

COUNCIL MEETING MINUTES - 30 JULY 2024

Vision:

Indigo Shire - leading sustainable growth, community and cultural diversity, and climate action

HELD: Tuesday, 30 July 2024 at 6.30pm

LOCATION: Council Chambers, 2 Kurrajong Way, Beechworth, and livestreamed on Council's website

ATTENDEES:	NAME	TITLE
	Cr Sophie Price	Mayor
	Cr Bernard Gaffney	Deputy Mayor
	Cr Peter Croucher	Councillor
	Cr Sue Gold	Councillor
	Cr Roberta Horne	Councillor
	Sally Rice	Acting Chief Executive Officer
	Ian Ellett	Director Infrastructure Services
	Greg Pinkerton	Director Planning & Corporate Services
	Susannah Doyle	Acting Director Community & Economic Development
	Annabel Harding	Governance Coordinator
APOLOGIES	Cr Diane Shephard	Councillor
	Cr Emmerick Teissl	Councillor
	Trevor Ierino	CEO

These Minutes were confirmed at the Council meeting held on 27 August 2024.



Cr Sophie Price
Mayor

These Minutes are not a verbatim transcript of the discussions in the Council meeting; a recording of this meeting can be found on Council's webpage.

Responses given by Councillors and Council Staff are the opinion of the individual responders, and accurate at the time of response, to the best of their knowledge.

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1. WELCOME

The Mayor welcomed all to the meeting of Council and noted that it would be live streamed and recorded, and the voices and images of those participating in the meeting, and in the gallery, captured as part of the recording.

2. ACKNOWLEDGEMENT OF THE TRADITIONAL OWNERS OF THE LAND

The Mayor acknowledged on behalf of the Council the original custodians of these lands. The people of the rivers and the hills have walked these lands for thousands of years as well as today, and we pay respect to the elders of the past and present.

The Mayor noted that Councillors have all taken an oath to carry out their duties in the best interests of the people of Indigo Shire and to do this in a fair and impartial manner. They are all committed to exercising the Council's powers and functions to the best of their skills and judgement.

3. APOLOGIES AND LEAVE OF ABSENCE

Cr Shepherd
Cr Teissl
Trevor Ierino (CEO)

The Mayor noted that Sally Rice is Acting CEO and Susannah Doyle is Acting Director Planning & Corporate Services

4. DECLARATION OF CONFLICT OF INTEREST

Nil

5. OPEN FORUM

Questioner – Peter Twigg (represented by proxy Charles Mitchell)

Question 1- The Business Case for the Rutherglen Wine Walk Cycle Trail now known as Rutherglen Loops detailed the risks associated with the project. A major risk that was identified was trail maintenance. The writers of the report stated "Trail maintenance is a critical component of the experience remaining high quality and attracting people to ride the destination" A moderate risk rating was given. Repairs to key sections of the project in Wahgunyah, the Tommy McRae Trail, the River Loop Trail and Recreation Trail have just commenced some 20 months after the flood waters have receded. Previous advice received from Council was that the repairs to these trails would be completed in the last quarter of 2023. Question: Does Council acknowledge that maintenance is critical and what will be put in place to ensure that damage from future flood events is repaired in a timely manner?

Response provided by Ian Ellett, Director Infrastructure Services

I acknowledge that maintenance of the trail is critical and, all things being equal, should be done in a timely manner. If, as in the circumstances we've had recently, we are reliant on funding support from a 3rd party, we need to be able to secure that funding first.

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It is also worth pointing out, that we have been aware all along of the likelihood that parts of the trail will from time to time to go under water. But there are a number of different loops on offer so, in all likelihood, even when parts of the trail may be affected by flooding, other parts will be available for use and enjoyment.

Question 2 At the Council Meeting held on 25 June 2024 a question was asked whether the applicant for the 24 hours Service Station/Truck Stop on the corner of Federation Way and Murray Valley Highway Rutherglen, be required to provide environmental impact assessments for both Lake Moodmere and Sunday Creek. Mr Greg Pinkerton, Director Planning & Corporate services deftly handballed the responsibility over to the Catchment Management Authority and the Department of Energy, Environment and Climate Action stating they are the appropriate authorities on these matters. Given that Council and the elected representatives of the ratepayers will ultimately decide the fate of the application, and also given Council's stated objective on protecting the environment, surely obtaining the relevant environmental impact statements would be essential to enable both Council Officers and Councillors to make an informed decision. Question: Will Council now undertake to ensure that environmental impact statements for both Lake Moodmere and Sunday Creek will be sought for both Council Officers, Councillors and ratepayers upon request? (Charles Mitchell, my proxy)

Response provided by Greg Pinkerton, Director Planning & Corporate Services

The planning legislation says that the role of assessing catchment impacts is the responsibility of the catchment management authority. That's the statewide planning process, and that is what we follow. Your suggestion for Council to make up a different process to the legislation would put the decision-making at risk. Council staff work very hard to ensure that planning processes are clean and compliant with the legislation, so that the decision making remains with Council rather than being decided in VCAT.

Question 3 – In September 2023 the CEO of Indigo Shire Council stated: "It is Council' expectation that from time-to-time part of the cycle path will be subject to inundation. It is our expectation that upon the receding of the water that the track will in the main remain unharmed" Question: What knowledge and experience relative to flooding was the CEO able to draw on that enabled him to make such a definitive and reassuring proclamation? (Charles Mitchell, my proxy)

Response provided by Sally Rice, Acting CEO

I am here as Acting CEO and am happy to respond to your question. Council has a team of engineers and other professional subject matter experts who provide professional advice across the organisation on a daily basis. So, as we do with all infrastructure projects we assess risk and specify the asset design accordingly.

Questioner 2 – Robin McLiesh

Introductory statement:

The 2022/23 Annual Report indicates that council staff turnover has increased from 15.6% to 26.3% in the last 4 years. This is both alarming and unacceptable with major disruptions to council operations. There are significant costs involved with the loss of experienced workers, the recruitment and training of new staff, the costs associated with temporary personnel plus concerns as to whether these losses are related to the working conditions within the council.

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Question 1

Is council aware of this situation, and if so what do they intend to do to correct the situation?

Response provided by Acting CEO, Sally Rice

Council is aware of the 22/23 statistics. As we are now in the new financial year, we are pulling together our 23/24 results for the purpose of preparing our next annual report, Local Government Performance Reporting Framework and other similar reasons. In relation to staff turn over the figures coming from our People and Culture Team are showing a very positive trend indicating a turnover for 23/24 that is approximately 16% (excluding casuals and fixed term contracts less than 6 months). This is well down from previous years.

This is a very pleasing result which has come about due to targeted efforts in key areas across the organisation and focusing on workplace culture initiated identified through our Employee Alignment and Engagement survey. This includes leadership development, workplace flexibility, investment in training and improving processes.

Introductory statement:

The recent Tourism North East presentation for the Beechworth Rail Precinct identified changes to the precinct that included the construction of a new toilet block adjacent to the Rail Shed and a childrens' play-ground. The Rail Shed project has failed to achieve any of the financial benefits claimed in the original grant application and there is now no requirement for toilets. However, there is now an opportunity to construct a new toilet block located in the Beechworth Central Business District to cater for our growing number of tourists.

Question 2.

Can council work with TNE to submit a new grant application that will provide a revised Rail Precinct project with no public toilet and at the same time initiate an investigation into the construction of a new toilet block located in the Beechworth CBD, that meets the requirements identified in the Public Toilet Strategy?

Response provided by Ian Ellett, Director Infrastructure Services

The current funding that Tourism North East (TNE) is managing is for Rail Trail enhancements. The Beechworth Railway Precinct toilets are not a specific requirement. But they are considered an important element in developing the precinct area and enhancing the useability and amenity of the precinct and in future any potential offerings of the Goods Shed.

So on that basis - we will not be working with TNE to make a new application.

The issue of a new toilet facility in the Beechworth CBD is a separate issue. The development of such a facility (other than at the Beechworth Railway Station) is not on offer and cannot be delivered as part of the RT enhancement funding package.

6. COMMUNITY AND COUNCIL ACHIEVEMENTS

Cr Croucher acknowledged a King's Birthday Honours' Recipient – Josephine Cornish OAM from Beechworth.

On behalf of my fellow Councillors and citizens of Indigo Shire, it is my pleasure to extend our warmest congratulations to Josephine Cornish on receiving a Medal of the Order of Australia in this year's King's Birthday Honours.

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Her Honour in recognition of her service to the community of Beechworth is richly deserved with her volunteer work at The Salvation Army Beechworth Corps Thrift Shop since 2012, Turban Angels since 2015, Beechworth Lions Club 2014-2018 and founder of Beechworth Boomerang Bags 2017-2018.

Unfortunately Josephine was unable to attend in person tonight.

7. CONDOLENCES

Nil

8. CONFIRMATION OF MINUTES FROM PREVIOUS MEETING(S)

RESOLUTION

That the following Minutes be confirmed:

1. Minutes of the Council Meeting held on 25 June 2024, as published on Council's website;
and
2. Confidential Minutes of the Council Meeting held on 25 June 2024 2024, as provided to Councillors under separate cover.

Moved: Cr Croucher

Seconded: Cr Gold

For: Crs Peter Croucher, Bernard Gaffney, Sue Gold, Roberta Horne and Sophie Price

Against: Nil

CARRIED



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9. BUSINESS ARISING FROM PREVIOUS MINUTES

Nil

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10. PETITIONS

Nil reports

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11. PLANNING & CORPORATE SERVICES

11.1 REVENUE AND RATING STRATEGY (2024)

File No: 2024/476

Greg Pinkerton - Director Planning & Corporate Services Planning & Corporate Services

For Decision

RECOMMENDATION

That Council:

1. Thanks the community for its engagement on the Draft Revenue and Rating Strategy;
2. Notes the changes made to the attached *Revenue and rating Strategy (2024)* as a result of the exhibition:
 - a. Trust for Nature land greater than 8 ha be permitted to receive the Rural 1 differential rate where the land is entirely given to TfN without any other activity (such as a dwelling).
 - b. Total farm size assessment be adjusted to align to the established “Single Farming Enterprise” assessment that is currently in use for the purposes of the Municipal Charge.
 - c. The transition arrangements be changed to initially recognise properties between 40 ha and 50 ha that have a primary production AVPCC code as primary producers (Rural 1).
 - d. Discretion permitted in the assessment of primary producer status for a period of time to allow time for the owner to provide suitable evidence.
 - e. Rural 2, and the primary producer status, confirmed as applying to properties above 8 ha as per the current Rural 2 designation.
 - f. Updated wording in the rural 2 description to reduce the emphasis on residential use.
 - g. General wording updates and clarifications to improve clarity and readability; and
3. Adopts the attached *Revenue and Rating Strategy (2024)*.

RESOLUTION

That Council:

1. Thanks the community for its engagement on the Draft Revenue and Rating Strategy;
2. Notes the changes made to the attached *Revenue and rating Strategy (2024)* as a result of the exhibition:
 - a. Trust for Nature land greater than 8 ha be permitted to receive the Rural 1 differential rate where the land is entirely given to TfN without any other activity (such as a dwelling).
 - b. Total farm size assessment be adjusted to align to the established “Single Farming Enterprise” assessment that is currently in use for the purposes of the Municipal

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Charge.

- c. The transition arrangements be changed to initially recognise properties between 40 ha and 50 ha that have a primary production AVPCC code as primary producers (Rural 1).
 - d. Discretion permitted in the assessment of primary producer status for a period of time to allow time for the owner to provide suitable evidence.
 - e. Rural 2, and the primary producer status, confirmed as applying to properties above 8 ha as per the current Rural 2 designation.
 - f. Updated wording in the rural 2 description to reduce the emphasis on residential use.
 - g. General wording updates and clarifications to improve clarity and readability; and
3. Adopts the attached *Revenue and Rating Strategy* (2024).

Moved: Cr Gold

Seconded: Cr Gaffney

For: Crs Peter Croucher, Bernard Gaffney, Sue Gold, Roberta Horne and Sophie Price

Against: Nil

CARRIED

PURPOSE OF REPORT

The purpose of this report is to present the attached, updated, *Revenue and Rating Strategy* (2024) for adoption.

BACKGROUND

Council's Revenue and Rating Strategy is due for an update and work has been done previously to gather community input, consider options through a community working group, and produce a draft that has been on exhibition since its endorsement at the April Council meeting.

Some adjustments have been made to the strategy as a result of community engagement though the exhibition period. This report provides details on the key feedback that was received, the resulting changes that have been included in the attached Strategy and recommends the updated Revenue and Rating Strategy for adoption.

DISCUSSION

For the development of the strategy, Council considered a number of stakeholder inputs including the deliberations of a community working group that considered Council's Revenue and rating Strategy and Hardship Policy, as well as reviewing the results of a community survey that provided guidance on community perspectives on these documents.

In addition to the community consultation, the project also considered State Government guidelines, better practice, and legislative changes, the Victorian Government's 2020 Rating Review as well as the Local Government Legislation Amendment (Rating and Other Matters) Bill 2022.

In regard to waste charges, the attached draft considers the *Local Government Service Rates and Charges, Minister's Good Practice Guidelines for their use* (December 2023) as well as the subsequent clarification letter from The Hon. Melissa Horne MP, Minister for Local Government (March 2024).

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A community working group reviewed a number of different options and rates settings. This included looking at all of the differential categories, the property descriptions and percentages, as well as a number of other variables such as the Municipal Charge. The result of this intensive work was the conclusion that the majority of Council's rates settings are still considered to be appropriate and should continue. There were, however, a couple of changes to the strategy that the working group felt was worthy of suggesting to Council. These changes were made to the draft strategy that has been on exhibition.

The main changes that were proposed in the draft strategy were:

- Increase to the default size of the Rural 1 differential category from 40 ha to 50 ha.
- Validation of farming to permit primary producers (with properties between 8 ha and 50 ha) to move to the Rural 1 differential.
- Transition arrangements that implemented this at the start of the 2025/26 financial year to allow time to transition in a clean and coordinated way.

Feedback received during the exhibition period

The draft strategy was given an extended exhibition period for a number of reasons:

- The desire to send individual letters to properties between 40 ha and 50 ha. This required an extended time to allow for postal delivery times.
- This is a complex issue that requires some consideration.
- The budget build was concurrently underway and bringing both to a conclusion at the June Council meeting was not ideal timing to promote community engagement in both processes.

During the exhibition period a significant number of people contacted Council in writing and via phone calls. The majority of the contacts believed that this change had already happened, and many respondents made contact to provide evidence of their primary producer status. Council staff explained the process to these people and these contacts were not considered to be formal submissions to the process. These contacts were, however, very useful and informative and the discussions that occurred during this time were instrumental in prompting some of the changes to the final strategy that is attached for Council's consideration.

In addition to the casual contacts Council also received thirteen written submissions that are attached to this report (with personal details redacted). Staff were very thankful for these submissions, and they resulted in some changes being made to the attached strategy document. The time and thought that went into many of the submissions was impressive with several submitters demonstrating a deep understanding of the principles upon which the rating strategy is developed. The following section outlines the main feedback that was received, and any changes that have been recommended in the final version of the strategy. It is notable that many of the submissions contained extra comments and suggestions in addition to the topics summarised below. The discussion to follow concentrates on the items that were raised that has direct applicability to the consideration of the Revenue and Rating Strategy. Where a comment was made that was not relevant to the adoption of the strategy it was left as a comment for feedback for Councillors.

KEY POINTS FROM SUBMISSIONS

Trust for Nature

The attached submission from Trust for Nature (TfN) seeks rebates and/or concessions for properties that have a TfN covenant. This was considered throughout the process as well as being discussed by the community working group. Council's long-standing approach to this question is that the reduced valuation that comes with a Trust for Nature covenant lowers the rates payable on these properties.

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The question of Trust for Nature was tested with the consultation group and the existing Council position (no special treatment of TfN blocks) was supported.

However, some conversations held through the exhibition period prompted a rethink on large TfN blocks that are solely used for the protection of biodiversity. The argument is that these blocks are not productive or used for any other purpose and the protection of the environment aligns with Council's environmental goals. Therefore, an argument could be made that a 90% differential is too high and that blocks dedicated solely to nature, environment, and biodiversity, and that they should be rated at a similar level to land used for farming.

This argument has some credibility, however one concern is that this may allow for smaller rural lifestyle blocks to receive a farming differential when they are more akin to rural living blocks.

It is therefore suggested that land of more than 8 ha (i.e. the current Rural 1 and Rural 2) that is entirely used for TfN purposes (no house, or other activity) should be permitted to apply for the Rural 1 differential (75%). This lower rate recognises that land used exclusively for TfN is aligned to Council's environmental goals in a similar way that farming is aligned to Council's support for primary producers.

Rates increase compared to farming profitability

One submission discussed the increase of rates over many years and compared it to farming profitability. This is a particularly topical point in the current year where livestock prices have been very low.

To assess this feedback in the context of the Revenue and Rating Strategy it is important to tease out the different aspects of this argument. The decisions being made in this Revenue and Rating Strategy review are about the apportionment of the rates (i.e. what the differential percentages should be) rather than the increases in rates over time (that aspect is a budget decision rather than a Revenue and Rating Strategy decision). In that way, the relevant question being raised by this submitter is whether the current 75% differential should be adjusted down so that the other property types bear a greater proportion of the rates to support farmers.

There is no formula or calculation that can answer this question, and it is a matter for rates policy decisions. The relevant factors in this sort of decision are:

- Does this apply to all farmers? Is it temporary or permanent? Are there other supports or actions that are relevant?
- Are any other categories of property (residential, business, etc) doing very well and can bear a greater proportion of the rates?
- What level of change would make a meaningful difference to farmers, and what would this mean to other ratepayers who would pay more as a result of reducing the farming differential?

The revenue and rating community working group considered the differentials and recommended no change. Management also concurred with this assessment and the draft strategy did not propose any changes to differential percentages.

After considering all of the factors it is the recommendation of management that the farming differential remain at 75%. There are a number of reasons for this that can be summed up in the statement that despite some farmers currently experiencing a difficult time at the moment, the

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overall farming community does not appear to be more permanently disadvantaged than any other type of landowner group. In addition, the cost of living pressures that are being experienced across all property owners means that moving the rates burden away from farmers and onto businesses or residential property owners does not appear to be an equitable change to make at this stage.

Limited Council services for farming properties

One of the many considerations for the 75% differential for farming is the access to council services. This is by no means the only, or even the main, reason for the lower differential, however it is considered in the decision-making. One submitter suggested that this should be re-visited.

As with the last point, this was analysed as part of the process for building the draft strategy and no change was proposed. This issue is best summarised in the State Government's Better Practice Guide for Revenue and Rating Strategies:

A popular complaint levelled at councils is that "the rates I pay have no correlation with the services I consume or the benefits I receive". This argument is based on the benefit principle (the opposite of the wealth tax principle) that argues there should be a clear nexus between consumption/benefit and the rate burden. A user pays system is closely reflective of the benefit principle.

Application of the benefit principle to rates is difficult in practice because of the impossibility of measuring the relative levels of access and consumption across the full range of council services. While it might be quite obvious that certain geographic areas may not get access to specific services, for example street lighting, it is the level of benefit across the full range of rates-funded services that is important in determining the amount of rates that should be paid. Clearly, the exercise is not clear cut – for example, it might be argued that rural ratepayers derive less benefit from library services than their town counterparts but the reverse argument can apply to the costs of repairing local roads in rural areas where there are mostly rural users. The analysis of benefit is often reduced to arguments of what services are consumed by town v. country, businesses v. residences and between different towns and suburbs. Such a simplistic determination of rates based on where services are located ignores the facts that:

- many services are not location specific
- access is not synonymous with consumption
- residents can travel or use technology to access some services
- (perhaps more significantly for many councils) services provided in different locations within a municipality have different costs. For example, the actual cost of providing the same or a lesser level of service to a more remote or less central location may be higher due to economies of scale or logistical reasons.

In some ways the arguing of the benefit principle with respect to council rates is like trying to do the same for Commonwealth income tax that is used to fund a wide range of universally accessed services.

It is likely to be quite costly to regularly undertake in-depth analyses on service access, consumption patterns and costs in order to attempt to review the level of benefit. In any event many subjective assumptions will have to be introduced that is unlikely to produce a fair result.

Capacity to pay

One submitter raised the question about whether capacity to pay was still a consideration for the setting of differentials (because it seems to be missing from some descriptions of the differential

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rates). The answer is yes, capacity to pay is still a consideration when setting rates strategy, along with the other aspects that are set out in the State Government's Better Practice Guide.

50 ha appears to be an arbitrary size to choose

The selection of 50 ha was made after considering a few options, ranging up to 80 ha. The overall intent is to make the automatic qualification for Rural 1 larger, whilst also giving primary producers on any size land greater than 8 ha the ability to qualify for the Rural 1 differential. This is designed to support farming and discourage farming land from becoming rural lifestyle blocks. In the end it is expected that more properties will move to Rural 1 and therefore the support for farmers will have increased.

The selection of 50 ha as the threshold for automatic inclusion into the Rural 1 differential was chosen to address the issue of farms being divided into parcels slightly larger than the 40 ha benchmark for rural lifestyle blocks. Therefore, setting the Rural 1 threshold at 50 ha is effective at achieving this outcome without becoming burdensome on ratepayers or Council.

On the same topic this submitter asked if Council was trying to reduce support for farmers on smaller properties. The answer is that council is proposing to increase support to farmers on small properties by allowing primary producers on any property greater than 8 ha to apply for the 75% differential. With the current differential on farms < 40 ha set at 90% this would be a significant benefit to farmers on smaller parcels of land.

Dynamic differential rates model

One submitter went as far as to propose a structural change to the rating system that alters the order of the rating inputs to move the differential percentages from being a strategic input of Council, to instead being used as a balancing adjustment to keep the average rates of each differential category to a uniform average percentage. This model has been called the dynamic differential system.

The prima-face case for this model (smoothing out the average rates variability) is an attractive headline. However, once the surface is scratched the model reveals a number of problems that range from implementation issues, through to major departures from good taxation practice, and legislative compliance risks.

This model had been reviewed previously and feedback provided to the submitter to highlight the problems with this proposal, however no adjustments have been suggested to improve on the design. Staff have looked for ways of improving the system to make it possible to consider as a viable alternative, however no solutions have been found that reduce the issues and risks with the dynamic differential model.

The points below cover the main issues with the dynamic differential model.

- The dynamic differential model does not constrain the differential percentages and it is therefore quite possible/probable that it will, at some stage, breach s.161(5) of the Local Government Act (1989). To make this situation worse, the timing of the annual valuations means that any breach would not be known until it was too late to correct. This could place Council in an impossible position of having a rating strategy that breaches the act, but without time to adjust the model (Council would have about one month to complete a process that the Better Practice Guidelines estimate as *"unlikely to take less than six months"*

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and could take up to 12 months”). A likely scenario for the dynamic differential model breaching the legislation may be the reduction in farming land value (caused by a drought etc), and/or the softening of the property development market (due perhaps to constraints on new subdivisions). Because both of these events are likely to happen in the future it is quite conceivable that the dynamic differential model would breach the Local Government Act at some stage, without any chance of Council being able to fix the problem in time.

- The primary justification for the dynamic model is that it attempts to smooth out the annual variability of rates (due to valuation changes) and goes so far as to suggest that volatility can be “eliminated”. However, because the dynamic model only addresses the average increase per differential rating category, annual variability in rates would not be eliminated. Only properties at the exact average annual valuation change for each differential category would experience a rate cap level increase. All other properties would still experience annual changes that are higher or lower than the rate cap. This is also true of the existing model and demonstrates that limited benefit would be obtained in regard to rate variability. The dynamic differential model would not eliminate rate variability.
- Simplicity is a key pillar for a rating strategy (this is listed as a key consideration in the State Government’s *Better Practice Guidelines*). The dynamic differential system is complex and difficult to understand/explain.
- A much more effective, and far simpler system to address the rate variability (valuation averaging) was investigated by the State Government in recent years. Even this system (similar to the one used in Queensland) was found to be overly complex and has been abandoned. Some of the relevant quotes relating to the State Government’s decision to abandon this model are:
 - *“The feedback highlighted that the majority of respondents found the current rating system overly complex and expressed concerns that introducing a VAM would add further complexities for both councils and their communities without effectively addressing rate volatility”.*
 - It is notable that the dynamic differential model proposed is simultaneously more complex than VAM whilst being less effective at smoothing rate variability.
 - *“Respondents stressed the expectation that when property valuations increase, rates should rise proportionally across the municipality. Similarly for reduced valuations. This expectation conflicted with the proposed introduction of a VAM”.*
 - The suggested dynamic differential model suffers from this same weakness that the State Government found unacceptable.
- One of the significant negative impacts of the dynamic model is that people who are due for a rate reduction (in either real or relative terms) may not receive this reduction due to the dynamic differential model increasing their differential percentage. This is a concerning issue for ratepayers who are struggling with cost of living pressures and this issue mirrors one of the key reasons for the State Government’s valuation averaging model being abandoned.
 - For example, the 2024/25 budget has an average rate decrease of 1% for farmers in the Rural 1 category. The dynamic differential model would over-rule this rate reduction and impose a 2.75% increase in average rates. This goes against the principles of good rating policy and is clearly an unfair way to implement rates.
- The dynamic model breaks the core rating principle of being a wealth tax (the principle of vertical equity that is at the core of Australian taxation philosophy). Essentially the dynamic differential model reduces rates for groups of ratepayers who become relatively richer and increases the rates for groups of ratepayers who become relatively poorer. This is a very bad outcome that works in the opposite direction to the core wealth tax principle. It is suggested that this aspect alone would attract the disapproval of state government because it goes

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against the principles of good rating practice, and disadvantages people with reducing wealth whilst simultaneously rewarding people who become richer. The reversal of the wealth tax principle is also a feature of the dynamic differential model that is likely to cause significant community outcry due to the unfairness of this model – particularly because Council rates is a closed system, so it would be the people with reducing wealth that would directly subsidise the people who are increasing their wealth. This is not the way that taxation should be set up in Australia. Some notable references regarding the wealth tax principle and Council rates are:

- in the State Government's *Revenue and Rating Strategy - Better Practice Guide*. An important principle is described as follows: *"Rates are essentially a wealth tax, determined on the value of property. A pure "wealth tax" approach implies that the rates paid relate directly to the value of a ratepayer's real property"*.
 - The dynamic model works in the opposite way to this good practice principle.
- In the State Government's 2020 review of the rating system the following quote supports the wealth tax principle: *"Rates are relative in that the rates paid by a ratepayer are determined by the value of that ratepayer's property relative to the total value of rateable property in that municipality"*.
 - The dynamic differential model changes this and applies a set average increase across the differential categories that is independent of the property values. In doing this, it breaches the wealth tax principle and creates an unfair rating system.
- The model picks a point in time and locks in the relative values/rates at that time. In reality, the differential group valuations move at different rates to a similar eventual point. A change to a dynamic differential model it is very likely to permanently disadvantage one or more differential groups. For example, if the model was implemented at this point in time the business community would be permanently disadvantaged with no possibility of ever returning to a normal relative level. Farmers are also likely to be permanently disadvantaged if this model was to be implemented in the current year.
- The dynamic model works in reverse to the way a rating strategy should be designed. The Victorian system asks Councils to strategically set differential percentages that reflect the relative weighting given to property types (farming at 75%, businesses at 135%, etc). This is the core fundamental decision that Councils make when setting a rating strategy. After these differentials are set the rates are a factor of these differentials applied to the property value (i.e. the wealth tax principle). In contrast to this, the dynamic differential model allows Council's differential percentages to be changed by external valuations. This means that Council would lose control of differential percentages and have no influence on their relative positioning. This removes Council's key strategic decision in the setting of rates.
 - By way of demonstration a dynamic differential model applied in the last 10 years would result in the commercial/industrial differential increasing from 135% to over 170%, at the same time that their property values lost value in relation to other properties.
 - Similarly, over the same ten-year timeframe rural properties grew significantly in value, however the dynamic differential model would have dropped the differential rates below 60% (rather than the 75% set by Council). This demonstrates that the dynamic model takes these differential decisions out of the hands of Council and leaves this fundamental rates-setting decision to the whim of the property market.
 - The State Government's 2020 review of the rating system clarifies that *"The general rate component of council rates and charges is set as a percentage of property values"*. It is the percentage differentials that should determine the rates (the

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current system), not the valuations that determine the differential percentage (as would happen under the dynamic system).

- Finally, a change to a dynamic differential system would see Indigo Shire Council out of step with all other Councils in Victoria. This model does not adhere to the Better Practice Guidelines and is considered unlikely to be supported by the State Government.

Whilst the intent behind this model is a good one, the dynamic differential model has significant problems, and it cannot be considered as a viable, fair, or compliant rating model. If implemented, it would set up an unfair rating system that would favour those with increasing wealth by increasing taxation for people experiencing declining wealth.

Transition arrangements

The overwhelming number of emails, letters, and phone calls was from people applying for a primary producer status and not understanding that the decision had not yet been made. The confusion arising from the communication of these proposed changes, as well as the range of different evidence provided by community members, indicated that the transition process to increase Rural 1 from a default of 40 ha to a default of 50 ha is likely to be a large, long, and difficult process that would (in most cases) result in no change to the differential category. This experience was also envisioned by one submitter who questioned the efficiency of making this change, and the cost of doing so.

The workload just to respond to these inquiries demonstrated that the transition process for properties between 40 ha and 50 ha will be a large, time-consuming and expensive process. Some further analysis was performed on the designation of these properties and the following information gathered from the State Government's AVPCC classification codes.

100 - Vacant Residential Site/Surveyed lot	1
103 - Vacant Residential Rural/Rural Lifestyle	1
110.3 - Detached Dwelling (Existing)	1
117 - Residential Rural/Rural Lifestyle	4
151 - Ancillary Improvements on Residential Rural/Rural Lifestyle Land	1
510 - General Cropping	5
520 - Domestic Livestock Grazing	123
523 - Livestock Production - Sheep	10
524 - Livestock Production - Beef Cattle	45
525 - Livestock Production - Dairy	8
530 - Mixed Farming and Grazing	67
544 - Horse Stud/Training Facilities/Stables	1
551 - Orchards, Groves and Plantations	1
561 - Vineyard	5
572 - Native Hardwood (standing timber)	2
Grand Total	275

This shows that the vast majority of the properties between 40 ha and 50 ha are currently classified as some form of primary production. Using an assumption that most, or all, of these properties will be eligible for the primary production status, it is clear that Council will incur significant time and cost to transition these properties for no benefit.

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This workload concern is over and above any rural 2 property applications for primary production status – an added workload that is also expected to be significant.

It is therefore recommended that the transition arrangements be altered from requiring all property owners between 40 ha and 50 ha to apply for a primary producer status, to automatically moving the majority of these properties to primary production. This would be achieved by:

1. Any property between 40 ha and 50 ha that currently has a primary production AVPCC classification be moved to Rural 1 as a primary producer (and retain the 75% differential rate). These properties would be reviewed in the future when they change hands.
2. Any properties between 40 ha and 50 ha that are not currently a primary production AVPCC classification will be contacted and informed that they will move to the Rural 2 differential rate unless they are successful in demonstrating primary producer status.

This achieves a number of significant improvements:

- It saves a significant implementation process for both property owners and Council.
- It saves ratepayers and Council money.
- It allows for farm retirement (a feature of the updated revenue and Rating Strategy) without asking retired farmers to prove they are currently actively engaged in primary production.
- It allows for more time to be allocated to assessing the higher importance applications, rather than being caught up in low value-add applications.

Assessment of property size

A number of submissions and discussions centred on the total property size question. Many farms are made up of multiple parcels that combine to a single productive farm. These parcels may be under different names (for example a farmer's name for the 'house block', and the company name for the farming land), or may be spread across a large geographical area with roads in between individual parcels or combined with leased blocks.

The proposed policy allows for properties under the same ownership to be combined for the purposes of demonstrating a farming enterprise >50 ha. The real-world complexity of farming properties is difficult to codify in a policy position and exceptions may still occur. For this reason, it is recommended that the total farm size assessment be adjusted to align to the well-established "Single Farming Enterprise" (SFE) assessment that is currently in use for the purposes of the Municipal Charge. This assessment is simple, uses existing data, and reflects the reality of how farming properties are operated. The drawback with this is that the SFE method does allow for leased properties to be included where the farmer is responsible for paying the rates. This breaks the current focus in the Draft Revenue and Rating Strategy on property ownership, however this is not seen as a strategic drawback because the land is still in use for primary production. In the end the alignment with the existing SFE system is far too simple to be ignored, and aligning with this process achieves the intended strategic outcomes that Council is seeking.

Timing of primary producer assessment

One practical issue is the timing of a primary producer assessment. In some circumstances of a new owner taking over a parcel of land it may not be possible for the new owner to provide appropriate evidence in time for the rates strike. This timing risks an adverse outcome of placing a primary producer in Rural 2 and disadvantaging them due to administrative timing not aligning with the practicalities of farming.

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It is therefore suggested that discretion be permitted in the assessment of these properties and that the rates team be permitted to apply a provisional Rural 1 status on a property for a period of time to allow time for the owner to provide suitable evidence. It is expected that this would be usually for 12 months at a maximum.

Rural 2 to be from 8 ha to align with current strategy and primary production to align at 8 ha and above.

The draft strategy and commentary contained an error in that the size of the Rural 2 properties was listed as 2 ha and above. This was an error and the intent was always that the lower limit be the current 8 ha that is used for Rural 2.

The attached final version reverts to the normal 8 ha for Rural 2, and also aligns the primary producer status to this 8 ha minimum.

New owner considerations

An issue that arose as part of the exhibition discussions was the potential for a surprise rates bill where a property less than 50 ha that had (to that point in time) been allocated a Rural 1 differential under a primary production exemption is re-categorised as Rural 2, resulting in an increase in the rates by approximately 20%. This would only occur if the land is taken out of farming use and used for some other purpose (a rural residence).

Strategically this change aligns with Council's rate's philosophy of supporting farmers (at a 75% differential) whilst maintaining a higher differential (90%) for rural lifestyle blocks, and therefore the rate increase is not an error. However, the timing and visibility of this changeover will result in the new owner being charged more than they may be expecting (based on the s.32 disclosures).

There is very little that can be done about this situation apart from making the Revenue and Rating Strategy available to potential buyers on Council's website with associated information that explains the reasons for the position that Council has taken.

Clarification of the Rural 2 category

One submitter pointed out that the Rural 2 category assumes residential use, and therefore may (inadvertently) result in a property being classified into a different differential category (possibly even Residential Vacant).

This is not a new issue, and the wording has been in place without issue. However, this submitter has pointed out a good enhancement and the words used for rural 2 have been altered to lower the focus on residential use.

Timing of objections

One submitter raised the question of timing for primary producer status/change of ownership and the objection window, pointing out that the timing may be tight in certain circumstances.

This is correct and it is possible in some circumstances to have a tight turnaround; however, a few factors mitigate this concern:

- Whilst the objection window for ratepayers is set by legislation, Council has the ability to request a revaluation outside of this window if circumstances require it.
- The rates team will be able to provide a provisional/temporary Rural 1 designation as a primary producer in the short term to allow the property owner to establish and/or provide the necessary evidence.

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Revenue raising

One submitter objected to the changes and viewed these proposals as overt revenue raising by Council. Another submitter provided a similar view phrased in a question about whether the extra revenue that would be generated by this revised Revenue and Rating Strategy is worth the administrative cost. These submissions provide an opportunity to clarify that the changes proposed in this strategy will have no impact on Council's revenue. Nor will it impact the total rates paid by ratepayers of Indigo Shire.

Instead, this change to the Revenue and rating Strategy adjusts the relative distribution of rates across the different property groups. Where one group or property pays more, another group or property will pay less. The net result of this is an overall \$0 change.

This clarification makes it easy to focus on the strategic intent of the revenue and rating Strategy. The changes being proposed (in this review these are mainly to support primary production) are a genuine restructuring of the rating system to provide for a fair and equitable rating system. In particular, the current review uses some new tools (AVPCC, etc) to enable primary production to be unlocked from the previous designation based only on property size.

Retrospective changes

One submitter pointed out that the proposed changes would impact landowners that had already set up residential properties on land that was between 40 ha and 50 ha on the belief that they would continue to qualify for the Rural 1 differential. The proposed change may adversely impact these landholders and the submission suggested that the changes should be applied to future subdivisions rather than past decisions that people had made.

This is a reasonable challenge to make, however the likely number of properties in this group, combined with the difficulty/inefficiency of applying this differently to properties in the same differential group makes this suggestion inefficient and administratively burdensome.

An alternative view for existing properties greater than 40 ha that are used for residential purposes is that the intent of the Rural 1 differential was always about farming, and not residential. Prior to this review Council allowed these residential properties to be rated as farms because it was not efficient to implement a system to differentiate between primary production and rural lifestyle blocks. This was a known and accepted weakness with past rating strategies that allowed rural lifestyle properties to gain an unintended benefit. With the increase in rural living blocks that are slightly larger than 40 ha (in order to gain a house) it is now appropriate to close this loophole and differentiate between primary production and rural lifestyle. This alternative perspective proposes that lifestyle blocks between 40 ha and 50 ha have been gaining an unintended benefit for many years that should now be fixed.

Planning Scheme basis for rates decisions

One submitter pointed out that Council already has a system of designating land into different categories: The Planning Scheme. The submission went on to suggest that this would be an appropriate basis for the raising of rates (i.e. farming rates for land that is zoned farming).

This approach seems to have some initial appeal and provides alignment between rates and land use planning. However, on a closer inspection this alignment rapidly falls apart. It is entirely normal for land in a particular zone to be used for a different purpose. Farming land is often used for businesses (for example a factory). These businesses should be rated as commercial (at 135% rather than farming (at 75%). This is reinforced by remembering that rates is a closed system and an increase in one area results in a reduction in another. Therefore, allowing businesses to operate in farming areas

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not only inappropriately reduces the Council rates for the business, but increases everyone else's rates to cover for the reduction.

Another example is where Council may rezone land for a strategic purpose. For example, some of the towns in Indigo Shire have the land in the centre of town zoned commercial as a strategic action to allow for future expansion of use. The residential houses in this area should be allowed to continue for as long as they like as residential use without having their rates increase because of a long-term strategic planning goal.

Options

There are many different permutations of the differential rating settings that can be adopted by a Council and the variances between Victorian Councils demonstrates that there is significant customisation of the rates to match local conditions and strategic directions. These options were considered in the process leading up to the production of the draft strategy that was endorsed at the April council meeting.

These settings have been tested through an exhibition process and the updated strategy (with changes that arose from the submissions) is attached. The options at this stage are:

- Adopt the attached Revenue and rating Strategy (2024). This is the recommended option.
- Retain the current rates settings (i.e. no change). This is not recommended.

STRATEGIC CONTEXT

COUNCIL PLAN 2021 – 2025	
Theme	5. Accountability
Strategic Objective	5.1 Our financial management is sound, responsible and effective.
Strategic Action	5.1.1 Review Council's Revenue and Rating strategy

This action is part of the current Council Plan, and the adoption of this strategy will acquit this action.

SOCIAL/COMMUNITY IMPLICATIONS

The setting of rates is an important part of Council's responsibilities and the method of distributing the rates across the different property types is a key consideration.

Council does not seek to use rates policy as a means of achieving social outcomes, and instead has based this work on the rating principles outlined in the state government's guidance, better practice and ministerial directions.

ENVIRONMENTAL IMPLICATIONS

As part of the deliberations leading to this rating strategy the community working group and council staff considered options such as a reduced rate for Trust for Nature (TfN) properties (i.e. properties with legal controls in place to protect vegetation and allow the land to return to a natural state).

Whilst not part of the original draft strategy the updated strategy does propose a mechanism for TfN properties greater than 8 ha (and not used for any other purpose) to apply for the Rural 1 differential.

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FINANCIAL IMPLICATIONS

The distribution of the rates burden changes the relative weighting of the rates. In this way an increase to one group of properties is balanced by increases to other properties. The total rates income to Council does not change.

The introduction of some of these changes – particularly the primary producer designation – will require an administrative cost that is currently un-budgeted. This will be managed through Council’s usual mechanisms.

One of the important learnings from the exhibition period is the amount of engagement required for this process. The attached (updates) strategy proposes an alteration to the implementation plan to better manage the financial cost of making these changes.

LEGISLATIVE IMPLICATIONS

The recommendations made in this Rating Strategy update are in accordance with the Local Government Act rules as well as being aligned to the state government guidance on rating policy.

RISK & OPPORTUNITY MANAGEMENT

Description	Likelihood	Consequence	Final Risk Rating	Controls, treatments
Adverse reaction to the changes proposed in this strategy update	Likely	Minor	Low	Explanation of reasons for changes, extensive community process

The most notable risk related to the adoption of the strategy is that of adverse community reaction from the ratepayers impacted by some of these changes, particularly the property owners in the 40 to 50 ha property size who are not able to prove primary producer status. For these rural residential ratepayers their differential will increase from 75% to 90% (a 20% increase in the variable component of their rates). This increase and is likely to be unwelcome by these ratepayers.

Council will communicate the reasons for this change and provide information and support for property owners who may meet the primary producer status.

The increase for these large rural lifestyle blocks will be offset by a benefit to all other ratepayers, however the individual value of this benefit will be small (because it is spread over thousands of properties).

COMMUNITY ENGAGEMENT

Engagement Undertaken

This strategy is the result of a significant amount of research as well as engagement with the community though;

- A community survey; and
- A community working group.
- The exhibition of the draft strategy for 2 months.

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Engagement Outcomes

The community survey received 71 responses and the attachments show the feedback received. This was used to inform the working group content.

The working group met regularly for several sessions and went through a number of aspects of the rating system. The group explored a number of relevant topics and discussed options for changes to the rating system. The group was engaged, and actively participated in the discussion. Councillors attended to observe the process and monitor the discussion.

The working group held a number of different views; however, a set of statements were produced that summarised the key outcomes and recommendations from this group. The draft strategy included all of the recommendations of the group.

Since the draft the Revenue and rating Strategy has been updated to accommodate a lower rate for Trust for Nature land that is not used for any other purpose. This specific change is different to the recommendation of the community working group.

The recent exhibition period resulted in thirteen submissions being received. These submissions are attached to this report (with personal details redacted) and all submissions have been supplied to Councillors separately (without redactions).

The submissions, and conversations held during the exhibition period, resulted in a number of changes to the final version of the Revenue and rating Strategy. These changes are described in this report and outlined in the recommended resolution.

Engagement Proposed

If adopted by Council the Revenue and Rating Strategy will be published on Council's website.

Letters will be sent to all property owners with land between 40 ha and 50 ha to explain the result of this process. The letter will clarify whether each recipient is going to remain at the 75% differential (based on combined land size, or AVPCC designation) or is likely to move to Rural 2. Any properties in the latter group will be given details on how to apply for primary producer status (returning to the Rural 1 differential rate).

Information about applying for primary producer status will be provided on Council's website.

An article about these changes will be published in Council's Weekly Update and also on Facebook.

CONCLUSION

Any update to the revenue and rating settings that a Council uses is always a challenging process. The very nature of the system means that one ratepayer's gain is a cost to another, and a balance must be struck between the competing needs.

Indigo Shire's rating settings are not dissimilar to other rural Councils and have served the Council well for many years. The community survey and community working group did not uncover any burning issues or significant weaknesses with the current settings.

However, this process has uncovered some areas that could be improved to make the system fairer. Overall, these changes align with Council's principle of supporting farming, the protection of viable

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farming land from residential development, and support for environmental land and biodiversity. The remainder of the strategy (vacant land, commercial, etc) was assessed and found to be appropriate.

The recommended updates were exhibited for two months and the feedback received during this time was valuable to assist with refining and improving the strategy. Council thanks the submitters for their time and engagement.

The attached strategy is a solid step forward and is based on state government better practice and a significant consultation process. It aligns with Council's policies and values and is an appropriate strategy for the coming years.

DECLARATION OF CONFLICT OF INTEREST

Under section 130(2) of the *Local Government Act 2020* and Governance Rule 24, the following officers declare that they have no interests to disclose in providing this report:

- Greg Pinkerton - Director Planning and Corporate Services

Attachments

1. Revenue and Rating Strategy (2024)
2. Current Rating Strategy
3. Submission 1 - Revenue & Rating Strategy - 2024_redacted
4. Submission 2 - Revenue & Rating Strategy - 2024_redacted
5. Submission 3 - Revenue & Rating Strategy - 2024_redacted
6. Submission 4 - Revenue & Rating Strategy - 2024_redacted
7. Submission 5 - Revenue & Rating Strategy - 2024_redacted
8. Submission 6 - Revenue & Rating Strategy - 2024_redacted
9. Submission 7 - Revenue & Rating Strategy - 2024_redacted
10. Submission 8 - Revenue & Rating Strategy - 2024_redacted
11. Submission 9 - Revenue & Rating Strategy - 2024_redacted
12. Submission 10 - Revenue & Rating Strategy - 2024_redacted
13. Submission 11 - Revenue & Rating Strategy - 2024_redacted
14. Submission 12 - Revenue & Rating Strategy - 2024_redacted
15. Submission 13 - Revenue & Rating Strategy - 2024_redacted

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11.2 FINANCIAL HARDSHIP POLICY (2024)

File No: 2024/578

Greg Pinkerton - Director Planning & Corporate Services Planning & Corporate Services

For Decision

RECOMMENDATION

That Council adopts the attached *Financial Hardship Policy (2024)*.

RESOLUTION

That Council adopts the attached *Financial Hardship Policy (2024)*.

Moved: Cr Croucher

Seconded: Cr Gold

For: Crs Peter Croucher, Bernard Gaffney, Sue Gold, Roberta Horne and Sophie Price

Against: Nil

CARRIED

PURPOSE OF REPORT

The purpose of this report is to present the attached *Financial Hardship Policy (2024)* for adoption.

BACKGROUND

Council's Financial Hardship Policy is due for a refresh and work has been done previously to gather the community input and consider options through a community working group. The result of this work is the attached policy that has been exhibited for two months and is ready for adoption.

DISCUSSION

In producing the attached policy, Council's management has considered a number of stakeholder inputs including the deliberations of a community working group that considered Council's Revenue and rating Strategy and Hardship Policy, as well as reviewing the results of a community survey that provided guidance on community perspectives on these documents.

In addition to the community consultation, the project also considered State Government guidelines, better practice and legislative changes.

A community working group reviewed the current Hardship Policy and had the following recommendation:

The group reviewed the draft Hardship Policy and noted that the language is harsher than the approach that is currently taken by Council. The group recommends that the wording be updated to better reflect the way that interest waivers are performed.

The attached policy has been reviewed with this in mind and the language softened to better reflect the approach taken by Council.

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In addition, the policy has been updated to:

- Provide a better definition of hardship and financial hardship.
- Better explain the things that will be considered by Council when assessing applications.
- Removal of alcohol and tobacco as indicators that someone is not in financial hardship.
- Clarify that Council prefers that an applicant seeking waivers of rates or interest seeks the assistance of a financial councillor or assistance service. This wording does not require this, however Council's preference is expressed.
- General wording improvements and clearer policy statements to remove some duplication and confusion in the current policy.

Options

Council has a number of options in regard to this policy.

- Keep the current policy. This is not recommended because the current policy is getting old and is not reflective of the current approach.
- Provide more supports and assistance than proposed in the attached policy. This is not recommended because the recommended policy is similar to other Victorian councils and reflects a reasonable approach to hardship applications.
- Remove some supports or tighten the supports that are available. This is not recommended, and does not align with the direction taken by the State Government.

STRATEGIC CONTEXT

COUNCIL PLAN 2021 – 2025	
Theme	5. Accountability
Strategic Objective	5.1 Our financial management is sound, responsible and effective.
Strategic Action	5.1.1 Review Council's Revenue and Rating strategy

The Hardship Policy is often reviewed at the same time as the Revenue and Rating Strategy (a current Council Plan action). In addition to this default, the experience of Covid and current cost of living pressures adds further motivation for Council to refresh this strategy.

SOCIAL/COMMUNITY IMPLICATIONS

This policy is used regularly for ratepayers experiencing difficulty in paying rates. The use of payment plans in particular is a very common assistance that Council provides on a daily basis. This is an important part of supporting the community and helping people in need.

The higher-level supports such as interest deferrals and waivers are less common but are used occasionally where appropriate and this can be an important assistance to ratepayers experiencing unusual financial pressures.

The highest level of support is the waiving of rates. This is very rarely requested and only applies in extreme circumstances. Despite its rare application, the existence of this safety net is an important policy position for Council to have.

ENVIRONMENTAL IMPLICATIONS

Not applicable.

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FINANCIAL IMPLICATIONS

The adoption of this policy does not change Council's income or expenditure.

The use of this policy will reduce Council's income in some circumstances. The amount of lost income is small and the circumstances under which this happens are compelling. Therefore, the financial implications are considered to be small, and acceptable.

LEGISLATIVE IMPLICATIONS

This policy complies with the Local Government Act requirements and relevant guidelines.

RISK & OPPORTUNITY MANAGEMENT

Description	Likelihood	Consequence	Final Risk Rating	Controls, treatments
That this policy position does not adequately respond to a case of financial hardship, leading to further financial hardship to a ratepayer.	Unlikely	Insignificant	Low	The policy contains options to take applications to Council for decision. If a circumstance was to arise that is not anticipated by this policy a confidential report to Council would bypass the policy and allow for a bespoke solution to be applied.

There are limited risks applicable to the adoption of this policy.

COMMUNITY ENGAGEMENT

Engagement Undertaken

This policy is the result of a significant amount of research as well as engagement with the community through:

- A community survey, and;
- A community working group.

Engagement outcomes

The community survey received 71 responses and the attachments show the feedback received. This was used to inform the working group content.

The working group met regularly for several sessions and considered the Hardship Policy. The group was engaged, and actively participated in the discussion. Councillors attended to observe the process and monitor the discussion.

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The working group made the following recommendation:

The group reviewed the draft Hardship Policy and noted that the language is harsher than the approach that is currently taken by Council. The group recommends that the wording be updated to better reflect the way that interest waivers are performed.

This has been done in the attached policy update.

The draft policy was endorsed at Council's April meeting and placed on public exhibition for a period of two months. No submissions were received in response to this exhibition.

Engagement Proposed

Once adopted the policy will be placed on the Council's website.

CONCLUSION

The attached policy is a refresh and update from the current policy. It contains very little significant change to the current policy and instead concentrates on making the document clearer and more practical to apply.

DECLARATION OF CONFLICT OF INTEREST

Under section 130(2) of the *Local Government Act 2020* and Governance Rule 24, the following officers declare that they have no interests to disclose in providing this report:

- Greg Pinkerton, Director Planning and Corporate Services.

Attachments

1. Financial Hardship Policy (2024)

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11.3 PLANNING PERMIT APPLICATION PP23-0174 - 11 SLAUGHTERHOUSE ROAD, RUTHERGLEN

File No: 2024/412

James Turner - Manager Planning & Statutory Services Planning & Corporate Services

For Decision

RECOMMENDATION

That Council issue and endorse the proposed Development Plan for 11 Slaughterhouse Road, Rutherglen, including the requested notation from North East Water.

RESOLUTION

That Council issue and endorse the proposed Development Plan for 11 Slaughterhouse Road, Rutherglen, including the requested notation from North East Water.

Moved: Cr Gold

Seconded: Cr Gaffney

For: Crs Peter Croucher, Bernard Gaffney, Sue Gold, Roberta Horne and Sophie Price

Against: Nil

CARRIED

SUMMARY

Application No:	PP23-0174
Subject Land:	11 Slaughterhouse Road Rutherglen
Proposal:	78 lot Development Plan (14 stage subdivision)
Recommendation:	Approval in accordance with the Recommendation above.

BACKGROUND

Date application lodged:	12/09/2023
Purpose:	Seek approval to use and/or develop the subject site for the purposes of 78 lot subdivision over 14 stages.
Subject site land area:	11 Slaughterhouse Road Rutherglen
Current use of subject site:	Existing dwelling and associated outbuildings
Site constraints:	Unsealed road to south of the subject site and an unmade road reserve along the northern boundary.
Surrounding land use:	Low Residential to the north and north east and Rural Activity to the south.

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Zoning of surrounding land: Rural Activity Zone to the south

PROPOSAL

The proposal is required to facilitate the envisaged development outcome for the land, which may include fully serviced minimum 2,000sqm allotments and/ or septic/effluent managed low density allotments. The Development Plan is proposed to be approved under Schedule 3 to the Development Plan Overlay (DPO) to ensure future development applications may be considered generally in accordance with the approved Slaughterhouse Road Development Plan.



Figure 1 – Aerial image

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Figure 2 – Development plan



Figure 3 – Staged subdivision plan

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Figure 4 – Proposed landscape plan



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Figure 5 – Landscape plan & plant schedule

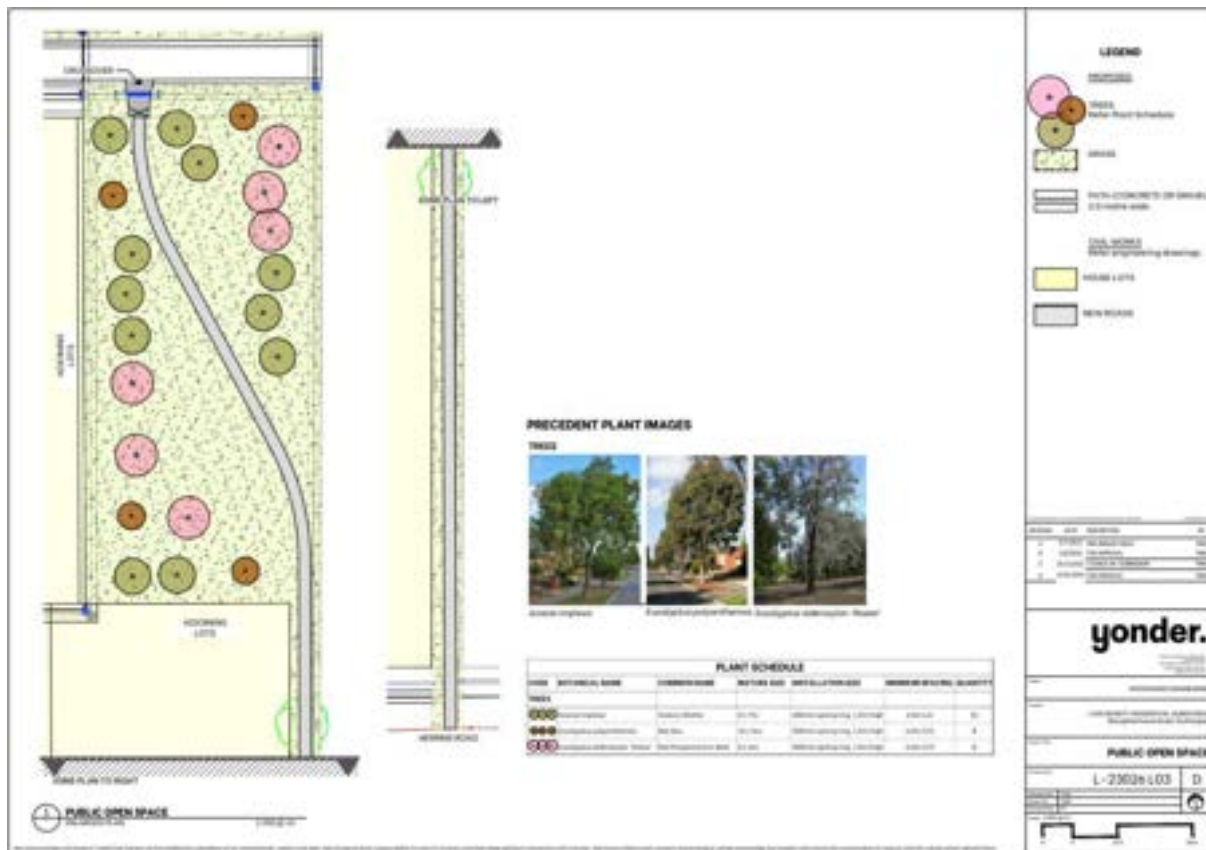


Figure 6 – Landscape plan & plant schedule 2

ZONING AND PLANNING CONTROLS

Zoning: The land is zoned

- Clause 32.03 - Low Density Residential Zone (LDRZ)

Overlay/s: The land is covered by the following overlays:

- Clause 43.04 – Development Plan Overlay Schedule 3 (DPO3)

Permit Trigger:

N/A, as the proposal does not include a planning permit.

A proposed development plan has been submitted to Council for approval.

Planning and Environment Act 1987 - SECT 60

Section 60 of the Act provides that before deciding on an application, the responsible authority must consider:

- (a) the relevant planning scheme; and
- (b) the objectives of planning in Victoria (which include at Section 4(1)(b) to provide for the protection of natural and man-made resources...); and
- (c) all objections and other submissions which it has received and which have not been withdrawn; and
- (d) any decision and comments of a referral authority which it has received; and

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- (e) any significant effects which the responsible authority considers the use or development may have on the environment or which the responsible authority considers the environment may have on the use or development.
- (f) any significant social effects and economic effects which the responsible authority considers the use or development may have.

Section (1A) of the Act provides that the responsible authority, if the circumstances appear to so require, may consider:

- (g) any other strategic plan, policy statement, code or guideline which has been adopted by a Minister, government department, public authority or municipal council;
- ...
- (j) any other relevant matter.

MUNICIPAL PLANNING STRATEGY AND PLANNING POLICY FRAMEWORK

The purpose of policy in planning schemes is to inform planning authorities and responsible authorities of those aspects of planning policy which they are required to consider and give effect to in planning and administering their respective areas. It is the State Government's expectation that planning and responsible authorities will endeavour to integrate the range of policies relevant to the issues to be determined and balance conflicting objectives in favour of net community benefit and sustainable development. Planning and responsible authorities must take account of and give effect to both the general principles and the specific policies applicable to issues before them to ensure integrated decision-making.

Society has various needs and expectations such as land for settlement, protection of the environment, economic well-being, various social needs, proper management of resources and infrastructure. Planning aims to meet these by addressing aspects of economic, environmental and social well-being affected by land use and development.

Planning is to anticipate and respond to the needs of existing and future communities through provision of zoned and serviced land for housing, employment, recreation and open space, commercial and community facilities and infrastructure. Planning is to recognise the need for, and as far as practicable contribute towards:

- Health and safety.
- Diversity of choice.
- Adaptation in response to changing technology.
- Economic viability.
- A high standard of urban design and amenity.
- Energy efficiency.
- Prevention of pollution to land, water and air.
- Protection of environmentally sensitive areas and natural resources.
- Accessibility.
- Land use and transport integration.

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The Municipal Planning Strategy and Planning Policy Framework seeks to ensure that the objectives of planning in Victoria are met and encouraged through land use and development. The following policies and clauses are deemed to be relevant to this proposal and have been considered in the assessment of this application:

Settlement

11.01-1S – Settlement

11.02-3S – Sequencing of Development

Environment

12.01-1S – Protection of Biodiversity

12.01-2S – Native Vegetation

Natural Resource Management

14.02 -2S – Water Quality

14.02-2L-02 – Effluent Disposal and Water Quality

Built Environment and Heritage

15.01-3S – Subdivision Design

15.01-5S – Neighbourhood Character

15-01-6S – Design for rural Areas

Housing

16.01-1-2S – Housing Supply

16-01-1L – Residential Subdivision and Development

16.01-2S – Housing Affordability

16-01-3S – Rural Residential Development

Transport

18.02—4S – Roads

PARTICULAR PROVISIONS

Clause 52.17 - Native Vegetation

The purpose of this provision is:

To ensure that there is no net loss to biodiversity as a result of the removal, destruction or lopping of native vegetation. This is achieved by applying the following three step approach in accordance with the Guidelines for the removal, destruction or lopping of native vegetation (Department of Environment, Land, Water and Planning, 2017) (the Guidelines):

- 1. Avoid the removal, destruction or lopping of native vegetation.*
- 2. Minimise impacts from the removal, destruction or lopping of native vegetation that cannot be avoided.*
- 3. Provide an offset to compensate for the biodiversity impact if a permit is granted to remove, destroy or lop native vegetation.*

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To manage the removal, destruction or lopping of native vegetation to minimise land and water degradation.

Planner comments:

Biodiversity Assessment has been completed by Red Gum Environmental Consulting. The assessment identified three scattered native trees and patches of Plains Woodland (EVC 803) and Low Rises Grassy Woodland (EVC 175_61) to be considered as part of any future development. The Slaughterhouse Road Development Plan encourages the integration and retention of the scattered native trees into private allotments. The patches of native vegetation will likely be removed as part of the works associated with the subdivision. The future planning application must address Clause 52.17 directly through a specific Biodiversity Assessment and Native Vegetation Removal Report.

Clause 53.01 – Public Open Space Contribution and Subdivision

Clause 53.01 of the Indigo Shire Planning Scheme may require a public open space contribution as part of a planning permit, in accordance with Section 18 of the *Subdivision Act 1988*.

Planner comments:

The Schedule to Clause 53.01 of the Indigo Shire Planning Scheme does not provide a specific contribution requirement for the subject site. However, the provisions of the *Subdivision Act 1988* would typically require a 5% Public Open Space contribution in the form of land or a cash equivalent contribution. The Development Plan shows potential areas of public open space. While the detailed design of the future open space will be addressed as part of a planning permit, the proposed plan shows an appropriate location and basic design for the future open space.

GENERAL PROVISIONS

65 Decision Guidelines

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

65.01 – Approval of an application or plan

Before deciding on an application or approval of a plan, the responsible authority must consider, as appropriate:

- The matters set out in section 60 of the Act.
- Any significant effects the environment, including the contamination of land, may have on the use or development.
- The Municipal Planning Strategy and the Planning Policy Framework.
- The purpose of the zone, overlay or other provision.
- Any matter required to be considered in the zone, overlay or other provision.
- The orderly planning of the area.
- The effect on the environment, human health and amenity of the area.
- The proximity of the land to any public land.

