



***HEPBURN SHIRE COUNCIL
ORDINARY MEETING OF
COUNCIL
MINUTES***

TUESDAY 21 JULY 2009

**CRESWICK SENIOR CITIZENS' CENTRE
WATER STREET
CRESWICK
7PM**

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MINUTES

TUESDAY 21 JULY 2009

CRESWICK SENIOR CITIZENS' CENTRE
WATER ST, CRESWICK
Commencing 7PM

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KAYLENE CONRICK
CHIEF EXECUTIVE OFFICER
21 JULY 2009

1. WELCOME TO COUNTRY:

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.

2. OPENING OF MEETING: The meeting opened at 7.05pm.

PRESENT: Mayor, Cr Bill McClenaghan, Cr Jon Barrell, Cr Rod May, Cr Tim Hayes, Cr Sebastian Klein, Cr Janine Booth, Cr Don Henderson.

IN ATTENDANCE: CEO, Kaylene Conrick, General Manager Corporate Services, Lucy Roffey, General Manager Sustainable Development, Robert Jennings, A/General Manager Community Development, Martin Walmsley, A/General Manager Infrastructure, Andrew Bourke, Manager Planning, Sylvester Tan.

STATEMENT OF COMMITMENT

“WE THE COUNCILLORS OF HEPBURN SHIRE
DECLARE THAT WE WILL UNDERTAKE ON EVERY OCCASION
TO CARRY OUT OUR DUTIES IN THE BEST INTERESTS
OF THE COMMUNITY
AND THAT OUR CONDUCT SHALL MAINTAIN THE STANDARDS
OF THE CODE OF GOOD GOVERNANCE
SO THAT WE MAY FAITHFULLY REPRESENT
AND UPHOLD THE TRUST PLACED IN THIS COUNCIL BY THE
PEOPLE OF HEPBURN SHIRE”

3. APOLOGIES: Nil.

4. DECLARATION OF CONFLICTS OF INTEREST: Nil.

5. CONFIRMATION OF MINUTES:

Motion

- 5.1 *That the Minutes of the Ordinary Meeting of Council held on 16 June 2009 (as previously circulated to Councillors) be confirmed as required under Section 93 (2) of the Local Government Act 1989.*

Moved: *Cr Jon Barrell*

Seconded: *Cr Don Henderson*

Carried.

6. NOTICES OF MOTION:

Nil Notices of Motions lodged.

7. PRESENTATION OF REPORTS:

Mayor's Report

Councillor Bill McClenaghan, Holcombe Ward

It has been an exceptionally busy month with some funding announcements, a trip to Canberra, a town hall opening and some high profile meetings.

In mid June, we received notification of two grants for some community infrastructure projects. One was a 3 for 1 grant of \$90,000 for the Collins Place Clunes rotunda and the other was \$60,000 for the Creswick Magic Pudding playground.

Five hundred and sixty five Mayors from all over Australia met at Parliament House Canberra on Wednesday & Thursday 24 – 25 Jun 09 for the second Australian Council of Local Government forum. This year the theme was “Building Resilience in Local Communities” in recognition of the natural disasters that have gripped Eastern Australia this year. There have been disastrous floods in Queensland and lethal bushfires in Victoria and many communities are still suffering in the aftermath as governments at all three levels (Federal, State and Local) are all co-operating and working together to rebuild. The concept of resilient communities refers to those ones that can integrate their resources to respond positively to crises and adapt to pressures to recover quickly after the worst of the disaster is over. This certainly describes us here in Hepburn Shire.

The ACLG forum was after another forum of ALGA or the Australian Local Government Association, which some Mayors attended also. The big push at ALGA is constitutional recognition of Local Government and direct funding from the Commonwealth, as I have reported on previously.

So what was it all about getting all of us 565 Mayors meeting in Canberra? It all started with a dinner, as these things generally do, this time in the Great Hall of the People at new Parliament House. As we sat down to our meal, Parliament was rising from a tumultuous sitting where Kev's ute and the circumstances surrounding it were all the rage. A fitting distraction was provided by State rivalries in a bitter grudge match between NSW and Queensland that evening. The PM was absolutely chuffed when Queensland won.

I was pleased to be welcomed personally by our local Federal Member, Catherine King MP. At the dinner, the Prime Minister and numerous Federal Ministers mingled with us and discussed matters of importance – albeit briefly. We were addressed that evening by Prime Minister Kevin Rudd and by the very supportive Federal Minister for Infrastructure, Transport, Regional Development and Local Government, the Hon Anthony Albanese. The traditional “Welcome to Country” by three elders of the Ngunnawal people was a real highlight. The ability to speak directly with Federal Ministers and network with other Mayors were the real benefits of assembling there together.

On Thursday 25th June, we all got going early with several presentations from the Prime Minister, Minister Albanese and others. There certainly is a genuine attempt by the current

Federal Government to work collaboratively with Local Government municipalities and much time was taken having their economic policies and performances outlined to us and the focus was definitely on “Renewing the Partnership” between us.

The forum then went into two breakout discussion groups that focused on the two main issues of the day; Global Economic Recession and Responding to Climate Change. I joined the former discussion group and was teamed up with Mayors from Councils dubbed “Rural Inland” whereby our group may find issues of rising sea levels somewhat less absorbing than Coastal councils. There was an opportunity for our opinions and experience to be shared and those facilitating the sessions eagerly copied down the main points that we made. It was a full-on consultation between the highest and lowest levels of government in the country and I certainly believe that our sector has been well served by the exercise.

Prime Minister Rudd announced a second Economic Stimulus Package for local councils with a further \$220 million to be allocated for local projects. This time, Hepburn Shire’s share is \$165,000 and we have yet to discuss how we might spend this money except that it will be dependent on how well we spend the first round of \$425,000 by 30th September and certainly, we have already commenced work on these projects Shire wide.

The amount of detail I could bring and report on the second ACLG forum is far too great for this Councillor report and I hereby table a folder of information received for the benefit of my colleagues.

Now let me tell you an inspiring story. On the way home from Canberra, I stopped for refreshments at Gundagai where I avoided the local hype of dogs and tuckerboxes and proceeded to find a normal style coffee shop in the old part of town after escaping the circular stereotyped strangeness of the National Capital. Fate led me into a suitable looking establishment called the Niagara Café which I soon recognized as being a special place because of its history emblazoned on the walls with a definite link to Hepburn Shire. How so in Gundagai NSW, you may ask.

During the Second World War in 1942, on a cold winter’s night, the proprietor of the day had just closed the doors at midnight when there came an urgent knocking by some tired, cold and hungry travelers desperate for a hot meal and refreshments. It was no less than Prime Minister John Curtin, his deputy and some of his ministers who were making a late return drive to Canberra along the old Hume Highway that passed through the town. No bypass freeways in those days. The proprietor recognized the men and immediately opened up again and served them a hot meal and drinks. The rest is history except that Prime Minister Curtin remembered the consideration shown to him that night and made a point of calling into the Niagara Café when passing through Gundagai. He established a bit of a tradition by doing that and the walls bear testimony of his visits together with those of Prime Ministers Gough Whitlam and Bob Hawke who considered that if the Niagara was OK by John Curtin then they should go there as well.

My visit late on Thursday afternoon had been unplanned and I had chosen the Niagara Café completely at random. I thought it might be a nice gesture if I said something to the proprietors that day and so I told them that John Curtin had been born in a little town called Creswick in Central Victoria that is now part of the Hepburn Shire. As Mayor of this Shire, I had been at a forum in Canberra with Prime Minister Rudd and his Government and was now returning home to Hepburn. I too had stopped in Gundagai for refreshments and had found my way into the Niagara Café. Coincidence, fate or just a good story? Certainly the proprietors of that café in Gundagai were pleased to hear about our town of Creswick where John Curtin was born.

Other matters of importance to Council I will save for next month's report when hopefully the pace will be slower than it has been thus far with the Council Plan finalized now and the Budget set for the new financial year ahead.

Councillor Reports

Councillor Jon Barrell, Birch Ward

1. The Wombat Hill Botanical Gardens Advisory Committee Meeting – no recent meeting.
2. The Destination Daylesford Campaign Committee - no recent meeting.
3. The ARC Advisory Committee met on 29th June 2009. A number of relatively minor facility issues have been or are being addressed (water coolers, umpires window, squash floor, landscaping). I am advised that participation numbers continue to rise & that substantial State Government Bushfire Relief funding has become available to the YMCA for significantly enhanced school holiday programs.

The volleyballers have formed the Daylesford Volleyball Association Inc and they seek to take over the management and operation of volleyball at the ARC. The managers – Ballarat YMCA - have responded very favourably to this initiative and the new arrangement may be able to commence from the start of Term 3. This initiative may result in some short-term reduction in fees from volleyballers but is predicted to be outweighed by long term further increases in participation visitations & tournaments.

The YMCA have also set up reciprocal rights with the Ballarat Aquatic Centre that entitles all ARC Health Club members to 10 free visits per year to the Ballarat Aquatic Centre with the option to purchase additional visits at a discounted rate. I am advised that this information will be communicated to all current and future members.

Some members of the ARC Advisory Committee have been investigating some sponsorship & marketing opportunities. In addition, the ARC Advisory Committee has discussed options to enable better communication with the relevant user groups. I have reported these matters to HSC CEO who has asked her staff to prepare a detailed report to Councillors on the

relevant governance matters to better guide the ongoing management & development of the ARC.

As a Birch Ward Councillor I would also like to place on record the recent consultations and site visits with respect to development options for the Daylesford Historical Precinct including the potential to restore and display the Stanbridge Jinker (a cart for 2 1-2 horses owned by Daylesford's 1st Mayor) which Councillors inspected recently. I am hopeful with the likely appointment of an Economic Development Officer in the near future that Council will be able to make progress on these matters.

Finally, Councillors, I wish to note that the Victorian Mineral Water Committee Draft Master Plan has been open for public submissions until recently. I was very impressed with their Draft Master Plan and did make a personal submission to the VMWC on the matter. I particularly commended their intentions towards better signage & improved weed eradication, and I particularly commended their proposal for one way traffic, altered parking & altered pedestrian movements at the Hepburn Mineral Springs Reserve.

Councillor Rod May, Birch Ward

In June I attended a forum in Ballarat conducted by the ministry of planning and environment titled Farming for the future. It was attended by up to 100 planners from a variety of institutions and examined the future impacts of demographic change, environment and energy constraints in the regional areas with relation to planning .

Globalisation and its resultant impacts on immigration, demographics, employment and industrial development/change joined issues of food security, climate and energy issues as those demanding strategic consideration. Lack of resources, however, proved to be the largest challenge identified by those present, and coherent strategic planning direction appeared absent although its need appeared equally vital .To that end we should begin to put in place that element of our council plan relating to a strategic planning exercise .

On this day, along with CEO Conrick, Planning manager Tan, Environmental officer Thea , I met with DSE and GMW.

There has been some movement on the matter of monitoring by the relevant water managers but there is no short term relief in sight for aquifers in terms of greater restrictions or more sustainable use of groundwater.

With data indicating water level drops of over 15m in several important aquifers in this decade, many of us continue to be alarmed by the “business as usual” approach to water management, We were told for example that up to three years might elapse before measuring, monitoring and management structures might be in place for those “unincorporated” areas of groundwater, constituting mainly those regions to the east of Daylesford These areas see existing entitlements operating without any significant licence restrictions arising from proper groundwater monitoring

There is no reason to be satisfied that the long term future of HS groundwater resources are secure until there is a much broader public involvement with management decisions and a balance between the competing interests for access to groundwater, including future agricultural models that use water much more efficiently than at present.

We have heard from licensing and allocations today, and made some of our reservations known to them. But we must now press on with pursuing the ecological and environmental matters relating to groundwaters and surface water interactions as we press for sustainable solutions to this issue that largely remains out of view

I also attended a meeting with the deputy secretary of agriculture of the USDA Ms Beth Merrigan and learned of the significant investment of \$100,000,000 by the Obama administration in organic agricultural systems in the USA

Councillor Tim Hayes, Cameron Ward

Did not present a report this month.

Councillor Sebastian Klein, Coliban Ward

This month I attended the Lyonville Community Planning Session at the Radio Springs Hotel. It was a good session demonstrating the value of this process, not just in helping the township focus and prioritise their interests, but in community building as well, with old and new Lyonville residents, many of whom had never met before, meeting in a relaxed and proactive atmosphere. As such it demonstrated the potential for community plans to be more than just a “wish-list” but process that activates and strengthens community.

Councillor Janine Booth, Creswick Ward

The past month has been busy for all Councillors with a number of consultation meetings with Community and strategy meetings with Officers culminating in the adoption of our Council Plan and Budget for 2009/2010 financial year.

As well as attending those budget and Council Plan meetings I recently attended two community workshops in Creswick seeking Community input into the strategic review of the Creswick Development Plan.

Creswick was the first community in our Shire to develop a Community Development Plan in 2003 and whilst many of the initiatives contained therein are still very relevant to the Community it is timely to conduct a review and reconsult with the community.

