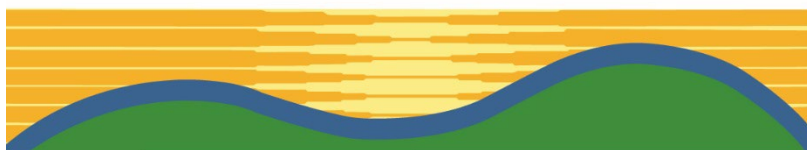


MITCHELL SHIRE COUNCIL



COUNCIL MEETING

AGENDA

MONDAY 20 MARCH 2023
7.00pm

NOTICE IS HEREBY GIVEN that **Council Meeting** of the Mitchell Shire Council will be held **online** and at **Mitchell Civic Centre, 113 High Street Broadford**, on **Monday 20 March 2023** commencing at **7.00pm**.

BRETT LUXFORD
CHIEF EXECUTIVE OFFICER

By attending this meeting, you agree to be filmed. An audio and digital recording is made of all public Council and Committee Meetings, streamed live and published on Council's website. By participating in proceedings including during question time or in making a submission regarding an item before Council you agree to this publication. You should be aware that any private information volunteered by you during your participation in a meeting is subject to recording and publication. Meeting recordings can be located at www.mitchellshire.vic.gov.au.

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1 WELCOME

The Mayor formally opens the meeting with an acknowledgement of country and welcomes all present.

2 GOVERNANCE DECLARATION**3 APOLOGIES AND LEAVE OF ABSENCE****4 DISCLOSURE OF CONFLICTS OF INTEREST**

In accordance with Section 130(2)(a) of the Local Government Act 2020.

5 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS**RECOMMENDATION**

THAT the Minutes of the Council Meeting held 20 February 2023, as circulated, be confirmed.

6 PETITIONS AND JOINT LETTERS

7 ADVOCACY AND COMMUNITIES

7.1 SPORT AND RECREATION VICTORIA - COUNTRY FOOTBALL NETBALL PROGRAM 2022 - 2023

Author: Lyn Morling - Recreation and Open Space Coordinator

File No: GT/01/034

Attachments: Nil

1. Purpose

- 1.1 To obtain Council's support to make an application under Sport and Recreation Victoria's (SRV) Country Football Netball Program 2022-2023.

2. Background

- 2.1 On 3 February 2023, the State Government announced its Country Football Netball Program 2022-2023 (CFNP).
- 2.2 Changes to the funding guidelines include an increased maximum grant of \$250,000 (previously \$200,000) and improved funding ratios for rural councils (includes Mitchell) to \$3 SRV: \$1 Local (ex \$2: \$1).

3. Key Matters

- 3.1 Council's 2022/2023 capital budget includes the \$250,000 L B Davern Reserve, Wandong, Drainage Upgrade, fully funded by Council.
- 3.2 The project has been delayed and works will not commence until after the 2023 winter season. This delay and rising construction costs could take the project to \$260,000.
- 3.3 The recently announced CFNP grant program provides an opportunity for the project to receive significant external funding.
- 3.4 Grant applications close on 27 March 2023 with announcements of successful applications from June 2023. If successful, construction cannot commence until a Funding Agreement has been signed.

Recommendation

THAT Council endorses the submission of an application to Sport and Recreation's Country Football Netball Program 2022-2023 for \$195,000 towards a \$260,000 drainage upgrade project at L B Davern Reserve, Wandong, with a Council contribution of \$65,000.

SPORT AND RECREATION VICTORIA - COUNTRY FOOTBALL NETBALL PROGRAM 2022 - 2023 (CONT.)

4. Financial, Resource and Asset Management Implications

- 4.1 Under the funding guidelines for this Country Football Netball Program, councils are required to make a financial contribution to projects. For Mitchell, the funding ratio is SRV\$3: Local \$1. The maximum grant available is \$250,000.
- 4.2 The L B Davern Reserve Drainage Upgrade project is a high priority for Council and was \$250,000, fully- funded by Council, was included in Council's 2022/2023 capital budget.
- 4.3 The project scope is to address long-standing drainage issues on the oval but which also impact on the nearby outdoor sports courts.
- 4.4 The oval drainage issues prevent optimal use of the sports ground but also cause significant surface damage requiring ongoing repairs.
- 4.5 The overflow from the oval is impacting on the sustainability of the nearby recently renewed sports courts.
- 4.6 The project has been delayed this year and construction cannot occur over the winter playing season. It is anticipated that construction will commence after the winter season, ie September/October. This will be well after Council knows if a funding application has been successful and a Funding Agreement executed.
- 4.7 The delay means that Council has the opportunity to apply for partnership funding from Sport and Recreation Victoria.
- 4.8 It is anticipated the project may now cost up to \$260,000, an increase of \$10,000 over the current project budget.
- 4.9 Council can however apply for \$195,000 funding and, if successful, this could reduce Council's contribution to \$65,000.

5. Consultation

- 5.1 Funding guidelines require projects to be first discussed with Sport and Recreation Victoria's regional manager. The Hume Region Manager has indicated support for the recommended application.
- 5.2 There has been consultation with the Committee of Management and user groups at L B Davern Reserve.
- 5.3 Council also consulted with applicable state sporting associations.

SPORT AND RECREATION VICTORIA - COUNTRY FOOTBALL NETBALL PROGRAM 2022 - 2023 (CONT.)

6. Sustainability Implications (Social and Environmental)

- 6.1 Sport and Recreation Victoria's grants programs seek to achieve better health, wellbeing, social and economic outcomes for Victorians.
- 6.2 This project is consistent with the objectives of the CFNP which aims to develop or maintain existing participation and improve diversity and inclusion by increasing participation by under-represented groups.
- 6.3 This project will rectify a known drainage issue at the reserve, improving the carrying capacity of the oval, as well as mitigating the risk to nearby sports courts sustainability.

7. Policy and Legislative Implications

- 7.1 The project aligns with Council's adopted plans and strategies such as the Mitchell Open Space Strategy (2013 – 2023) and Community Vision, Council Plan and the Municipal Health and Wellbeing Plan (refer to section 8).
- 7.2 In addition, the project aligns to the State Governments Active Victoria Strategic Framework for Sport and Recreation.

8. Alignment to Community Vision, Council Plan and the Municipal Health and Wellbeing Plan

- 8.1 The recommended project aligns with the *Council Vision*

Theme 1 Vibrant Communities – Participation in sport and other recreational interests is prominent and we will have access to high quality community infrastructure.

- 8.2 The recommended project aligns with the *Council Plan 2021-2025*:

Built environment – key priorities:

- 4. Plan, partner, and advocate for the timely delivery of infrastructure to meet the increasing service needs of all our communities including open spaces, community facilities, recreation and aquatic facilities where needed.
- 5. Plan, advocate for, and deliver infrastructure to meet the increasing service needs of our community.

- 8.3 The recommended project aligns with the *Health and Wellbeing Plan 2021-2025*

2.1 Promote the benefits of physical activity, active living and active travel through programs, policies, and projects.

SPORT AND RECREATION VICTORIA - COUNTRY FOOTBALL NETBALL PROGRAM 2022 - 2023 (CONT.)

9. Conflict of Interest

9.1 This report advises that in the preparation of, or in contributing to the preparation of, this report there was no disclosable conflict of interest raised by a member of Council staff in the subject matter of the report.

10. Risk Implications

10.1 Risk Ranking is determined using [ROHS201-G1-Corporate Risk Matrix](#). Risk is identified as Low, Medium, High or Very High.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
Project budget cost over-runs.	Medium	The original \$250,000 project costs will be increased to \$260,000, considerable work has already been undertaken on Geotech and other site investigations.	Yes
Not taking the opportunity to apply for the grant Sport and Recreation Victoria's - Country Football Netball Program 2022-2023	Low	Applying for the grant provides the opportunity for Council to receive possible funding contribution towards the project.	Yes

11. Discussion

11.1 The availability of this funding program provides an opportunity for Council to reduce its cash contribution for a high priority project.

7.2 DRAFT AFFORDABLE HOUSING STRATEGY - PUBLIC EXHIBITION

Author: *Gavin Wilson - Coordinator Advocacy and Social Planning*

File No: *CS/21/010*

Attachments: 1. *Mitchell Shire Draft Affordable Housing Strategy - consultation version*

1. Purpose

- 1.1 To provide Council with the background and information relating to the development of the draft Mitchell Shire Affordable Housing Strategy, and
- 1.2 To seek approval to place the draft Mitchell Shire Affordable Housing Strategy on public exhibition for a period of four weeks.

2. Background

- 2.1 Council was originally briefed on the 3rd of November 2021 regarding the development of a Shire wide Affordable Housing Strategy.
- 2.2 The project commenced by drawing upon previous affordable housing work that had been undertaken by Council, including the recently completed Social Housing Investment Planning (SHIP) project which was funded through the then Department of Health and Human Services (DHHS) now known as the Department of Family, Fairness and Housing (DFFH) grant and partnered between Hume, Whittlesea and Mitchell.
- 2.3 The draft Strategy has been refined through a range of important stages and is ready to be placed on public exhibition inviting feedback from stakeholders and the broader Mitchell community.

3. Key Matters

- 3.1 The current rate of social housing in Mitchell Shire is 2.0% (compared with 2.4% for Victoria and 3.6% for Australia). A reasonable target for Mitchell Shire is to increase the provision of social housing to 4% of total households in the next 10 years. Using a rate of 4%, the current shortfall for the municipality is 370 social housing homes to meet the needs of existing residents in Mitchell Shire. By 2031, an additional 1,044 social housing homes would need to be developed and 2,050 homes by 2041 to meet the needs of the growing population.
- 3.2 Of the 2.0% of social housing across the Shire over 80% is located in the Seymour broadband area and exists as public housing.
- 3.3 As of June 2021, there were 1,120 households on the Priority Access list of the Victorian Housing Register for Seymour and Broadford Districts (Broadband Areas), and 698 households seeking social housing but deemed less urgent.

DRAFT AFFORDABLE HOUSING STRATEGY - PUBLIC EXHIBITION (CONT.)