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- Factors likely to cause or contribute to land degradation, salinity or reduce water quality.
- Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site.
- The extent and character of native vegetation and the likelihood of its destruction.
- Whether native vegetation is to be or can be protected, planted or allowed to regenerate.
- The degree of flood, erosion or fire hazard associated with the location of the land and the use, development or management of the land so as to minimise any such hazard.
- The adequacy of loading and unloading facilities and any associated amenity, traffic flow and road safety impacts.
- The impact the use or development will have on the current and future development and operation of the transport system.

Planner comments:

The proposal has been considered against Clauses 65.01 and is considered to generally satisfy the relevant matters and issues identified under the clauses. Namely;

- The proposal is consistent with section 60 of the Act.
- The proposal consistent with the purpose or objectives outlined in either zone or the overlay.
- The development plan supports and facilitates orderly future subdivision, which is considered to be a logical outcome for the land.
- The development plan facilitates the future servicing of the land, and considers the current constraints on servicing from North East Water.
- Impacts on vegetation have been identified and considered, and will form part of the future planning permit consideration.
- Relevant amenity and safety risks have been considered, and
- The development plan will not have unacceptable adverse impacts on the transport system.

REFERRAL AUTHORITIES

The application was referred to the following referral authorities in accordance with Section 55 of the Planning and Environment Act 1987 and/or advice was sought from the following:

- North East Water

“North East Water does not object to the approval of the Development Plan for the 14-stage subdivision, however, advises that there are currently significant capacity constraints on the existing sewer infrastructure affecting Stages 2 to 14 of the Development Plan.

Stage 1 of the Development Plan is proposed to be serviced with onsite septic systems, which is supported by North East Water, and North East Water does not object to a permit for the Development Plan for Stage 1 being granted.

However, upgrades are required to North East Water’s sewerage infrastructure to service the allotments proposed for Stages 2 to 14 of the Development Plan. Therefore, a planning permit

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seeking subdivision approval for Stages 2 to 14 requiring connections to reticulated sewer may not be supported by North East Water at this time.

North East Water has commenced master planning for Rutherglen which includes the expansion of sewer services but is unable to specify a timeframe for when new sewerage services will be available for Stages 2 to 14 of this development.

Should Council resolve to approve the application for the Development Plan, North East Water requests that the following notations be placed on any approval of the Development Plan granted by Council:

Notation:

The developer is advised that sewer services are currently unavailable for Stages 2 to 14 of the development. Sewerage infrastructure for Rutherglen is currently under development which will allow for new allotments to be connected to sewer in the future. The developer is encouraged to deal directly with North East Water regarding future sewer servicing timing and capabilities for Stages 2 to 14 of the Development Plan and future sewer connection requirements."

- Infrastructure (internal)
- Environmental Health (internal)

Planner comments:

Responses received recommendations of approval subject to conditions and notations. However, given the comments provided by North East Water, the current service ability for the proposed subdivision is significantly limited for the near future. The proposed development plan will create a guideline for future subdivision and development as the serviceability of the area is upgraded to meet the demands of the growing population of Rutherglen. This being said, the size of the proposed development plan is large but limited to North East Waters serviceability, which may take many years to catch up to any proposed subdivision and development. As such, the development plan proposed will serve as an appropriate guideline for future subdivision and development and in-turn allow for the surrounding infrastructure to service the area and wider community.

PUBLIC NOTICE

In accordance with Indigo Shire Councils practice in relation to Development Plans notice of the application was given to adjoining owners and occupiers and other relevant persons.

[17] submissions were received in response.

Issues raised include:

Summary of planning issues raised

- The increase in traffic down slaughterhouse road/ high.
- The road is not wide enough in some places.
- No footpaths have been proposed.
- The 5-way intersection of High Street/Sheridans Bridge Road/ Ready Street is already busy and at school times a dangerous intersection, especially coming from the High Street/Slaughterhouse Road end turning out.

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- No childcare availability for the increase in population.
- Zoning is not compliant with the purpose of the zone (LDRZ)
- Concerns regarding stormwater runoff due to increased development
- Safety of cyclists
- Herrins Road will only be upgraded to a dirt road as per the same grade as the dirt section of Slaughterhouse Road
- The proposal doesn't have any information that refers to any restrictions to the size, shape or materials that the homes are needed to conform. For example, Energy efficient, green space requirement.
- There is no provision for open spaces
- Indigo's Urban Canopy Strategy
- The proposed development is within a wildlife corridor
- How will the subdivision access be addressed with the increased density.

Planner comments:

Due to the number of objections a meeting was called to hear and address the community's concerns. A planning focus meeting was held on the 5th April 2024 attended by the applicant, objectors, & Council officers to clarify the issues raised in objections.

Council officers found the meeting very useful to better understand the concerns of community members. Broadly speaking, Council officers heard that there were some specific concerns with the subdivision as proposed, however the larger concerns related to the ability of the infrastructure of Rutherglen to support development. More specifically:

Subdivision

- Appropriate greening and landscaping, including impacts on existing trees;
- The size, location and adequacy of the proposed open space area;
- The stormwater drainage system, including:
 - Whether the proposed drainage basin is suitable, both in size and configuration;
 - The impacts on downstream properties;
 - If 1 in 100 modelling is suitable, and more broadly if the modelling is accurate; and
- The standards required for roads.

Broader Area

- Road safety concerns, particularly the Ready Street/Five ways intersection;
- Lack of footpaths and connectivity to the main part of town;
- Impact on existing constraints in the sewerage and potable water supply, with water pressure being of particular concern;
- Existing stormwater issues;

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- Concerns around lack of social infrastructure, ie schools and childcare; and
- Impact on commercial services, such as the supermarket.

Planner comments:

An updated Traffic Impact Assessment has been submitted to Council for review and stated:

“With respect to the updated traffic report & the development plan, assets will not reduce the road requirements for Herrin’s Road & Telford Street as per the recommendations from the Traffic report, and as noted on the submitted development plan”

Given the comments received by Councils infrastructure department, a condition will be added to any future permits issued requiring updated plans to reflect the engineering/infrastructure conditions provided.

Overall, the objections provided Council with a better understanding of its site and its constraints, as well as allowing the applicant to make a number of changes in response.

CONCLUSION

The proposed development plan, comprising of a maximum of seventy-eight (78) lot subdivision, is consistent with the relevant provisions of the PPF, as well as the objectives of the Low Density Residential Zone, and in accordance with Development Plan Overlay.

The plan has been referred to the relevant authorities and their responses included in the recommendation. The proposed plan has also been provided to the surrounding properties and a focus meeting held to explore any concerns. This process, and the community consultation, has been very useful in considering the proposal, and deciding on notations that are appropriate for the plan.

After conducting the full planning assessment process, the Development Plan has been found to be suitable and it is therefore recommended for approval.

CONFIDENTIAL ATTACHMENT

The following confidential attachment has been provided to Councillors under separate cover. Recent changes to Section 197A of the *Planning and Environment Act 1997* have clarified and tightened the way Councils are able to make certain planning documents available to the public. The Act provides that the confidential document listed below can only be made available for public inspection:

- at Council offices during business hours, or
- electronically via Council’s website subject to strict public availability requirements, requiring significant editing of individual documents.

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Council currently does not have the resources to provide the document online in line with the public availability requirements of the Act, and so is at this stage unable to publish it in the public agenda online.

DECLARATION OF CONFLICT OF INTEREST

Under section 130(2) of the *Local Government Act 2020* and Governance Rule 24, the following officers declare that they have no interests to disclose in providing this report:

- Danieel Matthews, Senior Statutory Planner
- James Turner, Manager Planning and Statutory Services
- Greg Pinkerton – Director Planning and Corporate Services

Attachments

1. PP23-0174 - Objections - 11 Slaughterhouse Road - Rutherglen (Confidential)
2. PP23-0174 - Updated Development Plan - 11 Slaughterhouse Road - Rutherglen - PN 4128

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11.4 PLANNING PERMIT APPLICATION PP23-0002 - 41-47 FOORD STREET, WAHGUNYAH

File No: 2024/415

James Turner - Manager Planning & Statutory Services Planning & Corporate Services

For Decision

RECOMMENDATION

That Council issue a notice of decision to grant a planning permit at 41 – 47 Foord Street, Wahgunyah, for:

Staged subdivision of land in the General Residential Zone and Bushfire Management Overlay. Removal of an easement in accordance with clause 52.02 of the *Indigo Planning Scheme*.

Subject to the following conditions:

ENDORSED PLANS – SUBDIVISION

1. The subdivision allowed by this permit and shown on the plans endorsed to accompany the permit must not be amended for any reason unless with the prior written consent of the Responsible Authority.

STAGED SUBDIVISION

2. The subdivision must proceed in the order of stages as shown on the approved and endorsed plan, except with the prior written consent of the responsible authority.

LAND VESTED IN COUNCIL

3. Prior to certification of stage 1, all land required for drainage assets must be shown on the plan of subdivision as a reserve in favour of Indigo Shire Council, to the satisfaction of the responsible authority.

OPEN SPACE CONTRIBUTION

4. Before the Statement of Compliance is issued under the *Subdivision Act 1988*, the applicant or owner must pay a monetary contribution for public open space of 5 per cent in accordance with a decision of the Council made under section 18 of the *Subdivision Act 1988*.

The responsible authority may delay the time for payment of the monetary contribution by agreement in writing with the applicant or owner

EASEMENTS

5. All existing and proposed easements and sites for existing and required utility services and roads on the land must be set aside in favour of the relevant authority for which the easement or site is to be created on the plan of subdivision submitted for certification under the *Subdivision Act 1988*.

ENGINEERING CONDITIONS

Detailed construction plans

6. Prior to certification of each stage, detailed construction plans must be approved and endorsed by the responsible authority. The construction plans must:
 - a) be prepared to the satisfaction of the responsible authority
 - b) be drawn to scale with dimensions and submitted electronically.
 - c) Include the following:
 - i. All details of works consistent with the relevant landscape plan and plan of subdivision for the relevant stage of the subdivision.
 - ii. Design for full construction of streets and underground drainage, including

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measures to control / capture pollutants and silt.

- iii. Provision for all services and conduits (underground), including alignments and offsets, on a separate services layout plan.
- iv. All road reserve and pavement widths to be in accordance with the endorsed plans, Indigo Shire Council Standard Drawings and the Infrastructure Design Manual (IDM), including:
 - 1) 7.3m carriageway width;
 - 2) 30mm deep asphalt;
 - 3) Capacity to convey a 1% AEP event through the development site via public roads, reserves or easement;
 - 4) Underground drainage to capacity to convey a 10% AEP event;
 - 5) Kerb and channel:
 - a. SM2 – Modified – Both sides of Victoria Street
 - b. Barrier type – Foord Street infill section
- v. All intersection treatments to allow Council's waste collection vehicles to manoeuvre in a forward direction without the need for reversing.
- vi. All court heads to allow Council's waste collection vehicles to access and egress from the courts in a forward direction.
- vii. Verge widths around all bends, intersections and within court bowls must not be less than 3m in width.
- viii. Priority intersection treatments must be provided at intersections, 90-degree bends and at standard "T" intersections. The priority intersection treatment must comprise of an open invert channel across the entrance to the minor street and a low profile splitter island on the minor road.
- ix. Low profile splitter island, solid white centreline pavement marking and raised reflective pavement markings (RRPM) on all 90-degree bends on through roads.
- x. Provision of concrete footpaths in all streets and reserves. All footpaths must be a minimum 1.5 metres in width and be in accordance with Indigo Shire Council Standard Drawings.
- xi. Provision of public lighting with underground electricity supply to all streets, footpaths, bus stops and to major pedestrian and bicycle links.
- xii. All street lighting must be designed in accordance with AS 1158. Non-standard street lighting will not be accepted.
- xiii. Access to all public buildings, pathways and road crossings must comply with the *Disability Act* 2006 and be to the satisfaction of the Responsible Authority.
- xiv. Provision of street name plates to the Indigo Shire Council Standard Drawings including a schedule of individual signs and associated street numbers.
- xv. Provision of underground easement drains of sufficient capacity to serve all lots being created which connect to a legal point of discharge including the provision of an inlet to each lot.
- xvi. The location and provision of vehicle exclusion mechanisms abutting

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reserves.

- xvii. Details of the proposed treatment and provision for lot boundary fencing adjoining all reserves other than road reserves.
 - xviii. Permanent survey marks.
 - xix. Survey details of the canopy trunk location and size of trees to be retained and associated tree protection zones.
 - xx. Details in relation to all filling on the land that must be compacted to specifications approved by the Responsible Authority.
 - xxi. The underground relocation of all existing aerial services, on the services layout plan.
 - xxii. The location of any earthworks (cut or fill) or service provision in a location outside the designated tree protection zone which does not adversely impact on the health and integrity of any trees to be retained.
 - xxiii. The drainage system of the proposed development must be designed to ensure that flows downstream of the land are restricted to pre-development levels.
 - xxiv. Underground drainage must be provided and any other drainage works necessary for the transmission of drainage as required to the outfall.
 - xxv. All drainage works must be designed to meet the following current best practice performance objectives for stormwater quality as contained in the *Urban Stormwater – Best Practice Environmental Management Guidelines (1999)*:
 - 6) 80% retention of the typical annual load of total suspended solids;
 - 7) 45% retention of the typical annual load of total phosphorus;
 - 8) 45% retention of the typical annual load of total nitrogen; and
 - 9) 100% retention of the typical annual load of gross pollutants.
 - xxvi. Each lot must be provided with one drainage discharge point.
 - xxvii. All lots within the proposed development abutting or adjoining a watercourse or water body must have a minimum 600mm freeboard above the 1 in 100 year flood level of the water course or water body.
7. Roads and allotments are to be designed such that the allotments are protected with a minimum 300mm freeboard against the 1 in 100 flooding, where the water level exceeds 50mm above the top of kerb.
 8. The design and scope of detailed engineering plans to be submitted for approval must meet the requirements of the Infrastructure Design Manual (IDM), and all works are to be carried out in accordance with this Manual.

Detailed Landscape Plan

9. Prior to certification under the *Subdivision Act 1988*, a detailed landscape plan for the bioretention basin and adjoining and drainage reserve, streetscapes and landscape elements must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and must show:
 - a) all new plantings including their layout to be provided in any public open space area including streetscapes, parklands, water retention areas, buffer zones, service corridors, and environmental reserves

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- b) retention of all existing street trees
- c) provision of one street tree for each non-corner allotment and two street trees for each corner allotment
- d) a detailed planting schedule of all proposed trees, shrubs and groundcovers, including botanical names, common names, pot sizes, sizes at maturity and quantities of each plant. All species selected must be to the satisfaction of the Responsible Authority
- e) details regarding specific planting techniques to be undertaken, such as planting methodology, root barriers, fertilizer, or any other requirements;
- f) the proposed layout, materials and finishes of paths, areas of pavement, playgrounds, play items, structures and street and park furniture
- g) detailed planting and construction drawings including site contours and any proposed changes to existing levels including any structural elements such as retaining walls, details of drainage infrastructure, utility services, irrigation and water supply infrastructure
- h) detailed construction drawings of any buildings or structures within any public open space areas including additional supporting information such as certified structural design computations
- i) details for the design, supply and installation of playground equipment
- j) the removal of all existing disused structures, foundations, pipelines or stockpiles and the eradication of weeds from the land
- k) mechanisms for the exclusion of vehicles from reserve areas
- l) location and details of public lighting. Any proposed public lighting is to be provided in line with Australian Standards AS/NZS 1158.3.1:2005 – Lighting for roads and public spaces and must not consist of non-standard lighting
- m) fencing details for all allotment boundary fencing abutting a reserve to be transferred to Council

all to the satisfaction of the Responsible Authority.

Erosion and sediment control plan

10. Prior to the Certification of the Plan of subdivision an Erosion & Sediment Control Plan prepared in accordance with the EPA document *Construction Techniques for Sediment Pollution Control, Environment Protection Authority May 1991* must be submitted to and approved by the Responsible Authority.

Construction management plan

11. Prior to the commencement of any works on site, a Construction Management Plan must be prepared to the satisfaction of the Responsible Authority. Once approved the Construction Management Plan will be endorsed and form part of this permit. The plan must address at least the following matters:
 - a) Operating hours, noise and vibration, including details of:
 - i. Noise control
 - ii. Signage
 - iii. After hour works
 - b) Air and dust management, including details of:
 - i. Prevention and control, including storage of loose materials

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- ii. Smoke and pollution
- c) Stormwater and sediment, including details of:
 - i. Stormwater and sediment control measures
 - ii. Excavation work
 - iii. Vehicle entry and exit points
 - iv. Washing and clean up
- d) Waste and materials reuse, minimisation and management, including details of:
 - i. Waste collection arrangements
 - ii. Hazardous waste
 - iii. Scheduled clean-ups
- 12. 24-hour emergency contact details of a liaison officer for adjacent business owners and the Responsible Authority in the event of relevant queries or problems experienced during construction.

Construction in accordance with detailed engineering plans

- 13. Prior to statement of compliance, all works outlined on the approved detailed engineering plans, landscape plan and erosion and sediment control plan must be completed to the satisfaction of the responsible authority.

As Built Documents Required

- 14. Before the issue of a Statement of Compliance for each stage of the subdivision under the *Subdivision Act 1988*, the following must be submitted to the satisfaction of the Responsible Authority:
 - a) A complete set of “as constructed plans” of site works in digital file format AutoCAD. The digital files must have a naming convention to enable identification of Council assets listed.
 - i. A list of asset quantities which include the following Council assets;
 - ii. Total length of Roads, Footpath, Kerb and Channel,
 - iii. Total number of Bridges, WSUD features, Traffic calming devices,
 - iv. Total length of pipe and number of pits for Drainage and Telecommunications,
 - v. Total number of streetlights.
 - b) Asset information in digital format to include drainage data in accordance with the “D-Spec” Standard and open space data in accordance with the “O-Spec” Standard.
 - c) A report containing a maintenance regime for all Water Sensitive Urban Design features.
 - d) A CCTV video recording of all completed drains.
 - e) A refundable maintenance bond of 5 per cent of the total cost of all construction works, to be held for a minimum of 12 months.
- 15. The applicant will be responsible for design and construction of new road in Victoria Street generally as identified in the endorsed plans, to an Access Street IDM standard (7.3m carriageway width). The new road and all associated infrastructure must be constructed to the satisfaction of the responsible authority prior to statement of compliance for Stage 3.

Subdivision Fees

- 16. Prior to statement of compliance for each subdivision stage, the applicant must pay, to

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Council, Plan Checking Fees of 0.75% and Engineering Inspection Fees of 2.5% of the cost of constructing the works proposed on the engineering plan. The value of works must be the final actual cost of works (GST Inclusive).

17. Following practical completion of all construction works, a defect liability period of 12 months will apply to all assets to be inherited by Council.
18. Prior to statement of compliances, a Guarantee of Work equal to 5% of the total cost of roads, drainage and hard landscaping must be provided to Council. This Guarantee will be held by Council until satisfactory completion of any rectification of defects following the 12-month defect liability period. If the applicant fails to complete rectification works, Council will call on the Guarantee to fund the works.

AUSNET CONDITIONS

19. The applicant must –
 - a) Enter in an agreement with Ausnet Electricity Services Pty Ltd for supply of electricity to each lot on the endorsed plan.
 - b) Enter into an agreement with Ausnet Electricity Services Pty Ltd for the rearrangement of the existing electricity supply system.
 - c) Enter into an agreement with Ausnet Electricity Services Pty Ltd for rearrangement of the points of supply to any existing installations affected by any private electric power line which would cross a boundary created by the subdivision, or by such means as may be agreed by Ausnet Electricity Services Pty Ltd.
 - d) Provide easements satisfactory to Ausnet Electricity Services Pty Ltd for the purpose of “Power Line” in the favour of “Ausnet Electricity Services Pty Ltd” pursuant to Section 88 of the Electricity Industry Act 2000, where easements have not been otherwise provided, for all existing Ausnet Electricity Services Pty Ltd electric power lines and for any new power lines required to service the lots on the endorsed plan and/or abutting land.
 - e) Obtain for the use of Ausnet Electricity Services Pty Ltd any other easement required to service the lots.
 - f) Adjust the position of any existing Ausnet Electricity Services Pty Ltd easement to accord with the position of the electricity line(s) as determined by survey.
 - g) Set aside on the plan of subdivision Reserves for the use of Ausnet Electricity Services Pty Ltd for electric substations.
 - h) Given the existing 22kV feeder is a REFCL feeder, additional HV underground assets will trigger the need for a REFCL isolating substation. Should this be required, an additional reserve may be required on the plan of subdivision for the use of Ausnet Electricity Services Pty Ltd for electric substations.
 - i) Provide survey plans for any electric substations required by Ausnet Electricity Services Pty Ltd and for associated power lines and cables and executes leases for a period of 30 years, at a nominal rental with a right to extend the lease for a further 30 years. Ausnet Electricity Services Pty Ltd requires that such leases are to be noted on the title by way of a caveat or a notification under Section 88 (2) of the Transfer of Land Act prior to the registration of the plan of subdivision.
 - j) Provide to Ausnet Electricity Services Pty Ltd a copy of the plan of subdivision submitted for certification that shows any amendments that have been required.
 - k) Agree to provide alternative electricity supply to lot owners and/or each lot until such time as permanent supply is available to the development by Ausnet Electricity Services Pty Ltd. Individual generators must be provided at each supply point. The

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generator for temporary supply must be installed in such a manner as to comply with the Electricity Safety Act 1998.

- l) Ensure that all necessary auditing is completed to the satisfaction of Ausnet Electricity Services Pty Ltd to allow the new network assets to be safely connected to the distribution network.

MANDATORY CONDITION – CLAUSE 44.06-5

20. Before the statement of compliance is issued under the Subdivision Act 1988 the owner must enter into an agreement with the responsible authority under Section 173 of the Planning and Environment Act 1987. The agreement must:

- a) State that it has been prepared for the purpose of an exemption from a planning permit under Clause 44.06-2 of the Indigo Planning Scheme.
- b) Incorporate the plan prepared in accordance with Clause 53.02-4.4 of this planning scheme and approved under this permit.
- c) State that if a dwelling is constructed on the land without a planning permit that the bushfire protection measures set out in the plan incorporated into the agreement must be implemented and maintained to the satisfaction of the responsible authority on a continuing basis.

The land owner must pay the reasonable costs of the preparation, execution and registration of the Section 173 Agreement.

CFA CONDITIONS

Bushfire Management Plan Required

21. Prior to certification under the Subdivision Act 1988, an amended Bushfire Management Plan must be submitted to and endorsed by the Responsible Authority. Once endorsed the Bushfire Management Plan must be included as an annexure to the section 173 agreement prepared to give effect to clause 44.06-5 of the Planning Scheme and not be altered unless agreed to in writing by CFA and the Responsible Authority. The plan must be generally in accordance with Bushfire Management Plan (BMP) prepared by Habitat Town Planning & Urban Design Consultants, contained in “Other Document Type_Ver_2_Bushfire Plans_20230428_1.pdf” but modified to replace the conditions for defendable space, construction standards, access and water supply with:

- a) Defendable space for Lots 1-3 & 11 to 14 only:

Defendable space for a distance of 24 metres around the proposed building (or to the property boundary, whichever is the lesser distance) must be provided where vegetation (and other flammable materials) will be modified and managed in accordance with the following requirements:

- i. Grass must be short cropped and maintained during the declared fire danger period.
- ii. All leaves and vegetation debris must be removed at regular intervals during the declared fire danger period.
- iii. Within 10 metres of a building, flammable objects must not be located close to the vulnerable parts of the building.
- iv. Plants greater than 10 centimetres in height must not be placed within 3m of a window or glass feature of the building.
- v. Shrubs must not be located under the canopy of trees.
- vi. Individual and clumps of shrubs must not exceed 5 sq. metres in area and must be separated by at least 5 metres.

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- vii. Trees must not overhang or touch any elements of the building.
- viii. The canopy of trees must be separated by at least 5 metres.
- ix. There must be a clearance of at least 2 metres between the lowest tree branches and ground level.
- b) Construction standards for Lots 1-3 & 11 to 14 only:
The building must comply to a minimum Bushfire Attack Level of 19 (BAL-19).
- c) Water supply for Lots 1 and 12 to 14:
5,000 litres of effective water supply for fire fighting purposes must be provided which meets the following requirements:
 - i. Is stored in an above ground water tank constructed of concrete or metal.
 - ii. All fixed above-ground water pipes and fittings required for firefighting purposes must be made of corrosive resistant metal.
 - iii. Include a separate outlet for occupant use.
- d) Water supply for Lots 2, 3 & 11:
10,000 litres of effective water supply for fire fighting purposes must be provided which meets the following requirements:
 - i. Is stored in an above ground water tank constructed of concrete or metal.
 - ii. All fixed above-ground water pipes and fittings required for firefighting purposes must be made of corrosive resistant metal.
 - iii. Include a separate outlet for occupant use.
 - iv. Incorporate a ball or gate valve (British Standard Pipe (BSP) 65mm) and coupling (64 mm CFA 3 thread per inch male fitting).
 - v. Be located within 60 metres of the outer edge of the approved building.
 - vi. The outlet/s of the water tank must be within 4m of the accessway and be unobstructed.
 - vii. Be readily identifiable from the building or appropriate identification signage to the satisfaction of CFA must be provided.
 - viii. Any pipework and fittings must be a minimum of 65 mm (excluding the CFA coupling).
- e) Access for Lots 2, 3 & 11 only:
Access for fire fighting purposes must be provided which meets the following requirements:
 - i. All weather construction.
 - ii. A load limit of at least 15 tonnes.
 - iii. Provide a minimum trafficable width of 3.5 metres
 - iv. Be clear of encroachments for at least 0.5 metre on each side and at least 4 metres vertically.
 - v. Curves must have a minimum inner radius of 10m.
 - vi. The average grade must be no more than 1 in 7 (14.4 per cent) (8.1 degrees) with a maximum of no more than 1 in 5 (20 per cent) (11.3 degrees) for no more than 50m.
 - vii. Dips must have no more than a 1 in 8 (12.5 per cent) (7.1 degrees) entry and exit angle.

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f) Amend Map Section of Plan

The building envelopes, water tanks and defendable space must be shown for Lot 1-3 & 11 to 14. The different water tank sizes must be clearly shown.

The access must be shown for Lots 2, 3 and 11.

Additional matters to be set out in the Section 173 agreement.

22. In addition to the requirements of Clause 44.06-5 of the Scheme, the section 173 Agreement prepared in accordance with that clause must also:

- a) Note that the subdivision includes areas of shared defendable space. These are areas where a lot owner maintains the defendable space on their land for the benefit of themselves and the owners of other lots.
- b) Require that the defendable space shown on the endorsed Bushfire Management Plan must be implemented and maintained on an ongoing basis to the satisfaction of the Responsible Authority, regardless of whether there is a dwelling constructed on that land or not.

Hydrants

23. Prior to the issue of a Statement of Compliance under the Subdivision Act 1988 the following requirements must be met to the satisfaction of the CFA:

- a) Above or below ground operable hydrants must be provided. The maximum distance between these hydrants and the rear of all building envelopes (or in the absence of building envelopes, the rear of the lots) must be 120 metres and the hydrants must be no more than 200 metres apart. These distances must be measured around lot boundaries.
- b) The hydrants must be identified with marker posts and road reflectors as applicable to the satisfaction of the Country Fire Authority.

NORTH EAST WATER CONDITIONS

24. The owner of the subject land (or applicant in anticipation of becoming the owner) is required to enter into a legal agreement with North East Water detailing the works to be constructed, and other requirements to be met, necessary for the provision of reticulated water supply to each of the lots and proposed dwellings, within the development, at the owner's cost, to the satisfaction of North East Water, provided:

- a) where the development is staged, a number of agreements may be required for separate stages; and
- b) each agreement must be in accordance with North East Water policy and requirements applying at the time of entry into the relevant agreement.

25. The owner of the subject land (or applicant in anticipation of becoming the owner) is required to enter into a legal agreement with North East Water detailing the works to be constructed and other requirements to be met, necessary for the provision of reticulated sewerage services to each of the lots and proposed dwellings, within the development, at the owner's cost, to the satisfaction of North East Water, provided:

- a) where the development is staged, a number of agreements may be required for separate stages; and
- b) each agreement must be in accordance with North East Water policy and requirements applying at the time of entry into the relevant agreement.

26. Where the development (including any subdivision) occurs in stages the availability of water supply and sewerage services may be delayed having regard to NEW system capacity,

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conditions in relation to which shall be detailed in the relevant agreement for water supply and/or sewerage services.

27. The works required to be constructed for the provision of water supply and sewerage services must include, where so required by and to the satisfaction of, North East Water:
 - a) works external to the subject land to allow connection to the North East Water water supply and sewerage systems;
 - b) the vesting at no cost of such of those works required by North East Water, to North East Water ("Developer Works"); and
 - c) works to ensure compatibility with and allowance for, other developments being served through existing and future North East Water infrastructure, including the Developer Works
 - d) internal or private works within the development, in accordance with applicable plumbing standards and providing adequate pressure and service levels.
28. Any modification to the development approved under this permit, including an increase or decrease in the number of dwellings or lots (or both) or the inclusion of additional land, requires the further consent of and may be subject to modified conditions, to the satisfaction of, North East Water.
29. Prior to the issue of a Statement of Compliance, the applicant must pay a new customer contribution determined in accordance with North East Water's policy for development charges applicable to the water supply system currently servicing the area in which the subject land is located.
30. Prior to the issue of a Statement of Compliance, the applicant must pay a new customer contribution determined in accordance with North East Water's policy for development charges applicable to sewers and disposal systems currently servicing the area in which the subject land is located.
31. The applicant must create easements to the satisfaction of and in favour of North East Water, over all existing and proposed sewerage facilities within the proposed subdivision.
32. The applicant must ensure that private water services do not traverse property boundaries and are independently supplied from a point of supply approved by North East Water.
33. The applicant must provide easements through other land, to the satisfaction of North East Water, if such easements are considered necessary for the efficient and economic servicing of the subject land.
34. That the applicant pays applicable charges determined in accordance with North East Water's policy for development charges, applicable from time to time towards North East Water's sewers and disposal systems servicing the area to which the permit applies.
35. Where the subject land is developed in stages, the North East Water conditions will apply to any subsequent stage of the subdivision.
36. Where an easement created in favour of North East Water is located within a proposed road reserve in a future stage, prior to the certification of the plan of subdivision for that stage, the applicant must formally remove the easement from the title to the land.
37. North East Water's consent to the issue of a Statement of Compliance under the *Subdivision Act 1988* is conditional upon completion of all works, and meeting all requirements set out in this permit and any relevant agreement with, North East Water.
38. The plan of subdivision for certification must be referred to North East Water in accordance with Section 8 of the *Subdivision Act 1988*.
39. North East Water is unable to support any further development beyond six (6) lots until such

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time that upgrades to North East Water's wastewater treatment plant have been completed; or an alternative solution has been agreed upon with written approval from North East Water.

MANDATORY TELECOMMUNICATIONS CONDITIONS

40. The owner of the land must enter into an agreement with:
- a telecommunications network or service provider for the provision of telecommunication services to each lot shown on the endorsed plan in accordance with the provider's requirements and relevant legislation at the time; and
 - a suitably qualified person for the provision of fibre ready telecommunication facilities to each lot shown on the endorsed plan in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.
41. Before the issue of a Statement of Compliance for any stage of the subdivision under the Subdivision Act 1988, the owner of the land must provide written confirmation from:
- a telecommunications network or service provider that all lots are connected to or are ready for connection to telecommunications services in accordance with the provider's requirements and relevant legislation at the time; and
 - a suitably qualified person that fibre ready telecommunication facilities have been provided in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.

EXPIRY

42. This permit will expire if one of the following circumstances applies:
- The plan of subdivision for the first stage has not been certified under the *Subdivision Act 1988* within 2 years of the issued date of this permit.
 - All stages of the plan of subdivision have not been certified within 6 years of the issued date of this permit.
 - A statement of compliance is not issued within 5 years of the date of certification of a particular stage of subdivision.

In accordance with Section 69 of the *Planning and Environment Act 1987*, an application may be submitted to the responsible authority for an extension of the periods referred to in this condition.

PLANNING PERMIT NOTES:

- Lot numbers as referred to within CFA Conditions relate to the subdivision layout plan prepared by Partnear (Rev. B dated 19/12/2022), as submitted in support of Planning Application PP23-0002 and as depicted in Figure 3 in the Bushfire Management Statement prepared by Habitat Planning (Rev 1 dated 22/12/2022) .
- CFA's requirements for identification of hydrants are specified in 'Identification of Street Hydrants for Firefighting Purposes' available under publications on the CFA web site (www.cfa.vic.gov.au)]
- The permit holder should be aware that the above listed North East Water Conditions provide no guarantee in relation to the ongoing capacity to service the proposed development with reticulated sewer and reticulated water. Capacity issues are subject to change as demands on the reticulation systems change with growth. The applicant is

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encouraged to deal directly with North East Water.

RESOLUTION

That Council issue a notice of decision to grant a planning permit at 41 – 47 Foord Street, Wahgunyah, for:

Staged subdivision of land in the General Residential Zone and Bushfire Management Overlay. Removal of an easement in accordance with clause 52.02 of the *Indigo Planning Scheme*.

Subject to the following conditions:

ENDORSED PLANS – SUBDIVISION

1. The subdivision allowed by this permit and shown on the plans endorsed to accompany the permit must not be amended for any reason unless with the prior written consent of the Responsible Authority.

STAGED SUBDIVISION

2. The subdivision must proceed in the order of stages as shown on the approved and endorsed plan, except with the prior written consent of the responsible authority.

LAND VESTED IN COUNCIL

3. Prior to certification of stage 1, all land required for drainage assets must be shown on the plan of subdivision as a reserve in favour of Indigo Shire Council, to the satisfaction of the responsible authority.

OPEN SPACE CONTRIBUTION

4. Before the Statement of Compliance is issued under the *Subdivision Act 1988*, the applicant or owner must pay a monetary contribution for public open space of 5 per cent in accordance with a decision of the Council made under section 18 of the Subdivision Act 1988.

The responsible authority may delay the time for payment of the monetary contribution by agreement in writing with the applicant or owner

EASEMENTS

5. All existing and proposed easements and sites for existing and required utility services and roads on the land must be set aside in favour of the relevant authority for which the easement or site is to be created on the plan of subdivision submitted for certification under the *Subdivision Act 1988*.

ENGINEERING CONDITIONS

Detailed construction plans

6. Prior to certification of each stage, detailed construction plans must be approved and endorsed by the responsible authority. The construction plans must:
 - a) be prepared to the satisfaction of the responsible authority
 - b) be drawn to scale with dimensions and submitted electronically.
 - c) Include the following:
 - i. All details of works consistent with the relevant landscape plan and plan of subdivision for the relevant stage of the subdivision.
 - ii. Design for full construction of streets and underground drainage, including measures to control / capture pollutants and silt.
 - iii. Provision for all services and conduits (underground), including alignments and offsets, on a separate services layout plan.
 - iv. All road reserve and pavement widths to be in accordance with the

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endorsed plans, Indigo Shire Council Standard Drawings and the Infrastructure Design Manual (IDM), including:

- 1) 7.3m carriageway width;
- 2) 30mm deep asphalt;
- 3) Capacity to convey a 1% AEP event through the development site via public roads, reserves or easement;
- 4) Underground drainage to capacity to convey a 10% AEP event;
- 5) Kerb and channel:
 - a. SM2 – Modified – Both sides of Victoria Street
 - b. Barrier type – Foord Street infill section
- v. All intersection treatments to allow Council's waste collection vehicles to manoeuvre in a forward direction without the need for reversing.
- vi. All court heads to allow Council's waste collection vehicles to access and egress from the courts in a forward direction.
- vii. Verge widths around all bends, intersections and within court bowls must not be less than 3m in width.
- viii. Priority intersection treatments must be provided at intersections, 90-degree bends and at standard "T" intersections. The priority intersection treatment must comprise of an open invert channel across the entrance to the minor street and a low profile splitter island on the minor road.
- ix. Low profile splitter island, solid white centreline pavement marking and raised reflective pavement markings (RRPM) on all 90-degree bends on through roads.
- x. Provision of concrete footpaths in all streets and reserves. All footpaths must be a minimum 1.5 metres in width and be in accordance with Indigo Shire Council Standard Drawings.
- xi. Provision of public lighting with underground electricity supply to all streets, footpaths, bus stops and to major pedestrian and bicycle links.
- xii. All street lighting must be designed in accordance with AS 1158. Non-standard street lighting will not be accepted.
- xiii. Access to all public buildings, pathways and road crossings must comply with the *Disability Act* 2006 and be to the satisfaction of the Responsible Authority.
- xiv. Provision of street name plates to the Indigo Shire Council Standard Drawings including a schedule of individual signs and associated street numbers.
- xv. Provision of underground easement drains of sufficient capacity to serve all lots being created which connect to a legal point of discharge including the provision of an inlet to each lot.
- xvi. The location and provision of vehicle exclusion mechanisms abutting reserves.
- xvii. Details of the proposed treatment and provision for lot boundary fencing adjoining all reserves other than road reserves.
- xviii. Permanent survey marks.

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- xix. Survey details of the canopy trunk location and size of trees to be retained and associated tree protection zones.
- xx. Details in relation to all filling on the land that must be compacted to specifications approved by the Responsible Authority.
- xxi. The underground relocation of all existing aerial services, on the services layout plan.
- xxii. The location of any earthworks (cut or fill) or service provision in a location outside the designated tree protection zone which does not adversely impact on the health and integrity of any trees to be retained.
- xxiii. The drainage system of the proposed development must be designed to ensure that flows downstream of the land are restricted to pre-development levels.
- xxiv. Underground drainage must be provided and any other drainage works necessary for the transmission of drainage as required to the outfall.
- xxv. All drainage works must be designed to meet the following current best practice performance objectives for stormwater quality as contained in the *Urban Stormwater – Best Practice Environmental Management Guidelines (1999)*:
 - 6) 80% retention of the typical annual load of total suspended solids;
 - 7) 45% retention of the typical annual load of total phosphorus;
 - 8) 45% retention of the typical annual load of total nitrogen; and
 - 9) 100% retention of the typical annual load of gross pollutants.
- xxvi. Each lot must be provided with one drainage discharge point.
- xxvii. All lots within the proposed development abutting or adjoining a watercourse or water body must have a minimum 600mm freeboard above the 1 in 100 year flood level of the water course or water body.

- 7. Roads and allotments are to be designed such that the allotments are protected with a minimum 300mm freeboard against the 1 in 100 flooding, where the water level exceeds 50mm above the top of kerb.
- 8. The design and scope of detailed engineering plans to be submitted for approval must meet the requirements of the Infrastructure Design Manual (IDM), and all works are to be carried out in accordance with this Manual.

Detailed Landscape Plan

- 9. Prior to certification under the *Subdivision Act 1988*, a detailed landscape plan for the bioretention basin and adjoining and drainage reserve, streetscapes and landscape elements must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and must show:
 - a) all new plantings including their layout to be provided in any public open space area including streetscapes, parklands, water retention areas, buffer zones, service corridors, and environmental reserves
 - b) retention of all existing street trees
 - c) provision of one street tree for each non-corner allotment and two street trees for each corner allotment
 - d) a detailed planting schedule of all proposed trees, shrubs and groundcovers,

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including botanical names, common names, pot sizes, sizes at maturity and quantities of each plant. All species selected must be to the satisfaction of the Responsible Authority

- e) details regarding specific planting techniques to be undertaken, such as planting methodology, root barriers, fertilizer, or any other requirements;
- f) the proposed layout, materials and finishes of paths, areas of pavement, playgrounds, play items, structures and street and park furniture
- g) detailed planting and construction drawings including site contours and any proposed changes to existing levels including any structural elements such as retaining walls, details of drainage infrastructure, utility services, irrigation and water supply infrastructure
- h) detailed construction drawings of any buildings or structures within any public open space areas including additional supporting information such as certified structural design computations
- i) details for the design, supply and installation of playground equipment
- j) the removal of all existing disused structures, foundations, pipelines or stockpiles and the eradication of weeds from the land
- k) mechanisms for the exclusion of vehicles from reserve areas
- l) location and details of public lighting. Any proposed public lighting is to be provided in line with Australian Standards AS/NZS 1158.3.1:2005 – Lighting for roads and public spaces and must not consist of non-standard lighting
- m) fencing details for all allotment boundary fencing abutting a reserve to be transferred to Council

all to the satisfaction of the Responsible Authority.

Erosion and sediment control plan

10. Prior to the Certification of the Plan of subdivision an Erosion & Sediment Control Plan prepared in accordance with the EPA document *Construction Techniques for Sediment Pollution Control, Environment Protection Authority May 1991* must be submitted to and approved by the Responsible Authority.

Construction management plan

11. Prior to the commencement of any works on site, a Construction Management Plan must be prepared to the satisfaction of the Responsible Authority. Once approved the Construction Management Plan will be endorsed and form part of this permit. The plan must address at least the following matters:
 - a) Operating hours, noise and vibration, including details of:
 - i. Noise control
 - ii. Signage
 - iii. After hour works
 - b) Air and dust management, including details of:
 - i. Prevention and control, including storage of loose materials
 - ii. Smoke and pollution
 - c) Stormwater and sediment, including details of:
 - i. Stormwater and sediment control measures
 - ii. Excavation work

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iii. Vehicle entry and exit points

iv. Washing and clean up

d) Waste and materials reuse, minimisation and management, including details of:

i. Waste collection arrangements

ii. Hazardous waste

iii. Scheduled clean-ups

12. 24-hour emergency contact details of a liaison officer for adjacent business owners and the Responsible Authority in the event of relevant queries or problems experienced during construction.

Construction in accordance with detailed engineering plans

13. Prior to statement of compliance, all works outlined on the approved detailed engineering plans, landscape plan and erosion and sediment control plan must be completed to the satisfaction of the responsible authority.

As Built Documents Required

14. Before the issue of a Statement of Compliance for each stage of the subdivision under the *Subdivision Act* 1988, the following must be submitted to the satisfaction of the Responsible Authority:

a) A complete set of “as constructed plans” of site works in digital file format AutoCAD. The digital files must have a naming convention to enable identification of Council assets listed.

i. A list of asset quantities which include the following Council assets;

ii. Total length of Roads, Footpath, Kerb and Channel,

iii. Total number of Bridges, WSUD features, Traffic calming devices,

iv. Total length of pipe and number of pits for Drainage and Telecommunications,

v. Total number of streetlights.

b) Asset information in digital format to include drainage data in accordance with the “D-Spec” Standard and open space data in accordance with the “O-Spec” Standard.

c) A report containing a maintenance regime for all Water Sensitive Urban Design features.

d) A CCTV video recording of all completed drains.

e) A refundable maintenance bond of 5 per cent of the total cost of all construction works, to be held for a minimum of 12 months.

15. The applicant will be responsible for design and construction of new road in Victoria Street generally as identified in the endorsed plans, to an Access Street IDM standard (7.3m carriageway width). The new road and all associated infrastructure must be constructed to the satisfaction of the responsible authority prior to statement of compliance for Stage 3.

Subdivision Fees

16. Prior to statement of compliance for each subdivision stage, the applicant must pay, to Council, Plan Checking Fees of 0.75% and Engineering Inspection Fees of 2.5% of the cost of constructing the works proposed on the engineering plan. The value of works must be the final actual cost of works (GST Inclusive).

17. Following practical completion of all construction works, a defect liability period of 12 months will apply to all assets to be inherited by Council.

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18. Prior to statement of compliances, a Guarantee of Work equal to 5% of the total cost of roads, drainage and hard landscaping must be provided to Council. This Guarantee will be held by Council until satisfactory completion of any rectification of defects following the 12-month defect liability period. If the applicant fails to complete rectification works, Council will call on the Guarantee to fund the works.

AUSNET CONDITIONS

19. The applicant must –

- a) Enter in an agreement with Ausnet Electricity Services Pty Ltd for supply of electricity to each lot on the endorsed plan.
- b) Enter into an agreement with Ausnet Electricity Services Pty Ltd for the rearrangement of the existing electricity supply system.
- c) Enter into an agreement with Ausnet Electricity Services Pty Ltd for rearrangement of the points of supply to any existing installations affected by any private electric power line which would cross a boundary created by the subdivision, or by such means as may be agreed by Ausnet Electricity Services Pty Ltd.
- d) Provide easements satisfactory to Ausnet Electricity Services Pty Ltd for the purpose of “Power Line” in the favour of “Ausnet Electricity Services Pty Ltd” pursuant to Section 88 of the Electricity Industry Act 2000, where easements have not been otherwise provided, for all existing Ausnet Electricity Services Pty Ltd electric power lines and for any new power lines required to service the lots on the endorsed plan and/or abutting land.
- e) Obtain for the use of Ausnet Electricity Services Pty Ltd any other easement required to service the lots.
- f) Adjust the position of any existing Ausnet Electricity Services Pty Ltd easement to accord with the position of the electricity line(s) as determined by survey.
- g) Set aside on the plan of subdivision Reserves for the use of Ausnet Electricity Services Pty Ltd for electric substations.
- h) Given the existing 22kV feeder is a REFCL feeder, additional HV underground assets will trigger the need for a REFCL isolating substation. Should this be required, an additional reserve may be required on the plan of subdivision for the use of Ausnet Electricity Services Pty Ltd for electric substations.
- i) Provide survey plans for any electric substations required by Ausnet Electricity Services Pty Ltd and for associated power lines and cables and executes leases for a period of 30 years, at a nominal rental with a right to extend the lease for a further 30 years. Ausnet Electricity Services Pty Ltd requires that such leases are to be noted on the title by way of a caveat or a notification under Section 88 (2) of the Transfer of Land Act prior to the registration of the plan of subdivision.
- j) Provide to Ausnet Electricity Services Pty Ltd a copy of the plan of subdivision submitted for certification that shows any amendments that have been required.
- k) Agree to provide alternative electricity supply to lot owners and/or each lot until such time as permanent supply is available to the development by Ausnet Electricity Services Pty Ltd. Individual generators must be provided at each supply point. The generator for temporary supply must be installed in such a manner as to comply with the Electricity Safety Act 1998.
- l) Ensure that all necessary auditing is completed to the satisfaction of Ausnet Electricity Services Pty Ltd to allow the new network assets to be safely connected to the distribution network.

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MANDATORY CONDITION – CLAUSE 44.06-5

20. Before the statement of compliance is issued under the Subdivision Act 1988 the owner must enter into an agreement with the responsible authority under Section 173 of the Planning and Environment Act 1987. The agreement must:

- a) State that it has been prepared for the purpose of an exemption from a planning permit under Clause 44.06-2 of the Indigo Planning Scheme.
- b) Incorporate the plan prepared in accordance with Clause 53.02-4.4 of this planning scheme and approved under this permit.
- c) State that if a dwelling is constructed on the land without a planning permit that the bushfire protection measures set out in the plan incorporated into the agreement must be implemented and maintained to the satisfaction of the responsible authority on a continuing basis.

The land owner must pay the reasonable costs of the preparation, execution and registration of the Section 173 Agreement.

CFA CONDITIONS

Bushfire Management Plan Required

21. Prior to certification under the Subdivision Act 1988, an amended Bushfire Management Plan must be submitted to and endorsed by the Responsible Authority. Once endorsed the Bushfire Management Plan must be included as an annexure to the section 173 agreement prepared to give effect to clause 44.06-5 of the Planning Scheme and not be altered unless agreed to in writing by CFA and the Responsible Authority. The plan must be generally in accordance with Bushfire Management Plan (BMP) prepared by Habitat Town Planning & Urban Design Consultants, contained in “Other Document Type_Ver_2_Bushfire Plans_20230428_1.pdf” but modified to replace the conditions for defendable space, construction standards, access and water supply with:

- a) Defendable space for Lots 1-3 & 11 to 14 only:

Defendable space for a distance of 24 metres around the proposed building (or to the property boundary, whichever is the lesser distance) must be provided where vegetation (and other flammable materials) will be modified and managed in accordance with the following requirements:

- i. Grass must be short cropped and maintained during the declared fire danger period.
- ii. All leaves and vegetation debris must be removed at regular intervals during the declared fire danger period.
- iii. Within 10 metres of a building, flammable objects must not be located close to the vulnerable parts of the building.
- iv. Plants greater than 10 centimetres in height must not be placed within 3m of a window or glass feature of the building.
- v. Shrubs must not be located under the canopy of trees.
- vi. Individual and clumps of shrubs must not exceed 5 sq. metres in area and must be separated by at least 5 metres.
- vii. Trees must not overhang or touch any elements of the building.
- viii. The canopy of trees must be separated by at least 5 metres.
- ix. There must be a clearance of at least 2 metres between the lowest tree branches and ground level.

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b) Construction standards for Lots 1-3 & 11 to 14 only:

The building must comply to a minimum Bushfire Attack Level of 19 (BAL-19).

c) Water supply for Lots 1 and 12 to 14:

5,000 litres of effective water supply for fire fighting purposes must be provided which meets the following requirements:

- i. Is stored in an above ground water tank constructed of concrete or metal.
- ii. All fixed above-ground water pipes and fittings required for firefighting purposes must be made of corrosive resistant metal.
- iii. Include a separate outlet for occupant use.

d) Water supply for Lots 2, 3 & 11:

10,000 litres of effective water supply for fire fighting purposes must be provided which meets the following requirements:

- i. Is stored in an above ground water tank constructed of concrete or metal.
- ii. All fixed above-ground water pipes and fittings required for firefighting purposes must be made of corrosive resistant metal.
- iii. Include a separate outlet for occupant use.
- iv. Incorporate a ball or gate valve (British Standard Pipe (BSP) 65mm) and coupling (64 mm CFA 3 thread per inch male fitting).
- v. Be located within 60 metres of the outer edge of the approved building.
- vi. The outlet/s of the water tank must be within 4m of the accessway and be unobstructed.
- vii. Be readily identifiable from the building or appropriate identification signage to the satisfaction of CFA must be provided.
- viii. Any pipework and fittings must be a minimum of 65 mm (excluding the CFA coupling).

e) Access for Lots 2, 3 & 11 only:

Access for fire fighting purposes must be provided which meets the following requirements:

- i. All weather construction.
- ii. A load limit of at least 15 tonnes.
- iii. Provide a minimum trafficable width of 3.5 metres
- iv. Be clear of encroachments for at least 0.5 metre on each side and at least 4 metres vertically.
- v. Curves must have a minimum inner radius of 10m.
- vi. The average grade must be no more than 1 in 7 (14.4 per cent) (8.1 degrees) with a maximum of no more than 1 in 5 (20 per cent) (11.3 degrees) for no more than 50m.
- vii. Dips must have no more than a 1 in 8 (12.5 per cent) (7.1 degrees) entry and exit angle.

f) Amend Map Section of Plan

The building envelopes, water tanks and defensible space must be shown for Lot 1-3 & 11 to 14. The different water tank sizes must be clearly shown.

The access must be shown for Lots 2, 3 and 11.

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Additional matters to be set out in the Section 173 agreement.

22. In addition to the requirements of Clause 44.06-5 of the Scheme, the section 173 Agreement prepared in accordance with that clause must also:
- a) Note that the subdivision includes areas of shared defensible space. These are areas where a lot owner maintains the defensible space on their land for the benefit of themselves and the owners of other lots.
 - b) Require that the defensible space shown on the endorsed Bushfire Management Plan must be implemented and maintained on an ongoing basis to the satisfaction of the Responsible Authority, regardless of whether there is a dwelling constructed on that land or not.

Hydrants

23. Prior to the issue of a Statement of Compliance under the Subdivision Act 1988 the following requirements must be met to the satisfaction of the CFA:
- a) Above or below ground operable hydrants must be provided. The maximum distance between these hydrants and the rear of all building envelopes (or in the absence of building envelopes, the rear of the lots) must be 120 metres and the hydrants must be no more than 200 metres apart. These distances must be measured around lot boundaries.
 - b) The hydrants must be identified with marker posts and road reflectors as applicable to the satisfaction of the Country Fire Authority.

NORTH EAST WATER CONDITIONS

24. The owner of the subject land (or applicant in anticipation of becoming the owner) is required to enter into a legal agreement with North East Water detailing the works to be constructed, and other requirements to be met, necessary for the provision of reticulated water supply to each of the lots and proposed dwellings, within the development, at the owner's cost, to the satisfaction of North East Water, provided:
- a) where the development is staged, a number of agreements may be required for separate stages; and
 - b) each agreement must be in accordance with North East Water policy and requirements applying at the time of entry into the relevant agreement.
25. The owner of the subject land (or applicant in anticipation of becoming the owner) is required to enter into a legal agreement with North East Water detailing the works to be constructed and other requirements to be met, necessary for the provision of reticulated sewerage services to each of the lots and proposed dwellings, within the development, at the owner's cost, to the satisfaction of North East Water, provided:
- a) where the development is staged, a number of agreements may be required for separate stages; and
 - b) each agreement must be in accordance with North East Water policy and requirements applying at the time of entry into the relevant agreement.
26. Where the development (including any subdivision) occurs in stages the availability of water supply and sewerage services may be delayed having regard to NEW system capacity, conditions in relation to which shall be detailed in the relevant agreement for water supply and/or sewerage services.
27. The works required to be constructed for the provision of water supply and sewerage services must include, where so required by and to the satisfaction of, North East Water:

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- a) works external to the subject land to allow connection to the North East Water water supply and sewerage systems;
 - b) the vesting at no cost of such of those works required by North East Water, to North East Water ("Developer Works"); and
 - c) works to ensure compatibility with and allowance for, other developments being served through existing and future North East Water infrastructure, including the Developer Works
 - d) internal or private works within the development, in accordance with applicable plumbing standards and providing adequate pressure and service levels.
28. Any modification to the development approved under this permit, including an increase or decrease in the number of dwellings or lots (or both) or the inclusion of additional land, requires the further consent of and may be subject to modified conditions, to the satisfaction of, North East Water.
 29. Prior to the issue of a Statement of Compliance, the applicant must pay a new customer contribution determined in accordance with North East Water's policy for development charges applicable to the water supply system currently servicing the area in which the subject land is located.
 30. Prior to the issue of a Statement of Compliance, the applicant must pay a new customer contribution determined in accordance with North East Water's policy for development charges applicable to sewers and disposal systems currently servicing the area in which the subject land is located.
 31. The applicant must create easements to the satisfaction of and in favour of North East Water, over all existing and proposed sewerage facilities within the proposed subdivision.
 32. The applicant must ensure that private water services do not traverse property boundaries and are independently supplied from a point of supply approved by North East Water.
 33. The applicant must provide easements through other land, to the satisfaction of North East Water, if such easements are considered necessary for the efficient and economic servicing of the subject land.
 34. That the applicant pays applicable charges determined in accordance with North East Water's policy for development charges, applicable from time to time towards North East Water's sewers and disposal systems servicing the area to which the permit applies.
 35. Where the subject land is developed in stages, the North East Water conditions will apply to any subsequent stage of the subdivision.
 36. Where an easement created in favour of North East Water is located within a proposed road reserve in a future stage, prior to the certification of the plan of subdivision for that stage, the applicant must formally remove the easement from the title to the land.
 37. North East Water's consent to the issue of a Statement of Compliance under the *Subdivision Act 1988* is conditional upon completion of all works, and meeting all requirements set out in this permit and any relevant agreement with, North East Water.
 38. The plan of subdivision for certification must be referred to North East Water in accordance with Section 8 of the *Subdivision Act 1988*.
 39. North East Water is unable to support any further development beyond six (6) lots until such time that upgrades to North East Water's wastewater treatment plant have been completed; or an alternative solution has been agreed upon with written approval from North East Water.

MANDATORY TELECOMMUNICATIONS CONDITIONS

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40. The owner of the land must enter into an agreement with:

- a) a telecommunications network or service provider for the provision of telecommunication services to each lot shown on the endorsed plan in accordance with the provider's requirements and relevant legislation at the time; and
- b) a suitably qualified person for the provision of fibre ready telecommunication facilities to each lot shown on the endorsed plan in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.

41. Before the issue of a Statement of Compliance for any stage of the subdivision under the Subdivision Act 1988, the owner of the land must provide written confirmation from:

- a) a telecommunications network or service provider that all lots are connected to or are ready for connection to telecommunications services in accordance with the provider's requirements and relevant legislation at the time; and
- b) a suitably qualified person that fibre ready telecommunication facilities have been provided in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.

EXPIRY

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

- a) The plan of subdivision for the first stage has not been certified under the *Subdivision Act 1988* within 2 years of the issued date of this permit.
- b) All stages of the plan of subdivision have not been certified within 6 years of the issued date of this permit.
- c) A statement of compliance is not issued within 5 years of the date of certification of a particular stage of subdivision.

In accordance with Section 69 of the *Planning and Environment Act 1987*, an application may be submitted to the responsible authority for an extension of the periods referred to in this condition.

PLANNING PERMIT NOTES:

- Lot numbers as referred to within CFA Conditions relate to the subdivision layout plan prepared by Partnear (Rev. B dated 19/12/2022), as submitted in support of Planning Application PP23-0002 and as depicted in Figure 3 in the Bushfire Management Statement prepared by Habitat Planning (Rev 1 dated 22/12/2022) .
- CFA's requirements for identification of hydrants are specified in 'Identification of Street Hydrants for Firefighting Purposes' available under publications on the CFA web site (www.cfa.vic.gov.au)]
- The permit holder should be aware that the above listed North East Water Conditions provide no guarantee in relation to the ongoing capacity to service the proposed development with reticulated sewer and reticulated water. Capacity issues are subject to change as demands on the reticulation systems change with growth. The applicant is encouraged to deal directly with North East Water.

Moved: Cr Gaffney
Seconded: Cr Gold

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For: Crs Peter Croucher, Bernard Gaffney, Sue Gold, Roberta Horne and Sophie Price
Against: Nil

CARRIED

SUMMARY

Application No: PP23-0002
Subject Land: 41-47 Foord St, Wahgunyah
Proposal: To subdivide the land into fifteen (15) lots and removal of an easement.
Recommendation: Approval in accordance with the Recommendation above.

BACKGROUND

Date application lodged: 22/12/2022
Date application modified: 27/02/2024
Purpose: 15 lot subdivision and easement removal
Subject site land area: 1.331ha
Current use of subject site: Residential – single storey dwelling and associated outbuildings
Site constraints: N/A.
Surrounding land use: N/A.
Zoning of surrounding land: All adjoining land is similarly zoned GRZ1. Across Traton Street to the west is land zoned Farming Zone (FZ).
The Bushfire Management Overlay (BMO) impacts land to the north, west and south east. Across Traton Street land is affected by the Environmental Significance Overlay (ESO3) and Land Subject to Inundation Overlay (LSIO). There are no other overlays applicable.

SITE DESCRIPTION

The subject land is located in along the western edge of the Wahgunyah township area approximately 245m to the south of the Wahgunyah Post Office.

The property comprises an irregularly shaped parcel described as Lot1 TP193326 (Vol. 09252 Fol. 044) and is 1.33ha in area. There are no covenants or Section 173 agreements registered on the title.

The property has frontage to Foord Street along the eastern boundary. In addition, the land fronts Traton Street to the west, Elizabeth Street to the south and the unmade Victoria Street road reserve to the north (Figure 1). Adjoining the subject land to the south east is a small residential lot described as Lot 1 LP122966. At the time of the subdivision in 1977, that excised this particular lot from the balance land, an easement for drainage and sewer was registered across the subject land. It is now proposed that this redundant easement be removed from the property title.

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Situated to the north, east and south are residential lots that contain single storey dwellings of different ages and architectural styles. Land to the west of Traton Street, comprises a mix of freehold and crown land while further west is Sandy Creek which is a small tributary of the Murray River.

A single-story dwelling is located along the eastern section of the land which is proposed to be retained and located upon a smaller residential lot within the new subdivision layout. In addition, there are a number of associated outbuildings, including a garage and several garden sheds.

The site contains scattered native and exotic vegetation. There is a small Tasmanian Blue Gum on the north-eastern corner of the site, which will be retained.

There is a drainage and sewer easement that traverses the site in an east west which was created in 1997 by way of Plan of Subdivision LP122966.



Figure 1: Site Context

PROPOSAL

The proposal involves the creation of 14 residential lots and an additional lot for drainage reserve purposes. Due to existing sewerage servicing constraints the subdivision is to be carried out across 3 stages as noted below at Figure 2. The Drainage Reserve in the south western section of the land will be required to form a part of the Stage 1 plan of subdivision, to ensure adequate stormwater service provision.

Subject to final survey, the proposed lot sizes (including the reserve) will range from 688m² to 1,050m². Associated with Stage 3, it is also proposed to partly construct Victoria Street so as to provide a cul-de-sac access to three lots.

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Figure 2: Subdivision Staging Plan

ZONING AND PLANNING CONTROLS

Zoning: General Residential Zone (GRZ1)
 Overlay/s: Bushfire Management Overlay (BMO)

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PERMIT TRIGGER:

Zone Triggers:

- Clause 32.08-3, a planning permit is required for the subdivision of land.
- Clause 32.08-6, a planning permit is required for the development of land for two or more dwellings.

Overlay Triggers:

- Clause 44.06-2 – Permit is required to subdivide land

Particular Provision Triggers:

- Clause 52.02 – Permit is required to create, vary or remove an easement or restriction or vary or remove a condition in the nature of an easement in a Crown grant under section 23 of the *Subdivision Act 1988*.

PLANNING AND ENVIRONMENT ACT 1987 - SECT 60

Section 60 of the Act provides that before deciding on an application, the responsible authority must consider:

- (a) the relevant planning scheme; and
- (b) the objectives of planning in Victoria (which include at Section 4(1)(b) to provide for the protection of natural and man-made resources...); and
- (c) all objections and other submissions which it has received and which have not been withdrawn; and
- (d) any decision and comments of a referral authority which it has received; and
- (e) any significant effects which the responsible authority considers the use or development may have on the environment or which the responsible authority considers the environment may have on the use or development.
- (f) any significant social effects and economic effects which the responsible authority considers the use or development may have.

