

# **HEPBURN SHIRE COUNCIL**

## **ORDINARY MEETING MINUTES**

7pm Tuesday 19 February  
2008

Senior Citizens Room  
Daylesford

Located at the read of the Daylesford Town Hall

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

## HEPBURN SHIRE COUNCIL – COUNCIL PLAN 2006-2011

### **VISION STATEMENT:**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**MINUTES OF THE ORDINARY MEETING  
OF THE HEPBURN SHIRE COUNCIL HELD AT  
DAYLESFORD SENIOR CITIZENS ROOM ON 19 FEBRUARY 2008,  
COMMENCING AT 7 PM**

---

**AGENDA**

	<b>Page No</b>
<b>1. APOLOGIES:</b>	<b>1</b>
<b>2. DECLARATION OF CONFLICTS OF INTEREST:</b>	<b>1</b>
<b>3. CONFIRMATION OF MINUTES:</b>	<b>1</b>
<b>4. PETITIONS AND PUBLIC QUESTION TIME:</b>	<b>2</b>
<b>5. GOVERNANCE &amp; STRATEGIC MATTERS:</b>	
5.1 Revision of Policy 33 – Equal Opportunity and Bullying & Harassment Prevention Policy ( <i>Attachment No. 2</i> ).....	3
5.2 Sale of Land – 1 Bleackley Street, Daylesford.....	6
5.3 Council Elections 29 November 2008 .....	13
5.4 Lease – Jubilee Lake Caravan Park – Tender Overview ( <i>Confidential Attachment No.3</i> ) .....	15
5.5 Monthly Financial Report.....	19
<b>6. COUNCIL AS COMMITTEE OF MANAGEMENT OF CROWN LAND</b>	
6.1 Road Closure – Clunes .....	22
6.2 Lease – Pavilion Kiosk Café – Hepburn Mineral Springs Reserve ( <i>Confidential Attachment No. 4</i> ).....	24
<b>7. COUNCIL SECTION 86 AND ADVISORY COMMITTEES:</b>	
7.1 Creswick Community Enterprise Centre Committee of Management – Instrument of Delegation and Appointment of New Members ( <i>Attachment No. 5</i> ) .....	27
7.2 Clunes Historic Medlyn Complex Committee of Management – Appointment of New Members.....	29
7.3 Creswick Museum & Gold Battery Committee of Management – Instrument of Delegation and Call for New Members( <i>Attachment No. 6</i> ).....	31
7.4 Wombat Hill Gardens Conservation Management Plan.....	33
<b>8. STATUTORY MATTERS:</b>	
8.1 Application No. 2007/9580, Proposed: Demolition and Re-erection of Existing Building and Two Unit Addition.....	35
8.2 Section 173 Agreement Between Hepburn Springs Shire Council and Malcross Investments Pty Ltd, Planning Permit. 2006/9140 .....	45

<b>9.</b>	<b>COUNCILLOR REPORTS AND CONGRATULATIONS:</b>	<b>46</b>
	<b>URGENT ITEM OF BUSINESS / CLOSE OF MEETING:</b>	<b>51</b>

**ATTACHMENTS**

---

---

**CR TIM HAYES, MAYOR.**  
**20 FEBRUARY 2008.**

## 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, Councillor Tim Hayes; Councillors Janine Booth, Bill McClenaghan, Heather Mutimer and David Smith.

**IN ATTENDANCE:** Chief Executive Officer, Victor Szwed; Director Infrastructure & Development, Rod Conway; Acting Director Corporate Services, Martin Walmsley; Manager Finance John Traill.

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

### OPENING PRAYER

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

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

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

This we pray. Amen

1. **APOLOGIES:** Nil
2. **DECLARATION OF CONFLICTS OF INTEREST:** Nil
3. **CONFIRMATION OF MINUTES:**
  - 3.1 **ORDINARY MEETING OF 22 January 2008, including re-convened meeting of 5 February, 2008.**

#### **Recommendation:**

*That item 3.1 Minutes of the Ordinary Meeting of Council held on 22 January 2008 including re-convened meeting held on 5 February 2008 (Attachment 1), be confirmed, as required under Section 93 (2) of the Local Government Act 1989.*

***Moved the Officer's Recommendation with agreed amendments.***

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

Nil Petitions received.

---

## 5. GOVERNANCE AND STRATEGIC MATTERS

---

### 5.1 REVISION OF POLICY 33 – EQUAL OPPORTUNITY and BULLYING & HARASSMENT PREVENTION POLICY

(A/O – Manager Organisational Development )

File Ref: 48/18/01

#### Synopsis

This item was deferred from the January 2008 Ordinary Meeting of Council to this meeting.

Council is aware that WorkSafe investigated the “alleged” harassment and bullying of a former Council employee. It must be noted that the allegations by that person of bullying and harassment have not been substantiated either through WorkSafe or through a comprehensive and separate internal investigation nor have other “alleged” cases which have been speculated on publicly without substance. Worksafe have made several recommendations and directions to improve our existing Policy and Procedures. The attached revised policy incorporates these. The WorkSafe inspector is scheduled to return to Council on 22 February 2008 to ensure that their recommendations and directions have been actioned. **(Attachment No 2).**

#### Report

The Worksafe entry report and Improvement notice make several recommendations and directions for the upgrading and improvement of Council's Policy 33 – Equal Opportunity & Harassment prevention Policy and procedures, including EO – 101 Issue Resolution Procedure. *(Management comments on these are included in brackets):*

The word “Bullying” be reinstated into the policy title to ensure that employees would be confident in referring to the correct policy and procedure if a matter was to arise. *( The existing policy already makes several references to “Bullying”, adding the word into the title will improve this and make it even clearer and this has been done.)*

The Policy display a definition of “Bullying” within its content and include forms of workplace bullying/harassment as well as signs & symptoms of bullying. *( This further enhancement assists staff and management to better understand this serious issue and has been included. )*

What to do in the event of workplace bullying/harassment. *( The existing policy already provided advice on what to do and this is now improved further.)*

Where to go for help. *( The existing policy already provided advice on where to go for help, and this has been further improved.)*

Consideration of how prevention could be incorporated into the procedure could be reviewed, as the current procedure tends to focus on the management of a harassment/discrimination allegation and little information is provided for the prevention. *( The policy has been enhanced in relation to prevention. Specific clauses have been inserted that deal with minimising harassment, bullying and discrimination. Further, Council's recent revision of our Occupational Health & Safety System's procedures has included dealing with Bullying at procedure OHS – 142 WORKPLACE BULLYING & VIOLENCE which reflects WorkSafe's various guidance notes. EO – 101 is also being independently reviewed and will be circulated to Councillors shortly. )*

Regular training of staff should be scheduled with additional training for senior staff on dealing with issues, including building awareness that diffusion and control of escalating workplace bullying/harassment is necessary to enable employees to do their work in a manner that is safe and without risks to health.

## 5. GOVERNANCE AND STRATEGIC MATTERS

---

*(The Inspector requested when our Policy was updated, that refresher training be conducted for all staff, as well as separate additional training for supervisors and managers. This is currently being finalised. Extensive training occurred for all staff in 2005-6. In addition, as part of our formal induction process all new employees since November 2006 who have attended the Corporate Induction segment of Council's Induction program have been introduced to Council's Equal Opportunity contact Officers and our policy and procedures outlined to them. New employees receive an Induction Package of information which includes this Policy and Procedures. Council's Contact Officers have also been promoted in various Staff Newsletters.)*

The above recommendations have now been incorporated into the latest revision of Policy 33.

The Inspector also requires that Council demonstrate a training attendance log and the provision of an outline of the training/education provided to staff. *(The Inspector wants to see a record of the refresher training content and who has attended the refresher training as part of their follow up of the Improvement Notice. Councillors will already be aware that we have had in place since 2004, a software program that records all training and development undertaken by staff and Councillors. This program already provides any and all details of programs attended by staff.)*

The Inspector also made a further recommendation that a periodic opinion survey could proactively assist management in monitoring employee awareness of bullying prevention. This can be incorporated into future Staff Climate Surveys and separate, more specific surveys can also be organised.

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

Policy 33 was initially adopted by Council in January 2003 and subsequently modified in September 2006, following extensive training of staff on equal opportunity, bullying and harassment.

### **3. Asset and Resource Management**

- 3.1 Improve the management of our assets
- 3.2 Foster & Encourage Leadership

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

N/A

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

WorkSafe have directed that refresher training covering Equal Opportunity, Bullying and Harassment, be conducted.

Training has been conducted for staff in early February.

### **Recommendation:**

*That Council:*

- 5.1.1 *Endorse and adopt the revised Policy 33 Equal Opportunity, Bullying & Harassment Prevention Policy.*
- 5.1.2 *Endorse the additional training expenditure of approximately \$6,000 noting that other budget areas will be closely monitored to aim for a balanced budget.*



---

**5. GOVERNANCE AND STRATEGIC MATTERS**

---

- 5.1.3 *Note that copies of the revised, adopted policy will be provided to all Staff, Councillors and to WorkSafe and similarly the revised Procedure EO-101 will be provided shortly.*

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

***Moved: Cr Bill McClenaghan***

***Seconded: Cr Heather Mutimer***

***Carried.***

---

## 5. GOVERNANCE AND STRATEGIC MATTERS

---

### 5.2 SALE OF LAND – 1 BLEACKLEY STREET, DAYLESFORD

(A/O –Acting Director Corporate Services)

File Ref: 3/0670/09500

#### Synopsis

On 16 October 2007 Council considered a Report about future options for land it owns at 1 Bleackley Street, Daylesford – formerly described as 140/142 Vincent Street. It was decided to give public notice of the Council's 'intention' to sell this land.

#### Report

A statutory Notice was published in the Advocate newspaper on 14 November 2007. This is a requirement of S189 Local Government Act 1989 (Act) and also advises that prior to a sale the Council will consider submissions received as provided in S223 of the Act. The submission period closed on 12 December 2007. Persons making a submission may ask to appear and verbally support their submission.

Technically, the land subject to the proposed sale is:

- Lot 1 plan of Subdivision 607306S; and
- Crown allotment 14B section 27 Town of Daylesford Parish of Wombat.

The whole site has an area of approximately 1400 sqm.

It is worth noting that a press release from Council around the same time referred to the sale of the land with the proceeds contributing toward the cost of homes for people with disabilities.

Overall, the Council's intentions were well publicised.

Four submissions were received, one in the form of a joint letter from 7 citizens and former councillors in the Daylesford area. They have asked for their representatives to verbally support their submission and have accordingly been invited to attend the Briefing session on 5 February 2008. The submissions are reproduced below.

Ms Miriam Porter, 51 Duke St Daylesford, writes:

"In regard to Councils intention to sell 1 Bleackley Street (Cnr Vincent Street) Daylesford.

I have always seen the corner of Vincent and Bleackley Street as the pedestrian part of the arterial-opening to Lake Daylesford with the street for vehicles and hopefully in the future, a beautiful entrance onto a Boardwalk meandering down to the water.

As a sculptor I would like to focus on and give credit to the wombat. This position being shadowed by Wombat Forrest and Wombat Hill. A rocky escarpment with oversized carved wooden wombats would signal to our visitors a unique welcome to the town precinct as well as show the way to the lake. Interpretive signage of the fascinating and mysterious life of the Wombat would be an element of the setting.

My main interest though would be the Boardwalk. The many people who walk the lake know how dangerous Bleackley Street is. If walking with children, a pram or bike, it proves difficult when passing a car and worse when two cars are passing at the same point.

In the past our council have commissioned experts to advise us that we should have walking connections between the Lake, the town and the Botanical Gardens. This piece of land is pivotal for that future.

A Boardwalk would encourage more locals as well as visitors to go walking as Boardwalks are such joyous fun things."

E Keith Pyers; J V Wallace; Kenneth V Rae; Ms Meg Elliott; Ron Liversidge;

---

## 5. GOVERNANCE AND STRATEGIC MATTERS

---

Neil Chamberlain; and Maxwell J O'Shea - all of Daylesford area, write:

"We, the undersigned former councillors and present ratepayers, respectfully request council to reject the proposal to sell Council owned land at the corner of king street and Bleackley Street, Daylesford (Allotments 14A\* & 14B) *(As indicated above now Lot 1 PS 607306S.)*

In our view Council owns too little land with potential for future municipal purposes. The land in question has huge potential for the future being so close to the Lake Daylesford Reserve.

If lots 12 & 13, to the south boundary, were to be acquired by normal purchase or by compulsory acquisition council would have a superb site for example, a new senior citizens centre plus associated car parks and gardens.

Such a development may be twenty or more years into the future. Our main concern is that if Council sells this land this will end that dream for all time.

We understand that Council may use the proceeds of a sale for a Disability Housing Project. We submit that other financing avenues are open to Council for this worthwhile project.

At the next budget Council could identify economies to be made or make rate provision for the funding.

With the recent change of government in Canberra, we cannot be sure of what the future will offer in terms of funding and development at the local level.

It is vital that Council keep its options open to take best advantage of future opportunities.

Our representatives would like to meet Council when this issue is discussed."

Mr John Lewis, 22 Leggatt Street, writes:

There are two letters published on page 18 of The Advocate issue of 19/12/2007 concerning the intended sale by the Council of the two allotments on the corner of Vincent and Bleackley Streets. (In one letter the land is described as 1 Bleackley Street, but by definition that address would have to be the first allotment to the west of the land, these allotments having a frontage to Vincent Street, and according to Land Victoria their address is 142 Vincent Street).