The strategic review is being conducted by the Creswick Development Committee (advisory Committee of Council) who have engaged Advisor Noelene Gratton of Ascend Communications to conduct the workshops and assist with the review. The work is being paid from funds accumulated from the printing of the Creswick Business Directory.

The material gathered through the workshops will be collated and included in the plan to assist with scoping and prioritizing projects and initiatives identified under the four headings

of Community Participation and partnerships/Supporting economic development/enhancing Arts Heritage and Culture and Creating a Healthy Safe Community.

Those four objectives in the new Creswick Community Development Plan have been specifically aligned to our Council Plan to make it easier in the future to identify projects and initiatives that the Community believes are a priority that fit in with Councils vision and strategy for the future. The Committee believes this will enable greater co-operation and support between Council and Community.

Two other informative events were organized by Staff this month to update and inform Councillors.

A Sustainability forum organized for Councillors and Officers by our Environmental office Thea Laidlaw. A number of very informative updates were received from Councils partnering organizations including DSE ,Ecobuy. ICLEI Central Victorian Greenhouse alliance, and North Central Catchment Authority.

And more recently a tour of the new depot, inspection of the Stanford Jinker and tour of the Daylesford Museum was undertaken.

Both these events updated Councillors and Officers knowledge of important Council assets and projects.

I also attended a Community launch of two important research books on the history of Chinese settlement in Creswick.

These books were the culmination of dedicated research work by Mr Mun Chin, Mrs Ivy Chin and the late Mrs Carol Scott and will become part of the array of books on Creswicks history held and sold by the Creswick Historical Society and Creswick Museum and will no doubt assist history research in the future.

I also recently attended the AGM of the Creswick/Bald Hills Landcare group who will this year celebrate their 20th birthday celebrations. This is a significant milestone for a Landcare group and the group is keen to mark its 20th birthday year with a number of joint projects with Council in and around Creswick including assisting with the revegetation of Doug Lindsay Recreation reserve and reinstatement and upgrade of a number of walking trails around the Township.

Councillor Don Henderson, Creswick Ward

Did not present a report this month.

Motion

7.1 That Council receives the Mayor's and Councillors' reports.

Moved: Cr Tim Hayes
Seconded: Cr Sebastian Klein
Carried.

8. PUBLIC PARTICIPATION TIME:

This part of the Ordinary Meeting of Council allows for the tabling of petitions by Councillors and Officers and 30 minutes for the purpose of:

- Responding to questions that have been submitted by members of the community
- Allowing members of the community to address Council.

Community members are invited to submit written questions to the CEO by 12 noon on the day of the Council meeting. If you wish to address Council you must provide a brief synopsis of your address in writing to the CEO by 12 noon on the day of the Council meeting.

Questions may be taken on notice and responded to later. Likewise, some questions of an operational nature may be responded to through usual administrative procedure. Separate forums and Council processes are provided for deputations or for making submissions to Council.

8.1. PETITIONS:

8.1.1 INTERNATIONAL WOMEN'S DAY CELEBRATION & COMMITTEE (Action Officer – General Manager Corporate Services)

Motion

8.1.1 That Council receives the petition re International Women's Day celebrations and committee.

Moved: Cr Don Henderson

Seconded: Cr Sebastian Klein

Carried.

8.1.2 MULCAHYS ROAD, TRENTHAM PETITION

(Action Officer – General Manager Infrastructure)

File Ref: 4850

Introduction

A petition has been received from residents along Mulcahys Road, Trentham, along with a letter from Ian and Lyn Williams in support of construction of the road.

This report provides Council with options to address residents' concerns.

Report

The petition, as tabled at the June 2009 Council Meeting, has been forward to Council under separate cover. A copy of the petition appears in the Agenda as Attachment 1, along with the Williams' correspondence accompanied by a report prepared for the former Shire of Kyneton by consultants Newell Barrett.

The petition contains 64 signatories of which six are not residents from Mulcahys Road.

Mulcahys Road is approximately 1.9 kms in length of which 500 metres is sealed commencing at Falls Road, Trentham. There are 29 residential properties along this section of Mulcahys Road. The generally accepted number of vehicle movements per property for this density of housing is 4.5 giving an expected traffic volume of 130 vehicle movements a day.

Based on comparative data from other roads and their respective vehicle movements within the Shire, this vehicular traffic volume would fit into a medium use category for the number of vehicles using this type of road.

In response to the petition it is considered that there are two options:

Option 1 – Special charge scheme to construct Mulcahys Road

A special charge scheme enables a group of individual ratepayers, for example property owners in Mulcahys Rd, to achieve a desired outcome with Council backing and support. A special charge scheme is a form of “user pays” contribution to provide services that benefit a particular group of ratepayers. This could apply, for example, to a road construction scheme. A special charge can apply only to properties within the scheme and must benefit the properties that contribute to the scheme. Such a scheme needs to have the formal support of a minimum of 50 per cent of the defined group of property owners, plus one.

Property owners who do not agree to the scheme must contribute provided their property receives a benefit. A special charge scheme can only be imposed for the purpose of meeting Council costs relating to the implementation of the special charge scheme.

Following project design, estimation of costs and ratepayer consultation for the project, there are a number of steps that Council must take as a minimum in the legal process to implement a special charge scheme, the process is complicated and subject to review by VCAT or other courts.

In 2003, Council surveyed the residents on Mulcahys Road to determine whether there was sufficient support to implement a special charge scheme to construct this road.

The 2003 scheme proposed that Mulcahys Road be constructed to a standard of a two way road, sealed pavement, with drainage to meet relevant engineering requirements.

Cost in 2003 for these works was \$250,000.

The survey determined there was insufficient support to implement a scheme and given this result Council determined in 2003 not to implement the scheme.

Requests to undertake resheeting works along Mulcahys Road have also been considered since 2003 and some works have been undertaken.

In general terms, the process for initiating any special charge scheme for Mulcahys Road would include the following steps:

- Survey of the road to establish the road construction cost;
- Determine a method of proportioning costs per residential property
- Hold an information meeting with residents of Mulcahys Rd
- Formal survey by letter of residents seeking agreement to construct the road under a special charge scheme
- Council resolution to declare its intent to make a special charge to construct Mulcahys Rd and advertise inviting submissions
- Formal notice to property owners
- Submissions to Council considered

- Council makes a determination to proceed with construction Mulcahys Rd via a special charge scheme.
- Council to allocate a budget amount to cover the cost of constructing the road.

This process can take at least 12 months.

Option 2 – Gravel resheet of Mulcahys Road

A complete resheet has not been undertaken as the road, based on road condition assessments, does not qualify for a gravel resheet until 2015/2016.

Cost to undertake a gravel resheet along Mulcahys Road using crushed rock or material similar to Gleasons Road, Trentham (white quartz) could cost up to \$60,000.

These works would form part of Council's established program for gravel resheeting. Currently these works are programmed in the 2015/2016 program.

Relevant Policies

Asset Management – Council Plan

Road Construction Policy

Community Engagement

Survey residents within Mulcahys Road to determine options for improvement.

Financial Implications

The cost of Option 1 is estimated at \$250,000 plus (based on the 2003 survey). Option 2 has an estimated cost of up to \$60,000 and could be prioritised in the 2009/2010 works program.

Motion

That Council having allowed the petition to lay on the table for one month, accept the petition and resolve to:

8.1.2.1 *survey the road to establish construction costs and canvas residents to seek support for a special charge scheme;*

8.1.2.2 *undertake a survey of all properties that access Mulcahys Road – the survey is to provide options for improvement including gravel resheeting and a special charge scheme under the Council's Road Construction Policy;*

- 8.1.2.3 *provide a follow up report to Council on the survey results for options for Mulcahys Road improvements; and*
- 8.1.2.4 *respond to the writer of the Mulcahys Road Sealing/Upgrading correspondence (Ian and Lyn Williams) and provide details of Council's resolved actions to the petitioners.*

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

Motion

That Council defer the matter for one month and officers prepare a report to produce a more concise recommendation.

Moved: Cr Jon Barrell
Seconded: Cr Sebastian Klein
Withdrawn.

Motion

That Council having allowed the petition to lay on the table for one month, accept the petition and resolve to:

- 8.1.2.1 survey the road to establish construction costs and canvass residents to seek special support for a special charge scheme;
- 8.1.2.2 proceed with a gravel resheet in 2009-10;
- 8.1.2.3 provide a follow up report to Council on the survey results for options for Mulcahys Road improvements:
- 8.1.2.4 respond to the writer of the Mulcahys Road Sealing/Upgrading correspondence (Ian and Lyn Williams) and provide details of Council's resolved actions to the petitioners: and
- 8.1.2.5 seek additional external funds for construction of the road through Grey Spot or Black Spot funding programs.

Moved: Cr Sebastian Klein
Seconded: Cr Don Henderson.
Carried.

Councillor Hayes called for a division.

Councillors that voted in favour of the motion: Cr Henderson, Cr May, Cr Klein, Cr McClenaghan.

Councillors that voted against the motion: Cr Booth, Cr Barrell, Cr Hayes.

ATTACHMENT 1

ITEM 8.1.1

TO THE HEPBURN SHIRE COUNCIL

The Petition of certain citizens of the State of Victoria draws to the attention of the Hepburn Shire Council the appalling state of Mulcahy's Road, Trentham. The former Director of Infrastructure & Development has advised us several times that the only way to permanently correct this situation is to reform and seal the road and we ask that this be carried out as a matter of urgency.

NAME (Please print name)	SIGNATURE (Petitioner must sign)	ADDRESS (Please write full address)
ANDRISA PROUSA	<i>[Signature]</i>	170 MULCAHYS RD TRENTHAM
SANDRA PROUSA	<i>[Signature]</i>	170 MULCAHYS RD TRENTHAM
JEAN COOK	<i>[Signature]</i>	170 MULCAHYS RD TRENTHAM
CHAS CURWOOD	<i>[Signature]</i>	150 MULCAHYS RD TRENTHAM
SHEILA CURWOOD	<i>[Signature]</i>	150 MULCAHYS RD TRENTHAM
Mark McClelland	<i>[Signature]</i>	24 Mulcahys Rd
Susanne McClelland	<i>[Signature]</i>	24 Mulcahys Rd
PETER FAUSSETT	<i>[Signature]</i>	36 MULCAHYS RD
JANET FAUSSETT	<i>[Signature]</i>	36 MULCAHYS RD
JUDY WEATHERHEAD	<i>[Signature]</i>	46 MULCAHYS RD
D Thorpe	<i>[Signature]</i>	49 Mulcahys
Margaret Thorpe	<i>[Signature]</i>	49 Mulcahys Rd
Charlene + Peter Witmitz	<i>[Signature]</i>	138 Mulcahys Rd
Peter Witmitz	<i>[Signature]</i>	138 Mulcahys Rd
Marianne Witmitz	<i>[Signature]</i>	144 Mulcahys Rd
W. COMTE	<i>[Signature]</i>	99 MULCAHYS RD
T COMTE	<i>[Signature]</i>	99 MULCAHYS RD
S. MCBRATNEY	<i>[Signature]</i>	107 Mulcahys Rd
ALAN ROBERTS	<i>[Signature]</i>	120 MULCAHYS RD
SUE ROBINSON	<i>[Signature]</i>	124 MULCAHYS RD
ALLAN HINEMAN	<i>[Signature]</i>	187 MULCAHYS RD
JANET HINEMAN	<i>[Signature]</i>	187 MULCAHYS RD
FEMIA DE ZEEUW	<i>[Signature]</i>	CRM MULCAHYS RD
ERNST DE ZEEUW	<i>[Signature]</i>	FOOTY'S LANE
IAN & CYNTHIA GORDON	<i>[Signature]</i>	220 Mulcahys Rd

TO THE HEPBURN SHIRE COUNCIL

The Petition of certain citizens of the State of Victoria draws to the attention of the Hepburn Shire Council the appalling state of Mulcahy's Road, Trentham. The former Director of Infrastructure & Development has advised us several times that the only way to permanently correct this situation is to reform and seal the road and we ask that this be carried out as a matter of urgency.