Section (1A) of the Act provides that the responsible authority, if the circumstances appear to so require, may consider:

- (g) any other strategic plan, policy statement, code or guideline which has been adopted by a Minister, government department, public authority or municipal council;

...

- (j) any other relevant matter.

MUNICIPAL PLANNING STRATEGY

At Clause 02.03-1 Settlement, the Indigo Planning Scheme provides a number of strategic directions including:

- *Direct the majority of population growth to townships serviced by reticulated infrastructure and good social infrastructure.*
- *Direct population growth to serviced and zoned land to make efficient use of infrastructure and land.*
- *Consolidate development in towns by encouraging infill development*

The scheme notes that in respect of existing zoned land in Wahgunyah that there is a sufficient residential land supply to accommodate anticipated growth in the short to medium term.

COMMENT: No issues are raised that would preclude the proposed fifteen (15) lot resubdivision of the land to facilitate future development on site.

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PLANNING POLICY FRAMEWORK (PPF)

The following State and regional policy considerations have been considered in this assessment.

- 11.01-1S – Settlement
- 11.01-1R – Settlement – Hume
- 11.01-1L-05 – Wahgunyah
- 11.02-1S – Supply of Urban Land
- 11.03-6S – Regional and local places
- 13.02-1S – Bushfire Planning
- 15.01-3S – Subdivision Design
- 15.01-5S – Neighbourhood Character
- 15.03-2S – Aboriginal Cultural heritage
- 16.01-1S – Housing supply
- 16.01-1L – Residential Subdivision and Development
- 16.01-2S – Housing affordability
- 16.01-3S – Housing diversity

COMMENT: No issues are raised that would preclude the proposed subdivision of the land. The proposal is consistent with:

- *Strategies to support growth and development in other existing urban settlements*
- *Relevant PPF objectives and requirements in respect of the supply of land for residential use. The proposal will result in an increase in available housing within the Wahgunyah Township, within an existing residential area that is capable of accommodating such development for dwelling purposes. On balance, the proposal will not compromise existing neighbourhood character.*
- *Strategies to encourage urban infill in a manner that is likely to be complementary to the existing neighbourhood character and promote consolidation within an existing urban area.*
- *The strategy of providing a range of lot sizes to suit a variety of dwelling and household types to meet the needs and aspirations of different groups of people.*

In terms of local policy relevant to Wahgunyah it is clear that the proposed subdivision of the subject land for residential purposes is not only consistent with the Indigo Planning Scheme but is also explicitly supported by it. The subject land is clearly situated within the settlement area as identified within the Wahgunyah Framework Plan (Figure 3).

This proposal will provide a clear opportunity to implement the expressed strategies to.

- *Support a compact urban form that fully utilises vacant residential land provided with infrastructure.*
- *Facilitate new residential, commercial and community development that respects the preferred character, heritage significance, and important habitat of the locality.*

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Figure 3: Wahgunyah Framework Plan (Subject land highlighted)

The proposal will create opportunity for diverse housing types that are located within an existing and centrally located area of Wahgunyah. The development will not compromise surrounding neighbourhood amenity. The land presents excellent access to community services, including schools, medical practice and recreational facilities.

ZONE

The subject land is affected by the provisions of the General Residential Zone (GRZ1). Zone purposes include:

- *To encourage a diversity of housing types and housing growth particularly in locations offering good access to services and transport.*

Clause 32.08-3 provides that the proposal for subdivision of 3 – 15 lots must also meet the relevant objectives and standards included in Clause 56 except for Clauses 56.02-1, 56.03-1 to 56.03-4, 56.05-2, 56.06-1, 56.06-3 and 56.06-6.

In respect of subdivision, Decision Guidelines relevant to the proposal are to consider:

- *The pattern of subdivision and its effect on the spacing of buildings.*
- *For subdivision of land for residential development, the objectives and standards of Clause 56.*

COMMENT: Having regard to the submitted documentation and plans, the proposal complies with relevant Zone purposes. The layout will ensure that sufficient area will also be available on site to accommodate within each lot a dwelling and related private open space, car parking and garden area. Matters relating to Clause 56 will be separately discussed below.

OVERLAYS

The property is affected by the provisions of the Bushfire Management Overlay.

COMMENT: The application was accompanied by a Bushfire Management Statement that was referred to the CFA under the provisions of Clause 44.06-6. Under the provisions of Clause 66.03 the CFA is a Recommending referral authority.

The CFA note that proposed Lots 4-10 as shown on the application subdivision layout plan are not subject to the Bushfire Management Overlay but are in a Bushfire Prone Area. It appears they can meet the required BAL 12.5 construction rating but will be subject to BAL assessment at building permit stage

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No objections were raised by the CFA subject to appropriate conditions being included in any Planning Permit that might be issued by Council.

PARTICULAR PROVISIONS

The following Particular Provisions are relevant to the consideration of this application.

- **Clause 52.02 – Easements, restrictions and reserves**

The purpose of Clause 52.03 is:

- *To enable the removal and variation of an easement or restrictions to enable a use or development that complies with the planning scheme after the interests of affected people are considered.*

Under this Clause a permit is required before a person proceeds under Section 36 of the Subdivision Act 1988 to remove an easement or right of way. Before deciding on an application, in addition to the decision guidelines in clause 65, the responsible authority must consider the interests of affected people.

COMMENT: Currently an easement for drainage and sewer traverses the subject land and is contained with Certificate of Title – Lot 1 TP193326 (Vol. 09252 Fol. 044). This application seeks to remove this otherwise redundant services easement from the land. A search of the Title particulars including the adjoining land Lot 1 LP122966, does not appear to reveal. Further it is understood that that the easement does not contain any assets and, in this regard, it is noted that no objections are raised by North East Water. In conclusion it is accepted that there will not be any affected parties from the removal of this easement.

- **Clause 53.02 – Bushfire Planning.**

The purposes of Clause 53.02 include:

- *To ensure that the development of land prioritises the protection of human life and strengthens community resilience to bushfire.*
- *To ensure that the location, design and construction of development appropriately responds to the bushfire hazard.*

COMMENT: As previously noted, the proposal has been accompanied by a Bushfire Management Statement prepared in accordance with the requirements of Clause 53.02. The matter was referred to the CFA who have raised no objections subject to appropriate conditions being included in any subsequent permit that may be issued by Council.

- **Clause 53.18 - Stormwater management in urban development -**

Clause 53.18 provides that an application to subdivide land within a nominated zone

- *Must meet all of the objectives of Clauses 53.18-4 and 53.18-6.*
- *Should meet all of the standards of Clauses 53.18-4 and 53.18-6.*

COMMENT: An application to subdivide land in the General Residential Zone is exempt from the provisions of this clause.

- **Clause 56 Residential Subdivision**

Clause 56 of the Indigo Planning Scheme details the performance objectives to be met and the deemed to comply standards to be implemented in the design of residential developments in Victoria. As previously noted, an application for a 15 lot subdivision must consider all of the provisions of Clause 56 except Clauses 56.02-1, 56.03-1 to 56.03-4, 56.05-2, 56.06-1, 56.06-3 and 56.06-6.

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Clause & Objectives	Standard	Comment
56.03 LIVABLE AND SUSTAINABLE COMMUNITIES		
56.03-5 Neighbourhood character	C6	<i>Complies. The proposed subdivision will be consistent with the surrounding residential area. While there is no preferred character outlined with the planning scheme, the layout will readily fit in with this largely developed area of Wahgunyah. No significant vegetation is required to be removed as a result of this proposal.</i>
56.04 LOT DESIGN		
56.04-1 Lot diversity and distribution	C7	<i>Complies. When considered in the context of immediate locality it is concluded that the proposal will contribute to an overall mix of lot size variations. The subdivision reflects the layout of the proposed development.</i>
56.04-2 Lot area and building envelopes	C8	<i>Complies. All lots greater than 400m² and will be capable of containing a rectangle of 10m X 15m. No building envelopes are required.</i>
56.04-3 Solar orientation of lots	C9	<i>Complies. The size of all the proposed lots will facilitate appropriate solar orientation for all dwellings on site considering the proposed design response.</i>
56.04-4 Street orientation	C10	<i>Complies. The design response leads to an outcome where all lots will front an existing road reserve. This design outcome is not seen as creating a new or undesirable precedent in the circumstances.</i>
56.04-5 Common area	C11	<i>Not applicable.</i>
56.05 URBAN LANDSCAPE		
56.05-1 Integrated urban landscape	C12	<i>Not applicable. No streets or public open space to be created.</i>
56.06 ACCESS AND MOBILITY MANAGEMENT		
56.06-2 Walking and cycling network	C15	<i>Complies. The existing road network makes adequate provision for connection to adjoining roads which cater for good levels of connectivity with surrounding locality for both pedestrians and bicycles.</i>
56.06-4 Neighbourhood street network	C17	<i>Complies. The proposed lot layout will result in development opportunities for future dwellings consistent with character and identity of the locality. The existing accessways and road network provide sufficient carriageway and verge widths to enable streets to perform their designated street network functions.</i>
56.06-5 Walking and cycling network detail	C18	<i>Complies. Pedestrian and cycle access to the proposed lots will be easily facilitated within the low-speed environment of the locality.</i>
56.06-7 Neighbourhood	C20	<i>Not applicable. No streets proposed.</i>

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Clause & Objectives	Standard	Comment
street network detail		
56.06-8 Lot access	C21	<i>Complies. All proposed lots will have separate access to the local road network. All roadside edges and crossovers will be designed and constructed to the satisfaction of the Responsible Authority.</i>
56.07 INTEGRATED WATER MANAGEMENT		
56.07-1 Drinking water supply	C22	<i>Complies. The subject lots will be connected to reticulated services including water supply to the satisfaction of North East Water dependant on system capacity.</i>
56.07-2 Reused and recycled water	C23	<i>Not applicable. Not required by North East Water.</i>
56.07-3 Waste water management	C24	<i>Complies. The subject lots will be connected to reticulated services including sewer to the satisfaction of North East Water dependant on system capacity.</i>
56.07-4 Urban run-off management	C25	<i>Complies. The subdivision layout will be capable of draining to a legal point of to the satisfaction of the Responsible Authority.</i> <i>The proposed lot layout will facilitate the attainment of WSUD principles including reduction of peak flows and runoff, use of on-site detention measures (including provision of a drainage reserve in the south western corner of the subject land) which will all assist with the delay and reduction of stormwater volumes from the site. These requirements are reinforced by appropriate permit conditions.</i>
56.08 SITE MANAGEMENT		
56.08-1 Site management	C26	<i>Complies. Any site management will be undertaken in accordance with relevant Council guidelines and procedures and be carried out to the satisfaction of the Responsible Authority.</i>
56.09 UTILITIES		
56.09-1 Shared trenching	C27	<i>Complies. Reticulated services will be provided to the subdivision to the satisfaction of the relevant servicing authorities.</i>
56.09-2 Electricity, telecommunications and gas	C28	<i>Complies. The land is able to readily connect to appropriate reticulated services in accordance with the requirements of the relevant servicing/supply agency.</i>
56.09-3 Fire hydrants	C29	<i>Complies. Fire hydrants and/or plugs are available within the locality. If any augmentation is required, this will be to the satisfaction of the Responsible Authority.</i>
56.09-4 Public lighting	C30	<i>Complies. Street lighting and Public Area Lighting is available within the locality.</i>

Table 1: Clause 56 Assessment

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GENERAL PROVISIONS

- **Clause 65.01 – Approval of an Application or Plan**

The Indigo Planning Scheme sets out the requirements for the responsible authority to decide whether the proposal will produce acceptable outcomes in terms of the appropriate decision guidelines listed in clause 65.01. The guidelines have been considered as follows:

Guideline	Assessment
The matters set out in Section 60 of the Act	<i>Noted. No issues raised apart from consideration of Clause 60(1) of the Act wherein it is noted that among other things, before deciding on an application, the responsible authority must consider— (c) all objections and other submissions which it has received and which have not been withdrawn; See separate discussion below in respect of the two submissions received to the Planning Permit Application.</i>
Any significant effects the environment, including the contamination of land, may have on the use or development.	<i>Not Applicable</i>
The Municipal Planning Strategy and the Planning Policy Framework	<i>Noted. No issues raised</i>
The purpose of the zone, overlay or other provision	<i>No matters raised in respect of relevant zone, overlay or other provisions.</i>
Any matter required to be considered in the zone, overlay or other provision	<i>Noted. No issues raised.</i>
The orderly planning of the area	<i>The proposal is one which relates to an orderly planning outcome for the subject land. From an analysis of relevant sections of the Indigo Planning Scheme it is clear that the proposed subdivision will result in development consistent the surrounding neighbourhood.</i>
The effect on the environment, human health & amenity	<i>No issues raised in respect of amenity, environment & human health.</i>
The proximity of the land to any public land	<i>No issues raised</i>
Factors likely to cause or contribute to land degradation, salinity or reduce water quality	<i>No issues raised. The development can be connected to legal points of drainage including via drainage reserve linking to Traton Street.</i>
Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site	<i>No issues raised.</i>
The extent and character of native vegetation and the likelihood of its destruction	<i>No native vegetation impacted.</i>

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Guideline	Assessment
Whether native vegetation is to be or can be protected, planted or allowed to regenerate	<i>Not Applicable</i>
The degree of flood, erosion or fire hazard associated with the location of the land.	<i>Not Applicable</i>
The adequacy of loading and unloading facilities and any associated amenity, traffic flow and road safety impacts	<i>No issues raised. More than sufficient site area available for vehicle manoeuvring etc</i>
The impact the use or development will have on the current and future development and operation of the transport system.	<i>No impacts identified.</i>

Table 2: Clause 65.01 Assessment

- Clause 65.02 – Approval of an application to subdivide land**

Before deciding on an application to subdivide land, the responsible authority must also consider, as appropriate:

Guideline	Assessment
The suitability of the land for subdivision	<i>The subject land is regarded as being suitable for the proposed subdivision and represents an orderly outcome considering the generous size of the allotment. The layout of the subdivision will integrate well with the established residential area facilitating development which can appropriately address the street alignment. The layout provides good configuration and site area dimensions to cater for the development proposed.</i>
The existing use and possible future development of the land and nearby land	<i>The proposal relates to land that is zoned for residential purposes. It is intended that the eventual development will be located upon individual lots.</i>
The availability of subdivided land in the locality, and the need for the creation of further lots.	<i>The Indigo Planning Scheme recognises the need to create more diverse housing stock within existing residential areas of Indigo. This proposal will create four additional lots in an existing residential area.</i>
The effect of development on the use or development of other land which has a common means of drainage.	<i>Given the size of the proposed lots as well as the subdivision layout stormwater drainage will be adequately dealt with.</i>
The subdivision pattern having regard to the physical characteristics of the land including existing vegetation.	<i>The proposed subdivision pattern has particular regard to the physical characteristics and current use of the land.</i>
The density of the proposed development.	<i>The density of the proposal is consistent with existing residential development across the Wahgunyah township.</i>
The area and dimensions of each lot in the subdivision	<i>The subdivision will provide lots with adequate area and dimensions to cater for the development proposed.</i>

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The layout of roads having regard to their function and relationship to existing roads.	<i>All adjoining roads form a part of the local road network. The proposal will involve the upgrade of the Victoria Street road reserve consistent with Council requirements.</i>
The movement of pedestrians and vehicles throughout the subdivision and the ease of access to all lots.	<i>All lots will front local road.</i>
The provision and location of reserves for public open space and other community facilities.	<i>The subject land is located within existing urban area of Wahgunyah and provides excellent access to community and recreational facilities.</i>
The staging of the subdivision	<i>Three stages with the timing dependent upon water and sewer servicing capacity.</i>
The design and siting of buildings having regard to safety and the risk of spread of fire.	<i>Not applicable</i>
The provision of off-street parking.	<i>All lots are of sufficient size to accommodate requisite parking</i>
The provision and location of common property	<i>Not applicable</i>

Table 3: Clause 65.02 Assessment

REFERRAL AUTHORITIES

External referrals to North East Water, CFA, DECCA & AusNet were undertaken. No objections raised. Conditions recommended by NEW, CFA & AusNet, and these are included in the recommended conditions.

PUBLIC NOTICE

The application was publicly notified for a period of 14 days and two submissions were received. Essentially neither of these submissions raise any objections to the subdivision subject to a number of conditions being included within any permit that may be issued by Council.

The various conditions requested can be summarised as follows:

1. Drainage/Storm Water- Existing capacity issues raised
2. Traffic management along Traton Street
3. Environment – issues with the applicant's landscape plan
4. Infrastructure – The existing electricity grid is already under extreme pressure

COMMENT: At Clause 60(1) of the P&EA it is noted that among other things that before deciding on an application, the responsible authority must consider—

(c) all objections and other submissions which it has received and which have not been withdrawn;

As previously discussed above, the Planning Policy Framework of the Indigo Planning Scheme acknowledges that key strategic directions in respect of Settlement include:

- *Direct the majority of population growth to townships serviced by reticulated infrastructure and good social infrastructure.*
- *Direct population growth to serviced and zoned land to make efficient use of infrastructure and land.*
- *Consolidate development in towns by encouraging infill development*

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Further the scheme notes that that existing zoned land in Wahgunyah provides a sufficient residential land supply to accommodate anticipated growth in the short to medium term.

In respect of matters raised in submission it is to be noted all relevant issues have been considered and captured by the recommended conditions as noted in the report introduction. In particular existing site characteristics in respect of drainage and traffic have been considered by Council's Infrastructure Services Division and in response detailed conditions are proposed as outlined.

That is subject to approval of the final engineering plans and construction works associated with the development of this site it is considered that the development will cater for a water management regime that adheres to the principles of Council's Stormwater Management Guidelines.

With regards infrastructure provision (particularly electricity) AustNet has raised no objections subject to appropriate conditions.

Landscaping of the public realm (i.e. street tree planting and landscaping of the drainage reserve) will be consistent with normal Council requirements.

In summary it is concluded that those issues raised in submissions that have a direct relationship to the scope and scale of the development proposal have been duly noted and responded to.

CONCLUSION

An important principle of land use planning is to control the uses of land so that each zone is used for its intended and best purpose. In particular, this Council has a strong history of protecting farming land from residential development, and part of this is to encourage and facilitate residential development in urban areas. The appropriate use of urban areas for housing helps to take pressure of rural areas, strengthens commutes, supports local business, and provides for a range of housing options.

The proposal comprising a fifteen (15) lot subdivision of No.41-47 Foord Street, Wahgunyah across three (3) stages and the removal of an easement is considered to be consistent with the relevant provisions of the Indigo Planning Scheme, including relevant provisions of the General Residential Zone. It is further considered that matters raised by submitters have been duly considered and appropriate conditions have been recommended in response.

It is therefore recommended that a Notice of Decision to Grant a planning permit be issued subject to conditions as noted in the recommended resolution above.

CONFIDENTIAL ATTACHMENT

The following confidential attachment has been provided to Councillors under separate cover. Recent changes to Section 197A of the *Planning and Environment Act 1997* have clarified and tightened the way Councils are able to make certain planning documents available to the public. The Act provides that the confidential document listed below can only be made available for public inspection:

- at Council offices during business hours, or
- electronically via Council's website subject to strict public availability requirements, requiring significant editing of individual documents.

Council currently does not have the resources to provide the document online in line with the public availability requirements of the Act, and so is at this stage unable to publish it in the public agenda online.

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DECLARATION OF CONFLICT OF INTEREST

Under section 130(2) of the *Local Government Act 2020* and Governance Rule 24, the following officers declare that they have no interests to disclose in providing this report:

- James Turner, Manager Planning and Statutory Services
- Greg Pinkerton – Director Planning and Corporate Services
- Steven Hawkins, Coordinator Planning

Attachments

1. PP23-0002 - Plans
2. PP23-0002 - Planning Application (Confidential)

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11.5 PLANNING PERMIT APPLICATION PP23-0125 - 345 REIDS WAY, WOORAGEE

File No: 2024/243

James Turner - Manager Planning & Statutory
Services

Planning & Corporate Services

For Decision

RECOMMENDATION

That Council issue a Notice of Decision for the refusal of Planning Permit Application 23-0125 (345 Reids Way, Wooragee) for buildings and works, and use of the land for Dwelling in the Farming Zone and Bushfire Management Overlay, on the following grounds:

1. The proposal is inconsistent with the Municipal Planning Strategy and Planning Policy Framework of the *Indigo Planning Scheme*, particularly clauses:
 - a. 13.02-1S.
 - b. 14.01-1S.
2. The proposal is inconsistent with the purpose of the Farming Zone, particularly:
 - a. To provide for the use of land for agriculture.
 - b. To encourage the retention of productive agricultural land.
 - c. To ensure that non-agricultural uses, including dwellings, do not adversely affect the use of land for agriculture.
3. The proposal is inconsistent with the decision guidelines of the Farming Zone, particularly:
 - a. How the use or development relates to sustainable land management.
 - b. Whether the site is suitable for the use or development and whether the proposal is compatible with adjoining and nearby land uses.
 - c. Whether the use or development will support and enhance agricultural production.
 - d. Whether the use or development will adversely affect soil quality or permanently remove land from agricultural production.
 - e. The potential for the use or development to limit the operation and expansion of adjoining and nearby agricultural uses.
 - f. The capacity of the site to sustain the agricultural use.
 - g. Whether the dwelling will result in the loss or fragmentation of productive agricultural land.
 - h. Whether the dwelling will be adversely affected by agricultural activities on adjacent and nearby land due to dust, noise, odour, use of chemicals and farm machinery, traffic and hours of operation.
 - i. Whether the dwelling will adversely affect the operation and expansion of adjoining and nearby agricultural uses.
 - j. The potential for the proposal to lead to a concentration or proliferation of dwellings in the area and the impact of this on the use of the land for agriculture.

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RESOLUTION

That the agenda item 11.5 be deferred until the August 2024 Council Meeting to allow time for response from the CFA.

Moved: Cr Gaffney

Seconded: Cr Horne

For: Crs Peter Croucher, Bernard Gaffney, Sue Gold, Roberta Horne and Sophie Price

Against: Nil

CARRIED

SUMMARY

Application No:	PP23-0125
Subject Land:	345 Reids Way, Wooragee
Proposal:	To develop and use the land for a dwelling.
Recommendation:	Refusal in accordance with the Recommendation above.

BACKGROUND

Date application lodged:	20/07/2023
Purpose:	Seek approval to use and develop the subject site for the purposes of a Dwelling.
Subject site land area:	1.25 hectares
Current use of subject site:	Group accommodation: <i>'Land, in one ownership, containing a number of dwellings used to accommodate persons away from their normal place of residence.'</i>
Site constraints:	The site is constrained to the North and South by developed lots with dwellings. Reids Way borders the site to the West. The site is relatively unconstrained to the East with open farmland. Established vegetation has been retained and serves as a windbreak around the edge of the site. There are two cabins (used for accommodation) located on the northern portion of the site.
Surrounding land use:	Farming Zone
Zoning of surrounding land:	Farming Zone

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PROPOSAL

DEVELOPMENT

Construction of a dwelling within the Farming Zone and Bushfire Management Overlay. The proposed dwelling would be sited adjacent to two existing dwellings (used for group accommodation) on the land. The dwelling is a single-story structure, set on stumps, with three-bedrooms and separate garage. The new dwelling will have a separate septic system to the existing dwellings but use the existing gravel driveway.

USE

The land is currently used for group accommodation having been previously subdivided off an adjacent property in 2012.

ZONING AND PLANNING CONTROLS

Zoning: Farming Zone
Overlay/s: Bushfire Management Overlay

Permit Triggers:

1. Pursuant to Clause 35.07-4, a planning permit is required to construct a building or carry out works with a Section 2 Use.
2. Pursuant to Clause 35.07-4, a planning permit is required to construct a building within the setback from any other road or boundary specified in a schedule to this zone.
3. Pursuant to Clause 44.06-2, a planning permit is required to construct a building or construct or carry out works associated with accommodation.

Planning and Environment Act 1987 - SECT 60

Section 60 of the Act provides that before deciding on an application, the responsible authority must consider:

- (a) the relevant planning scheme; and
- (b) the objectives of planning in Victoria (which include at Section 4(1)(b) to provide for the protection of natural and man-made resources...); and
- (c) all objections and other submissions which it has received and which have not been withdrawn; and
- (d) any decision and comments of a referral authority which it has received; and
- (e) any significant effects which the responsible authority considers the use or development may have on the environment or which the responsible authority considers the environment may have on the use or development.

Section (1A) of the Act provides that the responsible authority, if the circumstances appear to so require, may consider:

- (a) any significant social and economic effects of the use or development for which the application is made; and...
- (j) any other relevant matter.

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STATE PLANNING POLICY

11 Introduction, Goal and Principles

The purpose of State policy in planning schemes is to inform planning authorities and responsible authorities of those aspects of State level planning policy which they are to take into account and give effect to in planning and administering their respective areas. It is the State Government's expectation that planning and responsible authorities will endeavour to integrate the range of policies relevant to the issues to be determined and balance conflicting objectives in favour of net community benefit and sustainable development. Planning and responsible authorities must take account of and give effect to both the general principles and the specific policies applicable to issues before them to ensure integrated decision-making.

Society has various needs and expectations such as land for settlement, protection of the environment, economic well-being, various social needs, proper management of resources and infrastructure. Planning aims to meet these by addressing aspects of economic, environmental and social well-being affected by land use and development.

Planning is to anticipate and respond to the needs of existing and future communities through provision of zoned and serviced land for housing, employment, recreation and open space, commercial and community facilities and infrastructure. Planning is to recognise the need for, and as far as practicable contribute towards:

- Health and safety.
- Diversity of choice.
- Adaptation in response to changing technology.
- Economic viability.
- A high standard of urban design and amenity.
- Energy efficiency.
- Prevention of pollution to land, water and air.
- Protection of environmentally sensitive areas and natural resources.
- Accessibility.
- Land use and transport integration.

The State Planning Policy Framework seeks to ensure that the objectives of planning in Victoria are met and encouraged through land use and development. The following policies and clauses are deemed to be relevant to this proposal and have been taken into account in the assessment of this application:

Settlement

11.01-1S – Settlement

11.01-1R – Settlement - Hume

Environmental Risks

13.02-1S – Bushfire Planning

Natural Resource Management

14.01-1S – Protection of Agricultural Land

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Built Environment and Heritage

16.01-2S - Housing Affordability

16.01-3S - Rural Residential Development

LOCAL PLANNING POLICY FRAMEWORK

The Local Planning Policy Framework (LPPF) provides relevant discussion in relation to land use and development in the Shire. The following policies and clauses are deemed to be relevant to this proposal and have been taken into account in the assessment of this application:

13.02-1L – Bushfire Planning

14.01-1L-03 - Land use in Rural Zones

14.02-2L-02 - Effluent Disposal & Water Quality

16.01-3L-01 - Rural Building Siting and Design

PARTICULAR PROVISIONS

53.02 Bushfire Planning

GENERAL PROVISIONS

65 Decision Guidelines

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

65.01 Approval of an application or plan

Before deciding on an application or approval of a plan, the responsible authority must consider:

- The matters set out in Section 60 of the Act.
- The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- The purpose of the zone, overlay or other provision.
- Any matter required to be considered in the zone, overlay or other provision.
- The orderly planning of the area.
- The effect on the amenity of the area.

REFERRAL AUTHORITIES

The application was referred to the following referral authorities in accordance with Section 55 of the Planning and Environment Act 1987 and/or advice was sought from the following:

- CFA
- Health (effluent disposal)

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The CFA have requested the following changes before further assessment can occur:

- A revised bushfire hazard site assessment. The CFA does not support the assessment of the worst case being low threat in any direction nor does it support the vegetation to the southeast being classified as modified. The canopy of this vegetation would appear to exceed 30% and there is no evidence that it does not fit into a forest classification and therefore should be assessed as forest in accordance with AS3959-2018. The CFA state that the “Modified” classification of the vegetation to the West is supported but there is grassland to the south which needs to be considered when determining the defensible space required in this direction.
- A revised BMS to adequately address AM 2.3. The plans show the use of “Laserlite” on the verandahs and there is no information regarding the material to be used for the floor of the decking. The site plans must be amended to show a BAL-29 compliant building.
- An amended BMP or site plan is required so they are consistent with the distance to the building from the Southern property boundary.

As the provision of this information would not change the officer recommendation to refuse the permit, this matter has not been pursued with the applicant. Nevertheless, the applicant is engaging with the CFA, despite this issue not yet being resolved.

The Environmental Health Team did not object to the proposal provided:

- The cumulative impact of three dwellings on this block can be justified in terms of proving all wastewater can be treated and contained within the boundaries of the lot. The existing septic system for the existing two dwellings will need to be investigated further as a search of Council’s current databases can find no evidence of details for that system.
- If the current septic system is seen to be adequate, or requires only minor alterations to render it so, and if Planning permission is granted for a third dwelling, the new septic system shall be installed in accordance with the recommendations of the LCA conducted by LCAS, Project number 22060, dated May 2022.

PUBLIC NOTICE

Notice of the application was given to adjoining owners and occupiers and other relevant persons in accordance with Section 52 (1) of the Planning and Environment Act 1987.

Zero (0) submissions were received in response.

DISCUSSION

The main issues with the proposal are:

- The lack of connection to agriculture
- The increased unlikelihood of consolidation
- The proliferation of dwellings on the land

The proposal demonstrates no connection to agriculture. The primary objective of the Framing Zone is to protect and ensure the on-going viable use of agricultural land. The indigo shire planning scheme allows for a dwelling as a Section 1 Use (as-of-right) on lots larger than 40ha. Dwellings

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proposed on land under 40ha require planning assessment to determine amongst other things adequate agricultural justification for use of the land for a dwelling.

Consolidation of small lots into larger, more viable, holdings is strongly encouraged within the Farming Zone. The proposed development and use of the land for a dwelling would decrease the chance of this occurring. The lot could, be consolidated with the larger lot adjacent. Which would allow for the group accommodation to be operated on conjunction with the agricultural use of the land. This would be a more appropriate outcome within the Farming Zone. It should be noted that the adjacent lot is subject to a Bush-for-Birds covenant. This covenant does remove some of the land from productive agricultural use.

The proposal will create a proliferation of dwellings on the land, which is inappropriate within the Farming Zone. A Dwelling is defined within the Indigo Shire Planning Scheme as *'A building used as a self-contained residence which must include:*

- a) a kitchen sink;*
- b) food preparation facilities;*
- c) a bath or shower; and*
- d) a toilet and wash basin.*

It includes outbuildings and works normal to a dwelling.'

The land already contains two buildings, currently used for a group accommodation, which also meet the definition of a dwelling. The proposal in-essence would create a third dwelling on the lot.

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

There are a number of cases in recent years that have some relevance to this particular application and in particular:

- the appropriateness of dwellings on small lots, and; the necessity of a robust connection to agriculture.
- How to approach the development and use of small lots within the Farming Zone.
- the need to consider the strategic intent of the Planning Scheme as a whole rather than focussing on individual policies.

For instance:

In the case *Northumberland Estate Pty Ltd v Macedon Ranges SC (2024)* the Tribunal concluded that:

- A permit should not be issued for a dwelling within the Farming Zone on an undersized lot.
- the nexus between the need for a dwelling on the land and the agricultural use must be established.
- The development and use of the land for a dwelling would decrease the productive value of the surrounding farm land.

In the case of *Hatzisiannis v Macedon Ranges SC (2008)* the Tribunal concluded that:

- A permit should not be issued for a dwelling within the Farming Zone on an undersized lot.

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- despite the subject site not having high agricultural potential, this should be addressed through a re-zoning process rather than permitting development and use contrary to the Farming Zone objectives and decision guidelines.

Similarly, in the case of *Coloretti v Mount Alexander SC* (2018) the Tribunal concluded that:

- A permit should not be issued for a dwelling within the Farming Zone on an undersized lot.
- The proposal did meet the general decision guideline of clause 65 regarding proper and orderly planning, as the proposal prioritised the dwelling over the agricultural use of the land.

CONCLUSION

The proposed development and use of the land for a dwelling is inappropriate. The proposal is not in accordance with the decision guidelines of the Farming Zone nor the relevant local and state-based policies. The proposal would lead to a proliferation of dwellings on the and has no tangible link to agriculture.

Residential development and short-term accommodation should be developed in urban areas to allow for farming land to be consolidated and used for farming practices. Unnecessary development of dwellings in farming areas locks up farming/environmental land, increases land prices, and threatens the rural farming and bushland character of the area. This development is not an appropriate use of the land and is not supported by this Council's Planning Scheme.

CONFIDENTIAL ATTACHMENT

The following confidential attachment has been provided to Councillors under separate cover. Recent changes to Section 197A of the *Planning and Environment Act 1997* have clarified and tightened the way Councils are able to make certain planning documents available to the public. The Act provides that the confidential document listed below can only be made available for public inspection:

- at Council offices during business hours, or
- electronically via Council's website subject to strict public availability requirements, requiring significant editing of individual documents.

Council currently does not have the resources to provide the document online in line with the public availability requirements of the Act, and so is at this stage unable to publish it in the public agenda online.

DECLARATION OF CONFLICT OF INTEREST

Under section 130(2) of the *Local Government Act 2020* and Governance Rule 24, the following officers declare that they have no interests to disclose in providing this report:

- Joshua Bellette, Statutory Planner
- Steven Hawkins, Coordinator Planning
- James Turner, Manager Planning & Statutory Services
- Greg Pinkerton – Director Planning and Corporate Services

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Attachments

1. PP23-0125 - Application - 345 Reids Way - Wooragee (Confidential)
2. PP23-0125 - Plans - 345 Reids Way - Wooragee

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11.6 PLANNING PERMIT APPLICATION PP23-0152 - 18 DUNCANS LANE, BEECHWORTH

File No: 2024/413

James Turner - Manager Planning & Statutory
Services

Planning & Corporate Services

For Decision

RECOMMENDATION

That Council refuse to grant a permit for the buildings and works to construct a dwelling and a rural store in a Farming Zone on the following grounds:

- The proposed access crosses public land and does not have the consent of the relevant public land manager; and
- Access is not available in accordance with the requirements of clause 35.07-2.

RESOLUTION

That the agenda item 11.6 be deferred until the 27 August 2024 Council meeting so that staff may obtain further advice.

Moved: Cr Gaffney

Seconded: Cr Horne

For: Crs Peter Croucher, Bernard Gaffney, Sue Gold, Roberta Horne and Sophie Price

Against: Nil

CARRIED

SUMMARY

Application No:	PP23-0152
Subject Land:	18 Duncans Lane Beechworth – PN 26
Proposal:	<ul style="list-style-type: none">• The use and development of a two (2) bedroom, single storey dwelling.• The use and development of a store.
Recommendation:	Refusal in accordance with the Recommendation above.

BACKGROUND

Date application lodged:	10/08/2023
Purpose:	Seeks approval to use and/or develop the subject site with a dwelling and rural store.
Subject site land area:	The subject site is 25.91 hectares in size

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Current use of subject site: Vacant land

Site constraints: The subject site is accessed via a Newey Lane which is owned by DEECA.



Surrounding land use: The subject site is surrounded by farming lots.

Zoning of surrounding land: As stated above the subject site is surrounded by lots zoned farming zone.

PROPOSAL

The proposal seeks approval for the following:

- The use and development of a two (2) bedroom, single storey dwelling.
- The use and development of a store.

Dwelling details:

The proposal seeks approval for the construction of a single storey detached dwelling comprising a central open plan living area, two (2) bedrooms, study, bathroom and ensuite, laundry and double car garage. The building is proposed to be set back approximately 267 metres to Newey Lane and 109 metres from the northern (rear) boundary.

Collectively the building comprises a total area of 353 sqm including:

- Dwelling (living) – 148.29sqm
- Dwelling (garage) – 94.07sqm
- Dwelling (veranda/ alfresco) – 110.95sqm.

Architecturally, the building presents as a simple, single storey detached dwelling with primary hipped roofing profile (22.5degree pitch).

Externally, the dwelling is proposed to be clad in corrugated Colorbond wall cladding and corrugated Colorbond steel sheet roofing, guttering and flashing of muted tones. Reaching a total height of

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approximately 5 metres, internally ceiling height reflect stand at 2.7m proportions consistent with best practice design outcomes.

Outbuilding/Store details:

The proposed store is to be located approximately 15 metres east of the new dwelling, 74 metres south of the north (rear) boundary and will be orientated along a north-south axis. Specifically, the store comprises:

- Dimension of 24 metres (width) and 8.25 metres (depth).
- A total area 198sqm
- A skillion roof profile presenting a 5degree pitch.
- A total height of 4.3m.

The store will comprise three (3) open bays along is western elevation with the fourth bay enclosed.

Externally, the building will be clad in Colorbond sheeting and roofing.



Figure 1 – Existing site plan

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Figure 2 – Floor plan



Figure 3 – Elevation plan

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Figure 4 – Elevation plan

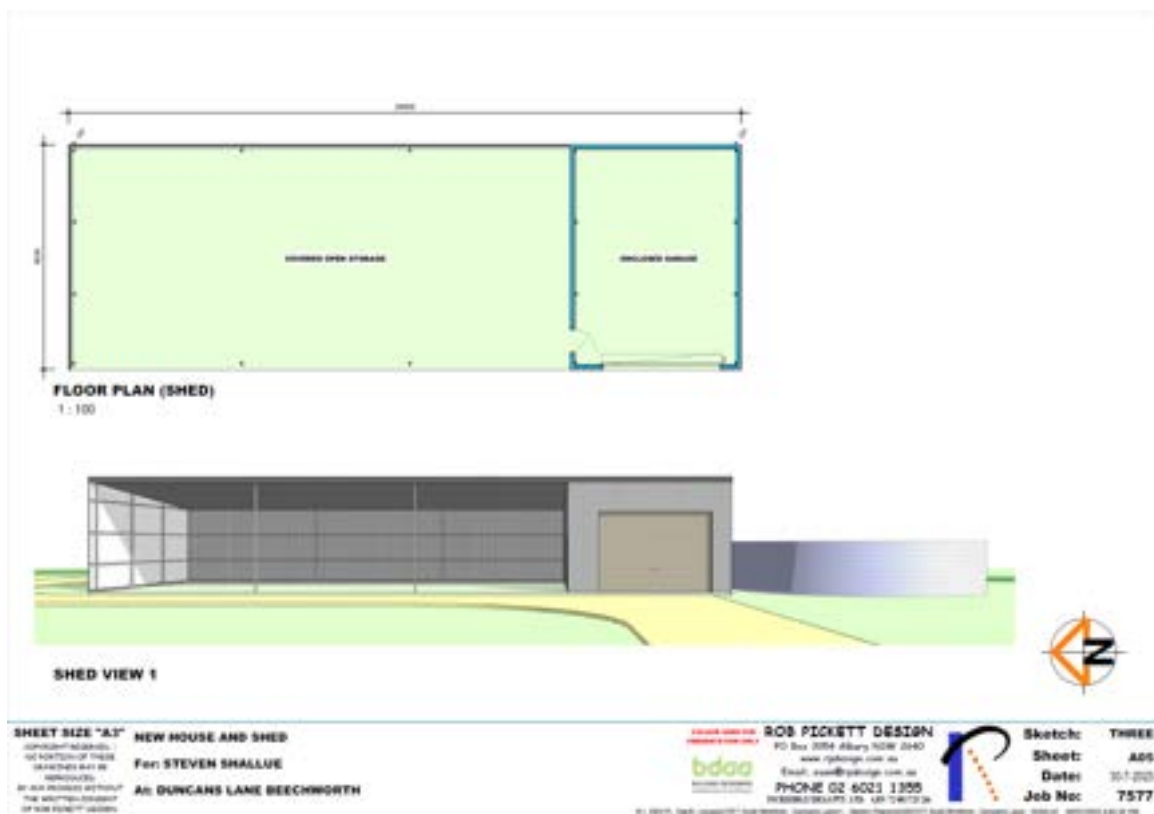


Figure 5 – Elevation plan (outbuilding)

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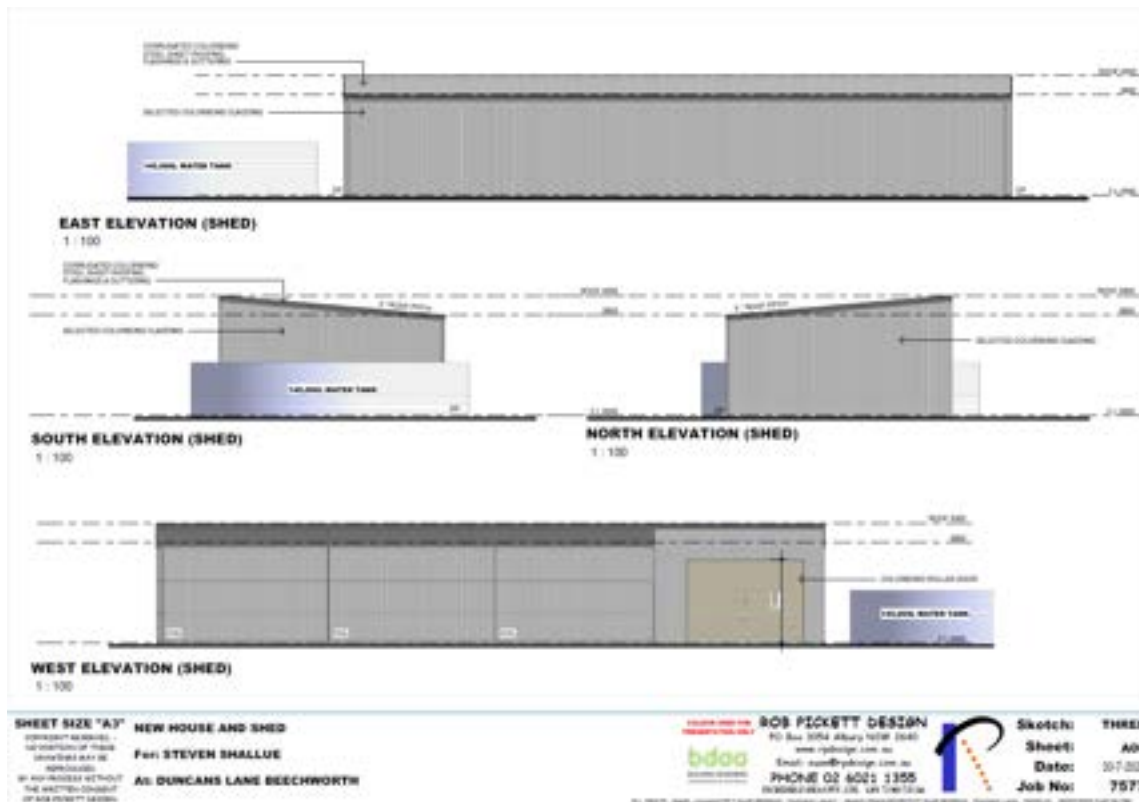


Figure 6 – Elevation plan (outbuilding & water tank)

ZONING AND PLANNING CONTROLS

Zoning: Clause 35.07 – Farming Zone

Overlay/s: Clause 44.06 – Bushfire Management Overlay

Site context: The subject site is zoned farming however, has an informal accessway (Crossover) via Newey Lane which, is DEECA owned and operated.

COPY OF TITLE: The subject site ('the site') comprises four (4) separately transferrable titles, formally described as:

- Crown Allotment 15 Section 5, Parish of Beechworth
- Crown Allotment 16 Section 5, Parish of Beechworth
- Crown Allotment 17 Section 5, Parish of Beechworth
- Crown Allotment 18 Section 5, Parish of Beechworth

Encumbrances: The subject site has no encumbrances.

PERMIT TRIGGER:

Pursuant to Clause 35.07-1 a planning is required for the use of the land for the purpose of:

- A dwelling, that is on a lot less than 40ha in area.
- A store. It is noted that a store is a defined as 'Land used to store goods, machinery, or vehicles' pursuant to the requirements of Clause 73.03. A 'store' is nested under the broader land use term of 'warehouse' which is identified as a Section 2 (permit required) use.

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Pursuant to Clause 35.07-4, a planning permit is required to construct or carry out works associated with a Section 2 use. The Schedule to the Farming Zone also outlines the following setback requirements that should be met:

- Minimum setback from a boundary – 5 metres
- Minimum setback from a dwelling not in the same ownership – 100 metres
- Minimum setback from a road – 20 metres.

As stated above, the location of the proposed dwelling and store on site is outside of the land affected by the BMO. Similarly, no works or changes are proposed to the existing accessing arrangements that are presently in place and accordingly a planning permit is not required pursuant to the requirements of this overlay.

A 140,000L rainwater tank is proposed to be provided on site as a potable water supply which will be utilised in addition to two (2) other water tanks and two onsite spring fed dams that can be utilised for firefighting purposes, if required.

Planning and Environment Act 1987 - SECT 60

Section 60 of the Act provides that before deciding on an application, the responsible authority must consider:

- (a) the relevant planning scheme; and
- (b) the objectives of planning in Victoria (which include at Section 4(1)(b) to provide for the protection of natural and man-made resources...); and
- (c) all objections and other submissions which it has received and which have not been withdrawn; and
- (d) any decision and comments of a referral authority which it has received; and
- (e) any significant effects which the responsible authority considers the use or development may have on the environment or which the responsible authority considers the environment may have on the use or development.
- (f) any significant social effects and economic effects which the responsible authority considers the use or development may have.

Section (1A) of the Act provides that the responsible authority, if the circumstances appear to so require, may consider:

- (g) any other strategic plan, policy statement, code or guideline which has been adopted by a Minister, government department, public authority or municipal council;
- ...
- (j) any other relevant matter.

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MUNICIPAL PLANNING STRATEGY AND PLANNING POLICY FRAMEWORK

The purpose of policy in planning schemes is to inform planning authorities and responsible authorities of those aspects of planning policy which they are required to consider and give effect to in planning and administering their respective areas. It is the State Government's expectation that planning and responsible authorities will endeavour to integrate the range of policies relevant to the issues to be determined and balance conflicting objectives in favour of net community benefit and sustainable development. Planning and responsible authorities must take account of and give effect to both the general principles and the specific policies applicable to issues before them to ensure integrated decision-making.

Society has various needs and expectations such as land for settlement, protection of the environment, economic well-being, various social needs, proper management of resources and infrastructure. Planning aims to meet these by addressing aspects of economic, environmental and social well-being affected by land use and development.

Planning is to anticipate and respond to the needs of existing and future communities through provision of zoned and serviced land for housing, employment, recreation and open space, commercial and community facilities and infrastructure. Planning is to recognise the need for, and as far as practicable contribute towards:

- Health and safety.
- Diversity of choice.
- Adaptation in response to changing technology.
- Economic viability.
- A high standard of urban design and amenity.
- Energy efficiency.
- Prevention of pollution to land, water and air.
- Protection of environmentally sensitive areas and natural resources.
- Accessibility.
- Land use and transport integration.

The Municipal Planning Strategy and Planning Policy Framework seeks to ensure that the objectives of planning in Victoria are met and encouraged through land use and development. The following policies and clauses are deemed to be relevant to this proposal and have been considered in the assessment of this application:

Settlement

- Clause 11.01-1S – Settlement
- Clause 11.01-1R – Hume
- Clause 11.03-5S – Distinctive Areas and Landscapes

Environmental Risks

- Clause 13.02-1S – Bushfire Planning

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Natural Resource Management

- Clause 14.01-1S – Protection of agricultural land
- Clause 14.02-1S – Catchment Planning and Management
- Clause 14.02-2L-02 – Effluent Disposal and Water Quality

Built Environment and Heritage

- Clause 15.01-2S – Building Design
- Clause 15.03-2S – Aboriginal Cultural Heritage

Housing

- Clause 16-.01-3S – Rural Residential Development
- Clause 16.01-3L – 01 – Rural Building and Siting

PARTICULAR PROVISIONS

- Clause 52.17 Native Vegetation

Planner comments:

There is no native vegetation that has been proposed for removal.

GENERAL PROVISIONS

65 Decision Guidelines

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

65.01 Approval of an application or plan

Planner comments:

Guideline	Assessment
The matters set out in Section 60 of the Act	These matters are adequately addressed by consideration of elements of the planning scheme (see above).
Any significant effects the environment, including the contamination of land, may have on the use or development	There are not considered to be any significant effects from the environment on the proposed development. The land has not been identified as being potentially contaminated.
The Municipal Planning Strategy and Planning Policy Framework	See above assessment.
The purpose of the zone, overlay or other provision	See above assessment.
Any matter required to be considered in the zone, overlay or other provision	See above assessment.
The orderly planning of the area	The proposal is appropriately scaled and sited and represents orderly planning of the area.

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Guideline	Assessment
The effect on the amenity of the area	The development will not impact the amenity of the area.
The proximity of the land to any public land	The site is located adjacent to Hodgson Creek; however, no alterations are proposed to the existing accessing strategy to the site and buildings and works associated with the development are located in excess of 260m from the creek.
Factors likely to cause or contribute to land degradation, salinity or reduce water quality	Any land degradation is likely to be negligible due to the small scale of the proposed development.
Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site.	A Land Capability Assessment will be presented to Council following the issue of a Planning Permit outlining the proposed strategy for stormwater and effluent. It will confirm that wastewater can be managed and disposed of onsite with no impact on water quality. It is expected an appropriate condition of the Permit will apply.
The extent and character of native vegetation and the likelihood of its destruction	No native vegetation requires removal. However, it is noted that vegetation has been proposed for removal.
Whether native vegetation is to be or can be protected, planted or allowed to regenerate	No native vegetation is to be removed.
The degree of flood, erosion or fire hazard associated with the location of the land and the use, development or management of the land so as to minimise any such hazard	Subject to compliance with permit conditions, the development will have no impact on flood, erosion or fire risk.
The adequacy of loading and unloading facilities and any associated amenity, traffic flow and road safety impacts	N/A
The impact the use or development will have on the current and future development and operation of the transport system.	The proposal will have negligible impact on the surrounding transport system.

REFERRAL AUTHORITIES

The application was referred to the following referral authorities in accordance with Section 55 of the Planning and Environment Act 1987 and/or advice was sought from the following:

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- Goulburn Murray Water (GMW)
- CFA

The referral authorities did not object.

The application was provided to DEECA as notice under section 52 of the Act, which is discussed later in this report.

PUBLIC NOTICE

Notice of the application was given to adjoining owners and occupiers and other relevant persons in accordance with Section 52 (1) of the Planning and Environment Act 1987.

1 submission was received in response, the DEECA response discussed earlier.

DEECA has provided an objection to the proposed development stating the following:

“A Government Road abuts the northern boundary of the subject site providing legal access. The southern boundary of the site abuts Crown land known as the Hodgson Creek Water frontage managed by the Department.

It is noted in the Town Planning Report (Habitat, August 2023) that no changes are proposed to current movement and accessing arrangement with vehicle access presently provided via a gravel driveway from Newey Lane (across Hodgson Creek Crown frontage).

Access to freehold and private dwellings should be provided by Government roads or other arrangements not involving Crown land. The existing informal vehicle track that traverses Hodgson Creek Water frontage does not provide legal access.

The Department has no issue with the landowner continuing to use the current informal track for practical access however the land is now proposed to be developed and the track is to be the sole and primary access. Subsequently, the track will be required to be proclaimed as a road by the Indigo Shire Council.

Please also note that:

- *Newey Lane is not within a Road Reserve but appears as Council's responsibility listed on Indigo Shire's Register of Public Roads (last updated Feb2022). All works within the Crown Land are to have prior approval in writing by the Crown Land Owner, subject to all applicable statutory obligations.*
- *Access consent across this parcel of Crown Land to the southern boundary of the subject site was never provided by the Crown Landowner (DEECA). Any works that have been carried out on the Crown Land in this location have been unlawful.*

The Department of Energy, Environment and Climate Action objects to the granting of a permit for the proposed works on the following grounds:

1. *No legal access exists on the Hodgson Creek Water frontage reserve to the southern boundary of the subject site where the proposed works and development is to occur. The proposal seeks to develop land owned by the state, and no consent will be granted of this to occur.”*

DISCUSSION

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Applicant submissions

The following site history has been provided by the applicant:

As has been detailed within the accompanying Land Management Plan, the land has been used for ongoing agricultural production by the applicant's family since the early 1920's where it was originally used and operated as a dairy. Over the course of time the direction of the agricultural operations have transition to respond to underlying market trends and is now predominantly used for the production of black angus cattle and occasional hay and crop production.

In addition to the subject site, the land owner also leases an additional 15ha of land that is managed for hay, silage and the grazing of weaners. Presently, the farming business runs approximately 20 breeders with a desire to increase production over coming years.

As no dwelling is established on the site, management of the land requires a significant time investment from the land owner to monitor stock, particularly calving cattle during breeding season which has resulted in limited success with the loss of both cows and calves.

Beyond this land is in good condition with a sound water provision provided via to spring fed dams and has a sound fertiliser history which has been applied with the support of an agronomist.

The productive quality of the land and the development of the agricultural enterprise has presently reached its capacity on account of the absence of a home base on the site that could enable more efficient and intensive land management practices and business development opportunities."

Future agricultural use:

As prefaced above the demand of the agricultural operation necessitates the provision of a dwelling on site to assist in the future expansion of the enterprise as well as assist in actively managing the land. The land owner is presently servicing the farm operations out of their residence in the township of Beechworth, where calf raising and husbandry occurs during the breeding season, and the majority of the farm equipment is also housed. This evidently results in a land-use conflicts with odour and noise emissions regularly stemming from the property, and whereby the land owner is required to transport stock and machinery from the residential area out to the site regularly and daily in the early hours of the morning.

The establishment of a dwelling and store on the site will by virtue enable the establishment of a farm operation on site and reduce the demand on the landowner to transfer stock and machinery between their residential premises and the site.

In addition to this, the provision of a dwelling and store infrastructure will enable the expansion of the agricultural operation to accommodate the establishment of an animal husbandry facility for improved Angus genetics to be sourced via Jade Park Angus. The expansion of the business into the animal husbandry sector can only be achieved via the establishment of a dwelling on the site due to the time required to support good animal welfare with the intensive labour and monitoring the larger farming business will require, especially during calving, calf rearing and periods requiring hand feeding.

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The landowner, in addition to the establishment of the animal husbandry operation also seeks to imbed a high rotational grazing management arrangement which, while labour intensive, results in significant benefits for the health of the soil, the animals and the land productive capacity. Attempting to undertake such an operation without on site management will result in breaches to the Australian Animal Welfare Standards and Guidelines for Cattle 2016 and may negatively impact the financial viability of the operation as a result of potential stock losses.

Finally, the expansion plan proposed for the land includes an ambitious revegetation project to be undertaken in conjunction with the Mid Ovens Landcare Consortium and Landmates to fence out the two main gullies on the property, remove the Hawthorn and plant out with locally indigenous species. This will reduce water and wind erosion, increase stock shelter, and improve cattle growth rates whilst increasing the biodiversity and habitat on the farm."

This statement provides much more detail than is often include in applications of this nature, and has been considered by officers in assessing this application.

Farming Zone

The purpose of the Farming Zone places a strong emphasis on the preservation and retention of land to promote its ongoing production for agricultural purposes to support employment and growth opportunities of regional communities discouraging the encroachment of inappropriate uses that affect the use of land for agricultural purposed.

The proposal represents a considered response to the broad aspirations of the zone. The provision of a dwelling and store on site would be required to enhance the agricultural capacity and productivity of land and assist in the expansion of an established agricultural business that is presently reached its capacity under present operational arrangements.

The provision of the proposed uses and development on site contributes to the enhancement of agricultural activities on site enabling the landowner to actively manage the land for the sustainable intensification of the existing property through rotational grazing management, further improving soil health as well using the dwelling on site as a base for a breeding centre for the improved Angus genetics. A Land Management Plan (LMP) was submitted to Council dated 05/05/2023 and was reviewed by Councils EHO Officers who have provided consent subject to conditions.

The proposed building footprints of the dwelling and store are located to prioritise the capacity and productivity of the land and occupy a total area of 545.92sqm representing 0.2% of the total lot area.

Despite these positive attributes, the access to the land is an issue, as raised by DEECA elsewhere in this report. Clause 35.07-2 requires:

Access to the dwelling, small second dwelling or rural worker accommodation must be provided via an all-weather road with dimensions adequate to accommodate emergency vehicles.

As the proposed access from the south is not available, due to the DEECA objection the proposal requires alternative access arrangements, which have not been proposed. As compliance with clause 35.07-2 is required to use the land for a dwelling, even with a permit, the proposed development is prohibited under the zone.

Access

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Accessing arrangements to the site are not proposed to be altered and will be maintained as per current conditions. However, as discussed earlier in this report, DEECA has objected to the informal access being formalised. DEECA was referred to under section 52 of the Planning and Environment Act. However, given that DEECA is usually a determining authority, and that the informal access is on DEECA land, Council officers have recommended the application be refused based on DEECA's objection on their land.

The proposal is consistent with the Municipal Planning Strategy, the Planning Policy Framework, the FZ, and other relevant provisions of the Indigo Planning Scheme. The proposal would result in an approval if formal access was proposed from the north of the subject site. However, given DEECA's objection approving the application in its current form would not result in an orderly and desirable planning outcome for a single rural dwelling and outbuilding (Store) being accessed via DEECA land.

Other matters

- The location of the site/dwelling and outbuildings does not have any cultural or heritage sensitivities.
- The site is within a Bushfire Prone Area, which has been addressed within this report.
- No significant or native vegetation will be removed to facilitate the proposed dwelling and no other environmental constraints are identified.
- The proposed use and development will not cause or contribute to land degradation, salinity or reduce water quality as stormwater and wastewater will be managed on site in accordance with Council requirements.
- The scale of the use and development is unlikely to impact the current and future operation of the transport system.

Overall, the proposal would provide for an appropriate and orderly planning outcome for the site if the informal access can be resolved. It is therefore recommended that the proposed development be refused based on DEECA's objection.

CONCLUSION

This application seeks a planning permit for the use and development of a dwelling and store at land addressed as Duncans Lane, Beechworth.

The proposed development would be consistent with the intent of the zoning of the land and appropriate to the area. It is considered to have an acceptable impact on the public realm and adjoining properties. The design, form and scale of the dwelling and store, sufficiently integrates with the rural landscape character. The development would be sufficiently setback from dwellings not in the same ownership to mitigate any potential impact of the development on abutting properties. The proposed development would provide a sufficient rural design response, that is generally congruent with rural development typology of the area. As such, the proposal is generally consistent with the relevant requirements of the Indigo Planning Scheme.

However, Council cannot grant formal access to an informal road and crossover on DEECA land without their consent. DEECA has clearly refused this consent, and as such refusal is required.

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CONFIDENTIAL ATTACHMENT

The following confidential attachment has been provided to Councillors under separate cover. Recent changes to Section 197A of the *Planning and Environment Act 1997* have clarified and tightened the way Councils are able to make certain planning documents available to the public. The Act provides that the confidential document listed below can only be made available for public inspection:

- at Council offices during business hours, or
- electronically via Council's website subject to strict public availability requirements, requiring significant editing of individual documents.

Council currently does not have the resources to provide the document online in line with the public availability requirements of the Act, and so is at this stage unable to publish it in the public agenda online.

DECLARATION OF CONFLICT OF INTEREST

Under section 130(2) of the *Local Government Act 2020* and Governance Rule 24, the following officers declare that they have no interests to disclose in providing this report:

- Danieel Matthews, Senior Statutory Planner
- Steven Hawkins, Coordinator Planning
- James Turner – Manager Planning and Corporate Services
- Greg Pinkerton – Director Planning and Corporate Services

Attachments

1. PP23-0152 - Appliation material - 18 Duncans Lane - Beechworth - PN 26 (Confidential)
2. PP23-0152 - Plans - 18 Duncans Lane - Beechworth - PN 26
3. PP23-0152 - DEECA Objection - 18 Ducans Lane - Beechworth - PN 26 (Confidential)

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11.7 PLANNING PERMIT APPLICATION PP22-0073 - LILLIPUT-NORONG ROAD, LILLIPUT

File No: 2024/425

James Turner - Manager Planning & Statutory
Services

Planning & Corporate Services

For Decision

RECOMMENDATION

That Council issues a notice of decision to refuse planning permit PP22-0073 for the re-subdivision of land into three lots at Lilliput – Norong Road, Lilliput, on the following grounds:

1. The proposal is not consistent with the Municipal Planning Strategy and Planning Policy Framework, particularly clauses:
 - a. Clause 02.03-1 – Settlement
 - b. Clause 02.03-4 – Natural resource management
 - c. Clause 02-03-6 – Housing
 - d. Clause 14.01-1S – Protection of agricultural land
 - e. Clause 14.01-1L-02 – Subdivision in rural areas
2. The proposal is not consistent with the purpose and decision guidelines of the Farming Zone.
3. The proposal is not consistent with the decision guidelines at clause 65.01 and 65.02.

RESOLUTION

That Council issues a notice of decision to refuse planning permit PP22-0073 for the re-subdivision of land into three lots at Lilliput – Norong Road, Lilliput, on the following grounds:

1. The proposal is not consistent with the Municipal Planning Strategy and Planning Policy Framework, particularly clauses:
 - a. Clause 02.03-1 – Settlement
 - b. Clause 02.03-4 – Natural resource management
 - c. Clause 02-03-6 – Housing
 - d. Clause 14.01-1S – Protection of agricultural land
 - e. Clause 14.01-1L-02 – Subdivision in rural areas
2. The proposal is not consistent with the purpose and decision guidelines of the Farming Zone.
3. The proposal is not consistent with the decision guidelines at clause 65.01 and 65.02.

Moved: Cr Croucher

Seconded: Cr Gold

For: Crs Peter Croucher, Bernard Gaffney, Sue Gold, Roberta Horne and Sophie Price

Against: Nil

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CARRIED

SUMMARY

Application No: PP23-0156

Subject Land: Liliput-Norong Road, Lilliput
CA 4A and 4B, 5B and 5B1, Section O, Parish of Lilliput

Proposal: Re-subdivision of land into three (3) lots

Recommendation: Refusal in accordance with the Recommendation above.