- 3.4 The number of people experiencing homelessness or in housing stress in the Mitchell Shire is also growing. In 2022, it is estimated that 1,598 (8.8%) of households are experiencing housing stress. In 2021-22, 647 people accessed specialist homelessness services within Mitchell, of these 211 were homeless at the time of access.
- 3.5 Council has an important role to play in participating in a range of discussions with community housing providers, developers, state agencies and other key stakeholders and to continue to advocate for appropriate levels of funding for social housing. The draft strategy takes a realistic approach towards how Council can participate in a range of conversations that can provide input into the processes associated with delivering affordable housing.
- 3.6 The demand for Affordable Housing will continue to rise across Mitchell Shire as population increases. It is important that Council has an appropriate Strategy that can facilitate negotiations, encourage conversations and advocate on important items such as homelessness and there are viable options for residents living in very low-, low- and moderate-income households.
- 3.7 An action plan will be developed which will sit alongside of the strategy to ensure specific planning and advocacy continues to progress each year.
- 3.8 In preparing this document it is acknowledged that the draft Strategy will need to further develop and adapt in the years to come to address the ever-changing landscapes surrounding Affordable Housing at both State and Federal levels. This first iteration provides Council with a real opportunity to have a seat at the table, to advocate, facilitate and negotiate with developers and support our partners in the community housing sector with the aim of encouraging an increase in appropriately located affordable housing across the Shire.

Recommendation

THAT Council endorse the draft Affordable Housing Strategy for public exhibition between 21 March and 21 April 2023.

DRAFT AFFORDABLE HOUSING STRATEGY - PUBLIC EXHIBITION (CONT.)

4. Financial, Resource and Asset Management Implications

- 4.1 To activate and implement the draft Affordable Housing Strategy it requires organisational on-going appropriate resources to ensure its effectiveness. An educational and capacity building program will take place following the Strategies adoption.
- 4.2 To progress the intent of draft Strategy it will require human and financial resources. The Advocacy and Communities Directorate have budgeted (23/24) to support the implementation of the draft Strategy.

5. Consultation

- 5.1 Council's draft Social and Affordable Housing Strategy consultation and engagement approach has and is being undertaken in accordance with Mitchell Shire Councils Community Engagement Policy (February 2021) that is underpinned by the IAP2 Public Participation Spectrum (Inform, Consult, Involve, Collaborate and Empower).
- 5.2 Officers presented the initial draft Affordable Housing Strategy at the Councillor workshop held on the 22nd August 2022. A range of feedback was received, and a further review of the draft Strategy was undertaken.
- 5.3 A range of workshops and consultations were conducted between January and September of 2022 with Council officers, Councillors, non-for-profit community housing providers, government agencies, health service providers, developers, and other key stakeholders to understand existing planning levers, advocacy opportunities and social and affordable housing demand and mix across Mitchell Shire.
- 5.4 In addition to this, several related briefings also took place with Council in relation to updates on social and affordable housing and the State Governments investment of \$25M through Homes Victoria and Victoria's Big Build program, in Mitchell Shire.
- 5.5 Consultation and engagement of the draft Strategy will take place between
- 5.6 A range of consultation and engagement activities have been planned from 21st March and Friday 21st April 2023 with key State Government agencies, local service and housing providers, and the broader community, some of which will include:
 - Mitchell Shire community presentation and forum.
 - Government, Industry and stakeholder (e.g., Health and Human Service Organisations, Developers) presentation and forum.
 - Pop-up community consultations in Seymour, Kilmore, Wallan and Beveridge.
 - Online presence including feedback mechanisms on Engaging Mitchell.
 - Printed draft Strategy and feedback/comment cards at Councils Customer and Library Service Centres.

DRAFT AFFORDABLE HOUSING STRATEGY - PUBLIC EXHIBITION (CONT.)

- Notification on Councils website and in local circulating newspapers.
- 5.7 On completion of the public exhibition period a community engagement report will be prepared, the draft strategy will then be reviewed in line with any feedback received and a final strategy will be presented to the Executive Leadership Team and Council requesting formal adoption.
- 6. Sustainability Implications (Social and Environmental)**
- 6.1 The draft Social and Affordable Housing Strategy aims to facilitate and improve the social, environmental and wellbeing outcomes for the Mitchell Shire communities.
- 7. Policy and Legislative Implications**
- 7.1 Section 8 of the *Local Government Act 2020* (the LG Act) sets out the Role of a Council: The role of a Council is to provide good governance in its municipal district for the benefit and wellbeing of the municipal community.
- 7.2 In line with the Local Government Act, any role or action for affordable housing that the Council adopts needs to be undertaken in a way that demonstrates good governance and provides for the benefit and wellbeing of the Mitchell Shire community. The draft Strategy is a document that has been delivered to reflect the requirements of the Local Government Act, in that it advocates for change and improvement.
- 7.3 The *Planning & Environment Act 1987* (the PE Act) provides an affordable housing definition and a framework for the administration of the use and development of land.
- The definition of affordable housing in the PE Act states that: *affordable housing is housing, including social housing, that is appropriate for the housing needs of very low, low, and moderate income households.*
 - The PE Act has an objective (Section 4):
1 (fa) to facilitate the provision of affordable housing in Victoria
 - Through the function of controlling the use and development of land, the PE Act provides Councils with a means of facilitating affordable housing through the development process.
- 7.4 Council planning officers can seek to negotiate affordable housing agreements through the planning system. The negotiation may be part of a proposal to rezone land, or as part of a planning permit application.
- 7.5 The current legislative framework requires that an affordable housing contribution must be agreed on a voluntary basis, but there is growing appreciation that, if there is sufficient policy, a Council may reasonably request an affordable housing contribution.

DRAFT AFFORDABLE HOUSING STRATEGY - PUBLIC EXHIBITION (CONT.)

- 7.6 The draft Strategy provides Planning Officers a range of voluntary opportunities and mechanisms to negotiate with developers to secure more land for affordable housing.
- 7.7 The *Housing Act 1983* has the broad objective, among other things, of ensuring every person in Victoria has adequate and appropriate housing at a price within his or her means. The Housing Act, together with the Office of the Housing Registrar, provides the framework for the establishment, compliance, and recognition of registered housing agencies and the registered not-for-profit organisations that manage affordable housing for eligible households.

8. Alignment to Community Vision, Council Plan and the Municipal Health and Wellbeing Plan

- 8.1 The draft Affordable Housing Strategy aligns itself to the Mitchell 2050 Community Vision through Theme 4: Shaping Neighbourhoods, "Recognising Councils role in advocating to the State and Federal Government and other stakeholders for positive planning outcomes" and Theme 1: Vibrant Communities, "People from all life stages, faiths, gender and backgrounds will feel safe, secure and part of the community."
- 8.2 It responds to the Council Plan 2021-25, Objective 4: Community, "Our communities are welcoming, engaged, prosperous, safe and healthy."
- 8.3 And the Health and Wellbeing Plan 2021-25, Theme 4, Liveable and Thriving, Goal 22, 22.1 "Advocate for housing that is accessible and adaptable to meet communities changing health, social and environmental needs", and 22.2 "Use all available planning scheme levers to generate more diverse and affordable housing stock."

9. Conflict of Interest

- 9.1 This report advises that in the preparation of, or in contributing to the preparation of, this report there was no disclosable conflict of interest raised by a member of Council staff in the subject matter of the report.
Risk Implications

DRAFT AFFORDABLE HOUSING STRATEGY - PUBLIC EXHIBITION (CONT.)

- 9.2 Risk Ranking is determined using [ROHS201-G1-Corporate Risk Matrix](#). Risk is identified as Low, Medium, High, or Very High.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
A selection of stakeholders may raise concerns through the public consultation and engagement process.	Low	<p>The development of the draft Social and Affordable Housing Strategy has been informed by a series of targeted stakeholder workshops and discussions.</p> <p>The Strategy has also informed by observations of how other Councils have approached the issue.</p> <p>These concerns will be considered during the review of consultation outcomes report.</p>	Yes
It is important that there is organisational buy in to activate and implement the Strategy.	Medium	<p>The development of the draft Social and Affordable Housing Strategy has been informed and developed with a cross organizational working group.</p> <p>The Advocacy and Communities Directorate have budgeted (23/24) to support the implementation of the draft Strategy.</p>	Yes

10. Discussion

- 10.1 The demand for Affordable Housing will continue to rise across Mitchell Shire as population increases. It is important that Council has an appropriate Strategy that can facilitate negotiations, encourage conversations and advocate on important items such as homelessness and those living in very low-, low- and moderate-income households.

DRAFT AFFORDABLE HOUSING STRATEGY - PUBLIC EXHIBITION (CONT.)

- 10.2 The draft strategy is developed acknowledging that Local Government alone cannot solve the housing crisis, and this needs to be a whole of Government approach. It defines our role, provides a measured and appropriate response while offering opportunities to push for innovative outcomes where they are more likely to succeed.
- 10.3 Except for a few notable initiatives, local governments in Australia do not typically have a direct or legislated role in the provision of social and affordable housing. This Strategy does not shift the key responsibility from other levels of Government to local government but recognises that there are some steps local government can take.
- 10.4 The draft strategy is developed acknowledging that Local Government alone cannot solve the housing crisis, and this needs to be a whole of Government approach. It defines our role, provides a measured and appropriate response while offering opportunities to push for innovative outcomes where they are more likely to succeed.
- 10.5 The draft Strategy also provides several opportunities to facilitate and partner with and support community agencies to achieve increases in affordable housing across the Shire.
- 10.6 The draft Affordable Housing Strategy recognises that successful housing outcomes are not just about negotiating or advocating for the bricks and mortar but also about how adequate 'wrap around' services need to be in place to support future social housing tenants.
- 10.7 It is important to remember that there is a difference between housing affordability and affordable housing and that this Strategy is about Affordable Housing, not affordability more broadly:
- Housing Affordability is the relationship between expenditure on housing (prices, mortgage payments or rents) and household incomes, regardless of whether the housing is affordable housing or market housing.
- While Affordable Housing is housing that meets the definition in the *Planning and Environment Act 1987*. It has an eligibility requirement and allocation processes in place to make sure it is made available to very low, low, and moderate-income households.
- 10.8 Within the umbrella term Affordable Housing the largest type of housing is social housing – where rent is set as a proportion of household income (no more than 30% of household income). Within the terms social housing there is public housing – owned and managed by the State Government, and community housing – managed and sometimes owned by not-for-profit community housing organisations (registered housing agencies).
- 10.9 The draft Strategy identifies three key areas of influence being:
- Advocacy, engagement, and partnerships
 - Leveraging the land use planning system to the extent practicable
 - Providing incentives and opportunities in specific circumstances

DRAFT AFFORDABLE HOUSING STRATEGY - PUBLIC EXHIBITION (CONT.)

