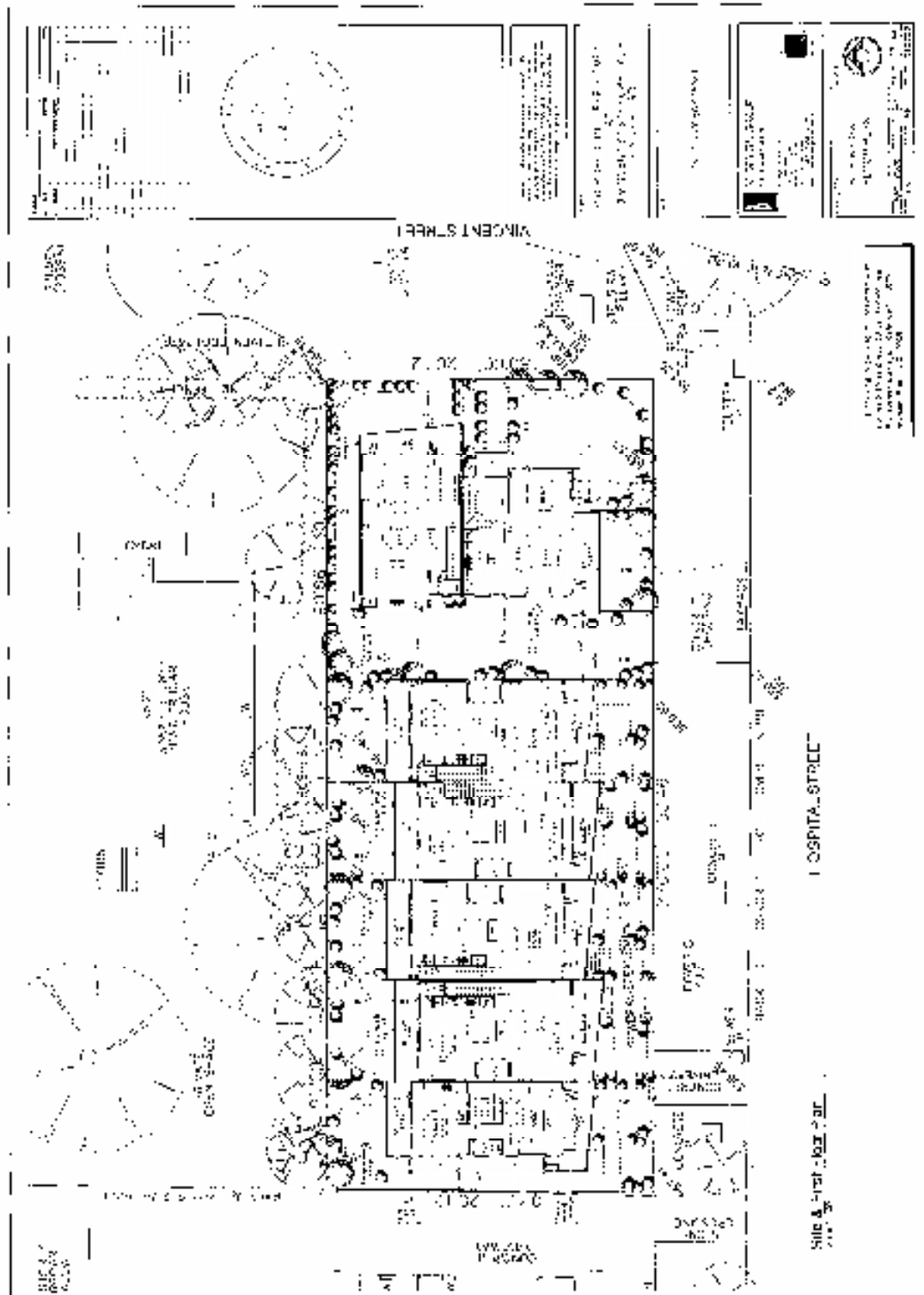
File Ref: 4/0360/90600/P

Synopsis

Applicant	A Bazzano c/- BB Design Group, 312A Bell Street, Coburg
Location	19 Vincent Street & 27 Hospital Street, Daylesford
Proposal	Seven (7) double storey dwellings
Zoning	Residential 1
Overlay Controls	NC02, ES01, ES02, DD01
No of Objections received	3
Recommendation	Refusal



9. STATUTORY MATTERS



9. STATUTORY MATTERS

Report

INTRODUCTION

An application was lodged on 28th July 2006 to develop seven dwellings on two titles being Lots 1 & 2, PS 340255S totalling 1011m² in area. A 2m wide sewerage easement runs adjacent to the southern boundary of Lot 2. Lot 1 is a small square residential lot (402m) adjacent to Vincent Street and Lot 2 (609m²) is located west of Lot 1.

The site is located on the north-western corner of Hospital and Vincent Streets, Daylesford. The longest frontage is to Hospital Street 59.29 metres on the east/west axis. A contemporary, single storey weatherboard dwelling will be demolished to accommodate redevelopment. There are no trees on the site.

Vincent Street is the main thoroughfare between the townships of Daylesford and Hepburn Springs therefore the site is in a prominent location. Hospital Street is intersected by a gully approximately 97m to the west of the subject site. The street serves six residential sites in this vicinity located on either side of the street.

The surrounding land is developed for single dwellings except for the site across Vincent Street to the east where a unit development is located.

The context of the site is described as being located on a ridge which is characteristic of a Central Highlands town with a spacious, open country town feel with constant views to the surrounding countryside and a relationship with a landscape characterised by mature trees. A row of mature trees is located along the southern boundary of the property to the north, particularly visible across Lot 2.

PROPOSAL

Different design responses have been submitted for each Lot.

Lot 1

On the smaller Lot 1 it is proposed to locate two, double storey attached dwellings (Unit 1 & 2) oriented to Vincent Street. The entrances are slightly offset from one another. Both are setback 4.6 metres from Vincent Street, stepping forward of the dwelling to the north. These dwellings have different designs, finishes and materials. Unit 1 has a curvilinear roof form, a single access door and five panel concertina doors, of uniform size and repeated across the façade. Unit 2 has a modernist flat roof and a collection of window openings of differing sizes. Both feature balconies with post and wire balustrades.

Each has two bedrooms on the ground level and living areas on the upper floors. A driveway traverses the rear of the property where the car parking is accessed from Hospital Street.

The private open space is provided down each side, north and south and adjacent to Vincent Street & Hospital Street.

9. STATUTORY MATTERS

Lot 2

Units 3 -7 are located on Lot 2 and are also attached two storey dwellings. All have a curvilinear roof form, the same pattern of window and concertina door openings and all feature upper storey balconies with post and wire balustrades. Each dwelling has two bedrooms on the ground floor and living space on the upper floor.

A car parking space is provided in the front of each unit. Car parking is grouped in pairs and accessed from Hospital Street via three separate cross overs.

Private open space is provided on the northern side of the block.

REFERRAL AUTHORITIES

Central Highlands Water Authority – No objections subject to conditions.

Department of Sustainability and Environment – No objections and no conditions

Goulburn Murray Water Authority – No objections subject to conditions.

REFERRAL WITHIN COUNCIL

Engineering – No objections subject to preparation of drainage plans including detention system.

ADVERTISING/NOTICE OF APPLICATION

Notice of the application was given by a public notice being inserted in the Advocate Newspaper, a notice displayed on the land and notices being sent to adjoining and adjacent owner/occupiers.

As a result of the advertising three (3) objections were received.

The objections to the application raise the following issues:

- the proposed design is not respectful of neighbourhood character;
- Hospital Street has limited capacity to provide car parking generated by seven dwellings in this location;
- increases in car parking blocking driveways;
- increased car parking obstructing the bike path.

The concerns raised have been dealt with in the Assessment section of this report.

9. STATUTORY MATTERS

Relevant Policies / Council Plan implications:

STATE PLANNING POLICY FRAMEWORK (SPPF)

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

Clause 14 Settlement

Clause 15.01 Protection of Catchments, Waterways and Groundwater.

Clause 15.11 Heritage

Clause 16.02 Medium Density Housing

Clause 19.03 Design and Built Form

In reference to the above mentioned clauses and objectives of clauses as specifically related to the township of Daylesford, the following conclusions are made to the proposal:

- the medium density housing proposed is not regarded as respectful of the neighbourhood character;
- the development fails to achieve urban design that reflects the particular characteristics, aspirations and cultural identity of the community;
- it is regarded that the resultant architectural and urban design outcome will not make a positive contribution to the local urban character.

LOCAL PLANNING POLICY FRAMEWORK (LPPF)

Clause 21.01-3 Municipal Overview – Settlement

This clause identifies Hepburn Shire as part of the Central Highlands and Goldfields Region characterised by settlement in small dispersed towns and settlements.

Clause 21.01-9 Environment and Heritage Landscapes and Cultural Heritage

The emphasis through this clause is based on the correlation between the spectacular physical and cultural landscape and the attractiveness of the area to visitors and residents alike.

It is regarded that the proposal will erode the integrity of this balanced relationship.

Clause 21.05 Settlement and Housing

Objective 2 “To improve the character of development in established urban areas.

Strategies

- *Provide for residential infill opportunities, using the township structure plans.*
- *Promote innovative residential development and a range of lot sizes in existing urban areas.*
- *Promote residential development that acknowledges and enhances the valued character of neighbourhood areas.*
- *Support the consolidation of development in urban areas where infrastructure capacity exists and where the character of the area is not prejudiced.*

The proposed development does not support Council’s strategies on Settlement and Housing. The site is not an infill site, the land has a dwelling established on it yet the design does not recognise or respond to the neighbourhood character. Some modifications will be required to the physical infrastructure to service the development.

9. STATUTORY MATTERS

Clause 22.01 – Catchment and Land Protection

This policy is to ensure that use and development of land in the Shire is consistent with Catchment Management Strategies.

Clause 22.07 – Settlement

Clause 22.07 Settlement is a Local Policy which reinforces the State Planning Policy at a local level and identifies the opportunities and constraints for development in the towns and villages across the Shire, based on infrastructure availability, whilst protecting rural land values.

Clause 22.08 – Daylesford Neighbourhood Character

22.5 – Daylesford Precinct Five. – Identifying an important entrance to the township of Daylesford.

The preferred character statement, objectives and policy direction for development within this precinct reinforces the sense of an entrance to the township of Daylesford and the need for development to recognise and respond to this element. Space between buildings as a design element is considered to create a rhythm particular to this precinct.

There are seven character elements that proposed development is required to be responsive to:

- existing buildings;
- vegetation;
- topography/land form;
- siting;
- height and building form;
- materials & design detail;
- front boundary treatment.

ZONE AND OVERLAY PROVISIONS

The subject site and surrounds are zoned Residential 1. The purposes of the zone are:

- to implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies;
- to provide for residential development 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;
- in appropriate locations, to allow educational, recreational, religious, community and a limited range of non-residential uses to serve local community needs.

The subject land and surrounds are included within an Environmental Significance Overlay – Schedules 1 (Groundwater) and 2 (Mineral Water). The proposal will not impact on either area.

9. STATUTORY MATTERS

Assessment Against ResCode Requirements

Other relevant planning controls and provisions from the Hepburn Planning Scheme regarding this application include assessment against the requirements of ResCode.

Under the provisions of Clause 55 of the Hepburn Planning Scheme, a development:

- must meet all of the objectives;
- should meet all of the standards.

A value expressed in the Neighbourhood Character study is to enhance the visual cohesiveness of the town.

The table included below provides a summary of the proposal against the ResCode requirements.