BACKGROUND

Date application lodged: 24/3/2022

Purpose: Seek approval to re-subdivide of land into three (3) lots.

Subject site land area:

Lot #	Land area (ha) (approx.)
4A	32
4B	30
5B	25.6
5B1	10.5
3A	32.9
3B	31.6

Current use of subject site: Agriculture

Site constraints: Black Dog Creek bisects the site.
Areas of potentially native vegetation.

Surrounding land use: Agriculture.

Zoning of surrounding land: Farming Zone

PROPOSAL

The permit applicant, Executive Search Pty Ltd, seeks to re-subdivide the site into three lots via a re-subdivision of four existing lots. The site is currently used for sheep farming/rearing, with no existing buildings.

The application states that the purpose of the subdivision is to create better lot layout and size that improves the functionality of the site in terms of agricultural activities.

The proposed subdivision layout detailed in the following table:

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Lot #	Land area (ha)	Max Width (m)	Max Depth (m)	Orientation	Access via	Shape
1	40	612.3	804.7	East	Sheridans Bridge Road	Irregular
2	31.5	804.7	391.5	South	Gullifers Road	Rectangular
3	27.5	402.34	768.7	North	Lilliput-Norong Road	Irregular

No non-exempt vegetation removal is proposed (including any consequential loss).

No staging is proposed.

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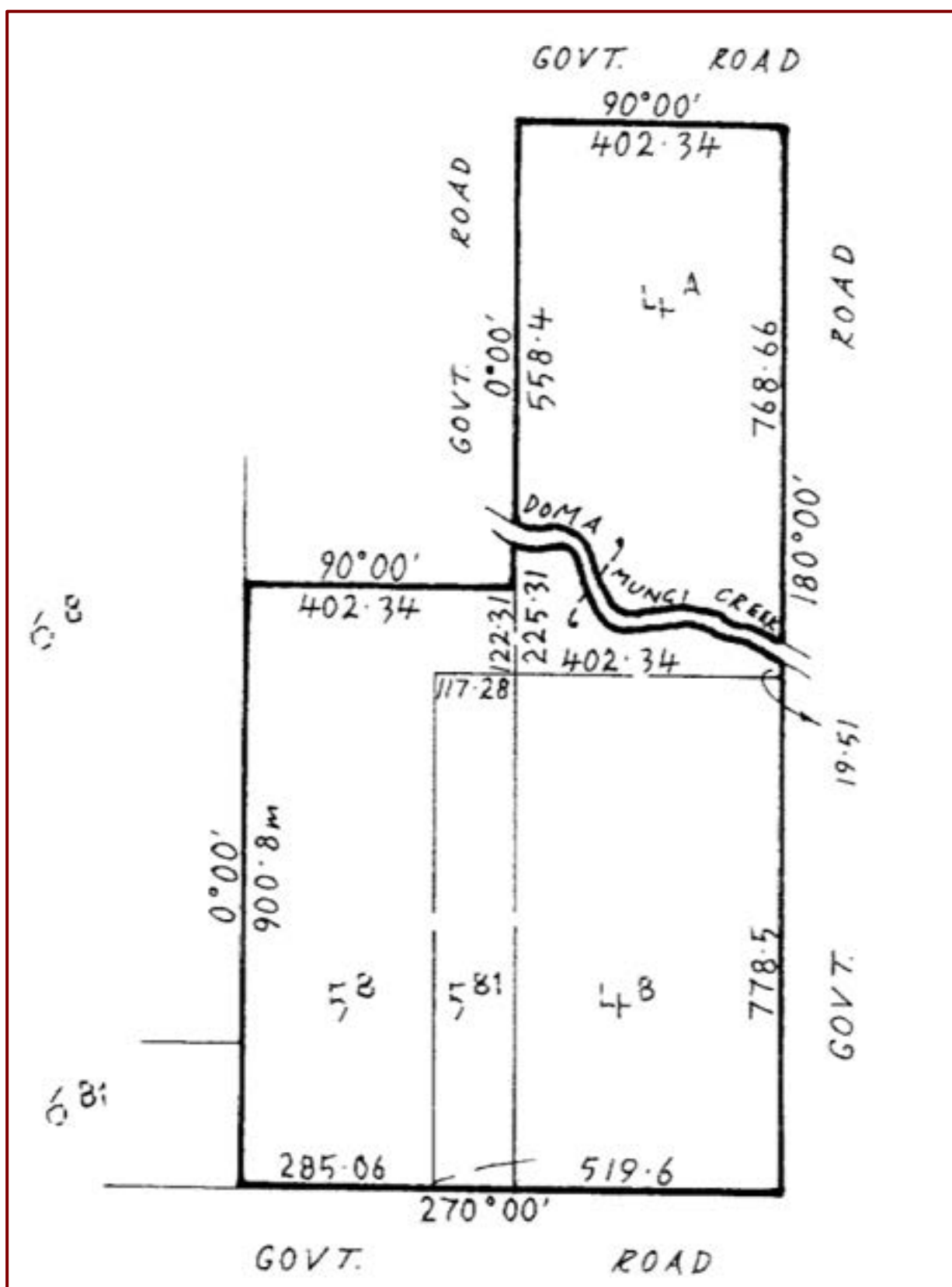


Figure 1: Existing plan of subdivision.

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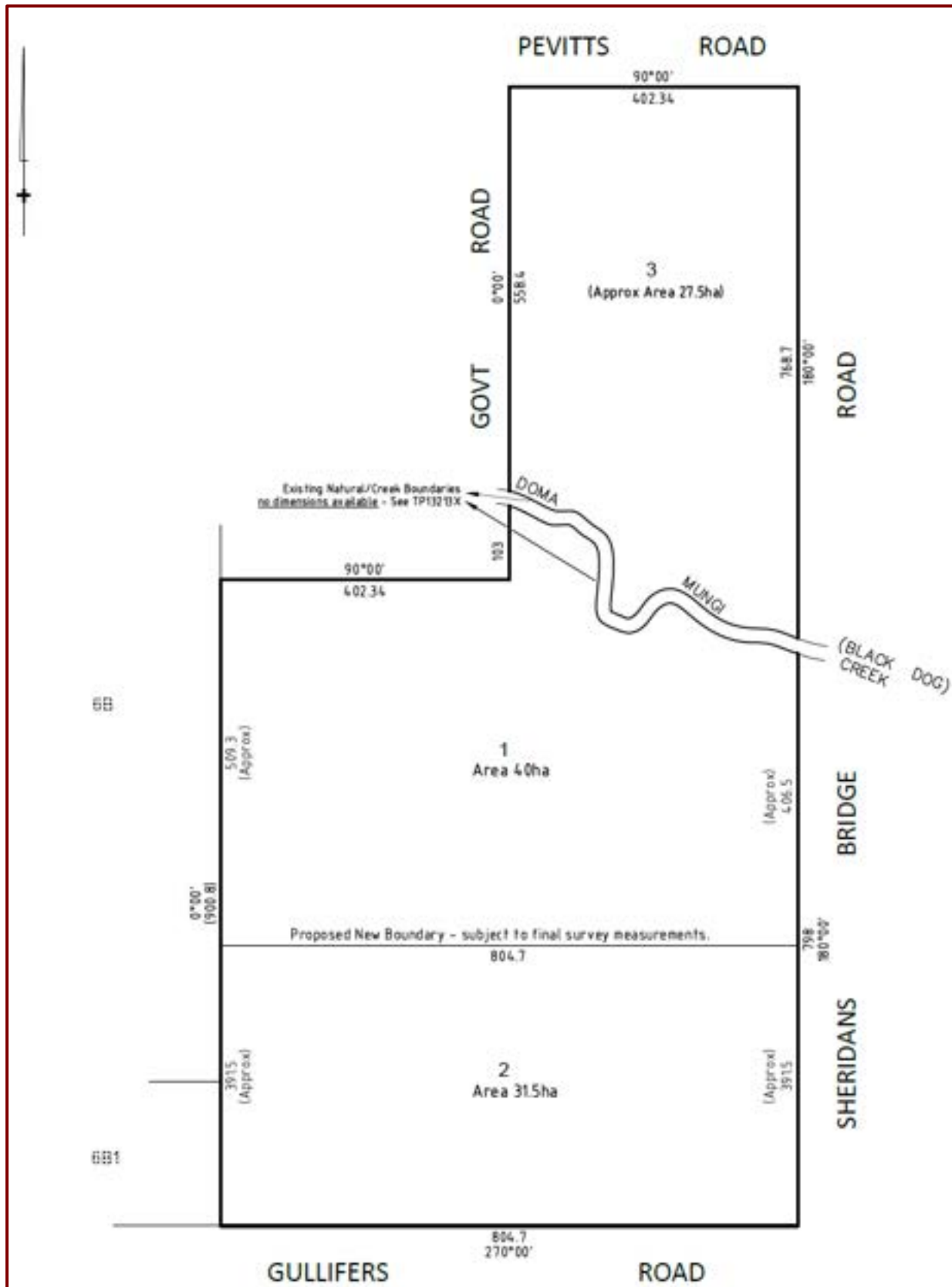


Figure 2: Proposed plan of subdivision.

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ZONING AND PLANNING CONTROLS

Zoning: Farming Zone



Figure 3: Zoning Map. Source: VicPlan.

Overlay/s: ESO3 (Black Dog Creek)
Bushfire Management Overlay



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Figure 4: Overlay Maps. Source: VicPlan.

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PERMIT TRIGGER:

Pursuant to clause 35.07-3 – *A planning permit is required to subdivide land.*

Pursuant to Clause 42.01-2, *a planning permit is required to subdivide land unless the schedule to the ESO overlay specifically states a permit is not required.* In this instance, nothing was specified under Schedule 3 of the ESO and therefore, a permit is required.

Pursuant to Clause 44.06-2, *a planning permit is required to subdivide land unless specifically stated in the schedule to the overlay.*

In this instance, the schedule does not apply to the site and therefore a planning permit is required. Given that the BMO only covers a very small portion of the site and that land is used for agricultural production, a bushfire hazard site assessment, bushfire hazard landscape assessment and bushfire management statement are not considered to be required for this application.

Planning and Environment Act 1987 - SECT 60

Section 60 of the Act provides that before deciding on an application, the responsible authority must consider:

- (a) the relevant planning scheme; and
- (b) the objectives of planning in Victoria (which include at Section 4(1)(b) to provide for the protection of natural and man-made resources...); and
- (c) all objections and other submissions which it has received and which have not been withdrawn; and
- (d) any decision and comments of a referral authority which it has received; and
- (e) any significant effects which the responsible authority considers the use or development may have on the environment or which the responsible authority considers the environment may have on the use or development.
- (f) any significant social effects and economic effects which the responsible authority considers the use or development may have.

Section (1A) of the Act provides that the responsible authority, if the circumstances appear to so require, may consider:

- (g) any other strategic plan, policy statement, code or guideline which has been adopted by a Minister, government department, public authority or municipal council;
- ...
- (j) any other relevant matter.

MUNICIPAL PLANNING STRATEGY AND PLANNING POLICY FRAMEWORK

The purpose of policy in planning schemes is to inform planning authorities and responsible authorities of those aspects of planning policy which they are required to consider and give effect to in planning and administering their respective areas. It is the State Government's expectation that planning and responsible authorities will endeavour to integrate the range of policies relevant to the issues to be determined and balance conflicting objectives in favour of net community benefit and sustainable development. Planning and responsible authorities must take account of and give effect

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to both the general principles and the specific policies applicable to issues before them to ensure integrated decision-making.

Society has various needs and expectations such as land for settlement, protection of the environment, economic well-being, various social needs, proper management of resources and infrastructure. Planning aims to meet these by addressing aspects of economic, environmental and social well-being affected by land use and development.

Planning is to anticipate and respond to the needs of existing and future communities through provision of zoned and serviced land for housing, employment, recreation and open space, commercial and community facilities and infrastructure. Planning is to recognise the need for, and as far as practicable contribute towards:

- Health and safety.
- Diversity of choice.
- Adaptation in response to changing technology.
- Economic viability.
- A high standard of urban design and amenity.
- Energy efficiency.
- Prevention of pollution to land, water and air.
- Protection of environmentally sensitive areas and natural resources.
- Accessibility.
- Land use and transport integration.

The Municipal Planning Strategy and Planning Policy Framework seeks to ensure that the objectives of planning in Victoria are met and encouraged through land use and development. The following policies and clauses are deemed to be relevant to this proposal and have been considered in the assessment of this application:

Clause 02.03-1 – Settlement

Clause 02.03-4 Natural resource management

Clause 02-03-6 – Housing

Clause 13.02-1S - Bushfire Planning

Clause 13.02-1L – Bushfire Planning

Clause 14.01-1S – Protection of agricultural land

Clause 14.01-1L-01 – House lot excisions

Clause 14.01-1L-02 Subdivision in rural areas

PARTICULAR PROVISIONS

Clause 53.01 – Public Open Space contribution and subdivision

Clause 53.02 – Bushfire Planning

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GENERAL PROVISIONS

65 Decision Guidelines

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

65.01 – Approval of an application or plan

Before deciding on an application or approval of a plan, the responsible authority must consider, as appropriate:

- The matters set out in section 60 of the Act.
- Any significant effects the environment, including the contamination of land, may have on the use or development.
- The Municipal Planning Strategy and the Planning Policy Framework.
- The purpose of the zone, overlay or other provision.
- Any matter required to be considered in the zone, overlay or other provision.
- The orderly planning of the area.
- The effect on the environment, human health and amenity of the area.
- The proximity of the land to any public land.
- Factors likely to cause or contribute to land degradation, salinity or reduce water quality.
- Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site.
- The extent and character of native vegetation and the likelihood of its destruction.
- Whether native vegetation is to be or can be protected, planted or allowed to regenerate.
- The degree of flood, erosion or fire hazard associated with the location of the land and the use, development or management of the land so as to minimise any such hazard.
- The adequacy of loading and unloading facilities and any associated amenity, traffic flow and road safety impacts.
- The impact the use or development will have on the current and future development and operation of the transport system.

65.02 – Approval of an application to subdivide land

Before deciding on an application to subdivide land, the responsible authority must also consider, as appropriate:

- The suitability of the land for subdivision.
- The existing use and possible future development of the land and nearby land.
- The availability of subdivided land in the locality, and the need for the creation of further lots.

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- The effect of development on the use or development of other land which has a common means of drainage.
- The subdivision pattern having regard to the physical characteristics of the land including existing vegetation.
- The density of the proposed development.
- The area and dimensions of each lot in the subdivision.
- The layout of roads having regard to their function and relationship to existing roads.
- The movement of pedestrians and vehicles throughout the subdivision and the ease of access to all lots.
- The provision and location of reserves for public open space and other community facilities.
- The staging of the subdivision.
- The design and siting of buildings having regard to safety and the risk of spread of fire.
- The provision of off-street parking.
- The provision and location of common property.
- The functions of any owners corporation.
- The availability and provision of utility services, including water, sewerage, drainage, electricity, and, where the subdivision is not a residential subdivision, gas.
- If the land is not sewered and no provision has been made for the land to be sewered, the capacity of the land to treat and retain all sewage and sullage within the boundaries of each lot.
- Whether, in relation to subdivision plans, native vegetation can be protected through subdivision and siting of open space areas.
- The impact the development will have on the current and future development and operation of the transport system.

REFERRAL AUTHORITIES

The application was referred to the following referral authorities in accordance with Section 55 of the Planning and Environment Act 1987 and/or advice was sought from the following:

- CFA
- Ausnet Services

Responses received recommend approval, subject to conditions from AusNet and without conditions from CFA.

PUBLIC NOTICE

Notice of the application was given to adjoining owners and occupiers and other relevant persons in accordance with Section 52 (1) of the Planning and Environment Act 1987.

No submissions were received in response.

A separate notice was provided to North East Catchment Management Authority, who did not object but requested a permit note be added.

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DISCUSSION

This application primarily raises issues about agriculture and the proliferation of dwellings in the Farming Zone.

In their application, the applicant has outlined the primary justification for the proposed subdivision as facilitating land being distributed to their children, and a vaguely described proposal for “high yield farming and horticultural/viticulture activities”. The proposal is not well defined, with no detail on how the proposed agriculture enterprise will operate.

The most likely outcome of this proposal is that the new 40ha lot will have a dwelling constructed, and Council will receive applications for dwellings on the other residual lots.

It is not clear how the proposed subdivision will improve and enhance agricultural productivity.

The proposed creating of smaller lots also runs contrary to planning policy at lot 14.01-1S and 14.01-1L-02, particularly the following strategies:

- *Protect productive agricultural land from unplanned loss due to permanent changes in land use.*
- *In considering a proposal to use, subdivide or develop agricultural land, consider the:*
 - *Desirability and impacts of removing the land from primary production, given its agricultural productivity.*
 - *Impacts on the continuation of primary production on adjacent land, with particular regard to land values and the viability of infrastructure for such production.*
 - *Compatibility between the proposed or likely development and the existing use of the surrounding land.*
- *Avoid the subdivision of productive agricultural land from diminishing the long-term productive capacity of the land.*
- *To ensure that the subdivision of land does not prejudice agricultural industries or productive capacity.*
- *Retain land in larger parcels suitable to the relevant production requirements of agriculture in the Farming Zone.*
- *Discourage the subdivision of land in the Farming Zone, unless it:*
 - *Is necessary for genuine intensive agriculture or rural production*
 - *Is compatible with the existing average farm size in the locality.*
 - *Facilitates agricultural use of the land.*
 - *Incorporates boundary adjustments so that no extra lots are created.*
 - *Is not to be used solely for the purposes of a dwelling.*
- *Discourage subdivision in the Farming Zone that results in a dwelling not associated with agriculture.*

The proposed subdivision is also contrary to the purposes of the Farming Zone.

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VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

There are a number of cases in recent years that are relevant to this particular application, namely the subdivision of land creating additional dwelling entitlements. The *Estate of JE Walker v Wangaratta RCC [2021] VCAT 1257* is one such case. The Member in this instance reiterates the following principle with respect to a proposal for the creation of lots of 40ha;

33. *To the extent that Mr Haydon urged me to place a high degree of strategic weight simply on each of the intended three new lots satisfying the 'minimum of 40 hectares' subdivision benchmark, I regard this approach as overly simplistic and misguided. Rather, I consider this 'minimum of 40 hectares' benchmark as more being in the nature of a condition-precedent to an owner even seeking approval to further subdivide her or his land. Even where this 'minimum size' benchmark is met, a proposed subdivision of land zoned Farming Zone still needs to establish that it would be an acceptable planning outcome in terms of the broader planning framework.*

...

48. *I endorse Council's submission at the hearing that the situation of a lifestyle property running a few sheep or goats or the like does not constitute meaningful farming, so as to come within the scope of the word 'productive', where the Planning Scheme is promoting 'productive farming'. Rather, I see running a few sheep/goats/chooks or the like as being in the nature of keeping such animals essentially to fulfil the role of family pets*

49. *Fourth, I see weight in Council's submission that the proposal runs 'against the grain' of the common practical farming trend, where the one farmer can potentially carry out farming activities over multiple lots that are not contiguous. I accept that the proposal undermines this potential situation of a farmer generating a more sustainable farm income over a wider group of lots, by creating the situation where (if the proposal went ahead) each of the new lots may have a different owner, who may well want to independently utilise that lot him or herself. This would then remove that lot from the broader pool of lots which can be farmed on a 'group basis' in this general location. This in turn would have a negative impact on the Planning Scheme aim of land zoned Farming Zone being used for productive farming purposes.*

...

52. *It is common ground that if the proposal went ahead, a dwelling could be placed on each new lot on an 'as-of-right basis, from a 'planning system' point of view. If the proposal went ahead, the likely resulting land speculation/pushing up of land prices on land zoned Farming Zone again is contrary to the aim of the productive farming use of the subject land. This is because of the risk that genuine farmers potentially interested in expanding their existing farm holdings are 'priced out of the market' by potential 'lifestyle lot owners'. My findings on this issue mirror those of the Tribunal at [53] of Gibson v Bass Coast SC (2015) VCAT 857.*

It is clear then that any subdivision proposal that merely meets the minimum 40ha minimum lot size should not be supported simply on this basis. Instead, achieving minimum lot size requirements is taken as the minimum milestone to simply be able to make an application. Any such application then, must be able to demonstrate how the subdivision is an acceptable planning outcome in the

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context of relevant strategic and policy direction as well as the purpose and decision guidelines of the relevant zone.

Phillips v Wodonga CC [2023] VCAT 1014 the Member points out the commonality that the farming of single agricultural lots is unlikely to provide sufficient income to support the farmer(s) and their families;

28. *'economically viable in its own right and requiring off-farm income, or needing to be farmed in conjunction with other land holdings is not an uncommon situation in agricultural areas'.*

To be a viable agriculture enterprise does not mean that the enterprise needs to be sufficient to support a person, rather it is that the purpose of the enterprise is profit. This is well summarised in the case of *Brown v Macedon Ranges SC [2024] VCAT 400*:

To clarify, by referring to viability, I am not suggesting that an agricultural activity should provide the equivalent of a full time income. Rather, I would expect a Business Plan to demonstrate that the proposal agricultural activity can run at a profit, rather than a loss, and that the upfront costs can be recouped over a reasonable period of time. This is important as if the proposed agricultural activity is to run at a loss, then it will likely not be pursued over the medium to long term. Alternatively if the upfront establishment costs are too high, as compared to the expected returns, then the agricultural activity may never be commenced at all.

Greg Chalmers Pty Ltd v Greater Geelong CC [2007] VCAT 292:

20. *Generally speaking, the more rural land is fragmented into smaller pieces, the less useful and useable it is for farming purposes. It has long been held recognised in rural planning, indeed for decades, that fragmentation of rural land, with or without proliferation of non-farm rural houses not required for farming purposes are a very serious threat to the continued usefulness and useability of farming land. Fiddly bits of land are less useful, particularly if of an appropriate (sic) shape and location, than larger areas. The whole trend of farming practice has been to increase areas required for farming enterprises whilst there has been continuing pressure to cut land up into smaller amounts to exploit its residential value. Good town and country planning looks for residential uses to be located in or on the edge of towns, or at least in areas planned for that purpose, rather than spread over rural zones areas.*

Bailey v Bass Coast SC [2014] VCAT 1480;

36. *While I am sympathetic at a personal level if Mr Bailey is allegedly having issues running the subject land profitably as a single enterprise:*

- It is overly simplistic and misguided for any of us to simply assume that a current landholding has to be made profitable and then 'work backwards from there' – farm viability needs to be considered at a broader level.*

It is not obvious to me how creating 'more smaller lots' fixes this 'viability' issue. If anything, the relevant planning framework is pointing to 'farm consolidation' (ie merging multiple landholdings together) as being a more relevant possibility to consider.

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CONCLUSION

The protection of farming land from inappropriate or unnecessary development is an important principle in the planning scheme, and one that this Council has fought for over many years. This proposal effectively creates a new dwelling right without enhancing the farming use. Despite the fact that the application does not seek a new dwelling at this stage, the creation of the proposed subdivision allows for it in the future. Approval of this application would increase the value of farming land (making farming less viable in the area), and create greater fragmentation of land. All of these outcomes conflict with the direction set by this council and the planning scheme.

The reason for the proposed subdivision that is given in the application is to allow for the owner's children to farm on the property. Farming is already permitted on the land (without the need to subdivide), and there is no reason that a subdivision would be required unless a future dwelling was planned. This application does not meet the Planning Scheme requirements that have been set by this Council, and it should be refused.

CONFIDENTIAL ATTACHMENT

The following confidential attachment has been provided to Councillors under separate cover. Recent changes to Section 197A of the *Planning and Environment Act 1997* have clarified and tightened the way Councils are able to make certain planning documents available to the public. The Act provides that the confidential document listed below can only be made available for public inspection:

- at Council offices during business hours, or
- electronically via Council's website subject to strict public availability requirements, requiring significant editing of individual documents.

Council currently does not have the resources to provide the document online in line with the public availability requirements of the Act, and so is at this stage unable to publish it in the public agenda online.

DECLARATION OF CONFLICT OF INTEREST

Under section 130(2) of the *Local Government Act 2020* and Governance Rule 24, the following officers declare that they have no interests to disclose in providing this report:

- Steven Hawkins, Coordinator Planning
- James Turner – Manager Planning and Statutory Services
- Greg Pinkerton – Director Planning and Corporate Services

Attachments

1. PP22-0073 - Officers delegates report - Lilliput - Norong Road - Lilliput - PN 5146
2. PP22-0073 - Application documents - Lilliput Norong Road - Lilliput - PN 5146 (Confidential)
3. PP22-0073 - Plans - Lilliput - Norong Road - Lilliput - PN 5146

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11.8 PLANNING PERMIT APPLICATION PP23-0215 - 1780 INDIGO CREEK ROAD, INDIGO VALLEY

File No: 2024/509

James Turner - Manager Planning & Statutory Services Planning & Corporate Services

For Decision

RECOMMENDATION

That Council issue a notice of decision to refuse planning permit application PP23-0215 for a three-lot re-subdivision at 1780 and 1796 Indigo Creek Rd, Indigo Valley on the following grounds:

1. The proposal is contrary to the purpose and decision guidelines of the Farming Zone;
2. The proposal is contrary to the Municipal Planning Strategy and Planning Policy Framework, in particular clauses:
 - a) 02.03-1 Settlement
 - b) 02.03-4 Natural resource management
 - c) 02.03-6 Housing
 - d) 14.01-1S Protection of agricultural land
 - e) 14.01-1L-02 Subdivision in rural areas ; and
3. The proposal is not supported by the decision guidelines at clause 65.01 and 65.02 of the Indigo Planning Scheme.

Item was withdrawn by the applicant.

SUMMARY

Application No:	PP23-0215
Subject Land:	1780 & 1796 Indigo Creek Road, Indigo Valley
Proposal:	Re-subdivision of the land into three lots
Recommendation:	Refusal in accordance with the Recommendation above.

BACKGROUND

Date application lodged:	14/11/2023
Purpose:	Seeks approval to re-subdivide the land into three new lots.
Subject site land area:	134.19ha
Current use of subject site:	Large rural holding used for broad acre grazing and pasture production. Contains one dwelling and rural infrastructure, including shedding and farm dams.
Site constraints:	<ul style="list-style-type: none">• Large irregular shaped rural property comprising

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dryland animal grazing and cropping.

- Some scattered paddock trees throughout. Pockets of windbreaks potentially containing remnant native vegetation or funded planted vegetation.
- A number of mapped waterways/drainage lines throughout.
- Relatively steeply sloped land with overall fall from west to east.

Surrounding land use:

Adjoining land to the north, south and east generally comprises larger agricultural holdings all within the Farming Zone. Adjoins Chiltern-Mount Pilot National Park (Public Conservation and Resource Zone) to the west and is adjacent to Indigo Creek to the east.



The Bushfire Management Overland affects land within close proximity of the Chiltern-Mount Pilot National Park.

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Zoning of surrounding land: Farming Zone
 Public Conservation and Resource Zone

PROPOSAL

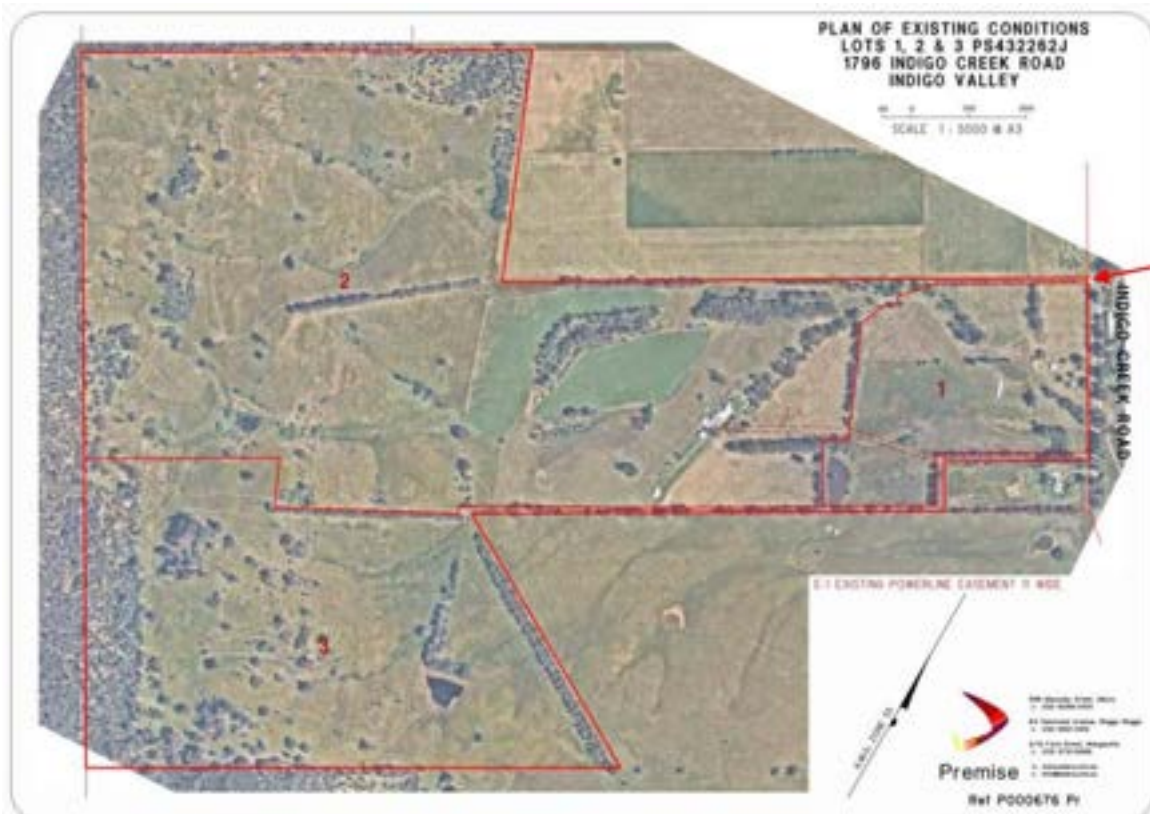
The proposed application seeks to subdivide three existing lots by way of altering the common lot boundaries. The three existing lots comprise of the following areas and uses;

- Lot 1 – 13.4ha lot containing stock yards, rural shedding and a farm dam. Also comprises an old derelict former dwelling that does not have any existing use rights.
- Lot 2 – 80.4ha lot comprising the bulk of the subject lot and containing an existing dwelling, rural shedding, a number of farm dams and some improved pastureland. Accessible to Indigo Creek Road by way of an access handle along the northern boundary of Lot 1.
- Lot 3 – 40.24ha lot containing a farm dam but otherwise vacant of any substantial improvements. Accessible to Indigo Creek Road by way of an access handle along the southern boundary of Lot 1.

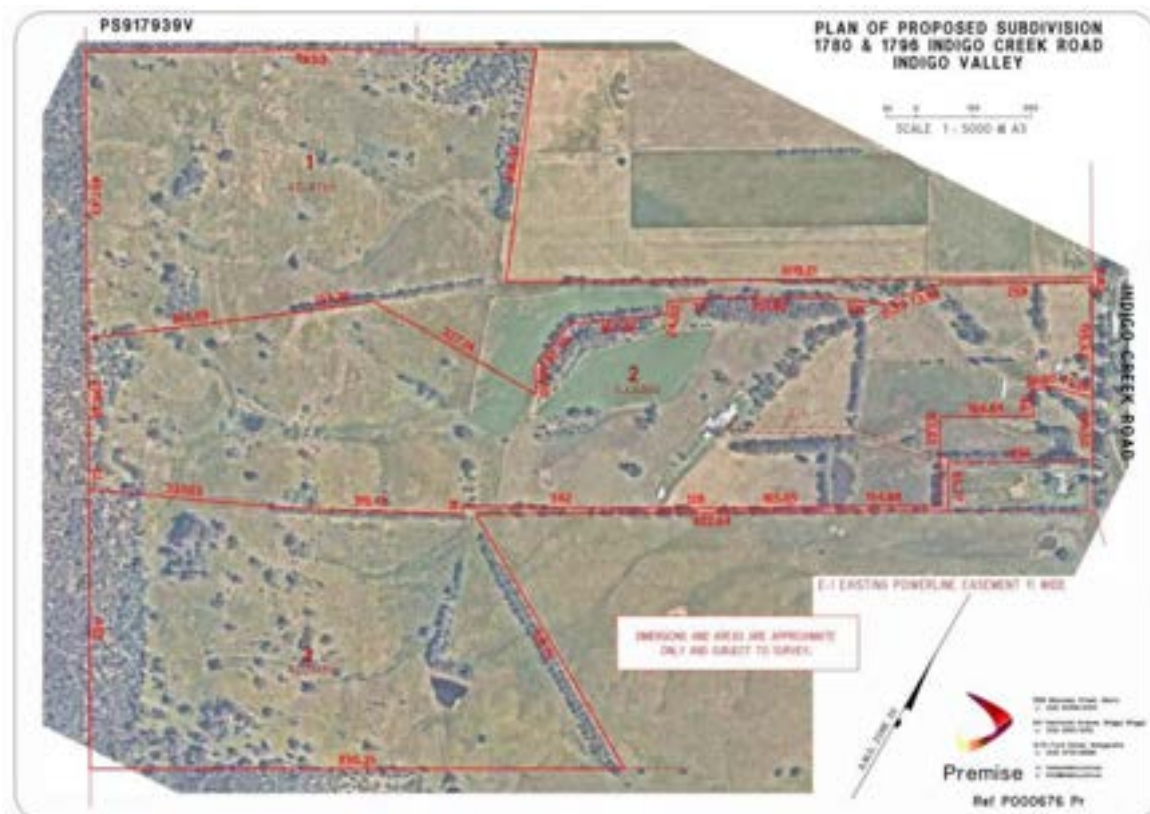
It is proposed to create three new lots as follows;

- Lot 1 – 40.47ha vacant lot. Accessible to Indigo Creek Road by way of existing access to existing Lot 2; albeit with a significant extension of the access handle.
- Lot 2 – 53.68ha lot containing the existing dwelling and most farm improvements. Accessible to Indigo Creek Road by way of a proposed new access adjacent to the proposed Lot 1 access.
- Lot 3 – 40.04ha vacant lot with slightly improved access opportunities to Indigo Creek Road. Will retain the existing farm dam.

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Existing Lot Layout



Proposed Lot Layout

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The proposed reconfiguration of the land increases the number of lots greater than 40ha in area from two to three, effectively creating an additional dwelling right over the subject land. This is generally achieved through the transfer of land from the larger Lot 2 (currently 80.4ha) to the smaller Lot 1 (currently 13.4ha). The subdivision is also understood to facilitate a more suitable dwelling location and vehicle access for Lot 2.

The proposed new Lot 3 represents an additional 'battle-axe' lot, relying on a 1km long 'slither' of land that is currently used to provide access to the dwelling and farming operations on the large Lot 2. This then requires the provision of a new vehicle access to Indigo Creek Road for the existing dwelling and farm operations. Such vehicle access will necessitate the removal of a further 800m long strip of land so as to reconnect to the existing dwelling with a public road, in addition to the strip that already exists.

ZONING AND PLANNING CONTROLS

Zoning: Clause 35.07 - Farming Zone (FZ)

Overlay/s: Bushfire Management Overlay (BMO)

Permit Trigger:

Farming Zone:

Pursuant to clause 35.07-3, a permit is required for subdivision.

Bushfire Management Overlay:

Pursuant to clause 44.06-2, a permit is required to subdivide land.

A section 173 agreement applies to the land preventing subdivision to create new lots. The current proposal does not breach this agreement.

Planning and Environment Act 1987 - SECT 60

Section 60 of the Act provides that before deciding on an application, the responsible authority must consider:

- (a) the relevant planning scheme; and
- (b) the objectives of planning in Victoria (which include at Section 4(1)(b) to provide for the protection of natural and man-made resources...); and
- (c) all objections and other submissions which it has received and which have not been withdrawn; and
- (d) any decision and comments of a referral authority which it has received; and
- (e) any significant effects which the responsible authority considers the use or development may have on the environment or which the responsible authority considers the environment may have on the use or development.
- (f) any significant social effects and economic effects which the responsible authority considers the use or development may have.

Section (1A) of the Act provides that the responsible authority, if the circumstances appear to so require, may consider:

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- (g) any other strategic plan, policy statement, code or guideline which has been adopted by a Minister, government department, public authority or municipal council;

...

- (j) any other relevant matter.

STATE PLANNING POLICY

MUNICIPAL PLANNING STRATEGY AND PLANNING POLICY FRAMEWORK

The purpose of policy in planning schemes is to inform planning authorities and responsible authorities of those aspects of planning policy which they are required to consider and give effect to in planning and administering their respective areas. It is the State Government's expectation that planning and responsible authorities will endeavour to integrate the range of policies relevant to the issues to be determined and balance conflicting objectives in favour of net community benefit and sustainable development. Planning and responsible authorities must take account of and give effect to both the general principles and the specific policies applicable to issues before them to ensure integrated decision-making.

Society has various needs and expectations such as land for settlement, protection of the environment, economic well-being, various social needs, proper management of resources and infrastructure. Planning aims to meet these by addressing aspects of economic, environmental and social well-being affected by land use and development.

Planning is to anticipate and respond to the needs of existing and future communities through provision of zoned and serviced land for housing, employment, recreation and open space, commercial and community facilities and infrastructure. Planning is to recognise the need for, and as far as practicable contribute towards:

- Health and safety.
- Diversity of choice.
- Adaptation in response to changing technology.
- Economic viability.
- A high standard of urban design and amenity.
- Energy efficiency.
- Prevention of pollution to land, water and air.
- Protection of environmentally sensitive areas and natural resources.
- Accessibility.
- Land use and transport integration.

The Municipal Planning Strategy and Planning Policy Framework seeks to ensure that the objectives of planning in Victoria are met and encouraged through land use and development. The following policies and clauses are deemed to be relevant to this proposal and have been considered in the assessment of this application:

- 02-03-1 Settlement
- 02-03-3 Environmental risks and amenity
- 02-03-4 Natural resource management

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- 02.03-6 Housing
- 13.02-1S Bushfire Planning
- 14.01-1S Protection of agricultural land
- 14.01-1L-02 Subdivision in rural areas

PARTICULAR PROVISIONS

53.02 Bushfire Planning

GENERAL PROVISIONS

65 Decision Guidelines

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

65.01 – Approval of an application or plan

Before deciding on an application or approval of a plan, the responsible authority must consider, as appropriate:

- The matters set out in section 60 of the Act.
- Any significant effects the environment, including the contamination of land, may have on the use or development.
- The Municipal Planning Strategy and the Planning Policy Framework.
- The purpose of the zone, overlay or other provision.
- Any matter required to be considered in the zone, overlay or other provision.
- The orderly planning of the area.
- The effect on the environment, human health and amenity of the area.
- The proximity of the land to any public land.
- Factors likely to cause or contribute to land degradation, salinity or reduce water quality.
- Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site.
- The extent and character of native vegetation and the likelihood of its destruction.
- Whether native vegetation is to be or can be protected, planted or allowed to regenerate.
- The degree of flood, erosion or fire hazard associated with the location of the land and the use, development or management of the land so as to minimise any such hazard.
- The adequacy of loading and unloading facilities and any associated amenity, traffic flow and road safety impacts.
- The impact the use or development will have on the current and future development and operation of the transport system.

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65.02 – Approval of an application to subdivide land

Before deciding on an application to subdivide land, the responsible authority must also consider, as appropriate:

- The suitability of the land for subdivision.
- The existing use and possible future development of the land and nearby land.
- The availability of subdivided land in the locality, and the need for the creation of further lots.
- The effect of development on the use or development of other land which has a common means of drainage.
- The subdivision pattern having regard to the physical characteristics of the land including existing vegetation.
- The density of the proposed development.
- The area and dimensions of each lot in the subdivision.
- The layout of roads having regard to their function and relationship to existing roads.
- The movement of pedestrians and vehicles throughout the subdivision and the ease of access to all lots.
- The provision and location of reserves for public open space and other community facilities.
- The staging of the subdivision.
- The design and siting of buildings having regard to safety and the risk of spread of fire.
- The provision of off-street parking.
- The provision and location of common property.
- The functions of any owners corporation.
- The availability and provision of utility services, including water, sewerage, drainage, electricity, and, where the subdivision is not a residential subdivision, gas.
- If the land is not sewered and no provision has been made for the land to be sewered, the capacity of the land to treat and retain all sewage and sillage within the boundaries of each lot.
- Whether, in relation to subdivision plans, native vegetation can be protected through subdivision and siting of open space areas.
- The impact the development will have on the current and future development and operation of the transport system.

REFERRAL AUTHORITIES

The application was referred to the following referral authorities in accordance with Section 55 of the Planning and Environment Act 1987 and/or advice was sought from the following:

- CFA

Responses did not object to the proposal, with no additional conditions.

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The application was referred internally to Council's Assets and Environmental Health Departments. The Assets Department have no objection to the proposal subject to the inclusion of access requirements for each proposed lot. The Environmental Health Department has no objection to the proposal and no conditions to add.

PUBLIC NOTICE

The application has been advertised pursuant to section 52 of the Planning and Environment Act 1987 for a period of 14 days via letters to adjoining and surrounding owners/occupiers, including the Department of Energy, Environment and Climate Action (DEECA) who are responsible for the management of the adjoining Chiltern-Mt Pilot National Park.

Notification has been carried out correctly. No objections have been received for the application to date. DEECA have provided a written submission advising that the Authority does not object to the proposal. The DEECA submission includes a request for the inclusion of a number of permit conditions and notes. The requested conditions and notes are not considered particularly relevant to the planning application or planning considerations under the *Planning and Environment Act 1987* more generally. It is recommended that these not be included as part of any permit issued.

DISCUSSION

This application raises particular consideration with respect to agricultural use and appropriate bushfire management.

Bushfire Considerations

The subject land is largely unencumbered by the Bushfire Management Overlay (BMO) with only a reasonably small portion of land along the western border to the Chiltern-Mount Pilot National Park located in the overlay. None-the-less Clause 44.06-2 of the Indigo Planning Scheme identifies that a permit is required for any subdivision involving land affected by the BMO.

The applicant includes a Bushfire Hazard Landscape Assessment, a Bushfire Hazard Site Assessment and a Bushfire Management Statement in accordance with the application requirements of the BMO.

Given the context of the site, bushfire risk, the ability to site future dwellings outside of the BMO and the support provided by the CFA, the subdivision is not at odds with relevant Planning Scheme provisions relating to bushfire.

Agricultural Considerations

The purpose of the proposed rural subdivision is not clear. It doesn't appear to result in any agricultural benefit, but rather supports future development of the land for dwellings. The submitted planning report states;

The proposal is to re-subdivide the existing three lots into a better layout that makes all the lots greater than the minimum area for the zone of 40ha which is not currently the case.

The proposal also improves the access and possible building site for lot 3, it improves the access for lot 2 and provides a practical and desirable building envelope for lot 1...

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The site offers ready access to the nearby City of Wodonga, which is 20 mins and 24km away, as well as to other surrounding living and recreational areas such as Yackandandah, being 10km away and Barnawartha, being 18km away.

While the submitted report repeatedly states that no new dwellings are proposed as part of this application, it also mentions the '40ha minimum' (for dwellings) as well as a 'possible building site' on one lot and a 'desirable building envelope on another.

The nature of the application, to create all lots over 40 hectares and improve dwelling locations and lot accesses, is geared toward dwelling/lifestyle purposes over any genuine agricultural purposes.

There are a number of cases in recent years that are relevant to this particular application, namely the subdivision of land creating additional dwelling entitlements. The *Estate of JE Walker v Wangaratta RCC [2021] VCAT 1257* is one such case. The Member in this instance reiterates the following principle with respect to a proposal for the creation of lots greater than 40ha in area;

33. *To the extent that Mr Haydon urged me to place a high degree of strategic weight simply on each of the intended three new lots satisfying the 'minimum of 40 hectares' subdivision benchmark, I regard this approach as overly simplistic and misguided. Rather, I consider this 'minimum of 40 hectares' benchmark as more being in the nature of a condition-precedent to an owner even seeking approval to further subdivide her or his land. Even where this 'minimum size' benchmark is met, a proposed subdivision of land zoned Farming Zone still needs to establish that it would be an acceptable planning outcome in terms of the broader planning framework.*

It is clear then that any subdivision proposal that merely meets the minimum 40ha minimum lot size should not be supported simply on this basis. Instead, achieving minimum lot size requirements is taken as the minimum milestone to simply be able to make an application. Any such application then, must be able to demonstrate how the subdivision is an acceptable planning outcome in the context of relevant strategic and policy direction as well as the purpose and decision guidelines of the relevant zone.

To this extent the following key provisions of the Planning Scheme have been identified;

Municipal Planning Strategy

Clause 02.03-1 – Settlement

Strategic directions:

- *Direct population growth to serviced and zoned land to make efficient use of infrastructure and land.*
- *Reduce the proportion of new housing development in rural areas.*

Clause 02.03-4 – Natural resource management

Agriculture

The protection of agricultural land... is a critical issue for the Shire.

Subdivision, new dwellings and other uses not associated with agriculture can undermine the viability of the rural sector through loss of productive agricultural land, use of infrastructure and water that could be used for agricultural production and inflate land values, create demand for

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community and physical infrastructure that more appropriately located in other suitably zoned areas.

Strategic directions:

- *Protect agricultural land for primary production*
- *Discourage rural subdivision and dwellings for hobby farming and rural residential purposes in the Farming Zone.*
- *Encourage consolidation of existing isolated small lots in the Farming Zone.*

Clause 02.03-6 – Housing

Rural residential and rural living development

Farming Zone land is under pressure from development for rural living. The potential adverse impacts of unplanned rural living on agriculture... and the efficiency of infrastructure and service provision is a key issue within the Shire.

Strategic directions:

- *Direct rural living, rural residential development, and hobby farm development into areas zoned for that purpose.*

Planning Policy Framework

Clause 14.01-1S - Protection of agricultural land

- *Protect productive agricultural land from unplanned loss due to permanent changes in land use.*
- *Limit new housing development in rural areas by:*
 - *Directing housing growth into existing settlements.*
 - *Encouraging consolidation of existing isolated small lots in rural zones.*
- *In considering a proposal to... subdivide... agricultural land, consider the... impacts on the continuation of primary production on adjacent land, with particular regard to land values and the viability of infrastructure for such production.*

Clause 14.01-1L-02 – Subdivision in Rural Areas

- *...ensure that the subdivision of land does not prejudice agricultural industries or productive capacity.*
- *Retain land in larger parcels suitable to the relevant production requirements of agriculture in the Farming Zone.*
- *Encourage the consolidation of lots in the Farming Zone.*
- *Discourage the subdivision of land in the Farming Zone, unless it:*

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- *Is necessary for genuine... rural production.*
- *Facilitates agricultural use of the land.*

Farming Zone

Clause 35.07-6 – Decision Guidelines

- *Whether the use or development will support and enhance agricultural production.*
- *The potential... to limit the... expansion of adjoining and nearby agricultural uses.*

There are some key considerations arising through relevant strategy and policy direction, and the decision guidelines of the Farming Zone. These include;

- The protection of agricultural land is a critical issue for the Shire. Council has identified that the Farming Zone is under pressure from rural living and housing development and that subdivision not associated with agriculture can undermine the viability of the rural sector through a number of factors such as;
 - loss of productive agricultural land,
 - use of infrastructure and water that could be used for agricultural production,
 - inflated land values, and/or
 - increased residential amenity expectations that may conflict with agricultural activities and operations.
- Direct new housing opportunities, particularly where the housing is not required for genuine commercial agricultural purposes, away from the Farming Zone and into urban areas or land zoned for rural living purposes. This has a two-fold effect in that;
 - It ensures agricultural land is protected and more likely to be retained for viable agricultural operations.
 - It ensures the efficient supply of infrastructure and services to the Shire's population.
- Land is to be retained in larger parcels suitable to the relevant production requirements of agriculture in the Farming Zone.
- Consolidation of lots in the Farming Zone, particularly small lots, is encouraged. Fragmentation and/or a reduction in the size of larger lots, on the other hand, is not.
- Only support subdivision of land in the Farming Zone where it is necessary for genuine rural production.
- Do not support subdivision that may prejudice the continued primary production capacity of the subject land or surrounding land.

The proposed subdivision is considered to be premised primarily on achieving additional dwelling entitlements and suitable dwelling locations. This is clearly at odds with relevant strategy and policy directions, and the decision guidelines of the Farming Zone as cited above.

Creating an additional dwelling entitlement on agricultural land, such as that land contained within proposed Lot 2, is akin to the creation of an additional lifestyle lot. Subdivision that results in, or exacerbates, rural living outcomes in the Farming Zone is not supported.

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The existing Lot 1, measuring 13.4ha in area, is considered to be an isolated small lot. Strategic planning direction is for this lot to be consolidated into neighbouring agricultural land to formalise the current land use practice for this lot (i.e. farmed in conjunction with the other two lots forming this planning application). Instead, the current application proposes to exploit this isolated small lot by creating an additional dwelling entitlement without increasing the number of lots overall.

It is accepted within the industry that the creation of additional dwelling entitlements through subdivision artificially inflates the value of what is otherwise agricultural land. This has direct implications for the viability of agricultural operations on the land.

The subdivision impacts on the productive capacity of the land both generally, through the transfer of land from a large rural holding to smaller lifestyle lots, and more specifically, through excising relatively scarce improved pastureland, infrastructure such as dams, and land that is otherwise used for agricultural from the existing large rural holding (existing Lot 2).

While it is acknowledged that the proposed subdivision will improve potential dwelling locations for Lot 3, this is a distant secondary consideration in the context of the Farming Zone. This is contrary to the provisions of the Farming Zone by facilitating a dwelling outcome on agricultural land that, to date, has been demonstrated to not require a dwelling in order to support its agricultural use. The need to provide a safer and more practical access to Lot 3 is considered a more substantiated submission; however, this can also be achieved through lot consolidation as promoted throughout the Planning Scheme or, worst case, a far less substantial realignment of boundaries.

Despite being at odds with relevant strategy and policy direction under the Planning Scheme the applicant seeks to justify the proposal on two primary grounds;

- 1. Lots of 80ha of dry land are not viable farms in this area and reducing the 80ha lot to 50ha will not affect the viability of the property. Enlarging the smaller lot from 13 to 40ha will allow it to be used for agricultural purposes and provide some agricultural income opportunity to the lot owner.**

This is a common submission in an attempt to justify subdivision in the Farming Zone where it is contended that because a current operation is not perceived as viable or productive in the eyes of the applicant, the provisions of the planning scheme seeking to protect the agricultural viability and productivity of the land are somewhat diminished. This is a matter that is discussed in numerous VCAT decisions. In the JE Walker decision, the member provides;

35. *...I find that the Farming Zone and relevant policy provisions for the subject land give priority to promoting its productive agricultural use. When I use the word 'productive' here, which I take from the purposes of the Farming Zone and aspects of the relevant policy framework, I am referring to 'meaningful' farming, or perhaps 'genuine' farming.*
47. *...strategic planning framework... is not just promoting any form of farming, but is encouraging 'productive' farming. As alluded to above, I see the decision by the Planning Scheme drafts person to include the word 'productive' as pointing to a desire that the farming activity not be token, but be meaningful/genuine. Or to put this another way, the word 'productive' in the relevant text in the Planning Scheme must be given work to do, not just 'wished away' or inappropriately 'read down'.*

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In *Phillips v Wodonga CC* [2023] VCAT 1014 the Member points out the commonality that the farming of single agricultural lots is unlikely to provide sufficient income to support the farmer(s) and their families;

28. *‘economically viable in its own right and requiring off-farm income, or needing to be farmed in conjunction with other land holdings is not an uncommon situation in agricultural areas’.*

To be a viable agriculture enterprise does not mean that the enterprise needs to be sufficient to support a person, rather it is that the purpose of the enterprise is profit. This is well summarised in the case of *Brown v Macedon Ranges SC* [2024] VCAT 400:

To clarify, by referring to viability, I am not suggesting that an agricultural activity should provide the equivalent of a full time income. Rather, I would expect a Business Plan to demonstrate that the proposal agricultural activity can run at a profit, rather than a loss, and that the upfront costs can be recouped over a reasonable period of time. This is important as if the proposed agricultural activity is to run at a loss, then it will likely not be pursued over the medium to long term. Alternatively if the upfront establishment costs are too high, as compared to the expected returns, then the agricultural activity may never be commenced at all.

In relation to the impact subdivision has on the potential to farm the land as productively and economically as possible the following VCAT observations are referenced;

JE Walker;

- 45 *....Surely having... much smaller lots rather than the existing... lot will only exacerbate the existing ‘economic viability’ constraints.*

Phillips;

30. *...The larger lot inherently retains more flexibility and long-term economic sustainability....*

Greg Chalmers Pty Ltd v Greater Geelong CC [2007] VCAT 292:

20. *Generally speaking, the more rural land is fragmented into smaller pieces, the less useful and useable it is for farming purposes. It has long been held recognised in rural planning, indeed for decades, that fragmentation of rural land, with or without proliferation of non-farm rural houses not required for farming purposes are a very serious threat to the continued usefulness and useability of farming land. Fiddly bits of land are less useful, particularly if of an appropriate (sic) shape and location, than larger areas. The whole trend of farming practice has been to increase areas required for farming enterprises whilst there has been continuing pressure to cut land up into smaller amounts to exploit its residential value. Good town and country planning looks for residential uses to be located in or on the edge of towns, or at least in areas planned for that purpose, rather than spread over rural zones areas.*

Bailey v Bass Coast SC [2014] VCAT 1480;

36. *While I am sympathetic at a personal level if Mr Bailey is allegedly having issues running the subject land profitably as a single enterprise:*

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- *It is overly simplistic and misguided for any of us to simply assume that a current landholding has to be made profitable and then ‘work backwards from there’ – farm viability needs to be considered at a broader level.*
- *It is not obvious to me how creating ‘more smaller lots’ fixes this ‘viability’ issue. If anything, the relevant planning framework is pointing to ‘farm consolidation’ (ie merging multiple landholdings together) as being a more relevant possibility to consider.*

The Planning Scheme policy direction is clearly supported through VCAT case law so far as to provide that land should generally be retained in large holdings/lot sizes. Small lots such as the existing Lot 1 should be consolidated into one of the large neighbouring lots; in this case, either Lot 2, Lot 3 or both, so as to reflect the economic scale of the existing agricultural operation occurring. There has been no convincing justification provided to deviate away from this ‘established norm’ in policy direction. The need to derive off-farm income to supplement income earned on-farm is a common situation throughout the agricultural sector. It certainly does not justify exacerbating an existing economic issue by creating additional dwelling entitlements and further inflating the value of the land.

- 2. *The three subject lots were created via Planning Permit 99/192. At the time each approved lot had a dwelling entitlement with lot 1 and lot 2 having existing dwellings and lot 3 being greater than 40ha and having an as-of right entitlement. Lot 1 having an existing dwelling was less than 40ha and the planning permit required that there could be no further subdivision to increase the number of lots. This would mean that lot 1 being 80.4ha could not be further subdivided into two 40 ha lots. It is clear from this previous subdivision that council did not want more than three dwelling entitlements for the land in PS432622J. This proposal is in accordance with the dwelling entitlements on PS432622J and does not seek additional entitlements above those on PS432622J.***

The premise of any application to subdivide land in the farming zone is that the subdivision must be demonstrated to improve agricultural outcomes, not establish and/or ‘barter’ dwelling entitlements. While it true that council did decide circa 1999/2000 to create three lots, each with a dwelling entitlement, a decision made some 25 years in the past should not influence decisions made today. The planning scheme has transformed significantly in the past 25 years. The subject land for example has been rezoned from rural zone to farming zone with a much stronger emphasis on the protection of farmland. It is apparent that the existing dwelling house on lot 1 and the dwelling entitlement on lot 3 have not been required to support the agricultural operation on the land over the intervening 25-year period. The dwelling on lot 1 has not been inhabited and has fallen into disrepair and no dwelling has been constructed on lot 3.

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

The case discussed in detail above are:

- Estate of JE Walker v Wangaratta RCC [2021] VCAT 1257
- Phillips v Wodonga CC [2023] VCAT 1014
- Brown v Macedon Ranges SC [2024] VCAT 400
- Greg Chalmers Pty Ltd v Greater Geelong CC [2007] VCAT 292:
- Bailey v Bass Coast SC [2014] VCAT 1480;

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CONCLUSION

The proposed re-subdivision of land does not add or improve the overall situation and does not give any additional benefit to the land apart from setting it up for a future proposal to add new dwellings.

This proposal is not acceptable under the Farming Zone and those parts of the Municipal Planning Strategy and the Planning Policy Framework relating to agriculture and should be refused on those grounds.

CONFIDENTIAL ATTACHMENT

The following confidential attachment has been provided to Councillors under separate cover. Recent changes to Section 197A of the *Planning and Environment Act 1997* have clarified and tightened the way Councils are able to make certain planning documents available to the public. The Act provides that the confidential document listed below can only be made available for public inspection:

- at Council offices during business hours, or
- electronically via Council's website subject to strict public availability requirements, requiring significant editing of individual documents.

Council currently does not have the resources to provide the document online in line with the public availability requirements of the Act, and so is at this stage unable to publish it in the public agenda online.

DECLARATION OF CONFLICT OF INTEREST

Under section 130(2) of the *Local Government Act 2020* and Governance Rule 24, the following officers declare that they have no interests to disclose in providing this report:

- Steven Hawkins, Coordinator Planning
- James Turner – Manager Planning and Statutory Services
- Greg Pinkerton – Director Planning and Corporate Services

Attachments

1. PP23-0215 - Application - 1780 Indigo Creek Road - Indigo Valley - PN 7834 (Confidential)
2. PP23-0215 - Plans - 1780 Indigo Creek Road - Indigo Valley - PN 7834

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11.9 PLANNING PERMIT APPLICATION PP23-0225 - ANDERSON ROAD, RUTHERGLEN

File No: 2024/528

James Turner - Manager Planning & Statutory Services Planning & Corporate Services

For Decision

RECOMMENDATION

That a notice of decision to approve planning permit application PP23-0225 for use of land as a Cemetery at Anderson Road, Rutherglen be issued, subject to the following conditions:

PLANS TO BE SUBMITTED

1. Prior to the use commencing, plans must be approved and endorsed by the responsible authority. The plans must:
 - a) be prepared to the satisfaction of the responsible authority
 - b) be drawn to scale with dimensions
 - c) submitted in electronic form
 - d) be generally in accordance with the plans forming part of the application and identified as *Distillery Road, Rutherglen 3685*, but amended to show the following details:
 - i. The correct Crown Allotments 2B and 2C of the proposed Cemetery use excluding the existing Crown Allotment 2A (existing Carlyle Cemetery).
 - ii. The property boundaries and dimensions of the correct lots.
 - iii. The location of the existing access gate and vehicle accessways.
 - iv. The location of the existing water irrigation pipe and easement to comply with condition 6.

APPROVED USE

2. The use as shown on the endorsed plans must not be altered unless with the prior written consent of the Responsible Authority.

HOURS OF OPERATION

3. Funerals, memorials and similar events must only operate between the following times, except with the prior written consent of the responsible authority:
 - Monday to Friday: 11am to 3pm

MAXIMUM NUMBER OF FUNERALS

4. No more than 30 funerals per year are permitted on the land, except with the prior written consent of the Responsible Authority.

ENGINEERING CONDITIONS

5. Prior to the use commencing:
 - a) All stormwater emanating from the land extension must be collected and directed to an approved legal point of discharge; and
 - b) All works to be constructed in accordance with approved plans.

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6. The existing water irrigation pipe, operated by Carlyle Irrigators Co-operative Society Ltd must be located and a 3 metre width easement in favour of the Co-Operative Society created, to the satisfaction of the responsible authority.

EXPIRY DATE

7. This permit will expire if the use does not start within 2 years after the issued date of this permit, or stops for a period of 2 years once commenced.

In accordance with Section 69 of the *Planning and Environment Act 1987*, an application may be submitted to the responsible authority for an extension of the period referred to in this condition.

RESOLUTION

That a notice of decision to approve planning permit application PP23-0225 for use of land as a Cemetery at Anderson Road, Rutherglen be issued, subject to the following conditions:

PLANS TO BE SUBMITTED

1. Prior to the use commencing, plans must be approved and endorsed by the responsible authority. The plans must:
 - a) be prepared to the satisfaction of the responsible authority
 - b) be drawn to scale with dimensions
 - c) submitted in electronic form
 - d) be generally in accordance with the plans forming part of the application and identified as *Distillery Road, Rutherglen 3685*, but amended to show the following details:
 - i. The correct Crown Allotments 2B and 2C of the proposed Cemetery use excluding the existing Crown Allotment 2A (existing Carlyle Cemetery).
 - ii. The property boundaries and dimensions of the correct lots.
 - iii. The location of the existing access gate and vehicle accessways.
 - iv. The location of the existing water irrigation pipe and easement to comply with condition 6.

APPROVED USE

2. The use as shown on the endorsed plans must not be altered unless with the prior written consent of the Responsible Authority.

HOURS OF OPERATION

3. Funerals, memorials and similar events must only operate between the following times, except with the prior written consent of the responsible authority:
 - Monday to Friday: 11am to 3pm

MAXIMUM NUMBER OF FUNERALS

4. No more than 30 funerals per year are permitted on the land, except with the prior

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written consent of the Responsible Authority.

ENGINEERING CONDITIONS

5. Prior to the use commencing:
 - a) All stormwater emanating from the land extension must be collected and directed to an approved legal point of discharge; and
 - b) All works to be constructed in accordance with approved plans.

6. The existing water irrigation pipe, operated by Carlyle Irrigators Co-operative Society Ltd must be located and a 3 metre width easement in favour of the Co-Operative Society created, to the satisfaction of the responsible authority.

EXPIRY DATE

7. This permit will expire if the use does not start within 2 years after the issued date of this permit, or stops for a period of 2 years once commenced.

In accordance with Section 69 of the *Planning and Environment Act 1987*, an application may be submitted to the responsible authority for an extension of the period referred to in this condition.