If it is the Council's intention to dispose of this land I want to register my strong objection for the following reasons:-

1. The site has significant historical value as it contains the adit of the Defiance Tunnel (also know as the Wombat Tunnel from previous workings), that extends for the full distance under Wombat Hill emerging at a shaft opposite the railway station in the paddock at the south-west corner of the Wombat Park estate. It is the source of the constant stream of water around the mullock heap and into the lake below Ruthven Street, and given the importance of water in the present climate, the source must be protected and should not be built upon. It is the reason why the BDWWT acquired allotment 27B in the first place and pumped from it in the 1950's.
2. The site is virtually the gateway to the lake precinct and has great potential for an imaginative development of a recreational pathway to the lake circuit incorporating the tunnel (uncovered), its mullock heap (which is one of the few remaining intact and so accessible to visitors) and any other mining relics buried under the mass of noxious weeds and undergrowth on the two allotments to the west of the site. There may even be a puddling machine footprint. Given that the two private allotments between the land and the lake are really not suitable for residential purposes and rely on a carriageway easement through 140 Vincent Street for access to their high ground, they would be better incorporated into the lake reserve while still vacant and the owners compensated. The other possibility is partial acquisition and reconfiguration as a sequestered block with the access provided to Vincent Street by a narrow strip off the northern boundary of the Council's site. In any case the surveyor's pegs delineating the northern building line of Bleackley Street seem to demonstrate that a pathway around these allotments would be possible as the formation of Bleackley Street only takes up the southern part of the 30m road reserve. This clearly demonstrated on the CHW sewerage plan for the area.
3. The Bleackly, Vincent, Grant, King Streets intersection ought to have roundabout constructed to alleviate the difficulty of exiting Bleackly Street on a steep gradient to turn into or merge with the through traffic and part of the site may be needed as a splay to facilitate better future traffic control at the intersection

You will note that I have spelt Bleackley Street with a 'c' because that is the correct spelling of the person's name after whom it was named, Cr Henry Bleackley, and the spelling used on the

---

**5. GOVERNANCE AND STRATEGIC MATTERS**

---

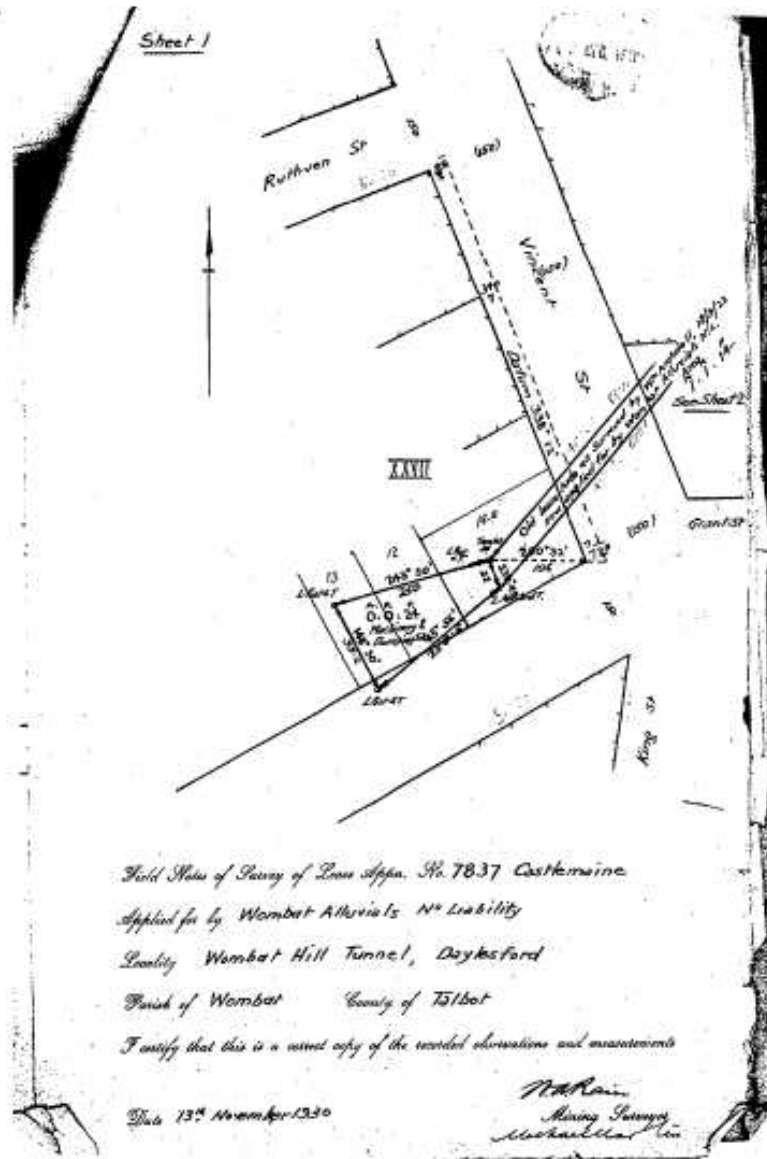
originals Lands Department survey plans. I believe that it behoves all of use to respect a person considered worthy of commemoration by previous generations notwithstanding the errors perpetuated by ignorant road signs.

The image below gives a good indication of the historic mining nature of the site and is the basis for my objection in (2) below

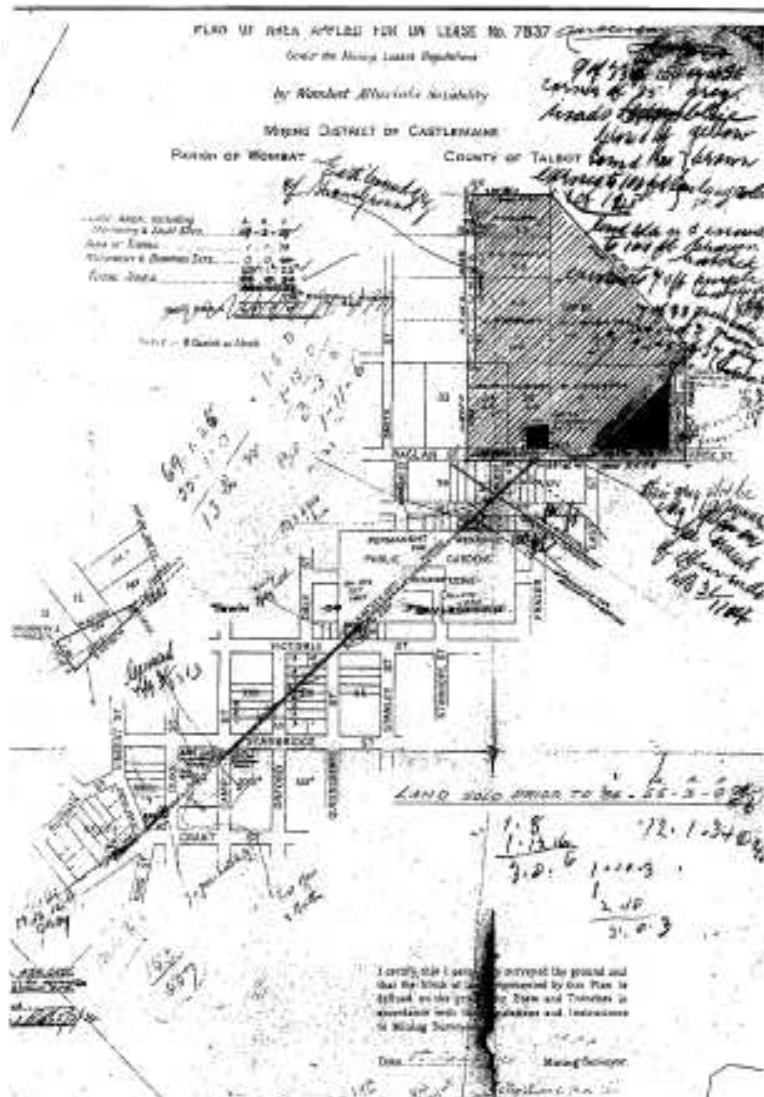


The enclosed copies of two survey plans also demonstrate the extent of the site and the two adjoining allotments to the west that were encumbered by the tunnel workings

5. GOVERNANCE AND STRATEGIC MATTERS



**5. GOVERNANCE AND STRATEGIC MATTERS**



This submission is further to my email to the shire marked for Cr Mutimer on 26/02/2007 when the surveyor's pegs were first noted.

Frank Page writes:

This submission relates to council's advertised intention to sell off land in south central Daylesford and the critical implications of such action.

I first developed an awareness of this land when introduced to Miriam Porter by then council officer Gerry Carr-McPhee in the early 90's. It was at that time that Miriam had first suggested her boardwalk idea, incorporating some of the large wooden sculptures for which she is particularly well known as one of our leading local creative artists.

This idea was again submitted to the previous Hepburn Shire council with some modifications – see attached. Indeed the last council had agreed to plans for a development at this location that would have possibly incorporated some of Miriam's ideas. As will be noted from a recent letter to The Advocate, Miriam continues to feel very passionate about this concept.

It was disappointing, but not surprising, that the new council rejected the previous council's plans for this site. I believe the rationale used was that the municipality already had sufficient parklands. Perhaps a more honest explanation would have identified dissonance with the champions of this project. The future of this land and its future as a community asset is far more important than any personality differences or political rivalries.

---

## 5. GOVERNANCE AND STRATEGIC MATTERS

---

That this project was dropped was very disappointing. The failure of this council to seriously address the community applications and opportunities for this land is equally disappointing and indeed a blot on this council's record.

I suggest that not wishing to develop a park and the subsequent decision to sell the land has also been about revenue and cost. To sell is very much a 'quick fix' lazy or soft option. Inasmuch it raises questions about this council's commitment to the community it serves. Cost should never have been a deterrent. A diverse range of funding options was and is available if there was a commitment to pursue opportunities to develop this land for the community. During the life of this current council we have had both a State and Federal Election and witnessed the largesse of aspiring candidates in their splashing around of funds and grants.

The Bleakley Street land highlights a real opportunity for this council to perhaps reverse its poor stewardship of what are probably a range of council assets shire-wide which could, with some creativity and commitment, be converted to successful community assets. As councillors and officers are possibly too busy and focussed on the day to day running of the shire perhaps this could become a community driven exercise. Council could appoint a community committee (one for the whole shire, or several representing key locations) whose function would be to assess these various council assets as to their use, application and opportunity to be converted into an interactive community asset.

Returning to 1 Bleakley Street it must be said that this piece of land is in a prime location at an important cross road just south of the centre of town. As such the location is highly sensitive and demanding of extreme care in its ultimate use. The joke label sometimes given to this piece of land – "the McDonalds block" – is a chilling reminder of how sensitive this land should be regarded.

I believe that neither commercial nor residential development of this land would be appropriate. For either of these options would attract huge controversy and division across the community, including business. Does this council want to be responsible for creating such a monster with the implications of VCAT hearings, unnecessary cost and divisiveness?

I urge council to revisit this proposal and withdraw the intention to sell. Miriam Porter's proposal would be a direction to pursue. Certainly elements of this concept could be at the core of what is ultimately created. Another direction to consider would be some interactive interpretive community hub. This could form some form of welcome and introduction to visitors approaching the town from the south, combined with some form of shared community place and space. In terms of visitors such a development would alleviate some of the pressure on Vincent Street by shifting some visitors to this location. The size of the land would allow for some parking provision as well. These are just some thoughts and this could be an excellent opportunity for the committee recommended earlier in this submission to develop a range of ideas for this land.

For council to reverse the intention to sell and pursue some of the suggestions contained in this submission would demonstrate leadership and vision for this Daylesford community.

Council should now consider the above submissions including the oral submissions in support of them with the view to forming a decision to proceed or not proceed with the sale of the land.

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

Refer previous Report 16 October 2007.

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

Public notice, Press Release, oral submissions were made at Council's Briefing Session on the 5<sup>th</sup> February 2008.

### **Financial Implications**

Refer previous Report 16 October 2007.

---

**5. GOVERNANCE AND STRATEGIC MATTERS**

---

**Recommendation:**

That Council

- 5.2.1 *defer consideration of the decision to sell the land for 12 months;*
- 5.2.2 *thank residents who have provided submissions and invite them to provide detailed proposals re the future purpose of the land;*
- 5.2.3 *refer funding for the Disability Housing Project for consideration in to 2008/09 budget.*

**Motion moved at the Meeting:**

**That Council**

- 5.2.1 ***defer consideration of the decision to sell the land for 12 months;***
- 5.2.2 ***thank residents who have provided submissions and invite them to provide detailed proposals re the future purpose of the land;***
- 5.2.3 ***refer funding for the Disability Housing Project for consideration in to 2008/09 budget.***
- 5.2.4 ***Refer future of site to the Victorian Mineral Water Committee for consideration of Master Plan.***

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



---

## 5. GOVERNANCE AND STRATEGIC MATTERS

---

### 5.3 COUNCIL ELECTIONS 29 NOVEMBER 2008

(A/O – A/Director Corporate Services)

File Ref: 26/04/05

#### Synopsis

The next local government Councillor elections will be held on the 29 November 2008, it is appropriate that Council determine which voting process they wish to use, either attendance or postal voting.

#### Report

Council is in a position to make a decision on which process of voting it wishes to use for the upcoming elections, either attendance or postal voting.

The VLGA has supplied Council with an outline of the case for and against postal voting and is summarised below:

#### **The Case For Postal Voting**

- Demonstrated higher participation rate than attendance voting.
- Demonstrated lower informal vote than attendance voting.
- Significant increase in numbers of non-resident owners taking part.
- Voters have time to study candidate information and vote in the privacy of their homes.
- Convenient system for older, infirm, disabled and absentee voters.
- Reduced campaign costs for candidates.
- Each candidate is allowed to provide a 150 word profile/policy statement which is included in the postal ballot material at no cost to the candidate.
- Cost savings to Council in the conduct of the election. All ballots come to one place and there is no need to monitor activity at numerous polling places on the day.

#### **Reasons given against introducing universal postal voting**

- Democratic process may suffer because voting would have no more significance than paying a bill.
- The system would differ from that used in State and Federal elections.
- People with low literacy or from non-English-speaking backgrounds may be disadvantaged.
- Community participation and interest may decline.
- Secrecy of the vote may be compromised and coercion or tampering with ballot papers may occur more easily.
- Absentee voters may be advantaged

Analysis of local government elections shows that on average:

- Postal voting achieves around 75.1% participation.
- Attendance voting achieves around 55.6% participation.

The vast majority of Victorian councils have previously chosen to use postal voting. Other important factors for Hepburn Shire include:

- A very high absentee entitlement that is better serviced by postal voting.
- A very dispersed rather than concentrated population which would complicate and add considerable costs to attendance voting.
- Most importantly there has been no community push to change from postal voting.

---

## 5. GOVERNANCE AND STRATEGIC MATTERS

---

- The Victorian Electoral Commission have indicated that there would be approximately a 30% cost increase to use attendance voting over postal voting. The extra cost would be in the vicinity of \$22,000.

Based on the above analysis and the historical success of postal voting within Hepburn Shire Council, officers recommend that postal voting be the voting method utilised for the November 2008 election process.

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

3.3 Asset & Resource Management – Responsible financial management

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

Nil

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

The Victorian Electoral Commission has provided an indicative quote to the value of \$73,351 to conduct the upcoming election on Council's behalf. Council will need to include an amount similar to this in the 08/09 budget.