		Objectives	Standards	COMMENTS
B1	Neighbourhood Character			Design does not respond to topography, vegetation, architectural traditions and built form.
B2	Residential Policy	✓	✓	Not consistent with relevant State and Local Planning Policies. Design response is appropriate.
B3	Dwelling Diversity	N/A	N/A	Proposal is less than 10 dwellings and therefore requirement not relevant.
B4	Infrastructure	✓	✓	Conditions can be included to address stormwater requirements.
B5	Integration with Street	✓	✓	Links to the street. No high fencing on frontages.
B6	Street setback	X	X	Dwelling to the north setback 10.8m. Proposal set back 4.6m. – 3m setback to Hospital Street. No consideration of average setbacks in Hospital Street.
B7	Building Height	✓	✓	Max. allowed 9m – max. in proposal 8.3m.
B8	Site coverage	✓	✓	Max. allowed 60%, proposal has only 42.6%.
B9	Permeability	✓	✓	30.9% (20% required)
B10	Energy efficiency	✓	✓	Will need to comply with energy rating
B11	Open space	N/A	N/A	Not relevant as no communal open space required or provided
				Layout allows for

9. STATUTORY MATTERS

B12	Safety	✓	✓	surveillance and security
B13	Landscaping	X	X	A landscaping plan would be required
B14	Access	✓	✓	All access ways meets requirements
B15	Parking location	✓	✓	Parking can be made safe and efficient
B16	Parking provision	X	X	Allows for resident parking. No visitor parking is provided In accordance with the provisions of the Planning Scheme 8 spaces required – 7 provided
B17	Side and Rear setbacks	✓	✓	Setbacks provided are greater than required.
B18	Walls on boundaries	✓	✓	No walls on boundaries
B19	Daylight to existing windows	✓	✓	Setbacks and separation exceeds requirements.
B20	North facing windows	✓	✓	Setbacks and separation exceeds requirements
B21	Overshadowing	✓	✓	Minimal effect – meets requirements.
B22	Overlooking	✓	✓	Design uses screens and fencing to remove overlooking potential
B23	Internal views	✓	✓	Meets requirements.
B24	Noise impacts	✓	✓	Noise will be consistent with urban residential development
B25	Accessibility	X	X	A wholly double-storey design excludes people who cannot negotiate stairs
B26	Dwelling entry	✓	✓	All dwellings will have identifiable access
B27	Daylight to new windows	✓	✓	Meets requirements
B28	Private open space	✓	✓	Meets requirements
B29	Solar access to open space	✓	✓	Meets requirements
B30	Storage	✓	✓	Storage available to all dwellings

9. STATUTORY MATTERS

B31	Design detail	X	X	Not consistent with local architectural traditions eg building forms, design response, land form and site amenity.
B32	Front fence	✓	✓	No front fences proposed
B33	Common property	✓	✓	Clear delineation of shared land and limited to car parking areas
B34	Site services	✓	✓	Permit will require private garbage collection service

In summary, the proposal does not respond to the Neighbourhood Character Study Area D5 particularly:

attaching dwellings together in groups, the two double-storey dwellings facing Vincent Street and the grouping of units 4, 5 & 6 together fronting Hospital Street is considered contrary to maintaining the rhythm of spaces between buildings.

Daylesford is considered to consist of eclectic and diverse collections of single and double-storey dwellings, each responding to site amenity and land form constraints.

- the proposal is considered to be a dominating interruption to the streetscape
- the proposed development provides little opportunity to maintain and strengthen garden settings relative to the surrounding settlement pattern.
- materials that maintain local architectural traditions with regard to variations within a roof form where dwellings are collected together, roof pitches, colours, materials and forms sympathetic to the heritage and character of a Goldfields town.

On balance, whilst the concept of medium density housing is consistent with the purpose of the zone, the design response is not considered consistent with the objectives of the Local Planning Policy Framework or the objectives of the Neighbourhood Character Overlay.

Objections & Comments

Objection

The proposed design is not respectful of neighbourhood character.

Comment

This issue has been discussed at length previously.

9. STATUTORY MATTERS

Objection

Hospital Street has limited capacity to provide car parking generated by seven dwellings in this location

Comment

Council's Engineering Department has advised that Hospital Street is a local road. It is a sealed road which is not subject to through traffic and is able to cope with these few extra traffic movements and parking in a residential area.

Objection

Increase in cars parking blocking driveways.

Comment

This is regulated under legislation relating to traffic management.

Objections

Increased car parking obstructing the bike path.

Comment

Signage can be installed adjacent to the bike path advising that the path is not to be obstructed.

Community / Engagement / Communication/Consultation:

The objections are considered in principle objections to the design. The issues raised relating to neighbourhood character are relevant town planning considerations. It is indicated that mediation would not result in a mutual outcome therefore no meeting between the parties was held.

Financial & Resource Implications Initial & Ongoing

The implications are related to any appeal that may arise from VCAT appearances.

Recommendation

That Council having considered all the matters required under Section 60 of the Planning and Environment Act 1987 decides to issue a Notice of Refusal to Grant a Permit for the development of seven (7) dwellings in respect of land 19 Vincent Street, Daylesford (Lot 1, PS340255S) & 27 Hospital Street (Lot 2, PS40255S) on the following grounds:

- 1. The proposal is inconsistent with the provisions of the State Planning Policy of the Hepburn Planning Scheme in particular*
- 2. The proposal is inconsistent with the provisions of the Local Planning Policy Framework of the Hepburn Planning Scheme in particular*

9. STATUTORY MATTERS

3. *The proposal is inconsistent and does not respond to the objectives of Daylesford Neighbourhood Character Study – Area D5.*
4. *The proposal is inconsistent with the objectives of Clause 55 particularly B6 – Street setback, Bi6 Parking provision on site for visitors.*
5. *The proposal would be detrimental to the amenity of the area.*

Moved the Officer's Recommendation.

Moved: ***Cr Heather Mutimer***

Seconded: ***Cr Tim Hayes***

Carried.

9. STATUTORY MATTERS

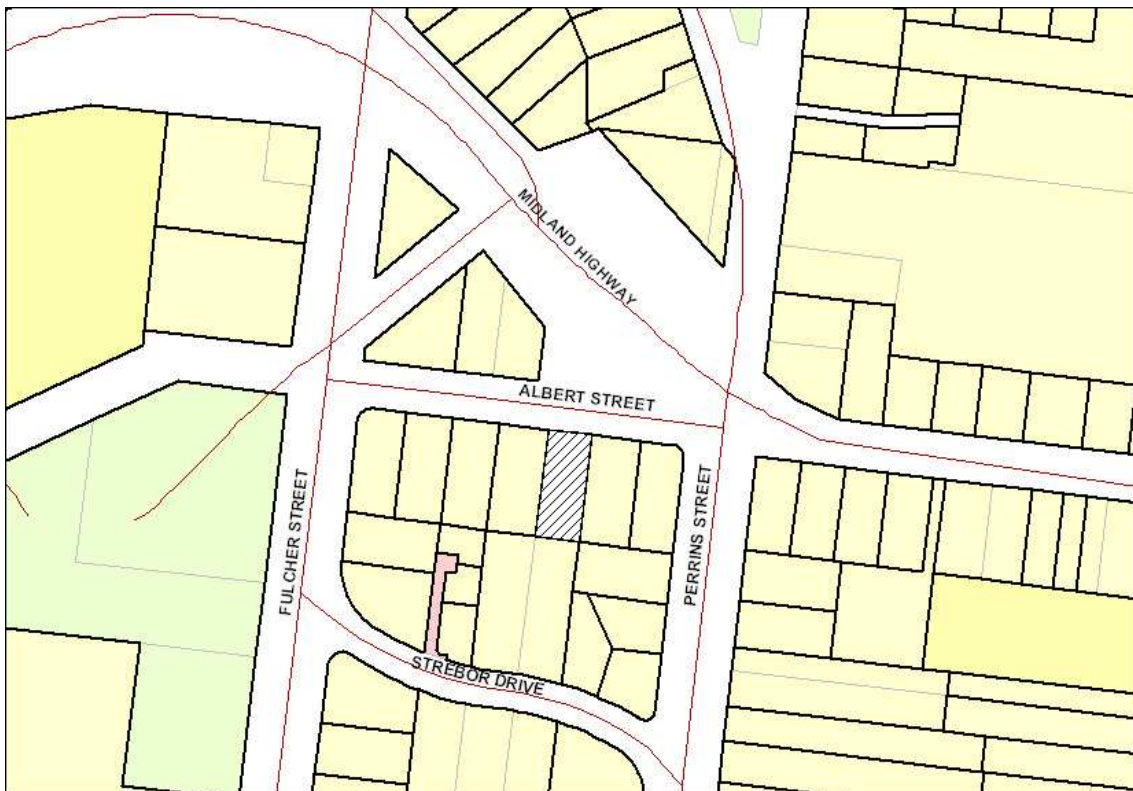
9.6 APPLICATION NO 2006/9151, PROPOSED: USE AND DEVELOPMENT OF LAND FOR THREE (3) DWELLINGS AND ASSOCIATED CAR PARKING FACILITIES

(A/O – Planning Officer 1)

File Ref: 3/0061/04400/P

Synopsis

Applicant	Con Tsourounakis (On behalf of Robert Tawil)
Location	78 Albert Lane, Daylesford
Proposal	Use and development of land for three (3), two storey dwellings and associated car parking facilities
Zoning	Residential 1 (R1Z)
Overlay Controls	Environmental Significance Overlay - Schedule 1 (ESO1), Schedule 1 (ESO2). Design Development Overlay (DDO3) Neighbourhood Character Overlay (NCO2)
No of Objections received	None
Recommendation	Refuse to Grant a Permit



9. STATUTORY MATTERS

Report

INTRODUCTION

The subject land is currently vacant land. A previous development proposal has been submitted to Council for the subject land and for a similar development. The previous application was for three double storey dwellings on site and did not gain Council's approval, nor did it gain an approval when presented to VCAT.

The proposal represents a 'repeat' application. Council previously refused an application for three dwellings comprising double storey dwellings. Whilst the current application is an improvement in many respects it does not satisfy the criteria that built form are 'low key'. This criterion relates to considerations of the neighbourhood character as expressed by VCAT and reinforced by the provisions of the NCO2 overlay.

The application is not materially different to the extent required in cases of repeat applications. The application although satisfying many of the Standards of ResCode does not satisfy the Objectives particularly those relating to neighbourhood character.

PROPOSAL

It is proposed to construct three double storey dwellings. The front two dwellings are attached whilst the rear dwelling is free standing. The dwellings will be orientated east-west. A common driveway runs along the eastern portion of the property. The front two dwellings have two bedrooms; the rear dwelling has four bedrooms. Of note, these are all at ground level. The upper level of this dwelling comprises the main living areas.

The front building alignment is setback 11.5m from the front boundary however there is a carport and extending fence type treatment extending forward of this front building alignment.

Each dwelling has an upper level deck. Private open space is also provided at ground level. Each dwelling is provided with two car spaces.

SUBJECT SITE

The subject site is located on the south side of Albert Lane approximately 500m west of the main part of the Daylesford Township. The site has a frontage of 20.12m and a depth of 45.75m; site area is 920m². The Midland Highway separates this section of Albert Lane from the rest of the street. The frontage is formed but not sealed. The site slopes (between 10–15%) from the northwest corner (the frontage) to the rear southeast. The site has minimal vegetation and is presently vacant.

The area is characterised by large lots generally with single dwellings. These dwellings are predominately single storey and constructed from fibro cement or weatherboard and are generally modest in size and scale. The immediate area has previously been described as 'edge of town'.

9. STATUTORY MATTERS

The Tribunal in the appeal *Peter Matters v Hepburn Shire Council* (Council ref. 2004/8164, VCAT ref. P3254/2004) made the observation:

“The location of the site sitting lower than the Highway creates an area that seems protected from the busy road. The site is in an area that is on the ‘edge of town’. It is a few minutes drive to the main street of Daylesford, yet the character of the area is more rural than ‘country suburban’. This area is characterised by low key dwellings, modest in size and form. The vacant lots contribute to the feeling of spaciousness and openness, which whilst this feeling will change when the lots are developed, the character of spaciousness should be respected and maintained.

Landscaping on the immediately adjoining lots is limited.”