10.10 It provides the following overarching draft strategic principles:

- Affordable housing is an essential component of cohesive and vibrant communities and should meet the diverse housing needs of the community.
- The redevelopment and renewal of existing social housing is a once-in-a-lifetime opportunity to build cohesive communities.
- Affordable housing should be located where there is, or will be, access to amenities, services, and public transport.
- The redevelopment and renewal of existing social housing is an opportunity for community development and a change to deliver cohesive communities.
- Services that assist people to access housing and sustain tenancies are a vital component of the affordable housing system.
- Existing and new Affordable Housing must be well-managed and well maintained to reduce the stigma associated with past social housing developments.

10.11 While the strategy acknowledges that more social housing is needed it also identifies that social housing needs to be more evenly distributed throughout the municipality and there must be adequate services to support people who live in social housing. This position will assist Council when advocating to a range of key stakeholders on this specific matter.

10.12 It is also important to note that while the strategy focuses on affordable housing the community are facing broader issues around housing supply, the cost of market housing, and environmentally sustainable design. These matters however are addressed in other strategic council, State or Federal government documents.



Draft Affordable Housing Strategy

February 2023



Housing and First Nations People

The Taungurung and Wurundjeri Woi Wurrung people are the Traditional Owners of the lands and waterways in the area now known Mitchell. There is also a large Aboriginal community which comprises of members from nations and clans across Australia. We recognise the composition of Aboriginal communities in Mitchell is multifaceted.

Mitchell Shire Council acknowledges that Aboriginal and Torres Strait Islander peoples were the First Peoples of this land and have strived to retain their culture and identity through the period of European settlement for over 200 years. Aboriginal and Torres Strait Islander people continue to experience complex historical disadvantage, including; lower education and training levels, lower incomes and the compounding disadvantage of dispossession of their land. As a consequence, Victorian Aboriginal people face severe housing disadvantage and are 14 times more likely to experience homelessness than non-Aboriginal Victorians.

Mitchell Shire Council is committed to reconciliation and working in partnership with local Aboriginal organisations to ensure culturally designed housing is available and appropriately located with access to a range of services for Aboriginal people within the municipality.

At the 2021 Census, there were approximately 1,073 Aboriginal and Torres Strait Islander people living in Mitchell Shire (2.2% of the total population, more than twice the average rate for Victoria 1.0%).

The Victorian Aboriginal Housing and Homelessness Framework notes: *Aboriginal households are generally more open and often likely to care for elders or be kinship carers and cater for large extended and mobile families. This strength should be acknowledged and supported in considering housing requirements*. It is expected that the Victorian Aboriginal and Torres Strait Islander population will grow from 57,782 in 2016 to 95,149 in 2036 and will require an additional 5,085 Aboriginal Housing units by 2036.

Affordable housing should be developed in partnership with the Aboriginal community to support the specific cultural and kinship needs of Aboriginal households. Once developed, the housing should be owned and managed by Aboriginal-led community housing organisations.



Acknowledgement of Traditional Custodians

Mitchell Shire Council acknowledges the Taungurung and Wurundjeri Woi Wurrung people as the Traditional Owners of the lands and waterways in the area now known as Mitchell Shire. We pay our respect to their rich cultures and to Elders past, present and emerging, and other First Nations people who live, work and play in the area.



Mitchell Shire Council

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Council's Commitment

There is a housing crisis in Australia. In the Mitchell Shire, thousands of households are in housing stress. They pay a significant proportion of their household income on housing costs, leaving not enough for other expenses like transport, education supplies, health, food, and utilities.

Alongside this, years of underinvestment and insufficient management of public housing tenancies and properties have created pockets of disadvantage in our Shire. The result is loss of social cohesion and growing stigma against this vital form of housing, and the people that live within it.

As the population grows in Mitchell Shire the demand for affordable housing will increase.

For Mitchell to be a place that people of all ages love to call home and where businesses prosper, we need Affordable Housing.



Reflecting that commitment, we want affordable housing to be:

Located in townships and suburbs across the Shire to ensure appropriate access to services and social infrastructure



Well-designed to provide comfortable homes with good amenity and urban design outcomes for residents, neighbours and the wider community



Part of vibrant and cohesive communities connected to a range of support services



We know this is a challenge that cannot be solved by one entity, organisation or tier of government. It requires commitment and funding from State and Federal governments. As a local government, we are committed to doing what we can to facilitate and advocate for the delivery of affordable housing.

Mitchell Shire Council is committed to playing its part to address the housing crisis that is impacting all generations. We are seeking a commitment and action from all levels of government, industry, and the not-for-profit sector to also play their part in tackling this crisis.



Mitchell Shire Council will facilitate the delivery of affordable housing by:

Engaging in advocacy



Leveraging the land use planning system



Working in partnership, providing incentives, and exploring opportunities



Introduction to Affordable Housing

The Mitchell Shire Affordable Housing Strategy (the Strategy) has been developed to support Council to facilitate affordable housing outcomes in the Mitchell Shire.

The Strategy supports the Mitchell Shire Community Vision 2050 which sets out:

Community Vision Statement:

“We are a healthy, vibrant and connected community that values nature, diversity and innovation.”

Our wish for the future:

“Mitchell will become a place that people of all ages love to call home. Where we celebrate our natural beauty and where businesses prosper.”

It also reflects the Mitchell Shire Health and Wellbeing Plan 2021 – 2025 where housing is recognised as one of the social determinants of health. This Strategy focuses on Affordable Housing. The community is facing broader issues around housing supply, the cost of market housing, and environmentally sustainable design but those are addressed in other strategic Council, State or Federal government documents.



What is Affordable Housing?

Affordable Housing is non-market housing where the rent or purchase price is set at an affordable rate, not simply determined by economic market forces. It is housing that is appropriate for the needs of very low, low, and moderate income households.

Affordable Housing has eligibility requirements (household income) and an allocation process to make sure the housing goes to people in need.

In Victoria, the vast majority of Affordable Housing is Social Housing – long-term rentals where the rent is set at no more than 30% of the household income.

Social Housing is either:

Public housing – owned and managed by the State government.

Community housing – managed and/or owned by not-for-profit community housing organisations.

The diagram below illustrates where affordable housing fits into the broader housing continuum.

The Housing Continuum



Affordable Housing Policy Framework

The policy framework for Affordable Housing involves all tiers of government:



In addition to government, the community housing sector (not-for-profit) plays an important role in managing and developing Affordable Housing. The development sector is also essential for housing construction. The private development sector has access to finance and capital, plus the experience to deliver housing developments at a scale and efficiency that other sectors don't.

Funding

Because Social Housing has rents set well below market housing it needs a subsidy to make it viable. State Government usually has responsibility for funding Social Housing. The Big Housing Build is a \$5.3billion State Government grant funding program to build 12,000 dwellings across Victoria. There is a minimum investment guarantee that at least \$25 million will be invested into Mitchell Shire.

The Federal Government has announced the National Housing Accord which seeks to align the efforts of all levels of government, institutional investors and the construction sector to help tackle the nation's housing problem.

The Federal Government has committed \$350 million in funding to deliver 10,000 affordable homes by 2029. The funding will incentivise superannuation funds and other institutional investors to make investments in social and affordable housing by covering the gap between market rents and subsidised rents.

Some local governments subsidise Affordable (Social) Housing by making land it owns available at little or no cost.

Subsidies can also come from developers who agree to provide cash, land, or houses for Affordable Housing as part of their planning permit or rezoning proposal.

The role of Mitchell Shire Council

Mitchell Shire Council has identified it will influence the delivery of affordable housing in the municipality through:

- Advocacy, engagement, and partnerships
- Leveraging the land use planning system
- Providing incentives and opportunities

This is described in more detail on pages 12 to 16.



Housing challenges in Mitchell Shire

The Mitchell Shire population forecast for 2023 is

57,417

people and it is forecast to grow to

181,591

people by 2041

The rapidly growing areas of Beveridge and Wallan have

limited to no

social housing

There is insufficient government

funding of services

to meet the existing demand in the Mitchell Shire, with a rapidly growing population, the demand for these services will also grow

Much of the growth is expected to occur within the southern townships of

Beveridge, Kilmore and Wallan

It is estimated that

1,598

households are experiencing housing stress

There is a clear relationship between

the location of housing

and residents' wellbeing which is why affordable housing needs to be well located to services, education, employment, and transport

There is a current shortfall of at least

2,050

affordable homes in Mitchell Shire



Up to date data and analysis is available in the Housing Monitor at profile.id.com.au/mitchell

Family violence

incidents are causing housing insecurity for **women and children**

There is **not enough emergency/crisis**

accommodation in Mitchell Shire to respond to the demand, we need it to support people escaping family violence and for people at risk of or experiencing homelessness

Affordable housing is **unevenly distributed** through Mitchell Shire, on average,

2.0%

of households are social housing, but in Seymour, social housing accounts for **7.9%** of households

Additional **social housing is essential**

for **emergency and transitional housing** to operate successfully so that people can move through emergency or transitional housing into safe, secure, affordable housing

Successful housing outcomes are **not** just about bricks and mortar, many people need

'wrap around'

or **support services** to help them navigate through housing, education, health or employment systems