### **Recommendation:**

*That Council:*

- 5.3.1 *Adopt the postal method of voting for the 29 November 2008 Council Election.*
- 5.3.2 *Seek a formal quote from the Victorian Electoral Commission for them to conduct the election on Council's behalf.*

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

***Moved:***            ***Cr Janine Booth***  
***Seconded:***    ***Cr David Smith***  
***Carried.***

---

## 5. GOVERNANCE AND STRATEGIC MATTERS

---

### 5.4 LEASE – JUBILEE LAKE CARAVAN PARK – TENDER OVERVIEW

(A/O – Acting Director Corporate Services)

File Ref: 4/3795/00050

H188 - 2007

#### Synopsis

The 17 year Lease of Jubilee Lake Caravan Park (JLCP) was extended from 22 November 2007 to 29 February 2008. Notice of intention (4 weeks) to enter into a new lease for 20 years was published on 31 October 2007 and tenders advertised/called in December 2007 for a new lease. (**Confidential Attachment No 3**).

#### Report

A Report on 20 November 2007 outlined the process to be followed for lease of JLCP. The Report also summarised the major provisions of the new lease – now based around DSE standard format for consistency reasons.

No submissions were received regarding the ‘notice of intention to lease’.

After completion of a detailed ‘**BRIEF – Tender for Lease of Jubilee Lake Caravan Park**’, which included a draft of the proposed lease, tenders were called. Advertisements in The Age, The Courier and The Advocate were published over the period 8 – 19 December 2007 with tenders closing at 4pm on 14 January 2008.

Broadly JLCP consists of:

- 80 powered sites with 63 occupied as annual sites
- 20 camp sites
- Overflow camping arrangements
- 2 amenities blocks
- Residence/office/kiosk/work and store sheds.

This lease is not subject to the Retails Leases Act 2003 – it is exempt because the term and requirement for capital works is outside the requirements of the Act.

Ten tender documents were issued, each subject to a \$50 deposit. Five conforming tenders – see below - were received with tenderers supplying a range of ‘Commercial in Confidence’ information on their backgrounds and financial circumstances.

Tenders sought to achieve the best rent return for Council for the rights to manage and operate the caravan park with a development requirement by investing in capital improvements during the term of the lease.

Provision of fire services works and refurbishment of both amenities blocks were nominated as compulsory works. Generally other works nominated by tenderers have included, the entrance, the residence, road surfaces, drainage, electric powerheads, camp kitchen/recreation room, accommodation cabins/sites and landscaping.

The **Brief** clearly set out responsibilities regarding town planning requirements for development works.

On offer was also a licence with specified fee to conduct a non-powered boat/canoe hire business on the Lake. Over the many years there has also been a contractual arrangement for the JLCP operator to undertake maintenance works in a ‘caretaking’ role at the Reserve. This arrangement was linked to the Boat Licence and it was proposed, that at a fixed contract fee of \$15,300pa, this arrangement continue.

---

## 5. GOVERNANCE AND STRATEGIC MATTERS

---

To date the rent and maintenance fee gave a zero net return to Council. The new arrangements aimed to change this to a positive return.

Tenders were received from:

Melissa Peart & Rosalie Scott – Allendale

Rob & Kristen Aberdein – Daylesford (current lessees)

Australian Tourist Park Management – (ATPM) Tweed Heads/Coolangatta

Adam & Angela Lawler – Buninyong

E C (Ted) Godden & B J (Barbara) Barry – Daylesford (current lessees DVCP)

**Please note: Melissa Peart & Rosalie Scott withdrew their tender on the 12<sup>th</sup> February due to changed circumstances.**

Tender evaluation criteria were nominated in the **Brief**. Tenderers were asked to respond to the criteria which included:

**Price** - offered by way of rent for the first 3 years with CPI increases in years 2 & 3, after which the lease would be subject to a rent review process each 3 years with CPI in the intervening years.

- Price has been assessed against existing rent and an independent assessment of the caravan park by Tower Real Estate - a firm specialising in caravan park sales and rental. The level of estimated returns was included in the **Brief** for the information of tenderers.

**Investment** – financial reports (where available); solvency; ability to pay debts; any significant trading issues; bankruptcy; capital/refurbishment works and their estimated value; and performance guarantees including a cash sum.

**Capacity** – outline business and marketing plans; financial institution support; insurer; general community/tourism benefit; how the park will be operated and acceptance of lease conditions.

**Track record** – tourism/hospitality experience/credentials; business experience/background; trade or other qualifications; any recent legal proceedings; and referees.

**People skills** – public relations; customer service protocols; marketing and promotion; and complaint handling.

- Responses to the remaining criteria were assessed and scored as follows:

0 – where the tender is deficient in that it makes no reference to the requested information, does not contain information requested, or the tenderer refuses to supply the information – the tender does not meet the criteria in all areas;

1 – where the tender contains some or limited information requested – the tender does not meet the criteria in most areas;

2 – where the tender provides basic information sufficient to indicate the tenderer is capable of meeting the criteria and while there are risks or weaknesses can do this with minimum effort – meets the tender criteria with supply of basic information;

3 – where the tender provides substantial information in response to the tender, such that there may only be minor risks or weaknesses which are not considered as material – exceeds the criteria in most areas; and

4 – where the tenderer has demonstrated it is fully capable of meeting the criteria to a high degree and there are no risks, weaknesses or omissions – the tender exceeds in all areas.

---

## 5. GOVERNANCE AND STRATEGIC MATTERS

---

After initial assessment of tenders, several points in each required clarification or further information from the tenderers and they were all invited to submit requested detail. Each responded within the set timeframe. There were some small changes to initial assessment scores.

With any exercise such as this, a great degree of 'commercial in confidence' exists and the rights of the respective persons is acknowledged and respected in this regard. To assist Councillors a 'confidential' paper summarising tender information, business detail, responses to evaluation criteria and assessments is attached.

ATPM is a professional Australia wide organisation specialising in caravan park management, currently holding 4 leases (1 in Gippsland) similar to what Council is offering and it manages 17 other resort type parks. From information available ATPM is a strong financial organisation. It has in place marketing arrangements, management and customer service strategies.

ATPM was assessed as the preferred tenderer.

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

Council owns the JLCP and adjoining immediate Reserve through a restricted Crown Grant title. Part of the Reserve site (no part of the JLCP) is Crown land for which Council is Committee of Management and operates under the direction and guidelines of DSE.

Policy# 9 deals with the management and control of Council owned property. This proposal to lease JLCP is not prevented by this Policy, rather it is encouraged as a means to obtain best value and return from property.

The Hepburn Shire Council Plan 2006-2011 (as reviewed in April 2007) has key Objectives to:

effectively manage assets and resources with identified strategies to improve asset management along with responsible financial management, promotion of innovation and professional administration; and

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

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

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

Earlier reports about the new lease have been available, Public notice of Intention to Lease was given (no responses) and tender advertisements were widely published.

### **Financial Implications**

Under the lease just ending, arrangements resulted in a neutral financial return to the Council. Rent was equal to Reserve maintenance costs. An assessment was made of rent offered and the capital works program proposed by each tenderer. An independent assessment of expected rent was organised with an estate agent firm specialising in caravan park rental. It was estimated that rent should be \$45,600pa with the existing cabins and \$23,600pa if the cabins were removed.

---

## 5. GOVERNANCE AND STRATEGIC MATTERS

---

One tenderer (Lawler) included a one off up front payment of \$85,000, which distorted the figures for comparison purposes. The offer from this tenderer for annual rent over the first 3 years is \$77,272 and with the advance payment added totalled \$162,272, - net \$114,970 allowing for Reserve maintenance. After 3 years, with no further upfront payment, the total amount received could be expected to reduce substantially. This tenderer also made one of the lower bids for capital works and was not keen to negotiate for the purchase of existing cabins. This could have an adverse effect on their income and hence the lower actual rent offered.

All matters taken into consideration, the best rent offer is from Australian Tourist Parks Management (ATPM) at \$154,545 for the first 3 years. Allowing for Reserve maintenance, net return is \$107,245. Rent reviews would commence from a much higher base.

Capital works offered by this tenderer are \$1.4m, initially spending \$130,000 in the first year and substantially bringing forward the refurbishment of the amenities blocks. A further \$620k would be spent within the next 4 years. This offer was far above any others, the next best being \$451k.

The existing lease holder submitted a tender, with net rent of \$25,650 for the first 3 years. The next best rents were \$68,600 net (Godden & Barry) and \$52,010 net (Peart & Scott) over the first 3 years.

### **Recommendation:**

That Council:

- 5.4.1 *Accept the tender of Australian Tourist Park Management for the operation, management and development of Jubilee Lake Caravan Park by lease over 20 years, inclusive of separate agreements for a licence to operate a hire boat (non-powered) business on the Lake and for Reserve maintenance;*
- 5.4.2 *Authorise the Chief Executive Officer to execute the final lease and other documents on behalf of Council; and*
- 5.4.3 *Thank other tenderers for their interest and tenders submitted.*

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

**Moved:** *Cr Janine Booth*  
**Seconded:** *Cr David Smith*  
**Carried.**

***Cr Mutimer requested that her descent be recorded.***

**5. GOVERNANCE AND STRATEGIC MATTERS**

**5.5 MONTHLY FINANCIAL REPORT 1/7/07 – 31/1/08**

(A/O – Director Corporate Services)

File Ref: 30/08/16

**Synopsis**

A summary report on the Council's financial performance for the financial year to the 31 January 2008 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 58%.

**Hepburn Shire Council  
Monthly Financial Report January 2008  
Percentage of year complete 58%**

	Annual Budget 000's	Actual Jan-08 000's	Percentage Of Budget
<b>1. Administration</b>			
Expenditure	4,984	3005	60%
Income	(11,757)	(10,329)	88%
<b>1. Administration</b>	<b>(6,773)</b>	<b>(7,324)</b>	
<b>2. Human And Community Services</b>			
Expenditure	2,630	1,399	53%
Income	(1,830)	(1,072)	58%
<b>2. Human And Community Services</b>	<b>800</b>	<b>327</b>	
<b>3. Regional Development/promotion</b>			
Expenditure	1,932	1,054	55%
Income	(527)	(257)	49%
<b>3. Regional Development/promotion</b>	<b>1,405</b>	<b>797</b>	
<b>4. Public Safety</b>			
Expenditure	641	359	56%
Income	(254)	(136)	54%
<b>4. Public Safety</b>	<b>387</b>	<b>223</b>	
<b>5. Recreation</b>			
Expenditure	1162	715	62%
Income	(125)	(13)	10%
<b>5. Recreation</b>	<b>1037</b>	<b>702</b>	
<b>6. Infrastructure Development</b>			
Expenditure	4,904	2,142	44%
Income	(3,227)	(1,527)	47%
<b>6. Infrastructure Development</b>	<b>1,677</b>	<b>615</b>	

**5. GOVERNANCE AND STRATEGIC MATTERS**

**Hepburn Shire Council  
Monthly Financial Report January 2008  
Percentage of year complete 58%**

	Annual Budget 000's	Actual Jan-08 000's	Percentage Of Budget
<b>7. Waste &amp; Environment</b>			
Expenditure	1,424	688	48%
Income	(1,469)	(1,415)	96%
<b>7. Waste &amp; Environment</b>	<b>(45)</b>	<b>(727)</b>	
<b>8. Unclassified</b>			
Expenditure	18	1	8%
Income	(88)	(9)	11%
<b>8. Unclassified</b>	<b>(70)</b>	<b>(8)</b>	
<b>9. Capital Works And Projects</b>			
Expenditure	4,605	1,991	43%
Income	(3,025)	(557)	18%
<b>9. Capital Works And Projects</b>	<b>1,580</b>	<b>1,434</b>	
<b>Report Total</b>	<b>(2)</b>	<b>(3,961)</b>	

The report has been produced at a summary level to provide Council with a snap shot as at the end of January 2008. For those areas where the percentage varies significantly from the year completed percentage the following comments are provided.

Administration – Expenditure. This relates to unbudgeted expenditure on legal costs which will need to be reviewed as part of the mid year review process.

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 January account is normally paid in February.

Regional Development/promotion – Income. This relates mainly to Tourist Information fees and Map income which are raised in May/June each year.

Recreation – Income. Bathhouse rent not expected to be received until March 2008. This income item will need to be reviewed during the mid year budget review based on advice that the project is running behind schedule.

Recreation – Expenditure. Seasonal Expenditure in Parks & Reserves mainly mowing.

Infrastructure Development - Expenditure. Majority of Road works takes place over the next two to three months

Infrastructure Development - Income. Income is received from two principal sources the grants commission which is paid quarterly and Roads 2 Recovery which is claimed when the works are completed.



---

## 5. GOVERNANCE AND STRATEGIC MATTERS

---

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

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 in some detail as part of the Mid Year review process.

There are a number of individual accounts that are currently running either over or under budget, a number will be able to be corrected over the coming months. Others such as legal fees and bathhouse rent will need to be looked at in some detail when the Mid Year review is undertaken at the February Forward Planning meeting.

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

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

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

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

Nil.

### **Recommendation:**

5.5 .1        *That the January 2008 finance report be received and noted.*

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

***Moved:                    Cr David Smith***  
***Seconded:              Cr Bill McClenaghan***  
***Carried.***

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

**6.1 ROAD CLOSURE - CLUNES**

(A/O-Manager of Operations)

File Ref:1/1260/00020

**Synopsis**

This report provides information on a request to close a section of unmade and unnamed road in Clunes.

**Report**

Council has received a request from the property owner of 20 Cemetery Road, (lot 16, Section 6, Parish of Clunes) for the closure of an unnamed and unmade Government road. (refer to attached plan below)



This road is not required for public traffic as all the land surrounding the unmade government road is serviced by other roads namely Pickfords Road, Old Ballarat Maryborough Road, Cemetery Road and Mc Kelder Road.

The applicant intention is to purchase the road reserve. The road reserve is heavily vegetated and there is no visible signs that the road has been used for public traffic.

Therefore it is recommended that Council consider discontinuing this un-named and unmade government road and notify both the Department of Sustainability and Environment (DSE) that the road is no longer required for traffic.

Road closure would be processed through Section 349 of the Lands Act as administered by DSE.

**Relevant Policies / Council Plan implications:**

**Council Plan** Objective Three:- Asset and Resource Management

Improve the management of Council assets by diverging of assets no longer required for public use.

---

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

---

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

Both property owners abutting the road reserve have conversed on the matter of leasing or purchasing the road reserve and have indicated their intentions for the owner of 20 Cemetery Road to either lease or purchase the road.