NAME (Please print name)	SIGNATURE (Petitioner must sign)	ADDRESS (Please write full address)
INGRID CARABOTT	<i>I Carabott</i>	TRENTHAM 222 MULCAHY'S RD
JOHN CARABOTT	<i>John Carabott</i>	TRENTHAM 222 MULCAHY'S RD
ANNA BEARDSLEY	<i>Anna Beardsley</i>	TRENTHAM 175 MULCAHY'S RD
RICHARD ARUDT	<i>Richard Arudt</i>	TRENTHAM 175 MULCAHY'S RD
DAVID BAYES	<i>D Bayes</i>	16 MULCAHY'S RD
SUSAN BAYES	<i>S Bayes</i>	16 MULCAHY'S RD
Paul Jackson	<i>Paul Jackson</i>	12 Mulcahy Rd
Jenelle Degrey	<i>Jenelle Degrey</i>	11 11 11
Linda Wheeler	<i>Linda Wheeler</i>	6 Mulcahy's Rd
Brendan Tyrrell	<i>B Tyrrell</i>	6 Mulcahy's Rd
Thelma Smalley	<i>T Smalley</i>	2 Mulcahy's Rd
Albert Smalley	<i>A Smalley</i>	2 Mulcahy's Rd
STUART FINE	<i>S Fine</i>	1 MULCAHY'S RD
BRANDI FROST	<i>B Frost</i>	3 MULCAHY'S RD
HELEN FROST	<i>H Frost</i>	3 MULCAHY'S ROAD
GERYL PRICE	<i>G Price</i>	5 Mulcahy's Rd
ROSEY LANGFORD	<i>R Langford</i>	13 Mulcahy's Rd.
LYN WILLIAMS	<i>L Williams</i>	108 Mulcahy's Rd.
Sarah Williams	<i>Sarah Williams</i>	108 Mulcahy's Rd.
NORMA WEBSTER	<i>N Webster</i>	158 MULCAHY'S RD.
Lynette Ratcliffe	<i>Lynette Ratcliffe</i>	160 Mulcahy's Rd.
Barbara Staite	<i>B Staite</i>	128 Mulcahy's Road
KEITH STAITE	<i>K Staite</i>	128 Mulcahy's Road
IAN WILLIAMS	<i>I Williams</i>	108 MULCAHY'S ROAD

TO THE HEPBURN SHIRE COUNCIL

The Petition of certain citizens of the State of Victoria draws to the attention of the Hepburn Shire Council the appalling state of Mulcahy's Road, Trentham. The former Director of Infrastructure & Development has advised us several times that the only way to permanently correct this situation is to reform and seal the road and we ask that this be carried out as a matter of urgency.

NAME (Please print name)	SIGNATURE (Petitioner must sign)	ADDRESS (Please write full address)
Anna Wildang	<i>[Signature]</i>	2/10 Mulcahys Rd Trentham
JANALL HINEMAN	<i>[Signature]</i>	186 MULCAHYS RD
MARY MEEHAN	<i>[Signature]</i>	303 ⁹ MULCAHYS RD
CHRIS MEEHAN	<i>[Signature]</i>	9 MULCAHYS RD TRENTAM
PADDY MEEHAN	<i>[Signature]</i>	9 MULCAHYS RD TRENTAM
JORIN GRAY	<i>[Signature]</i>	160 MULCAHYS RD TRENTAM
ELLIN GRAY	<i>[Signature]</i>	160 MULCAHYS RD TRENTAM
JAMES GRAY	<i>[Signature]</i>	160 MULCAHYS RD TRENTAM
TONY KESTLE (VISITOR)	<i>[Signature]</i>	152 MULCAHYS RD.
ESA HAZLER.	<i>[Signature]</i>	152 Mulcahys Rd.
Kim Cavanagh,	<i>[Signature]</i>	in Visitor Family
Elue Jackson	<i>[Signature]</i>	161 Mulcahys Rd.
Anne Jackson	<i>[Signature]</i>	161 Mulcahys Rd.
Ruth Jackson	<i>[Signature]</i>	161 Mulcahys Rd.
Ace L. Youngs	<i>[Signature]</i>	161 Mulcahys Rd.

108 Mulcahy's Road,
Trentham, 3458

14 May, 2009

The C.E.O and Councillors,
Hepburn Shire Council,
PO Box 21,
Daylesford, 3460

Dear Ms. Conrick and Councillors,

2009-2010 Budget - Sealing/upgrading of Mulcahy's Road, Trentham

We are most frustrated that once again nothing appears to have been included in the Budget (draft at this stage) to improve the parlous state of Mulcahy's Road, Trentham. Mulcahy's Road is a very old road (shown on maps 100 years ago) with the beginning 500 metres sealed and the last 1.4km unsealed after which it becomes an access into the Wombat State Forest.

In the nineteen years we have owned this property, three petitions have been submitted to the relevant council (Hepburn once, Shire of Kyneton twice) in an effort to have our road upgraded and sealed. The last petition was presented to council in 2000, and another is attached to this letter. We have repeatedly asked for funding to be made available to upgrade the road at Budget time but each time we miss out with the suggestion "re-apply next year".

Four times now money has been put aside for sealing Mulcahy's Road, but has been re-allocated. The first two were when Trentham was under the Kyneton Council, and the third was in 1996/7, when after a commitment was given, unforeseen redundancy payments for some council staff meant that funds were ultimately not available at that time. In 1992 when Trentham was in the Shire of Kyneton, application was made and the Federal Government provided \$140,000 to seal Mulcahy's Road, but after it was received it was re-allocated and used on the Burke & Wills Track in Baynton. We also understand that money had been approved/put aside another time by the Shire of Kyneton but was used for other purposes. In 2000 money had been set aside to seal part of Mulcahy's Road but the money was re-allocated for sealing Rahills Road in Trentham (advised by our ward councilor at the time).

When we were contemplating the purchase of our property, the issue of costs of sealing the road was foremost in our minds, and the Kyneton Council assured us this was a "Government Road" and that it was their intention to seal the road in the foreseeable future at no cost to us. Indeed had it been intended that we would contribute to the costs we would not have purchased the property. Subsequently Trentham was included in the Shire of Hepburn in the council amalgamations.

A significant difference between Mulcahy's Road and other unsealed roads in the shire is that the road safety audit conducted by Newell Barrett Consultancy in 1997 (copy attached) concluded that "the road is of poor standard, never adequately formed, poorly drained, worn out pavement which combined with low standard horizontal and vertical curvature creates unsafe conditions and the solution is to reconstruct and seal the road with improvement to horizontal and vertical curvature." A copy of this report is attached. Whilst residents have drawn this to the attention of the council on numerous occasions, nothing has been done to improve the road other than occasional grading and adding screenings. Whilst we are aware of four significant accidents on this road (and have photos of two separate accidents if required) witnesses assure us there have been several more. We and several other residents believe it is only a matter of time before the road condition will be responsible for a very serious accident. We also attach a recent letter from the Officer-In-Charge of the Trentham Police Station supporting our application to upgrade the road.

There are currently 29 dwellings that have to use the unsealed section of Mulcahy's Road, and 26 of these are permanent residents, with all but 2 having at least 2 vehicles that regularly use the road, most twice or more per day. Thus the road usage has increased significantly over the last few years, with a commensurate increase in degradation as a consequence. Council sporadically has a truck and workers spreading screenings on the worst of the holes and corrugations and also has a grader regrade the road, but the road quickly reverts to bad condition. A neighbour moved here "full time" six years ago and within 3 years one of their vehicles became so rusty with large holes (a panel shop assuring them it was caused by the red mud collecting underneath and staying wet for weeks at a time) that it had to be disposed of for wrecking. There was no discernable rust in that vehicle three years earlier. Several residents have had mechanical problems with the suspension of the vehicles which the service technicians have said is because of the road conditions and there are cases of Council having made confidential settlements to residents of Mulcahy's Road who have made claims for the costs of damage to their vehicles – surely an admission that the road is not up to any reasonable standard. We are aware of the Shire's "Road Management Plan" but it doesn't seem to apply to our road as it is constantly in a poor state of repair.

In summer the residents have to suffer a significant dust problem, causing both respiratory problems and contaminating their drinking water (the majority do not have access to town water so roof collected water is their only source). For a few years Council applied Dust Suppressant which assisted but the last application in late 2006 was not successful and Council subsequently decided to discontinue the program without reverence to any of the residents.

We believe that the property values of most of the properties on the unmade portion of Mulcahy's Road are significantly higher than the property values of the majority of properties in the Trentham township and that therefore the majority of the residents of Trentham are paying significantly less rates than the residents of the unmade portion of Mulcahy's Road. Thus the town resident's receive significantly greater services than the residents of the unmade portion of Mulcahy's Road, yet contribute significantly less. We all feel this is grossly unfair. It seems so unfair that Mulcahy's Road residents pay probably the highest rates in Trentham but have to put up with probably the worst services.

And with the subdivision activity and new houses in Mulcahy's Road the Council is receiving significantly increased rates revenue, but doesn't put anything back. 30 years ago there were only 7 residences on the unsealed section and the rate revenue would have been very low. There are now 29 residences (along with significant subdivision); in the last 11 years there have been 9 new residences with most properties probably contributing \$2,000+ per annum in rates revenue yet no increase or improvement in our local services. It is interesting to look at the increase in our rates over the last 10 years, partly because we built a new building on our property but others in the Road have had similar increases.

2000, CIV \$69000, total rates \$405.80

2001, CIV \$69000, total rates \$443.10

2002, CIV \$78000, total rates \$497.05

2003, CIV \$78000, total rates \$667.55 (included garbage and recycle collection for first time)

2004, CIV \$330000, total rates \$1239.60 (revaluation)

2005, CIV \$400000, total rates \$1598.20 (new building)

2006, CIV \$448000, total rates \$1,688

2007, CIV \$448,000, total rates \$1,864.70

2008, CIV \$504000, total rates \$2008

2009, CIV \$504000, total rates likely to be \$2180 (based on proposed increases)

You will see that in ten years our rates have increased 400% with significant increases each year and no sign of the increases abating.

The residents here believe there is no other road in the shire with 29 dwellings contributing this sort of rate revenue in less than 2 kilometres and situated less than a kilometre from a post office that is still unsealed and in such a poor state. The council has been made well aware of the attitude of the resident's and their desire to have the road upgraded or sealed as it has been raised regularly with them since amalgamation. The previous Director of Infrastructure and Development has advised the residents several times that the only real solution to the formation of pot holes, corrugations and dust in dry conditions is to seal the road.

Many of the residents are regular walkers and in line with the recent Community Plan Survey, would like to walk more around and in and out of the town but it is not possible to regularly walk along Mulcahy's Road due to it's parlous condition; at present due to it's slushy and uneven surface and the fact that one gets splashed whenever a car passes by. Another of the residents in the road has only 5% vision and regularly walks into the township and you can imagine how difficult this is for him when the road has around 100mm of slush on the surface after rain.

The residents and their visitors would like to have the road sealed or upgraded to a satisfactory standard as soon as possible. Maybe council should consider undertaking one major road project every one or two years, or carry out the necessary upgrade stage by stage. We would be pleased to provide further details on the various efforts to have the road upgraded, including meetings here attended by previous councillor's, Geoff Howard and Catherine King or any other background material you may require.

We really cannot stress how strongly the local resident's feelings are on this issue. In 2001, 8 of the 10 committee members of TRATA Inc. lived in Mulcahy's Road. After realising that despite their entirely voluntary efforts to improve the community that the Council had no intention of listening to their requests, they all decided to relinquish their committee positions and for several years TRATA has had no committee members from Mulcahy's Road. We would all welcome anything you can do to upgrade the road condition and we trust that this will be addressed in the forthcoming budget rather than tell us our requests were not successful and to re-apply next year, as has happened several times now. We and several others would be pleased to discuss this further with Council at a time and place of their choosing. Actually we would like the Councillors to all have a drive down the road as soon as possible to see just how bad it is, we firmly believe there would not be a worse road in the Shire. A number of the petitioners will be attending Council's Budget Meeting on Thursday 18th June and we will present the original of this document to Council then. We should also note that most but not all of the residents have signed this petition as we have not been able to get in touch with a few of them. All of those who signed this petition fully agree with the sentiments expressed in this letter and we all hope that something will be done about the condition of the road.

Yours sincerely,

A handwritten signature in cursive script that reads "Ian Williams".

Ian & Lyn Williams



VICTORIA POLICE

TRENTHAM POLICE
Division 3
Region 2 (West)
Region 2
12 Cosmo Road,
TRENTHAM 3458
Victoria, Australia
DX 216933
Telephone 54241402
Facsimile 54241501
Email

18 March 2009

Chief Executive Officer,
Hepburn Shire.

Subject: Letter Of Support For Re-Sealing Of Mulcahy's Road, Trentham.

I am aware that a petition is being drafted by Trentham residents to assist them in their request to Hepburn Shire Council for re-surfacing of Mulcahy's Road, Trentham. As the Officer In Charge of Trentham Police Station I wish to lend my support to this application..

In my opinion, Mulcahy's Road has the poorest surface of any of the roads in the town area and, considering the volume of traffic that uses this road, I believe there is the potential for serious injury to road users.

From my own personal experience, I am aware of two vehicles that have sustained extensive damage as a result of running off the road at what is locally known as Thorpe's Corner. This is a bend in the road approximately 200 metres past the bitumen section.

I am also aware of a young child who slipped off her bicycle whilst riding in the loose gravel and sustained some minor grazing and there is a local motor cyclist who has lost control of his motor cycle on two occasions and sustained minor damage to one of his motor cycles.

The owner of a registered vehicle should be able to ride /drive his vehicle to his place of residence in safety and without the fear of losing control of the vehicle in loose or slippery conditions.

The road surface itself is the issue here and is a risk to motorists because of the loose stones and gravel, ruts and some pot holes. Vehicles braking or changing direction quickly are at serious risk of losing control.