Moved: Cr Horne

Seconded: Cr Croucher

For: Crs Peter Croucher, Bernard Gaffney, Sue Gold, Roberta Horne and Sophie Price

Against: Nil

CARRIED

SUMMARY

Application No:	PP23-0225
Subject Land:	Anderson Road, Rutherglen
Proposal:	Change of use to a Cemetery
Recommendation:	Approval in accordance with the Recommendation above.

BACKGROUND

Date application lodged:	27 November 2023
Purpose:	Seek approval to use the subject site for an extension to the Carlyle Cemetery.
Subject site land area:	7.25 acres
Current use of subject site:	Vacant Crown Land
Site constraints:	The site has areas of vegetation and pipeline/easement runs through the site.

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Surrounding land use: Farming land

Zoning of surrounding land: Farming Zone



PROPOSAL

The proposal is to extend the cemetery use of Carlyle Cemetery to the two lots of land south of Distillery Road which are located on Anderson Road in Rutherglen. Both Allotments 2B and 2C are Crown Land as well as Carlyle Cemetery being Crown Allotment 2A. The total site area of the two allotments is 7.25 acres (Crown allotment 2B is 1.84 acres and 2C is 5.41 acres). The cemetery will operate as an extension of the currently functioning Carlyle cemetery. The site will be accessible 24/7 as with the current cemetery. Funeral times are standardised and generally occur Monday-Friday, 11am-3pm. There is generally between 20-30 funerals per year.

Below the applicant provided a list of standards proposed for the extended cemetery use:

Standard Criteria	Allowed	Not Allowed
Coffins and Caskets	<ul style="list-style-type: none"> • Biodegradable • Untreated materials • Derived from sustainable sources • Rope handles • Natural fiber liners and clothing • Metal name plate as per legislative requirements 	<ul style="list-style-type: none"> • Lacquers • Varnish • Plastic or metal handles • Embalming with toxic chemicals
Gravesite Specifications and Area	<ul style="list-style-type: none"> • One interment per grave • Grave depth of 1000mm from top of burial container • Soil will be allowed to settle naturally after interment • Cremation must be in approved biodegradable container 	<ul style="list-style-type: none"> • Practices outside of Department of Health regulations • Burial depth less than 1000mm
Tributes and Memorials	<ul style="list-style-type: none"> • Floral tributes (such as wreaths, and flower arrangements) are allowed directly after service, however will be removed within a week after service • Only natural flowers • Commemoration at shared memorial rock 	<ul style="list-style-type: none"> • Plastic flowers • Grave momentous/trinkets (e.g. candles, soft toys) • Planting on top of graves
Memorialisation	This requirement will be discussed as set by Council.	<ul style="list-style-type: none"> • Granite Headstone • Bronze Plaques

The standards will be communicated with the relevant stakeholder and will be used in conjunction with the Cemeteries and Crematoria Regulations 2022 and the Cemeteries and Crematoria Act 2013.

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There are no buildings and works, vegetation removal or signage proposed for this application.

The below site plans have included the existing Carlyle Cemetery, Crown Allotment being 2A however this application is extending the cemetery use to the southern Crown Allotments 2B and 2C, see Figure 3 for the correct proposed use of extended Cemetery on the southern two Crown Allotments in which the address is Anderson Road, Rutherglen.



Figure 1 – Site Plan

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Figure 2 – Site Plan dimensioned

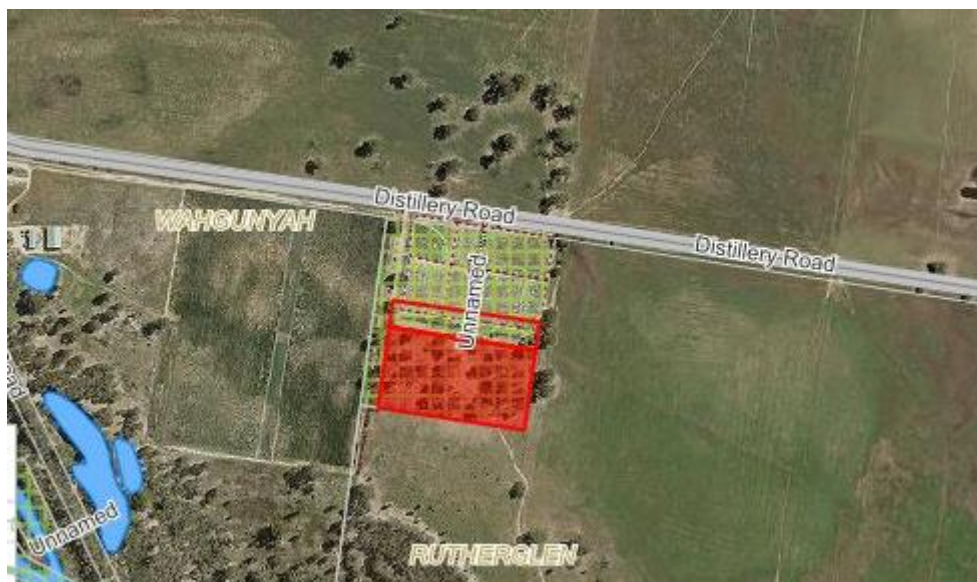


Figure 3 – Proposed Cemetery use on Crown Allotments highlighted in red, Source: Intramaps

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ZONING AND PLANNING CONTROLS

Zoning: Farming Zone (FZ)

Overlay/s: Environmental Significance Overlay, Schedule 2 (Lake Moodemere) – ESO2
Heritage Overlay, Schedule 558 – HO558 (Circle on Crown allotment 2C)

PERMIT TRIGGER

Farming Zone

Pursuant to Clause 35.07-1, a planning permit is required for a Section 2 use; Cemetery.

Environmental Significance Overlay & Heritage Overlay

Pursuant to Clause 42.01 and 43.01, a planning permit is not required for the change of use.

Planning and Environment Act 1987 - SECT 60

Section 60 of the Act provides that before deciding on an application, the responsible authority must consider:

- (a) the relevant planning scheme; and
- (b) the objectives of planning in Victoria (which include at Section 4(1)(b) to provide for the protection of natural and man-made resources...); and
- (c) all objections and other submissions which it has received and which have not been withdrawn; and
- (d) any decision and comments of a referral authority which it has received; and
- (e) any significant effects which the responsible authority considers the use or development may have on the environment or which the responsible authority considers the environment may have on the use or development.
- (f) any significant social effects and economic effects which the responsible authority considers the use or development may have.

Section (1A) of the Act provides that the responsible authority, if the circumstances appear to so require, may consider:

- (g) any other strategic plan, policy statement, code or guideline which has been adopted by a Minister, government department, public authority or municipal council;

...

- (j) any other relevant matter.

MUNICIPAL PLANNING STRATEGY AND PLANNING POLICY FRAMEWORK

The purpose of policy in planning schemes is to inform planning authorities and responsible authorities of those aspects of planning policy which they are to consider and give effect to in planning and administering their respective areas. It is the State Government's expectation that planning and responsible authorities will endeavour to integrate the range of policies relevant to the issues to be determined and balance conflicting objectives in favour of net community benefit and sustainable development. Planning and responsible authorities must take account of and give effect to both the general principles and the specific policies applicable to issues before them to ensure integrated decision-making.

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Society has various needs and expectations such as land for settlement, protection of the environment, economic well-being, various social needs, proper management of resources and infrastructure. Planning aims to meet these by addressing aspects of economic, environmental and social well-being affected by land use and development.

Planning is to anticipate and respond to the needs of existing and future communities through provision of zoned and serviced land for housing, employment, recreation and open space, commercial and community facilities and infrastructure. Planning is to recognise the need for, and as far as practicable contribute towards:

- Health and safety.
- Diversity of choice.
- Adaptation in response to changing technology.
- Economic viability.
- A high standard of urban design and amenity.
- Energy efficiency.
- Prevention of pollution to land, water and air.
- Protection of environmentally sensitive areas and natural resources.
- Accessibility.
- Land use and transport integration.

The Municipal Planning Strategy and Planning Policy Framework seeks to ensure that the objectives of planning in Victoria are met and encouraged through land use and development. The following policies and clauses are deemed to be relevant to this proposal and have been considered in the assessment of this application:

Clause 02.03-1 – Settlement

Clause 12.03-1S – River and riparian corridors, waterways, lakes, wetlands and billabongs

Clause 14.01-1S – Protection of agricultural land

Clause 14.01-1L-03 – Land Use in the Rural Zones

PARTICULAR PROVISIONS

Clause 52.06 - Car Parking

GENERAL PROVISIONS

65 Decision Guidelines

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

65.01 – Approval of an application or plan

Before deciding on an application or approval of a plan, the responsible authority must consider, as appropriate:

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- The matters set out in section 60 of the Act.
- Any significant effects the environment, including the contamination of land, may have on the use or development.
- The Municipal Planning Strategy and the Planning Policy Framework.
- The purpose of the zone, overlay or other provision.
- Any matter required to be considered in the zone, overlay or other provision.
- The orderly planning of the area.
- The effect on the environment, human health and amenity of the area.
- The proximity of the land to any public land.
- Factors likely to cause or contribute to land degradation, salinity or reduce water quality.
- Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site.
- The extent and character of native vegetation and the likelihood of its destruction.
- Whether native vegetation is to be or can be protected, planted or allowed to regenerate.
- The degree of flood, erosion or fire hazard associated with the location of the land and the use, development or management of the land so as to minimise any such hazard.
- The adequacy of loading and unloading facilities and any associated amenity, traffic flow and road safety impacts.
- The impact the use or development will have on the current and future development and operation of the transport system.

REFERRAL AUTHORITIES

No external referrals were necessary.

The application was referred internally to Council's Asset Department whom had no objection subject to conditions.

PUBLIC NOTICE

Notice of the application was given to adjoining owners and occupiers and other relevant persons in accordance with Section 52 (1) of the Planning and Environment Act 1987.

Two submissions were received in response.

Issues raised include:

- Irrigation pipeline of Carlyle Irrigators and easement.
- Southern boundary fence required.

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DISCUSSION

The proposed use is on Crown Land reserved for Cemetery purposes. The use of this land for a cemetery will not remove agriculturally productive land, as it was intentionally set aside for this purpose. Further, the cemetery use is an extension of the existing Carlyle Cemetery, which will allow for expansion and continued use of the appropriately allocated land. The use does not propose any buildings and works and is not located nearby sensitive uses, limiting the potential for any land use conflicts.

As stated above, the subject site is reserved Crown Land for cemetery use therefore the land was not intended for productive agricultural land. The proposed use will not adversely affect the adjoining land uses and the use will allow an expansion of Carlyle cemetery on appropriately allocated land. The land capability is adequate for the proposed use and promotes sustainable land management of land specifically intended for that purpose. The use is compatible with adjoining land uses and will be using existing services as it will be an extension to the existing Carlyle Cemetery.

The cemetery use will operate as an extension of the currently functioning cemetery. As with the current cemetery, the site will be accessible 24/7. Funerals times will be standardised and generally occur Monday – Friday 11am – 3pm with between 20 – 30 funerals per year. This is reasonable for the proposed use to continue the existing use and extend the Carlyle Cemetery. The funeral times and maximum of funerals per year will be conditioned on any permit issued.

The plans will need to be amended to reflect the correct Crown Allotments 2B and 2C for the proposed use. This issue will be addressed by condition on any permit issued.

This application received two submissions in relation to the Irrigation pipeline of Carlyle Irrigators and easement that runs through the land of the proposed extension to the cemetery. Council's Asset Department requires a condition to be placed on any permit issued to locate the pipeline and a 3 metre wide easement to protect the pipeline which will be addressed by condition to show it on the plans.

While Council acknowledges the concerns regarding fencing, this is generally not a planning matter, and is therefore no conditions or changes relating to fencing are proposed.

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

There are no cases in recent years that have some relevance to this particular application.

CONCLUSION

The use of a cemetery on this land is a suitable extension of Carlyle Cemetery and in line with the purposes of the reserved Crown Land. The proposal comprising of use to a cemetery is consistent with the relevant provisions of the Planning Policy Framework, as well as the objectives of the Farming Zone. It is therefore recommended that a planning permit is issued subject to conditions.

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CONFIDENTIAL ATTACHMENT

The following confidential attachment has been provided to Councillors under separate cover. Recent changes to Section 197A of the *Planning and Environment Act 1997* have clarified and tightened the way Councils are able to make certain planning documents available to the public. The Act provides that the confidential document listed below can only be made available for public inspection:

- at Council offices during business hours, or
- electronically via Council's website subject to strict public availability requirements, requiring significant editing of individual documents.

Council currently does not have the resources to provide the document online in line with the public availability requirements of the Act, and so is at this stage unable to publish it in the public agenda online.

DECLARATION OF CONFLICT OF INTEREST

Under section 130(2) of the *Local Government Act 2020* and Governance Rule 24, the following officers declare that they have no interests to disclose in providing this report:

Eliza Connop – Senior Statutory Planner

Steven Hawkins – Coordinator Planning

James Turner – Manager Planning and Statutory Services

Greg Pinkerton – Director Planning and Corporate Services

Attachments

1. PP23-0225 - Submission 1 - Carlyle Cemetery - Distillery Road - PN 4891 (Confidential)
2. PP23-0225 - Submission 2 - Carlyle Cemetery - Distillery Road - PN 4891 (Confidential)
3. PP23-0225 - Plans - Carlyle Cemetery - Anderson Road - Rutherglen - PN 4891
4. PP23-0225 - Application - Carlyle Cemetery - Distillery Road - PN 4891 (Confidential)

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11.10 PLANNING PERMIT PP22-0326 - KIBELL LANE, BEECHWORTH

File No: 2024/601

James Turner - Manager Planning & Statutory Services Planning & Corporate Services

For Decision

RECOMMENDATION

That Council issues a notice of decision to refuse planning application PP22-0326 for a shed on Crown Allot. 9, Section B, Parish of Wooragee, on the following grounds:

1. The application has failed to respond to repeated requests for further information required to assess impacts of the proposed development in order to ensure that the building was located on freehold land rather than Crown Land; and
2. Council cannot be satisfied the proposed shed is not on crown land, and as the relevant public land manager has not consented to construction of a shed on their land, the grant of a planning permit would be futile.

RESOLUTION

That Council issues a notice of decision to refuse planning application PP22-0326 for a shed on Crown Allot. 9, Section B, Parish of Wooragee, on the following grounds:

1. The application has failed to respond to repeated requests for further information required to assess impacts of the proposed development in order to ensure that the building was located on freehold land rather than Crown Land; and
2. Council cannot be satisfied the proposed shed is not on crown land, and as the relevant public land manager has not consented to construction of a shed on their land, the grant of a planning permit would be futile.

Moved: Cr Gaffney

Seconded: Cr Gold

For: Crs Peter Croucher, Bernard Gaffney, Sue Gold, Roberta Horne and Sophie Price

Against: Nil

CARRIED

SUMMARY

Application No:	PP22-0326
Subject Land:	CA 9 Sec B Parish of Wooragee being land off Kibell Lane, Beechworth
Request for Information	15/02/2023, 05/06/2023, 26/09/2023, 02/10/2023 & 12/04/2024. No acceptable response received.
Property Description	Land in TP5177U

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BACKGROUND

Date application lodged:	15/12/2022 Amended 26/9/2023
Purpose:	Seek approval to develop the subject site for a shed.
Subject site land area:	20.66ha
Current use of subject site:	Rural land
Site constraints:	<ul style="list-style-type: none">• Proximity of Magpie Creek• Adjoining Crown Land
Surrounding land use:	Rural uses and conservation land and reserves
Zoning of surrounding land:	Adjoining land to the west and south is similarly zoned Farming Zone. To the north and east is Crown Land zoned PCRZ. The Bushfire Management Overlay (BMO) impacts all adjoining land. The section of Crown Land adjoining is also affected by the Heritage Overlay (HO68 & HO770) forming a part of the Magpie Creek Historic Reserve.

SUBJECT SITE

The subject land is an irregular shaped holding that comprises a total of 4 parcels separated by Crown Land (races and reserve). The land is situated approximately 2.8km to the south of the Wooragee Hall and approximately 6km to the north east of the Beechworth Post Office.

The total area of the property is approximately 20.66ha with the land described as Crown Allotment 9A Section B Parish of Wooragee in TP5177U (Vol. 10278 Fol. 983). Interestingly it is noted that the complied title as derived 19/03/1996 resulted in a land locked parcel. Today the property relies upon a 200m long access track from off Kibell Lane and across Crown Land to the southern property frontage (Figure 1).

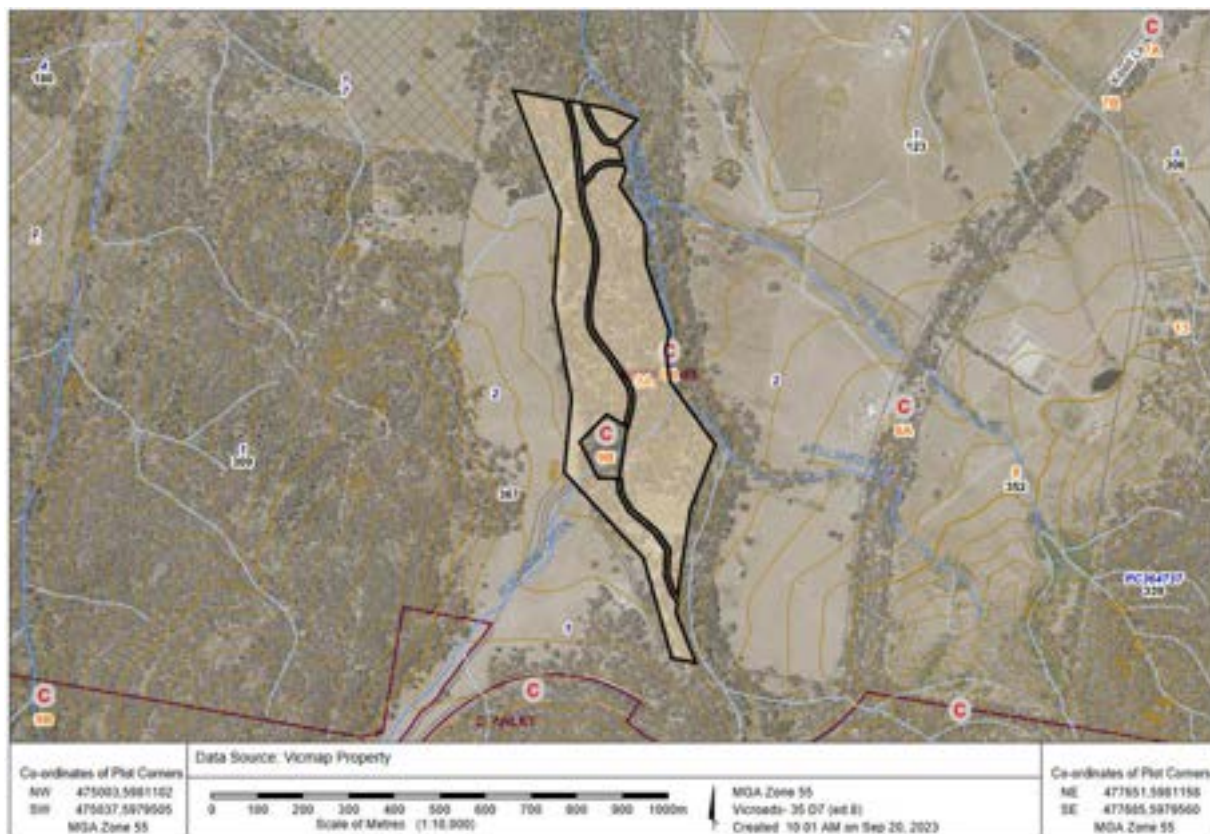
The overall holding comprises a mix of cleared land and what might otherwise be described as bush block. Adjoining to the north and east is Crown Land that contains the Magpie Creek Historic Reserve.

Draining through the southern section of the land approximately 200m to the north of the development site is Running Creek. Draining southerly to the east of the property boundary is Magpie Creek.

There are two existing sheds on the property. From available aerial photography and topographic mapping, it has been determined that the larger of the two sheds is situated in excess of 100m to the west of this particular waterway, and therefore does not require Planning consent.

The smaller eastern shed is however approximately 85m from the waterway which effectively triggers the need for a permit.

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PROPOSAL

This Planning Application initially sought retrospective consent for two sheds located upon the subject land. Once it became clear that one of the sheds was out of the relevant setbacks and did not require planning permission as it is used for agriculture, the application was amended to consider the one shed that required permission.

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ZONING AND PLANNING CONTROLS

Zoning: Farming Zone (FZ)

Overlay/s: Bushfire Management Overlay (BMO)

PERMIT TRIGGER:

Farming Zone

In accordance with clause 35.07-4, a planning permit is required for a building within 100 metres from a waterway.

Planning and Environment Act 1987 - SECT 60

Section 60 of the Act provides that before deciding on an application, the responsible authority must consider:

- (a) the relevant planning scheme; and
- (b) the objectives of planning in Victoria (which include at Section 4(1)(b) to provide for the protection of natural and man-made resources...); and
- (c) all objections and other submissions which it has received and which have not been withdrawn; and
- (d) any decision and comments of a referral authority which it has received; and

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- (e) any significant effects which the responsible authority considers the use or development may have on the environment or which the responsible authority considers the environment may have on the use or development.
- (f) any significant social effects and economic effects which the responsible authority considers the use or development may have.

Section (1A) of the Act provides that the responsible authority, if the circumstances appear to so require, may consider:

- (g) any other strategic plan, policy statement, code or guideline which has been adopted by a Minister, government department, public authority or municipal council;
- ...
- (j) any other relevant matter.

MUNICIPAL PLANNING STRATEGY AND PLANNING POLICY FRAMEWORK

We have been unable to assess this requirement as sufficient information has not been provided.

PARTICULAR PROVISIONS

We have been unable to assess this requirement as sufficient information has not been provided.

GENERAL PROVISIONS

65 Decision Guidelines

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

65.01 – Approval of an application or plan

Before deciding on an application or approval of a plan, the responsible authority must consider, as appropriate:

- The matters set out in section 60 of the Act.
- Any significant effects the environment, including the contamination of land, may have on the use or development.
- The Municipal Planning Strategy and the Planning Policy Framework.
- The purpose of the zone, overlay or other provision.
- Any matter required to be considered in the zone, overlay or other provision.
- The orderly planning of the area.
- The effect on the environment, human health and amenity of the area.
- The proximity of the land to any public land.
- Factors likely to cause or contribute to land degradation, salinity or reduce water quality.
- Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site.
- The extent and character of native vegetation and the likelihood of its destruction.
- Whether native vegetation is to be or can be protected, planted or allowed to regenerate.

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- The degree of flood, erosion or fire hazard associated with the location of the land and the use, development or management of the land so as to minimise any such hazard.
- The adequacy of loading and unloading facilities and any associated amenity, traffic flow and road safety impacts.
- The impact the use or development will have on the current and future development and operation of the transport system.

REFERRAL AUTHORITIES

Advice was sought from the following:

- DEECA

The application was referred to DECCA who responded in part as follows:

Aerial imagery indicates one of the sheds may be located on the adjoining Crown Land. The applicant will need to correctly identify the location of buildings and structures on the land in relation to the surveyed property boundaries and amend the plans to demonstrate that all works will be kept within the subject freehold land.

The Department of Energy, Environment and Climate Action does not support the use of public land to facilitate development on private land and will not enter into agreements with adjoining land owners to manage public land in perpetuity to enable development on private land.

The existing shared boundary between the Crown land and the subject land should be checked by a licensed surveyor to confirm the exact location of the sheds.

PUBLIC NOTICE

Given the location of the proposal and setback from other land in private ownership it is considered the granting of a permit will not cause material detriment to any person; therefore, notification of the application was not undertaken.

DISCUSSION

This Planning Application initially sought retrospective consent for two sheds located upon the subject land. The original application was complicated by the lack of detail supplied by the applicant regarding the location of both sheds, relative to Magpie Creek and the shared property boundaries with adjoining Crown Land.

Council understands that the subject land was purchased by the current landowner Kibell Lane Pty Ltd in December 2021 and that the two sheds were already constructed, neither of which had building consent.

The landowner has subsequently engaged a private building surveyor to try and rectify the breach with the Building Code. One of the requirements of that process was a need for retrospective planning approval from Council under the provisions of the Indigo Planning Scheme. This then led to the lodgement of PP22-0326 to try and obtain retrospective Planning consent.

In respect of the larger of the two sheds, the landowners were advised that the larger of the two sheds was located in excess of 100m from Magpie Creek and did not trigger a permit under the Farming Zone, as it is associated with a Section 1 use (i.e. the use of the land for agriculture).

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The smaller of the two sheds however was considered to present a problem in that, apart from being less than 100m from a waterway, it appeared from aerial photography to be partly (or wholly) located on CA9C Section B Parish of Wooragee, which comprises Crown Land.

Following recent discussions with DECCA it was agreed that if the small shed was to remain in its current position, that proof needed to be provided by a Licensed Surveyor that the structure is wholly located on freehold land. If it was found that the building encroaches upon Crown Land then there is little option but to remove the building from this particular location.

This issue of a need to verify the actual location of the shed relative to the shared property boundary with adjoining Crown Land has been raised on a number of occasions with the landowner. To date, apart from email correspondence indicating that the landowners are trying to discuss the possibility of a boundary adjustment with DECCA, the matter remains unresolved, despite the considerable amount of time that has lapsed since the application was originally lodged.

Despite a request for additional information and a number of follow-up requests there remains a significant gap in the information provided to be able to make a favourable determination. This has been exacerbated by repeated requests for accurate survey information.

Given the significant time that has elapsed since the lodgement of the application as well as the stalled nature of alleged discussions between the applicant and DECCA, it is recommended that the current Planning Permit Application 22-0326 be refused at this point in time.

While the relevant instrument of delegation allows abandoned applications to be refused at officer level, this does not apply to this application as the applicant has continued to engage with Council, but has not provided the information required to make a favourable decision.

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

No relevant cases have been identified.

CONCLUSION

The proposed shed cannot be approved until its exact location is known and it is confirmed that it is not on crown land. As the applicant is unwilling to provide this confirmation, the application must be refused because it does not have consent of the landowner.

DECLARATION OF CONFLICT OF INTEREST

Under section 130(2) of the *Local Government Act 2020* and Governance Rule 24, the following officers declare that they have no interests to disclose in providing this report:

- Steven Hawkins - Coordinator Planning
- James Turner – Manager Planning and Statutory Services
- Greg Pinkerton – Director Planning and Corporate Services

Attachments

Nil

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11.11 PLANNING PERMIT APPLICATION PP23-0007 - 559 FLAT ROCK ROAD, BEECHWORTH

File No: 2024/616

James Turner - Manager Planning & Statutory
Services

Planning & Corporate Services

For Decision

RECOMMENDATION

That Council decides to Grant a Notice of Decision to Grant a Permit land at 559 Flat Rock Road, Beechworth, for the Use and Development of land for Group Accommodation, subject to the following conditions:

Endorsed Plans condition

1. The use and development as shown on the endorsed plans must not be altered without the prior written consent of the responsible authority.

External materials and colours condition

2. The exterior colour and cladding of the development must not result in any adverse visual impact on the environment of the area and all external cladding and trim of the building, including the roof, must be of a non-reflective nature.

Maximum number of guests condition

3. Except with the prior written consent of the responsible authority, no more than six (6) persons may be accommodated in the group accommodation at any one time.

Land use and amenity conditions

4. The use must be conducted to the satisfaction of the Responsible Authority so that the amenity of the area is not detrimentally affected by the use or development, through the:
 - a. Transport of materials, goods or commodities to or from the land;
 - b. Appearance of any buildings, works or materials;
 - c. Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil; or
 - d. Presence of vermin.
5. Prior to the commencement of the use authorised by this permit, the building must be connected to reticulated sewerage, if available. If reticulated sewerage is not available all wastewater from each dwelling must be treated and retained within the lot in accordance with the requirements of the Environment Protection Regulations under the *Environment Protection Act 2017* for an on-site wastewater management system.
6. Prior to the commencement of the use authorised by this permit, the dwelling must be connected to a reticulated potable water supply or have an alternative potable water supply with adequate storage for domestic use as well as for firefighting purposes, to the satisfaction of the Responsible Authority.

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7. Prior to the commencement of the use authorised by this permit, the Group Accommodation units must be connected to a reticulated electricity supply or have an alternative energy source, to the satisfaction of the Responsible Authority.

Mandatory Bushfire Management Overlay condition

8. The bushfire protection measures forming part of this permit or shown on the endorsed plans, including those relating to construction standards, defensible space, water supply and access, must be maintained to the satisfaction of the responsible authority on a continuing basis. This condition continues to have force and effect after the development authorised by this permit has been completed.

ISC Engineering conditions

9. Prior to occupation of the development hereby permitted, the permit holder must construct the vehicle driveway crossing to rural IDM SD 255 standard. A *Works within Road Reserve Permit* must be obtained from Council prior to the commencement of any works.
10. The internal access roads to the group accommodation, car parking and turning areas must be constructed to a minimum all-weather standard of:
 - a. 3 metre pavement width;
 - b. 100 millimetre compacted depth of crushed rock or gravel suitable for road construction;
 - c. Longitudinal roadside drains and culverts as required;
 - d. Single car parking spaces to be provided for all sites; and
 - e. Turning area for fire fighting vehicle.
11. All stormwater emanating from the internal road and car park pavements approved by this permit must be disposed of within the curtilage of the property. Any concentrated storm water flows due to the development must be dispersed prior to entering natural systems. Methods such as contour drains or infiltration trenches should be used for this purpose. Flow dispersal must be employed at the point of discharge of any house drain constructed.
12. All works to be constructed in accordance with approved plans

ISC Environmental Health conditions

13. The wastewater generated from the 3 short-term accommodation units is dealt with in accordance with LCA provided by Porta Environmental, Report No. DE02062023-1A, dated January 2023.

Country Fire Authority (CFA) conditions

14. Amended Bushfire Management Plan

Before the development starts, a Bushfire Management Plan must be prepared to the satisfaction of CFA and then submitted to the Responsible Authority for endorsement. Once endorsed the plan must not be altered unless agreed to in writing by CFA and the Responsible Authority.

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The plan must be generally in accordance with the plan prepared by Mountain Planning (Rev 0, dated 8 March 2024) but modified as follows:

- a. Replace the preamble under the heading "Vegetation Management" with:

"Defendable space for a distance of 35 metres around the proposed building (or to the property boundary, whichever is the lesser distance) must be provided where vegetation (and other flammable materials) will be modified and managed in accordance with the following requirements:"
- b. Amend the plan to show the increased defendable space.

15. Site Closure

The site must be closed to all guests after 10am on days predicted to have a Fire danger rating of Extreme (where the FBI is 75 or greater) or Catastrophic.

16. Bushfire Emergency Management Plan

Prior to the development being occupied, the Bushfire Emergency Management Plan submitted with the application (prepared by Mountain Planning, version A, dated 13 March 2024) must be amended to reflect the current Fire Danger Rating system and submitted to the CFA for approval.

The site must be managed in accordance with the approved Bushfire Emergency Management Plan.

Permit expiry condition

17. This permit will expire if one of the following circumstances applies:
 - a. The development is not started within two (2) years of the date of this permit; or
 - b. The development is not completed within four (4) years of the date of this permit; or
 - c. The use is not started within two (2) years after the completion of the development; or
 - d. The use is discontinued for a period of two (2) or more years.

The Responsible Authority may extend the periods referred to if a request is made in writing in accordance with Section 69 of the Planning and Environment Act 1987.

Permit notes

- A. A permit to install a Septic System must be obtained from Council.
- B. If units are determined to be UMDs, a permit for a Caravan Park must be obtained from Council.

- END CONDITIONS -

RESOLUTION

That Council decides to Grant a Notice of Decision to Grant a Permit land at 559 Flat Rock Road, Beechworth, for the Use and Development of land for Group Accommodation, subject to the

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following conditions:

Endorsed Plans condition

1. The use and development as shown on the endorsed plans must not be altered without the prior written consent of the responsible authority.

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Land use and amenity conditions

4. The use must be conducted to the satisfaction of the Responsible Authority so that the amenity of the area is not detrimentally affected by the use or development, through the:
 - a. Transport of materials, goods or commodities to or from the land;
 - b. Appearance of any buildings, works or materials;
 - c. Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil; or
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7. Prior to the commencement of the use authorised by this permit, the Group Accommodation units must be connected to a reticulated electricity supply or have an alternative energy source, to the satisfaction of the Responsible Authority.

Mandatory Bushfire Management Overlay condition

8. The bushfire protection measures forming part of this permit or shown on the endorsed plans, including those relating to construction standards, defendable space, water supply and access, must be maintained to the satisfaction of the responsible authority on a continuing basis. This condition continues to have force and effect after the development authorised by

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this permit has been completed.

ISC Engineering conditions

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- a. Replace the preamble under the heading "Vegetation Management" with:

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managed in accordance with the following requirements:"

- b. Amend the plan to show the increased defensible space.

15. Site Closure

The site must be closed to all guests after 10am on days predicted to have a Fire danger rating of Extreme (where the FBI is 75 or greater) or Catastrophic.

16. Bushfire Emergency Management Plan

Prior to the development being occupied, the Bushfire Emergency Management Plan submitted with the application (prepared by Mountain Planning, version A, dated 13 March 2024) must be amended to reflect the current Fire Danger Rating system and submitted to the CFA for approval.

The site must be managed in accordance with the approved Bushfire Emergency Management Plan.

Permit expiry condition

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

- a. The development is not started within two (2) years of the date of this permit; or
- b. The development is not completed within four (4) years of the date of this permit; or
- c. The use is not started within two (2) years after the completion of the development; or
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The Responsible Authority may extend the periods referred to if a request is made in writing in accordance with Section 69 of the Planning and Environment Act 1987.

Permit notes

A. A permit to install a Septic System must be obtained from Council.

B. If units are determined to be UMDs, a permit for a Caravan Park must be obtained from Council.

Moved: Cr Gold

Seconded: Cr Croucher

For: Crs Peter Croucher, Bernard Gaffney, Sue Gold, Roberta Horne and Sophie Price

Against: Nil

CARRIED

SUMMARY

Application No: PP23-0007

Subject Land: 559 Flat Rock Road Beechworth (Lot 6 on Plan of Subdivision 511556B)

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Proposal: Use and development of land for group accommodation

Recommendation: Approval

BACKGROUND

Date application lodged: 17/01/2023

The application was amended on 05/04/2024 in accordance with Section 50 of the *Planning and Environment Act 1987*.

Purpose: Seek approval to use and develop the subject site for the purposes of group accommodation.

Subject site land area: 19.36 ha

Current use of subject site: Accommodation (dwelling)

Site constraints: Zoning, location, topography, land size

Surrounding land use: Agriculture, State forest, corrective institution

Zoning of surrounding land: Farming Zone (FZ), Public resource and Conservation Zone (PCRZ) and Special Use Zone (SUZ)

SITE/LOCALITY

The main site/locality characteristics specific to this proposal are:

- The subject land is formally identified on Certificate of Title Volume 10710 Folio 579 as Lot 6 on Plan of Subdivision 511556B and commonly known as 559 Black Rock Road Beechworth. No encumbrances, such as restrictive covenants or section 173 agreements are registered on title as encumbering the land.
- The subject land comprises one lot in two parts, separated by a reserve (comprising the Graveyard Creek crown water frontage) which is a vinculum between the two parts and managed by DEECA. The balance of the land, which has a land area of 14.22 hectares, is located to the west of the vinculum with access via Flat Rock Road, which is a sealed bi-directional Council-managed road. To the east of the vinculum is a 5.14 ha part (which forms the primary development area of this proposal) and has access via Malkoff Road, which is a gravel bi-directional Council-managed road.
- The subject land is located in a highly undulating area, approximately 2 kilometres north-west of the Beechworth town centre.
- It is zoned in the Farming Zone (FZ) and affected by the Bushfire Management Overlay (BMO). The subject land is wholly located within a Bushfire Prone Area designated under the *Building Act 1993* and partly within an area of Aboriginal cultural heritage sensitivity (relating to the Graveyard Creek crown water frontage) under the *Aboriginal Heritage Act 2006*. A Cultural Heritage Management Plan (CHMP) is required and has been provided to Council (No. 19391, dated 22/02/2024, approved 24/02/2024). Currently there is no Registered

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Aboriginal Party (RAP) for the activity area, however, the Duduroa Dhargal Aboriginal Corporation (DDAC) are an interested party in the region. The site is not within a designated special water supply catchment area.

- It is currently improved by an existing dwelling, outbuildings and associated curtilage. Aside from some cattle, no substantive agricultural activities appear to be undertaken on the site currently. There is an informal domestic envelope with a land area of approximately 1.59 ha that is delineated by post and wire fencing (discernible on Figure 1).
- The site has access to some reticulated services, such as electricity, however it does not have access to reticulated drainage and sewerage.
- Surrounding land is zoned in the in the FZ (to the north, west and south-east), Special Use Zone (SUZ1) (to the south-west) and Public Conservation and Resource Zone (PCRZ) (to the east and south), much of which forms the Beechworth Historic Park and other public land reserves. Surrounding land is primarily state forest or farming land, save for a pocket of land to the south-west in the SUZ1 which is substantively used for the purposes of a corrective institution (Beechworth Correctional Centre). Land to the east is more fragmented than that to the west, primarily due to the topographical characteristics of the land and proximity to the Beechworth settlement boundary.



PROPOSAL

The planning application seeks approval for the use and development of the subject land for the purposes of group accommodation.

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'Group Accommodation' is defined at Clause 73.03 of the Indigo Planning Scheme as *Land, in one ownership, containing a number of dwellings used to accommodate persons away from their normal place of residence.*

Three (3) group accommodation units, each comprising: one (1) bedroom with BIR; bathroom with toilet, basin and shower; open plan kitchen, living and dining area; and an outdoor deck area. Each unit would also be provided with a rooftop solar energy system, gas hot water system, air conditioning and fire place.

The units would be constructed of timber and cladding, with steel framing and insulated flooring. They would be single storey in height.

A maximum of six (6) persons would be accommodated onsite at any one time.

Provision for one (1) car parking space per unit is proposed.

The existing vehicle crossover is proposed to be modified to rural Infrastructure Design Manual (IDM) standards to provide perpendicular egress/ingress and sufficient sight lines to the site with Malakoff Road. A new unsealed (gravel/crushed rock) vehicle accessway and associated car parking and turning area would be constructed, with a minimum trafficable width of 5.5 metres.

The units would be constructed to a Bushfire Attack Level (BAL) rating of BAL-29. Defendable space of 35 metres in all directions is proposed to manage vegetation and bushfire hazard, in accordance with Clause 53.02-5 of the Indigo Planning Scheme. Provision for a static water supply for firefighting purposes is provided to each unit in the form of a combined 45,000 litre in rainwater tank storage to CFA requirements and in accordance with Clause 53.02-5 of the Indigo Planning Scheme. Access would be constructed to to CFA requirements and in accordance with Clause 53.02-5 of the Indigo Planning Scheme, including a minimum 5.5 metres wide vehicle accessway and an 8 metre radius turning area for emergency vehicle access.

No non-exempt native vegetation removal is proposed/resultant.

ZONING AND PLANNING CONTROLS

Zoning: FZ (Farming Zone)

Overlay/s: BMO (Bushfire Management Overlay)

PERMIT TRIGGERS:

A planning permit is triggered under the following Clauses of the Indigo Planning Scheme:

- Pursuant to Clause 35.07-1 of the Indigo Planning Scheme, a planning permit is required to use the land for the purposes of a use in Section 2 of Cluse 35.07-1 (Group Accommodation).
- Pursuant to Clause 35.07-4 of the Indigo Planning Scheme, a planning permit is required to construct or carry out any of the following:
 - A building or works associated with a use in Section 2 of Clause 35.07-1.
 - A building which is within any of the following setbacks:
 - 100 metres from a waterway, wetlands or designated floodplain.

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- Pursuant to Clause 44.06-2 of the Indigo Planning Scheme, a planning permit is required to construct a building or works associated with the following use(s):
 - Accommodation (including a moveable unit as defined under the *Housing Act 1983*).

Planning and Environment Act 1987 - SECT 60

Section 60 of the Act provides that before deciding on an application, the responsible authority must consider:

- (a) *the relevant planning scheme; and*
- (b) *the objectives of planning in Victoria (which include at Section 4(1)(b) to provide for the protection of natural and man-made resources...); and*
- (c) *all objections and other submissions which it has received and which have not been withdrawn; and*
- (d) *any decision and comments of a referral authority which it has received; and*
- (e) *any significant effects which the responsible authority considers the use or development may have on the environment or which the responsible authority considers the environment may have on the use or development.*

Section (1A) of the Act provides that the responsible authority, if the circumstances appear to so require, may consider:

- (a) *any significant social and economic effects of the use or development for which the application is made; and...*
- (j) *any other relevant matter.*

MUNICIPAL PLANNING STRATEGY (MPS)

The MPS provides the foundation that sets out the overarching strategic planning policy for the municipality, the vision and strategic direction for future land use and development, and the basis for local content in the planning scheme. The following strategic directions are deemed to be relevant to this proposal and have been taken into account in the assessment of this application:

02.03 Strategic Directions

- | | |
|----------------|------------------------------------|
| Clause 02.03-1 | Settlement |
| Clause 02.03-2 | Environmental and landscape values |
| Clause 02.03-3 | Environmental risks and amenity |
| Clause 02.03-4 | Natural resource management |
| Clause 02.03-5 | Built environment and heritage |
| Clause 02.03-7 | Economic development |
| Clause 02.03-9 | Infrastructure |

PLANNING POLICY FRAMEWORK (PPF)

The PPF provides three tiers of integrated policy:

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- State policy (designated by the letter 'S' at the end of any Clause number) – policies of state significance that apply in all planning schemes in Victoria;
- Regional policy (designated by the letter 'R' at the end of any Clause number) – policies of state significance that apply to allied planning schemes based on geographic and thematic policy groupings; and
- Local policy (designated by the letter 'L' at the end of any Clause number) – policies of local significance that apply in an individual local planning scheme.

The purpose of State policy in planning schemes is to inform planning authorities and responsible authorities of those aspects of State level planning policy which they are to take into account and give effect to in planning and administering their respective areas. It is the State Government's expectation that planning and responsible authorities will endeavour to integrate the range of policies relevant to the issues to be determined and balance conflicting objectives in favour of net community benefit and sustainable development. Planning and responsible authorities must take account of and give effect to both the general principles and the specific policies applicable to issues before them to ensure integrated decision-making.

Society has various needs and expectations such as land for settlement, protection of the environment, economic well-being, various social needs, proper management of resources and infrastructure. Planning aims to meet these by addressing aspects of economic, environmental and social well-being affected by land use and development.

Planning is to anticipate and respond to the needs of existing and future communities through provision of zoned and serviced land for housing, employment, recreation and open space, commercial and community facilities and infrastructure. Planning is to recognise the need for, and as far as practicable contribute towards:

- Health and safety.
- Diversity of choice.
- Adaptation in response to changing technology.
- Economic viability.
- A high standard of urban design and amenity.
- Energy efficiency.
- Prevention of pollution to land, water and air.
- Protection of environmentally sensitive areas and natural resources.
- Accessibility.
- Land use and transport integration.

The Planning Policy Framework seeks to ensure that the objectives of planning in Victoria, region and municipality are met and encouraged through land use and development. The following policies and

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clauses are deemed to be relevant to this proposal and have been taken into account in the assessment of this application:

11 Settlement

Clause 11.01-1S	Settlement
Clause 11.01-1R	Settlement – Hume
Clause 11.01-1L-01	Beechworth

12 Environmental and landscape values

Clause 12.01-1S	Protection of biodiversity
Clause 12.01-1L	Biodiversity in Indigo
Clause 12.03-1S	River and riparian corridors, waterways, lakes, wetlands and billabongs

13 Environmental risks and amenity

Clause 13.02-1S	Bushfire planning
Clause 13.02-1L	Bushfire planning
Clause 13.07-1S	Land use compatibility

14 Natural resource management

Clause 14.01-1S	Protection of agricultural land
Clause 14.01-1L-03	Land use in the rural zones
Clause 14.02-2L-02	Effluent disposal and water quality

15 Built environment and heritage

Clause 15.01-2S	Building design
Clause 15.01-6S	Design for rural areas
Clause 15.03-1S	Heritage conservation
Clause 15.03-2S	Aboriginal cultural heritage

17 Economic development

Clause 17.01-1S	Diversified economy
Clause 17.01-1R	Diversified economy – Hume
Clause 17.04-1S	Facilitating tourism
Clause 17.04-1R	Tourism – Hume
Clause 17.04-1L	Tourism development

18 Transport

Clause 18.02-4S	Roads
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19 Infrastructure

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Clause 19.03-3S	Integrated water management
Clause 19.03-3R	Integrated water management – Hume
Clause 19.03-3L	Stormwater management

ZONES

Clause 35.07 Farming Zone (FZ)

The decision guidelines under Clause 35.07-6 require the Responsible Authority to consider the following relevant matters:

General issues

- *The Municipal Planning Strategy and the Planning Policy Framework.*
- *Any Regional Catchment Strategy and associated plan applying to the land.*
- *The capability of the land to accommodate the proposed use or development, including the disposal of effluent.*
- *How the use or development relates to sustainable land management.*
- *Whether the site is suitable for the use or development and whether the proposal is compatible with adjoining and nearby land uses.*
- *How the use and development makes use of existing infrastructure and services.*

Agricultural issues and the impacts from non-agricultural uses

- *Whether the use or development will support and enhance agricultural production.*
- *Whether the use or development will adversely affect soil quality or permanently remove land from agricultural production.*
- *The potential for the use or development to limit the operation and expansion of adjoining and nearby agricultural uses.*
- *The capacity of the site to sustain the agricultural use.*
- *The agricultural qualities of the land, such as soil quality, access to water and access to rural infrastructure.*
- *Any integrated land management plan prepared for the site.*

Accommodation issues

- *Whether the dwelling will result in the loss or fragmentation of productive agricultural land.*
- *Whether the dwelling will be adversely affected by agricultural activities on adjacent and nearby land due to dust, noise, odour, use of chemicals and farm machinery, traffic and hours of operation.*
- *Whether the dwelling will adversely affect the operation and expansion of adjoining and nearby agricultural uses.*
- *The potential for the proposal to lead to a concentration or proliferation of dwellings in the area and the impact of this on the use of the land for agriculture.*

Environmental issues

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- *The impact of the proposal on the natural physical features and resources of the area, in particular on soil and water quality.*
- *The impact of the use or development on the flora and fauna on the site and its surrounds.*
- *The need to protect and enhance the biodiversity of the area, including the retention of vegetation and faunal habitat and the need to revegetate land including riparian buffers along waterways, gullies, ridgelines, property boundaries and saline discharge and recharge area.*
- *The location of on-site effluent disposal areas to minimise the impact of nutrient loads on waterways and native vegetation.*

Design and siting issues

- *The need to locate buildings in one area to avoid any adverse impacts on surrounding agricultural uses and to minimise the loss of productive agricultural land.*
- *The impact of the siting, design, height, bulk, colours and materials to be used, on the natural environment, major roads, vistas and water features and the measures to be undertaken to minimise any adverse impacts.*
- *The impact on the character and appearance of the area or features of architectural, historic or scientific significance or of natural scenic beauty or importance.*
- *The location and design of existing and proposed infrastructure including roads, gas, water, drainage, telecommunications and sewerage facilities.*
- *Whether the use and development will require traffic management measures.*

OVERLAYS

Clause 44.06 Bushfire Management Overlay (BMO)

The decision guidelines under Clause 44.06.8 require the Responsible Authority to consider the following relevant matters:

- *The Municipal Planning Strategy and the Planning Policy Framework.*

PARTICULAR PROVISIONS

Clause 53.02 Bushfire planning

Clause 53.02-4.5 – Decision Guidelines

Before deciding on an application, in addition to the decision guidelines in Clause 65, the responsible authority must consider:

- *The Municipal Planning Strategy and the Planning Policy Framework.*
- *The bushfire hazard landscape assessment, the bushfire hazard site assessment and the bushfire management statement submitted with the application.*
- *The impact of any State, regional or local bushfire management and prevention actions occurring around the site and in the wider area on the bushfire hazard and the level of risk to the proposed development.*

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- *Whether the proposed development meets the objectives of Clause 53.02-4 regardless of other measures which may be available, including private bushfire shelters, community shelters and the presence of places of last resort.*
- *Whether the proposed measures can be practically implemented and maintained in conjunction with the ongoing use of the land.*
- *Whether the use of an alternative measure meets the relevant objective having regard to the bushfire hazard and the nature of any constraint that prevents the applicable approved measure from being implemented.*
- *If one or more of the objectives in Clause 53.02-4 will not be achieved in the completed development, whether the development will, taking all relevant factors into account, reduce the bushfire risk to a level that warrants it proceeding.*
- *Whether the risk arising from the broader landscape can be mitigated to an acceptable level or warrants the development not proceeding.*

GENERAL PROVISIONS

65 Decision Guidelines

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

Clause 65.01 Approval of an application or plan

Before deciding on an application or approval of a plan, the responsible authority must consider:

- *The matters set out in section 60 of the Act.*
- *Any significant effects the environment, including the contamination of land, may have on the use or development.*
- *The Municipal Planning Strategy and the Planning Policy Framework.*
- *The purpose of the zone, overlay or other provision.*
- *Any matter required to be considered in the zone, overlay or other provision.*
- *The orderly planning of the area.*
- *The effect on the amenity of the area.*
- *The proximity of the land to any public land.*
- *Factors likely to cause or contribute to land degradation, salinity or reduce water quality.*
- *Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site.*
- *The extent and character of native vegetation and the likelihood of its destruction.*
- *Whether native vegetation is to be or can be protected, planted or allowed to regenerate.*
- *The degree of flood, erosion or fire hazard associated with the location of the land and the use, development or management of the land so as to minimise any such hazard.*
- *The adequacy of loading and unloading facilities and any associated amenity, traffic flow and road safety impacts.*

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- *The impact the use or development will have on the current and future development and operation of the transport system.*

REFERRAL AUTHORITIES

The application was referred to the following referral authorities in accordance with Section 55 of the *Planning and Environment Act 1987* and/or advice was sought from the following:

- Country Fire Authority (CFA) (accommodation development within the BMO)
 - Response on 28/05/2024 provided conditional consent to the proposal.

In addition, the application was referred to the following internal Council departments and/or advice was sought from the following:

- Assets (access and drainage)
 - Response on 20/06/2024 provided conditional consent to the proposal.
- Environmental Health (effluent disposal)
 - Response on 23/05/2024 provided conditional consent to the proposal.

PUBLIC NOTICE

Notice of the application was given to adjoining owners and occupiers and other relevant persons in accordance with Section 52 (1) of the *Planning and Environment Act 1987*.

Two (2) objections were received in response. Issues raised include:

- Inadequate access from Malakoff Road (preferred access via Flat Rock Road or Malakoff Road widened)
- Loss of amenity and potential noise pollution
- Proposed development is prohibited on the land (under 20 hectares)
- Bushfire hazard
- Native vegetation impacts (DEECA)

In addition, the Department of Energy, Environment and Climate Action (DEECA) provided a response as an adjoining landowner, stating that DEECA objected to the proposal in its current form having regard to potential native vegetation impacts.

DEECA's objection relates to native vegetation removal, and asks for more information and a number of reports relating to native vegetation removal. As no native vegetation removal is proposed, the questions they have raised and additional information they have requested is not applicable to this application.

The objections raised are discussed further in this assessment.

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DISCUSSION

POLICY DISCUSSION

Settlement policy seeks to locate development in appropriate areas considering environmental constraints, natural hazards, servicing limitations and productive agricultural land resources. The subject site is located within the Farming Zone and as such, non-agricultural (accommodation) land uses are generally discouraged unless they are genuinely required to support the agricultural enterprise. As discussed in greater detail below, the subject site is considered to hold relatively low productive agricultural value due to site constraints (i.e. topography, vegetation coverage, proximity to waterways, land size, proximity to existing dwellings nearby). The proposed use and development is broadly consistent with these policies given that it locates a rural accommodation use close to places of high tourism value to the municipality, and does so in a way that capitalises on the features of the area and does not hamper the efficacy of agricultural production nor produce unnecessary amenity impacts on existing rural living. Flood and bushfire risk can be suitably mitigated and reticulated service limitations can be addressed by on-site stormwater and wastewater management systems, as informed by the submitted Land Capability Assessment and internal department referral responses. This is consistent with the guidance of settlement policy within the planning scheme.

Policy relating to protection of biodiversity aims to ensure development does not compromise the valued environmental attributes of a site and its surrounds, including vegetation and waterways. The proposed development is sited approximately 90m away from the creek line dissecting through the subject land, providing sufficient buffers to ensure water quality protection and minimise land degradation. Furthermore, the form and siting of development minimises cut/fill and subsequent erosion impacts, and utilises an existing cleared area where there is no impact on vegetation as a result of the BMO (no vegetation removal is proposed). This is consistent with the guidance of policy concerned with environmental and landscape values within the planning scheme.

The intent of the relevant state and local bushfire policy at Clauses 02.03-3, 13.02-1S and 13.02-1L centres on the preservation of landscapes and character of areas like Beechworth and, as the highest priority, the preservation of human life in bushfire affected areas. The subject site is situated within a Bushfire Prone Area and is affected by the Bushfire Management Overlay (BMO). The proposal is considered consistent with this policy. The proposed use and development would increase the intensity of the accommodation use anticipated on the subject land. However, the risk to the site can be managed to an acceptable level, as informed by this assessment and associated Bushfire Management Statement. All necessary approved measures (or as otherwise specified by the CFA) can be practically implemented, and will have ongoing force and effect into the future via the endorsed BMP, and the CFA is satisfied with the proposal in principle subject to conditions. Based on these factors, it is considered that the proposal is acceptable from a bushfire safety and mitigation perspective, and thoroughly consistent with the guidance of policy concerned with environmental risks and amenity within the planning scheme.

The overarching intent of policy concerned with land use compatibility is to ensure that use or development of land is compatible with adjoining and nearby land uses. The proposed use and development comprises an accommodation land use, which are characteristically sensitive to non-accommodation land uses (e.g. agriculture or industry) but not typically the cause of sensitivities to other land uses. Surrounding land uses are typically rural-residential and on similar or smaller sized lots to the subject land. There is a fragmental pattern of vegetation coverage, lot size, density and

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development, particularly in the FZ lots surrounding the subject land. Given the lack of productive agricultural activities in the vicinity and the disposition for accommodation uses in the surrounds, the issue of group accommodation (to the extent proposed), is considered to be generally congruous having regard to the site and surrounds. This is consistent with the guidance of policy concerned with environmental risks and amenity within the planning scheme.

The primary objective of agricultural policy is to protect productive agricultural land and accordingly temper urban activities in rural areas. The proposal introduces new non-agricultural use(s) to the subject land, which is not currently used for agricultural purposes. In undertaking an informed assessment of this proposal, consideration must be afforded to the land's capabilities. The subject site is considered to hold relatively low productive agricultural value due to site constraints. These constraints include native vegetation cover and a watercourse running through the property, leaving very little cleared land able to be farmed and limited opportunity to expand onto adjoining sites due to abutments with native vegetation and rural living properties. Thus, the introduction of non-agricultural uses to the site would not impact any viable arable land from agricultural production.

Secondly, consideration must be afforded to the impact a non-agricultural use could have on surrounding agricultural land uses. Surrounding land is generally improved with dwellings and outbuildings. Land to the west is covered by dense bushland and relatively unusable. Given the lack of productive agricultural activities in the vicinity and the disposition for accommodation uses in the surrounds, it is highly unlikely that the proposed use and development would have any notable impact on nearby agricultural production. This is consistent with state and local-led policy at Clauses 14.01-1S and 14.01-1L which calls for consideration of the *impacts on the continuation of primary production on adjacent land, with particular regard to land values and the viability of infrastructure for such production* and the *compatibility between the proposed and the existing use of the surrounding land*. It is also further enforced by *Smout v Macedon Ranges SC [2021] VCAT 453 (10 May 2021)*, as discussed further below.

Further to this point, the perceived commodification of the land for non-agricultural uses is unlikely to have drastic implications on surrounding land value of properties in the FZ any more than the existing conditions of surrounding land cause – owing to the existing proliferation of dwellings in the area and the proximity of the site to the Beechworth township. This is in contrast to other instances where there is arable land (and productive agriculture) nearby, where the proliferation of non-agricultural uses could effectively 'price out' meaningful use of the land for agricultural purposes and/or consolidation of the land with other agricultural holdings.

On balance, the proposal is considered to be consistent with the policy enunciated above relating to agriculture given that it seeks to use and develop land that is not generally suited to agricultural production, owing to size and site constraints, in a manner that is consistent with existing use and development in the surrounds and which capitalises on rural/agri-tourism opportunities.

Planning policy centred on built form, design and character outcomes seeks to protect natural and rural character, and ensure that development is suited to its surrounds. The proposed group accommodation will be an appropriate response to the site and surrounds. The proposed siting takes into account the topography of the land and existing vegetation cover, and would not detract from the valued landscape character. Given the existence of accommodation buildings surrounding, the generous boundary setbacks and prevailing vegetation cover, the group accommodation buildings are unlikely to be a notable visual element in the rural landscape. The site is not subject to any

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Design, Landscape or Heritage Overlays which would require specific consideration of technical design elements. As such, the building is considered to be appropriately designed and sited to respond to site constraints. The building will be designed to comply with BAL29 construction standards, ensuring a resilient built form outcome. The form, scale, materials and colours utilised are consistent with the valued rural landscape and will not dominate views from the public or private realm. Given these factors, the proposal is commensurate with the reasonable expectations of development forms in a rural landscape and consistent with the relevant policy listed above.

The proposal would be wholly consistent with planning policy relating to tourism development; with it providing greater accommodation options/choice – that are small scale and good quality – indirectly linked to a primary economic driver for the municipality for prospective visitors to the area to experience. The accommodation fits the character of the area, which is largely made up of dwellings and some short-stay accommodation. Given the context of the site's location proximate to Beechworth, this is considered favourable. The location of the site (and development) does not compromise the natural features or agricultural merits of the land. Moreover, the location of the site and the intent of the landowners demonstrates that there is need for the proposed group accommodation, albeit in a non-urban area, and that it would support a nature-based approach of surrounding prospective visitors in the natural environment it sits in. This is particularly consistent with policy at Clause 17.04-2S. Overall, the proposed use and development is considered an appropriate undertaking for the site considering the site's limitations and favourable location.

Policy at Clause 18 seeks to, among other things, ensure appropriate access and car parking provision is provided in new use and development. The proposed access to the site is shown on the plans, and is designed in such a way that vehicles exiting the site will be perpendicular to Malakoff Road at the crossover, consistent with the advice provided to the permit applicant by Council's engineers in their referral responses. Satisfactory provision for off-street car parking has been shown, and sufficient space is available for informal parking in addition.

Policy concerned with infrastructure relevantly seeks to ensure water supply and demand, water resources, wastewater, drainage and stormwater are appropriately considered in new development. The land is of sufficient size that onsite stormwater and wastewater/effluent management is practical. As standard, conditions will be required on any permit issued to direct the management of onsite stormwater and wastewater in accordance with the requirements of Council's engineers, environment health officers and the relevant water and catchment authorities (as relevant and as previously discussed).

FARMING ZONE DISCUSSION

The proposal is considered to respond favourably to the various Farming Zone decision guidelines. The purpose of the Farming Zone is strongly focused on the retention of productive agricultural land and supporting agricultural land uses. More particularly, ensuring that non-agricultural uses, including accommodation uses, do not adversely affect the use of land for agriculture.

As mentioned previously, the site is considered to hold relatively low agricultural value and has significant constraints in terms of productive capacity. These constraints include land size, substantial native vegetation cover and a watercourse running through the property, leaving very little cleared

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arable land able to be farmed, and limited opportunity to expand onto adjoining sites due to abutments with native vegetation, waterways and rural living properties.

It is acknowledged that the proposed development would remove a small portion of the subject land from potential agricultural production activities. The proposal will not lead to a concentration or proliferation of dwellings (or, more broadly, accommodation uses) as each new development will be required to be assessed on its own merits in light of the relevant planning controls that apply to the land. Rural dwellings are common within the surrounding area and thus the issue of group accommodation cabins operating alongside an existing single dwelling on the land is seen as compatible with surrounding land uses and will see land management principles and values better implemented and enhanced by having improved onsite management.

The proposed group accommodation building is not considered to result in any environmental issues. No existing native vegetation will be removed. The site is capable of accommodating the proposed buildings. Both stormwater and wastewater can be managed on-site without discharge to any natural waterways.

There are no concerns raised in terms of the design and siting considerations listed above. The proposed buildings have been placed so as to best avoid the bushfire hazard, vegetation impacts and impacts to agricultural and existing dwellings, and is located to facilitate effective property management and efficient access. External materials will not be discordant with existing development in the rural-agricultural landscape and, while any development in this landscape can be considered dominant feature, the proposed is sited and designed to integrate with the natural environment and utilise existing vegetation screening and topography so as not be a dominant feature in the landscape.

No traffic management measures are considered to be required for a proposal of this extent.

On balance the proposal is considered to suitably respond to the purpose and decision guidelines of the Farming Zone

CAR PARKING AND ACCESS DISCUSSION

The purpose of Clause 52.06 (Car Parking) is:

- *To ensure that car parking is provided in accordance with the Municipal Planning Strategy and the Planning Policy Framework.*
- *To ensure the provision of an appropriate number of car parking spaces having regard to the demand likely to be generated, the activities on the land and the nature of the locality.*
- *To support sustainable transport alternatives to the motor car.*
- *To promote the efficient use of car parking spaces through the consolidation of car parking facilities.*
- *To ensure that car parking does not adversely affect the amenity of the locality.*
- *To ensure that the design and location of car parking is of a high standard, creates a safe environment for users and enables easy and efficient use.*

Clause 52.06-5 outlines the required number of car parking spaces for various uses. 'Group accommodation' (or accommodation, which it nests under) is an innominate use for the purposes of Clause 52.06-5 and, therefore, Clause 52.06-6 applies.