Mitchell Shire Council

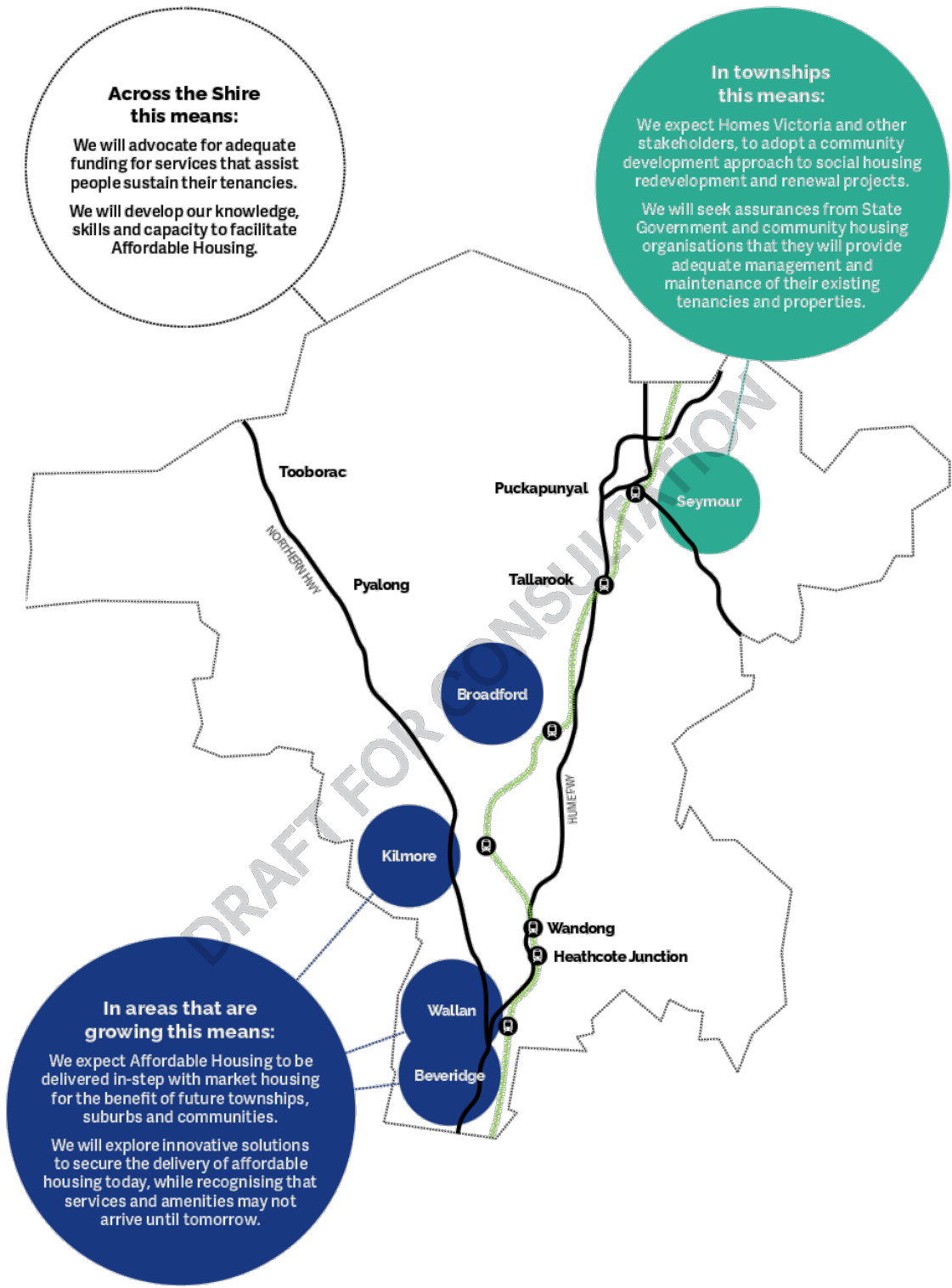
Strategic Principles

We recognise that the funding and management of affordable housing primarily rests with the State government and community housing sector and the role of local government is facilitation.

In adopting the Statement of Commitment (page 2), Mitchell Shire Council endorses the following overarching principles when facilitating the delivery of social and affordable housing across the municipality.

- 1** Each township and community across Mitchell are different, affordable housing is an essential component of a cohesive and vibrant community. It should be developed to be appropriately located and environmentally designed in order to meet the diverse needs of the community now and into the future.
- 2** The redevelopment and renewal of existing social housing is a once-in a lifetime opportunity to build cohesive communities. When renewing or developing affordable housing regard should be given to the existing neighbourhood character, local community environments, existing social housing density, sustainable design options and impacts of climate change.
- 3** Affordable Housing should be located where there is, or will be, access to amenities, services (including emergency services) and public transport. Affordable Housing that is not located in proximity to appropriate amenities and services is discouraged.
- 4** Existing and new Affordable Housing must be well-managed and well maintained to reduce the stigma associated with past social housing developments. Appropriate consideration must be given to site selection and dwelling design to ensure safety, security and public amenity are protected and enhanced (for example Crime Prevention through Environmental Design (CPTED)).
- 5** Existing and new Affordable Housing must be well-managed and well maintained to reduce the stigma associated with past social housing developments.





Advocacy, Engagement, and Partnerships

A significant portion of existing policy settings, legislation, and funding mechanisms to deliver Affordable Housing are the responsibility of State or Federal Government. The construction of additional housing is also influenced by decisions of individual landowners, corporations, or lending institutions.

Council cannot address the shortage of affordable housing on our own. Mitchell Shire Council will advocate for sustainable levels of funding and will seek to create partnerships with government, industry, and housing organisations.

Council's position

It is Council position that:

Policy 1	State and Federal governments should provide sufficient funding for Affordable Housing and associated services and ensure that affordable housing is evenly distributed within Mitchell Shire and across surrounding municipalities.
Policy 2	The State government should adopt community development and cohesion as the foundation for the redevelopment or renewal of public housing.
Policy 3	Appropriate management of social housing, together with community engagement and education, can help increase community support for Affordable Housing.
Policy 4	We aim to work in partnership with governments, registered housing agencies, and developers to encourage the development of affordable housing in Mitchell Shire.

Council actions

Council will:

- Advocate to Federal and State governments to secure additional funding for affordable housing and associated services in Mitchell Shire
- Advocate to the State government for the redevelopment of public housing in Seymour to be delivered in a way that supports a cohesive vibrant community
- Engage with the community, developers, and stakeholders to build understanding of the important role that Social and Affordable Housing plays in cohesive communities.
- Partner with registered housing agencies to support them in their role of delivering Affordable Housing.
- Collaborate with the other local governments including regionally with Hume and Whittlesea Councils, Interface Councils and through the Inter-Council Affordable Housing Forum.

Mitchell Shire has a wide range of partnerships including:

- Interface Councils Group
- Northern Council Alliance
- National Growth Areas Alliance
- Hume Region Councils



Mitchell Shire Council is committed to playing its part to address the housing crisis that is impacting all generations. We are seeking a commitment and action from all levels of government, industry, and the not-for-profit sector to also play their part in tackling this crisis.

Advocating for Affordable Housing in Mitchell Shire

What is the issue?

In the Mitchell Shire, 8.8% or nearly 1600 households are in housing stress. They pay a significant proportion of their household income on housing costs, leaving not enough for other expenses like transport, education supplies, health, food, and utilities. Alongside this, years of underinvestment and insufficient management of public housing tenancies and properties, particularly in Seymour, has created pockets of disadvantage in our Shire. The result is loss of social cohesion and growing stigma against this vital form of housing, and the people that live within it. There is a shortage of appropriate support services and crisis accommodation options to support people at risk of homelessness, including women and children escaping family violence.

How big is the problem?

There is currently a shortfall of at least 1,000 Affordable Housing dwellings in Mitchell Shire. In the rapidly growing areas of Beveridge, Kilmore, and Wallan there is almost no social housing. But in Seymour the amount of social housing is almost three times the State average.

The Mitchell Shire population is just under 50,000 people, forecast to grow to 181,591 people by 2041. As the population grows in Mitchell Shire the demand for Affordable Housing will increase. Based on the current level of demand this growth in population would equate to more than 6,800 households in need of Affordable Housing by 2041 – that is equivalent to the current population of Seymour and Broadford combined.

Advocating for our Community

How can State government make a difference?

Council welcomed the \$25m minimum investment guarantee for Mitchell Shire as part of the Big Housing Build. But it has been difficult to get a line of sight on where and how that money will be spent. Council is asking State government to:

- Adopt a community development approach as the foundation of any redevelopment or renewal projects in Seymour – it must be about more than bricks and mortar, and must be done in partnership with Council and the local community
- Provide additional funding for Affordable Housing and support services in our rapidly growing communities of Beveridge, Kilmore, and Wallan
- Include provisions for Affordable Housing contributions as part of the Present Structure Planning process

How we can partner with other organisations

Mitchell Shire Council will partner with community housing and support service providers to encourage investment into the Shire to support a healthy, vibrant and connected community so that Mitchell is a place that people of all ages love to call home.

For more information

Advocacy and Community Services
 > 03 5374 6200
 > advocacy@mitchellshire.vic.gov.au
 > mitchellshire.vic.gov.au/advocacy



Land use planning

We recognise that there are opportunities within the planning system to negotiate affordable housing outcomes for current and future residents. We will use all available planning scheme levers, including seeking to influence the State government precinct structure plans, to generate more affordable housing. We will ensure the affordable housing meets the needs of current and future residents.

Council's position

It is Council position to:

Policy 5	Encourage Affordable Housing to be located close to services, employment and public transport (now and in the future) and at a density that does not lead to concentrations of disadvantage.
Policy 6	Ensure that Precinct Structure Plans include provisions for Affordable Housing.
Policy 7	Require an affordable housing contribution for rezoning proposals that include residential or mixed-use component; and for planning permit applications that will create more than 30 dwellings or 30 or more residential lots.
Policy 8	Recognise the benefits provided by Affordable Housing and balance that against other planning matters when assessing planning permit applications that include Affordable Housing.