REFERRAL AUTHORITIES

External Referrals/Notices Required by the Planning Scheme:

Section 55 Referrals

Central Highlands Water Authority – No objection to the proposal, some conditions required. Goulburn Murray Water Authority – No objection to the proposal, some conditions required. Department of Sustainability and Environment – No objection to the proposal.

Section 52 referrals were not required.

REFERRAL WITHIN COUNCIL

No objection from Engineering, however, they do require the inclusion of nominated conditions to be included on any Planning Permit that may issue.

ADVERTISING/NOTICE OF APPLICATION

Notice of the application was given by way of insertion of a Public Notice in the Advocate (20/12/06), the erection of a sign on site, and the sending of Notice to adjoining owners and occupiers.

No objections were received.

Relevant Policies/Council Plan implications:

STATE PLANNING POLICY FRAMEWORK (SPPF)

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

9. STATUTORY MATTERS

Clause 14 Settlement

Clause 15.02 Protection of catchments, waterways and groundwater

Clause 15.12 Energy Efficiency

Clause 16.02 Medium Density Housing.

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

- The development is not considered to be orderly development as it is inconsistent with the existing development in the area.
- The proposal will not jeopardise the quality of catchments, waterways and groundwater.
- The proposal does not respect the existing character of the neighbourhood. As a result, it will ultimately have a negative impact on the significance of the local character.

LOCAL PLANNING POLICY FRAMEWORK (LPPF)

Clause 21.01-3 Municipal Overview – Settlement

Municipal Overview establishes a primary key influence in responding to land use issues which it has an *understanding of the urban fabric of townships and the need to maintain lifestyle and residential amenity is important*. The proposed development is not in keeping with the urban fabric of the established township. The development proposes a development pattern which is inconsistent with current pattern of development of the area. The current pattern of development consists mainly of single storey dwellings on larger sized lots. Three dwellings on one lot disturb this pattern.

Clause 21.01-9 Environment and Heritage Landscapes and Cultural Heritage

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

Clause 21.05 Settlement and Housing

Objective two of this clause states that it wishes *“to improve the character of development in established urban areas”*. The proposed development does not improve the character of the area because it is increasing the density on the block so that the block will no longer be similar to its surroundings. Therefore, it takes away from existing character.

Clause 21.09 – Environment and Heritage

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

9. STATUTORY MATTERS

As the subject site is located in an area of 'low key' residential development, the proposal does not contribute to the protection of the cultural heritage.

Clause 22.01 – Catchment and Land Protection

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

ZONE AND OVERLAY PROVISIONS

The subject site and surrounds are zoned Residential 1. The purposes of the zone are:

- To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- To provide for residential development 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.
- In appropriate locations, to allow educational, recreational, religious, community and a limited range of non-residential uses to serve local community needs.

The subject land and surrounds are included within an Environmental Significance Overlay – Schedules 1 (Groundwater) and 2 (Mineral Water). The proposal will not impact on either area.

The land is also affected by a Design and Development Overlay (DDO3) and the Neighbourhood Character Overlay (NCO2). The proposed development does not comply with the objectives and purpose of these overlays. The development will jeopardise the character of the area as it has not been appropriately designed for the location.

Assessment against ResCode requirements

Other relevant planning controls and provisions from the Hepburn Planning Scheme regarding this application include assessment against the requirements of ResCode.

Under the provisions of Clause 55 of the Hepburn Planning Scheme, a development:

- must meet all of the objectives;
- should meet all of the standards.

The table included below provides a summary of the proposal against the ResCode requirements.

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		Objectives	Standards	COMMENTS
B1	Neighbourhood Character	*	*	The proposed is considered to be inconsistent with the existing neighbourhood character.
B2	Residential Policy	*	*	Development considered inconsistent with prevailing neighbourhood character. Cannot be described as low scale.
B3	Dwelling Diversity	N/A	N/A	Proposal is less than 10 dwellings and therefore requirement not relevant.
B4	Infrastructure	✓	✓	Proposal can be connected to reticulated services and is not expected to overload the existing infrastructure.
B5	Integration with Street	*	*	Position of car parking within the frontage is not considered desirable.
B6	Street setback	✓	✓	Meets requirements, although the inclusion of car park at front is not desirable.
B7	Building Height	*	*	Building height of all three is not considered appropriate given the 'low scale' setting.
B8	Site coverage	✓	✓	Meets requirements.
B9	Permeability	✓	✓	Stormwater retention tanks can be supplied.
B10	Energy efficiency	✓	✓	An energy rating report can be prepared if approved.
B11	Open space	N/A	N/A	Not relevant as no communal open space required or provided.
B12	Safety	✓	✓	Layout allows for safety and security.
B13	Landscaping	✓	✓	Available areas for landscaping.
B14	Access	✓	✓	All access ways meets requirements.

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B15	Parking location	✓	✓	Parking can be made safe and efficient.
B16	Parking provision	✓	✓	Allows for resident and visitor parking in accordance with requirements.
B17	Side and Rear setbacks	✗	✗	Setbacks not satisfactory. Not considered 'low scale'.
B18	Walls on boundaries	✓	✓	No walls on boundaries.
B19	Daylight to existing windows	✓	✓	Achieved
B20	North facing windows	✓	✓	Achieved
B21	Overshadowing	✓	✓	Achieved
B22	Overlooking	✓	✓	Achieved
B23	Internal views	✓	✓	Meets requirements.
B24	Noise impacts	✓	✓	Meets requirements
B25	Accessibility	✓	✓	Achieved
B26	Dwelling entry	✓	✓	Achieved
B27	Daylight to new windows	✓	✓	Achieved
B28	Private open space	✓	✓	Achieved
B29	Solar access to open space	✓	✓	Achieved
B30	Storage	✓	✓	Achieved – could be a permit condition
B31	Design detail	✗	✗	Design is not appropriate for the area.
B32	Front fence	✓	✓	No front fences proposed
B33	Common property	✓	✓	Clear delineation of shared land
B34	Site services	✓	✓	Permit will require private garbage collection service

In summary, the proposal does not meet all of the ResCode requirements. The development is not appropriate for the subject site as it is inconsistent with the character of the area or the pattern of development

PREVIOUS VCAT RESOLUTION

The site has been the subject of a relatively recent VCAT hearing. In that case a proposal for three dwellings was rejected. In coming to its decision the Tribunal placed considerable emphasis on the neighbourhood character of the area, referred to as 'edge of town' in the Council submission. This current application also concerns three dwellings. In both instances there are similarities between the applications such as the number of dwellings and the reliance on two storey built form. The Tribunal

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commented on the earlier proposal: *“The problems with this proposal can be traced back to the poor quality site analysis and site response.”*

The Tribunal, aware that a future application could be made, gave comments about the *‘future development of the site’*. These were:

“The site can be developed for the purposes of dwellings and possibly more than one dwelling. However, a successful development needs to address the following issues:

- *Any development needs to commence with a good site analysis and site response plan.*
- *The slope of the land. It needs to be demonstrated how any future development will ‘use’ the slope to avoid visually dominating structures.*
- *Landscaping. How will landscaping be integrated into the development. Whilst the site is vacant of any landscaping or vegetation, it is Council’s preferred character to encourage the planting of trees.*
- *Built form should be ‘low key’ to respect the general character of the area.”*

The current application only partially satisfies these criteria. Whilst there are improvements with regards the front setback and the development is less bulky in parts than its predecessor overall the proposal is not considered to be sufficiently improved as measured against the criteria set by the Tribunal in particular *“Built form should be ‘low key’ to respect the general character of the area”*.

There are several other concerns with the proposal including the location of a carport within the front setback and the extensive use of upper level decks for private open space. The proposal is also not consistent with the Neighbourhood Character Overlay as the proposal seeks to have two-storey building bulk running parallel with a significant portion of the side boundaries.

As noted in Council’s previous submission to the Tribunal:

“Whilst the site does present a residential infill opportunity, given its zoning, connection to all services and proximity to town, the significance and strength of the existing neighbourhood character and cultural and heritage are too valuable to risk by approving a development that is not respectful of the neighbourhood character for a good ‘infill’ opportunity.” It is considered that these sentiments and assessment are equally valid with the current application.

CONCLUSION

It is regarded that this application for the development 78 Albert Street Daylesford and the construction of three double storey dwellings is inappropriate and not worthy of Council’s support. The proposal fails to consider matters brought to their attention by VCAT’s decision on the previous application and matters set out in the Hepburn Planning Scheme. The development is not suitable to the area.

It has been demonstrated that the proposal does not meet the Planning Scheme Strategic (Policy) and Zoning requirements, including ResCode.

Community / Engagement / Communication / Consultation:

Notice of the application was given by way of insertion of a Public Notice in the Advocate, the erection of a sign on site, and the sending of Notice to adjoining owners and occupiers.

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Financial & Resource Implications Initial & Ongoing

Possible appeal costs.

Recommendation

That Council having caused notice of Planning Application No. 2006/9151 to be given under Section 52 of the Planning and Environment Act 1987 and having considered all the matters required under Section 60 of the Planning and Environment Act 1987 decides to Refuse a Permit under the provisions of the Hepburn Planning Scheme in respect of the land known and described as 78 Albert Lane, Daylesford for the construction of three (3) dwellings on the following grounds:

1. *The proposal is inconsistent with the Hepburn Planning Scheme, in particular the provisions relating to Medium Density Housing, Design and Built Form.*
2. *The proposal does not have sufficient regard to the provisions of the Neighbourhood Character Overlay (NCO2) that covers the site.*
3. *The proposal is inconsistent with the provisions of the Local Planning Policy Framework of the Hepburn Planning Scheme in particular Neighbourhood Character and Settlement and Housing.*
4. *The proposal does not adequately address the following provisions of Clause 55 of the Hepburn Planning Scheme (Objectives B1, B6, B7, B13, B14, B16, B17, B21, B22, B23, B26, B29 & B31).*
5. *The proposal does not appropriately respond to the design and siting criticisms and suggestions made by Council and VCAT with regards P32454/2004 as they relate to the provisions of the Hepburn Planning Scheme.*

Moved the Officer's Recommendation

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

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9.7 APPLICATION NO 2006/9176, PROPOSED: DEVELOPMENT OF A DOUBLE STOREY DWELLING

(A/O – Planning Officer 3)

File Ref: 5/5610/00151/P

Synopsis

Applicant	Simonds Homes (On behalf of R & D Stanley)
Location	4a Queensberry Street, Daylesford
Proposal	To construct a double storey dwelling
Zoning	Residential 1
Overlay Controls	NC02, ES01, ES02
No of Objections received	2
Recommendation	Notice of Refusal



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2004 BOUTIQUE SPECIFICATION

<p>Simonds Homes Melbourne Pty. Ltd. 2ND FLOOR - 28-32 ALBERT ROAD, SOUTH MELBOURNE VIC 3205 TEL: 03 9882 0700 FAX: 03 9882 0800 03 9882 0700</p>		<p>PROJECT: 2004 BOUTIQUE SPECIFICATION DRAWN BY: J. SIMONDS DATE: 12 SEP 2004</p>	
<p>CLIENT: SCUS (D/M/PH/OMEX) ADDRESS: XXXXXXXXXXXXXXXXXXXXXXXX</p>		<p>DATE: MON-TANA 3300 SCALE: 1:100 DATE: 06/09/00 DRAWN BY: J. SIMONDS CHECKED BY: R. K. E. Y. X.</p>	

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Report

INTRODUCTION

An application was lodged on 22 September 2006 to construct a dwelling on one title being Lot 4 PS 425015 totalling 899m² in area.

The site is located on the western side of Queensberry Street Daylesford. The frontage is to Queensbury Street 20.29 metres. The site is currently vacant. There are no trees on the site.

Queensberry Street is located in an undulating area on the southern side of Wombat Hill. The subject land slopes to the west. The surrounding area is developed for single dwellings. The land adjoining to the south has villa units and the land to the north is a vacant residential lot.