There are other factors involved with this type of road surface, namely that water tends to sit in the middle of the road at times and the surface becomes greasy when wet and alternatively, when the road is dry, dust is an additional problem.

I am aware that the cost of asphaltting this road would be a heavy financial burden on the shire's rate payers and particularly Mulcahy's Road residents, but a more road user friendly surface, such as that in Gleeson Street, Trentham might be a cost effective solution to the problem.

I strongly urge the Hepburn Shire Council to consider re-surfacing Mulcahy's Road as part of it's priority road works.


Yours Faithfully,

A handwritten signature in black ink, appearing to read "Gregory Falkiner", is written over the typed name.

GREGORY FALKINER V.A. A.P.M.

Sergeant 16429

Officer In Charge



CONSULTANT IN CIVIL & LOCAL GOVERNMENT
ENGINEERING & TOWN PLANNING

**NEWELL
BARRETT**

COPY

DATE: 26th. March '97

REF.

Mulcahy's Road - Road Safety Audit

1. Location Mulcahy's Road commences on the Daylesford - Trentham Road in the Western sector of the Trentham township in the Hepburn Shire.
2. Existing Conditions The road passes through undulating cleared countryside, with red volcanic soils and severe winter conditions common to the Central Highlands of Victoria.
3. Catchment The road services township and rural residential development and provides access to forest.
4. Road Description From the Daylesford-Trentham Road 0.35 km is sealed to a width of 5.6 metres with broken edges indicating relatively high traffic intensities. Beyond the seal the remaining 1.35 km road is of poor standard, never adequately formed, poorly drained, worn out pavement, with both horizontal and vertical curves of low speed value.
5. Nature of Traffic Traffic is generally private motor vehicles with low volumes of commercial traffic.

6. Accident Record The source of records has been Mrs Isa Hazler a highly respected and long term resident of the road.

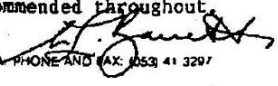
Nine accidents are recorded over the past 8 years. Of these, 8 occurred on the unsealed section. Of those 8, seven were single vehicle accidents and the other a head-on collision between two vehicles. All but one occurred in daylight and occurrences were at various times of the year.

7. Causes The Trentham district is not fortunate enough to have accessible natural occurring gravels and must rely on quarry produced crushed rock for its unsealed road systems. With weather, traffic and maintenance grading in time the fines in the crushed rock are lost leaving the coarse particles (3-15 mm) remaining on the road formation. This situation combined with low standard horizontal and vertical curvature creates unsafe conditions, causing vehicles to become out of control as brakes and steering do not respond to driver's best efforts to maintain control when for various reasons vehicles tend to leave the road.

During winter months the road becomes slippery because of poor drainage and inadequate formation and lack of pavement, also creating a road safety hazard.

8. Solution To avoid further mishap the road should be reconstructed and sealed with improvement to horizontal and vertical curvature. Horizontal curves should be provided with advisory speed signs if speed values are below 60 kph. A 60 kph. speed restriction is recommended throughout.

NEWELL BARRETT L.G.E., E.W.S., M.B.S. 127 FISKEN ROAD, MT HELEN 3350 VICTORIA. PHONE AND FAX: 053 41 3297



8.2 QUESTIONS:

Submitted by Renae Metzger, Smeaton

Question 1

On page 74 of Attachment 2, Item 12.1, of the Agenda of the 16 June 2009 Council Meeting in Clunes, you stated that:

“Council cannot legally prohibit ... a wind energy facility on an SLO where the planning requirements ... in the Hepburn Planning Scheme has no such restrictions.”

Submission/Items	Officer Responses	Incorporation into the Wind Energy Facility Guidelines.
<p><i>All volcanic cones should exclude wind turbine development. No wind turbine should be permitted on any area covered by a Significant Landscape Overlay. Views of an SLO should also be unobstructed.</i></p>	<p>Council cannot legally prohibit the land use and/or development of a wind energy facility or wind turbine on any area covered by a Significant Landscape Overlay where the planning (state-wide) requirements of the Overlay in the Hepburn Planning Scheme has no such restrictions.</p>	<p>No Incorporated into the Wind Energy Facility Guidelines.</p>

But if an SLO seeks:

- To maintain the visual significance of the woodlands and grasslands of the peaks and hill top features of these areas
- To maintain the visual significance of the ridges and escarpments
- To protect these areas from intrusive and dominant development
- To protect significant geological sites from development

then surely Council can enforce its own SLO by refusing a permit to a structure that compromises the above guidelines!

How can a turbine not be an ‘... intrusive and dominant development.’

Why is the Council opting out of decisions that its own planning schemes dictate?

Response

By Mayor, Councillor Bill McClenaghan:

- *The Hepburn Planning Scheme does not dictate prohibition on wind energy facilities as a land use in the Farming Zone. There is no legal provision to dictate prohibition of land uses in the Significant Landscape Overlay and all other Overlays.*
- *It is not legally open for Council to write non-statutory guidelines to prohibit wind energy facilities whereby the statutory instrument – the Hepburn Planning Scheme – permits such land use subject to consideration on their merit.*
- *The Significant Landscape Overlay is a secondary planning control in addition to the zoning of the land. In the case whereby wind energy facilities are located, the zoning is generally Farming Zone.*
- *The Significant Landscape Overlay has a state-wide section on objectives and controls and a local government schedule to deal with specific landscape values. The Overlay has no jurisdiction to prohibit the use and/or development of land including those of wind energy facilities.*
- *Under the Farming Zone, there is the state-wide section on objectives, a table of land uses, development controls and decision guidelines plus a local government section on managing site specific matters such as dwelling setbacks.*
- *Under the Farming Zone, a wind energy facility is not listed in Section 3 Prohibited of the table of land uses; hence it is not a prohibited land use.*
- *Council is by law required to consider all applications on merits. That is the foundation basis of the Victorian Planning Provisions since 1996.*

Received from Renate Metzger, Smeaton

Question 2:

Close to the Tuki wind facility proposal, there are at least 3 properties that would be considered “lifestyle properties.”

Their owners have invested a large amount of money in restoring and maintaining them.

These are million dollar estates.

Another property on the slopes of Mt Kooroocheang, again a half-million dollar property, has not found a buyer because of the threat of turbines on the hills they are facing. A little further down the road is the Captain Hepburn Estate, the most historic house in the Shire.

In their Wind Energy Facility Guidelines, what has the council put in place to protect people who invest this kind of money, and their lives, in the Hepburn Shire?

If this was a property of such value in Daylesford, Creswick or Clunes, and someone wanted to build a 100 metre high noisy turbine near it, all hell would break loose. No Council would approve it.

What is Council doing to protect investors in rural properties?

Response

By Mayor, Councillor Bill McClenaghan:

- *Council is not open to the making of planning policy that focuses on value of land and the protection of investment interests in dwellings/residential properties. The Minister for Planning is not open to consider any proposals by Council to make planning policies seeking protection of property investments.*
-

Received from Renate Metzger, Smeaton

Question 3:

Is the council planning to put in guidelines that protect birds and breeding grounds of wildlife?

On page 74 of the same Attachment 2, Item 12.1, from the Council Meeting of the 16 June 2009, you state that you do not have the jurisprudence over ordering an Environmental Effects Statement on sensitive breeding grounds for wildlife.

In that case, what guidelines are you putting in place to protect our wild birds from destruction by turbines?

If you can't order an EES, you can require that Flora and Fauna studies are thorough, are done at different seasons, at night as well as by day, allow for the effects of drought and migration, do not leave out huge areas of concern and stand up to objective scrutiny because otherwise they are wasting your time in asking you to read them.

You can insert a clause that requires the company that is responsible for the Flora and Fauna study to be held totally accountable for misleading Council if it leaves out important aspects of species threatened in a potential wind energy facility.

Response

By Mayor, Councillor Bill McClenaghan:

- *Council has no jurisprudence over an Environmental Effects Statement (EES) given that the Minister is the planning authority on that matter and the Minister instructs the preparation of such a Statement if required under the EES Act.*

- *Fauna protection for proposed wind energy facilities is part of the List of Information required for the consideration of applications for a planning permit for wind energy facilities. (Clause 52.32 of the Hepburn Planning Scheme and the State Guideline on Wind Energy Facilities).*
- *Given that the Minister for Planning is the responsible authority for the majority of applications for planning permit for wind energy facilities, the EES is requested and included in his consideration as those type of applications are often classified as state significant.*

Received from Renate Metzger, Smeaton

Question 4:

The council may not have much of a say over a wind farm over a certain size, but it is the responsible body for any smaller proposed wind facilities. If a casting vote by a mayor can bring about the possibility of turbines extremely close to houses at Leonards Hill, then the Council is to be held accountable for the effects from that decision.

There are areas where Council still has a say, and where it can protect its citizens.

Is the council endeavouring to create guidelines for this sort of scenario, in order to protect its landowners, and will it stand by these?

I'd like to comment that people will swarm away from turbines, once they've noted the effects of them, to Shires that are 'turbine free'. There are a lot of potential tourist dollars there.

Response

By Mayor, Councillor Bill McClenaghan:

- *Notwithstanding that a very small percentage of applications for wind energy facilities are considered by Council, Council has a statutory instrument to make decisions upon such applications and the State Guideline on wind energy facilities.*
- *Council has produced a guideline to assist with the process – the draft Wind Energy Facilities Guidelines.*
- *The Guidelines is not a statutory instrument and is only to assist the decision making process for Council.*
- *There is no scope for incorporation of Guidelines into the Scheme as there is an existing state-wide provision in the Hepburn Planning Scheme on wind energy facilities.*
- *The state-wide provision makes reference to State Planning Policy on environment and the State's own guidelines on wind energy facilities.*

- *The Guidelines have to be reasonable in its context as the developer has limited obligation to provide information as per the Guidelines.*
- *VCAT cannot request compliance for further information when such a request is made on the basis of a non-statutory instrument.*
- *VCAT can read the Guidelines however the Guidelines bear negligible weight on the outcome of a hearing.*

9 EXECUTIVE SERVICES REPORT:

9.1 APPOINTMENT OF CEO PERFORMANCE REVIEW COMMITTEE

(Action Officer – Chief Executive Officer)

File Ref:

Introduction

This report requires Council to appoint a Performance Review Committee to conduct the annual Chief Executive Officer formal performance review.

Report

In accordance with the Chief Executive Officer's Contract of Employment Part 6 (6.1) a committee of Council is required to be appointed to review the Chief Executive Officer's performance annually no later than 30 September each year. The Contract of Employment between the Chief Executive Officer and the Hepburn Shire Council states:

6.1 Annual Performance Review

"The Officer's performance must be reviewed annually no later than 30th September by a committee of Council appointed for that purpose. The Council committee must comprise at least the Mayor and two other Councillors. The Council committee shall appoint an independent third party to facilitate the review process."

Relevant Policies

This report relates to the conditions as stated in the Contract of Employment between the Chief Executive Officer and the Hepburn Shire Council.

Community Engagement

Not relevant to this matter

Financial Implications

The Contract of Employment states that a third party shall be appointed as an independent to facilitate the review process. This appointment will attract a consultancy fee.

Motion

That Council:

9.1.1 appoint a committee of all seven (7) Councillors for the purpose of conducting the annual performance review of the Chief Executive Officer; and

9.1.2 authorise the appointed committee to engage a third party as an independent to facilitate the review process.

Moved: Cr Janine Booth

Seconded: Cr Don Henderson

Carried.

10 CORPORATE SERVICES:

10.1 MONTHLY FINANCIAL REPORT

(Action Officer – General Manager Corporate Services)

File Ref: 30/08/17

Introduction

The monthly financial report for June 2009 outlines the process for preparation and approval of year end accounts, and includes the monthly debtors reports.

Report

Year End Accounts Process

Officers are currently preparing the annual financial statements for the year ended 30 June 2009. The external auditors are expected in the first week of August with the initial audit report and annual financial statements to be submitted to the Auditor General by 31 August 2009.