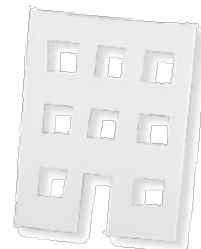
Council actions

Council will:

- Seek affordable housing outcomes in Precinct Structure Plans and Development Plans, including those developed by the Victorian Planning Authority (VPA)
- Consider how and when this Affordable Housing Strategy could be reflected in the Mitchell Shire Planning Scheme
- Build our skills and knowledge so we can successfully negotiate for affordable housing contributions as part of rezonings or planning permit applications
- Encourage Affordable Housing to be delivered alongside of a network of activity centres. This includes Metropolitan, Major and Neighbourhood activity centres.

"I want action to support creative, affordable housing options in and around towns such as cooperative housing and co-housing"

Male, aged 67





Affordable Housing Contributions

When considering any proposed Planning Scheme Amendments that rezone land into a residential use it is Council policy that:

- The developer will provide 5% of the net developable area for social housing
- The landowner will enter into a S173 agreement to secure that contribution

The contribution will be provided on the following basis:

- 5% of the net developable area delivered as fully serviced lots, OR a contribution of equal value delivered as completed house and land
- Delivered at no cost to a registered housing agency by way of transfer of title
- For land only contributions (no dwellings), roads and utility connections to the lot must be completed and at no cost to the recipient prior to the lots being transferred
- The affordable housing contribution is to be delivered in step with the market housing, however alternative sequencing will be considered where there can be a guaranteed delivery and there will be improved affordable housing outcomes
- To the extent practicable, the affordable housing will be provided within walking distance of services and amenities recognising that transport costs can disproportionately impact on low income households.

When considering planning permit applications for 30 or more dwellings or residential lots it is Council policy that:

- The developer will provide 3% of the dwellings for social housing
- The landowner will enter into a S173 agreement to secure that contribution

The contribution will be provided on the following basis:

- 3% of the dwellings delivered as completed dwellings (rounded up to the nearest whole number)
- Delivered at no cost to a registered housing agency by way of transfer of title
- The affordable housing contribution is to be delivered in step with the market housing, however alternative sequencing will be considered where there can be a guaranteed delivery and there will be improved affordable housing outcomes

Incentives and Opportunities

While Council cannot deliver or subsidise the full amount of affordable housing that is required to meet demand in the Mitchell Shire, we can encourage organisations to invest in social housing in the municipality and there are incentives that councils can consider.

Council's position

It is Council's position to:

Policy 9	Explore opportunities to co-locate affordable housing in the design and development of council buildings through 'air rights' or other mechanisms.
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Policy 10	Assess incentives and opportunities that encourage investment in Affordable Housing in the Mitchell Shire on a case-by-case basis.
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Council actions

Council will:

- Continue to recognise not-for-profit housing organisations when applying Council's *Statutory Planning Fee Waiver and Rebate Policy 2019*
- Prepare guidelines on how affordable housing will be considered when developing council assets, such as air-rights over community facilities.



"I want no judgement within our community. People from all ages and backgrounds feel connected and not isolated."

Female, aged 49, Wallan

Evaluation and monitoring

The Affordable Housing Strategy will be supported by an Action Plan. The Action Plan will be designed to allow officers to monitor and report on the Actions. Actions from the Plan will be incorporated into the organisational business planning and will be updated annually.

An Evaluation Framework will be used to monitor the outcomes and impact of the Strategy over time. The evaluation measures may include, but are not limited to:

- Change in the proportion of social and affordable housing by area
- New and ongoing investment in affordable housing in the municipality and by area (including negotiated contributions)
- New investment in public housing renewal
- New investment in housing and related support services in the municipality and by area
- Change in community awareness and engagement in the issue
- Increased staff capacity to negotiate affordable housing outcomes.

The Strategy will be reviewed in line with the Council Plan cycle and as part of that review, there will be updated data and analysis of the amount of affordable housing in the municipality.



Mitchell Shire Council

- 📍 113 High Street, Broadford 3658
- 📞 03 5374 6200
- ✉ mitchellshire.vic.gov.au/advocacy



7.3 RFT 202237 - ENVIRONMENTAL HEALTH SERVICES

Author: Adam Evans - Manager Community Amenity and Emergency Management

File No: CT/04/337

Attachments:

1. RFT 202237 Evaluation Panel Report - Confidential
2. RFT 202237 Evaluation Matrix - Confidential
3. RFT 202237 Probity Advisor Report - Confidential

1. Purpose

1.1 To seek Council approval to award tender RFT202237 for Environmental Health Services.

2. Background

2.1 Council has Statutory obligations to provide Environmental Health Services. The objective of Environmental Health Services is to protect residents and visitors from infectious disease and to improve their health and wellbeing.

2.2 This service includes the management of all statutory applications made under the *Public Health and Wellbeing Act 2008*, *Food Act 1984*, including registration and surveillance. Infectious Disease control, monitoring of businesses and premises that are registered under the *Public Health and Wellbeing Act 2008*, Domestic Wastewater Management, Environmental Protection and Tobacco surveillance and enforcement.

2.3 Mitchell Shire Council has outsourced Environmental Health Services which have been provided by Kernow Environmental Services Pty Ltd since 2018.

3. Key Matters

3.1 The current contract commenced in 2018 and expires on 30 June 2023. In light of the impending expiry, RFT 202237 was released to the market with the intent of contracting for Environmental Health Services for an initial period of three years with two, three year extension options.

3.2 An assessment undertaken by the Community Amenity and Emergency Management department has estimated the cost to deliver these services in house to be \$830,000 per annum and would require a significant time to transition, including recruitment of staff. The contract of these services in 2018 resulted in a significant improvement in the services provided by Council and 100% of State Government requirements being met.

RFT 202237 - ENVIRONMENTAL HEALTH SERVICES (CONT.)

Recommendation**THAT** Council:

1. Awards Contract 202237 with Kernow Environmental Health Services ACN 070 348 999 for \$707,229.25 (excluding GST) per annum for the provision of Environmental Health Services subject to an annual CPI price escalation and capacity review.
2. Determines that this contract commences 01 July 2023 for a period of three years with options to extend the contract by two additional three year periods, subject to contractor performance and Council's need.
3. Authorise the Chief Executive Officer to do all things necessary to execute the contract, including advising the tenderers of Council's decision in this matter.
4. Authorise the Chief Executive Officer to renew a term of the contract subject to a contractor's performance and Council's needs.
5. Authorise the Chief Executive Officer to renew a term of contract subject to a market assessment, contractors performance and Councils needs.

RFT 202237 - ENVIRONMENTAL HEALTH SERVICES (CONT.)

4. Project Financial Summary

- 4.1 The proposed contract is for a fixed price of \$707,229.25 (exclusive GST) for year one and is subject to price adjustments for CPI and capacity adjustments as required by Council. Any capacity adjustment will be a result of an annual review and will allow Council to meet the increasing demands for these services resulting from growth.
- 4.2 The Environmental Health Services is being funded via the sources listed in the table below:

Source	Budget Description	Budget No.	Amount
Health Management	Contractors	44000 1360	\$707,229.25
Total Budget Allocation			\$707,229.25

- 4.3 Any increases in the contract cost associated with the annual CPI adjustment and capacity review will be constrained by the available budget.
- 4.4 Income received by the Environmental Health unit for the 21/22 financial year was \$230,566 and to date in the 22/23 financial year was \$171,296.

5. Council Policy Implications

- 5.1 This procurement report complies with Council's Procurement Policy and Guidelines.

6. Alignment to Community Vision, Council Plan and the Municipal Health and Wellbeing Plan

- 6.1 As indicated in Section 108 of the *Local Government Act 2020*, whereby Council is required to maintain and utilise a relevant Procurement Policy.
- 6.2 Awarding this Contract is in line with the 2021-2025 Council Plan by ensuring our communities are safe and healthy.

7. Community and Stakeholder Consultation

- 7.1 Consultation was conducted with internal and external stakeholders to ensure the needs of the community and Council were met.

RFT 202237 - ENVIRONMENTAL HEALTH SERVICES (CONT.)

8. Collaborative Procurement

- 8.1 Section 109(2) of the *Local Government Act 2020* requires that any report to Council that recommends entering into a procurement agreement includes information in relation to any opportunities for collaboration with other Councils or public bodies which may be available.
- 8.2 In undertaking this procurement process there were no opportunities to collaborate with other Councils or public bodies as nearby councils either do not currently outsource these services, or their contracts are not due for renewal.

9. Sustainability Implications (Social and Environmental)

- 9.1 With a responsibility to demonstrate leadership in sustainable environmental management in all Mitchell Shire Council business operations Council is currently in the process of reviewing the Domestic Wastewater Management Plan. The Domestic Wastewater Management Plan is to ensure that there is a reduction of the impact that wastewater has on our community and the environment.
- 9.2 The proposed provider will be required to meet the requirements of the new Mitchell Shire Council Domestic Wastewater Management Plan.

RFT 202237 - ENVIRONMENTAL HEALTH SERVICES (CONT.)

10. Conflict of Interest

10.1 This report advises that in the preparation of, or in contributing to the preparation of, this report there was no disclosable conflict of interest identified or raised by a member of Council staff in the subject matter of the report.

11. Contract Risk Implications

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
Not able to engage a suitable service provider for the tender within the timeframe	Medium	Entering into contract 202237 for the provision of the required services.	Yes
The difficulty in securing suitably qualified Environmental Health Officers	High	External services contracted	Yes
Meeting all legislative requirements as per the contract and specifications	Low	Ensure that the service provider is able to meet all contractual and specification requirements	Yes

12. Discussion

12.1 The Mitchell Shire Council Procurement Policy states public tenders must be sought by Council if a planned Contract is estimated to have a value in excess of \$300,000 including GST.

12.2 In accordance with this policy, a Request for Tender (RFT) was released to the market on 09 October 2022 via the Mitchell Shire Council electronic tender portal and was advertised in the following newspapers:

Table 1 Tender Advertising

Medium	Date Advertised
The Age	08 October 2022
The North Central Review	11 October 2022
The Seymour Telegraph	12 October 2022

RFT 202237 - ENVIRONMENTAL HEALTH SERVICES (CONT.)