The context of the site is described as being located on a ridge which is characteristic of a Central Highlands town with a spacious, open country town feel with constant views to the surrounding countryside and a relationship with a landscape characterised by mature trees. The lots to the east and west of the subject site contain mature trees.

PROPOSAL

The proposal is to fill the site to create a single level at the front of the site and construct a double storey four bedroom dwelling with a double garage included. The proposed dwelling has a bedroom and ensuite with living areas on the ground floor. The upper level has three bedrooms, two bathrooms and a gallery area.

The dwelling will be setback 7 metres from the frontage in line with the existing dwelling to the south. Access to the garage will be from a concrete paved driveway along the southern property boundary.

Private open space is provided on the western and southern sides of the block.

REFERRAL AUTHORITIES

Central Highlands Water – No objections subject to conditions

Department of Sustainability and Environment – No objections and no conditions

Goulburn Murray Water – No objections subject to conditions.

REFERRAL WITHIN COUNCIL

Engineering – No objections subject to preparation of drainage plans including detention system.

Heritage Advisor – The site is not within the Heritage Overlay however the urban design advice is that the single large roof form is not an appropriate site responsive design.

ADVERTISING/NOTICE OF APPLICATION

The objections to the application raise the following issues:

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- A dwelling that is 8m high is inappropriate to the street;
- A two storey dwelling is not in keeping with the neighbourhood character study.

The objections are considered in principle objections to the design as it relates to the character of this part of Daylesford. The issues relating to character are relevant considerations. A meeting to discuss modifications was held with Simonds who subsequently tabled plans which:

- modified the façade to reduce the impact of the garage;
- replaces the stone material on the façade with a rendered finish;
- increased the setback in line with the neighbouring dwellings;
- relocated the water tank away from the frontage.

The objections have not been withdrawn at the time of preparing this report.

Relevant Policies / Council Plan implications:

Clause 65 General Provisions of the Hepburn Planning Scheme relating to Decision Guidelines states:

“Because a permit can be granted does not imply that a permit should or will be granted. The responsible authority must decide whether the proposal will produce acceptable outcomes in terms of the decision guidelines set out in that Clause.”

STATE PLANNING POLICY FRAMEWORK (SPPF)

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

Clause 14 Settlement

Clause 15.01 Protection of Catchments, waterways and groundwater.

Clause 16.02 Medium density housing

Clause 19.03 Design and built form

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

- it is regarded that the resultant architectural and urban design outcome will not make a positive contribution to the local urban character.

LOCAL PLANNING POLICY FRAMEWORK (LPPF)

Clause 21.01-3 Municipal Overview – Settlement

This clause highlights the importance of Wombat Hill as a dominant characteristic on Daylesford.

It is regarded the visual impact of the development is not acceptable will diminish the integrity of the area.

Clause 21.01-9 Environment and Heritage Landscapes and Cultural Heritage

The emphasis through this clause is based on the correlation between the significant physical and cultural landscape and the attractiveness of the area to visitors and residents alike.

It is regarded that the proposal will erode the integrity of this relationship.

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Clause 21.05 Settlement and Housing

Objective 2 "To improve the character of development in established urban areas.

Strategies

- *Provide for residential infill opportunities, using the township structure plans.*
- *Promote innovative residential development and a range of lot sizes in existing urban areas.*
- *Promote residential development that acknowledges and enhances the valued character of neighbourhood areas.*
- *Support the consolidation of development in urban areas where infrastructure capacity exists and where the character of the area is not prejudiced.*

These strategies are regarded to support the revised development plan for the subject land. The site is an infill site, the design does not respond to the established neighbourhood character.

Clause 21.09 – Environment and Heritage

Clause 22.07 – Settlement

The proposal is regarded as not complying with the policy direction provided in these statements. Clause 21.09 has the objective of:

Protecting the cultural heritage of Hepburn Shire while promoting appropriate development opportunities for areas and sites of cultural heritage significance and neighbourhoods of strong residential character.

Clause 22.07 – Settlement

Whilst this policy encourages development within existing towns and villages and areas that have infrastructure and community facilities it also seeks to:

Ensure that new use and development is compatible with the underlying character of the surrounding built areas.

Clause 22.08 – Daylesford Neighbourhood Character

22.14 – Daylesford Precinct Fourteen

This precinct includes the highly recognisable and distinctive feature of Wombat Hill. The preferred character statement, objectives and policy direction for development within this precinct reinforces the historic and garden settings, as well as the topographical constraints and the need for development to recognise and respond to these elements.

There are seven (7) character elements that any development should be responsive to:

- Existing Buildings
- Vegetation
- Topography/Landform
- Siting
- Height and building form
- Materials and design detail
- Front boundary treatment

The Neighbourhood Character Study, an incorporated document of the Hepburn Planning Scheme is one prepared through consultation with the community and thus

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reflective of the communities preferred character for the area. The proposed dwelling is not responsive to the character elements in the following ways:

- The proposed dwelling is a large dwelling built on one single level. It has a correspondingly large single roof form with a high pitch as its dominant design element.
- It competes directly with a good contemporary site responsive unit development on an adjoining lot directly south.
- There will be a significant visual impact from the Camp Street – Stanbridge Street corner of the Wombat Hill and the environs of the Skate Park.
- The proposed development does not respond to a substantive principal of the Neighbourhood Character Study which is to design new infill development with respect to the land form.
- The design is also inefficient with regard to passive solar access to the north.
- The floor plans and the elevations do not correspond and this creates ambiguity in the design. Elevation B and D includes access doors from the upper storey implying the location of a balcony.

ZONE AND OVERLAY PROVISIONS

The subject site and surrounds are zoned Residential 1. The purposes of the zone are:

- To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- To provide for residential development 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.
- In appropriate locations, to allow educational, recreational, religious, community and a limited range of non-residential uses to serve local community needs.

The subject land and surrounds are included within an Environmental Significance Overlay – Schedules 1 (Groundwater). The proposal will not have a significant impact.

Assessment against ResCode requirements

Other relevant planning controls and provisions from the Hepburn Planning Scheme regarding this application include assessment against the requirements of ResCode.

Under the provisions of Clause 54 of the Hepburn Planning Scheme, a development:

- Must meet all of the objectives.
- Should meet all of the standards.

The table included below provides a summary of the proposal against the ResCode requirements.

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		Objectives	Standards	COMMENTS
A1	Neighbourhood Character	X	X	Design is not responsive to topography, vegetation, heritage and built form.
A2	Integration with Street	✓	✓	Good linkages with streets. No high fencing on frontages.
A3	Street setback	✓	✓	Meets requirements
A4	Building Height	✓	✓	Max. allowed 9m – max. in proposal 8m.
A5	Site coverage	✓	✓	Max. allowed 60%, proposal has only 31%.
A6	Permeability	✓	✓	Max. allowed 20% site permeable - complies
A7	Energy efficiency	X	X	Evidence required for Five Star Energy Rating
A8	Significant trees	N/A	N/A	Not relevant as no significant trees exist on site
A9	Parking	✓	✓	Complies
A10	Side & Rear Setbacks	✓	✓	Complies
A11	Walls on boundaries	✓	✓	No walls on boundaries
A12	Daylight to existing windows	✓	✓	Complies
A13	North facing windows	✓	✓	No neighbouring north facing windows affected
A14	Overshadowing	✓	✓	No overshadowing of neighbours
A15	Overlooking	✓	✓	Views to neighbouring open space limited by trees
A16	Daylight to new windows	✓	✓	Complies
A17	Private open space	✓	✓	Adequate
A18	Solar access to open space	X	X	Usable and amenable open space would be located to the north. Open space is located on the western side of the proposed development

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A19	Design detail	✓	✓	Façade has articulation
A20	Front fences	✓	✓	None proposed

Objections

Impact on Queensberry Street

Mature trees dominate the front gardens of the properties on the eastern side of Queensberry Street providing some screening to the western side of the street. These dwellings look out over the existing development to the view of the forest to the west. The impact on this side of Queensberry Street is minimised by the proposed dwelling being setback a similar distance to the existing development.

Impact on 3 Orford Street (West of proposal)

The distance between the dwelling in Orford Street and the proposed dwelling is approximately 57 metres. The subject site has a slope of 15%, rising 2.3metres over approximately 16 metres which will be the backyard of the development. There are mature trees on the property at 3 Orford Street that could interrupt the sight lines to the proposed dwelling.

The proposed dwelling begins as a single storey at this western elevation and steps back 4 metres where it becomes two storey with a significant double storey mass and scale (including bedrooms 2, 3, & 4 with two bathrooms and a gallery space).

The holiday accommodation on the south side comprises six single storey villas, modest modernist design which steps down the land form according to the principle of the Neighbourhood Character Study.

Impact on Daly Street

Daly Street is located approximately 100 metres to the north of Queensberry Street. There may be some glimpses of the site from Daly Street however the impact will be minimal.

On balance the land has been subdivided and zoned for residential purposes. The neighbourhood character overlay seeks to maintain a relationship between the land form, settlement and mature vegetation characteristic of Daylesford and other similar towns in the Central Goldfields Area.

The most imposing view to the proposed dwelling will be from the dwellings below in Orford Street, people travelling along Camp Street and visitors to the Skate Park environs.

Community / Engagement / Communication / Consultation:

The owners reside in Sydney and negotiations have been entered into with Simonds Homes, the applicant, for design changes. The objectors have been communicated with by letter.

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Financial & Resource Implications Initial & Ongoing

The implications are the costs of any appeal at VCAT which may arise.

Recommendation

That Council having considered all the matters required under Section 60 of the Planning and Environment Act 1987 decides to issue a Notice of Refusal for the development of A dwelling in respect of land 4A Queensberry Street, Daylesford (Lot 4, PS4250125) on the following grounds:

- 1 *The proposal is inconsistent with the provisions of the State Planning Policy of the Hepburn Planning Scheme in particular*
- 2 *The proposal is inconsistent with the provisions of the Local Planning Policy Framework of the Hepburn Planning Scheme in particular Clause 22.08*
- 3 *The proposal is inconsistent with objectives of Daylesford Neighbourhood Character Study – Area D14.*
- 4 *The proposal is inconsistent with the objectives of Clause 54 particularly A1- Neighbourhood Character, A7 Energy Efficiency, A18 Solar Access to Open Space*
- 5 *The proposal would be detrimental to the amenity of the area*

Moved the Officer's Recommendation.