**Financial Implications**

Nil cost to Council. All costs to be borne by applicant

**Recommendation:**

*That Council:*

6.1.1 *Concur to the closure of the Government Road west of Crown Allotment 16, Section 6 Parish of Clunes pursuant to Section 349 of the Land Act 1958..*

6.1.2 *Sign and seal the Consent to Closing of Road form.*

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

***Moved:*** ***Cr Janine Booth***

***Seconded:*** ***Cr David Smith***

***Carried.***

---

## 6. COUNCIL AS COMMITTEE OF MANAGEMENT OF CROWN LAND

---

### 6.2 LEASE – PAVILION KIOSK CAFÉ – HEPBURN MINERAL SPRINGS RESERVE (A/O – Acting Director Corporate Services) File Ref: 5/4685/00200

#### Synopsis

Tenders were advertised for rights to operate a suitable business at the Pavilion and Kiosk at the Hepburn Mineral Springs Reserve (HMSR), by lease of the premises. Following the previous café tenancy, renewal of occupancy of the premises was delayed due to the Bathhouse redevelopment.

#### Report

Council is committee of management of HMSR - a Crown land Reserve. Because of the particular reservation of the Reserve as 'Mineral Springs', the lease, prior to execution requires an approval from the Governor in Council and the consideration (rent) to be approved by the Minister responsible for the Crown land (Reserves) Act 1978. This lease will also be subject to the Retail Leases Act 2003 due to the structure of its 5x5x5 year term and the fact the tenant will not be responsible for major capital works (fitout excepted).

After completion of a detailed '**BRIEF – Tender for Lease – Pavilion Kiosk Cafe**', which included a draft of the proposed lease, tenders were called. Advertisements in The Age, The Courier and The Advocate were published over the period 7 – 21 November 2007 with tenders closing at 4pm on 4 December 2007.

It should be noted that Brief provided for the premises to be leased "as is" although internal cleaning and painting of the Kiosk and kitchen and cleaning in the Pavilion was to be undertaken by Council. Except for the existing lighting and exhaust fan unit, no other 'fitout' equipment was offered as part of the tender.

Three tenders were received:-

- Ms Viesha Lewand
- Mitchel Watson and Ms Brylie Rankine trading as Daylesford & Hepburn Mineral Springs Co (Watson)
- Belgravia Health & Leisure Group Pty Ltd (Belgravia).

After initial assessment the tender of Ms Viesha Lewand was declared non-conforming as it clearly was inadequate, not addressing the evaluation criteria or supplying information required. Rent offered was also well below that of other tenderers. Ms Lewand was advised accordingly.

For detailed assessment of the remaining tenders a panel consisting of the Director Corporate Services, Ms Keira Lockyer (Food/restaurant expert) and Richard Pekin was convened. Tender evaluation guidelines were provided in the **Brief** and included:-

- Rent offered
- Financial capacity and sustainability
- Prior business experience
- Service/business to be provided.

After further consideration of the tenders, clarification of a number of points and further information was requested. The tenderers responded and then were interviewed by the panel on 3 January 2008.

Assessment of the tenders prior to interview indicated a preference toward Belgravia. Belgravia proposed:-

- a business in keeping with current use of the premises

## **6. COUNCIL AS COMMITTEE OF MANAGEMENT OF CROWN LAND**

---

- kiosk and licensed café service to cater for Reserve visitors
- special evening functions and catering to support special events in the Reserve
- in conjunction with Council provide appropriate environmental service signs to add value rather than detract from reserve ambience.

Belgravia operates a range (54 contracts in all) of leisure facilities which include cafes, kiosks and function centres for councils, Parks Vic and other private firms. The firm is:-

- professional, (which showed in its tender and interview presentation)
- strong financially
- has a proven management with central backup
- committed to working with local community and Council and
- committed to using local staff and produce

However, the panel felt knowledge of the restaurant industry, was a negative and warmth and passion for what is envisaged for the Pavilion Kiosk did not emerge. Belgravia did say - *“internal and external network of personnel and their associated hospitality knowledge ensures our understanding of the restaurant industry is more than appropriate.”*

Watson presented a substantial business and marketing plan proposing a regional food tourism venture with:-

- food service – café/kiosk
- food retail – retail shop/local wares and merchandise
- mineral water interactive museum
- mineral water sales, education, tastings, guided walks
- catering for major activities to be organised in the Reserve, especially in conjunction with the Bathhouse.

Watson does not hold the same financial strength as Belgravia, but the panel was impressed by the strength of passion, drive, commitment and particularly the vision put forward for the Pavilion Kiosk. As a two person team, one an experienced chef and the other an experienced front of house manager the panel considered this, along with the commitment and local knowledge demonstrated, advantageous.

Due to the financial weakness displayed in terms of estimating costs to set up, Watson was asked to revisit its budget. Watson earlier indicated establishment costs of around \$40k, but has since amended this to \$100k. New equipment proposed appears to be adequate and in the main, will be leased. Watson also owns many everyday items of equipment – crockery, cutlery, tables, chairs and so on. The cash flow statement provided supports the establishment and running of the business for the first year.

With any exercise such as this, a great degree of ‘commercial in confidence’ exists and the rights of the respective persons is acknowledged and respected in this regard. To assist Councillors a ‘confidential’ paper detailing the Evaluation Panel’s assessment of each tenderer against the evaluation criteria is attached.

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

Council is responsible for the premises as committee of management of the Reserve. Policy# 9 deals with the management and control of Council controlled property. This proposal to lease the Pavilion Kiosk is not prevented by this Policy, rather it is encouraged as a means to obtain best value and return from property.

The Hepburn Shire Council Plan 2006-2011 (as reviewed in April 2007) has key Objectives to:

## **6. COUNCIL AS COMMITTEE OF MANAGEMENT OF CROWN LAND**

---

effectively manage assets and resources with identified strategies to improve asset management along with responsible financial management, promotion of innovation and professional administration; and  
strengthen local economies by working in partnership with business and community with identified strategies to develop partnerships, promote and market and encourage a diversity of economic activity and employment.

Lease of the Pavilion Kiosk will help meet these key Objectives.

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

Tenders as indicated above were publicly advertised. The **Brief** was available for inspection.

### **Financial Implications**

Belgravia offered annual rent of \$26,000. Watson offered \$20,000 and has confirmed this following revision of costs and cash flows.

### **Conclusion**

Based on the Evaluation Panel's assessment of tenderers against the evaluation criteria in the Brief, Belgravia is the preferred tender.

### **Recommendation:**

That Council:

- 6.2.1 *Accept the tender of Belgravia Health & Leisure Group Pty Ltd (Belgravia) for lease of the Pavilion Kiosk Café for a term of 5 years with options for 2 further 5 year terms.*
- 6.2.2 *Accept the lease is for establishment and operation of a business as described in this Report.*
- 6.2.3 *Seek approval of the tendered consideration from the responsible Minister and the approval of the lease from the Governor in Council.*
- 6.2.4 *Authorise the Chief Executive Officer to execute the final lease.*
- 6.2.5 *Thank Mitchel Watson and Ms Brylie Rankine trading as Daylesford & Hepburn Mineral Springs Co (Watson) for its interest and tender submitted.*

### **Moved the Officers Recommendation.**

**Moved:** **Cr Bill McClenaghan**  
**Seconded:** **Cr David Smith**  
**Carried.**

---

**7. COUNCIL SECTION 86 AND ADVISORY COMMITTEES**

---

**7.1 CRESWICK COMMUNITY ENTERPRISE CENTRE COMMITTEE OF MANAGEMENT – INSTRUMENT OF DELEGATION AND APPOINTMENT OF NEW MEMBERS**

(A/O – Manager Administration)

File Ref: 22/15/02

**Synopsis**

The term of the Section 86 Creswick Community Enterprise Centre Committee of Management expired on 30 September 2007.

Advertising for expressions of interest for Committee membership was undertaken in October 2007 and four submissions were received by Council. A fifth expression of interest was received after the closing date.

In accordance with a December 2004 resolution of Council which accepted and endorsed a Deed of Delegation to progressively replace existing Deeds when each Section 86 Committee of Management is renewed, the Instrument of Delegation for the Creswick Community Enterprise Centre Committee of Management has been reviewed.

**Report**

**1. Instrument of Delegation:**

The revised Instrument of Delegation establishes and clarifies:

- The objectives and responsibilities of the Committee, including matters pertaining to the operation of the Creswick InfoLink facility;
- membership of the Committee (minimum of five members);
- term of the Committee (the Instrument of Delegation remains in force until 31 March 2011 or until Council resolves to vary or revoke it); and
- that, in accordance with arrangements for other Section 86 Committees of Management, the cost associated with the annual audit of the Committee's financial records are to be borne by Council.

In addition, at the request of the former and re-nominating members of the Committee, the revised Instrument of Delegation has been amended to include a change of name for the Committee from the "Creswick Community Enterprise Centre Committee of Management" to the "Creswick InfoLink Committee of Management". This request is supported as:

- the original funding program associated with the establishment of the facility no longer applies; and
- the revised Committee title more accurately reflects the operations of the Committee and the community service provided.

**2. Appointment of New Members:**

Expressions of interest for membership of the Committee closed on 19 October 2007.

Submissions were received from the following nominees, all of whom are former long-serving members of the Committee:

- Margaret Edgar (former Chair)
- John van Oostveen
- Johanna van Oostveen
- Theo Thomas
- Neil Rowe (Coordinator Creswick Visitor Information Centre)

---

**7. COUNCIL SECTION 86 AND ADVISORY COMMITTEES**

---

Copies of the expressions of interest will be provided to Councillors for reference.

As the knowledge, experience, commitment and skills of all applicants would be of benefit to the Committee, it is recommended that Council appoint the above nominees to the Creswick InfoLink Committee of Management, noting that the expression of interest from Neil Rowe was received on 17 January 2008, after the advertised closing date for expressions of interest.

Nominees have been advised that a report with recommendations for the appointment of committee members will be made to the 19 February 2008 ordinary meeting of Council.

**Relevant Policies / Council Plan implications:**

- 1.2 Enhance community connectedness, capacity building and leadership
- 3.5 Sharp, focussed, professional administration
- 4.3 Encourage and support diversity of economic activity and employment

Council's Local Law No. 1 Meeting and Common Seal

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

Advertising in local newspapers was undertaken calling for interested people to nominate for membership of the Committee.

**Financial Implications**

\$500 per annum – auditing of the Committee's financial records

**Recommendations:**

That Council:

- 7.1.1. Sign and seal the Instrument of Delegation for the Creswick InfoLink Committee of Management.
- 7.1.2. Appoint Margaret Edgar, John van Oostveen, Johanna van Oostveen, Theo Thomas and Neil Rowe as members of the Creswick InfoLink Committee of Management for the period to 31 March 2011.

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

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



---

**7. COUNCIL SECTION 86 AND ADVISORY COMMITTEES**

---

**7.2 CLUNES HISTORIC MEDLYN COMPLEX COMMITTEE OF MANAGEMENT –  
APPOINTMENT OF NEW MEMBERS**

(A/O – Manager Administration)

File Ref: 1/0320/00070

**Synopsis**

The Section 86 Clunes Historic Medlyn Complex Committee of Management advised Council of a vacancy on the committee created by the resignation of Ms Lou Newman.

Advertising for Committee membership expressions of interest was undertaken in January 2008 and one submission was received by Council.

The view of the Clunes Historic Medlyn Complex Committee has been sought and a review of the submission has been completed.

**Report**

Expressions of interest for membership of the Clunes Historic Medlyn Complex Committee closed on 13 February 2008.

A submission was received from the following person:

*Clayton Edwards:* Mr Edwards is a resident of Clunes, who has been actively involved with the bottle museum for some time. Mr Edwards' work as a heritage volunteer on the museum's upgrading projects has been recognised by the Committee.

A copy of the expression of interest will be provided to Councillors for reference.

As the knowledge and skills of this applicant would be of benefit to the committee, it is recommended that Council appoint Mr Clayton Edwards to the Clunes Historic Medlyn Complex Committee.

**Relevant Policies / Council Plan implications:**

- 1.3 Enhance community connectedness, capacity building and leadership
- 5.2 Respect and honour our unique historical and cultural heritage attributes

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

Advertising in local newspapers was undertaken calling for interested people to nominate for membership of the Committee.

**Financial Implications**

Nil

**Recommendation:**

That Council:

- 1. Appoint Mr Clayton Edwards as a member of the Clunes Historic Medlyn Complex Committee of Management for the period to 31 August 2008, when the twelve month membership term of current committee members expires.

**7. COUNCIL SECTION 86 AND ADVISORY COMMITTEES**

---

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

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

---

**7. COUNCIL SECTION 86 AND ADVISORY COMMITTEES**

---

**7.3 CRESWICK MUSEUM & GOLD BATTERY COMMITTEE OF MANAGEMENT  
– INSTRUMENT OF DELEGATION AND CALL FOR NEW MEMBERS**  
(A/O – Manager Administration) File Ref: 2/7350/02046

**Synopsis**

The term of the Section 86 Creswick Museum & Gold Battery Committee of Management expires on 31 March 2008.

Due to recent resignations from the Committee and staffing requirements at the Museum, the present Committee is keen to proceed with advertising for membership of the Committee as soon as possible.

In accordance with a December 2004 resolution of Council which accepted and endorsed a Deed of Delegation to progressively replace existing Deeds when each Section 86 Committee of Management is renewed, the Instrument of Delegation for the Creswick Museum & Gold Battery Committee of Management has been reviewed.

Deliberations regarding the future operation of the Creswick Gold Battery are continuing. It has been proposed and agreed with the present Committee that responsibilities associated with the Gold Battery be removed from the revised Instrument of Delegation and that the Committee assume responsibility for the Creswick Museum only. This agreement has been reached with the proviso that there is an undertaking between Council and the Committee that any decisions pertaining to the future of the Gold Battery be made in consultation with the Committee. Reports are currently being prepared in this regard and will be forwarded to the March 2008 meeting of Council for consideration.

Responsibility for the Gold Battery will continue to reside with the Committee until the expiration of its present term on 31 March 2008.

**Report**

**3. Instrument of Delegation:**

The revised Instrument of Delegation establishes and clarifies:

- The objectives and responsibilities of the Committee, including matters pertaining to the operation of the Creswick Museum;
- membership of the Committee (minimum of nine members);
- term of the Committee (the Instrument of Delegation remains in force until 31 March 2011 or until Council resolves to vary or revoke it);
- includes the maintenance quantum and responsibility for outgoings for the Committee; and
- that in accordance with arrangements for other Section 86 Committees of Management, the cost associated with the annual audit of the Committee's financial records are to be borne by Council.

In addition, the revised Instrument of Delegation has been amended to:

- remove reference to the Gold Battery (Council file No. 2/6440/02296 -Crown Allotment 5A – Section 54 -Parish of Creswick Township Crown Reserve RS 9566); and
- include a change of name for the Committee from the “Creswick Museum & Gold Battery Committee of Management” to the “Creswick Museum Committee of Management”.