12.3 12 companies downloaded the tender documentation and there was 1 response to the tender.

Tender Submissions

Table 2 Tender Submissions Received

Tender	Company	Conforming tender	Price Ex GST (per annum)
A	Kernow Environmental Health Services Pty Ltd.	Yes	\$707,229.25

Tender Evaluation Panel

12.4 The Evaluation Panel assessed the tender submission to ensure they satisfied the mandatory evaluation criteria. The submission met the mandatory evaluation criteria and was then assessed in full by the Evaluation Panel. The Evaluation Panel assessed and scored the tender submissions in accordance with the Weighted Tender Assessment Criteria.

Table 3 Tender Evaluation Panel

Position Title	Panel role
Manager Community Amenity and Emergency Management	Assessor
Manager Life Stages	Assessor
Maternal Child Health & Immunisation Coordinator	Assessor
Procurement Advisor	Advice
External Probity Advisor (Pitcher Partners)	Advice

Tender Evaluation Scores

12.5 The final tender evaluation scores for each conforming tender is shown in Table 4 below. A complete breakdown of evaluation scores relative to each assessment criteria is shown in Attachment 1 and 2 of this report.

Table 4 Tender Evaluation Scores

Tender	Contractor	Score	Rank
A	Kernow Environmental Services	8.83	Recommend

Tender Evaluation Criteria

12.6 The tender submission was given a weighted score for their submitted price and capability of delivering the project.

12.7 Evaluation of tender pricing considered all assumptions stated by Tenderer in relation to their tender prices to ensure the accuracy of the comparative price assessment.

RFT 202237 - ENVIRONMENTAL HEALTH SERVICES (CONT.)

Post-Tender Contact

- 12.8 As Kernow Environmental Health Services Pty Ltd provide these services under the current contract, a review of the past performance has been undertaken with relevant officers in lieu of reference checks. The result of this review has indicated a high level of service being provided which has resulted in a high level of compliance.
- 12.9 A Vendor credit check was also undertaken to confirm the financial viability of the Vendor. We received a positive assessment indicating that it has a Sound financial capacity to undertake this contract.

13. Probity

- 13.1 Our probity measures are designed to achieve an equitable, justifiable, and sound process according to equal opportunity for all tenderers rather than an approach that is procedurally perfect.
- 13.2 The process will be applied with common sense and flexibility in process design where appropriate, so that the task of fairly selecting the best tenders takes priority.
- 13.3 Should an error or omission in the tender process occur, the project team will seek legal advice and not enter into any immediate communications with tenderer(s) until strategy options have been considered to address the concern.
- 13.4 Options for legal and/or other solutions should then be adopted to address any potential problems at later stages of the process. Tenderers will be informed of any changes to the process or new factors which may affect their offers.
- 13.5 Adherence to probity principles also means meeting the requirements of the *Public Administration Act, 2004*, that all employees:
- act impartially, and;
 - act with integrity including avoiding real or apparent conflicts of interest.
- 13.6 The probity report has been attached at attachment 3.

14. Conclusion

- 14.1 The Tender Evaluation Panel has conducted a comprehensive assessment of the submission which was received in Environmental Health Services project as outlined in this Report to ensure response to Council's request for tender for RFT 202237.

RFT 202237 - ENVIRONMENTAL HEALTH SERVICES (CONT.)

14.2 Based on the assessment the Tender Evaluation Panel recommends that Kernow Environmental Services Pty Ltd is engaged via contract 202237. The basis for this recommendation includes:

- Their proven ability to complete of all tasks and legal requirements including mandatory reporting to the applicable State Government Departments.
- Their submission meeting the Council's tender requirements.
- The outsourcing of the environmental health services provided by Council, continues to provide the best value for money option.

7.4 RFT202249 - CONSTRUCTION OF TAYLORS CREEK SHARED PATH

Author: Rhys Long - Recreation Project Officer
Clay Drysdale - Project Manager - Civil Infrastructure

File No: GS/04/011

Attachments: 1. RFT 202249 Tender Evaluation Panel Report V8 - Confidential

1. Purpose

- 1.1 To provide a summary of the procurement process undertaken for RFT202249 Construction of Taylors Creek Shared Paths and seek Council approval to award Stage 1 – Part A and Stage 1 – Part B to the recommended tenderer for the project.

2. Background

- 2.1 Taylors Creek Shared Path Project is being delivered in partnership with the State Government's Growing Suburbs Fund (2019/2020).
- 2.2 This project enables the creek to become a central green space and improve access, movement and connectivity along Taylors Creek for the local Wallan residents and wider community.
- 2.3 Budget issues were identified during the design, consultation and investigation phase of the project and were raised with the Executive Leadership Team (ELT) and Councillors in 2021.
- 2.4 A Cultural Heritage Management Plan (CHMP) is required as part of the project. A significant number of artefacts (762) were found during complex site testing in 2021/2022. The complex testing involved the manual excavation and sieving of a large number of 'test pits' along the route of the paths. During the complex testing, a minimum of two cultural heritage advisors and two Registered Aboriginal Party representatives were required on-site. As artefacts were discovered, additional 'test pits' were required to be dug. Pandemic restrictions on worksites such as at Taylors Creek were also in place during much of the time. This has caused significant delays to the project delivery timeframes, budget implications and additional design requirements.
- 2.5 A Councillor briefing note was presented and supported in June 2022 outlining, project timeframe delays, additional design requirements and detailing a funding strategy, which would see the use of the Wallan Open Space Reserve fund to supplement the budget shortfall.

RFT202249 - CONSTRUCTION OF TAYLORS CREEK SHARED PATH (CONT.)

3. Key Matters

- 3.1 A formal grant variation (timing and scope) signed by Council's Chief Executive Officer needs to be submitted and approved by the funding body (State Government Department).
- 3.2 The CHMP has yet to be lodged and is expected to be finalised by May 2023. The various requirements of the CHMP has caused the project timeframes to require variation.
- 3.3 Stage 3 was removed from this contract and will be completed by a third party in order to maximise value for money.

Recommendation

THAT Council:

1. Awards Contract RFT202249 Stage 1 - Parts A, B and C to Cole Civil for \$1,477,322.81 (ex GST) for the construction of Stage 1 - Parts A, B and C of the Taylors Creek Shared Path Project.
2. Authorises the Chief Executive Officer to do all things necessary to execute the contract, including advising the tenderers of Council's decision in this matter.
3. Endorses a Contingency Allowance of up to \$147,732.28 (ex GST) (10% of Contract sum) in addition to the Contract sum for the works.
4. Endorses a Project Management Allowance of up to \$44,319.68 (ex GST) (3% of Contract sum) in addition to the Contract sum for the works.

RFT202249 - CONSTRUCTION OF TAYLORS CREEK SHARED PATH (CONT.)

4. Project Financial Summary

4.1 The following table shows a breakdown of the revenue sources for the original Taylors Creek Shared Path project as set out in the funding application submitted in September 2019.

Source of Revenue	Budget Description	Cost Centre No.	Amount (GST Exclusive)
Victorian Government Department of Jobs, Precincts and Regions - Growing Suburbs Fund	Taylors Creek Shared Path	10823	\$1,688,050.00
*Mitchell Shire Council Contribution	Wallan Taylors Creek Reserve – Activation	10823	\$98,395.00
TOTAL PROJECT BUDGET			\$1,786,445.00

*To ensure the project progresses as per the funding agreement, Council contributed an additional \$13,551.80

4.2 The Taylors Creek Shared Path is to be funded in 2022/23 via the sources listed in the table below:

Source	Budget Description	Budget No.	Amount GST Exclusive
Grant – Taylors Creek Shared Path	State Government (Growing Suburbs Fund)	10823	\$1,342,895.00
Mitchell Shire Council	Wallan Open Space Reserve	N/A	\$624,228.29
TOTAL BUDGET ALLOCATION			\$1,967,123.29

4.3 The following table shows total project expenditure up to 2022/23.

Item	Amount GST Exclusive
2019/20	\$23,753.14
2020/21	\$181,475.38
2021/22	\$251,873.28
PREVIOUS PROJECT EXPENDITURE	\$457,101.80

4.4 The following table shows a breakdown of how the total project budget will be allocated:

Item	Amount GST Exclusive
Project expenditure from 2019/20 to 2021/22	\$457,101.80
Stage 1 (Parts A, B and C) Contract Sum Sub-Total	\$1,477,322.81
Contract Provisional Sum Items	\$0
CONTRACT TOTAL	\$1,477,322.81

RFT202249 - CONSTRUCTION OF TAYLORS CREEK SHARED PATH (CONT.)

Contingency Amount (10% of Project Budget)	\$147,732.28
Project Management	\$37,002.48
YTD Spend	\$62,034.07
Works not a part of this contract	\$235,714.45
TOTAL PROJECT EXPENDITURE	\$2,424,225.09

4.5 A Contingency Amount of \$147,732.28 is included within the project budget for any unforeseen circumstances. This may include any latent conditions during excavation or any unforeseen items during the construction phase. The project will be managed by Capital Works Project Manager, Mitchell Shire Council.

4.6 The following table sets out the main differences between the original project cost set out in 4.1 and the current project cost set out in 4.4.

Item	Original Project Cost	Current Project Cost	Comment
Design	\$0	\$133,219	No allowance in funding submission
Cultural Heritage	\$35,000	\$488,577	Extensive quantity of artefacts discovered with extensive salvage requirements
Project Management	\$82,894	\$111,402	Delay to project timeframe will require increased Project management resource
TOTAL	\$117,894	\$733,198	

5. Council Policy Implications

5.1 This procurement report complies with Council's Procurement Policy and Guidelines.

6. Alignment to Community Vision, Council Plan and the Municipal Health and Wellbeing Plan

6.1 This project is closely aligned to various objectives within the Council Plan, Community Vision and Municipal Health and Wellbeing Plan.

6.2 As indicated in Section 108 of the *Local Government Act 2020*, whereby Council is required to maintain and utilise a relevant Procurement Policy.

RFT202249 - CONSTRUCTION OF TAYLORS CREEK SHARED PATH (CONT.)