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

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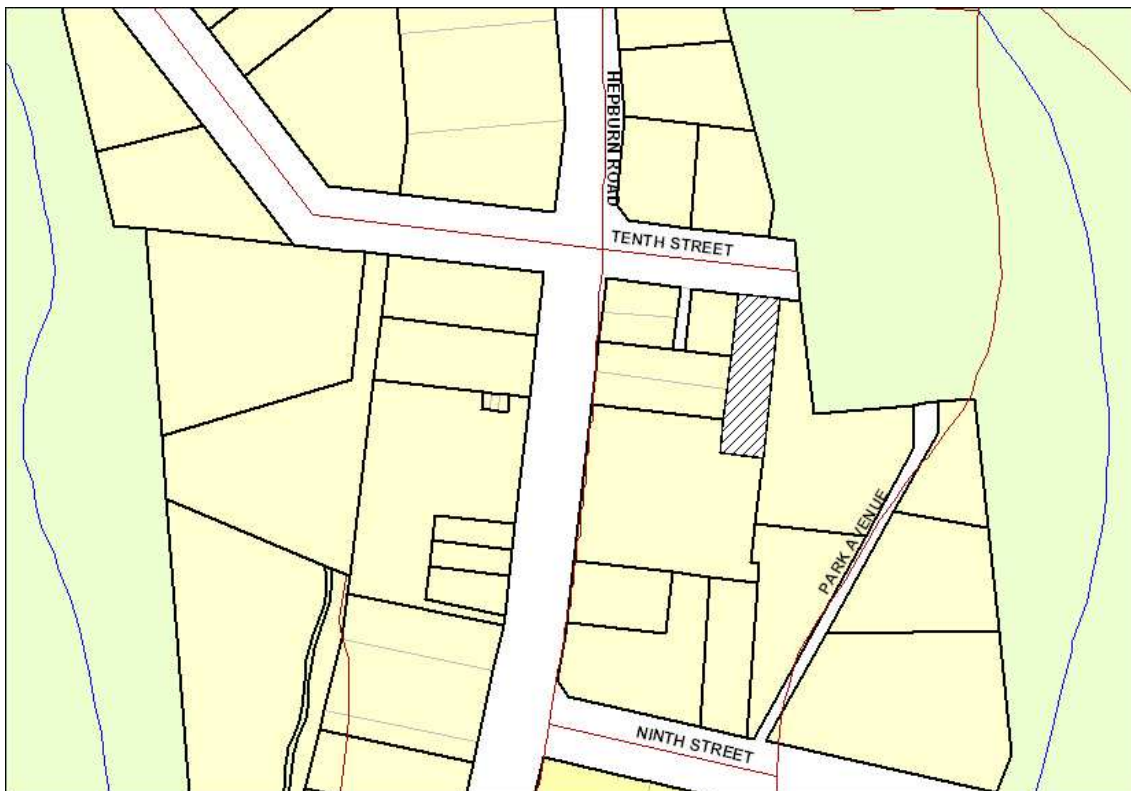
9.8 APPLICATION NO 2006/9257, PROPOSED: CAFÉ/RESTAURANT, 3 TENTH STREET, HEPBURN SPRINGS

(A/O – Planning Officer 2)

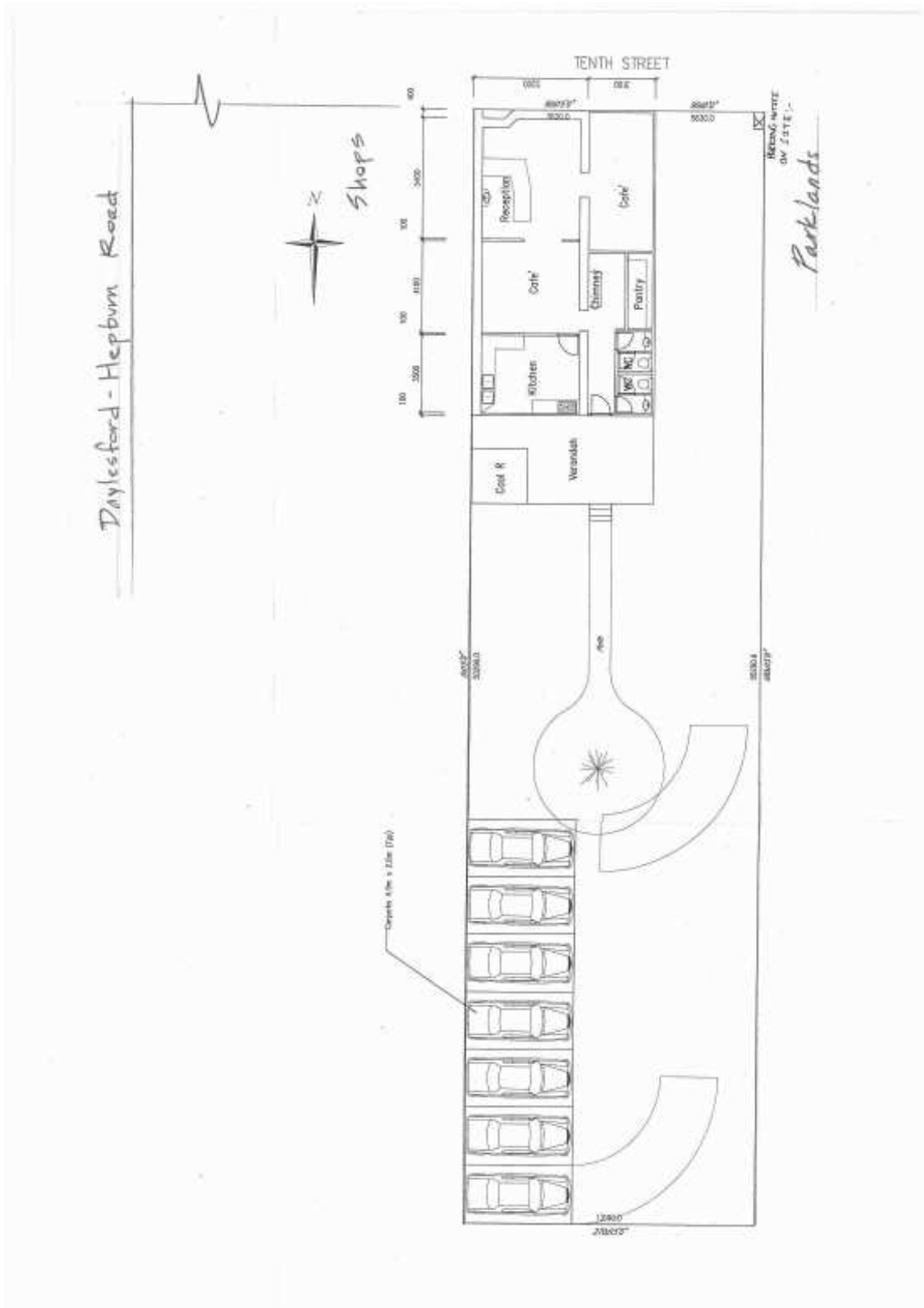
File Ref: 5/6940/00400/P

Synopsis

Applicant	Shane Trask and Jennifer Colley
Location	3 Tenth Street, east off Daylesford-Hepburn Road, Hepburn Springs
Proposal	Reduction of parking provision and On-premises Liquor Licence, in association with operation of Food and Drink Premises (café)
Zoning	Business 1 Zone, B1Z, like land to south & west, with Res 1 Zone north opposite Tenth St and east, with Public Park & Recreation Zone further east.
Overlay Controls	Heritage Overlay HO734 (small group of shops); and ESO1
No of Objections received	None
Recommendation	Approval, subject to minor modifications and other conditions



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Report

INTRODUCTION

Built circa 1920-30, the subject premises adjoins the 'Palais' group of shops/properties. It was probably last used as a café sometime around 2003, according to Council health records; an accompanying submission suggests a café was operating at least as early as the '80's. The 13.2m frontage to Tenth St consists of 8.3m wide building, 4.9m access way to the rear. The building depth is 13.7m, area of 113.7m², consisting of about up to 50m² of seating area, kitchen, 2 conveniences and washrooms. 4m deep to the rear is a deck, with cool room in one corner, then a 12m deep brick-paved area with shade tree (courtyard), then room for 7 parking spaces in the balance; overall depth is 50.3m, overall site area 664m².

There is parkland to the east, shops to the west on Tenth St; Palais backs onto the west side. The premises on the corner of Main Rd gained permission in April 2005 also to operate a cafe. Surrounding otherwise are hotels, B & Bs, and some residences, several apparently used for accommodation.

Council records indicate that business was regarded to be officially closed in June 2003. The use therefore has stopped for a continuous period of 2 years; as set out in the Hepburn Planning Scheme, the premises therefore lost its legal ability to operate, other than as fully in accordance with the Scheme, in June 2005. Planning permission is not required for the use itself in the Business 1 Zone; however, a permit is required to waive or reduce the parking provisions; plus, the Scheme includes the need for a planning permit to use the premises to sell or consume liquor, as a licence is required under the Liquor Control Reform Act 1998.

PROPOSAL

The applicants now wish to re-open the premises as a café and licensed restaurant from 7am to 11pm, except Sundays 10am to 11pm. The applicants wish to seat up to 40 persons, the submission stating up to 30 seats inside, another 10 (or so) in the rear courtyard. It was also stated that the mainly-glassed façade will remain, with signs and other features re-painted in similar colours.

The parking spaces are to be constructed to an all-weather surface, with some minor planting, and a sign encouraging their use.

REFERRAL AUTHORITIES

The only relevant authority is Liquor Licensing, which does not need to be formally consulted until Council decides on the matter; however, no particular issues were apparent in telephone discussion.

REFERRAL WITHIN COUNCIL

Health Office, applicants have satisfied all health requirements; noted that the proposal responds to new smoking restrictions coming in soon;

Engineering, comment on the dependence on street parking was sought, and there are no particular concerns in this regard;

Building, if seating over 20 persons, must have convenience for disabled persons;

Heritage Advisor, content with advice that the façade will remain essentially the same.

ADVERTISING/NOTICE OF APPLICATION

Notices were required to be sent to surrounding owners, and notices were required to be displayed on site and in the local paper; no objections were lodged.

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Relevant Policies / Council Plan implications:

STATE PLANNING POLICY FRAMEWORK (SPPF)

The proposal is considered to be consistent with various objectives within Economic development of the State Planning Policy Framework, including Activity centres.

LOCAL PLANNING POLICY FRAMEWORK (LPPF)

Similar comments apply to local objectives in economic development; the site is on the edge of B1Z; but has recreation area on another side, and several residences to the north opposite Tenth St would be used for accommodation. The proposed 11pm closing should cause little disturbance in this neighbourhood.

ZONE AND OVERLAY PROVISIONS

The proposal is quite consistent with the objective of B1Z, to encourage the intensive development of business centres for retailing and other complementary commercial, entertainment and community uses.

The parking provisions of Clause 52.06 of the Scheme must be addressed. From the information provided, the applicants wish to seat up to 30 persons indoors; this should be served by up to 18 on-site spaces, according to the table in the Scheme (assuming the 10 outdoor seats would receive mainly intermittent use), although permission may be granted to reduce or waive the number of spaces required by the table.

The submission wishes Council to take into account the history of the café use of the site, and it is considered important that the 7 on-site spaces are to be retained and enhanced. In exercising discretion over the requirement, Council may take into account several criteria, the most relevant being the availability of parking in the area, and variation in times of peak parking demand by operation of the various uses.

The Hepburn Springs Urban Design Framework says 'The Scheme requires that new developments provide parking, and particularly for accommodation. This requirement should be applied rigorously...'

While of some relevance in Hepburn Springs generally, an entertainment precinct is evolving in the immediate area of Tenth St, with the Palais and Star Café; some likely walk-up trade, including movement between these premises on any evening, should be taken into consideration, together with the past use of the site.

ASSESSMENT

The situation with this premises is somewhat unique; although it has lost its right to operate as an existing use, its use going back a few more years should be taken into consideration when deciding its appropriate parking provision, together with the applicants' retention and enhancement of existing spaces in the rear.

There is some concern about the extent to which other uses would have to compete for kerbside parking in this area at peak periods, eg later at night, especially Friday and Saturday.

Although special circumstances can be seen to apply to the subject premises, Council should continue to be discerning about reducing parking provisions for future proposals.

The hours of operation are appropriate for this area, although with liquor licence, the permit should include a noise and amenity condition, in deference to the residential uses to the north.

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Community / Engagement / Communication / Consultation:

Advertised as above.