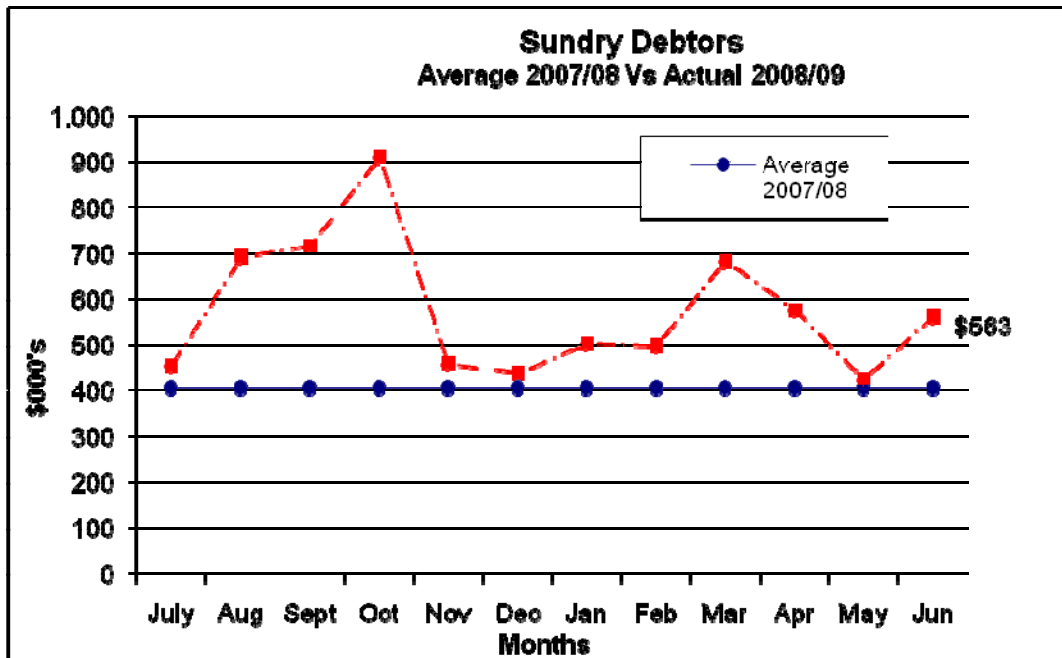
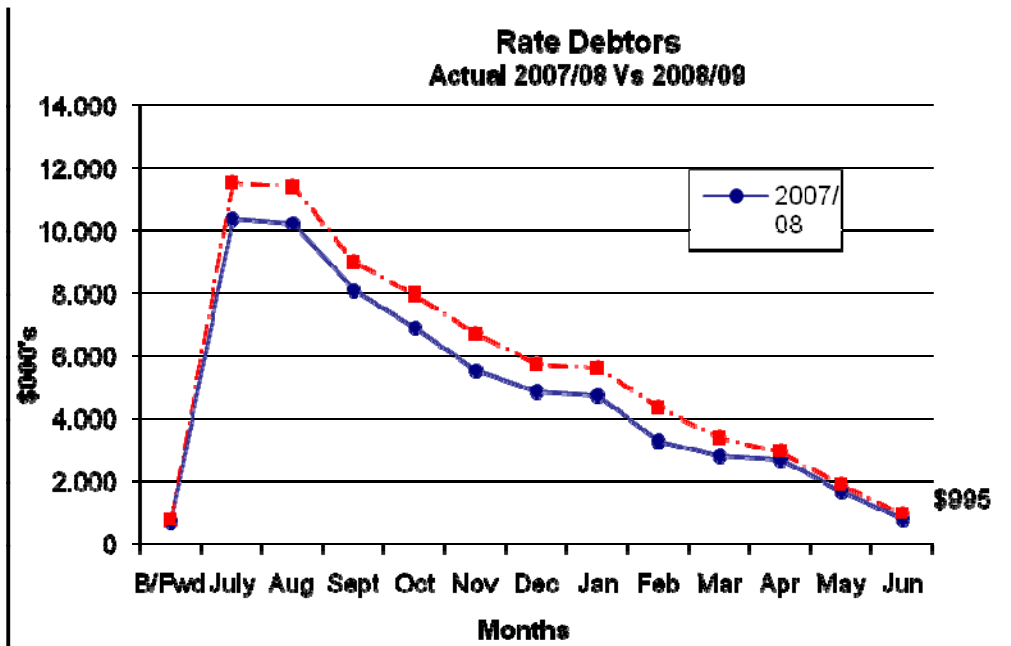
At the August 2009 meeting of Council, Council will need to adopt the Financial Reports and Performance Statement in principle and appoint two Councillors and an officer to sign the Financial Reports and Performance Statement. Once final year-end adjustments have been made a summarised report on the year end result will be presented to the September 2009 Council meeting.

The audit statement is expected to be received from the Auditor General's office during the third week of September. The Annual Report which includes the Financial Reports and Performance Statement is required to be submitted to the Minister for Local Government by 30 September 2009.

In accordance with section 134 of the Local government Act 1989 Council must consider the annual report at a meeting of the Council as soon as practicable after the Council has sent the annual report to the Minister. Council is required to give at least 14 days public notice of the meeting at which it will consider the Annual report which is expected to be the October 2009 ordinary meeting of Council.

Debtors Reports for June 2009

Following for Councillors information are two graphs which show the level of rate debtors for 2008/09 in comparison to the previous year and the level of sundry debtors to the average level of sundry debtors for the previous year. Both are considered to be at acceptable levels at the end of June 2009.



Relevant Policies

The report presented is to the 30 June 2009 and as such relates to the Management of Council financials in line with objective 3.3 of the adopted Council Plan 2006 – 2011. Future reports will make reference to the new Council Plan adopted on 30 June 2009.

Community Engagement

Not Applicable

Financial Implications

Nil

Motion

10.1.1 That Council receives the monthly financial report.

Moved: Cr Don Henderson

Seconded: Cr Tim Hayes

Carried.

10.2 LEASE RENEWAL – PARK LAKE RESIDENCE

(Action Officer – General Manager Corporate Services)

File Ref: 2/0880/20464

Introduction

This report is in regards exercise of an option to extend the lease for the residence at Park Lake Reserve to Hepburn Health Service (HHS) for a further three years.

Report

HHS recently gave notice to exercise their option for a renewal of the Lease at Park Lake Reserve from 1 July 2009 to 30 June 2012. The residence is used as part of ongoing emergency accommodation programs. Rent is \$104 pa, based on the community use factor. HHS is responsible for all maintenance on the property. There are no known or recorded breaches of Lease conditions.

In anticipation of Council's approval of the request, HHS has executed a Deed of Renewal of Lease.

Relevant Policies

The relevant provisions are

- Policy # 9 Council Owned and Controlled Property – having proper tenure arrangements in place through leases or licences
- The use of this property by HHS is about good asset management and helps meet the Council Plan 2009 – 2013 objective of creating a healthier, safer, more vibrant community.

Community Engagement

These are existing arrangements with HHS exercising its rights under existing lease arrangements.

Financial Implications

Rent is nominally based on community use. In the wider sphere, leases/licences require tenants to have appropriate public liability insurance arrangements in place, which in turn minimises any risk to Council. The tenants also have full maintenance responsibility.

Motion

That Council:

10.2.1 approve the extension of the lease with Hepburn Health Services for a further three-year term; and

10.2.2 sign and seal the Deed of Renewal.

Moved: Cr Rod May

Seconded: Cr Janine Booth

Carried.

10.3 SALE OF LAND – CANTERBURY STREET, CLUNES

(Action Officer – General Manager Corporate Services)

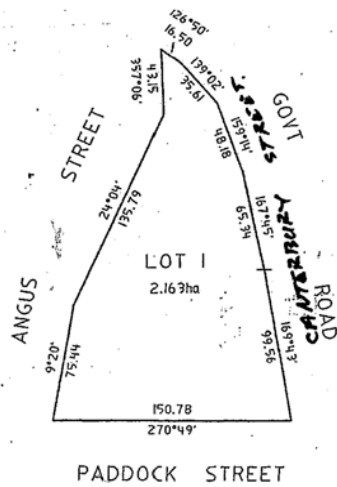
File Ref: 1/1160/10101

Introduction

This report is in regards land owned by the Council in Canterbury Street Clunes and recommends the sale of that land as surplus to Council's requirements.

Report

This land is Lot 1, Title Plan 23255Y and is contained in Certificate of Title Vol 10622 Fol 537. It is 2.163ha in area. The land is generally triangular and surrounded by Canterbury Street, Angus Street, and Paddock Street. Refer to the plans below.





The history of Council's ownership of this land goes back many years to when the then Borough of Clunes in 1926 'gifted' the land to the Education Department to enable the school to establish a school plantation. Around 1999 after the plantation was harvested the Department formed the view that an obligation existed to "return the gift" to the community to where it originated.

The land is vacant, save for remnants of the plantation. Under the Hepburn Shire Council Planning Scheme the land is Township Zone (TZ) with Environmental Significance overlay Schedule 1 (ESO1).

For the Council to sell the land, it should pursuant to Section 192 of the Act declare the land as surplus to needs and give 4 weeks public notice of intention to sell the land as required by S189 of the Act. The Council may determine to sell by private treaty or public auction.

Relevant Policies

Within the 2009 – 2013 Council Plan reference is made to achieving long term financial sustainability by disposing of poorly utilised, inefficient or surplus assets. This land may be considered as poorly utilised and surplus to requirements.

Community Engagement

Public notice of the Council's intention to sell land must be published and provide for 4 weeks within which submissions may be received for consideration under S223 of the Act.

Financial Implications

As part of the sale process Council must obtain a valuation of the land from a registered valuer. As a basic guide to value, the matter was briefly discussed with the Valuer. A valuation range of \$60,000 – \$80,000 was indicated. The detailed statutory valuation will be available in due course.

There is also some 'tidy up' work required on the titles for the parcels of land which make up Collins Place in Clunes, which will cost approximately \$3,000 to correct. It would be appropriate to fund this legal work from the income from the property sales.

Motion

That Council:

10.3.1 is satisfied Lot 1 TP 23255Y and more particularly described in Certificate of Title Vol 10622 Fol 537 is no longer required, nor is it necessary or desirable to use the land for a municipal purpose, therefore it is surplus to needs and may be sold;

10.3.2 proceed to advertise its intention to sell the land and seek public submissions on this proposal in accordance with S189 and S223 of the Local Government Act 1989.

Moved: Cr Tim Hayes

Seconded: Cr Janine Booth

Carried.

11 COMMUNITY DEVELOPMENT:

11.1 DRAFT POSITIVE AGEING STRATEGY

(Action Officer – A/General Manager Community Development)

File Ref: 16/18/03

Introduction

The purpose of this report is for Council to consider the adoption of the Positive Ageing Strategy. This report was deferred from the June 16 Council Meeting.

Report

Within the next 22 years the population of people aged 55 years and over living in Hepburn Shire is set to double. The implications for this shift in population will extend beyond local government to the broader community. This strategy has been prepared as a starting point in preparation for this population transition.

The Positive Ageing Strategy was presented as a draft to Council at the October 2008 ordinary meeting. The document was then placed on public display, inviting comment.

The Positive Ageing Strategy was developed because the Australian population is ageing and living longer. This requires all levels of government to prepare for the demographic shift. In Victoria the number of people aged 100 years plus was 83 in 1976, in 2006 it was 643 (Department of Planning and Community Development Census Info Sheet 2008).

The loss of young people from rural communities is significantly impacting on the population size and also the make up of communities. For communities like those in Hepburn the ageing of the population is added to by retirees particularly from Melbourne.

Hepburn Shire Council received \$10K from the MAV and Council On The Ageing (COTA) to prepare a Positive Ageing Strategy. These strategies have become a requirement of local governments in Victoria.

The Hepburn Positive Ageing Strategy has been under development since May 2008. A community reference group was established to guide the development and distribution of the research.

The main tool was a survey which was widely distributed across the Shire. Specific groups catering to the 50 years plus age group were targeted to complete the survey, i.e. U3A.

Of the 400 surveys that were distributed over 200 were returned, making this a very significant response. This information in conjunction with other population data and relevant Council strategies have informed the development of this plan.

The strategy document provides a background to Positive Ageing followed by five main strategy groupings:

- Keeping active (includes infrastructure items)
- Staying connected and in touch
- Getting places (transport)
- Maintaining a quality standard of living
- Developing services for an ageing population

The strategy document is intended for implementation across Council and as a tool to lead community in the transition to an older population. Hepburn Health Service has been invited to participate as a key collaborating agency because of the significant role their services play for an ageing population.

One submission was received in response to the public advertisement. This was from a Daylesford-based community group. Recommendations by this group involving the wording of one goal and additional data, breaking down the population by age were incorporated. Requests for the inclusion of specific recognition relating to this group were not included as there would be resourcing implications and issues of equity. Other suggested inclusions were already considered covered.

Relevant Policies

The Positive Ageing Strategy has been identified in Delivery of Council Commitments 2008-2009.

Community Engagement

A Community Reference Group was established for this project with representation from across the Shire. The primary process of community participation has been through consultation conducted by survey and group discussions.

Financial Implications

A grant was received from the MAV and Council on the Ageing Victoria for the establishment of the Positive Ageing Strategies. Strategies have been developed for implementation over a four year allowing more resource-intensive items to be planned for in annual budget cycles.

Motion

That Council:

11.1.1 adopt the Hepburn Shire Council Positive Ageing Strategy; and

11.1.2 thank members of the Community Reference Group for their participation.

Moved: Cr Don Henderson

Seconded: Cr Sebastian Klein

Carried.

11.2 IN PRINCIPLE SUPPORT FOR CLUNES MUSEUM PROJECT

(Action Officer – A/General Manager Community Development) File Ref: 1/2570/00036

Introduction

This report provides information about the proposed redevelopment and the funding opportunities available to Council to assist in implementing the project. In particular this report seeks Council's in principle support to pursue these funding opportunities.