- 6.3 Awarding this Contract is in line with the 2021-2025 Council Plan Strategic Indicator as stated, Built Environment – Timely delivery of community infrastructure.

7. Community and Stakeholder Consultation

- 7.1 Extensive engagement has been undertaken with the wider Wallan community, the State Government (Growing Suburbs Fund), Melbourne Water and the Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation during design development. Regular consultation with key stakeholders will be maintained during the construction phase.

8. Collaborative Procurement

- 8.1 Section 109(2) of the *Local Government Act 2020* requires that any report to Council that recommends entering into a procurement agreement includes information in relation to any opportunities for collaboration with other Councils or public bodies which may be available.
- 8.2 In undertaking this procurement process there were no opportunities to collaborate with other Councils or public bodies.

9. Sustainability Implications (Social and Environmental)

- 9.1 Council has a commitment to building and sustaining partnerships with other levels of government to meet community needs as efficiently as possible. This project would not be possible without the support of the State Government's Growing Suburbs Fund (GSF). The project will improve community wellbeing by providing services and infrastructure that support the needs and aspirations of our residents around Wallan, Beveridge and Mitchell Shire generally.
- 9.2 All light fittings installed on this project are energy rated light emitting diodes (LED) and comply with all Australian energy ratings and Standards. LED fittings are far more energy efficient, higher quality and cost effective. The use of concrete along sections of the path, although an initial greater financial outlay will reduce safety issues for participants

RFT202249 - CONSTRUCTION OF TAYLORS CREEK SHARED PATH (CONT.)

10. Conflict of Interest

10.1 This report advises that in the preparation of, or in contributing to the preparation of, this report there was no disclosable conflict of interest identified or raised by a member of Council staff in the subject matter of the report.

11. Contract Risk Implications

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
Project does not proceed due to budget shortfall	High	<ul style="list-style-type: none"> Project has an achievable works program Nominate an experienced contractor experienced in delivering similar projects Approval of Cultural Heritage Management Plan Budget shortfall for 10823 to be funded from the Wallan Open Space Reserve 	Yes <ul style="list-style-type: none"> Detailed project works program developed Experienced contractor is approved Council officers work closely with Cultural Heritage Management Plan experts Capital Works Board endorsed funding within Council's Wallan Open Space Reserve Fund
Delayed approval of Cultural heritage Management Plan and associated salvage operations resulting in delayed start to works and potential contract	High	<ul style="list-style-type: none"> Approval of Cultural Heritage Management Plan is outside of Council's control 	Yes – Council Officers working closely with Cultural Heritage Management Plan experts
Budget shortfall	Medium	<ul style="list-style-type: none"> Shortfall for 10823 to be funded from the Wallan Open Space Reserve as approved by the Capital Works Board. Any unspent contingency during the construction project will result in reduced project expenditure with savings to be returned to the Wallan Open Space Reserve. 	Yes – Development Contributions Committee and Capital Works Board has identified funding within Council's Wallan Open Space Reserve Fund

RFT202249 - CONSTRUCTION OF TAYLORS CREEK SHARED PATH (CONT.)

Practical Completion date not achieved	Medium	<ul style="list-style-type: none"> Developed an achievable works program. Nominated a contractor experienced in delivering similar projects. Practical Completion date established to meet revised grant funding timelines. 	Yes – Provided contract approval is not delayed
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12. Discussion

12.1 The Mitchell Shire Council Procurement Policy states public tenders must be sought by Council if a planned Contract is estimated to have a value in excess of \$300,000, including GST.

12.2 In accordance with this policy, a Request for Tender (RFT) was released to the market on 28 November 2022 via the Mitchell Shire Council electronic tender portal and was advertised in the following newspapers:

Table 1 Tender Advertising

Medium	Date Advertised
The Age	26 November 2022
The North Central Review	29 November 2022
The Seymour Telegraph	30 November 2022

12.3 There were four (4) submissions received by the closing date 30 January 2023, three (3) of these were compliant with mandatory tender requirements. One (1) submission was non-compliant with the mandatory requirements.

12.4 Tender Submissions

Table 2 Tender Submissions Received

Tender	Conforming tender
A	No
B	Yes
C	Yes
D	Yes

RFT202249 - CONSTRUCTION OF TAYLORS CREEK SHARED PATH (CONT.)

Tender Evaluation Panel

12.5 The Evaluation Panel assessed and scored the tender submissions in accordance with the Weighted Tender Assessment Criteria.

Table 3 Tender Evaluation Panel

Position Title	Panel role
Civil Infrastructure Delivery Coordinator	Chair - Scoring
Project Manager - Civil Infrastructure	Member - Scoring
Acting Senior Recreation Development Officer	Member - Scoring
Procurement Advisor	Advisor – Non-scoring

Tender Evaluation Scores

12.6 The tender submission was given a weighted score for their submitted price and capability of delivering the Contract.

12.7 Evaluation of tender pricing considered all assumptions stated by the Tenderer in relation to their tender prices to ensure the accuracy of the comparative price assessment.

Post-Tender Contact

12.8 After an initial review the evaluation panel made the decision to short list two (2) tenderers

12.9 Clarifications were sought and obtained from the shortlisted companies regarding conditions that accompanied their submissions. Both submissions were then rescored by the TEP members which resulted in a clear preferred tenderer.

12.10 Reference checks were undertaken for the preferred tenderer. Referees provided feedback on the completion of projects of similar size and nature. An interview with the preferred tenderer was then held via MS Teams.

Table 4 Tender Evaluation Scores

Tender	Weighted Score	Rank
A	8.19	Recommend

13. Conclusion

13.1 Three (3) compliant tender submissions were received for Contract RFT202249. Council officers have completed the procurement process and recommends the award of Contract RFT202249 Stage 1 Parts A, B and C to Cole Civil. The Taylors Creek Shared Path Project is vital to properly activate the precinct for community use and to enable Council to provide accessible walking paths throughout the Wallan Township.

13.2 Stage 3 works will be procured and awarded separately.

RFT202249 - CONSTRUCTION OF TAYLORS CREEK SHARED PATH (CONT.)

- 13.3 The Taylors Creek Shared Path Project is vital to properly activate the precinct for community use and to enable Council to provide accessible walking paths throughout the Wallan suburb.
- 13.4 A formal grant variation (timing and scope) signed by Council's Chief Executive Officer needs to be submitted and approved by the funding body (State Government Department). Due to the project delays already experienced, it is important that construction be completed in 2023.

8 ORGANISATIONAL PERFORMANCE

8.1 RENAMING OF PART FERGUSON STREET BROADFORD

Author: Brocke Gallagher - Revenue Coordinator

File No: RA/18/004

Attachments: 1. Renaming of Part Ferguson Street Broadford Map

1. Purpose

- 1.1 This report corrects a historic street naming issue at Ferguson Street, Broadford and provides a naming solution that meets the requirements of the *Geographic Place Names Act 1998*.

2. Background

- 2.1 Ferguson Street, Broadford is currently separated into two different sections. One section is on the western side of the railway between Hamilton Street and Murchison Street, the other larger section is on the eastern side of the railway and continues through to First Street. These two sections of Ferguson Street are not connected, the railway runs directly between them. The street is shown on the map in Attachment 1.

3. Key Matters

- 3.1 The section of Ferguson Street proposed to be renamed is the smaller section between Hamilton Street and Murchison Street.
- 3.2 This renaming proposal would affect 15 properties currently numbered to the affected section of Ferguson Street. These properties have been marked on the map in Attachment 1.
- 3.3 Renaming this section of Ferguson Street to the new proposed name of Old Dairy Lane would remove any confusion and limit the risk of emergency and/or other services not being able to locate this area and is a solution that will see the remaining section of Ferguson Street continue uninterrupted from the railway line through to First Street.
- 3.4 There are no changes proposed for the more developed section of Ferguson Street, Broadford that is on the eastern side of the railway line.

RENAMING OF PART FERGUSON STREET BROADFORD (CONT.)

Recommendation

THAT Council:

1. Rename the section of Ferguson Street, Broadford that is between Hamilton Street, Broadford and Murchison Street, Broadford to Old Dairy Lane, Broadford.
2. Submit the recommendation for the agreed name change to Geographic Names Victoria for review and registration in the *Victoria Government Gazette*.
3. Upon registration, issue a public notice advising of the change and update all relevant street signage.

RENAMING OF PART FERGUSON STREET BROADFORD (CONT.)

4. Financial, Resource and Asset Management Implications

- 4.1 To affect the name change, Council is first required to notify Geographic Names Victoria, who have the discretion to refuse the name change. If approved, Council is required to install signage, inform the community through the issuing of a public notice and notify all relevant authorities of any new/changed addresses. These requirements will be met within existing operational budgets.

5. Consultation

- 5.1 Initial consultation was undertaken in 2019 to seek recommendations for naming options. Suggestions that were unable to be accepted are below:

- Neill, Green, Church, Catherine, Clarke and Mitchell are all non-compliant as streets with the same names are existing within the prescribed 15km duplication radius.
- Ferguson Street North, is non-compliant as the name includes a directional indicator, contravening Principle L of the naming rules.

- 5.2 In August 2022 Council proposed three names which are believed to have a link to the area and invited the public to indicate their preferred street name. Options were Strawboard, Butter Factory and Old Dairy. Responses were as follows:

- Strawboard – 22 in support
- Butter Factory – 8 in support
- Old Dairy – 30 in support

- 5.3 Following majority support of Old Dairy, the next process was to inform and engage on the outcome of the previous engagement. In November 2022 Council wrote to all effected properties to advise of the engagement outcome and to provide a final opportunity to submit feedback.

- 5.4 Five submissions were received following the November letters for the proposal of which four were in support.

- 5.5 One submission disagreed with the proposal due to the use of “Old” in the name. This submission was anonymous.

6. Sustainability Implications (Social and Environmental)

- 6.1 This is an administrative process and does not have any environmental or sustainability implications.

RENAMING OF PART FERGUSON STREET BROADFORD (CONT.)