Financial & Resource Implications Initial & Ongoing:

Nil

Recommendation

That Council having caused notice of Planning Application No. 2006/9257 to be given under Section 52 of the Planning and Environment Act 1987 and having considered all the matters required under Section 60 of the Planning and Environment Act 1987 decides to Grant a Permit under the provisions of Hepburn Planning Scheme in respect of the land known and described as 3 Tenth Street, Hepburn Springs for the reduction of parking provisions from the Scheme requirement, and for an On-premises Liquor Licence, in association with the operation of a food and drink premises, subject to the attached conditions:

1. *Prior to the use of the premises as a café serving more than 12 customers, three (3) copies of amended layout plans must be submitted to and approved by the Responsible Authority. These plans must be in accordance with the original plans submitted but must be amended to show:*
 - *Seating for a maximum of 30 persons indoors, including a convenience for the disabled ;*
 - *Seating for a maximum of 10 persons outdoor on site; and*
 - *Sign at the entry to read 'PARKING'.*
2. *The use may only operate between the hours of 7-00am to 11-00pm Monday to Saturday and 10.00am to 11-00pm Sunday.*
3. *The paving as shown on the endorsed plan must be completed to the satisfaction of the Responsible Authority and such works must continue thereafter to be maintained to the satisfaction of the Responsible Authority.*
4. *The area set aside for the parking of vehicles, together with the associated access lanes as delineated on the endorsed plan must:*
 - Be made available for such us;*
 - Not be used for any other purpose;*
 - Be properly formed to such levels that it can be used in accordance with the endorsed plans;*
 - Be paved with crushed rock or gravel of an adequate thickness to prevent the formation of pot-holes and depressions;*
 - Be adequately drained and maintained continuously in a useable condition;*
 - Be clearly delineated on the ground.**to the satisfaction of the Responsible Authority.*

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Council's Heritage Advisor:

4. *Any change in the appearance of the building must be approved by the Responsible Authority*
5. *The amenity of the locality must not be adversely affected by the activity on the site, the appearance of any building, works or materials, emissions from the premises or in any other way to the satisfaction of the Responsible Authority.*
6. *This permit will expire if one of the following circumstances applies:*
 - the use does not start within two (2) years of the issue date of this permit.
 - the use is discontinued for a period of two (2) years.

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

NOTES:

The provision of seating for more than 20 persons on the premises at any time will require the construction of a convenience for the disabled, in addition to existing conveniences. A Building permit will be required for such buildings and works.

The operation must comply with all other Health and Liquor Licence requirements.

Moved the Officer's Recommendation with the following amendments:

Item 2 should read: 8am to 11pm Sunday.

Item 4 correction to typo – us should read "use"

Moved: Cr Bill McClenaghan

Seconded: Cr Janine Booth

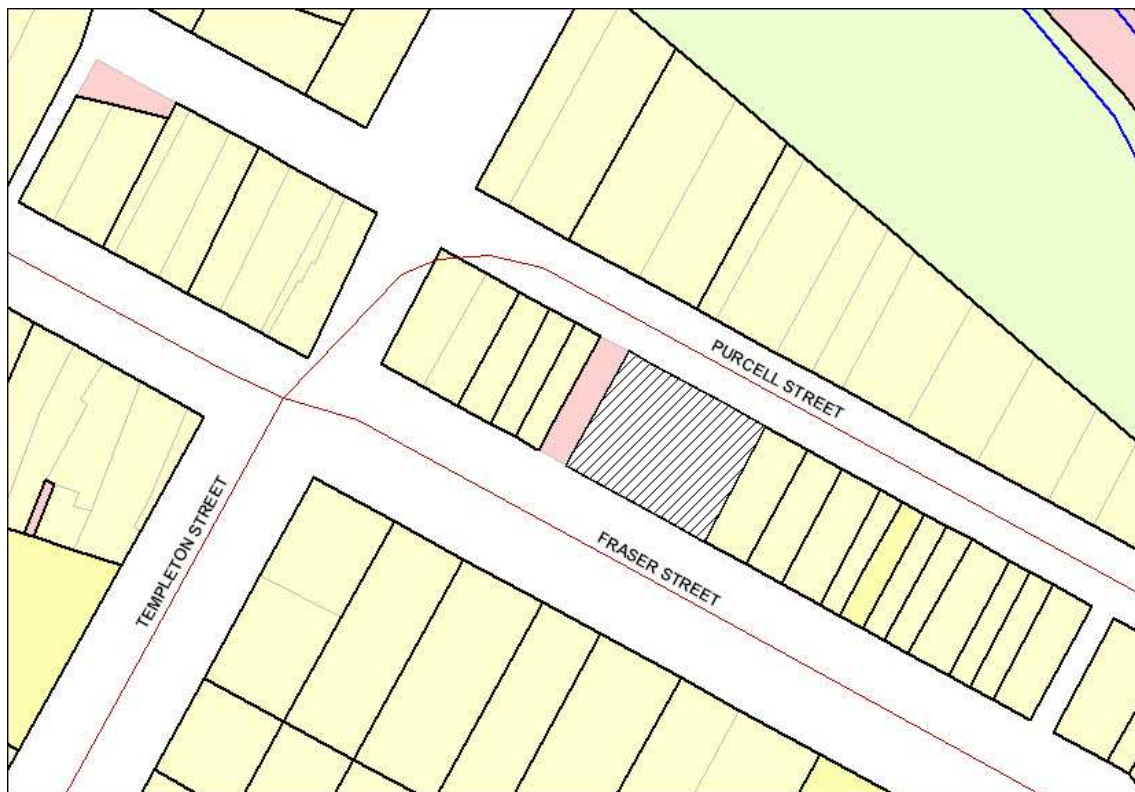
Carried.

9. STATUTORY MATTERS

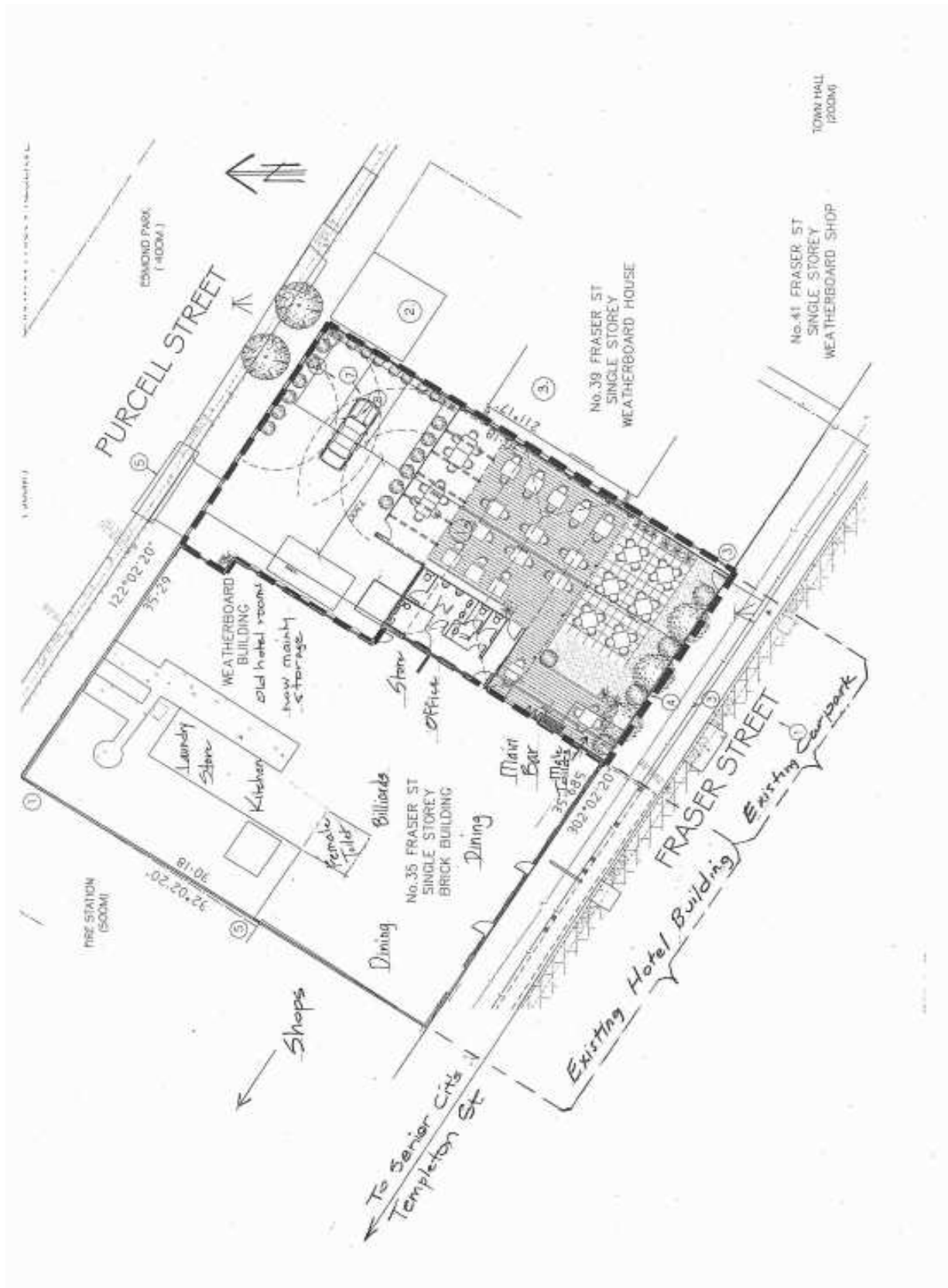
9.9 APPLICATION NO 2006/9270, PROPOSED: BEER GARDEN FOR NATIONAL HOTEL, 35 FRASER STREET, CLUNES
(A/O – Planning Officer 2) File Ref: 1/25700/00035/P

Synopsis

Applicant	ADD Nominees, C/o Taylors Development Strategists
Location	35 Fraser Street, north side, through to Purcell St, Clunes
Proposal	Beer Garden for National Hotel, including reduction of parking provision and On-premises Liquor Licence
Zoning	Business 1 Zone, B1Z, like surrounding land, except for Township Zone, north opposite Purcell St
Overlay Controls	Heritage Overlay HO776 Clunes Heritage Precinct; and ESO1
No of Objections received	None
Recommendation	Approval, subject to modifications and other conditions



9. STATUTORY MATTERS



9. STATUTORY MATTERS

Report

INTRODUCTION

The National Hotel sits on a site with about 35.3m frontage by 30.2m deep, backing onto Purcell St, with buildings to both frontages, about 20m to Fraser St, covering over half the site, most of which is the hotel, fronting Fraser St; a 2m x 3m stone-clad room was constructed onto the eastern end of the building frontage for the mens' convenience, possible in the '30's, while a slightly larger convenience is internal, off the dining area, for women.

The other 15m of the Fraser St frontage is vacant, used mainly as private parking, unsealed, although it is available to the public, and could hold up to 10 cars, with access through to Purcell St; portions are used as service area.

Permission was granted in 1994 for re-decoration of the building, which appears to have been successfully implemented. In mid 2005, the hotel was given permission for weekend trading to 1am, and the use of its rooms for functions and receptions.

The land is bound on the east by a private dwelling, then further east and west mainly by shops, with Council recreation and some residential opposite Purcell St; opposite Fraser St are mainly shops.

PROPOSAL

New owners hope to generate activity at this western end of the village centre by using much of the parking and service area as a beer garden. This is to involve closing all but 4 parking spaces, with Purcell St access only, demolishing the men's convenience, constructing a new male and female convenience onto the east wall, and using the balance for seating, mainly on decking with small 'sunken garden', some on paving. About half would be covered by a hipped, corrugated iron roof, projecting east over the new convenience. The northern-most 30m² is to be under a pergola.

The concept plan shows planting mainly along the Fraser St frontage, with little around the rest of the periphery of the beer garden. Some planting is indicated around the parking. The concept plan shows seating for about 70.

There is to be a 3.5m high brick wall where the garden is adjacent to the dwelling to the east, probably with paling fence on the rest of the common boundary. It is planned to have a 1.2m high corrugated iron fence, with capping, on the Fraser St frontage.

REFERRAL AUTHORITIES

The only relevant authority is Liquor Licensing, which does not need to be formally consulted until Council decides on the matter; however, no particular concerns were raised in telephone discussion with the authority.

REFERRAL WITHIN COUNCIL

Health Office, noting that the proposal is at least partly in response to new smoking restrictions coming in, that it is likely that the open-to-sky area only will be eligible for smoking, and that the applicants should be so aware;

Engineering, stormwater is the only condition required; but advice on the heavy dependence on street parking was also sought, and there are no particular concerns in this regard.

Heritage Advisor, endorses the beer garden initiative as a way of improving the streetscape, with an appropriate fence and planting, instead of the highly visible existing parking and service area; several detailed suggestions are made about materials and finishes, appropriate from a heritage precinct perspective.