---

**7. COUNCIL SECTION 86 AND ADVISORY COMMITTEES**

---

**4. Call for New Members:**

Pending Council's agreement with the preceding proposals, it is recommended that advertising for expressions of interest for membership of the Creswick Museum Committee of Management proceed in early March 2008.

**Relevant Policies / Council Plan implications:**

- 1.4 Enhance community connectedness, capacity building and leadership
- 5.2 Respect and honour our unique historical and cultural heritage attributes

Council's Local Law No. 1 Meeting and Common Seal

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

Consultation with the Committee has occurred in relation to the above proposals.

Advertising in local newspapers will be undertaken calling for interested people to nominate for membership of the Committee.

**Financial Implications**

\$500 per annum – auditing of the Committee's financial records

**Recommendations:**

That Council:

- 7.3.1. Sign and seal the Instrument of Delegation for the Creswick Museum Committee of Management.
- 7.3.2. Undertake to consult with the Creswick Museum Committee of Management regarding the future of the Creswick Gold Battery.
- 7.3.3. Agree to proceed with advertising for expressions of interest for membership of the Creswick Museum Committee of Management.

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

***Moved: Cr David Smith***  
***Seconded: Cr Janine Booth***  
***Carried.***

---

**7. COUNCIL SECTION 86 AND ADVISORY COMMITTEES**

---

**7.4 WOMBAT HILL BOTANIC GARDENS CONSERVATION  
MANAGEMENT PLAN**

(A/O – Director Infrastructure & Development)

File Ref: 5/1330/01950

**Synopsis**

The consultants engaged for preparation of a Management Plan for Wombat Hill Botanic Gardens have presented to the Wombat Hill Botanic Gardens Advisory Committee (WHBGAC) a final conservation management plan for which the WHBGAC has resolved to accept the final plan and refer to Council for formal adoption.

**Report**

Council's Wombat Hill Botanic Gardens Advisory Committee (WHBGAC) has been working with consultant Lee Andrews on the preparation of a management plan for Wombat Hill Botanic Gardens.

Council at its Ordinary Meeting in June 2007 noted that a draft plan had been prepared and would go on public exhibition prior to the final plan being presented to Council.

The consultant presented the draft plan at a public meeting held on 27 September 2007 which was attended by approximately 20 residents. The draft plan was then placed on public exhibition to seek community comment to assist in the final plan being completed. A further opportunity for the general public to meet separately with the consultant during the exhibition period was arranged. Four people attended these extra sessions and at the conclusion of the public exhibition no submissions were received.

The WHBGAC at its 8 November 2007 meeting, after completion of the exhibition period, formally resolved to accept the final plan ( yet to be viewed as the words draft needed to be deleted, etc) and also resolved to recommend to Council that the final plan be formally adopted by Council.

A copy of the draft plan which has now become the final plan was placed in the Councillor Library in June 2007 with one of the key recommendations of the plan being to "*appoint a curator for the gardens.*"

**Relevant Policies / Council Plan implications:**

Council Plan – Objectives 1,2,3,4 & 5

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

WHBGAC comprises several community members. An initial community consultation afternoon tea was conducted at the gardens on Sunday 26 March 2006, which was well attended by approximately 30 residents last year. The consultant has also consulted with various users of the gardens over the past 18 months to seek their views on the gardens.

A public meeting was conducted in September 2007 whereby the consultant presented to approximately 20 residents. The draft plan was then placed on public exhibition for a month and further consultation sessions during the public exhibition period with the consultant were also conducted whereby four residents attended these.

No written submissions were received on the draft plan and the WHBGAC has reviewed the draft/final plan.

---

**7. COUNCIL SECTION 86 AND ADVISORY COMMITTEES**

---

**Financial & Resource Implications Initial & Ongoing**

Whilst there is no specific financial cost in adopting the final plan, there is however recommendations within the final plan which have ongoing implications for increased resources at the gardens. A curator would cost approximately \$70,000 to \$80,000 p.a. for a full time person.

Account No. 9540 794 – Wombat Hill Botanic Gardens Management Plan  
Project budget \$25,000

Expenditure 2006/7	\$13,581-45
Expenditure 2007/8 to date	\$ 6,934-09
Final payment to consultant	\$ 5,625-00

*Projected final cost*                      \$26,141.04

**Recommendation:**

*That Council:*

7.4 .1        *Receive the report.*

7.4.2        *Adopt the conservation management plan as a resource document and refer the recommendations contained within the conservation management plan for additional resources to the 2008/9 budget for consideration.*

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

***Moved:***                      ***Cr Bill McClenaghan***

***Seconded:***                ***Cr Heather Mutimer***

***Carried.***

**8. STATUTORY**

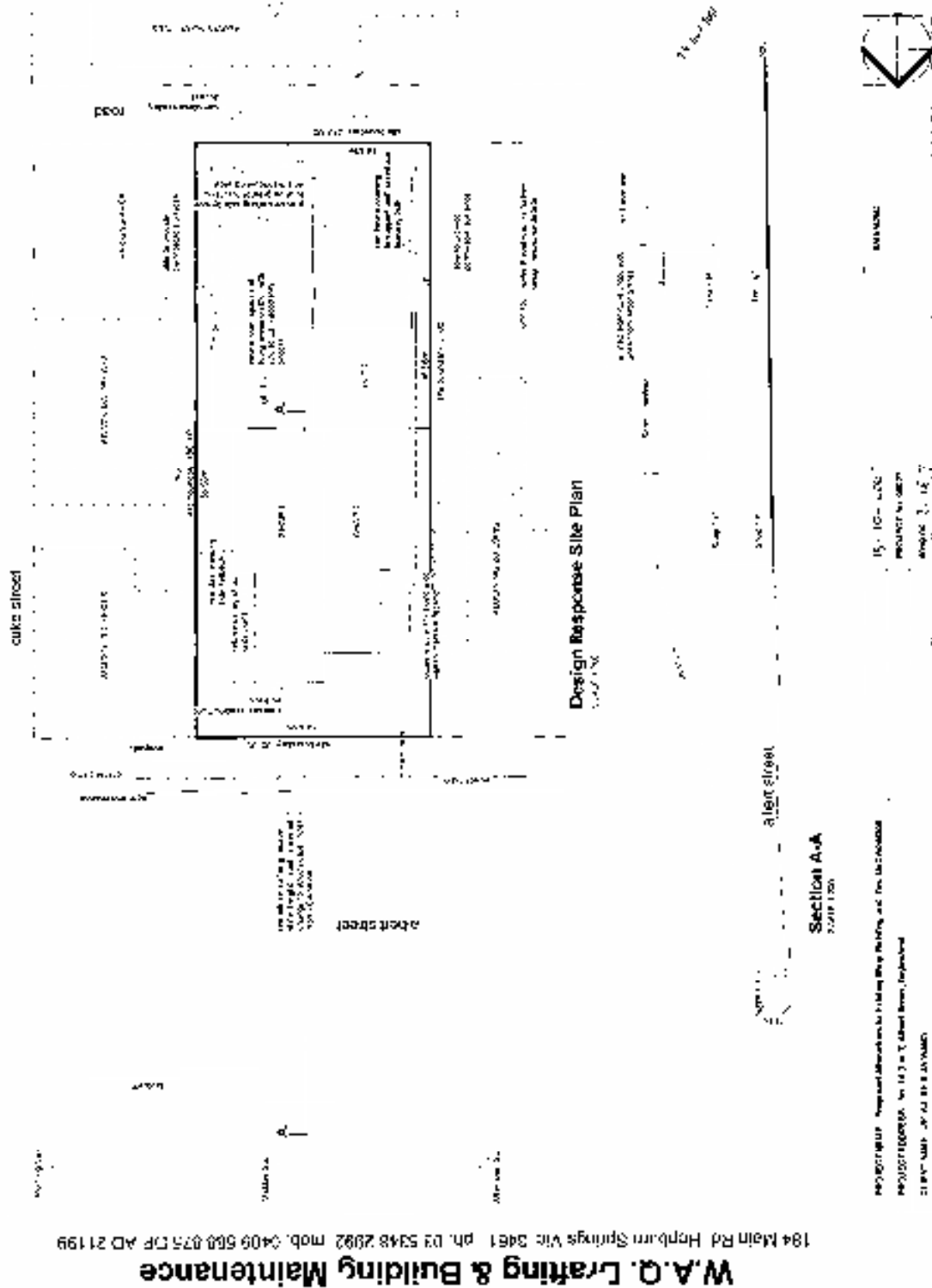
**8.1 APPLICATION NO. 2007/9580, PROPOSED: DEMOLITION AND RE-ERECTION OF EXISTING BUILDING AND TWO UNIT ADDITION**  
(A/O – Planning Officer 1) File Ref: 5/0060/01650/P

**Synopsis**

Applicant	WAQ Drafting & Building Maintenance
Location	14 Albert Street, Daylesford
Proposal	Demolition and Re-erection of Existing Building and Two Unit Addition
Zoning	Business 1 Zone
Overlay Controls	ESO1, ESO2, HO433
No of Objections received	One
Recommendation	Refuse to Grant a Permit



8. STATUTORY





---

## 8. STATUTORY

---

### Report

#### INTRODUCTION

An application was received on 18<sup>th</sup> October 2007 for the alteration to existing shop and two unit addition.

The applicant was advised that the proposal to demolish the existing building must be included in the proposal description. The applicant was also advised that, following a preliminary assessment, the demolition and re-erection of a replica building did not appear to meet the objectives of the Heritage Overlay. In response, the applicant amended the application on 19<sup>th</sup> November to reflect the demolition of the existing building with a re-erection of a replica building and a two unit addition.

#### PROPOSAL

It is proposed to use and develop the land for two shops and two dwellings. This will include the demolition of the existing building, the construction of a new (replica) building to the street frontage and addition of two residential units to the rear of the lot.

The subject site is located on Albert Street, a prominent street within the central heritage precinct in the town of Daylesford, with an area of 528m<sup>2</sup>. The subject site also has legal access to a road (similar to a laneway) at the rear. The site contains the existing Federation/Interwar dwelling which is individually heritage protected and is currently used as a shop.

#### REFERRAL AUTHORITIES

The application was referred as follows:

Section 55 Notification

Nil

Section 52 Notification

Nil

#### REFERRAL WITHIN COUNCIL

The application was referred to Council's Heritage Advisor who objected to the proposal.

#### ADVERTISING/NOTICE OF APPLICATION

The application was advertised to adjoining property owners/occupiers, notification in the Advocate newspaper and by placing a sign on the land. The notification process was satisfactorily completed and one objection was received.

#### Relevant Policies / Council Plan implications

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

---

## 8. STATUTORY

---

### STATE PLANNING POLICY FRAMEWORK (SPPF)

#### 15.11 Heritage

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

The subject property is individually identified by Heritage Overlay 433 as being of historic significance. This proposal requires the complete demolition of the existing dwelling followed by the erection of a mock-up replica of the original building. The proposal is not in accordance with the objectives of this State planning policy.

#### 17.02 Business

The objective of this policy is to encourage developments which meet the community's needs for retail, entertainment, office and other commercial services and provide net community benefit in relation to accessibility, efficient infrastructure use and the aggregation and sustainability of commercial facilities. The subject property is within the established retail/commercial precinct of Daylesford on the Daylesford Structure Plan and the development of retail/commercial space on the land is supported by this policy.

### LOCAL PLANNING POLICY FRAMEWORK (LPPF)

#### 21.09 Environment & Heritage

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

This is to be achieved by ensuring protection for identified significant cultural heritage places and providing guidance for development to maintain the integrity of localities and precincts with important heritage character. This proposal does not meet the intent of this specific Municipal Strategic Statement.

### ZONE AND OVERLAY PROVISIONS

Business 1 Zone – the purpose of the zone is to encourage the intensive development of business centres for retailing and other complementary commercial, entertainment and community uses.

The use of the land for dwellings with less than 2 metres of floor level street frontage is a section 1 use in the Business 1 Zone. The use of the land for two shops (other than adult sex book shops) is also a section 1 use in the Business 1 Zone.

Pursuant to Clause 34.01-4 of the Business 1 Zone a planning permit is required to construct a building or construct or carry out works.

Heritage Overlay – Schedule 433 (14 Albert Street Daylesford) – the purpose of the overlay is to conserve and enhance heritage places of natural or cultural significance and to ensure that development does not adversely affect the significance of heritage places.

---

## 8. STATUTORY

---

Pursuant to Clause 43.01-1 a permit is required to construct a building or carry out works or to demolish a building on land affected by a Heritage Overlay. This proposal was referred to Council's Heritage Advisor for comment.

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

The following Particular Provisions also apply to the proposal:

Clause 55 – Two or more dwellings on a lot.

Council must consider as appropriate, the objectives, standards and decision guidelines of Clause 55. A Clause 55 ResCode assessment is included below.

Clause 52.06 – Carparking.

The proposal must supply 2 carparks per dwelling (if there are at least 2 dwellings on the lot) or must obtain planning permission to waive this requirement.

### ASSESSMENT

The subject site is located on Albert Street, a prominent street within the central heritage precinct in the town of Daylesford, with an area of 528m<sup>2</sup> and contains an existing Federation/Interwar dwelling and associated garden. The dwelling is individually identified by Heritage Overlay – Schedule 433 as having heritage significance.

1 objection has been received, the main points of objection are summarised as follows:

***The process of demolition and construction will unnecessarily disrupt the quiet enjoyment of tenants in the offices immediately east of the subject site.***

Both the subject site and the offices immediately east are zoned Business 1. A reasonable level of amenity for the operation of businesses is expected to be maintained in these areas, however, it is considered that the processes of developing or redeveloping the subject site will not be unnecessarily disruptive to the existing businesses in the area. The work on site must meet the noise control guidelines for Construction and Demolition Site Noise recommended by the EPA in concert with Council's Environmental Health Department.

***The process of demolition and reconstruction may adversely impact the insurance claim currently pending on the site immediately east of the subject site.***

The process of an insurance claim or any other commercial process (e.g. sale of land) on sites adjoining the subject land is not a matter which the planning process can take into account. In the event that damage is caused to the neighbouring properties by the works on site, these civil matters are to be reconciled between the parties involved and are not routinely mediated by Council.

In assessing the proposal against the Hepburn Planning Scheme, the relevant decision guidelines under the Business 1 Zone are as follows:

***The movement of pedestrians and cyclists, and vehicles providing for supplies, waste removal, emergency services and public transport.***

## 8. STATUTORY

The proposed two unit addition to the rear of the property will constrain the two proposed shops by removing their rear access for deliveries, reducing their functionality in the Business 1 Zone.

***The streetscape, including the conservation of buildings, protecting active frontages to pedestrian areas and the landscaping of land adjoining a road.***

The proposed development will maintain an active street frontage to pedestrian areas and will maintain the landscaped area adjoining the main street frontage.