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Consequently, Clause 52.06-6 prescribes that *where a use of land is not specified in Table 1 or where a car parking requirement is not specified for the use in another provision of the planning scheme or in a schedule to the Parking Overlay, before a new use commences or the floor area or site area of an existing use is increased, car parking spaces must be provided to the satisfaction of the responsible authority.*

Planning Practice Note 22 – Using the Car Parking Provisions (PPN22) states that, where a use is not specified in Table 1 in Clause 52.06-5, in another clause, or in a Schedule to the Parking Overlay, the responsible authority determines the number of car parking spaces to be provided in accordance with Clause 52.06-6. The responsible authority may determine the adequacy of parking based on policies, surveys, floor area, operational characteristics and locational characteristics.

The application provides for one (1) car parking space adjacent to each group accommodation unit (total of three (3) car parking spaces for the proposed use).

Officers are satisfied with the provision of car parking, for the following reasons:

- The proposed land use, given its size, location and general characteristics is unlikely to generate a significant car parking demand. It is anticipated that the group accommodation will generate 1 car parking space per occupied room. Given that there is three group accommodation units proposed with one bedroom each, one car parking space would be sufficient.
- There are no known deficiencies of car parking on the site or in the surrounding area, and there is sufficient means for informal parking throughout the site, should this need arise.
- The provision of car parking is unlikely to have any adverse economic impacts given the size of the subject land, the size of the proposed use and development (and the likely generation of car parking demand resultant) and positive rural-economic effects of the proposed use and development establishing in the area.
- The demand for car parking associated with the use will not discernibly change over time, and no other developments are proposed in the immediate area that would change access to transport or public car parking provision.
- All provided access and car parking meets the design requirements of Clause 52.06-9, and can meet the construction requirements of Clause 52.06-11.

For these reasons, the proposed car parking provision is considered acceptable.

BUSHFIRE DISCUSSION

The emphasis of relevant policy at the State and Local level is on the preservation of landscapes and character of areas like Beechworth and as the highest priority the preservation of human life in bushfire affected areas. This clause requires the Responsible Authority to ensure the protection of human life over all other policy considerations.

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53.04.1 Landscape, siting and design objectives

- *Development is appropriate having regard to the nature of the bushfire risk arising from the surrounding landscape.*
- *Development is sited to minimise the risk from bushfire.*
- *Development is sited to provide safe access for vehicles, including emergency vehicles.*
- *Building design minimises vulnerability to bushfire attack.*

Measure	Requirement	Assessment
AM 2.1	<i>The bushfire risk to the development from the landscape beyond the site can be mitigated to an acceptable level.</i>	Complies The proposed building is sited to ensure the maximum separation distance between the building and the bushfire hazard is achieved having regard to all relevant permit triggers and planning scheme objectives, commensurate with the objectives of the Clause.
AM 2.2	<i>A building is sited to ensure the site best achieves the following:</i> <ul style="list-style-type: none"> ▪ <i>The maximum separation distance between the building and the bushfire hazard.</i> ▪ <i>The building is in close proximity to a public road.</i> ▪ <i>Access can be provided to the building for emergency service vehicles.</i> 	While landscape risk cannot be eliminated, it is considered that suitable measures have been put in place to mitigate ember attack and direct fire attack as follows:
AM 2.3	<i>A building is designed to reduce the accumulation of debris and entry of embers.</i>	<ul style="list-style-type: none"> • Construction to BAL 29 level; • Location of buildings at an appropriate distance from classifiable vegetation; • Defendable space provided to the property boundary or 35 m (whichever is lesser) to respond to landscape risk (CFA has required increase from 25m to 35m and amended plans will be required as condition of permit to rectify this); • On site water storage for firefighting purposes built to CFA requirements; and • Access for fire service vehicles. <p>Based on the above, approved measures 2.1-2.3 are considered to</p>

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		be met and the underlying objectives have been achieved.
53.02-4.2 Defendable space and construction objective <i>Defendable space and building construction mitigate the effect of flame contact, radiant heat and embers on buildings.</i>		
Measure	Requirement	Assessment
AM 3.1	<p><i>A building used for a dwelling (including an extension or alteration to a dwelling), a dependant person's unit, industry, office or retail premises is provided with defendable space in accordance with:</i></p> <ul style="list-style-type: none"> <i>Table 2 Columns A, B or C and Table 6 to Clause 53.02-5 wholly within the title boundaries of the land; or</i> <i>If there are significant siting constraints, Table 2 Column D and Table 6 to Clause 53.02-5</i> <p><i>The building is constructed to the bushfire attack level that corresponds to the defendable space provided in accordance with Table 2 to Clause 53.02-5.</i></p>	<p>Complies</p> <p>The CFA have stipulated a defendable space requirement of 35m or to the property boundary (whichever is the lesser).</p> <p>The development would be constructed to a BAL-29 rating, which is a higher bushfire construction requirement to BAL-12.5.</p>
AM 3.2	<p><i>A building used for accommodation (other than a dwelling or dependent person's unit), a child care centre, an education centre, a hospital, leisure and recreation or a place of assembly is:</i></p> <ul style="list-style-type: none"> <i>Provided with defendable space in accordance with Table 3 and 6 to Clause 53.02-5 wholly within the title boundaries of the land.</i> <i>Constructed to a bushfire attack level of BAL12.5.</i> 	
Alt M 3.3	<i>Adjoining land may be included as defendable space where there is a reasonable assurance that the land will remain or continue to be managed in that condition as part of the defendable space.</i>	Not applicable.
Alt M 3.4	<i>Defendable space and the bushfire attack level is determined using Method 2 of AS3959:2009</i>	The CFA have stipulated a defendable space requirement of

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	<p><i>Construction of buildings in bushfire prone areas (Standards Australia) subject to any guidance published by the relevant fire authority</i></p>	<p>35m or to the property boundary (whichever is the lesser). This is a greater defensible space requirement than that considered in the permit applicant's submitted bushfire assessment, and is considered to be consistent with the objective of Clause 53.02-4.2.</p>
Alt M 3.5	<p><i>A building used for a dwelling (including an extension or alteration to a dwelling) may provide defensible space to the property boundary where it can be demonstrated that:</i></p> <ul style="list-style-type: none"> ▪ <i>The lot has access to urban, township or other areas where:</i> <ul style="list-style-type: none"> - <i>Protection can be provided from the impact of extreme bushfire behaviour.</i> - <i>Fuel is managed in a minimum fuel condition.</i> - <i>There is sufficient distance or shielding to protect people from direct flame contact or harmful levels of radiant heat.</i> ▪ <i>Less defensible space and a higher construction standard is appropriate having regard to the bushfire hazard landscape assessment.</i> ▪ <i>The dwelling is constructed to a bushfire attack level of BAL FZ. This alternative measure only applies where the requirements of AM 3.1 cannot be met.</i> 	<p>Not applicable.</p>
Alt M 3.6	<p><i>A building used for accommodation (other than a dwelling or dependent person's unit), child care centre, education centre, hospital, leisure and recreation or place of assembly may provide defensible space in accordance with Table 2 Columns A, B or C and Table 6 to Clause 53.02-5 where it can be demonstrated that:</i></p> <ul style="list-style-type: none"> ▪ <i>An integrated approach to risk management has been adopted that considers:</i> <ul style="list-style-type: none"> - <i>The characteristics of the likely future occupants including their age, mobility and capacity to evacuate during a bushfire emergency.</i> 	<p>Not applicable.</p>

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	<ul style="list-style-type: none"> - The intended frequency and nature of occupation. - The effectiveness of proposed emergency management arrangements, including a mechanism to secure implementation. ▪ Less defensible space and a higher construction standard is appropriate having regard to the bushfire hazard landscape assessment. 	
53.02-4.3 Water supply and access objectives <i>A static water supply is provided to assist in protecting property. Vehicle access is designed and constructed to enhance safety in the event of a bushfire.</i>		
Measure	Requirement	Assessment
AM 4.1	<p><i>A building used for a dwelling (including an extension or alteration to a dwelling), a dependant person's unit, industry, office or retail premises is provided with:</i></p> <ul style="list-style-type: none"> ▪ <i>A static water supply for firefighting and property protection purposes specified in Table 4 to Clause 53.02-5.</i> ▪ <i>Vehicle access that is designed and constructed as specified in Table 5 to Clause 53.02-5.</i> <p><i>The water supply may be in the same tank as other water supplies provided that a separate outlet is reserved for firefighting water supplies.</i></p>	Not applicable.
AM 4.2	<p><i>A building used for accommodation (other than a dwelling or dependent person's unit), child care centre, education centre, hospital, leisure and recreation or place of assembly is provided with:</i></p> <ul style="list-style-type: none"> ▪ <i>A static water supply for firefighting and property protection purposes of 10,000 litres per 1,500 square metres of floor space up to 40,000 litres.</i> ▪ <i>Vehicle access that is designed and constructed as specified in Table 5 to Clause 53.02-5.</i> ▪ <i>An integrated approach to risk management</i> 	<p>Complies</p> <p>A static water supply for firefighting purposes is provided to each unit in the form of a combined 45,000 litres in rainwater tank storage.</p> <p>Vehicle access is design and constructed in accordance with Table 5 to Clause 53.02.5.</p> <p>In addition, the CFA require the following conditions on permit:</p> <ul style="list-style-type: none"> • The site must be closed to all

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	<p><i>that ensures the water supply and access arrangements will be effective based on the characteristics of the likely future occupants including their age, mobility and capacity to evacuate during a bushfire emergency.</i></p> <p><i>The water supply may be in the same tank as other water supplies provided that a separate outlet is reserved for fire fighting water supplies.</i></p>	<p>guests after 10am on days predicted to have a Fire Danger Rating of Extreme (where the WBI is 75 or greater) or Catastrophic.</p> <ul style="list-style-type: none"> • Prior to the development being occupied, the Bushfire Emergency Management Plan submitted with the application must be amended to reflect the current Fire Danger Rating system and submitted to the CFA for approval. The site must be managed in accordance with the approved BEMP.
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In consideration of the above assessment and the CFA's referral response, it is considered that the risk arising from the broader landscape can be mitigated to an acceptable level. The proposed measures can be practically implemented and maintained in conjunction with the ongoing use of the land. The decision guidelines of this Clause provide that a development can still be supported, even if one or more objectives are not met; having regard to the overall risk profile of the development. While it is trite to observe that the subject site is not immune from bushfire risk, the proposed mitigation measures captured through this development provide an appropriate level of defence to ensure that the risk is reduced to an acceptable level. The measures proposed can be readily and practically implemented on the site and the risk to the site overall is acceptable in context of BMO planning applications. The CFA have reviewed the application and did not object subject to conditions. For these reasons, it is considered that the proposal satisfactorily addresses bushfire risk to the site.

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL (VCAT)

There are a number of cases in recent years that have some relevance to this particular application and in particular the appropriateness of non-agricultural land use and development, including group accommodation, in the Farming Zone, the need to consider the strategic intent of the Planning Scheme as a whole rather than focussing on individual policies.

For instance:

In the Tribunal decision of *Smout v Macedon Ranges SC [2021] VCAT 453 (10 May 2021)*, the Tribunal found in favour of an application for a dwelling on a small lot in the FZ, finding that:

28. *I note that the objective of Clause 14.01-1S is 'To protect the state's agricultural base by preserving productive farmland'.*
29. *The Applicant has persuaded me that this lot is not productive farmland due to the extent of surface and sub-surface rock.*

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30. *I note that the strategies to achieve this objective include to 'Avoid permanent removal of productive agricultural land from the state's agricultural base without consideration of the economic importance of the land for the agricultural production and processing sectors.'*
31. *In this case, I am satisfied that the removal of this non-productive farmland is not economically important.*
32. *Another strategy is to 'Limit new housing development in rural areas by:*
- *Directing housing growth into existing settlements.*
 - *Discouraging development of isolated small lots in the rural zones from use for dwellings or other incompatible uses.*
 - *Encouraging consolidation of existing isolated small lots in rural zones.*
33. *Due to this site's location, I am satisfied that it is not an 'isolated small lot'. I accept that, unlike the dwellings within the wedge of the Springfield settlement, it is not in the Rural Living Zone. However, I have described that the actual pattern of settlement includes several dwellings directly opposite this wedge, and that this dwelling fills a gap in this existing settlement pattern.*
34. *I also consider that its use for a dwelling is compatible with its surrounds. It is directly opposite small lots used for residential purposes and it is adjacent to the dwelling of the adjoining farm. The balance of existing residential and agricultural uses will not be significantly altered if this site is used for a dwelling.*
35. *Separately, I do not see this site as a candidate for consolidation with adjacent farming land due to its poor productive capacity.*

While this of course relates to a site within the Macedon Ranges municipality, the findings of the Tribunal in taking into account locational and site-specific characteristics is relevant to this application. The subject site considered by the Tribunal was small and exhibited poor agricultural qualities and was surrounded by other small lots, not dissimilar to the subject site. Like in the decision, the proposal has no real potential of impacting productive agricultural land on the site and surrounds. In the instance of the subject land, the land is better disposed to acclimatising to the surrounding built and natural environment. Taking into account the site's size, vegetation coverage and the presence of watercourses through the property, there is value in using and managing the site by less intrusive means (than agriculture) for social and environmental reasons. In *Tsourounakis v Hepburn SC [2009] VCAT 1311 (5 July 2009)*, Member Rundell found in favour of an application for group accommodation on a lot in the FZ, find that:

15. ... *The planning policy framework contemplates that farming land will be used for a wide range of activities that leverage off the farming activities. Importantly these are seen to be important to generate income sources that can positively contribute to the costs of land management and environmental improvements.*

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This is consistent with state-led policy at Clause 14.01-1S which calls for consideration of the *desirability and impacts of removing the land from primary production* [potential] and the land's capability. That said, if the land were viable the proposed use and development is relatively confined on the site and would not prejudice the agricultural viability of the site.

OBJECTION DISCUSSION

Concern	Officer response
Inadequate access provision	<p>Council's engineers have assessed the planning application in relation to access and car parking, and determined that it satisfies the relevant considerations and requirements subject to conditions on permit which will require, among other things, amended plans which show:</p> <ul style="list-style-type: none"> • The existing vehicle crossover and accessway to be upgraded to current standards. • The vehicle crossover designed in such a way so as to be as perpendicular to Malakoff Road is practical. • Dimensioned indicative turnaround area. • Turning vehicle swept path movements demonstrated for a passenger vehicle towing a caravan (17.6 m). <p>Additionally, given the nominal scale of use and development proposed, it is unlikely to generate a significant number of hourly traffic movements or congestion, and would be within the current capacity of the existing road infrastructure.</p>
Loss of amenity and potential noise pollution	<p>The application proposes the construction of three (3) group accommodation units, comprising one (1) bedroom each, and a maximum of six (6) persons accommodated onsite at any one time. Given the type of use proposed (being an accommodation use), it is unlikely to generate excessive noise emissions. Likewise, the extent of the use proposed is not excessive and unlikely to be cause adverse offsite amenity impacts.</p> <p>Moreover, the proposed use and development would be located in excess of 300m south of the closest dwelling not in the same ownership (that being 280 Malakoff Road) and separated by dense patches of vegetation (including canopy), which does not produce an unreasonable encroachment and unlikely to lead to adverse offsite amenity impacts.</p> <p>Access to the part of the subject site proposed for development is not practical from Flat Rock Road given that there is land in between the subject land and the road reserve which is not in the ownership of the permit applicant. Thus, the only means for access is via Malakoff Road, which is considered acceptable.</p>
Proposed development prohibited on land (under 20ha)	<p>There is no requirement in the planning scheme which expressly prohibits the proposed use and development from being approved.</p> <p>There are requirements specified in the Schedule to Clause 35.07 relating to, <i>inter alia</i>; minimum area for which no permit is required to use land for a dwelling (40 ha), minimum setback from a road (20 m), minimum</p>

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	<p>setback from a boundary (5 m), and minimum setback from a dwelling not in the same ownership (100 m).</p> <p>None of these requirements prohibit development that does not meet it but, rather, trigger the requirement for a planning permit and, through this, consideration of its reasonability and acceptability.</p>
Bushfire hazard	<p>Pursuant to Clause 44.06-7 of the Indigo Planning Scheme, an application triggered under the Bushfire Management Overlay (BMO) is exempt from the notice requirements of section 52(1)(a), (b) and (d), the decision requirements of section 64(1), (2) and (3) and the review rights of section 82(1) of the <i>Planning and Environment Act 1987</i>.</p> <p>Accordingly, objections relating to bushfire considered under the BMO cannot be given weight in Council's assessment of the application. Furthermore, there is no right of review (at VCAT) for objectors in relation to such matters.</p> <p>The application has provided material to address the bushfire risk, in accordance with planning scheme requirements. It is noted that the Country Fire Authority (CFA) has assessed the planning application in relation to Clause 44.06 and Clause 53.02 of the Indigo Planning Scheme, and determined that it meets the relevant requirements subject to the inclusion of conditions on any permit issued. Moreover, the planning scheme also requires that any permit issued include the following mandatory condition:</p> <ul style="list-style-type: none"> • <i>"The bushfire protection measures forming part of this permit or shown on the endorsed plans, including those relating to construction standards, defendable space, water supply and access, must be maintained to the satisfaction of the responsible authority on a continuing basis. This condition continues to have force and effect after the development authorised by this permit has been completed."</i>
Native vegetation impacts	<p>No native vegetation removal, destruction or lopping has been applied for, is proposed or is resultant of the proposal. Any illegal native vegetation impacts would ultimately be a planning enforcement matter in the event that the Indigo Planning Scheme might be breached.</p>

SUMMARY

The proposal accords with the relevant decision guidelines contained in Clause 65.01. The proposal is appropriate taking into account the matters set out in Section 60 of the *Planning and Environment Act 1987*. Namely, the proposal satisfies the relevant provisions of the Indigo Planning Scheme and there are no significant environmental, social or economic effects. Notification and referrals were undertaken with two objections received. The matters raised by the objectors have been considered in this assessment on their planning merits and given appropriate weight in the balance assessment of this application. The proposal is supported by the relevant provisions of the Municipal Planning Strategy and the Planning Policy Framework. The matters to be considered by the Farming Zone and Bushfire Management Overlay are appropriately met, and the proposal is considered to reflect an orderly planning outcome for the site. The subject site has little agricultural value due to the

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constraints associated with the land, as discussed in detail throughout this report. The proposal will enable an appropriate use of the land in accordance with the scheme. The proposal supports agriculture through agri-tourism and does not impact nearby agricultural production in the Farming Zone. The bushfire hazard mitigation measures are satisfactory, subject to amended plans as per the CFA's referral response. No issues relating to land capability, environmental constraints or adverse vegetation impacts are identified as a result of this application. The proposal is unlikely to have any negative effects on the environment, human health and amenity of the area as it is a sensitive land use, is of a tempered intensity and has notable setbacks from boundaries, nearby agricultural activities and dwellings, and watercourses. The bushfire risk has been suitably mitigated in accordance with BMO/Clause 53.02 requirements, noting the CFA conditional consent. The proposal is unlikely to contribute to land degradation, salinity or reduced water quality. All stormwater and wastewater will be appropriately managed on site and no existing vegetation is required to be removed. Traffic impacts from the proposal are nominal (as discussed above) and can be satisfactorily managed.

CONCLUSION

As discussed throughout this report, the proposal exhibits a good level of compliance with the policy and controls within the Indigo Planning Scheme that are of relevance to this assessment. There are no other matters for consideration in relation to this planning application.

On the basis of these planning merits, it is recommended that a Notice of Decision to Grant a Planning Permit be issued for the proposed use and development.

CONFIDENTIAL ATTACHMENT

The following confidential attachment has been provided to Councillors under separate cover. Recent changes to Section 197A of the *Planning and Environment Act 1997* have clarified and tightened the way Councils are able to make certain planning documents available to the public. The Act provides that the confidential document listed below can only be made available for public inspection:

- at Council offices during business hours, or
- electronically via Council's website subject to strict public availability requirements, requiring significant editing of individual documents.

Council currently does not have the resources to provide the document online in line with the public availability requirements of the Act, and so is at this stage unable to publish it in the public agenda online.

DECLARATION OF CONFLICT OF INTEREST

Under section 130(2) of the *Local Government Act 2020* and Governance Rule 24, the following officers declare that they have no interests to disclose in providing this report:

Steven Hawkins – Coordinator Planning

James Turner – Manager Planning & Statutory Services

Greg Pinkerton – Director Planning and Corporate Services

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Attachments

1. PP23-0007 - Plans - 559 Flat Rock Road - Beechworth - PN 8220
2. PP23-0007 - Application documents - 559 Flat Rock Road - Beechworth - PN 8220 (Confidential)
3. PP23-0007 - Bushfire Documents - 559 Flat Rock Road - Beechworth - PN 8220
4. PP23-0007 - Referral Responses - 559 Flat Rock Road - Beechworth - PN 8220
5. PP23-0007 - Objections - 559 Flat Rock Road - Beechworth - PN 8220 (Confidential)

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11.12 PLANNING PERMIT APPLICATION PP22-0231 - 20 LAKE ROAD, NORONG

File No: 2024/634

James Turner - Manager Planning & Statutory
Services

Planning & Corporate Services

For Decision

RECOMMENDATION

That a Notice of Decision to grant a planning permit for development and works being shed extensions, a new farm shed, and two (2) shipping containers for mushroom production purposes situated on land at No 20 Lake Road, Norong, be issued subject to the following conditions:

1. AMENDED PLANS

Prior to the development commencing, plans must be approved and endorsed by the responsible authority. The plans must:

- a) be prepared to the satisfaction of the responsible authority
- b) be drawn to scale with dimensions
- c) submitted in electronic form
- d) show the following details:
 - i. An accurate site plan providing clarification in respect of all existing buildings and works on site and the proposed location of the new farm shed and shipping containers.
 - ii. Floorplan and elevations of the approved shed extension
 - iii. Floorplan and elevations of the new farm shed

The layout of the site, dimensions and elevations of the proposed development as shown on the endorsed plans must not be modified or altered without the written consent of the Responsible Authority.

2. EXTERNAL FABRIC

The roof and cladding colour or colours of the buildings hereby approved, and the finished colours of any aboveground water storage tanks must be non-reflective (i.e not "zincalume"). Neutral "earthy" colours are to be used (eg "greens", "greys" or "browns") so as to address the rural character of the area and blend all new buildings in with the landscape and preserve the visual amenity of the area to the satisfaction of the Responsible Authority. Colours not supported include black shades (eg 'Night Sky' and 'Monument') and white shades (eg 'Surfmist'), or colours from the metallic Colorbond range.

3. SEDIMENT CONTROL & SOIL AND WATER MANAGEMENT

To minimise soil erosion during construction, the landowner and builder must ensure that any clearing or construction associated with development is conducted in accordance with sediment control principles as outlined in "Construction Techniques for Sediment Pollution Control" (Environment Protection Authority 1991). Specifically, the landowner and builder must ensure:

- i. Grading, excavation and construction does not proceed during periods of heavy rainfall;
- ii. Sediment traps are designed, installed and maintained to maximise the volume of sediment trapped from the site during development and construction;

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- iii. Top soil from the construction site or builders' sand is stockpiled in a location where it will not be eroded from the site;
- iv. All erosion control measures are maintained after rainfall and are retained until the site has fully revegetated, and;
- v. Disturbed areas are stabilised and revegetated following the completion of works.

4. USE OF BUILDINGS

This permit does not authorise the use of any building on site for human habitation (ie dwelling) purposes.

5. ON SITE EFFLUENT DISPOSAL

Prior to any work associated with any upgrade or relocation of the existing on-site effluent disposal system, the consent of Council must be obtained. Such altered systems must comply with the provisions of the Environment Protection Authority Code of Practice - Onsite Wastewater Management (2016) and be to the satisfaction of Council's Environmental Health Officer.

6. POULTRY NUMBERS

Unless otherwise approved by Council under the provisions of Clause 53.09 of the Indigo Planning Scheme, no more than 100 chickens are to be kept at any one time on the subject land.

7. DEECA REQUIREMENTS – ACCESS & ENCROACHMENT

- (i) No access is permitted to the subject land via the Crown land.
- (ii) Adjoining Crown land must not be used for truck turning areas, entry points, parking areas or temporary stack sites during the construction of buildings or works.
- (iii) No polluted and/or sediment laden run-off is to be discharged directly or indirectly into drains or watercourses on Crown land. Overland flow must be maintained at the same rate post-development as on the undeveloped land.

8. NECMA REQUIREMENTS

- (i). Any onsite wastewater management system for the site must be suitably designed, located and sized to comply with the EPA Victoria's Code of Practice Onsite Wastewater Management, Publication number 891.4, July 2016, inclusive of Table 5 recommended setback distances from waterways.
- (ii). New sheds / shipping containers must be located no less than 100 m from Lake Moodemere.
- (iii). Runoff from buildings and other impervious surfaces shall be directed to a rainwater tank for re-use or on-site dispersal without impact on neighbouring properties to the satisfaction of the Responsible Authority.

9. EXPIRY

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

- (i) The use and development is not started within two years of the date of this permit.
- (ii) The development is not completed within two years of the date of commencement

The Responsible Authority may extend the periods referred to if a request is made in writing before the period expires or within three months of the date of expiration.

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PERMIT NOTES

The adjoining Crown land is not to be used for access, storage of materials or rubbish. Any private use of Crown land requires consent and/or licensing from the Department of Energy, Environment and Climate Action.

RESOLUTION

That Council issue a notice of decision to refuse planning permit application PP23-0232 for development and works being shed extensions, a new farm shed, and two (2) shipping containers for mushroom production purposes situated on land at No 20 Lake Road. Norong, on the following grounds:

- 1. The proposal is inconsistent with the relevant clauses under the Municipal Planning Strategy and the Planning Policy Framework, of the Indigo Planning Scheme, including:*
 - a. Clause 12.03-1S - River and riparian corridors, waterways, lakes, wetlands and billabongs*
 - b. Clause 12.05-2S – Landscapes*
 - c. Clause 13.07-1S - Land use compatibility*
 - d. Clause 14.02-2L-01 - Murray River, Lake Hume and Lake Moodemere*
- 2. The proposal is not consistent with the decision guidelines of the Farming Zone (Clause 35.07-6), particularly*
 - a. Whether the site is suitable for the use or development and whether the proposal is compatible with adjoining and nearby land uses.*
 - b. The impact of the siting, design, height, bulk, colours and materials to be used, on the natural environment and the measures to be undertaken to minimise any adverse impacts*
 - c. The impact on the character and appearance of the area or features of architectural, historic or scientific significance or of natural scenic beauty or importance*
- 3. The proposal is not consistent with the environmental objectives of the Environmental Significance Overlay (ESO2 - Lake Moodemere) including having regard to the proximity of Lake Moodemere and adjoining Crown Land foreshore area*
- 4. The proposal is not consistent with the decision guidelines at clause 65.01 including:*
 - a. Matters set out under s.60 of the Act and in particular having regard to objections received.*
 - b. Separation distances to all dwellings in proximity of the site*
 - c. Discrepancies in the application material including but not limited to the number of proposed shipping containers to be located on the property.*

Moved: Cr Gaffney

Seconded: Cr Horne

For: Crs Bernard Gaffney, Roberta Horne and Sophie Price

Against: Crs Peter Croucher and Sue Gold

CARRIED

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SUMMARY

Application No:	PP22-0231
Subject Land:	20 Lake Road, Norong
Property Description:	Land in PC3732289
Proposal:	Shed extension, a new farm shed and installation of two shipping containers
Recommendation:	Approval in accordance with the Recommendation above

BACKGROUND

Date application lodged:	8 September 2022
Amended Application	6 February 2024
Purpose:	<p>The application has been amended on a number of occasions with the current proposal now being related to:</p> <ol style="list-style-type: none"> 1) Construct a building in the Farming Zone within 100m of a dwelling not in the same ownership. 2) Development & works in the ESO2 – Lake Moodemere comprising: <ul style="list-style-type: none"> • a shed extension and a new farm shed; and • installation of 2 shipping containers.
Subject land site area:	1.7ha
Current use of subject site:	Vacant semi-rural
Zoning of surrounding land:	<p>Adjoining land to the east, south and west is zoned Farming Zone (FZ) and is also affected by the Environmental Significance Overlay (ESO2). To the north is crown land zoned Public Conservation and Resource Zone (PCRZ). That land is affected by ESO2, Land Subject to Inundation (LSIO), Flood Overlay (FO) and Heritage Overlay (HO546) provisions</p>
Request for Further Information	11 January 2024
RFI Satisfied	Not completely, however sufficient information has been provided to allow for a determination.
Public Notification	Notice of the application was given to surrounding property owners. In response three (3) objections were received.
Previous Planning Applications	PP06-247 – refusal of consent for dwelling issued 8 March 2007. Decision was subsequently overturned by VCAT 3 January 2008.
Aboriginal Cultural Sensitivity	The property is partly mapped as being of Aboriginal Cultural Heritage Sensitivity. The proposal however does not trigger

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the need for a CHMP.

Declared Water Supply
Catchment:

The subject land is not located with a Declared Water Supply
Catchment.

SUBJECT LAND:

The subject land is identified as No.20 Lake Road, Norong and is formally described as land in Plan of Consolidation PC 373289C (Vol 11396 Fol 632). The property is located approximately 6.7km to the south west of the Rutherglen Post Office. It is a hexagonal shaped parcel situated at the north eastern corner of Lake Road and Moodemere Road, Norong and has an overall area of 1.704ha (Figure 1). Access to the site is currently available from Lake Road in the north west corner of the site.



Figure 1: Site Context

The subject land is predominantly flat and apart from a number of scattered trees around the periphery is otherwise cleared land. The property currently contains 3 small buildings including an old amenities building which is in some disrepair. It is understood that this building contains a small kitchen, bathroom and laundry that are functional and connected to a septic tank and effluent disposal field. It is intended that the building will be renovated to include a farm office and updated amenities connected to an upgraded onsite effluent disposal facility.

Located on the property, approximately 50m south of the amenities building is an existing 22,000L concrete water tank that is setback approximately 17m off the western boundary. Located immediately north of the water tank are also two concrete pads which previously accommodated two shipping containers onsite. This infrastructure dates back to the previous use of the land for a small family enterprise Chicken Processing Facility which operated from approximately 1970 to 1986.

As noted above at Figure 1, the subject site is located approximately 65m to the south of Lake Moodemere, with the area between the lake and the northern property boundary comprising Crown

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Land foreshore of the lake. This strip of land identified as CA 20 Sec 20 Parish of Norong forms a part of the Lake Moodemere Reserve and the Crown title extends out into the lake itself. [NOTE: As a result of this location, the land is subject to the provisions of the Environmental Significance Overlay (ESO2 -Lake Moodemere)].

Adjacent to the north western boundary is a previously excised dwelling located on a 1,588m² lot identified as No.22 Lake Road. To the west across Lake Road is a 4.7ha approx. lot that also contains a single storey dwelling and outbuildings. It is understood that this particular neighbouring allotment was previously used as a broiler farm though that use has long ceased.

Located across Moodemere Road to the south is a 37.9ha approx. property which contains two dwellings and various outbuildings.

To the east of the subject land are two similar sized allotments (ie <2ha) which are both vacant and used for grazing purposes. Approximately 700m to the east of the subject site is the Lake Moodemere Estate Winery.

In essence the subject land is a very small rural lot that has been basically used for sheep grazing in recent years. [NOTE: VCAT approved a dwelling in association with a vineyard by way of **Chisnall v Indigo SC [2008] VCAT 28** (3 January 2008) however the use of the land for such purposes never commenced and that approval has lapsed long ago.]

The current owner has commenced use of the property for hatching and raising chicks in the amenities building before moving birds to a converted Caravan used as a mobile coop. It is understood however that this venture relates to less than 100 birds and consequently does not require planning consent.

PROPOSAL

The proposal primarily seeks consent for a farm shed extension, a new farm shed and the installation of two shipping containers.

ZONING AND PLANNING CONTROLS

Zoning: Farming Zone (FZ)

Overlay/s: Environmental Significance Overlay (EO2 – Lake Moodemere)

Particular Provisions: N/A

Operational Provisions: N/A

PERMIT TRIGGERS:

Zone Triggers:

- i. Clause 35.07-4 a planning permit is required to construct a building within 100m of a dwelling not in the same ownership.

Overlay Triggers:

- ii. Clause 42.01-2 a planning permit is required for buildings and works, namely:
 - a shed extension & a new farm shed; and
 - installation of 2 shipping containers.

PLANNING AND ENVIRONMENT ACT 1987 - SECT 60

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Section 60 of the Act provides that before deciding on an application, the responsible authority must consider:

- (a) *the relevant planning scheme; and*
- (b) *the objectives of planning in Victoria (which include at Section 4(1)(b) to provide for the protection of natural and man-made resources); and*
- (c) *all objections and other submissions which it has received and which have not been withdrawn; and*
- (d) *any decision and comments of a referral authority which it has received; and*
- (e) *any significant effects which the responsible authority considers the use or development may have on the environment or which the responsible authority considers the environment may have on the use or development.*

MUNICIPAL PLANNING STRATEGY

At Clause 02.02 – Vision, the Indigo Planning Scheme provides a reference to the 2021-25 Council Plan including noting the following:

Prosperity

Our economy is strong and diverse, attracting new investment and job opportunities. Renowned as a must-visit destination offering a range of experiences that showcase our rich history and culture and breathtaking natural landscapes, the Shire is also a much sought after location for new residents.

At Clause 02.03-4 Natural resource management, the planning scheme provides in respect of Agriculture:

- *Protect agricultural land for primary production and discourage incompatible uses and development in rural areas.*

At Clause 02.03-7 – Economic Development, it is noted that the following Strategic Directions are highlighted:

- *Support expansion and diversification of the Shire's economy including farm forestry, viticulture, horticulture, tourism, and the opportunities provided by the Hume transport corridor and the Logic hub.*
- *Support the creation of local job opportunities and the diversification of the range of products and services available to residents.*
- *Support new processing and value adding industries.*

COMMENT: The current amended proposal now comprises a relatively minor matter in the Farming Zone. The intended use of the land for small scale farming including market gardening, mushroom growing and plant nursery is consistent with zone purposes while the proposed shed and shipping containers will be ancillary development associated with the rural use of the land.

PLANNING POLICY FRAMEWORK

The following policy considerations have been taken into account in this assessment.

- 13.03-1L - Floodplains and rural drainage

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- 13.07-1S - Land use compatibility
- 14.01-1S - Protection of agricultural land
- 14.01-1L-03 - Land use in the Rural Zones
- 14.01-2S - Sustainable agricultural land use
- 14.02-2L-02 - Effluent disposal and water quality
- 15.01-2S - Building design
- 15.01-6S - Design for rural areas
- 15.03-2S - Aboriginal cultural heritage
- 17.01-1S - Diversified economy
- 17.01-1R - Diversified economy - Hume

COMMENT: Firstly, it is acknowledged that the subject land is a very small lot within the FZ the land is located within a high amenity area adjacent to Lake Moodemere. This notwithstanding, having regard to the Planning Policy Framework of the Indigo Planning Scheme, there are no particular issues raised which would lead to a conclusion to refuse the application. The Indigo Planning Scheme continues to acknowledge that Indigo Shire's rural areas are used for a wide range of agricultural purposes, and agricultural production is the major contributor to the economy of the Shire.

Concerns raised by way of objection from adjoining and nearby landowners will be separately discussed later within this report.

ZONE – PURPOSE AND DECISION GUIDELINES

- **Farming Zone**

The subject land is affected by the provisions of the Farming Zone (FZ). The proposal relates to development of a building to be constructed within 100m of a dwelling not in the same ownership.

The purposes of the Farming Zone include:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To provide for the use of land for agriculture.*
- *To encourage the retention of productive agricultural land.*
- *To ensure that non-agricultural uses, including dwellings, do not adversely affect the use of land for agriculture.*

Relevant Decision Guidelines at Clause 35.07-6 of the FZ include:

- *Whether the use or development will support and enhance agricultural production.*
- *Whether the site is suitable for the use or development and whether the proposal is compatible with adjoining and nearby land uses.*
- *The agricultural qualities of the land, such as soil quality, access to water and access to rural infrastructure.*
- *The impact of the siting, design, height, bulk, colours and materials to be used, on the natural environment, major roads, vistas and water features and the measures to be undertaken to minimise any adverse impacts.*

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COMMENT. As previously noted, the proposal relates to the use of the land for small scale farming. In this instance, the self-described “urban farm” is one where it can be concluded that the primary landuse does not require consent under the relevant zone provisions. The application relates instead to ancillary development of the land, namely the erection of a new farm shed and installation of two shipping containers. [NOTE: The proposed shed extension does not require a permit under the FZ provisions.]

Having regard to the Zone permit trigger, namely proximity of the neighbouring dwelling situated at No.22 Lake Road, the scope of assessment is largely constrained to possible impacts of the new shed, and two (2) shipping containers on this particular adjoining property.

In this instance the new shed and shipping containers will be setback approximately 50m from the neighbouring dwelling.

On balance, as will be discussed later within this report, the likely impacts are considered to be negligible and not of sufficient merit to warrant a refusal of the application.

OVERLAYS – PURPOSE AND DECISION GUIDELINES

- **Environmental Significance Overlay (ESO2 – Lake Moodemere)**

The ESO2 provides the following environmental objectives:

- *To maintain and protect the diversity of native fauna and remnant vegetation.*
- *To recognise and protect conservation attributes of Lake Moodemere.*
- *To protect and enhance the rural setting surrounding Lake Moodemere.*
- *To protect the Lake from inappropriate development.*
- *To maintain and enhance the recreational use of the land for the enjoyment of all visitors.*

Relevant decision guidelines include among other considerations:

- *The development of land surrounding the Lake must be assessed on its merits, having regard for the protection of the environment, visual and aesthetic qualities, and the long-term use of the Lake for public purposes.*

COMMENT: In having regard to the provisions of the ESO2 and the nature of existing development of the adjoining No.22 Lake Road it is concluded that the site context is one where the outcome would have a negligible impact upon Lake Moodemere. The proposed setback of the new shed and shipping containers to the Lake itself is over 100m while the property is well elevated relative to the average lake water level. The proposed shed extension will not result in that building being any closer to the northern property boundary which adjoins Crown Land.

Further to the above the matter was referred to Department of Energy, Environment and Climate Action (DEECA) and the NECMA. No objections were raised to the proposed development proceeding.

GENERAL PROVISIONS

- **Clause 65.01 – Approval of an Application or Plan**

The Indigo Planning Scheme sets out the requirements for the responsible authority to decide whether the proposal will produce acceptable outcomes in terms of the appropriate decision guidelines listed in clause 65.01. The guidelines have been considered as follows:

Guideline	Assessment
The matters set out in Section 60 of the Act	<i>Noted. Relevant matters include the provisions of the Indigo Planning Scheme and the objectives of planning in Victoria.</i>

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Guideline	Assessment
	<i>See separate discussion below in respect of the three (3) objections received to the current Planning Permit Application.</i>
Any significant effects the environment, including the contamination of land, may have on the use or development.	<i>The issue of possible contamination associated with the previous use of the subject land as a Chicken Processing facility has been noted, however the proposal does not relate to a sensitive land use (eg a dwelling) which would warrant further investigation.</i>
The Municipal Planning Strategy and the Planning Policy Framework	<i>Noted</i>
The purpose of the zone, overlay or other provision	<i>Noted.</i>
Any matter required to be considered in the zone, overlay or other provision	<i>Relevant Decision Guidelines have been considered including whether or not the development will support and enhance agricultural use of the land</i>
The orderly planning of the area	<i>See discussion below. In this regard it is concluded that the application can be adequately justified based on a position that the proposal represents an orderly planning outcome having regard to the applicable FZ.</i>
The effect on the environment, human health & amenity	<i>Separation distances to all dwellings in proximity of the site have been considered.</i>
The proximity of the land to any public land	<i>The land adjoins the Lake Moodemere Reserve.</i>
Factors likely to cause or contribute to land degradation, salinity or reduce water quality	<i>Noted. No issues raised</i>
Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site	<i>Noted. No issues raised.</i>
The extent and character of native vegetation and the likelihood of its destruction	<i>No native vegetation is required to be removed.</i>
Whether native vegetation is to be or can be protected, planted or allowed to regenerate	<i>No impacts envisaged on existing native vegetation on site</i>
The degree of flood, erosion or fire hazard associated with the location of the land.	<i>Not Applicable</i>
The adequacy of loading and unloading facilities and any associated amenity, traffic flow	<i>Noted. No issues raised</i>

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Guideline	Assessment
and road safety impacts	
The impact the use or development will have on the current and future development and operation of the transport system.	<i>Not Applicable</i>

Table 1: Clause 65.01 Assessment

PUBLIC NOTIFICATION - OBJECTIONS

The application was publicly notified for a period of 14 days and three (3) objectors have lodged submissions. The various matters raised can be summarised as follows:

- (i) Concerns with aspects of the original proposal (eg composting, poultry farming and a caretaker's dwelling).
- (ii) Proximity of an adjoining dwelling not in the same ownership.
- (iii) Proximity of Lake Moodemere and adjoining Crown Land foreshore area.
- (iv) Discrepancies in the amount of shipping containers that will be on the property.
- (v) Concern that the site office building might be occupied as a dwelling.
- (vi) The application is accompanied by confusing, incomplete and irrelevant information.
- (vii) Traffic & noise issues
- (viii) Issues associated with possible light spill

COMMENT: At Clause 60(1) of the P&EA it is noted that among other things that before deciding on an application, the responsible authority must consider—

(c) all objections and other submissions which it has received and which have not been withdrawn;

In respect of all three of the objections received, it is firstly noted that the majority of the concerns raised are actually a consequence of the supporting documentation that accompanied the application. This includes a rather generalised Whole Farm Plan (WFP) which has been amended on several occasions during the process. Unfortunately, the latest version of the WFP still contains confusing elements including discrepancy on matters of detail and on-farm processes (eg the number of shipping containers). Indeed, the WFP still covers a wide range of production outcomes in a relatively simplified and rather discussional manner that is of little relevance to the current amended application. Further the WFP still includes reference to now deleted aspects of the original proposal including poultry farming (ie >100 poultry for egg production and broiler farming), operation of a rural store, and the erection of a caretaker's dwelling.

Consequently, much of the WFP is not particularly useful from a Planning Application.

This then leads onto those matters raised by objectors, which are actually of relevance to the building and works that require consent under relevant zone and overlay provisions.

In respect of the proposed shed extension, it is the case that these works will not result in an outcome where the building is any closer to the dwelling situated on No.22 Lake Road. Further the location of the proposed new shed and shipping containers are unlikely to adversely impact upon the amenity of the area, including the dwelling at No.22 Lake Road. Indeed, as supported by many VCAT decisions, it is the case that amenity expectations associated with residential use of land, needs to be tempered in a rural context where the primary land use supported by the zone is for agricultural purposes. Farm sheds and other structures such as poly houses and shipping containers can clearly be regarded as

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being ancillary to agriculture, and in the absence of any extenuating circumstances such as physical site constraints, would be unlikely to be refused outright.

In respect of the proximity of Lake Moodemere and adjoining Crown Land foreshore area, the proposal has been duly considered by the public land manager DEECA and no objections are raised subject to appropriate conditions on any permit that may be issued.

Lastly the existing infrastructure on site including the amenities building, is capable of being repaired and renovated to support the proposed farm operations. The concerns of objectors, which primarily seem to be related to use considerations, raise little or no concern in respect of the building and works themselves.

In summary it is concluded that there are no issues raised by the objectors that would preclude an approval of the current application.

CONCLUDING COMMENTS

In a number of ways this application has now become a relatively straightforward case about whether a 1.7ha lot in the Farming Zone should be developed to facilitate an upscaling of small-scale farming of the subject land. In considering this matter it also needs to be borne in mind that the agricultural use of the land is as-of-right in the Farming Zone.

Such proposals for buildings and works need to be decided on the specific circumstances related to the site context rather than the nature of the agricultural activity. Such assessment is further guided by any relevant policy direction of the planning scheme.

The site context has been discussed earlier within this report and it is apparent that apart from being an existing small rural lot that there are no particular extenuating issues that might be considered relevant, other than the proximity of the dwelling situated at No.22 Lake Road. Of relevance is the fact that this neighbouring property is essentially a small rural living lot within a largely broad acre farming locality. As previously stated, this particular property actually comprises a previously excised allotment from the subject land and is only 1,588m² in area.

The shipping containers are to be used for mushroom production purposes. They will be located on existing concrete footings that previously accommodated two shipping containers onsite. These former containers were associated with the previous use of the land as a Chicken Processing Facility. The new farm shed will be located to the east adjacent to the containers which aligns with the current position of the electricity supply that previously served the old shipping containers. This new shed will be used for plant propagation as well as storage of farm machinery and equipment.

While it is accepted that the applicant is genuine in their desire to establish and enhance their agricultural operation of what is self-described as an “urban farm” enterprise, the difficulty with the supporting WFP is that it goes well beyond what is currently being applied for. This may lead to later expectations by the landowner in respect of further upscaling of the overall concept including a possible future dwelling and operation of a Farm Store from the property.

The Planning Policy Framework acknowledges that there is variability in land capability and production potential across the Shire, but is also firm in stating that the continued use of land zoned for rural production is of significance to the economic future of the Shire. It also notes as an issue the high number of existing Crown Allotments within the rural area and continued pressure for housing development.

REFERRAL AUTHORITIES

As previously mentioned, the application was referred to DEECA and NECMA. Both agencies have raised no objections subject to the imposition of appropriate conditions within any subsequent Planning Permit that might be issued by Council.

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CONCLUSION

This application proposes a farming use in a farming zone and is therefore consistent with the land use that is expected in this area. The permit trigger of being within 100m of a dwelling has been investigated to ensure that impacts on neighbouring properties is appropriate for the zoning. The fact that this is a farming zone and activities such as the one proposed in this application are to be expected gives confidence that this application should be approved. This recommendation for approval is backed by relevant VCAT cases.

CONFIDENTIAL ATTACHMENT

The following confidential attachment has been provided to Councillors under separate cover. Recent changes to Section 197A of the *Planning and Environment Act 1997* have clarified and tightened the way Councils are able to make certain planning documents available to the public. The Act provides that the confidential document listed below can only be made available for public inspection:

- at Council offices during business hours, or
- electronically via Council's website subject to strict public availability requirements, requiring significant editing of individual documents.

Council currently does not have the resources to provide the document online in line with the public availability requirements of the Act, and so is at this stage unable to publish it in the public agenda online.

DECLARATION OF CONFLICT OF INTEREST

Under section 130(2) of the *Local Government Act 2020* and Governance Rule 24, the following officers declare that they have no interests to disclose in providing this report:

- Greg Pinkerton – Director Planning & Corporate Services
- James Turner - Manager Planning & Statutory Services
- Steven Hawkins – Coordinator Planning

Attachments

1. PP22-0231 - Application (Confidential)

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12. COMMUNITY & ECONOMIC DEVELOPMENT

12.1 2024/2025 SWIMMING POOLS CONTRACT

File No: 2024/631

Mark De Campo - Acting Manager Community Development Community & Economic Development

For Decision

RECOMMENDATION

That Council:

- Enters into a one-year contract extension with Belgravia Leisure PTY LTD with the contract price of \$715,276 (ex GST) to continue to manage Council's five outdoor swimming pools;
- Makes a budget adjustment in the mid-year review to accommodate the associated budget variation; and
- Communicate with the State and Federal Governments Indigo Shire's increasing concern about the ongoing financial viability of providing public pool facilities and seek their assistance towards a solution.

RESOLUTION

That Council:

- Enters into a one-year contract extension with Belgravia Leisure PTY LTD with the contract price of \$715,276 (ex GST) to continue to manage Council's five outdoor swimming pools;
- Makes a budget adjustment in the mid-year review to accommodate the associated budget variation; and
- Communicate with the State and Federal Governments Indigo Shire's increasing concern about the ongoing financial viability of providing public pool facilities and seek their assistance towards a solution.

Moved: Cr Croucher

Seconded: Cr Gold

For: Crs Peter Croucher, Bernard Gaffney, Sue Gold, Roberta Horne and Sophie Price

Against: Nil

CARRIED

PURPOSE OF REPORT

The purpose of this report is to provide the information and background to support a recommendation for Council to enter into a contract extension with Belgravia Leisure Pty Ltd for one year to continue to manage Council's swimming pools.

BACKGROUND

Indigo Shire Council owns five outdoor public swimming pools in Beechworth, Chiltern, Rutherglen, Tangambalanga and Yackandandah. The pools were built in the post Melbourne Olympic Games era

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which puts them at approximately 50 – 60 years old. The ageing pools are deteriorating in condition. Community use has declined; however, the pools remain a community asset, valued by users for social and physical wellbeing.

The pools operate on a seasonal basis with the regular season (morning and afternoon swimming hours) held between November and March. An extended season, that offers morning swimming only, is held at Beechworth, Rutherglen and Yackandandah in March and April. Morning swimming is not offered at Chiltern or Tangambalanga. A Spring Swimming Season offers morning swimming at Rutherglen in October.

Hours of operation are fixed in line with the allocated budget as well as historical participation rates. Any requests that are in addition to the allocated budget are therefore unbudgeted and come at a significant cost to Council.

Up until the 2021/2022 swimming pool season Indigo Shire Council directly managed pool operations. This was a significant undertaking. Pool operations fall under numerous Acts, Guidelines and Australian Standards. To maintain compliance is onerous and requires specialist knowledge and skills.

In 2019/20 a decision was made for the 2019/2020 season, to go to market for an external operator. The tender process was unable to identify a suitable provider and Council maintained operational responsibilities, with support from labour hire company MomentumOne.

Council went to market again in 2021 and secured Belgravia Leisure on a three-year contract, with the option to renew for an additional three years in one-year increments at Council's discretion.

DISCUSSION

The management of aquatic recreational assets is a small industry in terms of the number of participating businesses. Otherwise, aquatic recreational assets are operated by the asset owner.

At the time of the 2019/20 contract execution, Indigo Shire Council and Belgravia Leisure agreed to the following annual pricing over the 3-year period.

Year 1 (2021/22): \$431,387 ex GST

Year 2 (2022/23): \$444,329 ex GST

Year 3 (2023/24): \$457,658 ex GST

In light of additional legislative requirements, the requirement for additional lifeguards, user numbers impacting revenue, broader price increases experienced post-pandemic; all impacting operational costs, the budget allocation for the 2024/25 swimming pools contract was increased to \$639,000.

In line with contractual obligations, Council commenced discussions with Belgravia in late May 2024. Through a robust negotiation process the recommendation is to enter into a further one-year extension with Belgravia at the contract price of \$715,276 ex GST. This cost increase can, in the most part, be attributed to increased costs in personnel, maintenance and operational requirements. There are also some minor adjustments to opening hours that are included within this new contract price. These changes are:

- removal of the Spring Swimming Season at Rutherglen. Favourable impact on contract price: \$6,500 (*)

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- a minor restructure of opening hours between morning and afternoon swimming sessions to improve the efficient use of staffing resources (**). Favourable impact on contract price: \$25,000

(*) The Spring Swimming Season at Rutherglen offers morning swimming in October. This has been significantly interrupted over the last three seasons due to either COVID or significant maintenance issues (leak detection and repairs). Participation data provided by Belgravia along with feedback from the venue Manager indicates that visitation during this period is poor and has reduced noticeably since the opening of the heated indoor aquatic facility at Corowa.

(**) The proposal is to reallocate the 30 minutes at the end of the day to all morning swimming times and increasing the morning swimming sessions to 2.5hrs This does not cost Council or the ratepayers anymore. This is because minimum engagement employee conditions for staff is three hours. As the morning swimming sessions are currently either 1.5 or 2hrs (varies from pool to pool) Council is already paying for hours that the pools are not open.

This minor restructure results in a net loss of two hours across the entire swimming season. Participation data provided by Belgravia indicates that the last 30 minutes of every day is poorly utilised. This change will see pools close at 6:30pm instead of 7:00pm in the low and late season and 7:00pm instead of 7:30pm in peak season.

Council will shortly develop a *Swimming Pool Strategy*. The strategy development project is an \$80,000 initiative (including a \$40,000 Local Sport Infrastructure Grant). The Master Plan project includes a comprehensive audit of pool plant, feasibility and master-planning. This is critical in light of increasing operational and maintenance costs, in tandem with decreasing usage driving lower or static revenue, which is not sustainable.

In addition to the Operator contract, Council makes a significant annual investment in pool capital and maintenance to ensure facilities are safe, compliant and comfortable for staff and users. On an annual basis, Council commits \$212,500 for:

- | | |
|--|----------|
| • Plant room and pool grounds repairs and maintenance: | \$75,000 |
| • Pool Buildings repairs and maintenance: | \$37,500 |
| • Pool Renewal Works: | \$85,000 |
| • Preventative Maintenance Program: | \$15,000 |

The cost per user/per visit, for the 23/24 swimming pool season, are calculated by dividing the total operating costs by total visitation at each site:

- | | |
|------------------|------|
| • Beechworth: | \$23 |
| • Yackandandah: | \$29 |
| • Rutherglen: | \$44 |
| • Chiltern: | \$50 |
| • Tangambalanga: | \$57 |

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OPTIONS

There are a number of options available to Council.

Option A – Recommended

One-year extension with Belgravia quoted at \$715,276 ex GST

If this option is supported, Council officers will commence working with neighbouring Councils to explore partnership opportunities in relation to future aquatic facility management and operations. The study will consider maximising future tender outcomes by presenting an appealing package of scale to generate genuine and competitive interest from the market.

Option B – Not recommended

One-year extension with Belgravia without the adjustments to operating hours quoted at \$745,776.07 ex GST.

Option C – Not recommended

Return to market through an open tender process.

Option D – Not recommended

In house model

A number of Councils operate their aquatic pools in-house. Indigo Shire did this using the MomentumOne entity (labour hire) prior to outsourcing 3 years ago, as did Towong and Alpine Shires.

Council officers have conducted initial financial modelling and the in-house model was not supported.

STRATEGIC CONTEXT

COUNCIL PLAN 2021 – 2025	
Theme	1. Communities
Strategic Objective	1.1 Our community members have access to support services to help them achieve and sustain physical and emotional health and wellbeing.
Strategic Action	1.1.3 Progress the key priorities of the Active Indigo Plan

SOCIAL/COMMUNITY IMPLICATIONS

The health and wellbeing benefits of public swimming pools in small rural and regional communities are significant. Swimming pools are important places for community to come together to improve their social and physical health and connection. Despite the community sentiment for local pools the visitation has declined over recent years and remains well below the pre-pandemic numbers.

ENVIRONMENTAL IMPLICATIONS

Swimming pools continue to use and turnover large volumes of water, consume harmful chemicals and utilise high levels of electricity to operate. In partnership with the operator, Council will continue to explore how best to sustainably manage pools and follow best practice when it comes to chemical management.

FINANCIAL IMPLICATIONS

The Belgravia quote would require an additional investment of approximately \$76,000 from Council on top of the allocation made in the 2024/25 budget.

COMMUNITY ENGAGEMENT

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Engagement Proposed

Swimming pool operating and maintenance expenses are increasing at a rate that is far beyond the income they generate. In addition to these on-going costs, the cost of replacing these assets which are approaching end of life will be extremely difficult. These cost pressures place a significant burden on small rural Councils in a rate capped environment. This report recommends that Council communicates with the State and Federal Governments Indigo Shire's increasing concern about the ongoing financial viability of providing public pool facilities and seek their assistance towards a solution.

LEGISLATIVE IMPLICATIONS

The safe operation of pools falls under numerous Acts, Guidelines and Australian Standards. These include:

1. Legislative Requirements

- Public Health and Wellbeing Act 2008
- Public Health and Wellbeing Regulations
- The Dangerous Goods Act (1985)
- The Dangerous Goods (Storage and Handling) Regulations (2012)
- Occupational Health and Safety Act 2004

2. Royal Life Saving Society Guidelines for safe pool operations

- Child Safety
- Training and Qualifications
- Aquatic Supervision
- Aquatic Signage
- Emergency Planning
- Incident Management
- Risk Management
- Safety Equipment

3. Australian Safety Standards

- AS 1319 Safety Signs for the Occupational Environment
- AS 1345 Identification of the Contents of Pipes, Conduits and Ducts
- AS 1470 Health and Safety at Work - Principles and Practice
- AS 1657 Fixed Platforms, Walkways, Stairways and Ladders
- AS 1768 Lighting Protection
- AS 1885 Workplace Injury and Disease Recording Standard
- AS 1926 Swimming Pool Safety - Water Recirculation Systems
- AS 2293 Inspection and Maintenance (Emergency Evacuation Lighting)

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AS 2569 Safe Manual Lifting and Moving of Patients
AS 2610 Spa Pools - Public Spas
AS 2818 Guide to Swimming Pool Safety (Private Pools)
AS 2927 The Storage and Handling of Liquefied Chlorine Gas
AS 3000 Electrical Installations
AS 3500 Plumbing and Drainage - Water Services
AS 3634 Solar Heating Systems for Swimming Pools
AS 3745 Planning for Emergencies in Facilities
AS 3760 In-service Safety Inspection and Testing of Electrical Equipment
AS 3780 Storage and Handling of Corrosive Substance
AS 4326 The Storage and Handling of Oxidising Agents
AS 4332 The Storage and Handling of Gases in Cylinders
AS 4801 Occupational Health and Safety Management Systems
HB 241 Water Management for Public Swimming Pools and Spas

CONCLUSION

Council is mindful of the rising and ongoing costs associated with aquatic facilities. The factors that contribute to this are the rising cost of seasonal pool operations and maintenance, the age and deteriorating condition of the assets and the visitation decline over recent years which remains well below the pre-pandemic numbers.

However, Council acknowledges the enjoyment and benefit that pools offer residents and visitors in the form of respite from the heat and the positive outcomes that come from being physically and socially active and connected.

This report seek support to proceed to the July Council meeting with a recommendation to Enter into a one-year contract extension with Belgravia Leisure Pty Ltd.

In the event this option is supported Council officers will commence working with neighbouring shires to explore opportunities to collaborate in relation to future aquatic facility management and operations. This approach will seek to maximise future tender process outcomes by presenting an appealing package that generates genuine and competitive interest from the market.

DECLARATION OF CONFLICT OF INTEREST

Under section 130(2) of the *Local Government Act 2020* and Governance Rule 24, the following officers declare that they have no interests to disclose in providing this report:

- Sally Rice – Director Community & Economic Development
- Mark De Campo – Acting Manager Community Development
- Jarrod Craven – Recreation Officer

Attachments
Nil

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12.2 DRAFT STANLEY COMMUNITY RESILIENCE PLAN

File No: 2024/477

Mark De Campo - Acting Manager Community Development Community & Economic Development

For Information

RECOMMENDATION

That Council:

1. Endorses the draft Stanley Community Resilience Plan for public exhibition for a period of 30 days, from 31 July to 29 August 2024; and
2. Notes that the Stanley Community Resilience Plan will be brought back to Council for final approval at a future meeting.

RESOLUTION

That Council:

1. Endorses the draft Stanley Community Resilience Plan for public exhibition for a period of 30 days, from 31 July to 29 August 2024; and
2. Notes that the Stanley Community Resilience Plan will be brought back to Council for final approval at a future meeting.

Moved: Cr Gold

Seconded: Cr Croucher

For: Crs Peter Croucher, Bernard Gaffney, Sue Gold, Roberta Horne and Sophie Price

Against: Nil

CARRIED

PURPOSE OF REPORT

This report presents the DRAFT Stanley Community Resilience Plan to Council recommend that it be placed on public exhibition for a period of 30 days.

BACKGROUND

At Council's April 2023 meeting, a proposal was supported to undertake small township community planning. Stanley was selected due its expressed need for community planning to support infrastructure, capacity building, strategic planning, and facilities management. Stanley has proactive community advocates and established community groups enthusiastic to partner with Council to improve their profile and undertake community planning for their town.

DRIVERS FOR COMMUNITY PLANNING IN STANLEY:

- The need for improved Council collaboration across a range of community, social, and planning issues.
- Increasing birth rates in Stanley and an increase in young families moving to Stanley.

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- Comparatively higher climate action needs - particularly bushfire.
- Existing strong community advocacy.

OBJECTIVES

The Stanley Community Resilience Plan aims to:

- Consolidate what the local community values into a unified vision.
- Provide strategic reference for future development.
- Help inform Council policies and projects.
- Encourage a place-based approach for local decision making across Stanley.
- Support and inspire residents, businesses, and Council.

The Stanley Community Resilience Plan has involved significant community consultation from October 2023 to now. The purpose of this plan is to capture the community's vision for how they would like their town to look and feel in the future, with consideration to the barriers and challenges they may face, particularly environmental/emergency challenges.

DISCUSSION

The development of community resilience plans has been funded through Emergency Recovery Victoria with a focus on emergency preparedness and community resilience. Consultation was themed across the four environments of recovery, Social, Economic, Built and Natural, as a guide to thinking about Stanley holistically, and with a forward focused resilience frame.

Stanley is a community of diverse individuals with many varying opinions and priorities. This was identified as one of the greatest things about Stanley, and also one of the things that makes the town work as it does. The diversity in opinions generated key themes as priority focus areas throughout the consultation process:

1. Sustainable growth and good planning
2. Investment in community connections and assets
3. Innovation and collaboration on climate action and resilience

The actions developed by the Stanley community have been themed into these three priority areas in part C of the attached plan.

The project was broken into the following stages:

- Exploration - What have we already been told, and what has happened since – review of existing plans for Stanley.
- Consultation Stage 1 - Resilience Conversations – exploration of the resilience capacity of Stanley now, and where needs to change to build that capacity with the Australian Resilience Centre.
- Consultation Stage 2 - Pop-Up Consultations and Community Event - have we heard from everyone?