Background

The proposed redevelopment of the Clunes Museum presents an exciting opportunity to create a valuable and sustainable community and tourism asset for the Clunes township, Hepburn Shire and the region.

The Clunes Museum committee with assistance from Hepburn Shire Council and the Hugh Williamson Foundation undertook planning work in 2005 and 2006 for the redevelopment of the Clunes Museum.

The focus of the planning work was to develop a tourism and community facility with increased display space for the Clunes historical collection, house a replica model of the Port Phillip gold mine and incorporate a Visitor Information Centre.

Concept plans were developed and considerable planning work undertaken, however, a lack of available funds has meant that the project has not progressed. The proposed development received considerable support in the recent Clunes Community Planning consultation meetings.

The recent announcement of economic stimulus funding by the Federal Government has presented an opportunity to pursue funding for this project. As part of considering this funding opportunity, Council officers have examined whether other facilities can or should be incorporated with the redevelopment of the Museum, and what other funding streams may be available for the project.

Together with community members Council officers have identified that the relocation of the Clunes Library from its current position to be incorporated as part of the Museum redevelopment would be advantageous. This will assist in addressing single staffing concerns (at the library), will allow for joint use of facilities, will assist in developing a long term multifunctional community facility, opens up other funding opportunities and helps position the project so that it is more likely to attract funding.

Both the Clunes Museum Committee and the Central Highlands Library Corporation have confirmed their support for the incorporation of the Clunes Library as part of the redevelopment of the Museum.

Project Scope

The proposed redevelopment of the Museum incorporates a number of elements. These are:

- Increased Museum collection, display and research spaces,
- A visitor and tourist information centre,
- A gold discovery and interpretation centre including a working model of the Port Phillip Mine,
- The relocated Clunes Library, and
- Community meeting space.

The proposed redevelopment presents an exciting opportunity to continue building upon the Museums recognised excellence in museum management, develop a unique tourism, heritage and community asset and provide employment opportunities through the construction process and the anticipated economic benefits of having a unique tourist feature for the town, Shire and region.

Funding Opportunities

The proposed redevelopment of the Clunes Museum as a multifunctional heritage, tourism and community asset presents several funding opportunities for Council and the project. These include:

- Regional Development Victoria's Small Towns Development Funding. This funding program is focused on assisting small towns to create opportunities for growth and developing economic and social infrastructure. It is targeted at projects that enhance the appeal of rural townships and surrounding areas and contribute to economic development.
- The Victorian Department of Planning and Community Development, Living Libraries Fund. This program is focused upon providing new or improved public library infrastructure and supporting public libraries in strengthening communities.
- The Federal Government Jobs Fund (stimulus funding). This program is focused on innovative social or infrastructure projects which create employment opportunities in communities affected by the economic downturn.

The Living Libraries funding program is in its final year of operation and applications to this program close on 24 July 2009. The Central Highlands Library Corporation has confirmed its support for Hepburn Shire Council to apply to the Living Libraries funding program for the Clunes Museum redevelopment project.

While there are no specific deadlines for applications to the Small Towns Development Funding Program and the Federal Government Jobs Fund, it is proposed that applications to these programs be prepared at a similar time to the Living Libraries application.

Relevant Policies

Council has identified 'Gold' as a key economic development and tourist theme in its 4 year Council Plan. The redevelopment of the Clunes Museum incorporating the gold discovery and interpretation centre provides an exciting opportunity to commence delivering on this theme.

Community Engagement

At the time the original concept plans were developed for the Clunes Museum in 2005 / 2006, extensive consultation was undertaken with the Clunes community. With the recent revival of the project, a community meeting was held on Monday 6 July 2009 to provide information and seek feedback from the community about the proposed development including the library and the funding opportunities available for the project.

During the recent Community Planning sessions held in Clunes, the proposed development was nominated as one of the top priorities for the township.

The revised concept plans incorporating the library will be displayed in several locations in Clunes to assist in keeping the community informed about the proposed redevelopment.

Financial Implications

Should the funding applications be successful, it is likely that Council will need to make a financial contribution to the project. This is likely to be in the order of \$200,000 - \$300,000 and it is anticipated this could be funded through the sale of surplus Council property in Clunes.

Currently Council officers with assistance from an external consultant are undertaking the work required to develop the funding applications and finalise the revised concept plans. It is anticipated a greater level of officer involvement in the project will be required should the funding applications be successful.

Motion

11.2.1 That Council give in principle support to pursue funding opportunities for the redevelopment of the Clunes Museum including but not limited to the Small Town Development Fund, the Living Libraries Program and the Federal Government Jobs Fund.

Moved: Cr Jon Barrell

Seconded: Cr Tim Hayes

Carried.

12 SUSTAINABLE DEVELOPMENT:

12.1. NATIVE VEGETATION REMOVAL AT PORCUPINE RIDGE ROAD AND SCOTTS LANE

(Action Officer – General Manager Sustainable Development)

File Ref: 46/10/03

Introduction

Council at its Ordinary Meeting held on 17 February 2009 resolved to *fully investigate the alleged breaches with consideration for relevant planning provisions.*

This report provides information on the investigation process followed and concedes that no breaches of the planning provisions could be confirmed.

Report

Evidence Based Assessment by Council

A site visit was conducted to the above property on 12 September 2008 in response to a call from the public. Cleared area appeared in excess of the statutory 4m total for fencing.

Further investigation resulted in the following:

- Site assessment revealed remnant trees pushed over and aside into the property
- Evidence of an existing internal cleared track within the property boundary
- Demarcation of the tree line and track boundary blurred by the impact of bulldozer movements on the land
- Unable to ascertain exact position of tree line on property boundary visually or from aerial photography
- Contractor details noted
- Request for an immediate stop to all works
- Department of Sustainability and Environment (DSE) contacted and liaison re vegetation loss
- Investigation via Council mapping system
- Conducted a further site visit with DSE – no further action taken by DSE
- Organised a Department of Planning and Community Development (DPCD), Aboriginal Affairs Victoria site visit.

Conclusion

Insufficient evidence found to support prosecution due to unknown placement of the internal track and tree line.

Relevant Policies

Hepburn Planning Scheme – Clause 52.17 – Amended 15/12/2008 (VC50).

Community Engagement

Article on vegetation changes to the Planning Scheme placed in the Advocate 22 October 2008.

Financial Implications

Nil

Motion

That Council:

12.1.1 *note this report and that a full investigation was conducted and no breaches of the planning provisions could be confirmed.*

12.1.2 *write to petitioners to advise them of the outcome of Council's investigation.*

Moved: Cr Janine Booth

Seconded: Cr Sebastian Klein

Carried.

12.2 WIND ENERGY FACILITY GUIDELINES

(Action Officer – Manager Planning)

File Ref: 46/04/01

Introduction

This report recommends that Council adopts the Wind Energy Facility Guidelines as a guideline document of Hepburn Shire Council.

Report

The draft Wind Energy Facility Guidelines were first prepared in June 2008 and placed on public exhibition during the months of July and August 2008. The Guidelines are intended as a reference document for those interested in the Planning Approval process as it relates to wind energy facilities.

A detailed report was presented to the Ordinary Meeting of Council on 21 October 2008 with a summary of 29 key points raised by persons making a written representation to Council throughout the exhibition period of the draft Wind Energy Facility Guidelines. The following was an extract from the said report outlining the purpose of the Guidelines:

The Draft Wind Energy Facility Guidelines (DWEG) are intended to provide guidance to applicants, operators and the community about wind energy facility proposals within the Hepburn Shire. The guidelines provide an overview of :

- *the wind energy facility planning approval process*
- *the State Government policy towards wind energy facilities*
- *protecting rights of land owners and occupiers*
- *protecting rights of wind energy facility proponents and operators.*

Council resolved to invite all submitters to a meeting comprising Councillors, Chief Executive Officer, Director Infrastructure & Development and the Manager Planning to be held in mid December 2008 or late January 2009 which will provide the opportunity for submitters to make a verbal presentation.

Council also resolved to refer the Draft Wind Energy Facility Guidelines to the Hepburn Shire Agriculture Advisory Committee and Heritage Advisory Committee for comment.

The draft Wind Energy Facility Guidelines were referred to the two advisory committees for comments in January 2009. No comments were received.

All submitters were subsequently advised of the opportunity to speak at the Delegated Planning Committee meeting of March 2009. Twenty people attended the Committee meeting in March. Each person was given an allocated time period to address the Committee, if they choose to do so.

A table outlining the 26 key points and officer response to the points are provided in Attachment 2.

The Wind Energy Facility Guidelines have been prepared as a supplementary non-statutory document to the existing state planning policies and planning provisions that govern the development of wind energy facilities (also known as wind farms).

The Victorian Department of Planning and Community Development have statutory ownership over the Victorian Planning System applicable to municipalities state wide. Hence it is not open to Council to prepare alternative local planning requirements to those prescribed by the state in relation to wind energy facilities. The Department is not supportive of local planning policies whereby it seeks to contradict state wide provisions.

Submitters have suggested alternative rating structure for wind energy facilities which are outside the scope of the preparation of the Wind Energy Facility Guidelines. Submitters have made suggestions on legislative matters whereby Council is not the responsible authority under those respective legislations nor Council is the statutory owner of those legislations. For example: the Aboriginal Heritage Act and the Environment Effects Statement Act.

Whilst Hepburn Shire Council made the planning determination on the first two community-owned wind turbines in 2007, across Victoria, the significant majority of wind energy facilities (95 % plus) are projects whereby the Minister for Planning is the responsible authority.

When the Minister for Planning is the responsible authority for applications for planning permit for wind energy facility (greater than 30MW), the Council's Wind Energy Facility Guidelines will not apply.

Advice provided by the Department of Planning and Community Development as of 12 May 2009 indicated that a review of the state wind energy facility policy and planning guidelines will commence shortly as part of a broader review of planning for renewable energy.

In light of the statutory limitations, the Wind Energy Facility Guidelines have been revised to incorporate six guidelines which Council can consider in its assessment of applications for planning permits for wind energy facilities.

Relevant Policies

Hepburn Planning Scheme

Council Plan 2009-2013: *"We will guide our Shire towards environmental sustainability."*

Community Engagement

To enable public feedback on the draft guidelines Council placed the draft on exhibition during the months of July and August 2008.

Copies of the **Draft Wind Energy Facility Guidelines** (Attachment 3) were made available at Council's Customer Service Centres at Daylesford and Creswick and also on the Hepburn Shire Web site www.hepburnshire.com.au where a copy could be downloaded.

All submitters have received written acknowledgement of their submission and have been advised that they would also receive a copy of the final guidelines once completed.

All submitters were invited to attend the Delegated Planning Committee meeting of March 2009 whereby twenty persons attended and a few made representations before the Committee of Councillors.

Financial Implications

The financial implications associated with the recommendation contained within this report, being the cost of conducting a meeting and sending out invitations, have been accommodated within existing resources of the Strategic Planning Unit.

The ongoing resource implications for adopting the Wind Energy Facility Guidelines can be accommodated within existing resources of the Strategic Planning Unit.

Motion

That the report be received and noted and no further action be taken on implementation of the guidelines.

Moved: Cr Tim Hayes

Seconded: Cr Don Henderson

Lost.

Motion

That Council:

- 12.2.1 *adopt the Wind Energy Facility Guidelines subject to the following amendments:
The first bullet point of Item 2 be removed;
Add the words "including" to the last sentence of page 50:
Include a reference to the recommendations of the Local Government Rating Arrangements under the Electricity Industry Act 2000 Review Panel Report and that it be included in the guidelines that Council will determine a formula for the payment of an amount in lieu of rates during the 2009/10 financial year.*
- 12.2.2 *that officers report to Council on the adoption of a formula for the payment of an amount in lieu of rates with a view to Council's decision in this regard being incorporated into the adopted Guidelines; and*
- 12.2.3 *that the following abbreviations be removed from the report: DSE, MRET and VRET; and*
- 12.2.4 *that the following abbreviations be included in the report: EPA – Environment Protection Authority, S173 – Section 173 of the Planning and Environment*

Act, EES – Environmental Effects Statement and EIA – Electricity Industry Act 2000.

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

ATTACHMENT 2

ITEM 12.2

A table outlining the 29 key points to the Draft Wind Energy Facility Guidelines and officer response to the points.