ADVERTISING/NOTICE OF APPLICATION

Notices were required to be sent to surrounding owners, and notices were required to be displayed on site and in the local paper. The east-adjointing owner/occupant viewed

9. STATUTORY MATTERS

the plans, and was mainly interested in the treatment along the common boundary; however, no objections were lodged.

Relevant Policies / Council Plan implications:

STATE PLANNING POLICY FRAMEWORK (SPPF)

The proposal is considered to be consistent with various objectives within Economic development of the State Planning Policy Framework, including Activity centres.

LOCAL PLANNING POLICY FRAMEWORK (LPPF)

Similar comments apply to local objectives in Economic development; the site is substantially surrounded by B1Z, except for the recreation area and one dwelling site to the rear, opposite Purcell St, and the dwelling adjacent to the east.

Although Friday and Saturday night closing at 1am the following morning has become common in appropriate locations in the region, conditions on the permit should reflect this hotel's proximity to residential use, to some extent.

The view has been expressed that this end of the business area tends to be away from the centre of activity, and new development should be encouraged.

ZONE AND OVERLAY PROVISIONS

The proposal is consistent with the objective of B1Z, to encourage the intensive development of business centres for retailing and other complementary commercial, entertainment and community uses.

The parking provisions of Clause 52.06 of the Scheme must be addressed. From the information provided, the beer garden is to have an area of 300 square metres; it should be served by up to 90 on-site spaces, according to the table in the Scheme, although permission may be granted to reduce or waive the number of spaces required by the table.

The Scheme only requires spaces for new floor area, provided that the existing number of car spaces on the site is not to be reduced; the beer garden is to be constructed over much of the existing parking area, so Council could even ask for more than 90 spaces. As such, it is considered important to retain a significant portion of on-site spaces while reducing the new area generating this large requirement. The proposal retains 4 spaces, although 2 on the plan would be difficult to access, and much of the area would tend to be used for servicing.

In exercising discretion over the requirement, Council may take into account several criteria, the most relevant being the availability of parking in the area, and variation in times of peak parking demand by operation of the various uses.

The only other relevant overlay is for the Clunes Heritage Precinct, covered in referrals above.

ASSESSMENT

It is accepted that Clunes central area has notable capacity for parking in the street. There is some concern about the extent to which other uses would have to compete for parking at peak periods, although the hotel's demand peak will be late at night, especially Friday and Saturday, which complements most peak times for the retail and other business uses in Fraser Street, including the nearby Senior Citizens facility and RSL.

Therefore, the 90+ space requirement may be somewhat excessive, but should be addressed.

Eliminating the 30m² pergola portion of the seating would retain about 47% of the current parking and service area for such use. There should be room for 4 fully accessible parking spaces, and 5th space that could double for loading/unloading.

9. STATUTORY MATTERS

Access through the beer garden to the parking area must be a minimum of 1m wide to comply with building safety regulations.

There should be a one metre strip of planting along the common boundary with the eastern residence, to add to the buffer effect of the brick wall and paling fences, and to soften their viewing within and without the development. This configuration would yield seating for about 50 persons, and is considered to pose a better balance between the requirements of the Scheme, the availability of parking in the area, the need to enhance the streetscape and heritage area, and the aspirations of the applicants.

The permit recently granted for use as reception rooms and late night operation, includes noise and amenity conditions, that should also apply to this permit

Community / Engagement / Communication / Consultation:

Advertised as above.

Financial & Resource Implications Initial & Ongoing

Nil

Recommendation

That Council having caused notice of Planning Application No. 2006/9270 to be given under Section 52 of the Planning and Environment Act 1987 and having considered all the matters required under Section 60 of the Planning and Environment Act 1987 decides to Grant a Permit under the provisions of Hepburn Planning Scheme in respect of the land known and described as 35 Fraser Street, Clunes for the development and use of an outdoor food and drink area with On-premises Liquor Licence, ancillary to the existing hotel, including reduction of parking provisions from the Scheme requirement, subject to the attached conditions:

1. *Before the development commences, three (3) copies of amended layout plans must be submitted to and approved by the Responsible Authority. These plans must be in accordance with the original plans submitted but must be amended to show at a scale of 1:100:*
 - *Seating for a maximum of 70 persons*
 - *Minimum one metre wide unimpeded access way from the car park to the new entry to the hotel building near its southern corner;*
 - *One metre strip of planting along the common boundary with the eastern residence and separating the car park from the seating area, with minimum 1.5 metre high trellis;*
 - *Planting details, to include small shrubs, creepers on trellis, and at least three (3) small to medium canopy trees with the Fraser Street frontage; and all details to comply with Council's heritage adviser conditions below.*

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

2. *Prior to the commencement of the use, the landscaping works as described on the endorsed plan must be provided and completed to the satisfaction of the Responsible Authority and such works must continue thereafter to be maintained to the satisfaction of the Responsible Authority.*
3. *Prior to the commencement of the use of the area set aside for the parking of vehicles, together with associated access lanes as delineated on the endorsed plan must:*

9. STATUTORY MATTERS

- *Be made available for such use,*
- *Not be used for any other purposes;*
- *Be properly formed to such levels that it can be used in accordance with the plans;*
- *Be clearly delineated on the ground;*
- *Be drained and sealed with an all weather seal coat;*

Be maintained continuously in a useable condition

to the satisfaction of the Responsible Authority.

4. *All loading and unloading must be carried out within the loading bay which must be exclusively for such use.*
5. *All staff vehicles, including vehicles associated with the operation of the use, must be parked within the site and not on the street.*

Council's Environmental Health Department:

6. *The proposed new beer garden must be constructed and maintained to meet current requirements and new requirements coming into force on 1 July 2007 under the Tobacco Act 1987.*

Council's Engineering Services Department:

7. *Stormwater is to be directed to the legal point of discharge being the existing drainage system.*
8. *All costs incurred in complying with the above conditions shall be borne by the applicant.*

Council's Heritage Advisor:

9. *Materials, finishes and colours of the new structures are to be submitted for approval by the Responsible Authority.*
10. *Any new colour scheme for the existing building is to be to the approval of the Responsible Authority. Any redecoration of the existing building is to include paint removal from brick walls to the façade and southeast.*
11. *All window/door joinery to be in timber.*
12. *Weatherboards to be square edged.*
13. *Corrugated iron roofs and fences are to be of galvanised iron. Z600 galvanising is recommended. Zinalume and Colorbond are not acceptable.*
14. *The proposed parapet on the roof of the new structure is to be a simplified version of the brick parapet to the hotel. Matching in detail is not required.*

9. STATUTORY MATTERS

15. *Walls where existing toilets have been removed to be made good with matching brick coursing prior to painting.*
16. *The existing brick wall adjacent the abutting new slab is to be provided with a horizontal damp proof course at floor level. Alternatively the wall is to be reconstructed or the abutting floor is to be of timber or other suspended construction.*
17. *The amenity of the locality must not be adversely affected by the activity on the site, the appearance of any building, works or materials, emissions from the premises or in any other way to the satisfaction of the Responsible Authority.*
18. *The volume of any amplified music or public address system must be lowered no later than 12 midnight, to a level comparable to the neighbourhood at that time, generally so that it is not readily audible from inside nearby buildings, to the satisfaction of the Responsible Authority, and all patrons must have left the premises no later than 1:00 am.*
19. *This permit will expire if one of the following circumstances applies:*
 - *the development is not started within two (2) years of the date of this permit.*
 - *the development is not completed within four (4) years of the date of this permit.*
 - *the use is not started within two (2) years after the completion of the development.*
 - *the use is discontinued for a period of two (2) years.*

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

Moved the Officer's Recommendation with the following Note: Item last dot point: "Be drained and sealed with an all weather seal coat" be DELETED

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

9. STATUTORY MATTERS

9.10 SECTION 173 AGREEMENT BETWEEN HEPBURN SHIRE COUNCIL, AND JOHN CONROY AND DEBORAH CONROY

(A/O – Administration Co-ordinator)

File Ref: 1/3740/00545/B

Synopsis

This report concerns a Section 173 Agreement that indemnifies Council against illegal building works arising from the erection of an extension to the dwelling without obtaining a Planning or Building Permit from the Responsible Authority.

Applicant: JOHN STEPHEN CONROY AND DEBORAH ANNE CONROY

Property: 380 KINGSTON WERONA ROAD, SMEATON
LOT 1, PS 134986, PARISH OF SMEATON

Report

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

The agreement requires that Council be indemnified by the Owner against any action arising from the erection of the building or for damages by any and all subsequent owners and that a reference is made to the structural engineers report BH2701 dated 18 January 2007, a copy of which attached to the Agreement, and that each subsequent sale of the property requires a subsequent engineer's report to be carried out prior to entering into a Contract of Sale.

Relevant Policies / Council Plan implications:

Community / Engagement / Communication / Consultation:

Financial Implications

Nil

Recommendation:

That Council:

- 9.10.1 *Sign and seal the Section 173 Agreement between Hepburn Shire Council, and John Stephen Conroy and Deborah Anne Conroy, as detailed under item 9.10.*

Moved the Officer's Recommendation.

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

9. STATUTORY MATTERS

9.11 SECTION 173 AGREEMENT BETWEEN HEPBURN SHIRE COUNCIL, AND APRIL ROSE PATTERSON, PLANNING PERMIT NO 2003/7725

(A/O – Planning Administration Officer)

File Ref: 5/6370/01800/P

Synopsis

This report concerns a Section 173 Agreement that requires that any future dwelling on each allotment is to have a water tank of no less than 4500 litre capacity. The subject lot at Lot 1, PS 138132, Parish of Wombat, under Condition 11 of Planning Permit 2003/7725, issued for the subdivision of land into two lots.

Applicant: APRIL ROSE PATTERSON

Property: 20 SMITH STREET, DAYLESFORD
LOT 1, PS 138132, PARISH OF WOMBAT

Report

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

The agreement provides that any future dwelling on each allotment is to have a water tank of no less than 4500 litre capacity. The subject lot at Lot 1, PS 138132, Parish of Wombat, under Condition 11 of Planning Permit 2003/7725.

Relevant Policies / Council Plan implications:

Community / Engagement / Communication / Consultation:

Financial Implications

Nil

Recommendation:

That Council:

9.11.1 *Sign and seal the Section 173 Agreement between Hepburn Shire Council, and April Rose Patterson, as detailed under item 9.11.*

Moved the Officer Recommendation

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

10. STRATEGIC MATTERS

Nil reports received

11. CONGRATULATIONS / APPRECIATION

Moved Councillor Heather Mutimer

That Council:

- 11.1.1 Write a letter of congratulations to Ms Gale Orford on being appointed Hepburn Springs Golf Club's first female president.
- 11.1.2 Write a letter of congratulations to the organisers of the "Bullarto Tractor Pull" on another very successful event.

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

12. ORDINARY BUSINESS

Nil items received

CLOSE OF MEETING: *The Meeting closed at 9.06pm.*

ATTACHMENTS

- ATTACHMENT 1** (Item 3.1) Confirmation of Ordinary Minutes 20 February
2007 (Tabled)
- ATTACHMENT 2** (Item 6.1) VLAA with the State Government - Community
Consultation Resource Guide

ATTACHMENT 1

**Minutes of The Ordinary Meeting Of Council
Held On 20 February 2007.**

The minutes will be tabled at the meeting.

ATTACHMENT 2

ITEM 6.1 REVIEW OF COUNCIL'S COMMUNICATIONS / CONSULTATION POLICY

**ATTACHMENT 2 - VLGA WITH THE STATE GOVERNMENT -
COMMUNITY CONSULTATION RESOURCE GUIDE**

ATTACHMENT 3

ITEM 6.9 AUDIT MANAGEMENT LETTER FOR YEAR ENDED 30 JUNE 2006

ATTACHMENT 3: AUDIT COMMITTEE MINUTES – TUESDAY 12 DECEMBER 2005



**A U D I T C O M M I T T E E
M I N U T E S**

T U E S D A Y 1 2 D E C E M B E R 2 0 0 6

Minutes of Audit Committee Meeting of the Hepburn Shire Council held in the Chamber, Town Hall building, 76 Vincent Street, Daylesford at 4.30pm on Tuesday 12 December 2006.