***The storage of rubbish and materials for recycling***

The two proposed shopfronts do not provide adequately sited areas for rubbish storage due to the proposed wing walls and addition of two units to the rear.

***The objectives and standards of Clause 55***

The constraints of the site (the heritage overlay and size of the site) have meant that the design response could not meet all of the objectives (see below). However, under the Business 1 Zone the development does not 'have' to meet these objectives, rather, it 'should' meet the objectives.

Clause 55 assessment:

		Standard	Objective	
B1	Neighbourhood Character	✓	✓	Given the available land to the rear, the design response is appropriate to the site and the neighbourhood.
B2	Residential Policy	✓	✓	Medium density proposal, access to services.
B3	Dwelling Diversity	N/A	N/A	Less than ten dwellings.
B4	Infrastructure	✓	✓	All services will be connected.
B5	Integration with the street	✗	✓	The site is constrained so that the units will front the rear access, not the street.
B6	Street setback	✗	✓	Units will be setback from rear road at a similar distance to the building on the property to the south across the rear access road.
B7	Building height	✓	✓	Height of the building is 7.8m, less than the 9m maximum
B8	Site coverage	✗	✗	Site coverage = 67.7%, greater than the 60% max. Design could achieve objective if only one unit is proposed.
B9	Permeability	✓	✓	Approx. 26% permeable surface, greater than the 20% minimum.

**8. STATUTORY MATTERS**

B10	Energy efficiency	✓	✓	Balconies and meal areas face north
B11	Open space	N/A	N/A	No open space available.
B12	Safety	✗	✗	Entrances are obscured. Design could achieve objective if only one unit is proposed.
B13	Landscaping	✗	✓	Existing rear garden to be removed, however, front garden retained
B14	Access	✗	✓	Access is 3.6m wide, however, internal radius of changes of direction is too small (2m instead of 4m). Design could achieve objective if only one carspace provided per unit.
B15	Parking location	✓	✓	Meets the objective
B16	Parking provision	✗	✓	The design could meet the objective if there was only 1 car space per unit.
B17	Side and Rear setbacks	✗	✓	No neighbouring dwellings so impacts are minimal.
B18	Walls on boundaries	✗	✓	Wing walls are higher than maximum 3m average; however, there are no neighbouring dwellings so impacts are minimal.
B19	Daylight to existing windows	N/A	N/A	Not opposite existing habitable room windows
B20	North facing windows	N/A	N/A	No north-facing habitable room windows within 3m of relevant boundary.
B21	Overshadowing	N/A	N/A	No neighbouring dwellings.
B22	Overlooking	N/A	N/A	No neighbouring dwellings.
B23	Internal views	✓	✓	Views will be limited.
B24	Noise impacts	✓	✓	No external noise sources, those on site can be sited away from bedrooms etc
B25	Accessibility	✓	✓	Complies with requirements.
B26	Dwelling entry	✗	✗	Entrances are obscured. Design could achieve objective if only one unit is proposed.
B27	Daylight to new windows	✓	✓	Meets requirements
B28	Private open space	✓	✓	Meets requirements

## 8. STATUTORY MATTERS

B29	Solar access to open space	✓	✓	Meets requirements
B30	Storage	✓	✓	Meets requirements
B31	Design detail	✓	✓	Meets requirements
B32	Front fence	N/A	N/A	No front fence required
B33	Common property	✓	✓	Meets requirements
B34	Site services	✓	✓	Requirements met

The application was referred to Council's Heritage Advisor who advised that  
*" the existing building is a transitional Federation/Interwar dwelling that has an exact pair at No. 16 Albert St. Between them they are considered to make a notable contribution to the streetscape and as examples of early 20<sup>th</sup> Century development of Daylesford in an otherwise turn of the century and earlier local context."*

*"Individually the houses are considered interesting illustrations of the transition from Edwardian style to the Californian bungalow, and, as a pair, are seen to have added impact."*

*"The proposed reconstruction is not considered acceptable in heritage terms as, on principle, retention of genuine heritage fabric is essential for the integrity of the place. The proposed distortion of the original design with the faux replacement would be further exaggerated by reference and comparison to the adjacent original dwelling. Loss of chimneys and the inevitable newness of the replacement building would also diminish the heritage values of the site and the precinct."*

*"Whilst the condition of No. 14 Albert St is relatively poor, with some movement in the walls and the floors, these defects would be unlikely to prevent an economic renovation, particularly as no internal heritage controls apply."*

The relevant decision guidelines for assessing the proposal under the Heritage Overlay are as follows:

***Whether the location, bulk, form or appearance of the proposed building will adversely affect the significance of the heritage place.***

The appearance of the proposed replica, mock-heritage building will have an adverse affect on the significance and the integrity of, not only this particular heritage place, but also on the significance and integrity of the individually listed dwelling next door (the matching twin at no. 16) and on the streetscape and surrounding heritage precinct.

***Whether the location, bulk, form and appearance of the proposed building is in keeping with the character and appearance of adjacent buildings and the heritage place.***

Whilst the location and bulk of the proposed replica building are in keeping with the character of adjacent buildings, the form and appearance as a replica of the existing heritage building are not in keeping with the adjoining buildings or with the heritage precinct.

---

## 8. STATUTORY MATTERS

---

### ***Whether the demolition will adversely affect the significance of the heritage place.***

The demolition of one of the 'twin' buildings at 14 & 16 Albert Street in Daylesford for the purposes of erecting a replica, mock-heritage building will severely adversely affect the significance and integrity of the heritage places.

In assessing the proposal against the State and Local Planning Policy, it was considered that the demolition of the existing heritage building was not supported, especially as the proposed replacement building would be a mock-heritage replica. The use and development of the site for shops and dwellings to the rear meets the purpose of the Business 1 zone, however, the inclusion of two units to the rear does limit the ability of the shops to the Albert St frontage to function well.

HO 433 is specifically directed to the conservation of the heritage values of the existing house and its immediate setting and the proposal to demolish the existing building and replace it with a replica new building does not meet the purpose or objectives of the Heritage Overlay.

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

No formal consultation was undertaken. However, the applicant has met with Council's Heritage Advisor a number of times on site. Discussions focussed on the importance of retaining the existing heritage dwelling, however, the applicant has chosen to apply to demolish the original building and, in its place, to build a replica of the original.

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

Potential cost of appeal to VCAT.

### **Recommendation**

*That Council, having considered all the matters required under Section 60 of the Planning and Environment Act 1987, decides to Refuse to Grant a Permit under the provisions of Clause 43.01-1 of the Hepburn Planning Scheme in respect of the land known and described as 14 Albert Street, Daylesford, for the Demolition and re-erection of existing building and two unit addition in accordance with the attached plans, with the application dated 20/08/2007 on the following grounds:*

- 1            *The application fails to meet the purpose and intent of the Heritage Overlay – Schedule 433.*
- 2            *The application fails to meet the objectives and strategies of Clause 15.11 (Heritage) of the Hepburn Planning Scheme.*
- 3            *The application fails to meet the objectives and strategies of Clause 21.09 (Municipal Strategic Statement) of the Hepburn Planning Scheme.*
- 4            *The application would set an undesirable precedent for the demolition and replication of heritage places in heritage areas of Daylesford.*

---

## 8. STATUTORY MATTERS

---

***Motion Moved at the Meeting.***

***That this item be deferred for 1 month.***

***Moved: Cr Bill McClenaghan***

***Seconded: Cr Janine Booth***

***Carried.***



---

## 8. STATUTORY MATTERS

---

### 8.2 SECTION 173 AGREEMENT BETWEEN HEPBURN SHIRE COUNCIL AND MALCROSS INVESTMENTS PTY LTD , PLANNING PERMIT NO. 2006/9140

(A/O – Planning Administration Officer)

File Ref: 3/4300/10900/P  
3/4300/11100/P

#### Synopsis

This report concerns a Section 173 Agreement that provides for road construction, landscaping and maintenance for the subject land as described below, under Condition 7.4 of Planning Permit 2006/9140, issued for hotel alterations and additions described in this permit.

Applicant: MALCROSS INVESTMENTS PTY LTD

Property: 124-128 MAIN ROAD HEPBURN SPRINGS  
CA 6, Sec 5, T/Hepburn, Lot 2 LP 76301 T/Hepburn, Lot 1 PS 541036  
T/Hepburn, Lot 1 LP 76301 T/Hepburn, Lots 2, 3, 6, 7, 1 LP 96329  
T/Hepburn

#### 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 for the construction of the road to service villa units #3-7 inclusive, landscaping and maintenance of the road reserve between the land and the east side of Tenth Street to the satisfaction of the Responsible Authority with the owner bearing all costs as described under Condition 7.4 of Planning Permit 2006/9140.

#### Relevant Policies / Council Plan implications:

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

#### Financial Implications

Nil

#### Recommendation:

8.2.1 *Sign and seal the Section 173 Agreement between Hepburn Shire Council, and Malcross Investments Pty Ltd, as detailed under item 8.2*

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

**Moved: Cr David Smith**

**Seconded: Cr Janine Booth**

**Carried**

---

## 9. COUNCILLOR REPORTS AND CONGRATULATIONS

---

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

Cr Mutimer delivered a verbal report commenting on various functions and activities she had attended.

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

The past month has been a busy time especially because of forthcoming changes within the Highlands Waste Management Group. As detailed earlier, this group is a State statutory authority set up under the Ministry of Environment and Climate Change. There are several member Councils in this area, each of which send a Councillor to act as a Director on the HRWMG Board. Each Council also sends a senior officer in the infrastructure and engineering areas to act as “:Advisor”. From Hepburn, I am the appointed Director on this Group.

Waste Management Groups are all under review right now and all of the metropolitan Groups have been amalgamated. Regional rural groups probably will not be amalgamated and each continues to employ an Executive Officer (EO) and a Regional Education Officer (REO). The Highlands Group is unusual in that its EO is employed as a contractor, not an employee. Minister Jennings has now directed that we convert this situation to employment when the contract ends on 31 Mar 08.

If this process of transition is not done properly then there could be financial implications for member Councils; that’s us in Hepburn. So, together with Directors from other surrounding Councils at Ballarat City, Moorabool, Pyrenees, Golden Plains and Central Goldfields, we have been holding Special Board Meetings (in camera) to address the issues created by the required transition. The last of these in camera meetings was this morning. The next regular Board Meeting is next week when we hope to pass the necessary resolutions.

As well as this, there was a HRWMG Business Planning Workshop in Ballarat on 31 Jan 08 to refine our Business Plan up to 2009/10. This reflects the finalization of several projects leading up to the State Government’s policy known as “Towards Zero Waste” by the year 2014. In a towards zero waste society, there is almost 100% elimination of waste into landfill with all waste processed somehow into energy, compost, mulch or other useable forms. Hepburn Shire is already a leader in the field of recycling with a significant amount of waste removed from the waste stream as recyclable material and recovered at the MRF (Municipal Recycling Facility) right here in Daylesford. The City of Ballarat has yet to build such a facility and is now contemplating doing so. I would table a copy of the Group’s Business Plan but in keeping with our objectives, I will save a tree, avoid printing hard copy and e-mail you the document for our files.

HRWMG covers an area of nearly 12,000 sq kms in six Shires and addresses the issues relating to municipal waste created by the 160,000 people who live in the Region in 60,255 households. In 2002/03, HRWMG was averaging a 26% recovery rate (by weight) from the overall waste stream and is on target to raising that to 46% in 08/09. The target for 2014 is 57% which is below the state target of 65%.

Accordingly the HRWMG is planning additional strategies and programs, including an ambitious education program, designed to reduce the overall amount of waste generated and to further reduce the amount of waste sent to regional landfill, which is

---

## 9. COUNCILLOR REPORTS AND CONGRATULATIONS

---

where all of our waste goes. Participation in the Group's activities has led to significantly lower waste disposal costs for residents in all member Shires. Regional Waste Management groups are funded by the State Government's EPA waste levy and represent a no-cost option to the member Councils. And we want to keep it that way.

Also in the last month I attended various Australia Day activities. After the Australia Day eve civic reception, I attended the morning service in Daylesford and the evening flag lowering in Glenlyon where there is always a strong turnout of local people.

In the past month, the Bathhouse Business & Community Liaison Group has met again and we await eagerly the announcement of the long term tenant of the Bathhouse and the re-opening of the Pavilion Kiosk and Café. The Bathhouse will not be opening before about July, which is a very great disappointment for those who had hoped to have it open for Easter. Hence the promotional work of the BB&CLGroup will continue on.

Two Saturdays ago, I attended a well attended new resident's morning at the Daylesford Neighbourhood House with Crs Hayes, Booth & Mutimer. And several Council staff. It was a good session to begin a new year.

Sorry Day was a real event at the Daylesford Town Hall on 13th February when over one hundred people from the wider Shire community turned up to witness the historic event on the big screen. The atmosphere in the Town Hall was very profound during the event with everyone present joining the standing ovation. Good to see Councillors, staff and management in attendance for the big announcement and the social interaction before and after.

One of the highlights of the past month happened as late as yesterday evening in Glenlyon where I was invited to chair a meeting of local community groups for the purpose of getting something happening between them. This is indeed a local version of Community Planning, Glenlyon style and numerous people attended representing over nine local groups. We held an open discussion and identified a large range of issues faced by the various groups from attracting volunteers and funding to obtaining insurance, networking, maintaining assets and equipment sharing to name but a few. I felt that everyone who attended that meeting left enriched with fresh ideas, a greater sense of community and an empowerment that they in their own small groups are not alone if everyone in a small rural community can get together and work towards common objectives. It was indeed a pleasure to have chaired that meeting and I look forward to many productive changes ahead in the communities and groups of Glenlyon and district.

**Cr Janine Booth  
Creswick Ward.**

The highlight of the past months activities must be the Hepburn Shires Australia Day celebrations.

In Creswick Ward celebrations began with an 8am breakfast at Park Lake attended by over 500 residents. With suitable "Aussie Day" music provided by the Creswick Brass Band and the raising of the flag by members of the Creswick Light Horse Troop, an address by the Mayor and a free breakfast of cereal, bacon sausages and eggs cooked up by volunteers from the, Lions and Oasis, friends of Park Lake and Red Cross groups, an opportunity to

## **9. COUNCILLOR REPORTS AND CONGRATULATIONS**

---

have a free hit of Tennis on the Grass courts with the Mt Prospect Tennis Association, and a Teddy bears picnic for the little-lies.

This was followed by a family fun day at Calembeen Park with the YMCA staff providing activities for teenagers followed by afternoon tea and a sing-a-long at the John Curtin Hostel for the elderly residents and their families.