Submissions / Items	Officer Responses	Incorporation into the Wind Energy Facility Guidelines
<i>Significant Landscape Overlay</i>	<p>The Wind Energy Facility Guidelines has been revised to include a statement on the importance of Significance Landscape Overlay and the protection of values of those areas affected by the Overlay.</p> <p>The Victorian Planning Provisions of which Hepburn Planning Scheme is based upon does not prohibit the making of an application to use and develop land within the Significant Landscape Overlay or land adjacent to such Overlay for wind energy facility.</p> <p>Council is legally required to consider all applications made for wind energy facility on merits, statutory provisions and policies of the planning scheme.</p> <p>Council cannot make policies that are intended to override the planning legislative framework, including the Victorian Planning Provisions.</p>	Yes
<i>Proximity of Wind Turbines to Residences</i>	<p>The Wind Energy Facility Guidelines has been revised to include as a guideline a minimum two (2) kilometres separation distance between a residence and wind turbines.</p> <p>It is not open to Council to incorporate legislative requirements and policies of New South Wales as it is not prescribed in the Victorian Planning Provisions for such level of discretion for Council to change a state-wide planning legislative framework.</p>	Yes, in part

Submissions / Items	Officer Responses	Incorporation into the Wind Energy Facility Guidelines
<i>Identification of Residences</i>	<p>The Wind Energy Facility Guidelines has been revised to include a guideline whereby the proponent of a wind energy facility has to map all residences within a 5 kilometres radius.</p> <p>There is no statutory basis to require proponents of wind energy facilities to inform all potentially affected residents prior to the lodgement of application for planning permit. The proponents have often held public meetings prior to the lodgement of application to inform of the new facility.</p> <p>Statutory notification of residents can only occur after an application is lodged and made in accordance with Section 52 of the Planning and Environment Act.</p>	Yes, in part
<i>Noise created by wind turbines</i>	<p>The Wind Energy Facility Guidelines has been revised to include reference to the South Australian EPA <i>Environmental Noise Guidelines: Wind Farms</i>.</p>	Yes
<i>Consultation and Public Meetings of Proponents</i>	<p>Council has adopted the International Association of Public Participations Consultation Framework guidelines for community engagement purposes and it is listed in the draft Council Plan 2009-2013.</p> <p>The proponents can utilise the Wind Energy Facility Guidelines as a tool for creating standard information packs or responses to public question time during a consultation session.</p>	Yes
<i>Decommissioning of Wind Turbines</i>	<p>A decommissioning policy has neither legal weight nor statutory basis for enforcement at a civil tribunal and/or court of law for the failure of decommissioning a wind energy facility.</p> <p>The Wind Energy Facility Guidelines has been revised to include reference to a Section 173 agreement whereby the</p>	Yes

Submissions / Items	Officer Responses	Incorporation into the Wind Energy Facility Guidelines
	proponent is required to decommission a wind energy facility at the end of its operational life.	
<i>Covenants on land</i>	<p>Under the <i>Planning and Environment Act 1987</i> as amended and related legislation, Council is not legally open to mandate the inclusion of covenants of wholesale basis.</p> <p>The creation of a Council policy for covenants on land to warn of adverse affects of wind energy facility through the planning permit process has <u>no statutory weight</u> at the Victorian Civil and Administrative Tribunal (VCAT) should a landowner seeks a review before the Tribunal, the matter is likely to be dismissed.</p>	Not incorporated into the Wind Energy Facility Guidelines.
<i>The guidelines are recommended to be a Council Policy which would then lead to a Planning Scheme amendment, thereby enabling statutory enforcement. In relation to the Significant Landscape Overlay the policy should be to discourage/avoid these areas.</i>	<p>The Wind Energy Facility Guidelines is an internal policy of Council to provide guidance to Council, applicants and community on the planning process for wind energy facilities. It is important to note that the document serves as a Council policy only and has no statutory weight in the planning framework as it is not a legal instrument written into the Hepburn Planning Scheme.</p> <p>The Hepburn Planning Scheme contains state planning policies and state-wide provisions including reference to the <i>Policy and Planning Guidelines for development of wind energy facilities in Victoria</i> that govern the wind energy facilities.</p> <p>Council cannot amend the Hepburn Planning Scheme to include the Wind Energy Facility Guidelines as a local planning policy considering that state policies and provisions existed. Council is not open to introduce documents into the Scheme that conflict with those policies and provisions.</p>	Not incorporated into the Wind Energy Facility Guidelines.

Submissions / Items	Officer Responses	Incorporation into the Wind Energy Facility Guidelines
<p><i>Council should request a bond of \$500,000 (indexed to CPI) to cover the cost of enforcing reasonable noise complaints.</i></p>	<p>Enforcement of noise complaints is a statutory function of the Environment Protection Authority Act, and in the case of non-residential structures is the responsibility of EPA Victoria and its authorised inspectors.</p> <p>Hence Council is not legally entitled to request the bond money as suggested.</p>	<p>Not incorporated into the Wind Energy Facility Guidelines.</p>
<p><i>Background noise testing needs to be undertaken at all potentially affected residences with wind speed and noise data provided to both the council and resident for independent evaluation. Remediation measures need to be put in place, which necessitate the requirement to turn off turbines during prevailing weather conditions. Hepburn Shire should adopt the acceptable limit of 35dBA instead of the 40dBA limit to align itself with SA & NSW.</i></p>	<p>Background noise testing and remediation measures are covered under the "Policy and Planning Guidelines for development of wind energy facilities in Victoria".</p>	<p>Not incorporated into the Wind Energy Facility Guidelines.</p>
<p><i>If shadow impacts residents' properties it is unacceptable.</i></p>	<p>Consideration for shadow impacts is covered under the "Policy and Planning Guidelines for development of wind energy facilities in Victoria".</p>	<p>Not incorporated into the Wind Energy Facility Guidelines.</p>
<p><i>Wind generators should be designed in height to avoid the need for installation of aviation hazard lighting (i.e. less than 110m) as the lighting impacts on residents.</i></p>	<p>There is no statutory basis for Council to mandate a reduction in the height of wind turbines for the sole reason of negating the installation of aviation hazard lighting.</p>	<p>Not incorporated into the Wind Energy Facility Guidelines.</p>

Submissions / Items	Officer Responses	Incorporation into the Wind Energy Facility Guidelines
<p><i>To achieve equity with other energy projects a rating formula of \$1100/MW capacity is recommended to be adopted. A further discount for community owned wind farms and the rates collected from community owned sustainable projects is recommended to be directed towards Council's own sustainability projects.</i></p>	<p>The Wind Energy Facility Guidelines is an internal policy of Council to provide guidance to Council, applicants and community on the planning process for wind energy facilities.</p> <p>The Guidelines is neither a rating strategy nor a rate reduction policy for wind energy facilities.</p>	<p>Not incorporated into the Wind Energy Facility Guidelines.</p>
<p><i>Section 11.0 should be amended to include the requirement that in accordance with section 49 of the Aboriginal Heritage Act 2006 a cultural heritage management plan must be prepared if a proposed activity requires an Environmental Effects Statement.</i></p>	<p>Council cannot legally require the preparation of cultural heritage management plan in conjunction with the preparation of an Environmental Effects Statement.</p> <p>The Minister for Planning is the sole authority for requesting the preparation of Environmental Effects Statement.</p> <p>Aboriginal Affairs Victoria is the judicial and responsible authorities for the Aboriginal Heritage Act.</p>	<p>Not incorporated into the Wind Energy Facility Guidelines.</p>
<p><i>The guidelines are recommended to be reviewed on a yearly basis for the first ten years. A more equitable rating structure (example: 2 turbines \$2,000 plus \$1000 per MW) and where a community owned wind farm the rate should be a nominal \$1000 per MW.</i></p>	<p>The Wind Energy Facility Guidelines is an internal policy of Council to provide guidance to Council, applicants and community on the planning process for wind energy facilities.</p> <p>The Guidelines is neither a rating strategy nor a rate reduction policy for wind energy facilities</p>	<p>Not incorporated into the Wind Energy Facility Guidelines.</p>

Submissions / Items	Officer Responses	Incorporation into the Wind Energy Facility Guidelines
<p><i>A decommissioning bond of 10% of the value of the wind farm should be provided. As soon as a wind company talks to Council this should be made public and the community notified immediately. The views of the local community should be taken into account. Developers advertising the wind farm should be required to use actual data recorded from the proposed site to promote the wind farm. Statements from developers should only be allowed to be used once the actual production figures have been determined using wind speed data from an anemometer on the site</i></p>	<p>The Wind Energy Facility Guidelines has been revised to include a requirement that the proponent enter into a Section 173 agreement with Council for decommissioning of a wind energy facility.</p> <p>This requirement can only be included as a condition of planning permit for applications whereby <u>Council is the responsible authority.</u></p>	<p>Not incorporated into the Wind Energy Facility Guidelines.</p>
<p><i>A Fire Plan for each wind farm is required as wind farms are a fire risk.</i></p>	<p>There is no evidence from the Country Fire Authority Victoria and the Department of Planning to suggest that all wind farms are a fire risk.</p>	<p>Not incorporated into the Wind Energy Facility Guidelines.</p>
<p><i>An Environmental Effects Statement should be a pre-requisite for any wind energy facility proposal.</i></p>	<p>The Minister for Planning is the sole authority for requesting the preparation of Environmental Effects Statement.</p> <p>Council has no jurisprudence over this matter.</p>	<p>Not incorporated into the Wind Energy Facility Guidelines.</p>
<p><i>Proponents should have a specific time period, say 12 months, in which they have to apply for a permit. A substantial bond should be held by Council which would be available to residents affected by the proposal (aesthetically, .</i></p>	<p>There is no legal requirement in the Planning and Environment Act 1987 whereby a proponent of any form of land use and/or development is required to lodge an application for planning permit within a time period from the pre-planning application stage.</p> <p>Council cannot legally mandate a time.</p>	<p>Not incorporated into the Wind Energy Facility Guidelines.</p>

Submissions / Items	Officer Responses	Incorporation into the Wind Energy Facility Guidelines
<i>physically or mentally affected).</i>	period in contradiction to the <i>Planning and Environment Act</i>	
<i>A residential buffer of 3 kms.</i>	The Wind Energy Facility Guidelines has been revised to include a minimum two (2) km separation distance between a dwelling and wind turbines.	Modified incorporation into the Wind Energy Facility Guidelines.
<i>All volcanic cones should exclude wind turbine development. No wind turbine should be permitted on any area covered by a Significant Landscape Overlay. Views of a SLO should also be unobstructed.</i>	Council cannot legally prohibit the land use and/or development of a wind energy facility or wind turbine on any area covered by a Significant Landscape Overlay where the planning (state-wide) requirements of the Overlay in the Hepburn Planning Scheme has no such restrictions.	Not incorporated into the Wind Energy Facility Guidelines
<i>No wind energy facility should be permitted within 2km of any forest regardless of whether public or private.</i>	The "Policy and Planning Guidelines for development of wind energy facilities in Victoria" states that a permit may be granted for a wind energy facility on any land except for land reserved under the <i>National Parks Act 1975</i> .	Not incorporated into the Wind Energy Facility Guidelines
<i>A 24 hour telephone service should be maintained to deal with issues as they occur.</i>	There is no statutory basis of which Council can request the maintenance of a 24 telephone hotline / service of the proponent of a wind energy facility.	Not incorporated into the Wind Energy Facility Guidelines
<i>Public notice should be given of a developer's intention to erect an anemometer.</i>	The installation of anemometer is exempt from public notice and the application for planning permit.	Not incorporated into the Wind Energy Facility Guidelines
<i>In cases of sensitive breeding grounds of wildlife, an Environmental Effects Statement should be required.</i>	The Minister for Planning is the sole authority for requesting the preparation of Environmental Effects Statement. Council has no jurisprudence over this matter.	Not incorporated into the Wind Energy Facility Guidelines

Submissions / Items	Officer Responses	Incorporation into the Wind Energy Facility Guidelines
<i>A public meeting should be held to discuss the proposed Wind Farm Guidelines</i>	No comments provided	Not incorporated into the Wind Energy Facility Guidelines

ATTACHMENT 3

ITEM 12.2



HEPBURN SHIRE COUNCIL

WIND ENERGY FACILITY GUIDELINES

1. Name of this document

Hepburn Shire Council Wind Energy Facility Guidelines

2. Objectives of the guidelines

- To assist with the establishment of wind energy facilities in appropriate locations.
- To identify the development and location constraints to wind energy facilities.
- To prescribe the application requirements for wind energy facilities.
- To define the responsible authority for decision making for wind energy facility applications.

3. Where the guidelines apply

These guidelines apply to all land covered by the Hepburn Shire Council.

4. Purpose

The purpose of this policy is to provide guidance to applicants, operators and the community about wind energy facility proposals within the Hepburn Shire.

The policy provides an overview of:

- the wind energy facility planning approval process
- the State Government policy towards wind energy facilities
- protecting rights of land owners and occupiers
- protecting rights of wind energy facility proponents and operators.

5. Operation of these guidelines

These guidelines are intended as a reference document for those interested in the Planning Approval process as it relates to wind energy facilities. These guidelines should be read in conjunction with the Hepburn Planning Scheme, in particular clause 52.32 – Wind Energy Facility.

6. What is a wind energy facility?

The following definition is taken from *Policy and planning guidelines for the development of wind energy facilities in Victoria, 2002*.

“A wind energy facility is land used to generate electricity by wind force. It includes any turbine, building, or other structure or thing used in or in connection with the generation of electricity by wind force.

It does not include turbines principally used to supply electricity for domestic or rural land use of the land or an anemometer.”