	Page No
1.0 APOLOGIES:	2
2.0 CONFIRMATION OF MINUTES:	2
3.0 REVIEW OF AUDIT MANAGEMENT LETTER – 30/6/06:	2
4.0 AUDIT COMMITTEE MEMBERSHIP:	4
5.0 INTERNAL AUDIT PROGRAM FOR 2006/07:	4
6.0 BATH HOUSE:	4
7.0 HEPBURN POOL:	4
8.0 GENERAL BUSINESS:	5
9.0 NEXT MEETING:	5
10.0 MEETING CLOSE:	5

ATTACHMENT 3

1.0 APOLOGIES:

Present: Dr Jim Edgar (Chair), Cr Bill McClenaghan, Mr Allan Meers

In attendance: Victor Szwed (CEO), Martin Walmsley (Acting Director Corporate Services), John Traill (Manager Finance).

Apologies: Cr Tim Hayes

2.0 CONFIRMATION OF MINUTES:

AUDIT COMMITTEE MEETING – 24 October 2006

Recommendation

That the amended Minutes of the Audit Committee Meeting held on 24 October 2006 be confirmed.

Moved: Cr Bill McClenaghan

Seconded: Dr Jim Edgar

Carried.

3.0 REVIEW OF AUDIT MANAGEMENT LETTER 30/6/06

As part of the normal Audit process the Auditor General has produced a Management Letter for the year 30 June 2006. In his Management Letter, the Auditor General has raised eleven issues for Council consideration. A copy of the letter and draft management comments for each issue are attached to this agenda.

Recommendation

That the Audit Committee consider the Auditor General's Management Letter and the draft management comments.

DISCUSSION:

- **Bathhouse:** The latest report from Major Projects Victoria, project managers was circulated at the meeting by Victor Szwed.
Dr Edgar suggested the need for a checklist of what the Council wants to achieve with regard to the operation of the Bathhouse and the tendering process – e.g. trademark issues.
Cr McClenaghan advised that he was a member of the Bathhouse Liaison Group and suggested that minutes of this group be tabled at the next Audit Committee Meeting.
Dr Edgar requested that members bring suggestions on what might be included on the checklist to the next meeting.
- **Hepburn Pool:** Cr McClenaghan, who is a member of the Hepburn Pool Advisory Committee, advised that plans to increase safety at the site were well advanced. New safety measures include erection of safety gates and new pathways with non slips surfaces. The State Gov't contribution of \$100K needs to be spent by March/April 2007. A budget has been prepared for the safety works. Minutes of the Advisory Committee will be tabled at the next meeting.
- **Asset Register:** It was requested that a further report be provided to the next meeting on the process and timetable for undertaking the review of the asset register.

ATTACHMENT 3

- **Internal Audit:** Council's internal auditors have completed the site visit in respect of reviewing Council's creditors process. A formal report is expected early in 2007. The auditors will return in February 2007 to commence review of the Payroll system and again in March to review the electronic funds transfer processes of Council.
- **Annual Leave:** Managers are currently required to strongly encourage their staff members to keep their annual leave entitlement at a reasonable level. Dr Edgar recommended that Council take a stronger stance on this issue and impress upon staff that may lose their leave entitlements if not taken within the required period.
- **LSL:** Council has a policy of encouraging staff to take their long service leave entitlement within certain time frames of the leave falling due however has no legal basis for forcing staff to take leave. Council is required under the relevant Act to fund its long service leave liability based on a formula. These funds are kept in a separate investment account which accrues interest.
- **Discretionary Reserves:** It was identified that Council has three non discretionary reserves which are: Public Open Space Reserve, Car Parking and Drainage. All Council's reserves are listed in the current annual report.

Some examples of non discretionary reserves are: Bathhouse Redevelopment Reserve and the Waste Management Reserve. Cr McClenaghan expressed concern in respect to the Waste Management Reserve. It was suggested that Cr McClenaghan meet with John Traill, Manager Finance to discuss his concerns further and a report be presented to the committee on their findings.

- **Policies and Procedures Manual:** This is an area of Council that has not been given high priority in the past due to lack of resources. Procedures have generally taken the form of check lists that employees follow to complete given tasks.
Mr Meers identified the need for Council to develop policies, particularly in respect to annual leave, LSL and the finance area of Council. It was requested that Manager Finance prepare a list of say 6 – 8 items in the finance area that require policies and that this be tabled at the next meeting.
- **Committees of Management:** The Committee was advised that Council had employed Manager Administration to liaise with Council's Section 86 and Advisory Committees. It is expected that this appointment will assist in monitoring committees and improve the relationships between the committees and Council.
Cr McClenaghan identified two committees that he was concerned about. These are Woolnough's Crossing Committee and the Drummond Hall Committee. He identified the need to revitalise these committees.
- **Asset Revaluation:** No concerns.
- **Bank Conciliation:** No concerns.

Dr Edgar recommended that all items on the Management Letter be tabled at the next Audit Committee Meeting, updating progress on each item.

ATTACHMENT 3

Resolution:

That the Manager Finance provide an updated report to the next Audit Committee Meeting.

Moved: Cr McClenaghan

Seconded: Dr Jim Edgar

Carried.

4.0 AUDIT COMMITTEE MEMBERSHIP

Attached for members' information is a copy of the Council report and resolution passed at the Council meeting of 21 November 2006.

Recommendation:

That the Council report dated 21 November 2006 be noted.

DISCUSSION:

Due to the rescheduling of the 12 December 2006 meeting, the appointment of Allan Meers as an independent member of the Committee by Council has now taken place.

Dr Edgar welcomed Mr Meers to the Committee on behalf of Council.

Manager Finance advised a further expression of interest has been received from Robert Taylor, who has good experience in both the fields of auditing and local government. Director Corporate Services and Manager Finance will meet with Mr Taylor in early 2007. Following this meeting a report will be prepared for the next Ordinary Meeting of Council.

Moved: Dr Edgar

Seconded: Cr McClenaghan

Carried.

5.0 INTERNAL AUDIT PROGRAM FOR 2006/07

Advice has been received from WHK Day Neilson in respect to the internal audit program for 2006/07. The audit will commence on Monday 27th November 2006. Attached for the information of the committee is a copy of the Audit Plan.

Recommendation:

That the internal Audit Plan be noted.

Manager Finance reported that the internal audit program for the current year had commenced and is expected to be completed in March – April 2007. In accordance with the previous resolution of this Committee, year two and three of the audit program will be reviewed at the May meeting of the Audit Committee.

Moved: Cr McClenaghan

Seconded: Dr Edgar

Carried.

6.0 BATH HOUSE – no report. See Management Letter - Item 3.0 above.

7.0 HEPBURN POOL – no report. See Management Letter - Item 3.0 above.

ATTACHMENT 3

8.0 GENERAL BUSINESS

8.1 Mr Meers requested a copy of Council's Audit Committee Charter. This will be forwarded to him directly.

8.2 Mr Meers asked whether the Committee received advice from a risk and compliance committee. Victor Szwed, CEO advised that Council does not have a risk and compliance committee.

However it was advised that Council does receive briefings on across the board risks on a number of areas from its Manager Organisational Development. These include the Corporate Occupational Health and Safety Committee, Bathhouse Liaison Group, Hepburn Pool Advisory Committee.

Council undertakes risk management audits as part of its insurance renewal process. An internal risk management working group also exists.

Manager Finance advised that the Council had adopted a Fraud Prevention and Action Policy and that a copy will be provided to Mr Meers for his information.

Manager Finance advised that a financial risk assessment is scheduled to be undertaken this financial year.

8.3 Mr Meers enquired as to whether Council was aware of any training for Audit Committee members. Victor Szwed, CEO advised that Council was not aware of any formal training available however the MAV does, from time to time, provide briefing sessions on audit processes. Mr Meers will undertake some research on this matter.

9.0 NEXT MEETING

Given Council's next Ordinary Meeting is to be held in Clunes on 20th March 2007, it is recommended the next Audit Committee meet at 3.30pm on this day in the Creswick RSL meeting room.

It was agreed, after some discussion, that the next meeting of the Committee be held on February 2007. It was requested by Cr McClenaghan that future meetings coincide with Council's draft agenda meetings.

Therefore, next meeting will be held on Tuesday 13 February 2007 at 3pm in The Mayors Room.

10.0 MEETING CLOSE:

The meeting closed at 5.50pm.

ATTACHMENT 4



1 November 2006
Our Ref: 5/6940/00400

Mr. Bryan McCormick
Saines & Partners, Barristers and Solicitors
PO Box 574
BALLARAT
VIC 3353

Dear Mr. McCormick,

RE: ADVICE ON 3 TENTH STREET, HEPBURN SPRINGS

We refer to your request for advice in relation to the property at 3 Tenth Street, Hepburn Springs ("the land"). In particular you have requested advice regarding:

- Whether there are any outstanding notices or orders against the land;
- Whether a planning permit is required to use the land for the purpose of a café; and
- Whether car parking would need to be provided.

Whether there are any outstanding notices or orders against the land

A search of Council's archives indicates that there are no outstanding notices or orders against the land.

Whether a planning permit is required to use the land for the purpose of a café

The land is zoned Business 1 Zone (B1Z) pursuant to the Hepburn Shire Planning Scheme ("the Scheme"). According to the Table of Uses in Clause 34.01-1, Food and drink premises is a Section 1 use which means that a permit is not required to use the land for a café. A copy of Clause 34.01-1 Table of Uses is enclosed.

Please also be advised that a permit will be required if your clients propose to externally modify the building, erect and display a sign, or remove, lop or destroy any trees on the land because the land is affected by a Heritage Overlay (HO735) pursuant to the Scheme.

Whether car parking would need to be provided

The car parking rate for a café is not specified in the Scheme at Clause 52.06-5 Car parking table. However, it is noted in Clause 52.06-1 Car spaces that:

Where a use is not specified in the table at Clause 52.06-5, an adequate number of car spaces must be provided to the satisfaction of the responsible authority.

ATTACHMENT 4

A reasonable car parking rate for a café may be considered to be the same as a restaurant which has a car space measure of 0.6 spaces available to each seat available to the public. Accordingly, we advise that the car parking rate for a café is 0.6 car spaces to each seat available to the public.

It is important to note that Clause 52.06-1 Car spaces explains that:

A permit may be granted to waive the number of car spaces required by the table.

Decision guidelines

Before a requirement for car spaces is reduced or waived, the applicant must satisfy the responsible authority that the reduced provision is justified due to:

- Any relevant parking precinct plan.
- The availability of car parking in the locality.
- The availability of public transport in the locality.
- Any reduction in car parking demand due to the sharing of car spaces by multiple users, either because of variation of car parking demand over time or because of efficiencies gained from the consolidation of shared car parking spaces.
- Any car parking deficiency or surplus associated with the existing use of the land.
- Any credit which should be allowed for a car parking demand deemed to have been provided in association with a use which existed before the change of parking requirement.
- Local traffic management.
- Local amenity including pedestrian amenity.
- An empirical assessment of car parking demand.
- Any other relevant consideration.

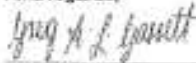
Clause 52.06 Car parking is attached for your information.

In essence, Council advises that:

- There are no outstanding planning notices or orders against the land;
- A permit is not required to use the land for a café; and
- Car parking will need to be provided at a rate of 0.6 car spaces to each seat available to the public.

For future reference, please be aware that Council charges a fee of \$33 for written planning advice. If you have any enquiries please feel free to contact me directly on 5321 6461.

Kind regards,



Greg Garrett
Statutory Planner