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- Refinement - presenting the draft plan to Council and community for public exhibition - did we hear you correctly?
- Endorsement and Action - the final plan is live and ready for collaborative action (August 2024).

Internal consultation included the following service areas:

- Community Development
- Economic Development
- Planning
- Enforcement Services
- Tourism
- Communications

The following documents were reviewed and are summarised:

- Stanley Community Plan 2010
- Stanley Rural Community Inc submission to the Council Plan 2021

WHAT'S NEXT?

The plan belongs to the community. The community has identified actions which will preserve what residents love about Stanley and in what ways they want to see growth and change. Some of these are easily achieved at a community or individual level, without the need for Council involvement or additional funding. Others are more complex and will require collaboration between community and Council, and sometimes businesses or other key stakeholders. Many actions will require external funding sources to make them a reality.

The Community Plan will be used to inform the next Council Plan (2025) as well as Council's ongoing decision making. Where there is a Council-led action it will be referred to the relevant Council department to progress. Actions within the Community Plan that align with Council's Strategic position and Shire wide perspective will be pursued through Councils various ongoing programs, projects, and service delivery.

Options

Option 1 - Council has invested significant time and funding into the development of the plan. The depth of the community consultation means that the draft plan and their actions are highly visible to the impacted communities. The community have ranked the draft actions into their priority areas, which also tells Council what the community support is for the draft actions and broader plan. As such, it is recommended that Council accept the draft plan and that it progresses to public exhibition.

Option 2 – Council rejects the Stanley Community Resilience Plan (Not recommended).

STRATEGIC CONTEXT

COUNCIL PLAN 2021 – 2025	
Theme	1. Communities

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COUNCIL PLAN 2021 – 2025	
Strategic Objective	1.7 Our preparedness to respond and recover from increasing natural disasters is well planned and executed.
Strategic Action	1.7.1 Participate with communities and other agencies to support community resilience through education and planning

Council has committed to the process of community planning as a holistic approach to planning and development that aims to create vibrant and resilient places that are valued by communities and admired by visitors. This plan supports that aim.

SOCIAL/COMMUNITY IMPLICATIONS

The Council Plan sets out Council intention to support the resilience, cohesiveness and connectedness of the communities in the shire. This plan provides tangible actions as identified by the community to further these aims.

ENVIRONMENTAL IMPLICATIONS

The plans explicitly address the macro drivers impacting local issues, including climate change and posit questions of how the communities can adapt. The communities have identified numerous actions that require addressing to ensure that energy supply and emergency communications are resilient in the face of more extreme weather events and climate change. The overall plan and its actions fit firmly within Council objectives for adaptation and resilience and progressing these plans will progress Council's aims.

FINANCIAL IMPLICATIONS

The community planning process and final plans are funded through Emergency Recovery Victoria and delivered within the budget of \$63,500. There is no contribution from Council for the development phase.

In addition to the delivery of this plan, additional outcomes of this project include:

1. Increased trust and relationships built between Council and the community
2. Staff capacity building and empowerment
3. Strengthening of internal relationships

Considerable thought needs to be given to how actions that require funding – external or internal – are embedded into infrastructure and project / service planning.

LEGISLATIVE IMPLICATIONS

Any actions that interact with other legislation – local laws, signage, planning, bushfire, etc., - will need to be considered in the progression of community actions.

RISK & OPPORTUNITY MANAGEMENT

Description	Likelihood	Consequence	Final Risk Rating	Controls, treatments
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Description	Likelihood	Consequence	Final Risk Rating	Controls, treatments
Loss of trust in governance, Council processes and council staff if the plans or actions are changed/diluted considerably.	Possible	Minor	Low	Recommendations are incorporated into strategic Council documents that will enable consideration and/or action.

The most effective control is to alter the actions as little as possible. Given the extensive consultation, the public are very aware of what is currently in the plan. Many people photographed the actions and vision at the community event and spent long periods of time deciding how to vote.

The process went a small way to building trust – particularly with new residents who had not participated in Council planning processes in the past. There is an opportunity for Council to build strong relationships and to restore trust if some of the key actions are implemented.

COMMUNITY ENGAGEMENT

Engagement undertaken

The following methods were used to communicate to Stanley residents about the plan, the process, and ways to get involved:

GENERAL COMMUNICATION CHANNELS

- Engaged Indigo Website
 - The project and process were explained here, as well as key milestones, project updates and options for leaving feedback.
- The Your Indigo Newsletter – weekly updates from Indigo Shire Council
- Indigo Shire Council Facebook Page
- The Nine Mile News
 - Local Stanley publication that kept residents up to date on the opportunities and progress of the planning process.
- Stanley Community Email
 - The Stanley community email is a volunteer run initiative that keeps all subscribed residents informed.
- Stanley Community Facebook Page
- Posters on notice boards, local businesses, and Post Office
- Letterbox Drop

RESILIENCE CONVERSATIONS

Throughout October 2023 community resilience planning discussions were facilitated by Paul Ryan from the Australian Resilience Centre. Three two-hour sessions were held at the Stanley Memorial Hall. The focus for the discussion sessions were as follows:

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Session 1

- Identifying visions for future. How do you want this community to look and feel in the future?
- Resilience of what? What is it we want to make resilient?
- Resilience to what? What are the risks to our community?

Session 2

- Assessing resilience against the ten dimensions of resilience
- Actions to address perceived resilience deficiencies, at the household, community and in partnership with the Shire and other agencies.

Session 3

- Prioritising actions to inform household, community and Shire efforts and activities.

The intention was to have the same group of community members attend each session. In Stanley, the attendees were different each time, which allowed for greater diversity of opinions but meant there was limited continuity and sharing of discussion across sessions.

The report from these sessions is available in its entirety (attached), with summaries and sections of it included in the community plan. The outcomes of these conversations identified the themes and formed the basis for consultation with the broader community.

Consultation Stage 2 was an opportunity for everyone to be heard in places where they usually gather, feel comfortable and can contribute in varied ways. This stage of consultation enabled people to pop in for a couple of minutes or stay and chat with council staff to share topics important to them. This stage of consultation included:

- Pop-Up Consultations - have we heard from everyone?
- What We heard – Collating and summarising information from the Resilience Conversations, website contributions, and pop-ups to create an action plan
- Community Celebration – Prioritising, refining, and celebrating community contribution

POP-UP CONVERSATIONS AND COMMUNITY CELEBRATION

The actions and themes from the previous planning documents, Resilience Conversations, and website engagement were taken to the community for feedback and growth through pop up sessions. A series of pop-ups at the Stanley School and Stanley Pub and General Store generated additional actions and further established the key priorities.

The pop-ups were structured around the same lines of enquiry that were explored through the Resilience Conversations, and grouped into the recovery domains of social, economic, built, and natural:

- In the future I want Stanley to look and feel like...
- For this to happen, the community needs...
- As an individual I can contribute to make this happen...
- To be successful we need to be resilient to challenges such as...

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The Stanley Community Celebration was held on Sunday April 14, 2024, at the Stanley School. It was led by SRCI and showcased the community groups active in Stanley, local producers, and creatives. This event was the final in-person consultation with the community before the draft plan was completed and put to Council.

The community visioning, themes, and key actions underwent testing once more during the celebration. The actions were ranked by the community to create a priority rating. Each participant was given five sticky dots to place next to their top priorities. People had the option to put more than one dot against an action, however they had to prioritise the most important things to them, right now. It also provided an essential space for the community to talk with the Council officers who had facilitated the project and to answer other questions.

Engagement outcomes

Through the pop-ups we heard from young people and their families, long-term residents, and newer arrivals. We also heard from people who lived close-by who regularly visit the area as they feel a strong connection to the place.

This phase of the engagement was markedly different to the Resilience Conversations and the priorities that had the most community support was quite different to the focus in the Conversations, despite structuring the engagement on the same lines of enquiry. The Conversations required a high level of community buy-in in terms of time and energy. To engage in the Conversations, people had to have a large amount of time available to them to begin with. The sessions predominantly attracted people who had a good understanding of Council processes and a desire to see the changes that they had already been advocating for.

Conversely, the people who engaged with the pop-up sessions and the community event showed very low interest in actions that prioritised Council process. Often the interactions were incidental, such as in the beer garden where people were not there primarily to talk to Council. For those that chose to engage with the project at the pop-ups, they were often focused on immediate community level actions that are very visible in the community and impact their day-to-day life. This was magnified at the community event where people could see the draft action table of all the priorities. Those that enhanced their community directly were prioritised over those that were centred around improving Council processes for community benefit.

The Stanley community are a cohesive community who have the capacity to drive many of the actions with minimal support – other than financial. There was a higher level of trust in Stanley, as opposed to Barnawartha, and there was a considerable degree of goodwill towards the process and the outcomes. Delivery of the actions in collaboration with community and other key services presents an opportunity for Council to address community mistrust of the equity of Council processes and funding allocation.

At the Community Event sixty-six community members ranked the actions to establish priorities.

ACTION PLAN

The five actions that received the highest number of votes in the priority ranking are:

1. Walking/cycle connectivity to Beechworth
2. Grow a vibrant town centre

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3. Ensure water security
4. Independent, reliable energy
5. Showcase the spring ditch wetlands

The action plan is organised into the three strategic themes as identified by the community.

SUSTAINABLE GROWTH AND GOOD PLANNING

- Residents want to preserve the rural character of Stanley.
- They want economic growth in the town centre that enables a variety of commercial, business and community activities to take place.
- Planning for improved pedestrian and cycle paths is a high priority.

INVESTMENT IN COMMUNITY CONNECTIONS AND ASSETS

- Invest in the existing community spaces to ensure they are fit for future purpose.
- Stanley is a connected community who are seeking more opportunities and spaces to connect, and to support the more vulnerable residents.
- Stanley's natural resources need to be preserved, protected, and promoted.

INNOVATION AND COLLABORATION ON CLIMATE ACTION AND RESILIENCE

- The community want to be better informed and prepared for a changing climate and more extreme weather events, as well as bushfire.
- The community are knowledgeable and have the skills to establish energy resilience in Stanley, however they need support to make it happen.
- Managing risks requires collaboration and for everyone to do their part.

These actions aim to proactively address current and future challenges. Many of these actions can be initiated immediately at the community level without any input from Council.

Other actions will require collaborations between Council, community, and relevant services, agencies, businesses, and levels of government. It needs to be acknowledged that the project lead may change over the duration of the project. Many of these actions will begin with community advocacy, seed funding, or grassroots movements. In time, and as required, the involvement of Council or other levels of Government will be required to progress and achieve a number of the identified actions.

Many projects will require additional external funding, community support, or technical expertise and / or feasibility studies etc before they can be progressed. This plan can be used to seek funding from various sources and to seek stakeholder support for future projects.

The entire list of community ranked actions is in the attached plan.

Engagement proposed

Public exhibition for 30 days is recommended to ensure that the public are given a final opportunity to comment on the reports and any changes made from EMT and Council.

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CONCLUSION

The community has been extensively consulted for this plan and the previous planning documents that Council has commissioned have been thoroughly investigated. The actions recommended in this report are strongly supported by community and are reinforced of the actions uncovered by previous consultants. It is recommended that this draft report progress to Council Meeting, and from there to public exhibition for 30 days.

DECLARATION OF CONFLICT OF INTEREST

Under section 130(2) of the *Local Government Act 2020* and Governance Rule 24, the following officers declare that they have no interests to disclose in providing this report:

- Sally Rice - Director Community and Economic Development
- Mark De Campo - Acting Manager Community Development
- Kate O'Toole - Community Recovery and Resilience Officer

Attachments

1. Community Resilience Discussions (Final) Report December 2023
2. Stanley Community Resilience Plan - Full - DRAFT
3. Stanley Community Resilience Plan - Summary - DRAFT

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12.3 DRAFT BARNAWARTHA AND SURROUNDS COMMUNITY RESILIENCE PLAN

File No: 2024/478

Mark De Campo - Acting Manager Community Development Community & Economic Development

For Information

RECOMMENDATION

That Council:

1. Endorses the draft Barnawartha and Surrounds Community Resilience Plan for public exhibition for a period of 30 days, from 31 July to 29 August 2024; and
2. Notes that the Barnawartha and Surrounds Community Resilience Plan will be brought back to Council for final approval at a future meeting.

RESOLUTION

That Council:

1. Endorses the draft Barnawartha and Surrounds Community Resilience Plan for public exhibition for a period of 30 days, from 31 July to 29 August 2024; and
2. Notes that the Barnawartha and Surrounds Community Resilience Plan will be brought back to Council for final approval at a future meeting.

Moved: Cr Gold

Seconded: Cr Croucher

For: Crs Peter Croucher, Bernard Gaffney, Sue Gold, Roberta Horne and Sophie Price

Against: Nil

CARRIED

PURPOSE OF REPORT

This report presents Council the DRAFT Barnawartha and Surrounds Community Resilience Plan and recommends that they be put on public exhibition for a period of 30 days.

BACKGROUND

At Council's April 2023 meeting, a proposal was supported to undertake small township community planning. Barnawartha was selected due to its expressed need for community planning to support infrastructure, capacity building, strategic planning and facilities management.

Barnawartha has proactive community advocates and established community groups prepared to partner with Council to improve their profile and undertake community planning for their town.

Given the small population sizes, geographical proximity and interconnected communities; particularly economically for farming and industry, Indigo Valley and Barnawartha North are included in the planning process. While Barnawartha North is located in Wodonga City Council, rather than Indigo Shire, the natural attractions and employment opportunities afforded by Logic mean that this area is integral to planning for Barnawartha.

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DRIVERS FOR COMMUNITY PLANNING IN BARNARWARTHA

- The need for improved Council collaboration across a range of community, social, and planning issues.
- Increasing birth rates in Barnawartha and an increase in young families moving to Barnawartha and surrounds.
- A history of bushfire and recent flood impacts.
- Existing strong community advocacy.

OBJECTIVES

The Barnawartha Community Resilience Plan aims to:

- Consolidate what the local community values into a unified vision.
- Provide strategic reference for future development.
- Help inform Council policies and projects.
- Encourage a place-based approach for local decision making across Barnawartha and the surrounding communities.
- Support and inspire residents, businesses, and Council.

The Barnawartha Community Resilience Plan has involved significant community consultation from October 2023 to now. The purpose of the plan is to capture the community's vision for how they would like their town to look and feel in the future, with consideration to the barriers and challenges they may face, particularly environmental/emergency challenges.

DISCUSSION

The development of community resilience plans has been funded through Emergency Recovery Victoria with a focus on emergency preparedness and community resilience. Consultation was themed across the four environments of recovery - Social, Economic, Built and Natural, as a guide to thinking about Barnawartha and surrounds holistically, and with a forward focused resilience frame.

Barnawartha and the Indigo Valley are distinct communities that share a geographic location. The strengths and opportunities of the region are not identical, and planning for the unique regions of Indigo Valley, Barnawartha and Barnawartha North requires ongoing place-based consultation and collaboration. Throughout the consultation process key themes emerged strongly as areas of focus:

1. Safe, connected, and empowered communities
2. Investment in recreation and destination
3. Sustainable planning for community and economy

The actions developed by the communities have been themed into these three priority areas in part C of the attached DRAFT plan.

The project was broken into the following stages:

- Exploration - What have we already been told, and what has happened since – review of existing plans for Barnawartha.

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- Consultation Stage 1 - Resilience Conversations – exploration of the resilience capacity of Barnawartha and surrounds now, and what needs to change to build that capacity with the Australian Resilience Centre.
- Consultation Stage 2 - Pop-Up Consultations and Community Event - have we heard from everyone?
- Refinement - Presenting the draft plan to Council and community for public exhibition - did we hear you correctly?
- Endorsement and Action - The final plan is live and ready for collaborative action (August 2024).

Internal consultation included the following service areas:

- Community Development
- Economic Development
- Planning
- Enforcement Services
- Tourism
- Communications

The following documents were reviewed and are summarised:

- Shire of Chiltern Rural Living Area Structure Plan - Barnawartha, June 1992
- Barnawartha Urban Design Framework and Strategic Directions Plan 2003
- Chiltern and Barnawartha Our Future -Employment, Population, Housing and Community Impacts of Logic Industrial Park and Other Regional Developments 2007
- Community Plan - Barnawartha 2010
- Barnawartha Structure Plan - Version 6 - December 2019
- Draft - Indigo Valley Community Led Resilience Planning - Updated 28 March 2024

WHAT'S NEXT?

The plan belongs to the community. The community has identified actions which will preserve what residents love about Barnawartha and surrounds and in what ways they want to see growth and change. Some of these are easily achieved at a community or individual level, without the need for Council involvement or additional funding. Others are more complex and will require collaboration between community and Council, and sometimes businesses or other key stakeholders. Many actions will require external funding sources to make them a reality.

The Community Plan will be used to inform the next Council Plan (2025) as well as Council's ongoing decision making. Where there is a Council-led action it will be referred to the relevant Council department to progress. Actions within the Community Plan that align with Council's Strategic position and Shire wide perspective will be pursued through Council's various ongoing programs, projects, and service delivery.

Options

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Option 1 - Council have invested significant time and funding into the development of the plan. The depth of the community consultation means that the plan and the draft actions are highly visible to the impacted communities. The community have ranked the draft actions into their priority areas, which also tells Council what the community support is for the draft actions and broader plan. As such, it is recommended that Council accept the report and that it progresses to public exhibition.

Option 2 – Council rejects the Barnawartha and Surrounds Community Resilience Plan (Not recommended).

STRATEGIC CONTEXT

COUNCIL PLAN 2021 – 2025	
Theme	1. Communities
Strategic Objective	1.7 Our preparedness to respond and recover from increasing natural disasters is well planned and executed.
Strategic Action	1.7.1 Participate with communities and other agencies to support community resilience through education and planning

Council has committed to the process of community planning as a holistic approach to planning and development that aims to create vibrant and resilient places that are valued by communities and admired by visitors. This plan supports that aim.

SOCIAL/COMMUNITY IMPLICATIONS

The Council Plan sets out Council intention to support the resilience, cohesiveness and connectedness of the communities in the shire. This plan provides tangible actions as identified by the community to further these aims.

ENVIRONMENTAL IMPLICATIONS

The plans explicitly address the macro drivers impacting local issues, including climate change and posit questions of how the communities can adapt. The communities have identified numerous actions that require addressing to ensure that energy supply and emergency communications are resilient in the face of more extreme weather events and climate change. The overall plans and the actions fit firmly within Council objectives for adaptation and resilience and progressing these plans will progress Council's aims.

FINANCIAL IMPLICATIONS

The community planning process and final plans are funded through Emergency Recovery Victoria and delivered within the budget of \$65,500. There is no contribution from Council for the development phase.

In addition to the delivery of this plan, additional outcomes of this project include:

1. Increased trust and relationships built between Council and the community
2. Staff capacity building and empowerment
3. Strengthening of internal relationships

Considerable thought needs to be given to how actions that require funding – external or internal – are embedded into infrastructure and project / service planning.

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In addition, extensive community and structure planning has occurred over the last few decades. It is essential the community see progress on initiatives they have been advocating for over many years.

LEGISLATIVE IMPLICATIONS

Any actions that interact with other legislation – local laws, signage, planning, bushfire, etc., - will need to be considered in the progression of community actions.

RISK & OPPORTUNITY MANAGEMENT

Description	Likelihood	Consequence	Final Risk Rating	Controls, treatments
Loss of trust in governance, Council processes and council staff if the plans or actions are rejected, changed/diluted considerably.	Possible	Minor	Low	Recommendations are incorporated into strategic Council documents that will enable consideration and/or action.

The most effective control is to alter the actions as little as possible. Given the extensive consultation, the public are very aware of what is currently in the plan. Many people photographed the actions and vision at the community event and spent long periods of time deciding where to cast their votes.

The process went a small way to building trust – particularly with new residents who had not participated in Council planning processes in the past. There is an opportunity for Council to build strong relationships and to restore trust if some of the key actions are implemented.

COMMUNITY ENGAGEMENT

Engagement undertaken

The following methods were used to communicate to residents about the development of the plan, the process, and ways to get involved:

GENERAL COMMUNICATION CHANNELS

- Engaged Indigo Website
 - The project and process were explained here, as well as key milestones, project updates and options for leaving feedback.
- The Your Indigo Newsletter – weekly updates from Indigo Shire Council
- Indigo Shire Council Facebook Page
- The Chiltern Grapevine
 - Local Chiltern, Barnawartha and surrounds publication that kept residents up to date on the opportunities and progress of the planning process.
- Good Neighbours - Barnawartha Facebook Page
- Posters on notice boards, local businesses, schools, and Post Office
- Letterbox Drop

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RESILIENCE CONVERSATIONS

Throughout October 2023 community resilience planning discussions were facilitated by Paul Ryan from the Australian Resilience Centre. Three two-hour sessions were held at the Barnawartha Recreation Reserve. The focus for the discussion sessions were as follows:

Session 1

- Identifying visions for future. How do you want this community to look and feel in the future?
- Resilience of what? What is it we want to make resilient?
- Resilience to what? What are the risks to our community?

Session 2

- Assessing resilience against the ten dimensions of resilience
- Actions to address perceived resilience deficiencies, at the household, community and in partnership with the Shire and other agencies.

Session 3

- Prioritising actions to inform household, community and Shire efforts and activities.

The intention was to have the same group of community members attend each session. The Barnawartha sessions had a core group of people that attended all three sessions. This allowed for greater continuity of discussion across the three sessions.

The report from these sessions is available in its entirety (attached), with summaries and sections of it included in this plan. The outcomes of these conversations identified the themes and formed the basis for consultation with the broader community.

POP UP CONVERSATIONS AND COMMUNITY CELEBRATION

This Stage of consultation was an opportunity for everyone to be heard in places where they usually gather, feel comfortable and can contribute in varied ways. This stage of consultation enabled people to pop in for a couple of minutes or stay and chat with council staff to share topics important to them. This stage of consultation included:

- Pop-Up Consultations - have we heard from everyone?
- What We Heard – Collating and summarising information from the Resilience conversations, website contributions and pop-ups to create an action plan
- Community Celebration – Prioritising, refining, and celebrating community contribution

POP-UP Consultations:

The actions and themes from the previous planning documents, Resilience Conversations, youth engagement and website engagement were taken to the community for feedback and growth through pop up sessions located at:

- Barnawartha General Store
- Star Hotel - Barnawartha
- The Watchbox - Indigo Valley

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These sessions generated additional actions and further established the key priorities.

The Indigo Creek Playground pop-up was postponed due to high heat, and then ultimately moved online due to ongoing high heat. Direct youth consultation was undertaken with all the students at Middle Indigo Primary School and grade five and six students at Barnawartha Primary School.

The pop-ups were structured around the same lines of enquiry that were explored through the Resilience Conversations, and grouped into the recovery domains of social, economic, built, and natural:

- In the future I want Barnawartha and surrounds to look and feel like...
- For this to happen, the community needs...
- As an individual I can contribute to make this happen...
- To be successful we need to be resilient to challenges such as...

The community visioning, themes and key actions were tested again at the Barny Festival – a Community Celebration held on Sunday 21 April 2024 at the Barnawartha Recreation Reserve.

The actions were ranked by the community to create a priority rating. Each participant was given five sticky dots to place next to their top priorities. People had the option to put more than one dot against an action, however they had to prioritise the most important things to them, right now.

It also provided an essential space for the community to talk with the Council officers who had facilitated the project and to answer other questions. In total, eighty-one adults and twenty children added their dots on the day.

This was the final in-person consultation with the community before the draft plan was completed and put to Council.

Engagement outcomes

Through the pop-ups we heard from young people and their families, long-term residents, and newer arrivals. We also heard from people who lived close-by who regularly visit the area as they feel a strong connection to the place.

This phase of the engagement was markedly different to the Resilience Conversations and the priorities that had the most community support was quite different to the focus in the Conversations, despite structuring the engagement on the same lines of enquiry. The Conversations required a high level of community buy-in in terms of time and energy. To engage in the Conversations, people had to have a large amount of time available to them to begin with. The sessions predominantly attracted people who had a good understanding of Council processes and a desire to see the changes that they had already been advocating for.

Conversely, the people who engaged with the pop-up sessions and the community event showed very low interest in actions that prioritised Council process. Often the interactions were incidental, such as in the beer garden where people were not there primarily to talk to Council. For those that chose to engage with the project at the pop-ups, they were often focused on immediate community level actions that are very visible in the community and impact their day-to-day life. This was magnified at the community event where people could see the draft action table of all the priorities. Those that enhanced their community directly were prioritised over those that were centred around improving Council processes for community benefit.

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Overwhelmingly we heard two main concerns from the community regarding the process for Community Planning:

1. That the community had been widely consulted in the past, but they didn't see the consultation result in action. They were frustrated to be asked their ideas again when many of the previous plans were still relevant.
2. That the Indigo Valley residents have different needs and wants to those of Barnawartha and feel they would benefit from a separate community planning process.

More information regarding previous planning processed is detailed in the attached DRAFT plan under Stage 1 – Exploration and requires careful consideration when looking at how this plan will be implemented, and actions or challenges communicated back to the communities. This feedback wasn't given flippantly and it raised strong emotions and has caused significant challenges for the community to trust and collaborate with Council, which will impact both the implementation of this plan but also wider council processes that rely on strong relationships.

ACTION PLAN

The top three priorities in order of community support are:

1. Invest in youth recreation activities
2. Revitalise the railway precinct
3. Design walking and cycle connectivity to Yackandandah and Chiltern

The actions were also translated into a child-friendly format with pictures for young people to vote on their key issues as well. Twenty young people cast their vote, often with the support of an adult. Their top three issues were:

1. Use the old train station area for something like a Youth Centre or Farmers Market - (Revitalise the Railway precinct)
2. Spend more money on trees, parks and gardens in town (Invest in landscaping and tree planting)
3. More activities for young people (Invest in youth recreation activities in Indigo Valley and Barnawartha)

It's fair to say that the children interpreted 'parks and gardens' to mean the Indigo Creek Playground, which was a favourite sport for many. It's interesting to note that two of the top three priorities were the same for both adults and children.

The action plan is organised into the key themes as identified by the community:

1. **SAFE, CONNECTED, AND EMPOWERED COMMUNITIES**
 - i. The community want their spaces to feel safe, modern, clean, and inviting and to reflect the love and pride they feel for their home.
 - ii. Residents want to have more knowledge and capacity to increase their own resilience to manage emergencies, including communication and energy resilience.
 - iii. Community events and opportunities to connect are strongly valued.

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2. INVESTMENT IN RECREATION AND DESTINATION

- i. The community strongly support using what they already have, particularly the railway precinct to revitalise the town.
- ii. Invest in new destination spaces and events for community and tourism.
- iii. Recreation opportunities for biking, fishing, skating and connection to the water ways are valued, especially for young people.

3. SUSTAINABLE PLANNING FOR COMMUNITY AND INDUSTRY

- i. Residents want to preserve the rural lifestyle of Barnawartha and plan for a sustainable economy.
- ii. Indigo Valley residents want intergenerational living where they can age in place and where the future generations can secure housing in the Valley.
- iii. Planning for improved pedestrian and cycle paths is a high priority.

These actions aim to proactively address current and future challenges. Many of these actions can be initiated immediately at the community level without any input from Council.

Other actions will require collaborations between Council, community, and relevant services, agencies, businesses, and levels of government. It needs to be acknowledged that the project lead may change over the duration of the project. Many of these actions will begin with community advocacy, seed funding, or grassroots movements. In time, and as required, the involvement of Council or other levels of Government will be required to progress and achieve a number of the identified actions.

Many projects will require additional external funding, community support, or technical expertise and / or feasibility studies etc before they can be progressed. This plan can be used to seek funding from various sources and to seek stakeholder support for future projects.

The full action list in order of community priority can be read in the attached report.

Engagement proposed

Public exhibition for 30 days is recommended to ensure that the public are given a final opportunity to comment on the reports and any changes made from EMT and Council.

CONCLUSION

The community has been extensively consulted for this plan and the previous planning documents that Council has commissioned have been thoroughly investigated. The actions recommended in this report are strongly supported by community and are reflective of the actions uncovered by previous consultants. It is recommended that this draft report progress to Council Meeting, and from there to public exhibition for 30 days.

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DECLARATION OF CONFLICT OF INTEREST

Under section 130(2) of the *Local Government Act 2020* and Governance Rule 24, the following officers declare that they have no interests to disclose in providing this report:

- Sally Rice - Director Community and Economic Development
- Mark De Campo - Acting Manager Community Development
- Kate O'Toole - Community Recovery and Resilience Officer

Attachments

1. Community Resilience Discussions (Final) Report December 2023
2. Barnawartha and Surrounds Community Resilience Plan - Full - DRAFT
3. Barnawartha and Surrounds Community Resilience Plan - Summary - DRAFT

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13. INFRASTRUCTURE SERVICES

13.1 CONTRACT NO. 23/6524-05 - OCTOBER 2022 FLOOD REHABILITATION WORKS, WESTERN AREA

File No: 2024/648

Adam Kimball - Manager Assets & Property

Infrastructure Services

For Decision

RECOMMENDATION

That Council:

1. Conditional on the approval of funding from the Department of Justice and Community Safety for these works, awards Contract No. 23/6524-05 for Flood Rehabilitation works in the West of the Shire to Longford Civil for the lump sum of \$988,667 ex GST;
2. Authorises the CEO to sign the contract documents and affix the Council's Common Seal; and
3. Authorises the CEO the financial delegation to approve contract variations up to a total of 10 per cent of the signed contract value.

RESOLUTION

That Council:

1. Conditional on the approval of funding from the Department of Justice and Community Safety for these works, awards Contract No. 23/6524-05 for Flood Rehabilitation works in the West of the Shire to Longford Civil for the lump sum of \$988,667 ex GST;
2. Authorises the CEO to sign the contract documents and affix the Council's Common Seal; and
3. Authorises the CEO the financial delegation to approve contract variations up to a total of 10 per cent of the signed contract value.

Moved: Cr Gaffney

Seconded: Cr Horne

For: Crs Peter Croucher, Bernard Gaffney, Sue Gold, Roberta Horne and Sophie Price

Against: Nil

CARRIED

PURPOSE OF REPORT

The purpose of the report is to provide an evaluation of tenders received for rehabilitation of a number of damaged infrastructure assets in the western part of the Shire during the October 2022 Flood event and to provide a recommendation to Council for the award of a contract.

BACKGROUND

In October 2022 Indigo Shire was hit with a significant flooding event which caused widespread damage to infrastructure among other impacts.

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A number of assets were damaged with many made safe through the *Disaster Recovery Funding Arrangements* (DRFA) program under short term remedial safety restoration works. Remaining repair works to essential public infrastructure that meet the guidelines, provided they are approved for funding and market tested by public tender, are fully recoverable.

The works in this contract vary in nature from road re-sheeting and culvert works through to a large number of drainage repairs and sediment removal.

DISCUSSION

Tenders were advertised on Council's eProcure portal on 29 April 2024 and closed on 31 May 2024. A tender evaluation panel comprising the Manager Municipal Operations, Manager Assets & Property, and Contract Project Manager Flood Recovery assessed the tenders based on weighted criteria, as detailed in the tender documents, as follows:

1. Price	40%
2. Qualifications & Previous Experience	30%
3. OH&S	10%
4. Sustainability	10%
5. Local content	10%

The panel assessed the tender from Longford Civil as representing the best overall value for Council based on the above criteria. Longford Civil has a proven track history with similar works for other municipalities and have confirmed their availability to complete the works in a timely manner within the nominated timelines with up to 2 separate crews operating at any given time.

The tender evaluation scores and further details of the assessment are included in the attached (confidential) Tender Evaluation Report.

Splitting the works into two tenders (east and west) will enable works in both areas to be undertaken concurrently, rather than having further delays before all the infrastructure damage is repaired.

The decision to award the contract is referred to Council as the contract value exceeds the financial delegation of the CEO.

Options

The tender is for the rehabilitation of various infrastructure repairs across the West of the Shire. There are no other viable options as the works must be undertaken to restore our road and drainage networks back to pre-flood event condition.

STRATEGIC CONTEXT

COUNCIL PLAN 2021 – 2025	
Theme	1. Communities
Strategic Objective	1.7 Our preparedness to respond and recover from increasing natural disasters is well planned and executed.

SOCIAL/COMMUNITY IMPLICATIONS

The repairs to the many damaged assets will reflect well on Council and its ability to recover from major events. The community will value seeing roads and other infrastructure restored to pre-flooding condition.

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ENVIRONMENTAL IMPLICATIONS

Sustainability has been factored into the scoring criteria, and contractors have been evaluated based on the sustainability aspects of their submissions.

FINANCIAL IMPLICATIONS

	Approved Budget \$	This Proposal \$	Variance to Approved Budget \$	Comments
Revenue	(\$988,667)	(\$988,667)	0	Funding from the <i>Department of Justice and Community Safety</i> awaiting approval
Expense	\$988,667	\$988,667		Cost of tendered works
Net Result	0	0		

LEGISLATIVE IMPLICATIONS

Nil

RISK & OPPORTUNITY MANAGEMENT

Description	Likelihood	Consequence	Final Risk Rating	Controls, treatments
Tender is not approved	Unlikely	Moderate	Low	Procurement process ensures that due diligence has been applied to determine best value tender

COMMUNITY ENGAGEMENT

Engagement undertaken

No specific community engagement was undertaken in relation to the contract itself. However, community feedback helped form a complete picture of damage caused by the floods which has been assessed for inclusion in this contract.

CONCLUSION

It is recommended that Council accepts the tender for Flood Rehabilitation works in the Western area of the Shire for the Lump Sum of \$988,667 ex GST.

DECLARATION OF CONFLICT OF INTEREST

Under section 130(2) of the *Local Government Act 2020* and Governance Rule 24, the following officers declare that they have no interests to disclose in providing this report:

- Ian Ellett - Director Infrastructure Services
- Brett Direen - Manager Municipal Operations
- Adam Kimball – Manager Assets & Property



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Attachments

1. Tender Evaluation Report - Flood Recovery West (Confidential)

COUNCIL MEETING MINUTES - 30 JULY 2024

13.2 CONTRACT NO. 23/6524-06 - OCTOBER 2022 FLOOD REHABILITATION WORKS, EASTERN AREA

File No: 2024/649

Adam Kimball - Manager Assets & Property

Infrastructure Services

For Decision

RECOMMENDATION

That Council:

1. Conditional on the approval of funding from the Department of Justice and Community Safety for these works, awards Contract No. 23/6524-06 for Flood Rehabilitation works in the East of the Shire to Marchese Excavations & Bin Hire for the lump sum of \$594,129 ex GST;
2. Authorises the CEO to sign the contract documents and affix the Council's Common Seal; and
3. Authorises the CEO the financial delegation to approve contract variations up to a total of 10 per cent of the signed contract value.

RESOLUTION

That Council:

1. Conditional on the approval of funding from the Department of Justice and Community Safety for these works, awards Contract No. 23/6524-06 for Flood Rehabilitation works in the East of the Shire to Marchese Excavations & Bin Hire for the lump sum of \$594,129 ex GST;
2. Authorises the CEO to sign the contract documents and affix the Council's Common Seal; and
3. Authorises the CEO the financial delegation to approve contract variations up to a total of 10 per cent of the signed contract value.

Moved: Cr Gold

Seconded: Cr Croucher

For: Crs Peter Croucher, Bernard Gaffney, Sue Gold, Roberta Horne and Sophie Price

Against: Nil

CARRIED

PURPOSE OF REPORT

The purpose of the report is to provide an evaluation of tenders received for rehabilitation of a number of damaged infrastructure assets in the eastern part of the Shire during the October 2022 Flood event and to provide a recommendation to Council for the award of a contract.

BACKGROUND

In October 2022 Indigo Shire was hit with a significant flooding event which caused widespread damage to infrastructure among other impacts.

COUNCIL MEETING MINUTES - 30 JULY 2024

A number of assets were damaged with many made safe through the *Disaster Recovery Funding Arrangements* (DRFA) program under short term remedial safety restoration works. Remaining repair works to essential public infrastructure that meet the guidelines, provided they are approved for funding and market tested by public tender, are fully recoverable.

The works in this contract vary in nature from road re-sheeting and culvert works through to a large number of drainage repairs and sediment removal.

DISCUSSION

Tenders were advertised on Council's eProcure portal on 29 April 2024 and closed on 31 May 2024. A tender evaluation panel comprising the Manager Municipal Operations, Manager Assets & Property, and Contract Project Manager Flood Recovery assessed the tenders based on weighted criteria, as detailed in the tender documents, as follows:

1. Price	40%
2. Qualifications & Previous Experience	30%
3. OH&S	10%
4. Sustainability	10%
5. Local Content	10%

The panel assessed the tender from Marchese Excavations & Bin Hire (MEB) as representing the best overall value for Council based on the above criteria. MEB also has a proven track history with similar works for other municipalities and have confirmed their availability to complete the works in a timely manner within the nominated timelines.

The tender evaluation scores and further details of the assessment are included in the attached (confidential) Tender Evaluation Report.

Splitting the works into two tenders (east and west) will enable works in both areas to be undertaken concurrently, rather than having further delays before all the infrastructure damage is repaired.

The decision to award the contract is referred to Council as the contract value exceeds the financial delegation of the CEO.

Options

The tender is for the rehabilitation of various infrastructure repairs across the East of the Shire. There are no other viable options as the works must be undertaken to restore our road and drainage networks back to pre-flood event condition.

STRATEGIC CONTEXT

COUNCIL PLAN 2021 – 2025	
Theme	1. Communities
Strategic Objective	1.7 Our preparedness to respond and recover from increasing natural disasters is well planned and executed.

SOCIAL/COMMUNITY IMPLICATIONS

The repairs to the many damaged assets will reflect well on Council and its ability to recover from major events. The community will value seeing roads and other infrastructure restored to pre-flooding condition.

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ENVIRONMENTAL IMPLICATIONS

Sustainability has been factored into the scoring criteria, and contractors have been evaluated based on the sustainability aspects of their submissions.

FINANCIAL IMPLICATIONS

	Approved Budget \$	This Proposal \$	Variance to Approved Budget \$	Comments
Revenue	(\$594,129)	(\$594,129)	0	Funding from the <i>Department of Justice and Community Safety</i> awaiting approval
Expense	\$594,129	\$594,129		Cost of tendered works
Net Result	0	0		

LEGISLATIVE IMPLICATIONS

Nil

RISK & OPPORTUNITY MANAGEMENT

Description	Likelihood	Consequence	Final Risk Rating	Controls, treatments
Tender is not approved	Unlikely	Moderate	Low	Procurement process ensures that due diligence has been applied to determine best value tender

COMMUNITY ENGAGEMENT

Engagement Undertaken

No specific community engagement was undertaken in relation to the contract itself. However, community feedback helped form a complete picture of damage caused by the floods which has been assessed for inclusion in this contract.

CONCLUSION

It is recommended that Council accepts the tender for Flood Rehabilitation works in the Eastern area of the Shire for the Lump Sum of \$594,129 ex GST.

DECLARATION OF CONFLICT OF INTEREST

Under section 130(2) of the *Local Government Act 2020* and Governance Rule 24, the following officers declare that they have no interests to disclose in providing this report:

- Ian Ellett - Director Infrastructure Services
- Brett Direen - Manager Municipal Operations
- Adam Kimball – Manager Assets & Property



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Attachments

1. Tender Evaluation Report - Flood Recovery East (Confidential)

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13.3 CONTRACT 2223-050-01 - DESIGN AND CONSTRUCTION OF CLUBHOUSE - YACKANDANDAH GOLF CLUB

File No: 2024/628

Nathan Mullane - Manager Capital Works and Infrastructure Services
Waste

For Decision

RECOMMENDATION

That Council:

1. Awards Contract No.2223-050-01 for the design and construction of Clubhouse for the Yackandandah Golf Club to Modular Spaces for the Lump Sum of \$480,000 ex GST;
2. Authorises the CEO to sign and seal the contract documents; and
3. Authorises the CEO the financial delegation to approve contract variations up to a total of 10 per cent of the signed contract value.

RESOLUTION

That Council:

1. Awards Contract No.2223-050-01 for the design and construction of Clubhouse for the Yackandandah Golf Club to Modular Spaces for the Lump Sum of \$480,000 ex GST;
2. Authorises the CEO to sign and seal the contract documents; and
3. Authorises the CEO the financial delegation to approve contract variations up to a total of 10 per cent of the signed contract value.

Moved: Cr Croucher

Seconded: Cr Gaffney

For: Crs Peter Croucher, Bernard Gaffney, Sue Gold, Roberta Horne and Sophie Price

Against: Nil

CARRIED

PURPOSE OF REPORT

The purpose of the report is to provide an evaluation of tenders received for construction of the Yackandandah Golf Club Clubhouse and to provide a recommendation to Council for the award of a contract.

BACKGROUND

Identified in the Active Indigo Strategy as a priority project, Council applied for grant funding from Sport & Recreation Victoria under the Local Sports Infrastructure Fund early in 2022. This application was unsuccessful, however later in 2022 Council was advised that the project would be directly funded by Sport and Recreation Victoria's Local Community Sport and Recreation Projects funding stream.

The existing facility first served as an army barracks and was moved to its current site in the 1960's to support the Yackandandah Golf Club. The building is poorly lit, inaccessible for those with mobility issues, does not adequately support female participation in sport and its integrity has been

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compromised by white ants. The existing clubhouse is situated on the Yackandandah Golf and Recreation Reserve and the replacement of the existing clubhouse is supported by the Yackandandah Golf and Recreation Reserve Committee.

The project scope includes demolition of the existing clubhouse toilet block and small shed, site preparation and footings for new clubhouse, fabrication and installation of new modular clubhouse, making good and alterations required to retain existing deck structure and associated shelter, disconnection, isolation and reconnection of existing services.

The new facility comprises 2 unisex toilets (including ambulant and accessible), change facilities, storage space, a kitchenette, and a multipurpose social room. The new clubhouse will be installed abutting the existing elevated decking with an accessible ramp.

DISCUSSION

Tenders were advertised on Council's eProcure portal on 8 March 2024 for a period of five weeks, tenders closed on 15 April 2024.

A tender evaluation panel comprising the Manager Capital Works & Waste, Coordinator Capital Works, Capital Works Project Manager and Coordinator Community Development assessed the tenders received based on weighted criteria as detailed in the tender documents, as follows:

1. Price	20%
2. Qualifications, capacity & previous performance	20%
3. Suitability of design and delivery	30%
4. OH&S and environmental management	10%
5. Sustainability	10%
6. Local content & benefit	10%

The panel assessed the tender from Modular Spaces representing the best overall value for money to Council based on the above criteria. This tenderer demonstrated a thorough understanding of the requirements of the contract and has successfully completed a number of similar projects.

The tender evaluation scores and further details of the assessment are included in the attached (confidential) Tender Evaluation Report.

The decision to award the contract is referred to Council as the contract value exceeds the financial delegation of the CEO.

Options

At the completion of the tender process the evaluation panel worked with the successful tenderer to finalise the concept design for a building that could be delivered within the project budget while ensuring compliance with the conditions of the funding agreement.

STRATEGIC CONTEXT

COUNCIL PLAN 2021 – 2025	
Theme	1. Communities
Strategic Objective	1.1 Our community members have access to support services to help them

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achieve and sustain physical and emotional health and wellbeing.

The construction of the new clubhouse for the Yackandandah Golf Club supports Council's Strategic Objective to: Promote physical activity, mental health, and resilient communities through the Municipal Public Health and Wellbeing Action Plan.

SOCIAL/COMMUNITY IMPLICATIONS

The new facility will provide expanded opportunities to host both Yackandandah golf club events and other events supporting the wider Yackandandah community.

ENVIRONMENTAL IMPLICATIONS

Tenders were assessed including a 10% weighting for sustainability outcomes in accordance with the Procurement Policy 2021. Environmental management standards were also considered in the 10% weighting of OH&S and Environmental Management compliance.

The successful tenderer has also indicated they will engage an ESD (Environmentally Sustainable Design) consultant to provide guidance throughout the design stage regarding sustainable design to provide the best practical environmental outcomes.

FINANCIAL IMPLICATIONS

	Approved Budget \$	This Proposal \$	Variance to Approved Budget \$	Comments
Revenue	(\$273,285)	(\$273,285)	Nil	\$235,548 – Council funds \$223,285.37 - Sport and Recreation Victoria grant funding \$50,0000 - Yackandandah Golf Club contribution
Expense	\$508,833	\$508,833	NIL	The project is being delivered with a total estimated project cost of \$508,000 (EX GST): \$440,000 – Design + construct contract \$40,000 – Contract provisional sums \$28,000 – Project management and preconstruction expenses
Net Result	(\$235,548)	(\$235,548)	Nil	

LEGISLATIVE IMPLICATIONS

This recommendation is being made following a procurement process that is compliant with Council's Procurement Policy (2021) and the Local Government Act 2020. This process included consideration of opportunities for collaborative procurement with other Councils and public bodies and identified no material, social or economic benefit in a collaborative procurement process.

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It is considered good governance when exercising financial delegations to consider the likely or possible total value over the life of the contract rather than just the original contract sum. It is not practical for individual variations to a contract to be referred to Council for approval as the resultant delays may interrupt the progress of works and incur additional costs.

It is therefore recommended that Council authorises financial delegation to the CEO to approve variations to the contract sum, up to a suggested total of 10% of the contract value.

RISK & OPPORTUNITY MANAGEMENT

Description	Likelihood	Consequence	Final Risk Rating	Controls, treatments
Tender is not approved	Unlikely	Moderate	Low	Procurement process ensures that due diligence has been applied to determine best value tender
Tender approval is delayed	Possible	Moderate	Low	Communication with Yackandandah Golf Club and SRV

COMMUNITY ENGAGEMENT

The local Yackandandah community was closely consulted with during the development of the Activate Indigo Plan which identified the project as a high priority.

In depth engagement and consultation with the key stakeholders was undertaken in accordance with the project engagement/communication plan.

CONSULTATION/COMMUNICATION UNDERTAKEN

Level of public participation	Promise to the public/stakeholders	Examples of techniques used/to use
Involve	We will work with you to ensure that your concerns and aspirations are directly reflected in the alternatives developed and provide feedback on how input influenced that decision.	Close consultation with Yackandandah Golf during detailed design development.
Consult	We will keep you informed, listen to and acknowledge concerns and aspirations, and provide feedback on how input influenced the decision.	Authorities and user groups of the Yackandandah Golf Recreation Reserve.
Inform	We will keep you informed, listen to and acknowledge concerns and aspirations, and provide feedback on how input influenced the decision.	Progress updates on Council website. Construction sign erected on site.

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Relevant stakeholders have been consulted during the planning, design and procurement stages of the project.

CONSULTATION/COMMUNICATION PROPOSED

Level of public participation	Promise to the public/stakeholders	Examples of techniques used/to use
Inform	We will keep you informed.	Stakeholders will be updated with the award of the construction contract and progress of the project

Project updates will be provided on Council's website during construction.

CONCLUSION

It is recommended that Council accepts the tender for design, construction installation and mobilisation of the modular clubhouse for the value of \$480,000 EX GST and authorises the CEO to approve contract variations up to an acceptable limit.

DECLARATION OF CONFLICT OF INTEREST

Under section 130(2) of the *Local Government Act 2020* and Governance Rule 24, the following officers declare that they have no interests to disclose in providing this report:

- Ian Ellett, Director Infrastructure Services
- Nathan Mullane, Manager Capital Projects & Waste
- Jayme Collins, Coordinator Capital Works
- Mark DeCampo, Coordinator Community Development
- Matthew Smith, Project Manager Capital Works

CONFIDENTIAL ATTACHMENTS

The attached recommendation and evaluation matrix has been provided to Councillors under separate cover as it is confidential under section 3 of the *Local Government Act 2020* as it contains:

- a. Council business information, being information that would prejudice the Council's position in commercial negotiations if prematurely released

This section applies because the matter concerns contracts around which negotiations have not been finalised, and it would prejudice the Council's position in the negotiations.

- g. private commercial information, being information provided by a business, commercial or financial undertaking that—
 - i. relates to trade secrets; or
 - ii. if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage

This section applies because the information contains confidential commercial information submitted by the business through the tender process and it would unreasonably expose the business through providing an unfair advantage to their competitors.

Attachments

1. Tender Recommendation Report - Contract 2223-050-01 Yackandandah Golf Club (Confidential)

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13.4 TRANSFER OF LAND - 11A SCOTT STREET, RUTHERGLEN

File No: 2024/673

Adam Kimball - Manager Assets & Property

Infrastructure Services

For Decision

RECOMMENDATION

That Council:

1. Notes that the approved planning permit (PP21-0135) for the subdivision at 11A Scott Street Rutherglen for a 30 lot subdivision proposes an area of 3,774 square metres be created as public open space, and that this area exceeds the required area under s 171 of the Planning and Environment Act 1987 by 2,001 square metres.
2. Notes that one of the parcels of land included in the subdivision (Lot 1, TP449778) is a Council-owned reserve and that part of this parcel is required to be transferred from Council ownership to the developer to enable the subdivision to be certified and titles created.
3. Agrees to the intended transfer of 280.8 square metres of land (valued at \$16,500) from Lot 1, TP449778 at 11A Scott Street Rutherglen to the developer of the surrounding land, at no cost.
4. Agrees to the intended acquisition of an additional 2,001 square metres from the developer, over and above the required 5% public open space contribution, at no cost, to support the extension of the adjacent Barkly Park sporting reserve.
5. Notes a public notice will be published for a period of at least 28 days prior to the proposed transfer, advising of Council's intention to both;
 - a) transfer land from Council to the developer, and
 - b) acquire land from the developer.
6. Receives submissions from the public for a minimum period of 14 days following the public notice being published in accordance with Council's Community Engagement Policy 2021
7. Notes that a further report will be provided to Council following the public notice period unless no objections are received, in which event officers will proceed with the formal process required for the transfer and acquisition of land.

RESOLUTION

That Council:

1. Notes that the approved planning permit (PP21-0135) for the subdivision at 11A Scott Street Rutherglen for a 30 lot subdivision proposes an area of 3,774 square metres be created as public open space, and that this area exceeds the required area under s 171 of the Planning and Environment Act 1987 by 2,001 square metres;
2. Notes that one of the parcels of land included in the subdivision (Lot 1, TP449778) is a Council-owned reserve and that part of this parcel is required to be transferred from Council ownership to the developer to enable the subdivision to be certified and titles created;
3. Agrees to the intended transfer of 280.8 square metres of land (valued at \$16,500) from Lot 1, TP449778 at 11A Scott Street Rutherglen to the developer of the surrounding land, at no

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cost;

4. Agrees to the intended acquisition of an additional 2,001 square metres from the developer, over and above the required 5% public open space contribution, at no cost, to support the extension of the adjacent Barkly Park sporting reserve;
5. Notes a public notice will be published for a period of at least 28 days prior to the proposed transfer, advising of Council's intention to both;
 - a) transfer land from Council to the developer, and
 - b) acquire land from the developer;
6. Receives submissions from the public for a minimum period of 28 days following the public notice being published in accordance with Council's Community Engagement Policy 2021; and
7. Notes that a further report will be provided to Council following the public notice period unless no objections are received, in which event officers will proceed with the formal process required for the transfer and acquisition of land.

Moved: Cr Horne

Seconded: Cr Gold

For: Crs Peter Croucher, Bernard Gaffney, Sue Gold, Roberta Horne and Sophie Price

Against: Nil

CARRIED

PURPOSE OF REPORT

The purpose of this report is to approve the transfer of land at 11A Scott Street, Rutherglen, to the developer of the surrounding land to facilitate the lawful release of subdivision titles, and concurrently to consider the proposed acquisition of land from the developer by way of a reserve to enable expansion of Barkly Park. This transfer is necessary for the subdivision to be certified and for the creation of titles.

BACKGROUND

Planning Permit PP21-135 Subdivision of land at Scott Street, Rutherglen, was supported by Council on 26 July 2022, producing a total of 30 allotments in 4 stages, ranging in size from 601 square metres to 1561 square metres.

The July 2022 report did not identify that one of the land titles (Lot 1, TP449778) is a reserve owned by Council and that it was intended to transfer a part of this land to the developer. The July report did identify that 3770 m² of reserve is being created but, as this area exceeds the public open space requirement of the Planning and Environment Act 1987, it is required to consider the acquisition of the additional area (2,001 square metres) in the same way as the proposed land transfer to the developer. The proposed acquisition would be at no cost.

A plan of the subdivision showing the Council-owned reserve, the land being created as public open space and the portion of the Council-owned reserve proposed to be transferred is included as an attachment.

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On the attached plan, the area shaded green (280.8 square metres) is the land proposed to be transferred from Council to the developer. The orange shaded land is a strip of crown land and will remain unchanged, and the land shaded blue will remain in Council's ownership but as road. The land coloured purple is the reserve being created to support a future expansion of the adjacent Barkly Park reserve.

DISCUSSION

The portion of land that will be included in private lots has been valued at \$16,500 but it is proposed to transfer this at no cost. Effectively there are two reasons for this.

Firstly a new road is being created and it is only because the location of the Council-owned reserve doesn't quite align with the road layout that the small transfer (280.8 m²) is necessary.

Secondly, as the developer is creating a larger open space contribution than is required under legislation, the piece of land proposed to be transferred to Council (2,001 m²) more than compensates for the land being transferred from Council to the developer.

Options

The transfer of this portion of land is essential to enable the subdivision to be finalised and is consistent with the subdivision approval. No alternative options are available.

STRATEGIC CONTEXT

COUNCIL PLAN 2021 – 2025	
Theme	2. Liveability
Strategic Objective	2.1 Our townships and land management are well planned and sustainable with a balanced approach to population growth

SOCIAL/COMMUNITY IMPLICATIONS

The additional land being created to enable to future expansion of Barkly Park is a significant benefit to the community. No further implications.

ENVIRONMENTAL IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

The value of the land proposed to be transferred has been assessed as \$16,500 but it is not proposed to "sell" the land. As outlined earlier in this report the land is proposed to be transferred in recognition that other land is being created by the subdivision which will vest in Council.

LEGISLATIVE IMPLICATIONS

Section 112 of the Local Government Act 2020 (LG Act) deals with the acquisition of land. In this case, the land in excess of the public open space contribution required under section 171 of the Planning and Environment Act 1987. S112 of the LG Act requires the acquisition of land to be undertaken in accordance with its Community Engagement Policy.

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Section 114 of the LG Act relates to Council's obligations in relation to the sale, exchange or transfer land without consideration of, and requires Councils to:

- have a current valuation (not more than 6 months old) for the land that is proposed for sale, exchange or transfer.
- At least 4 weeks prior to dealing with the land, publish a notice of Council's intention to do so.
- Undertake community engagement in accordance with their Community Engagement Policy.

A recent land valuation has been obtained (July 2024) and it has valued the subject land at \$16,500. All other requirements set out above are covered in the recommendations at the front of this report.

RISK & OPPORTUNITY MANAGEMENT

No reportable risks have been identified.

COMMUNITY ENGAGEMENT

Engagement Undertaken

Community consultation has been conducted through the planning process of the subdivision.

Engagement Proposed

A public notice will be placed to notify the public of Council's intentions related to the proposed land transfer to the developer and land acquisition from the developer, and to allow the opportunity for the public to express any concerns and be heard in relation to the transfer of the land before the matter is finalised.

CONCLUSION

It is recommended that Council supports the intention to proceed with both the transfer of land to the developer and acquisition of land from the developer at 11A Scott Street, Rutherglen covered by planning permit PP21-0135.

DECLARATION OF CONFLICT OF INTEREST

Under section 130(2) of the *Local Government Act 2020* and Governance Rule 24, the following officers declare that they have no interests to disclose in providing this report:

- Ian Ellett - Director Infrastructure Services
- Adam Kimball – Manager Assets & Property
- Kaden Bruce – Acting Development Engineer

Attachments

1. Plan of Public Land Transfer - 11A Scott Street Rutherglen

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14. EXECUTIVE MANAGEMENT

14.1 GOVERNANCE RULES REVIEW

File No: 2024/632

Annabel Harding - Acting Executive Manager Executive Management
People & Governance

For Decision

RECOMMENDATION

That Council:

1. Notes that no submissions were received during the 21 day exhibition period from 26 June to 10 July 2024;
2. Adopts the Governance Rules 2024 (including Election Period Policy); and
3. Notes that the updated version will take effect from 31 July 2024.

RESOLUTION

That Council:

1. Notes that no submissions were received during the 21 day exhibition period from 26 June to 10 July 2024;
2. Adopts the Governance Rules 2024 (including Election Period Policy); and
3. Notes that the updated version will take effect from 31 July 2024.

Moved: Cr Gold

Seconded: Cr Horne

For: Crs Peter Croucher, Bernard Gaffney, Sue Gold, Roberta Horne and Sophie Price

Against: Nil

CARRIED

PURPOSE OF REPORT

The report presents the revised Governance Rules (including the Election Period Policy) for Council adoption. The rules were placed on public exhibition until 10 July 2024, and no submissions were received. Accordingly, the attached document has no additional proposed changes from the version presented to the June 2024 Council meeting.

BACKGROUND

Under section 60(1) of the *Local Government Act 2020* (the Act), Council is required to develop, adopt and keep in force Governance Rules to manage the conduct of Council Meetings and other governance considerations. The Governance Rules must also include Council's election period policy (section 69(1) of the Act).

Council last adopted its Governance Rules on 30 August 2022, with a review date set at 2024. As council elections are being held in October 2024, this review has included consideration of the election period policy.

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DISCUSSION

The Governance Rules were last adopted in 2022, which brought the review forward by one year (previously due in 2023), to allow for some significant changes resulting from the Local Government Act 2020. The 2022 review recommended a number of changes to the Rules.

The two years since then have allowed for testing and reviewing these changes. After consulting with the Mayor and the Executive Management Team, and comparing to model Governance Rules published on the Victorian Local Government Inspectorate's website, some changes have been identified. The changes are proposed for both the Governance Rules and the attached Election Period Policy, and are detailed below.

Changes Under the Governance Rules

As no submissions were received during public exhibition, the attached version proposes no additional changes to those presented to the June Council meeting, as outlined below.

The current review considered some additional but relatively minor changes to the Governance Rules. These changes are intended to clarify some existing rules, and to remove duplication. Each proposed change is explained in the following table:

Governance Rules Table of Changes

Current Content	Suggested Change	Comments
(12) Temporary Chairperson (a) The CEO will chair the Statutory Meeting for the purposes of setting the Mayoral Term and electing the Mayor.	Addition: (a) If the election of the Mayor is required, the CEO will chair the Statutory Meeting for the purposes of setting the Mayoral Term and electing the Mayor.	This clarifies that when a Mayor is part way through a two-year term there is no need for the election of the Mayor, and therefore no need for the CEO to be temporary Chair.
(16) Mayor to take chair (a) After the election of the Mayor is determined, the Mayor will chair the Statutory Meeting from that point forward. (b) The Mayor must take the chair at all Scheduled and Additional Council Meetings at which they are present, unless precluded from doing so because of a conflict of interest.	Remove: (b) The Mayor must take the chair at all Scheduled and Additional Council Meetings at which they are present, unless precluded from doing so because of a conflict of interest.	Duplicated with r29(a) which also states: "The Mayor must preside as Chairperson at all Council Meetings at which they are present, unless precluded from doing so because of a conflict of interest or otherwise under the Act or these Rules."
(26) Mode of Attendance (c) If a Council meeting is to be conducted wholly in person a Councillor may nonetheless request to attend by electronic means.	Three additions proposed: (c) If a Council meeting is to be conducted wholly in person a Councillor may nonetheless, in exceptional circumstances, request to attend by electronic means.	To clarify that attendance by Zoom should only occur in exceptional circumstances.

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Current Content	Suggested Change	Comments
<p>(d) Any request made under sub-Rule 26(c) must:</p> <ul style="list-style-type: none"> (i) be in writing; (ii) be given to the Chief Executive Officer no later than 24 hours prior to the commencement of the relevant Council meeting; and (iii) specify the reasons why the Councillor is unable or does not wish to attend the Council meeting in person. 	<p>(d) Any request made under sub-Rule 26(c) must:</p> <ul style="list-style-type: none"> (i) be in writing; (ii) be given to the Chief Executive Officer no later than four hours prior to the commencement of the relevant Council meeting; and (iii) specify the reasons why the Councillor is unable or does not wish to attend the Council meeting in person, for the purposes of noting these reasons in the meeting minutes. 	<p>Reduction in notice period may enable Councillors to attend electronically rather than not attending at all if circumstances arise at short notice.</p> <p>Clarify that reasons for attendance via Zoom will be recorded in minutes.</p>
<p>(41) Notices of Motion</p> <p>(c) A Notice of Motion may be rejected by the CEO if it:</p> <ul style="list-style-type: none"> (i) does not comply with these Rules; or 	<p>(41) Notices of Motion</p> <p>(c) A Notice of Motion may be rejected by the CEO if it:</p> <ul style="list-style-type: none"> (ii) does not comply with these Rules or any legislation; or 	<p>Ensures any notice of motion must not be in breach of any legislation, as well as the Rules</p>
<p>(58) Debating a motion or amendment</p> <p>(e) No Councillor may speak more than once on the same motion or amendment unless given leave to do so by the Chairperson.</p>	<p>(58) Debating a motion or amendment</p> <p>(e) A Councillor may speak no more than once on the same motion and no more than once on an amendment unless given leave to do so by the Chairperson.</p>	<p>Clearer wording indicates it applies to a motion and an amendment.</p>
<p>(65) Procedural Motions</p> <p>(d) A Procedural Motion cannot be debated or amended.</p>	<p>(d) A Procedural Motion cannot be debated or amended. However, at the request of the Chair, the mover may clarify their reason for the motion.</p>	<p>To avoid situations where no context is apparent for the procedural motion and to provide more information example – Council meeting in May - deferral for item 13.1 Rutherglen Lease</p>

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Current Content	Suggested Change	Comments
		Proposal)

Election Period Policy

An additional focus of this review has been to consider the election period policy, which is attached to the Governance Rules. Section 69(1) of the Act requires Council to include an election period policy in its Governance Rules. With council elections being held in October 2024, it is time to review the election period policy to ensure it is up to date for the 2024 council elections.