A wind energy facility typically comprises a series of wind turbines, a substation, cabling to connect the turbines and substation to the electricity grid, wind monitoring equipment and temporary or permanent access tracks.

Currently, commercial wind turbines are structures of 50 metres in height or greater that comprise a generator and three bladed machine mounted on a steel tower. Technology advances may see alterations in the form and operation of future turbines.

An anemometer (a device to measure wind speed and direction) may be erected on a site for up to 365 months to assess the potential of a site for the development of a wind energy facility. A Planning Permit is not required for the erection of an anemometer.

The use of land to transmit or distribute electricity generated by wind, whether or not it is on the same land holding as a wind energy facility is defined in the Planning Scheme as a utility installation.

7. What is the State Government’s policy towards wind energy facilities?

The Victorian Government supports wind energy generation in appropriate locations having regard to the environmental, economic and social implications of the facility.

The Minister for Planning is the responsible authority for proposals that are 30 MW or greater.

In the event that a single project requires a number of permits that are 30 MW or greater when combined, it can be anticipated that the Minister would “call-in” the proposals in order to co-ordinate decision making.

For projects less than 30 MW the Hepburn Shire Council is the responsible authority.

For reference, each turbine typically creates 2 MW; however this figure can vary depending on the type and location of the turbine.

Council will consider each application on its merits.

(Guideline 1 – Significant Landscape Overlay)

Council will consider each application on its own merits. It should be noted that wind energy facilities proposed for land that falls within the Significant Landscape Overlay as described in the Hepburn Planning Scheme would be subject to additional scrutiny concerning the visual impacts of any proposal. This is to ensure the landscape character objectives and decision guidelines of these areas are adequately addressed.

Areas of concentrated population distribution will require careful consideration to ensure preservation of amenity.

(Guideline 2 – Proximity of Turbines to Residence)

Where Council is required to decide on a planning permit, it is considered that an appropriate setback from residences addresses a number of concerns related to the impact of wind turbines:

(Guideline 3 – Identification of Residences)

Wind turbines should not be located within 2kms of a residence having regard for Best Practice research on the impact of turbines on residents living in proximity to wind turbines.

(Guideline 4 – Noise Issues)

It is recommended that the South Australian EPA *Environmental Noise Guidelines: Wind Farms* be used as the benchmark for consideration of noise emanating from wind turbines.

(Guideline 5 – Consultation and Public Meetings)

Proponents should hold information sessions having regard to Council's consultation policy.

(Guideline 6 – Decommissioning of Wind Turbines)

A wind farm proponent must enter into S173 agreements with Council regarding the decommissioning of a wind farm site at the end of operations.

8. Is the wind energy facility planning approval process different to other types of applications?

In most respects the process is the same, the key difference being who makes the determination, which is outlined below. The application forms and fees are in accordance with the *Planning and Environment Act 1987* and *Planning and Environment (Fees) Regulations (2000)*.

9. When is an EES required?

The Minister administering the *Environmental Effects Act (1987)* may require an **Environmental Effects Statement (EES)** to be prepared for a wind energy facility proposal. The requirement for an EES would depend on the size and potential environmental effects of the proposal.

Council cannot request an Environmental Effects Statement in its own authority.

10. How does the wind energy facility planning approval process work?

10.1 When should a proponent lodge an application for a planning permit?

The proponent should lodge an application for planning permit after discussions have been held with the responsible authority (refer section 10 above) and/or the Department of Planning and Community Development and the Department of Sustainability and Environment, who will determine whether an EES is required.

The responsible authority will advise what information is required to ensure that the requirements of the Hepburn Planning Scheme are addressed in the application. The responsible authority will also provide advice of the number and form of documents to be provided with the application.

10.2 What information should accompany a planning permit application?

An application for Planning Permit must be made on the standard planning permit application form and accompanied by the prescribed fee. Council planning staff can assist prospective applicants on the fee calculation.

Clause 52.32 of the Hepburn Planning Scheme contains specific information that should be read by all proponents and other interested parties. This clause prescribes the information that should accompany an application. The requirement information is as follows:

A site analysis and design response.

Explanation: A site and context plan showing the site shape, dimensions and size, orientation and slope, natural and physical features of the site including waterways, drainage lines, wetlands and wildlife corridors, boundaries and easements, significant views of the site from major roads, existing land uses and the siting and use of existing building adjacent and nearby properties and any other notable features or characteristics of the site.

Development plan(s) including the layout and height of the wind turbines and associated buildings and works, materials, reflectivity, colour, lighting, landscaping, connection to the electricity grid, access roads and parking areas.

Explanation: A development plan and description of the specific operation including height and breadth of turbines, proposed buildings, access track location, substation location, connection to grid, maintenance schedule.

The location of all dwellings within a 5 km radius of the site.

Calculation of greenhouse benefits.

Photomontages or other visual simulations illustrating the development from key vantage points.

An assessment of the impact of the proposal on any avifauna listed under the Flora and Fauna Guarantee Act 1988 or Environment Protection and Biodiversity Conservation Act 1999.

An assessment of the noise impact of the proposal based on the New Zealand Standard NZ6808:1998, Acoustics – The assessment and Measurement of Sound from Wind Turbine Generators.

An assessment of other potential amenity impacts such as blade glint, shadow flicker, electromagnetic interference.

Impact upon any nearby airfields (within a 30 kilometre radius).

Impact upon Aboriginal cultural heritage or European cultural heritage.

An environmental management plan including any rehabilitation and monitoring.

Other Information that may be required:

Copies of Certificate of Titles for the site, no less than six (6) months old, including details of any restrictions, covenants, etc.

A location plan showing the full site area, abutting and nearby intersection roads, any significant physical features in proximity of the site and all weather access.

The location type and significance of any native vegetation to be removed and whether the proposal is consistent with Victoria's Native Vegetation Management – A Framework for Action (DNRE 2002).

A description of any landscape, botanical, zoological or geological features on the site and surrounding area and their potential significance.

Council staff will be happy to discuss requirements for individual proposals with applicants or other interested parties.

10.3 Is a permit required for the removal of native vegetation?

The Hepburn Planning Scheme, at clause 52.17 specifies the conditions under which separate planning approval is required for removal of native vegetation. In addition, there are a number of overlays contained within the Hepburn Planning Scheme which are additional controls to the zoning controls, and which also may require approval for the removal of native vegetation. Council staff can provide advice on specific circumstances relating to the native vegetation removal approval process.

10.4 Who should be notified of a planning permit application for a wind energy facility?

Section 52 of the Planning and Environment Act (1987) sets out the requirements for giving notice of a planning permit application. It includes a requirement that notice of a planning permit application be given to the owners and occupiers of adjoining land, to any person that the planning scheme requires it to give notice and to any other persons, if the responsible authority considers that the grant of the permit may cause material detriment to them.

In considering the question of material detriment, the responsible authority may consider the possible impacts on properties some distance away from the subject site.

Applicants are encouraged to meet with the responsible authority to discuss community pre application consultation in the area of the subject site. The proponent is encouraged to develop a comprehensive consultation program that is appropriate to the location and the scope of the proposal.

10.5 What is considered in a Wind Energy facility application?

The following list is an indication of the matters that may be considered in the processing of a Wind Energy facility planning application:

- Hepburn Planning Scheme – SPPF, LPPF, Zone and Overlay provisions.
- Human settlement characteristics in the vicinity of the subject site.
- Presence and characteristics of flora and fauna.
- Connectivity to electricity grid.
- Visual impacts of the proposal on significant landscapes.

10.6 How much time does the responsible authority have to make a decision?

The Planning and Environment Regulations (2005) requires that the responsible authority make a decision on an application in sixty (6) days. This time frame does not include time taken to provide further information, or complete notification of the proposal. Full details of the time calculation can be obtained from Council.

10.7 What happens after the responsible authority makes its decision on the planning permit application?

If there are no objections to the planning permit application, the responsible authority may issue a permit.

If there are objections, the responsible authority issues a Notice of Decision to Grant a Permit (NOD), which will set out the conditions that will apply to a Permit.

The responsible authority may determine to refuse the application, and will give reasons or grounds on which the application was refused.

There is opportunity for review of the responsible authority's decision in the following circumstances:

Decision	Review can be asked for by:
Refusal to Grant Permit	Applicant (objector can be party to review)
Notice of Decision to Grant Permit	Objector
Notice of Decision to Grant Permit	Applicant (Conditions)

The application for review must be made to the Victorian Civil and Administrative Tribunal (VCAT) on the prescribed form, and accompanied by a fee. There is a time limit, which applies to an application for review. For details please contact VCAT directly.

In the instance that the responsible authority issues a NOD, and there are no appeals lodged within a twenty-eight (28) day period from the date of the NOD, then the responsible authority will issue a planning permit.

Resources

Hepburn Planning Scheme

Sustainability Victoria – Wind-Energy – Myths and Facts – May 2007

Sustainability Victoria – Policy and Planning Guidelines for Development of Wind Energy Facilities in Victoria, 2002.

Sustainability Victoria – Wind Energy Atlas, 2004

Planning and Environment Act (1987)

Planning and Environment Regulations (2005)

DNRE – Victoria's Native Vegetation Management – A Framework for Action 2002.

DSE – Renewable Energy Action Plan (2006)

Abbreviations used:

DSE – Department of Sustainability and Environment

DNRE – Department of Natural Resources and Environment

LPPF – Local Planning Policy Framework (Hepburn Planning Scheme)

MW – Megawatt

MRET – Mandatory Renewable Energy Target

VRET – Victorian Renewable Energy Target

SPPF – State Planning Policy Framework (Hepburn Planning Scheme)

NOD – Notice of Decision to Grant a Permit.

VCAT – Victorian Civil and Administrative Tribunal

13 INFRASTRUCTURE:

Nil items for Agenda.

14. COUNCIL SECTION 86 AND ADVISORY COMMITTEES

14.1 COUNCIL SECTION 86 MINUTES

(Action Officer – A/Manager Governance)

File Ref: Various

Introduction

Section 86 Committee minutes for noting.

Report

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

- Minutes of the Creswick Infolink Committee dated 28/05/09 (File ref: 22/15/02)
- Minutes of the Clunes Historic Medlyn Complex Committee dated 03/06/09 and 07/07/09 (File ref: 1/0320/00070)
- Minutes of the Doug Lindsay Recreation Reserve Committee date 24/06/09 (File ref: 2/0340/01370)
- Minutes of the Creswick Museum Committee dated 01/06/2009 (File ref: 2/7350/02046).

Issues

From minutes of Creswick Museum 1 June 2009 – proposal to donate artwork by Bresslern-Roth's "Waterbirds" to the Ballarat Art Gallery with Council approval.

Relevant Policies

Council Policy #9.

Community Engagement

Members of the community are represented on these committees.

Financial Implications

Nil

Motion

That Council:

- 14.1.1 *note the Minutes of the Committees listed above which have been distributed under separate cover; and*
- 14.1.2 *grant approval for Bresslern-Roth's art work "Waterbirds" to be loaned to Ballarat Art Gallery subject to a further review of this arrangement in June 2012.*

Moved: Cr Jon Barrell

Seconded: Cr Don Henderson

Carried.

15 CONFIDENTIAL ITEMS: CLOSURE OF MEETING TO MEMBERS OF THE PUBLIC

That pursuant to the provisions of Section 89(2) of the Local Government Act 1989, the meeting be closed to the public in order to consider:

- (d) Contractual matters;
- (h) Any other matter which the Council or special committee considers would prejudice the Council or any person;

Motion

- 15.1 *That the meeting be closed to members of the public under Section 89(2) of the Local Government Act 1989, specifically the following sub-section:
89(2)(d) Contractual matters – the report of the tender H201-2009 – Architectural Services of the Doug Lindsay Recreation Reserve, Creswick.*

Moved: Cr Janine Booth
Seconded: Cr Sebastian Klein
Carried.

15.1.1 TENDER H201-2009 – ARCHITECTURAL SERVICES FOR THE DOUG LINDSAY RECREATION RESERVE, CRESWICK

Motion

That Council:

- 15.1.1.1 *accept this report on the Award of the Tender for H201-2009 for the provision of Architectural Services at the Doug Lindsay Recreation Reserve Multi-Purpose Community complex by John Alkemade + Associates P/L for the sum of \$102,025 (including GST) under delegated authority by the Chief Executive Officer on 1 July 2009;*
- 15.1.1.2 *sign and seal the contract documents for Contract H201-2009 for the provision of Architectural Services at the Doug Lindsay Recreation Reserve Multi-Purpose Community complex;*
- 15.1.1.3 *make public this decision to accept the tender of John Alkemade + Associates P/L.*

Moved: Cr Don Henderson
Seconded: Cr Janine Booth
Carried.

16. RE-OPENING OF MEETING TO PUBLIC:

Motion

16.1 *That Council having considered the confidential items, re-open the Meeting to members of the public.*

Moved: Cr Rod May
Seconded: Cr Tim Hayes
Carried.

17. CLOSE OF MEETING

The meeting closed at 10.06pm.