All in all it is estimated that over 1000 Creswick people enjoyed the Creswick activities including two families of our newest Australians who received their Australian citizenship at Councils citizenship ceremony on the Friday evening.

I would like to thank the hard working volunteers who make Australia Day such a special day and a real celebration of being an Aussie and I would particularly like to acknowledge Mary Ashdown who co-ordinates and attends functions right across the Shire and whose attention to detail, helpfulness and inclusiveness ensures successful and well attended celebrations.

Currently I am working with the Creswick Development Committee and Geoff Ryan Manager Tourism Economic Development and Recreation in arranging two Community workshops to develop a marketing plan for Creswick to use in support of the Creswick Development Plan.

To assist with developing Creswicks branding and Marketing strategy, we have enlisted the help of Mr. Bill Fox whose extensive experience with Tourism Victoria and The Macedon Ranges/Spa Country Campaign will provide valuable assistance.

I wish to congratulate members of the CDC Councils Advisory Committee, who not only provide support to me as Ward Councillor and the Community on Creswick projects, but have recently spent countless hours researching, producing and distributing the Creswick 2008/2009 Community and Business Directory, a valuable and free community resource document.

In the past weeks I have attended the Central Highlands Area Consultative Committee" presentation at Creswicks Melbourne Uni campus to hear guest speaker provide interesting insight into research on how Communities grow and develop.

I recently attended the Hepburn Shires New Residents Morning at the Daylesford Neighbourhood House,

I have also attended meetings of the International Women's day Committee, who are busy finalizing details for the upcoming celebration on Friday 7<sup>th</sup> March and last Saturday, in my spare time, I attended a working bee with the friends of the Creswick Town Hall, Hepburn Shires only other Council owned Town Hall, where I refined my sanding and painting skills and discovered that I still have much to learn as an interior decorator and reinforced for me why my involvement with Hepburn Shire is in the role of Councillor and not as a Maintenance Officer.

**Cr David Smith'**  
**Birch Ward.**

- Attended the Australia Day Eve function in the Daylesford Town Hall

## 9. COUNCILLOR REPORTS AND CONGRATULATIONS

---

- Australia Day Breakfast at Bourke Square – Daylesford
- Australia Day function at Trentham
- Adjourned Council Meeting on 5<sup>th</sup> February, 2008
- Attended at GM Debate at the Marong Hall, Marong on Thursday 7<sup>th</sup> February
- Meeting on 14<sup>th</sup> February re planning issue in Birch Ward – this was arranged by the planning department and was held in the Senior Citizens Rooms with the objectors present.
- Last night ( Monday 18<sup>th</sup> Feb.) attended the CHAF Meeting held at the Murrarbool Shire Offices in Ballan.
- Also the usual extra meetings held during the last month with fellow councilors and ratepayers.

### **Cr Tim Hayes Cameron Ward.**

Since the last Council meeting we have once again celebrated Australia Day and the various activities held throughout the Shire continue to grow in terms of attendances and are very much appreciated by residents.

The Annual Reception in the Town Hall on Australia Day Eve was a very successful evening and one that will no doubt be remembered by the 7 candidates who became Australian Citizens and the recipients of the Australia Day Awards and the Daylesford Rotary Business Achievers Awards. As the representative of Cameron Ward I was particularly pleased that the Australia Day Citizen of the Year was awarded to Robert Campbell of Ullina and the Event of the Year to the Clunes Booktown for a Day event. Robert's award was well deserved and like all past recipients he has a distinguished record of service to his community through his involvement in a number of organizations. Never one to seek recognition Robert has over a period of many years devoted literally thousands of volunteer hours in trying to make a difference to his local community of Clunes and the surrounding district. Similarly, the success of the Clunes Booktown for a Day event is a good example how a small band of people can motivate others to work together and constructively in achieving positive outcomes.

On Australia Day itself I attended celebrations in Creswick, Daylesford, Trentham and Clunes. I congratulate all those involved in organizing these events and thank the CEO and his staff, particularly Mary Ashdown and Kathy Graham for their involvement.

On Thursday 2 February I attended a meeting of the Hepburn Regional Tourist Association and spoke to that Committee about the level of Council's support for tourism and the need to have a broader focus on economic development issues.

The Information Session for New Residents was held on Saturday 9 February and the Daylesford Neighbourhood House was filled to capacity with new residents. These sessions have proven to be very worthwhile and from the feedback provided are obviously appreciated by those in attendance.

---

## 9. COUNCILLOR REPORTS AND CONGRATULATIONS

---

The Central Highlands Area Consultative Committee hosted its State of the Regions Luncheon at the Creswick School of Forestry on 12 February. Dr Ian Plowman gave an interesting address about innovation in rural communities and posed the question 'Why are some rural towns more innovative than others?' Dr Plowman suggested that communities need to encourage the concept of 'leadership' and discourage the concept of 'leaders' and that one way of doing this was to promote the idea that all civic positions should be held for a short period of time.

Last Saturday I had the pleasure of attending the third 'Feast on Fraser' Dinner held under the verandahs of the historic Fraser Street shopping precinct. Although numbers were limited to just over 60 people an amount of \$3,400 was raised which will assist the Clunes Netball Club in the reconstruction of its courts and also the Back to Booktown event scheduled for the first weekend of May.

During the course of the past month I have also attended meetings of the Clunes Bottle Museum and the Central Highlands Regional Library Audit Committee.

### **Recommendation:**

*That Council:*

9.1            *Receive and note the reports of Councillors.*

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

***Moved***                    ***Cr David Smith***  
***Seconded:***            ***Cr Heather Mutimer***  
***Carried.***

---

**CLOSE OF MEETING**

---

**URGENT ITEM OF BUSINESS:**

**Moved that Council consider an Urgent Item of Business**

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

**8pm Moved that Council Move in Camera to discuss this item**

**Moved:** Cr Bill McClenaghan  
**Seconded:** Cr David Smith  
**Carried.**

**8.28pm Moved that the Meeting re-convene**

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

**Moved that the Decision of Council made in Camera be ratified.**

**Moved:** Cr David Smith  
**Seconded:** Cr Janine Booth  
**Carried.**

**CLOSE OF MEETING: The Meeting closed at 8.30pm.**

---

**ATTACHMENTS**

---

- ATTACHMENT 1** (Item 3.1) Minutes of the Ordinary Meeting of Council held on 22 January including the re-convened Meeting of 5 February.
- ATTACHMENT 2** (Item 5.1 ) Equal Opportunity and Bullying & Harassment Prevention Policy
- ATTACHMENT 3** (Item 5.4 ) **CONFIDENTIAL ATTACHMENT**  
Lease – Jubilee Lake Caravan Park
- ATTACHMENT 4** (Item 6.2 ) Lease – Pavilion Kiosk Café – Hepburn Mineral Springs Reserve **CONFIDENTIAL ATTACHMENT.**
- ATTACHMENT 5** (Item 7.1 ) Instrument of Delegation and Appointment of New Members
- ATTACHMENT 6** (Item 7.3 ) Creswick Museum & Gold Battery Committee of Management – Instrument of Delegation and Call for New Members



**ATTACHMENT 1**

---

**Minutes of The Ordinary Meeting Of Council  
Held On 22 January including re-convened meeting of 5 February 2008.**

The minutes will be tabled at the meeting.

**ATTACHMENT 2**

**Item 5.1**

**Equal Opportunity and Bullying & Harassment Prevention Policy**

Item 5.4 Lease – Jubilee Lake Caravan Park – Tender Overview

File # 4/3795/00050

**‘CONFIDENTIAL’**

**TENDER FOR LEASE**

**CONFIDENTIAL**

FILE # 5/4685/200

Item 6.2 Lease – Pavilion Kiosk Café

**ATTACHMENT 5**

---

**INSTRUMENT OF DELEGATION**

APPOINTMENT OF SPECIAL COMMITTEE AND INSTRUMENT OF DELEGATION  
Section 86 Local Government Act – 1989

Creswick InfoLink

**COMMITTEE OF MANAGEMENT**

**Hepburn Shire Council (The Council)**

**Name of Committee**

The special committee of Council shall be entitled the “The Creswick InfoLink Committee of Management”.

**Objectives**

The Committee of Management will administer, manage and control the operations of the Creswick InfoLink situated in the room located to the rear of the Creswick Visitor Information Centre at 3 Raglan Street, Creswick. In so doing, the Committee will:-

1. Provide strategic overview of the facility’s operations, including periodic review, forward planning and policy development.
2. Manage and operate the facility in consultation with Council and the Creswick Visitor Information Centre, including:
  - 2.1 In accordance with Council policy, set and approve conditions, fees and charges for the use of the facility
  - 2.2 Oversee hiring of the facility
  - 2.3 Account for the facility’s financial operations

**Membership of Committee**

1. The Committee shall be comprised of:
  - At least 5 community representatives.
2. The Council may at any time, remove a member from the Committee or disband the Committee or appoint a member to the Committee

**Office Bearers**

The Committee shall at its Annual Meeting each year elect from its members the following office bearers:

- President, who shall be Chairperson of the Committee
- Secretary
- Treasurer

**Committee Proceedings**

**ATTACHMENT 5**

---

1. The Committee shall at its Annual Meeting each year appoint a time and place for regular meetings. Such meetings shall be held at intervals of not more than three (3) months. Should it be necessary to alter the times or place of a regular appointed meeting all members of the Committee shall be given at least forty-eight (48) hours notice in writing of the new time or place.
2. The quorum of the Committee shall be three (3) members. The procedures of the committee meetings shall be regulated by Council's Local Law No.1
3. Each member shall be entitled to one vote and in the event of equality of votes the President shall have a casting vote as well as a deliberative vote.
4. The Committee shall hold an Annual Meeting during the month of August each year. The Annual meeting shall be advertised in the local newspaper at least fourteen (14) days prior to the meeting date.
5. The Secretary of the Committee shall, on receipt of a requisition signed by the President, or three (3) members, stating the object of such meeting, within fourteen (14) days call a Special Meeting. Written notice of such meeting shall be given to each member of the Committee specifying the object of the meeting and the time and place where the meeting shall be held.
6. No business, apart from that which is described in the object of a Special Meeting, can be conducted or acted upon by the Committee at a Special Meeting.
7. All motions/resolutions of the Committee, apart from usual, day to day meeting motions/resolutions; shall be reduced to writing before being voted upon.
8. No motion/resolution has any standing if made at a meeting where a quorum was not present.
9. Any contracts or other such instruments that the Committee enters into will have no legal effect upon Council unless preceding clauses (7) and (8) are followed.
10. The Committee shall cause minutes to be kept of all meetings and shall forward to the Council a copy of such minutes within fourteen (14) days of each meeting.

Duties of Secretary

The Secretary shall: -

- i. Conduct the correspondence of the Committee
- ii. Shall have the custody of all documents belonging to the Committee
- iii. Shall keep and correct minutes of all proceedings and records of the Committee
- iv. Shall accurately record all written motions/resolutions in the minutes.
- v. Carry out the directions of the Committee (under motion/resolution)
- vi. Shall forward a copy of the minutes of all meetings and ensure a copy of the Financial statements, tabled at the Annual Meeting, are forward to the Council within seven (7) days of each respective meeting.
- vii. Immediately call a Special Meeting upon receiving the requisition to do so.

Duties of Treasurer

The Treasurer shall: -

### ATTACHMENT 5

- i. Pay into the Bank all monies received by the Committee within seven (7) days of receipt.
- ii. Keep correct accounts and books showing the financial affairs of the Committee.
- iii. Prepare statements of receipts and expenditure.
- iv. Provide a financial report to each regular meeting.
- v. Provide a full statement of all monies received and expended by the Committee for the period ending 30<sup>th</sup> June each year, to the Annual Meeting.
- vi. Provide a statement of assets and liabilities for the period ending 30<sup>th</sup> June each year, to the Annual Meeting.
- vii. Ensure the person appointed by Council has duly audited the Annual Meeting statements prior to the meeting taking place.
- viii. Ensure that no later than the 31<sup>st</sup> of August each year a certified copy of each of those statements prepared for the Annual Meeting are forwarded to Council.

### Powers and Duties of Committee

1. The Committee shall: -
  - Ensure they have an understanding of the Instrument of Delegation and they may seek assistance from Council to do this.
  - Ensure any new members have an understanding of the Instrument of Delegation.
  - Ensure all procedures are followed.
  - Set and approve conditions, fees and charges for legitimate use of the stated property.
  - Carry out all minor items of maintenance as defined in the attached Schedule at the Committee's expense.
  - Report to Council on any other items of maintenance.
2. The Committee cannot delegate any of its powers or functions.
3. The Committee may enter into any contract for an amount up to five thousand dollars (\$5,000).
4. The Committee may incur expenditure on any one matter up to ten thousand dollars (\$10,000).
5. The Committee shall ensure that all funds raised by the Committee are only expended on management and minor maintenance of computer hardware, software, internet access and associated furniture, equipment and consumables offered for public use at the premises.
6. Subject to Clauses 1 – 5 hereof the Committee may exercise all powers and functions of Council necessary for the control and management of the stated property.
7. Any disputes arising in relation to the shared occupancy of the building located at 3 Raglan Street Creswick shall be referred to Manager Administration, Hepburn Shire Council for resolution.
8. The Committee may apply to Council for an advance or contribution of monies for the purpose of improvements on the stated property and if the advance/contribution is approved the Committee shall:
  - Carry out all conditions imposed by Council in making the advance/contribution.
  - Repay out of funds received by it the amount of such advance/contribution in the manner prescribed by Council when making the advance/contribution.

**ATTACHMENT 5**

---

9. Every member of the Committee shall be a person authorised to enforce the provisions of the Council's Local Laws and Regulations (so far as they are applicable to the stated property only) relating to the control and management of municipal places.
10. The Committee will not alter, remove or destroy any part of the facility without first gaining the Council's approval.

Finance

1. The Committee shall open a bank account and advise Council of the name of the bank.
2. The Committee shall authorise the manager of its bank to supply the Council with a copy of the Committee's bank account on the written request of the Chief Executive Officer.
3. All expenditure shall be authorised by the Committee and shall be paid by cheque signed by any two (2) of three (3) signatories.
4. The Committee shall ensure that the audit of financial reports presented at the Annual Meeting is made available to Councils' auditor no later than the 1<sup>st</sup> of August, each year.

Indemnity

Council indemnifies members of the Committee against any action, liability, claim or demand on account of any matter or thing done by them on behalf of the Committee. Provided they are acting in accordance with this Instrument of Delegation in an honest and reasonable belief or under a mistake of law that the member was properly exercising any function or power of the Committee hereunder.