Under the Local Government Act 2020 the following council decisions are prohibited during the election period:

- decisions relating to the employment or remuneration of a permanent CEO
- decisions to commit expenditure exceeding 1% of the council's income from general rates municipal charges, service rates and charges in the previous financial year
- decisions the council considers could reasonably be deferred until the next council is in place
- decisions the council considers should not be made during the election period.

An election period policy must also prohibit any council decisions during the election period that would enable the use of council's resources in a way that is intended to influence, or is likely to influence, voting at the election.

This document has been reviewed to ensure the procedures and statements are in line with current legislation and Council's practice. It has also been reviewed against model policies published on the Local Government Inspectorate's website. As a result of this review, some changes are recommended, as follows:

Election Period Policy Table of Changes

Current Content	Suggested Change	Comments
References to the 2020 council elections	Update to 2024	Content is updated to be applicable to the 2024 council elections.
6.2.4 A statement will be posted on all Council social media sites informing the general public that posting a notice during the election period cannot be responded to, or published, should the posting be political in nature.	6.2.4 A statement will be posted on all Council social media sites informing the general public that Council is now in the election period, that restrictions apply to published content, and that comments are disabled during this time (link to website provided).	Reflects Council's practice of removing the ability for comments to be made – this removes the risk of electoral matter being published on Council's social media platforms. Providing a link to website enables comments to be provided directly to Council for response.

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Minor formatting	Minor fixes (removal of extra dot points, spaces, content moved to adjust to updated template)	
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Options

Council may consider not adopting the proposed Governance Rules, however the reviewed documents have been improved and updated to reflect content which is clearer, and is more relevant to the 2024 council elections. For this reason, it is strongly recommended that the attached documents be adopted.

STRATEGIC CONTEXT

COUNCIL PLAN 2021 – 2025	
Theme	5. Accountability
Strategic Objective	5.5 Our Councillors and organisation are committed to the highest level of governance practices and conduct.

The Governance Rules support a number of policies across Council - the Privacy Policy, Public Transparency Policy and Staff and Councillor Codes of Conduct.

SOCIAL/COMMUNITY IMPLICATIONS

Sound Governance Rules support orderly and transparent decision making, which is vital to ensure public trust in Council generally and during election periods.

ENVIRONMENTAL IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

LEGISLATIVE IMPLICATIONS

The review of the Governance Rules supports compliance with the *Local Government Act 2020*. In particular, section 69(1) requires that Council's Election Period Policy be included in the Governance Rules.

RISK & OPPORTUNITY MANAGEMENT

Description	Likelihood	Consequence	Final Risk Rating	Controls, treatments
Governance Rules are inconsistent with the Act, leading to breaches and reports to the Inspectorate or IBAC	Possible	Moderate	Medium	A review of the Governance Rules will reduce the risk of this occurring.

COUNCIL MEETING MINUTES - 30 JULY 2024

COMMUNITY ENGAGEMENT

Engagement undertaken

Under Section 60(4) of the Act, Council must ensure that a community engagement process is followed when developing or amending the Governance Rules (apart from when the only change is to incorporate a good practice guideline issued by the Minister under section 87).

Public exhibition was undertaken from 26 June to 10 July 2024, however no submissions were received. Accordingly, no additional changes are proposed to this document.

CONCLUSION

The Governance Rules (including the Election Period Policy) have been reviewed and changes proposed to provide clarity to the Rules and Election Period Policy and to ensure they meet the requirements of the *Local Government Act 2020* and current practice.

DECLARATION OF CONFLICT OF INTEREST

Under section 130(2) of the *Local Government Act 2020* and Governance Rule 24, the following officers declare that they have no interests to disclose in providing this report:

- Carla Hanlon – Executive Manager People and Governance
- Annabel Harding – Acting Executive Manager People and Governance/ Governance Coordinator

Attachments

1. Governance Rules 2024

COUNCIL MEETING MINUTES - 30 JULY 2024

14.2 ADVISORY COMMITTEE MINUTES

File No: 2024/581

Annabel Harding - Acting Executive Manager
People & Governance

Executive Management

For Decision

RECOMMENDATION

That Council receives the attached unconfirmed meeting minutes for the following Advisory Committees:

1. Indigo Environment Advisory Committee
2. Indigrow Advisory Committee
3. Indigo Community Access Committee

RESOLUTION

That Council receives the attached unconfirmed meeting minutes for the following Advisory Committees:

1. Indigo Environment Advisory Committee
2. Indigrow Advisory Committee
3. Indigo Community Access Committee

Moved: Cr Croucher

Seconded: Cr Gaffney

For: Crs Peter Croucher, Bernard Gaffney, Sue Gold, Roberta Horne and Sophie Price

Against: Nil

CARRIED

PURPOSE OF REPORT

The report provides the minutes, recommendations and accompanying officer comments from Council's advisory committees for Council noting and endorsement of Management Recommended Actions.

BACKGROUND

Council currently has seven advisory committees. The role of an advisory committee is to provide information and advice on issues relating to the committee's specific area of expertise (i.e., the Environment Committee provides advice on environmental issues).

Each advisory committee meets regularly (the frequency of which depends on the committee) and records minutes and resolutions for Council decision. Each resolution reported to this month's meeting is highlighted in the table below and has an accompanying officer comment.

COUNCIL MEETING MINUTES - 30 JULY 2024

DISCUSSION

COMMITTEE	DATE OF MEETING	RECOMMENDATION	MANAGEMENT RECOMMENDED ACTION
Indigo Environment Advisory Committee	05 June 2024	Nil	
Indigrow Advisory Committee	14 June 2024	Nil	
Indigo Community Access Committee	01 July 2024	Nil	

Note: Minutes of Advisory Committee meetings may not be available at the time the agenda is published. Any Minutes not included will be reported in the following month.

STRATEGIC CONTEXT

COUNCIL PLAN 2021 – 2025	
Theme	5. Accountability
Strategic Objective	5.5 Our Councillors and organisation are committed to the highest level of governance practices and conduct.

The provision of advisory committee minutes and resolutions to Council at the monthly meeting ensures that Council considers the advice of the committees. This allows transparent decision-making and highest level of governance practices and conduct.

FINANCIAL IMPLICATIONS

There are no financial implications with this report.

LEGISLATIVE IMPLICATIONS

Council's advisory committees are established by Council but do not have any delegated decision-making powers. Instead, they work under terms of reference and provide advice to Council. The advice occurs in a variety of forms, including advice to relevant Council departments, as well as advice contained within resolutions that are reported to Council.

Some advisory committee meetings are open to the public and some are closed, however all minutes are reported to Council (apart from the Audit & Risk Committee - these meetings are held 'in camera' and the minutes are not available to the public – reporting to Council occurs as per the requirements under the *Local Government Act 2020*).

COUNCIL MEETING MINUTES - 30 JULY 2024

RISK & OPPORTUNITY MANAGEMENT

Description	Likelihood	Consequence	Final Risk Rating	Controls, treatments
That advisory committee minutes and recommendations are not duly reported to Council, and the utility and confidence of the committees are undermined.	Unlikely	Insignificant	Low	Governance team follow up with officer secretariats to ensure that all meetings are reported to Council as soon as practicable.

CONCLUSION

The advisory committee minutes included in this report are presented to Council for noting.

DECLARATION OF CONFLICT OF INTEREST

In accordance with section 130(2) of the *Local Government Act 2020* and *Governance Rule 24*, the following officers declare that they have no interests to disclose in providing this report:

- Annabel Harding – Acting Executive Manager People and Governance / Governance Coordinator
- Emma O'Donnell – Governance Officer

Attachments

1. Minutes - Indigo Environment Advisory Committee 05 June 2024
2. Minutes - Indigrow Advisory Committee - 14 June 2024
3. Minutes - Indigo Community Access Committee - 01 July 2024

COUNCIL MEETING MINUTES - 30 JULY 2024

14.3 INFORMAL MEETINGS OF COUNCILLORS RECORDS

File No: 2024/580

Annabel Harding - Acting Executive Manager
People & Governance

Executive Management

For Decision

RECOMMENDATION

That Council accepts the attached Informal Meetings of Councillors records.

RESOLUTION

That Council accepts the attached Informal Meetings of Councillors records.

Moved: Cr Gaffney

Seconded: Cr Horne

For: Crs Peter Croucher, Bernard Gaffney, Sue Gold, Roberta Horne and Sophie Price

Against: Nil

CARRIED

This report tables the Informal Meetings of Councillors as required under Council's governance rules. Informal Meetings of Councillors Records are only required for meetings closed to the public.

PURPOSE OF REPORT

The report presents Informal Meetings of Councillors records to Council for recording in the minutes in accordance with Governance Rule 72(b)(iii).

BACKGROUND

Governance Rule 70 defines an Informal Meeting of Councillors as:

1. a meeting of an advisory committee of Council, if at least one Councillor is present, or
2. a planned or scheduled meeting of at least half the Councillors and one member of Council staff which considers matters that are intended or likely to be:
 - a. the subject of a decision of the Council; or
 - b. subject to the exercise of a function, duty or power of the Council that has been delegated to a person or a committee.

The Governance Rules specifically excludes the following meetings:

- Council Meetings
- Delegated Committee Meetings
- Community Asset Committee Meetings

Informal meetings of Councillors do not include meetings which are open to the public.

DISCUSSION

Under Governance Rule 72(b)(iii), the CEO is required to provide a summary of matters discussed at Informal meetings of Councillors, which is to be tabled at the next Scheduled Council meeting and is to be recorded in the minutes.

COUNCIL MEETING MINUTES - 30 JULY 2024

The attached Informal Meetings of Councillors records are presented to Council for acceptance as summarised in the following table.

MEETING	DATE
Planning Site Visit - Michelle Drive – Kiewa	04 June 2024
Planning Site Visit - Reids Way - Wooragee	04 June 2024
Council Briefing	04 June 2024
Council Briefing	18 June 2024
Finance Committee	18 June 2024
Planning Site Visit - Lilliput Norong Road - Lilliput	18 June 2024
Planning Site Visit - 106 Cornishtown Road - Cornishtown	18 June 2024
Planning Site Visit - 105 Fraser Road - Browns Plains	18 June 2024
Council Briefing	25 June 2024
Planning Site Visit - Slaughterhouse Road - Rutherglen	16 July 2024
Planning Site Visit - 41-47 Foord Street - Wahgunyah	16 July 2024
Planning Site Visit - Carlyle Cemetery	16 July 2024

NOTE:

The timing of the agenda distribution will sometimes make it difficult to provide a complete month. Please note that any items not included will carry forward to the following month.

STRATEGIC CONTEXT

COUNCIL PLAN 2021 – 2025	
Theme	5. Accountability
Strategic Objective	5.5 Our Councillors and organisation are committed to the highest level of governance practices and conduct.

An Informal Meeting of Councillors record is a mechanism for Councillors and officers to openly declare and report any conflicts that may have arisen during a defined informal meeting of Councillors. This demonstrates to Council and the community that the meetings are conducted with transparency and good governance.

FINANCIAL IMPLICATIONS

There are no financial implications with this report.

LEGISLATIVE IMPLICATIONS

Informal Meetings of Councillors are dealt with under the Governance Rules.

COUNCIL MEETING MINUTES - 30 JULY 2024

RISK & OPPORTUNITY MANAGEMENT

Description	Likelihood	Consequence	Final Risk Rating	Controls, treatments
That a defined Informal Meeting of Councillors is not reported to Council, and public confidence in transparency is undermined.	Likely	Insignificant	Medium	Regular reminders to officers about the requirement to report defined meetings. Follow up of missing records for known meetings.

CONCLUSION

The Informal Meetings of Councillors records attached to this report are a true and accurate record of all defined meetings reported since the last report to Council.

DECLARATION OF CONFLICT OF INTEREST

In accordance with section 130(2) of the *Local Government Act 2020 and Governance Rule 24*, the following officers declare that they have no interests to disclose in providing this report:

- Carla Hanlon – Executive Manager People & Governance
- Annabel Harding – Acting Executive Manager People & Governance
- Emma O'Donnell – Governance Officer

Attachments

1. Informal Meeting of Councillors Record - Planning Site Visit - Michelle Drive - Kiewa - 04 June 2024
2. Informal Meeting of Councillors Record - Planning Site Visit - Reids Way - Wooragee - 04 June 2024
3. Informal Meeting of Councillors Record - Council Briefing - 04 June 2024
4. Informal Meeting of Councillors Record - Council Briefing - 18 June 2024
5. Informal Meeting of Councillors Record - Finance Committee - 18 June 2024
6. Informal Meeting of Councillors Record - Planning Site Visit - Lilliput Norong Road - Lilliput - 18 June 2024
7. Informal Meeting of Councillors Record - Planning Site Visit - 106 Cornishtown Road - Cornishtown - 18 June 2024
8. Informal Meeting of Councillors Record - Planning Site Visit - 105 Fraser Road - Browns Plains - 18 June 2024
9. Informal Meeting of Councillors Record - Council Briefing - 25 June 2024
10. Informal Meeting of Councillors Record - Planning Site Visit - Slaughterhouse Road - Rutherglen - 16 July 2024
11. Informal Meeting of Councillors Record - Planning Site Visit - 41-47 Foord Street - Wahgunyah - 16 July 2024
12. Informal Meeting of Councillors Record - Planning Site Visit - Carlyle Cemetery -- 16 July 2024

COUNCIL MEETING MINUTES - 30 JULY 2024

14.4 AMENDMENTS TO COUNCIL MEETING SCHEDULE 2024

File No: 2024/451

Annabel Harding - Acting Executive Manager
People & Governance

Executive Management

For Decision

RECOMMENDATION

That Council:

1. Moves the 17 September 2024 Scheduled Council Meeting to 16 September 2024 (one day earlier); and
2. Holds an Additional Council Meeting at 6:30pm on 22 October 2024 at the Council Chambers in Beechworth for the purpose of considering the Annual Report 2023-24.

RESOLUTION

That Council:

1. Moves the 17 September 2024 Scheduled Council Meeting to 16 September 2024 (one day earlier); and
2. Holds an Additional Council Meeting at 6:30pm on 22 October 2024 at the Council Chambers in Beechworth for the purpose of considering the Annual Report 2023-24.

Moved: Cr Gaffney

Seconded: Cr Horne

For: Crs Peter Croucher, Bernard Gaffney, Sue Gold, Roberta Horne and Sophie Price

Against: Nil

CARRIED

PURPOSE OF REPORT

To recommend moving the 17 September 2024 Council Meeting to 16 September 2024 (one day earlier) and holding an Additional Council Meeting on 22 October 2024 at the Council Chambers in Beechworth for the purpose of considering the Annual Report 2023-24.

BACKGROUND

At the Statutory Meeting in November 2023, the dates for the 2024 Council Meetings were set, including scheduled Council Meetings on the following dates:

- 27 February
- 26 March
- 23 April
- 14 May
- 25 June
- 30 July

COUNCIL MEETING MINUTES - 30 JULY 2024

- 27 August
- 17 September
- 19 November (Statutory Meeting)
- 26 November
- 17 December;

At the Council Meeting on 27 February 2024, Council resolved to cancel the November meeting and bring the December meeting forward to the 10 December.

Further changes are now proposed to the updated meeting schedule, including moving the 17 September meeting to 16 September and adding an additional meeting on 22 October 2024.

The proposed Council meeting schedule is as follows (starting from 27 August 2024):

Current Dates	Proposed Dates
27 August	27 August
17 September	16 September
–	22 October – Additional Meeting to consider the Annual Report
19 November (Statutory Meeting)	19 November (Statutory Meeting)
10 December	10 December

DISCUSSION

Under the Local Government Act 2020, the election period (also known as ‘caretaker’) starts from the time that nominations close on nomination day and ends at 6pm on Election Day.

On 25 June 2024 the Local Government Amendment (Governance and Integrity) Act 2024 received Royal Assent. This legislation amends the Local Government Act 2020, and brings a number of reforms in relation to election processes and legislative powers. One change affects the start date of this year’s nomination day, which has been brought forward by one week from 24 September to 17 September, starting at 12pm. This changes the election period dates, which now starts at 12pm on 17 September and runs to 6pm on 26 October (election day).

During an election period, no major decisions may be made by Council, and Council will avoid making decisions that would affect voting at an election, including the adoption of policies and other Council documents. Due to this, Council avoids holding a Scheduled Council Meeting during the election period.

COUNCIL MEETING MINUTES - 30 JULY 2024

Therefore, it is recommended that the Council meeting, scheduled on 17 September is moved to 16 September to avoid the election period.

Under section 100 of the Local Government Act 2020, a council must hold a meeting to consider the annual report, and, in the year of a general election, this must be held no later than the day before election day – 26 October 2024. The timings of the final stages of the annual report (including financial data, auditor review and certification) mean that Council is unlikely to have the annual report ready in time for the last scheduled meeting prior to the election period. As such, it is recommended that Council hold an additional meeting, with the only item of business on the agenda to consider the annual report.

Therefore, it is recommended that a meeting be held during the election period, as an Additional Meeting with only one item of business on the agenda – consideration of the annual report.

There is no change proposed to the Statutory Meeting scheduled for 19 November 2024, at which the Mayor and Deputy Mayor are appointed (along with other items of business).

Options

Council could decide to not to change to date of the meetings, however this will not allow compliance with Council's obligations under the Local Government Act in relation to election period prohibitions, and will not allow adequate time for the finalisation of the annual report. Therefore it is recommended that the dates be adjusted as proposed.

STRATEGIC CONTEXT

COUNCIL PLAN 2021 – 2025	
Theme	5. Accountability
Strategic Objective	5.5 Our Councillors and organisation are committed to the highest level of governance practices and conduct.

SOCIAL/COMMUNITY IMPLICATIONS

If adopted, the proposed changes mean that the September Council Meeting will be brought forward by one day, and an additional meeting will be held during the election period to consider the annual report. It is considered that these changes would have minimal impact on the community.

ENVIRONMENTAL IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

LEGISLATIVE IMPLICATIONS

Under section 60(1) a Council must develop, adopt and keep in force Governance Rules in relation to the conduct of Council meetings.

Governance Rule (6) stipulates that the Council (a) Shall fix the day, time and location of all Scheduled Council Meetings for the coming 12 months at the Statutory Meeting; and (b) may, by resolution, alter the day, time and location of any Scheduled Council Meeting.

COUNCIL MEETING MINUTES - 30 JULY 2024

Under Council's Governance Rules, rule (7) set out the circumstances under which an additional meeting may be held, including (c)(ii) where Council resolve to do so, and the resolution specifies the date, time and location of the meeting, and the business to be transacted.

RISK & OPPORTUNITY MANAGEMENT

Description	Likelihood	Consequence	Final Risk Rating	Controls, treatments
Confusion caused by change of date	Unlikely	Insignificant	Low	New calendar invites to be sent to attendees Meeting dates advertised on the website to be updated

COMMUNITY ENGAGEMENT

Engagement undertaken

Nil

Engagement outcomes

Nil

Engagement proposed

We will inform the community of the change to the Council meeting schedule via the normal communications channels.

CONCLUSION

Due to legislative changes in the election period dates for 2024, it is recommended that the September Council Meeting be brought forward by one day to avoid the election period. It is also recommended that an Additional Council Meeting be held on 22 October 2024, to consider the annual report. This would need to occur during the election period in order to meet legislative deadlines.

DECLARATION OF CONFLICT OF INTEREST

Under section 130(2) of the *Local Government Act 2020* and Governance Rule 24, the following officers declare that they have no interests to disclose in providing this report:

- Carla Hanlon – Executive Manager People & Governance
- Annabel Harding – Acting Executive Manager People & Governance / Governance Coordinator

Attachments

Nil

COUNCIL MEETING MINUTES - 30 JULY 2024

14.5 JOINT MEETING OF ALPINE, INDIGO AND TOWONG COUNCILS

File No: 2024/643

Sally Rice - Acting Chief Executive Officer

Executive Management

For Decision

RECOMMENDATION

That:

1. Council participate in a Joint meeting with Alpine and Towong Shire Councils at 11am on 13 August 2024 in Beechworth, in accordance with the provisions of Section 62 of the Local Government Act 2020;
2. The Mayor, the Deputy Mayor and Councillor XXX represent Council at the joint meeting, and that Councillor XXX be appointed as a substitute to represent Council in the event any of the first three named councillors are unable to attend;
3. The Governance Rules of the host Council (Indigo Shire Council) be adopted for the purpose of conducting the joint meeting;
4. The host Council Mayor (Cr Sophie Price, Indigo Shire Council) chair the joint meeting; and
5. Any costs incurred in relation to holding the Joint meeting be shared equally by the three Councils.

RECOMMENDATION

That:

1. Council participate in a Joint meeting with Alpine and Towong Shire Councils at 11am on 13 August 2024 in Beechworth, in accordance with the provisions of Section 62 of the Local Government Act 2020;
2. The Mayor, Councillor Gold and Councillor Shephard represent Council at the joint meeting, and that Councillor Horne be appointed as a substitute to represent Council in the event any of the first three named councillors are unable to attend;
3. The Governance Rules of the host Council (Indigo Shire Council) be adopted for the purpose of conducting the joint meeting;
4. The host Council Mayor (Cr Sophie Price, Indigo Shire Council) chair the joint meeting; and
5. Any costs incurred in relation to holding the Joint meeting be shared equally by the three Councils.

Moved: Cr Gold

Seconded: Cr Horne

For: Crs Peter Croucher, Bernard Gaffney, Sue Gold, Roberta Horne and Sophie Price

Against: Nil

Carried

COUNCIL MEETING MINUTES - 30 JULY 2024

PURPOSE OF REPORT

The purpose of this report is to seek a decision to hold a joint meeting of Alpine, Indigo and Towong Councils in relation to the Albury/Wodonga Health Hospital Development.

DISCUSSION

Alpine, Indigo and Towong Shire Councils have a very long and proud history of working together for the benefit of the communities we serve.

The great work that we have done together has generally resulted from the excellent working relationships we have developed between our Councils, both at officer and elected representative level. Whilst our organisations and our communities are unique in many ways, we also have many common interests.

The Local Government Act 2020 includes a provision for convening Joint meetings of Councils and accordingly, a vehicle for formalising our collective efforts. Joint meetings enable formal collaboration and action on matters of mutual interest and importance; a strong collective voice working for the benefit of our residents and ratepayers.

The catchment of Albury-Wodonga Health includes the Alpine, Indigo and Towong municipalities. The proposed development of the hospital based in Albury is of great importance to the residents of our municipalities.

Whilst there has been a great deal of discussion by major stakeholders about the hospital development there is significant concern that the needs of our rural communities have not been taken into consideration in determining the future form and function of the health service.

It is crucially important that our rural communities are well represented, and our rural voice is heard, in order to ensure the provision of a health service, which meets the current and future needs of all regional communities within the catchment of Albury-Wodonga Health. To this end, it is recommended that Alpine, Indigo and Towong Shire Councils convene a Joint meeting in order to determine a collective position and the action required to adequately represent the interests of our residents and ratepayers.

Options

Included in Section 9(2)(b) of the Act is the overarching governance principle that;

Priority is to be given to achieving the best outcomes for the municipal community, including future generations.

The provision of a health service which meets the current and future needs of all regional communities within the catchment of Albury-Wodonga Health is a matter of great importance for the municipal communities of Alpine, Indigo and Towong Shire Councils and coming together in a Joint meeting will enable a collective effort towards achieving the best outcomes for the communities we serve now and into the future.

STRATEGIC CONTEXT

Advocacy for better health services is consistent with the 2021-2025 Council Plan Theme 1: Communities: - Our communities are strong, resilient, divers, and inclusive and our people feel safe, valued and connected, both physically and socially.

COUNCIL MEETING MINUTES - 30 JULY 2024

Within this theme the Council Plan Strategic Objective 1.1 defines the following “Our community members have access to support services to help them achieve and sustain physical and emotional health and wellbeing”.

Council’s Advocacy Plan as adopted May 2023 identifies a key issue as being “Quality of life/liveability for all ages – continuing to provide the infrastructure and support to ensure quality of life and liveability for all our residents” The Advocacy Plan identifies a key priority area for advocacy being Ambulance Response Times. There is growing concern and evidence that Indigo’s poor ambulance response times are almost certainly being impacted by the reported “ramping” of ambulances at the Albury Wodonga Health Service hospital at the Albury Campus.

SOCIAL/COMMUNITY IMPLICATIONS

The quality of regional health services has a direct impact on the liveability, health and well-being of the residents of Indigo Shire Council.

ENVIRONMENTAL IMPLICATIONS

Not applicable.

FINANCIAL IMPLICATIONS

There is no direct financial implications arising from a decision to hold a joint council meeting other than minor catering costs and the in-kind cost of attendees, incorporated within existing budgets.

LEGISLATIVE IMPLICATIONS

Section 62 Local Government Act 2020 – Joint meetings of Councils is the relevant legislation that applies to this meeting.

The meeting will be conducted in accordance with this legislation.

S62 (5) provides that the procedures for conducting a joint meeting are to be determined by the Councils holding the joint meeting. It is proposed that the meeting be held under procedures outlined in the Governance Rules of Indigo Shire Council, and that the Indigo Shire Mayor, Cr Sophie Price, will act as Chair of the meeting.

Consistent with s62 (3) (b) of the Act it is proposed that the Mayor, Deputy Mayor and one other councillor be nominated to represent Council at the Joint Meeting.

RISK ASSESSMENT

The Act provides that two or more Councils may determine to hold a joint meeting and the joint meeting is a Council meeting of each Council for the purpose of the Act, and the provisions of the Act apply accordingly.

A joint meeting is to be constituted by the Councillors of the Councils holding the joint meeting consisting of –

- a) the total number of Councillors determined by the Councils holding the meeting; and
- b) at least three (3) Councillors from each of the Councils holding the joint meeting.

The matters included in the recommendation address the requirements of the Act.

COUNCIL MEETING MINUTES - 30 JULY 2024

COMMUNITY ENGAGEMENT

If the recommendation is adopted, we will inform the community and key stakeholder of the meeting via the normal communications channels.

CONCLUSION

It is the Officer's view that a Joint meeting of Alpine, Indigo and Towong Shire Councils, in relation to the provision of a health service which meets the current and future needs of all regional communities within the catchment of Albury-Wodonga Health, is in the interests of the residents and ratepayers of the three municipalities, and it is therefore recommended that Council resolve to participate in the joint meeting.

DECLARATION OF CONFLICT OF INTEREST

Under section 130(2) of the *Local Government Act 2020* and Governance Rule 24, the following officers declare that they have no interests to disclose in providing this report:

- Trevor Ierino – Chief Executive Officer, Indigo Shire Council
- Sally Rice – Acting Chief Executive Officer, Indigo Shire Council

Attachments

Nil

COUNCIL MEETING MINUTES - 30 JULY 2024

14.6 CONTRACTS AWARDED UNDER CHIEF EXECUTIVE OFFICER DELEGATION - JUNE 2024

File No: 2024/623

Sally Rice - Acting Chief Executive Officer

Executive Management

For Information

There were no contracts awarded by the CEO under delegation, between the values \$250,000 and \$500,000, for the month of June 2024.

Date	Tenderer	Title	Project	Amount
	None			

STRATEGIC CONTEXT

COUNCIL PLAN 2021 – 2025	
Theme	5. Accountability
Strategic Objective	5.5 Our Councillors and organisation are committed to the highest level of governance practices and conduct.
Strategic Action	5.5.2 Develop and maintain a Governance Schedule to give Council and Community visibility of future legislative requirements

DECLARATION OF CONFLICT OF INTEREST

Under section 130(2) of the *Local Government Act 2020* and Governance Rule 24, the following officers declare that they have no interests to disclose in providing this report:

- Sally Rice – Acting Chief Executive Officer
- Kathryn Baldock – Executive Assistant CEO & Councillors

Attachments

Nil

COUNCIL MEETING MINUTES - 30 JULY 2024

15. NOTICES OF MOTION

Nil reports

COUNCIL MEETING MINUTES - 30 JULY 2024

16. COUNCILLORS REPORT

16.1 MAYOR'S DIARY - JUNE 2024

For Information

Mayor Price attended the following functions/events/meetings in June 2024.

DATE	TIME	FUNCTION / EVENT / MEETING	LOCATION
3 June	1.30pm	Meeting with CEO	Chiltern
3 June	3.00pm	Visit to Federation Way, Rutherglen Site	Rutherglen
4 June	12.00pm	Site Visit – 80 Michelle Drive, Kiewa	Kiewa
4 June	1.05pm	Site Visit – 345 Reids Way, Wooragee	Wooragee
4 June	2.30pm	Council Briefing	Beechworth
6 June	6.00pm	Opening of Six Artists Exhibition, Chiltern Courthouse	Chiltern
11 June	11.00am	RAP Working Group Meeting	Beechworth
11 June	3.00pm	Meeting with CEO	Phone
12 June	4.30pm	Goulburn Ovens Murray MAV Regional Meeting	Online
14 June	10.00am	Citizenship Ceremony	Beechworth
17 June	10.00am	Meeting with CEO	Beechworth
18 June	11.00am	Site Visit – Lilliput-Norong Road, Lilliput	Lilliput
18 June	11.45am	Site Visit – 106 Cornishtown Road, Rutherglen	Rutherglen
18 June	12.30pm	Site Visit – 105 Fraser Road, Browns Plains	Browns Plains
18 June	2.30pm	Council Briefing	Beechworth
18 June	6.00pm	Finance Committee Meeting	Beechworth
19 June	9.30am	Collaboration and Networking Meeting – Indigo, Towong & Alpine Shires	Tallangatta
20 June	3.00pm	Hume Region Local Government Network (HRLGN)	Online
21 June	7.00pm	Queen's Guide Award Presentation – Chiltern Girl Guides	Chiltern
24 June	10.00am	Meeting with CEO	Beechworth
24 June	1.00pm	Community & Sustainability Grants Project Launch – Osbornes Flat Community Hall	Osbornes Flat
25 June	4.00pm	Council Briefing	Beechworth
25 June	6.30pm	Council Meeting	Beechworth
28 June	9.15am	Chiltern Primary School Visit	Chiltern

Attachments
Nil

COUNCIL MEETING MINUTES - 30 JULY 2024

17. DECISIONS REGISTER

17.1 DECISIONS REGISTER

File No: 2024/633

Sally Rice - Acting Chief Executive Officer

Executive Management

For Information

The report outlines actions from Council Resolutions as at 25 June 2024, including those not previously listed as completed, but not including resolutions to note a report.

Meeting date	Item	Name	Resolution	Status
28 Nov 23	12.4	Closed Circuit Television (CCTV) - Indigo Shire	That Indigo Shire Council purchase two CCTV cameras in the 2024/2025 budget at a cost of no more than \$5,000 per camera. These cameras will be available for installation by Victoria Police Local Area Command across the Shire to keep our communities safe.	Provision has been made in the 24/25 budget. The rest of this work is in progress. Incomplete
25 June 2024	8	Confirmation of Minutes from Previous Meeting(s)	That the Minutes of the Council Meeting held on 14 May 2024, as published on Council's website, be confirmed.	Completed
25 June 2024	10.1	PP23-0184 - Petition - 2804 Federation Way, Rutherglen	That Council: 1. Receives the attached petition relating to the proposed Fuel Service Station location at 2804 Federation Way Rutherglen; 2. Notes that this petition will be considered as an objection in accordance with Section 57(1) of the <i>Planning and Environment Act</i> (1987); and 3. Notes that the concerns raised in the petition will be considered throughout the remaining planning permit process, and information regarding objections will be presented to a future Council meeting as part of the relevant	Completed

COUNCIL MEETING MINUTES - 30 JULY 2024

Meeting date	Item	Name	Resolution	Status
			planning report.	
25 June 2024	11.1	Council Plan and Municipal Public Health and Wellbeing Plan 2021-2025 (Year 4)	<p>That Council:</p> <ol style="list-style-type: none"> 1. Notes that no submissions were received during the 21 day exhibition period from 15 May to 4 June 2024; and 2. Adopts the Council Plan and Municipal Public Health and Wellbeing Plan 2021-2025 (Year 4). 	Completed
25 June 2024	11.2	Consideration of 2024/25 Budget Submissions	<p>That Council:</p> <ol style="list-style-type: none"> 1. Receives the attached draft budget responses, and thanks submitters for their assistance and feedback; 2. Endorses the management responses detailed in this report in relation to the budget requests; 3. Notes the actions arising from the submissions; <ol style="list-style-type: none"> a) Improved communication of native vegetation rules and consequences for non-compliance. b) Return to higher levels of footpath investment in future budgets. c) Continue to work with the Yackandandah Sports Park Committee to prioritise and seek funding for masterplan implementation. d) Improved capital works information in 	Completed

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Meeting date	Item	Name	Resolution	Status
			<p>the next budget cycle.</p> <p>e) Completion of the Toilet Strategy report in 2024/25.</p> <p>f) Respond to questions raised by submitters.</p> <p>4. Makes no financial changes to the budget as a result of the submissions; and</p> <p>5. Notes that Council staff will respond to each submitter with a copy of this report and the Council resolution.</p>	
25 June 2024	11.3	Adoption of Indigo Shire Council 2024/25 Budget	<p>That:</p> <p>1. Council, having given public notice and having received and considered submissions, adopts the attached 2024/25 Budget, including the Budgeted Financial Statements as defined by the Local Government (Finance and Reporting) Regulations (2014);</p> <p>2. The Fees and Charges for 2024/25, as listed in the attached 2024/25 Budget, be effective from 1 July 2024;</p> <p>3. The Chief Executive Officer or delegate gives public notice of this decision to adopt the following:</p> <p>a) 2024/25 Budget in accordance with Section 94 of the Local Government Act 2020, and;</p> <p>b) 2024/25 Ten-year financial plan, and;</p> <p>c) 2024/25 Revenue and Rating Plan.</p> <p>4. Council records the following reasons for the decision to adopt the 2024/25 Budget:</p>	Completed

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Meeting date	Item	Name	Resolution	Status
			<p>a) It reflects the efficient and effective allocation of resources having regard to the objectives, roles and functions of Council;</p> <p>b) It is appropriate to the priorities of Council having regard to the Council Plan, and Council's Long-Term Financial Strategy;</p> <p>5. Council notes the attached Income and Expense report that provides additional information regarding each service budget;</p> <p>6. Declaration of rates and charges:</p> <p>6.1 Amount intended to be raised</p> <p>The amount of \$20,196,967 (or such greater amount as is lawfully levied as a consequence of this resolution) be declared as the amount which Council intends to raise by general rates and the waste management charges (described later in this Resolution), which amount is calculated as follows:</p> <ul style="list-style-type: none"> • General rates \$13,337,460 (including supplementary valuations) • Municipal charge \$3,060,346 • Waste management charges \$3,733,329; <p>6.2 General rates</p> <p>(a) A general rate be declared in respect of and for the entire duration of the 2024/25 financial year;</p> <p>(b) It be further declared that the general rate be raised by the application of</p>	

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Meeting date	Item	Name	Resolution	Status
			<p>differential rates;</p> <p>(c) The rate and amount of rates payable in relation to land in each category of differential are:</p> <ul style="list-style-type: none"> ▪ A rate of 0.19813% (0.19813 cents in the dollar of CIV) for all rateable general properties; ▪ A rate of 0.39627% (0.39627 cents in the dollar of CIV) for all rateable residential vacant properties; ▪ A rate of 0.14860% (0.14860 cents in the dollar of CIV) for all rateable rural 1 properties; ▪ A rate of 0.17832% (0.17832 cents in the dollar of CIV) for all rateable rural 2 properties; ▪ A rate of 0.26748% (0.26748 cents in the dollar of CIV) for all rateable commercial/industrial properties. <p>6.3 Municipal charge</p> <p>A municipal charge of \$348.40 be declared in respect of the 2024/25 financial year;</p> <p>6.4 Waste management charges</p> <p>An annual waste management charge be declared for the collection and disposal of refuse. The annual charge be in the sum of, and be based on the criteria</p>	

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Meeting date	Item	Name	Resolution	Status
			<p>specified below:</p> <p>Waste management charge for the collection and disposal of refuse for residential land, non-residential land or non-rateable land:</p> <ul style="list-style-type: none"> ▪ Urban domestic garbage collection 140 litre bin \$108.85 ▪ Urban domestic garbage collection 240 litre bin \$184.65 ▪ Rural domestic garbage collection 140 litre bin \$184.65 ▪ Rural domestic garbage collection 240 litre bin \$220.00 ▪ Domestic recycling collection 240 litre bin \$105.10 ▪ Domestic recycling collection 360 litre bin \$127.15 ▪ Domestic organics collection 140 or 240 litre bin \$182.40 ▪ Environmental Management Contribution \$88.15 <p>7. Payment options</p> <p>Payment of rates and charges can be made by one annual payment - due on or before 30 September 2024;</p> <p>Or Council issue rate notices and collect all rates via four instalment plan process, with instalments due on:</p> <p style="text-align: center;">1st Instalment - 30 September 2024</p>	

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Meeting date	Item	Name	Resolution	Status
			<p>2nd Instalment - 30 November 2024</p> <p>3rd Instalment - 28 February 2025</p> <p>4th Instalment - 31 May 2025</p> <p>Where the payment due date falls on a weekend or public holiday, the payment date will be the next business day;</p> <p>No additional instalment options be declared.</p> <p>8. Consequential</p> <p>(a) The Chief Executive Officer or delegate be authorised to levy and recover the general rates, municipal charge and waste management charges in accordance with the Local Government Act (2020);</p> <p>(b) Council in accordance with Section 120 of the Local Government Act (2020) requires any person to pay interest on any amounts of rates and charges which that person is liable to pay, and have not been paid by the date specified for their payment;</p> <p>9. Borrowings</p> <p>Council proposes no new borrowings for 2024/25.</p> <p>10. Waste</p> <p>Council endorses the path to compliance with the Minister for Local</p>	

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Meeting date	Item	Name	Resolution	Status
			Government's Good Practice Guidelines relating to waste service charges that is outlined in the body of this report, and the CEO be authorised to commence the process of converting the Environmental Management Contribution to General Rates, with no net financial impact on Council or ratepayers.	
25 June 2024	11.4	May Finance Report 2024	That Council accepts the year to date May Finance Report noting the progress against Council's quarter 2 forecast.	Completed
25 June 2024	11.6	Planning Permit Application PP23-0205 - 106 Cornishtown Road, Rutherglen	<p>That Council grant a permit at 106 Cornishtown Road, Rutherglen, allowing the re-subdivision of the land into two lots in the Farming Zone and Environmental Significance Overlay Schedule 3, subject to the following conditions:</p> <p>Endorsed Plans – Subdivision</p> <ol style="list-style-type: none"> 1. The subdivision allowed by this permit and shown on the plans endorsed to accompany the permit must not be amended for any reason unless with the prior written consent of the Responsible Authority. <p>Crossings</p> <ol style="list-style-type: none"> 2. Prior to statement of compliance, any new vehicular access points required and any required existing crossing points not complying with current standards must be constructed at full cost to the applicant/owner at a location, and to a standard, to the satisfaction of the Responsible Authority. Any crossing points not retained must be 	Completed

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			<p>remediated to the satisfaction of the responsible authority. A crossing permit must be obtained from the Responsible Authority and levels fixed.</p> <p>Section 173 agreement – No additional dwellings and no further subdivision</p> <p>3. Before a Statement of Compliance for the plan of subdivision is issued under the <i>Subdivision Act 1988</i>, the owner must enter into an agreement with the responsible authority under section 173 of the <i>Planning and Environment Act 1987</i>. The agreement must provide the following:</p> <ul style="list-style-type: none"> a. Note that the purpose of the agreement is to facilitate the ongoing agricultural use of the land by restricting residential development and subdivision; b. Include a definition of small second dwelling the same as existing in the <i>Indigo Planning Scheme</i> as at the date of the permit; c. Prohibit the further subdivision of the land; d. Prohibit any boundary realignment that would increase the size of lot 1 on the endorsed plans above 19.52ha, or reduce the size of lot 2 below 88.92ha; and e. Prohibit construction of an additional dwelling anywhere on the land, noting the following exceptions: <ul style="list-style-type: none"> i. Reconstruction/r eplacement of the existing dwelling; and 	

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Meeting date	Item	Name	Resolution	Status
			<p>ii. Construction of a small second dwelling consistent with the definition in the agreement.</p> <p>The owner of the land must pay all of the responsible authority's reasonable legal costs and expenses of this agreement, including preparation, execution and registration on title.</p> <p>Mandatory Subdivision Condition – 2 Lots</p> <p>4. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities, electricity and gas (where it is proposed to be connected) services to each lot shown on the endorsed plan in accordance with the authority's requirements and relevant legislation at the time.</p> <p>5. All existing and proposed easements and sites for existing or required utility services and roads on the land must be set aside in the plan of subdivision submitted for certification in favour of the relevant authority for which the easement or site is to be created.</p> <p>6. The plan of subdivision submitted for certification under the <i>Subdivision Act 1988</i> must be referred to the relevant authority in accordance with Section 8 of that Act.</p> <p>Mandatory Conditions – Telecommunications</p> <p>7. The owner of the land must enter into an agreement with:</p>	

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			<p>a. a telecommunications network or service provider for the provision of telecommunication services to each lot shown on the endorsed plan in accordance with the provider's requirements and relevant legislation at the time; and</p> <p>b. a suitably qualified person for the provision of fibre ready telecommunication facilities to each lot shown on the endorsed plan in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network (NBN) will not be provided by optical fibre.</p> <p>8. Before the issue of a Statement of Compliance for any stage of the subdivision under the <i>Subdivision Act 1988</i>, the owner of the land must provide written confirmation from:</p> <p>a. a telecommunications network or service provider that all lots are connected to or are ready for connection to telecommunications services in accordance with the provider's requirements and relevant legislation at the item; and</p> <p>b. a suitably qualified person that fibre ready telecommunications facilities have been provided in accordance with any industry specifications or any standards set by the Australian</p>	

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Meeting date	Item	Name	Resolution	Status
			<p>Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.</p> <p>Permit Expiry – Subdivision</p> <p>9. This permit will expire if one of the following circumstances applies:</p> <ul style="list-style-type: none"> a. The plan of subdivision has not been certified under the <i>Subdivision Act 1988</i> within 2 years of the issued date of this permit. b. A statement of compliance is not issued within 5 years of the date of certification. <p>In accordance with Section 69 of the <i>Planning and Environment Act 1987</i>, an application may be submitted to the responsible authority for an extension of the periods referred to in this condition.</p>	
25 June 2024	11.7	Planning Permit Application PP24-0012 - 105 Fraser Road, Browns Plains	<p>That a Notice of Decision to grant a planning permit for use and development for Group Accommodation (6 transportable cabins) at 105 Fraser Road, Browns Plains be issued subject to the following conditions:</p> <p>APPROVED DEVELOPMENT</p> <ul style="list-style-type: none"> 1. At all times what the permit allows must be carried out in accordance with the requirements of any plans or documents approved under this permit to the satisfaction of the responsible authority. The development as shown on the endorsed plans must not 	Completed

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			<p>be altered unless with the prior written consent of the Responsible Authority.</p> <p>LINK TO WINERY OPERATIONS</p> <p>1. Prior to the use of the land commencing, the land owner must either:</p> <p>a) Consolidate the subject site (Crown allotments 32A and 32B, section C, Parish of Gooramadda) with the existing Olive Hills winery (crown allotments 1, 2, 3 and 4, section F, Parish of Gooramadda); or</p> <p>b) Enter into an agreement under section 173 of the <i>Planning and Environment Act 1987</i>. The agreement must provide for the following:</p> <p>i. Apply to all of the lots comprising the site and the winery (Crown allotments 32A and 32B, section C, crown allotments 1, 2, 3 and 4, section F, Parish of Gooramadda);</p> <p>ii. Stating the purpose of the agreement is to link the operation of the group accommodation to the continued operation of the winery;</p> <p>iii. Requiring that the subject site only be permitted to</p>	

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			<p>operate as group accommodation in conjunction with the existing winery;</p> <p>iv. That if the land ceases to be used as a winery, or if the subject site ceases to be under the same effective control as the ownership of the winery, then the use of the group accommodation must cease.</p> <p>ENGINEERING CONDITIONS</p> <p>1. Prior to occupation, the internal access roads and car parks to the cabin sites must be constructed to a minimum all weather standard of:</p> <p>a) 3m metre pavement width;</p> <p>b) 100 mm compacted depth of crushed rock or gravel suitable for road construction;</p> <p>c) Longitudinal roadside drains and culverts as required; and</p> <p>d) Single car parking spaces must be provided.</p> <p>2. All stormwater emanating from the cabins approved by this permit must be disposed of within the curtilage of the property. Any concentrated storm water flows due to the development must be dispersed prior to entering natural systems. Methods</p>	

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			<p>such as contour drains or infiltration trenches should be used for this purpose. Flow dispersal must be employed at the point of discharge of any cabin drain constructed.</p> <p>SEDIMENT CONTROL & SOIL AND WATER MANAGEMENT</p> <p>3. To minimise soil erosion during construction, the landowner and builder must ensure that any clearing or construction associated with development is conducted in accordance with sediment control principles as outlined in "Construction Techniques for Sediment Pollution Control" (Environment Protection Authority 1991). Specifically, the landowner and builder must ensure:</p> <ul style="list-style-type: none"> a) Grading, excavation and construction does not proceed during periods of heavy rainfall; b) Sediment traps are designed, installed and maintained to maximise the volume of sediment trapped from the site during development and construction; c) Top soil from the construction site or builders' sand is stockpiled in a location where it will not be eroded from the site; d) All erosion control measures are maintained after rainfall and are retained until the site has fully revegetated, and; e) Disturbed areas are 	

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			<p>stabilised and revegetated following the completion of works.</p> <p>ONSITE EFFLUENT DISPOSAL</p> <p>4. Prior to occupation, the accommodation units must be fitted with a wastewater treatment and disposal system to a design approved Council's Environmental Health Officer and such that all effluent is disposed of within the boundaries of the allotment.</p> <p>A separate permit must be obtained from Council's Environmental Health Department prior to its installation.</p> <p>WATER SUPPLY</p> <p>5. Prior to occupations, and unless otherwise approved by the Responsible Authority, water storage tank(s) must be provided in close proximity to each of the cabins holding a minimum of 5,000 litres of water. The water supply must:</p> <ul style="list-style-type: none"> a) Be stored in an above ground water tank constructed of concrete or metal. b) Have all fixed above ground water pipes and fittings required for firefighting purposes made of corrosive resistant metal. c) Include a separate outlet for occupant use. <p>EXTERNAL FABRIC</p> <p>6. The roof and cladding colour or colours of the buildings hereby approved, and the</p>	

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			<p>finished colours of any aboveground water storage tanks must be non-reflective (i.e not “zincalume”). Neutral “earthy” colours are to be used (eg “greens”, “greys” or “browns”) so as to address the rural character of the area and blend all new buildings in with the landscape and preserve the visual amenity of the area to the satisfaction of the Responsible Authority. Colours not supported include black shades (eg ‘Night Sky’ and ‘Monument’) and white shades (eg ‘Surfmist’), or colours from the metallic Colorbond range.</p> <p>ADVISORY SIGNAGE</p> <p>7. Prior to occupation, the following signage must be displayed and maintained, to the satisfaction of the responsible authority:</p> <p>a) Fixed advisory signage at the entry gate to instruct site visitors to: “Leave the Gate Open or Closed as Found At All Times”; and</p> <p>b) Appropriate Wine Tourism Biosecurity Signage on the entry gate and at the edge of the vineyard (eg https://vinehealth.com.au/tools/signage/consumer-facing-signage/).</p> <p>Note: This signage is required due to the site being predominately unsupervised and its location in a broad acre farming area.</p> <p>EXPIRY DEVELOPMENT</p>	

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			<p>8. This permit will expire if one of the following circumstances applies:</p> <ul style="list-style-type: none"> a) The development is not commenced within two years of the date of this permit. b) The development is not completed within four years of the date of this permit. c) If the subject site ceases to be operated in conjunction with the adjacent winery, currently known as Olive Hills Estate. <p>The Responsible Authority may extend the period for commencement if a request is made in writing before the period expires or within six months of the date of expiration. The responsible authority may extend the time for completion of buildings and works associated with the permit, if they were lawfully commenced and if a request is made in writing before the permit expires or within twelve months of the date of expiration. No buildings and works may continue after the permit has expired.</p>	
25 June 2024	11.8	Planning Permit Application PP22-0293.1 - 80 Michelle Drive, Kiewa	<p>That a Notice of Decision to amend planning permit PP22-0293.1 at 80 Michelle Drive, Kiewa, with new amended plans, be issued subject to the following conditions:</p> <p>1. APPROVED DEVELOPMENT The layout of the site, dimensions and elevations of the proposed building/s and works as shown on the plans endorsed pursuant to this</p>	Completed

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Meeting date	Item	Name	Resolution	Status
			<p>Condition must not be altered without the written consent of the Responsible Authority.</p> <p>2. EXTERNAL FABRIC The roof and cladding colour or colours of the buildings hereby approved, and the finished colours of any aboveground water storage tanks must be non-reflective (i.e not "zincalume"). Neutral "earthy" colours are to be used (eg "green", "greys" or "browns") so as to address the character of the area and blend all new buildings in with the landscape and preserve the visual amenity of the area to the satisfaction of the Responsible Authority.</p> <p>3. LANDSCAPING Before the development starts, a landscape plan must be approved and endorsed by the responsible authority. The landscape plan must:</p> <ul style="list-style-type: none"> a) be prepared to the satisfaction of the responsible authority b) be prepared by a suitably qualified person c) have plans drawn to scale with dimensions d) be submitted to the responsible authority in electronic form e) include the following: <ul style="list-style-type: none"> i. layout of landscaping and planting within all open areas of the subject land ii. a survey (including botanical names) of all existing vegetation to be retained and/or removed iii. buildings and trees (including botanical names) on neighbouring 	

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Meeting date	Item	Name	Resolution	Status
			<p>properties within three metres of the boundary</p> <p>iv. details of surface finishes of pathways and driveways</p> <p>v. a planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant</p> <p>vi. Screening trees to be planted along the northern boundary of the subject site, sufficient to screen the new dwelling from the neighbouring properties</p> <p>vii. details of how the project responds to water sensitive urban design principles, including how storm water will be mitigated, captured, cleaned and stored for onsite use and the location and type of irrigation systems to be used including the location of any rainwater tanks to be used for irrigation</p> <p>The responsible authority may consent in writing to vary any of these requirements.</p> <p>4. SEDIMENT CONTROL & SOIL AND WATER MANAGEMENT To minimise soil erosion during</p>	

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			<p>construction, the landowner and builder must ensure that any clearing or construction associated with development is conducted in accordance with sediment control principles as outlined in <i>"Construction Techniques for Sediment Pollution Control"</i> (Environment Protection Authority 1991). Specifically, the landowner and builder must ensure:</p> <ul style="list-style-type: none"> (i) Grading, excavation and construction does not proceed during periods of heavy rainfall; (ii) Sediment traps are designed, installed and maintained to maximise the volume of sediment trapped from the site during development and construction; (iii) Vegetation is cleared from the construction site only; other areas must remain undisturbed; (iv) Top soil from the construction site or builders sand is stockpiled in a location where it will not be eroded from the site; (v) All erosion control measures are maintained after rainfall and are retained until the site has fully revegetated, and; (vi) Disturbed areas are stabilised and revegetated following the completion of works. <p>5. PROTECTION OF WATERWAYS The construction of the dwelling must not result in any impacts to the waterway from construction activities, litter or stormwater, to the satisfaction of the responsible authority</p> <p>6. DRAINAGE All stormwater emanating from the developments approved by this</p>	

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Meeting date	Item	Name	Resolution	Status
			<p>permit must be disposed of within the curtilage of the property. Any concentrated storm water flows due to the development must be dispersed prior to entering natural systems. Methods such as contour drains or infiltration trenches should be used for this purpose. Flow dispersal must be employed at the point of discharge of any house drain constructed.</p> <p>Surface water must be diverted away from the building and finished garage slab height must not be less than 150 mm above the finished ground level (reference, National Construction Code 2020 clause 3.3.3).</p> <p>7. INTERNAL ROAD The internal access road must be constructed to a minimum all weather standard of:</p> <ul style="list-style-type: none"> • 3m metre pavement width; • 100 mm compacted depth of crushed rock or gravel suitable for road construction; • Passing bays every 300 metres minimum, and as needed to meet line of sight requirements; and • Longitudinal roadside drains and culverts as required. <p>8. DRIVEWAY Prior to construction commencing on the dwelling, a rural residential IDM SD 260 standard vehicle crossing must be constructed in accordance with Council standards. A Works within Road Reserve Permit must be obtained from the Responsible Authority prior to the commencement of any works.</p>	

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Meeting date	Item	Name	Resolution	Status
			<p>9. SEPTIC Prior to the occupation of the new dwelling, a new septic system must be installed in accordance with the recommendations of the LCA conducted by LCAS's Neil Van Der Geest, project number 22125 -dated October 2022</p> <p>10. EXPIRY DATE This permit will expire if one of the following circumstances applies: (i) The development is not started within two years of the date of this permit. (ii) The development is not completed within two years of the date of commencement.</p>	
25 June 2024	12.1	Draft Diversity, Equity and Inclusion Policy	<p>1. That Council endorses the draft Diversity, Equity and Inclusion Policy for public exhibition for a period of 30 days, from 26 June to 25 July 2024;</p> <p>2. If no submissions are received during the public exhibition period, the policy is adopted from 26 July 2024; and</p> <p>3. If submissions are received during public exhibition, the policy is to be brought to a future Council meeting for adoption.</p>	Incomplete
25 June 2024	12.2	Rutherglen Silo Art Precinct - RPPP Stream 2 Application	That Council endorse a grant application to deliver/construct the Rutherglen Silo Arts Precinct with the Regional Precincts and Partnerships Program, Stream 2 – Delivery Fund for \$14.5M.	Completed
25 June 2024	12.3	Community Development Grants - Guidelines and Assessment Criteria Annual	<p>That Council:</p> <p>1. Adopts the Guidelines and Assessment Criteria as attached</p>	Completed

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Meeting date	Item	Name	Resolution	Status
		Review	<p>to this report for the following grant streams for 2024/2025:</p> <ul style="list-style-type: none"> a) Community Grants Program b) Events Grants c) Get Active Indigo Grants; <p>2. Community member positions be included in the assessment panels for the Events Grants and Get Active Indigo Grants; and</p> <p>3. Appoints a Councillor representative and substitute representative in a non-voting capacity to Community Events Grants assessment panel:</p> <ul style="list-style-type: none"> i) Councillor Representative - Cr Gaffney ii) Substitute Representative - Cr Croucher 	
25 June 2024	13.1	Community Sustainability Grant Program - Program Guidelines Annual Review 2024/25	<p>That Council:</p> <ul style="list-style-type: none"> 1. Adopts the Guidelines for the Community Sustainability Grants Program for 2024/25 (attached); and 2. Delegates to the Chief Executive Officer to appoint two representatives from the Indigo Environment Advisory 	Completed

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Meeting date	Item	Name	Resolution	Status
			Committee to be on the Community Sustainability Grants Program assessment panel.	
25 June 2024	13.2	Climate Change Policy Review	<ol style="list-style-type: none"> 1. That Council endorses the draft Climate Change Policy 2024 for the public exhibition for a period of 21 days, from 26 June to 16 July 2024; and 2. The policy is to be brought to a future Council meeting for adoption. 	Incomplete
25 June 2024	13.3	May Capital Works Report	That Council notes the May Capital Works Report and year to date progress in the delivery of the Capital Works Program.	Completed
25 June 2024	13.4	Contract 21/5560 - Cleaning of Council Buildings, Public Toilets and Amenities - Extension of Contract	<p>That Council:</p> <ol style="list-style-type: none"> 1. Approves the option to extend Contract 21/5560 – Cleaning of Shire Offices, Buildings, Public Toilets and Amenities (with Border Cleaning Services) for a further two years from 1 July 2024; and 2. Notes that the total contract value over the two additional years is estimated at approximately \$630,000 (excluding GST). 	Completed
25 June 2024	13.5	Contract No 2122-054-08 - Rutherglen Loops - Distillery Road, Rutherglen	<p>That Council:</p> <ol style="list-style-type: none"> 1. Awards contract No. 2122-045-08 Rutherglen Loops - Distillery Road, to Excell Gray Bruni for the amount of \$423,535.00 (excluding GST); 2. Authorises the CEO to 	Completed

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			<p>execute the contract documentation; and</p> <p>3. Authorises the CEO the financial delegation to approve contract variations up to a total of 15 per cent of the signed contract value.</p>	
25 June 2024	14.1	Governance Rules Review	<p>That Council:</p> <ol style="list-style-type: none"> 1. Endorses the revised Governance Rules (including Election Period Policy); 2. Places it on public exhibition for a period of 14 days, from 26 June to 10 July 2024 and invites submissions; and 3. Notes the Election Period Procedure for Councillors as attached to this report. 	Completed
25 June 2024	14.2	Review - Instruments of Delegation	<p>That Council:</p> <ol style="list-style-type: none"> 1. Adopts the following Instruments of Delegation: <ol style="list-style-type: none"> a) Instrument of Delegation – Council to Chief Executive Officer (S5) <p>delegates the person holding the position, acting in or performing the duties of the Chief Executive Officer (CEO) the powers, duties and functions set out in the attached <i>Instrument of Delegation - Council to CEO (S5)</i>, subject to the conditions and limitations specified in that Instrument; in accordance with section 11(1)(b) of the <i>Local Government Act 2020</i>;</p> b) Instrument of Delegation – Council to Members of 	Completed

COUNCIL MEETING MINUTES - 30 JULY 2024

Meeting date	Item	Name	Resolution	Status
			<p>Council Staff (S6)</p> <p>delegates to the members of Council staff holding, acting in or performing the duties of the positions referred to in the attached <i>Instrument of Delegation to members of Council staff</i>, the powers, duties and functions set out in that instrument, subject to the conditions and limitations specified in that Instrument;</p> <p>c) Instrument of Sub-Delegation – Council to Members of Staff under the Environment Protection Act 2017 (S18)</p> <p>delegates to members of Council staff under the Environment Protection Act 2017 the powers, duties and functions set out in the attached <i>Instrument of Delegation Members of Staff under the Environment Protection Act 2017</i>, subject to the conditions and limitations specified in the Instrument, in accordance with section 437(2) of the Environment Protection Act 2017 and the <i>Instrument of Delegation of the Environment Protection Authority</i> dated 6 December 2022;</p> <p>2. Notes that the delegations come into force immediately upon this resolution being made;</p> <p>3. Revokes all previous delegations to the Chief Executive Officer and to</p>	

COUNCIL MEETING MINUTES - 30 JULY 2024

Meeting date	Item	Name	Resolution	Status
			Members of staff; and 4. Notes that the duties and functions set out in the instruments must be performed, and the powers set out in the instruments must be executed, in accordance with any guidelines or policies of Council that it may from time to time adopt.	
25 June 2024	14.3	Advisory Committee Minutes	That Council receives the attached unconfirmed meeting minutes for the following Advisory Committees: 1. Indigo Shire Community Grants and Awards Advisory Committee 2. Indigo Community Access Committee	Completed
25 June 2024	14.4	Informal Meetings of Councillors Records	That Council accepts the attached Informal Meetings of Councillors records.	Completed
25 June 2024	14.5	Appointment of Acting Chief Executive Officer	That Council: 1. Appoints the Director Infrastructure Services, Ian Ellett, as Acting Chief Executive Officer for the period 15 July 2024 – 17 July 2024 inclusive; and 2. Appoints the Director Community & Economic Development, Sally Rice, as Acting Chief Executive Officer for the period 18 July 2024 – 9 August 2024 inclusive; and 3. In the event that Sally Rice is otherwise unavailable at any time during her appointed term, that Ian Ellett be appointed as Acting Chief Executive Officer during any period of Sally Rice's absence. 4. Authorises Ian Ellett and	Completed

COUNCIL MEETING MINUTES - 30 JULY 2024

Meeting date	Item	Name	Resolution	Status
			<p>Sally Rice to exercise all powers and authorities reposed in the position of Chief Executive Officer for their respective periods of the appointment as Acting Chief Executive Officer; and</p> <p>5. Notes that should the Chief Executive Officer be unable to undertake the leave within this period, or otherwise resumes duties during this period, he will automatically resume all delegations and power.</p>	

COUNCIL MEETING MINUTES - 30 JULY 2024

18. GENERAL BUSINESS

- Cr Gaffney acknowledged that the internet failed at 7pm and live streaming for this Council meeting stopped. Greg Pinkerton, Director Planning & Corporate Services advised that Council will investigate the issue and retrieve the recording of the meeting from back up data, and will publish it on Council's website tomorrow (31 July 2024).

RESOLUTION

That Council resolves to:

That the Council Meeting be closed in to the public in accordance with Section 66 of the *Local Government Act 2020*.

This meeting moved into Confidential; members of the gallery were asked to leave, and recording ceased.

COUNCIL MEETING MINUTES - 30 JULY 2024

19. CONFIDENTIAL

19.1 INDIGO SHIRE EVENTS AND ACTIVE INDIGO GRANT PROGRAM ASSESSMENT PANEL - NEW MEMBERSHIP

RESOLUTION

That Council:

1. Appoints Alan Pleitner to the Indigo Shire Events and Active Indigo Grant Program Assessment Panel for a period of 12 months; and
2. Maintains confidentiality until the appointee is notified, following which the appointment will be made public.

Moved: Cr Horne

Seconded: Cr Gaffney

For: Crs Peter Croucher, Bernard Gaffney, Sue Gold, Roberta Horne and Sophie Price

Against: Nil

CARRIED

Returned to public session at 8.28pm

Meeting Concluded: 8.29pm

Next Meeting: Tuesday 13 August 2024 at 11am at the Beechworth Town Hall (Joint Council Meeting with Towong and Alpine Shires); and

Tuesday, 27 August 2024 at 6.30pm (Scheduled Council Meeting)