**ATTACHMENT 5**

---

**Term of Committee**

The term of the Committee commences immediately the common seal of Council is affixed to this Appointment and Instrument of Delegation and remains in force until 31 March 2011 or until Council resolves to vary or revoke it.

**Winding Up**

In the event of the Committee being wound up or dissolved for any reason:- all monies, after the satisfaction of all debts and liabilities, or property held or held in trust and any other assets will be paid or transferred to Council. No monies or property shall be distributed to or amongst members of the Committee.

**Delegation**

The Council by resolution and this Instrument delegates to the Committee its power, duties and functions necessary to meet its purpose and all related matters.

The COMMON SEAL of the            )  
HEPBURN SHIRE COUNCIL            )  
was affixed to this Appointment    )  
and Instrument of Delegation on    )  
  )  
...../...../20.....                )  
in the presence of                    )

---

Chief Executive Officer

---

President (*Creswick InfoLink Committee of Management*)

---

Secretary (*Creswick InfoLink Committee of Management*)

ATTACHMENT 5

**SCHEDULE To Instrument of Delegation**

Hepburn Shire Council and the Creswick InfoLink Committee of Management.

**Part A - Overall**

1. Council will be responsible for the maintenance of the premises.
2. Minor Maintenance refers to the maintenance and supply of computer hardware, software, associated furniture, equipment and consumables offered for public use at the premises which has a total cost of \$750 or less, or where the Committee has reached the amount of \$3,000 for the financial year in expenditure on maintenance.
3. All legal instruments, being contracts, leases, agreements, licences above the sum of two hundred (\$200) must be executed and attested to in the following manner: -

*"This contact/agreement/licence/lease\*\* is executed by the Creswick InfoLink Committee of Management for and on behalf of the Hepburn Shire Council in accordance with the terms of its Appointment and Instrument of Delegation"*

Signed \_\_\_\_\_  
Committee member #1

Signed \_\_\_\_\_  
Committee member #2

4. Council shall provide and be responsible for payment of the person who performs the annual audit of the Committee's financial records.
5. The Committee will encourage community use of the Creswick InfoLink facilities.
6. In consultation with Council and the Creswick Visitor Information Centre, the Committee and its designated volunteers will ensure that the property is adequately secured.
7. The Committee will ensure that the facilities are open to the public for a minimum period of five days per week (including either a Saturday or Sunday) for three hours per day (minimum).
8. The Committee will set the times and days the facility is open to the public.
9. During the times the facility is open to the public there shall always be a member of the Committee or a person delegated by the Committee present at the premises.
10. The Committee has the following responsibilities with regard to the appointment and management of volunteers:-



**ATTACHMENT 5**

---

Volunteers:

- must be interviewed as to their suitability prior to being appointed;
- must be honest and of good reputation;
- must undertake and receive training as required by the Committee from time to time;
- must not have a direct or indirect conflict of interest between their private business and the Creswick InfoLink;
- must have people skills, a friendly attitude to visitors and have sufficient knowledge and experience to assist the public in the use of the Creswick InfoLink facilities.

11. An up to date list of volunteers for the Creswick InfoLink must be maintained by the Committee.

**END SCHEDULE**

**ATTACHMENT 6**

---

**INSTRUMENT OF DELEGATION**

APPOINTMENT OF SPECIAL COMMITTEE AND INSTRUMENT OF DELEGATION  
Section 86 Local Government Act – 1989

Creswick Museum

**COMMITTEE OF MANAGEMENT**

**Hepburn Shire Council (The Council)**

**Name of Committee**

The special committee of Council shall be entitled the “The Creswick Museum Committee of Management”.

**Objectives**

To administer, manage and control the property:-

1. The Creswick Museum (Council file No. 2/7350/02046- Volume 617 -Folio -261- Crown Allotment 11- Section 10 - Parish of Creswick Township)
2. The Museum Collection including the following known as:-
  - Dr. E.J. Semmens Collection including;
  - Lindsay Family Collection
  - T.G. Moyle Collection
  - W. Tibbits Collection
  - Victor Litherland Collection
  - Creswick Council Chamber collection
  - H.H. Pearce Collection(Being collections held in trust for Creswick & District residents)

hereinafter referred to as the stated property.

**Membership of Committee**

3. The Committee shall be comprised of:
  - At least 9 community representatives.

**Office Bearers**

The committee shall at its Annual Meeting each year elect from its members the following office bearers:

- President, who shall be Chairperson of the committee
- Vice-President
- Secretary

**ATTACHMENT 6**

---

- Assistant Secretary
- Treasurer

**Committee Proceedings**

1. The Committee shall at its Annual Meeting each year appoint a time and place for regular meetings. Such meetings shall be held at intervals of not more than three (3) months. Should it be necessary to alter the times or place of a regular appointed meeting all members of the Committee shall be given at least forty-eight (48) hours notice in writing of the new time or place.
2. The quorum of the Committee shall be five (5) members. The procedures of the committee meetings shall be regulated by Council's Local Law No.1
3. Each member shall be entitled to one vote and in the event of equality of votes the President shall have a casting vote as well as a deliberative vote.
4. The Committee shall hold an Annual Meeting during the month of August each year. The Annual meeting shall be advertised in the local newspaper at least fourteen (14) days prior to the meeting date.
5. The Secretary of the Committee shall, on receipt of a requisition signed by the President, or three (3) members, stating the object of such meeting, within fourteen (14) days call a Special Meeting. Written notice of such meeting shall be given to each member of the Committee specifying the object of the meeting and the time and place where the meeting shall be held.
6. No business, apart from that which is described in the object of a Special Meeting, can be conducted or acted upon by the Committee at a Special Meeting.
7. All motions/resolutions of the Committee, apart from usual, day to day meeting motions/resolutions; shall be reduced to writing before being voted upon.
8. No motion/resolution has any standing if made at a meeting where a quorum was not present.
9. Any contracts or other such instruments that the Committee enters into will have no legal effect upon Council unless preceding clauses (7) and (8) are followed.
10. The Committee shall cause minutes to be kept of all meetings and shall forward to the Council a copy of such minutes within fourteen (14) days of each meeting.

**Duties of Secretary**

The Secretary shall: -

- viii. Conduct the correspondence of the Committee
- ix. Shall have the custody of all documents belonging to the Committee
- x. Shall keep and correct minutes of all proceedings and records of the Committee
- xi. Shall accurately record all written motions/resolutions in the minutes.
- xii. Carry out the directions of the Committee (under motion/resolution)
- xiii. Shall forward a copy of the minutes of all meetings and ensure a copy of the Financial statements, tabled at the Annual Meeting, are forward to the Council within seven (7) days of each respective meeting.
- xiv. Immediately call a Special Meeting upon receiving the requisition to do so.

## ATTACHMENT 6

---

### Duties of Treasurer

The Treasurer shall: -

- ix. Pay into the Bank all monies received by the Committee within seven (7) days of receipt.
- x. Keep correct accounts and books showing the financial affairs of the Committee.
- xi. Prepare statements of receipts and expenditure.
- xii. Provide a financial report to each regular meeting.
- xiii. Provide a full statement of all monies received and expended by the committee for the period ending 30<sup>th</sup> June each year, to the Annual Meeting.
- xiv. Provide a statement of assets and liabilities for the period ending 30<sup>th</sup> June each year, to the Annual Meeting.
- xv. Ensure the person appointed by Council has duly audited the Annual Meeting statements prior to the meeting taking place..
- xvi. Ensure that no later than the 31<sup>st</sup> of August each year a certified copy of each of those statements prepared for the Annual Meeting are forwarded to Council.
- xvii. Receive and manage bequests and trust funds made to the Creswick Museum.

### Powers and Duties of Committee

11. The Committee shall: -

- Ensure they have an understanding of the Instrument of Delegation and they may seek assistance from Council to do this.
- Ensure any new members have an understanding of the Instrument of Delegation.
- Ensure all procedures are followed.
- Set and approve of conditions, fees and charges for legitimate research of the collection and use of the stated property.
- Carry out all minor items of maintenance as defined in the attached Schedule at the Committee's expense.
- Report to Council on any other items of maintenance.

12. The Committee cannot delegate any of its powers or functions.

13. The Committee may enter into any contract for an amount up to five thousand dollars (\$5,000).

14. The Committee may incur expenditure on any one matter up to ten thousand dollars (\$10,000).

15. The Committee may only borrow money, obtain a bank overdraft or exceed the limits specified in the preceding clauses (3) & (4) upon receiving written approval from Council.

16. The Committee shall ensure that all funds raised by the Committee are only expended on management of and minor maintenance of the stated property.

17. Subject to Clauses 1 – 6 hereof the Committee may exercise all powers and functions of Council necessary for the control and management of the stated property.

18. The Committee may apply to Council for an advance or contribution of monies for the purpose of improvements on the stated property and if the advance/contribution is approved the Committee shall:

- Carry out all conditions imposed by Council in making the advance/contribution.
- Repay out of funds received by it the amount of such advance/contribution in the manner prescribed by Council when making the advance/contribution.

**ATTACHMENT 6**

---

19. Every member of the Committee shall be a person authorised to enforce the provisions of the Council's Local Laws and Regulations (so far as they are applicable to the stated property only) relating to the control and management of municipal places.

Finance

5. The Committee shall open a bank account and advise Council of the name of the bank.
6. The Committee shall authorise the manager of its bank to supply the Council with a copy of the Committee's bank account on the written request of the Chief Executive Officer.
7. All expenditure shall be authorised by the Committee and shall be paid by cheque signed by any two (2) of three (3) signatories.
8. The Committee shall ensure that the audit of financial reports presented at the Annual Meeting is made available to Councils' auditor no later than the 1<sup>st</sup> of August, each year.

Indemnity

Council indemnifies members of the Committee against any action, liability, claim or demand on account of any matter or thing done by them on behalf of the Committee. Provided they are acting in accordance with this Instrument of Delegation in an honest and reasonable belief or under a mistake of law that the member was properly exercising any function or power of the Committee hereunder.

Term of Committee

The term of the Committee commences immediately the common seal of Council is affixed to this Appointment and Instrument of Delegation and remains in force until 31 March 2011 or until Council resolves to vary or revoke it.

**Winding Up**

In the event of the Committee being wound up or dissolved for any reason:- all monies, after the satisfaction of all debts and liabilities, or property held or held in trust and any other assets will be paid or transferred to Council. No monies or property shall be distributed to or amongst members of the Committee.

**Delegation**

The Council by resolution and this Instrument delegates to the Committee its power, duties and functions necessary to meet its purpose and all related matters.

The COMMON SEAL of the )  
HEPBURN SHIRE COUNCIL )  
was affixed to this Appointment )  
and Instrument of Delegation on )  
 )  
...../...../20..... )  
in the presence of )

**ATTACHMENT 6**

---

---

Chief Executive Officer

---

President (*Creswick Museum Committee*)

---

Secretary (*Creswick Museum Committee*)

ATTACHMENT 6

**SCHEDULE To Instrument of Delegation**

Hepburn Shire Council and The Creswick Museum Committee.

**Part A - Overall**

3. Maintenance has its ordinary meaning and includes cleaning, repairing, painting, polishing or similar activities.
4. Minor Maintenance refers to any activity which has a total cost of \$500 or where the Committee has reached the amount of \$3,000 for the financial year in expenditure on maintenance.
4. All legal instruments, being contracts, leases, agreements, licences above the sum of two hundred (\$200) must be executed and attested to in the following manner: -

*"This contact/agreement/licence/lease\*\* is executed by Creswick Museum Committee for and on behalf of the Hepburn Shire Council in accordance with the terms of its Appointment and Instrument of Delegation"*

Signed \_\_\_\_\_  
Committee member #1

Signed \_\_\_\_\_  
Committee member #2

12. Council shall provide and be responsible for payment of the person who performs the annual audit of the Committee's financial records.
13. The Committee will encourage participation in the property and include educational activities involving the property and the collections.
14. Council encourages the Committee to use the services of volunteers but due to the valuable property involved and the need for people within the Museum to ensure that visitors receive a warm, interesting and pleasant experience that will promote the Creswick Museum and Region the following must be adopted: An up to date list of volunteers for the museum must be kept by the Committee.
  - Volunteers (It is the Committee's responsibility to interview prospective volunteers and assess their suitability prior to them being taken on)
    - must be interviewed as to their suitability prior to being taken on;
    - must be honest, be of good reputation and be willing to undergo a police check at persons own expense;
    - must undertake and receive training as required by the Committee from time to time;
    - Must not have a direct or indirect conflict of interest between their private business and the museum objectives and collection;

**ATTACHMENT 6**

---

- must have people skills, friendly attitude to visitors and be able to promote the Creswick Region with enthusiasm.
7. During the times the Museum is open to the public there shall always be a member of the committee or a person delegated by the chairperson present, as well as any volunteers rostered to staff the museum.

**Part B - The Property Creswick Town Hall Utilised by the Museum:**

**The Committee:-**

1. Will ensure the displays are open to the public for a minimum period of 3 hours each week of the year.
2. Will set the fees, charges and conditions to visit the above premises and for the purpose of research.
3. Will set the times and days the above premises will be open to the public.
4. Will set the times and days when the Committee will undertake research and/or assist persons researching the museum collection and the Committee will assist these persons in their research during those times.
5. Will pay the following outgoings:-
  - i. Electricity
  - ii. Security
  - iii. Cleaning
6. Will be responsible for the minor maintenance of the above property.

**Part C – The Collections of Museum Works Held On Behalf of the People of Creswick and District**

**The Committee:**

1. Will manage the collections for the enjoyment and education of the public.
2. Will maintain and conserve the collections.
3. Will manage the expansion and development of the collections.
4. Will ensure all monies, grants or bequests specifically received for the preservation and upkeep of the collections are utilised for the purposes for which they were given.
5. Will ensure the security of the collections is of a high standard and will utilise any monies, grants or bequests as a means of achieving this aim.
6. Will assist persons involved in legitimate research of the collections or part thereof, subject to part B 2, 3 and 4 above.
7. Will maintain a catalogue of all items within the collections.



**ATTACHMENT 6**

---

8. Will accept and add to the catalogue any items donated or bequeathed to the collection after the Committee has deemed such items as being suitable for the collection.
9. Will keep a record of any items, made available or loaned to the collection.
10. Will obtain a written receipt when receiving or returning items on loan or made available to the collection.
11. Will comply with all Statutes, Regulations and Laws and will follow any reasonable guidelines issued by appropriate authorities such as Museums of Australia or the Public Records Office.
12. Will receive written Council approval prior to moving any item, collection or part thereof for the purposes of display or loan to another organisation for them to display.

**END SCHEDULE**