7. Policy and Legislative Implications

- 7.1 All road name proposals must meet the requirements of the Naming rules for places in Victoria issued by the Department of Transport and Planning (Geographic Names Victoria).
- 7.2 The rules emphasise the importance of compliance (which is legislated under the *Geographic Places Names Act 1998*) particularly with respect to public safety and easy identification of places for emergency services

The Naming rules require compliance with 13 core principles:

- A. Ensuring public safety
- B. Recognising the public interest
- C. Linking the name to place
- D. Ensuring names are not duplicated
- E. Recognition and use of Traditional Owner languages
- F. Names must not discriminate or be offensive
- G. Gender equality
- H. Dual names
- I. Using commemorative names
- J. Using commercial and business names
- K. Language
- L. Directional names to be avoided
- M. Assigning extent to a road, feature or locality

The proposed road name Old Dairy Lane, Broadford complies with the above principles.

8. Alignment to Council Plan

- 8.1 This recommendation aligns with Council's strategic objectives of Responsible Planning and Community Participation.

9. Conflict of Interest

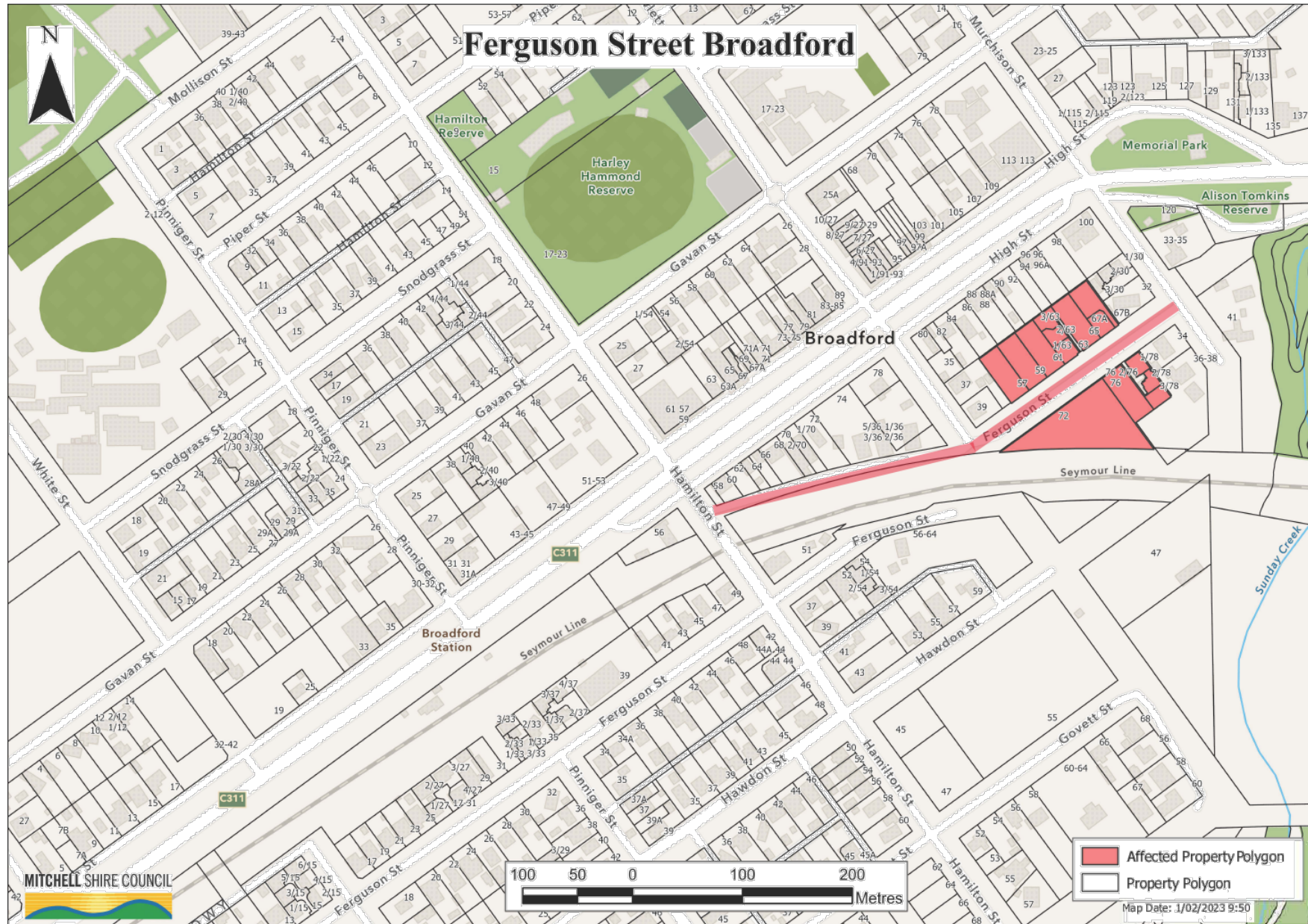
- 9.1 This report advises that in the preparation of, or in contributing to the preparation of this report, there was no disclosable conflict of interest raised by a member of Council Staff in the subject matter of the report.

10. Risk Implications

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
Delay or confusion in locating addresses by emergency services.	Medium	Rename section of street.	Yes

RENAMING OF PART FERGUSON STREET BROADFORD (CONT.)

Renaming of Part Ferguson Street Broadford Map



8.2 AUSTRALIAN LOCAL GOVERNMENT ASSOCIATION - NATIONAL GENERAL ASSEMBLY PROPOSED MOTIONS AND ATTENDANCE

Author: Lidia Harding - Manager Governance & Risk

File No: OR/04/001

Attachments: 1. Previous Notices of Motions

1. Purpose

- 1.1 To seek endorsement from Council to submit five motions to the Australian Local Government Association (ALGA) National General Assembly (NGA) on the themes of funding for major infrastructure, Australian natural disaster insurance, building resilience to natural disasters, volunteers and circular economy.

2. Background

- 2.1 The ALGA NGA is an annual opportunity for Councillors to inform themselves on current major policy issues and to contribute to national policy debate. This year the Assembly is being held in Canberra from 13-16 June 2023. The Assembly provides councils across Australia with the opportunity to submit motions regarding issues of both local and national importance for consideration and possible adoption and assists as a means of local government advocating to state and federal governments on issues of importance.

3. Key Matters

- 3.1 This year, Council will have the opportunity to submit motions based on the theme "Our Communities, Our Future". See the link below for the discussion paper. Motions are due by 24 March 2023.
- 3.2 As Mitchell Shire has taken an active role in advocating Federal Government to enhance the liveability of Mitchell Shire, this provides a great opportunity to raise some of our issues that are also of National concern.
- 3.3 Issues that are faced by both Mitchell Shire and are of national concern proposed to be put forward as a motion are in the Discussion section of this report.

AUSTRALIAN LOCAL GOVERNMENT ASSOCIATION - NATIONAL GENERAL ASSEMBLY PROPOSED MOTIONS AND ATTENDANCE (CONT.)

Recommendation

THAT Council officers:

1. Submit the following motions to the National General Assembly meeting being held in June 2023:

Major Infrastructure Funding

THAT the National General Assembly call on the Federal and State Governments to develop, prioritise and appropriately fund major infrastructure for communities in Australia's rapidly growing urban fringe including road, transport, and social infrastructure.

Australian Natural Disaster Insurance

THAT the National General Assembly call on the Federal Government to examine the feasibility of establishing an Australian Natural Disaster Insurance Scheme to protect and promote resilience to future natural disasters.

Building resilience to natural disasters

THAT the National General Assembly calls on the Federal and State governments to provide funding which will actively support a range of new programs, investments, reviews or other initiatives which aim at increasing a community's resilience to future natural disasters. In part this would also include any requests to review relevant Planning or Building controls or standards in order to future proof how properties can be built to better alleviate any impacts of a disaster on the structure and its fixtures and fittings.

The increased funding should be widely available in order to ensure a diversity of initiatives and outcomes.

National Volunteer Recruitment Campaign

THAT the National General Assembly calls on the Federal and State Governments to instigate a national volunteer recruitment campaign to refocus and enhance the surge capacity of Australia's emergency service organisations.

Circular Economy

THAT the National General Assembly advocate to the Federal Government to support the establishment of markets nationally to support a local circular economy that prioritises reuse of our precious resources.

AUSTRALIAN LOCAL GOVERNMENT ASSOCIATION - NATIONAL GENERAL ASSEMBLY PROPOSED MOTIONS AND ATTENDANCE (CONT.)

2. Approves interstate travel for Cr Fiona Stevens, Mayor and Cr Louise Bannister, Deputy Mayor to represent Council at the 2023 National General Assembly of Local Government in Canberra from 13 to 16 June 2023, noting the travel, accommodation and registration expenses will be met from the Mayor and Councillors budget.

3. Grant approval for the Mayor to use the Mayoral Vehicle for travel to Canberra.

 AUSTRALIAN LOCAL GOVERNMENT ASSOCIATION - NATIONAL GENERAL ASSEMBLY PROPOSED MOTIONS AND ATTENDANCE (CONT.)
4. Financial, Resource and Asset Management Implications

- 4.1 Costs for attendance at the Assembly including airfares, accommodation and conference registration are estimated to be approximately \$3,000 per person. These costs will be met from the 2022-2023 budget for Mayor and Councillors. The Mayor has indicated that should she attend the conference she will use the Mayoral vehicle to travel to Canberra.

5. Consultation

- 5.1 Motions for the Assembly have been developed in consultation with Councillors and officers.

6. Sustainability Implications (Social and Environmental)

- 6.1 There are no social and environmental implications.

7. Policy and Legislative Implications

- 7.1 Participating in the ALGA National General Assembly is an annual opportunity for Councillors to inform themselves on current major policy issues and to contribute to national policy debate.
- 7.2 In accordance with the Interstate and Overseas Travel and Accommodation Policy attendance by Councillors to interstate conferences must be approved by resolution of Council and a report on the conference provided as part of the monthly delegate report.

8. Alignment to Community Vision, Council Plan and the Municipal Health and Wellbeing Plan

- 8.1 The motions presented align with Council's priorities as follows:

Strategy 1.2: Demonstrate strong leadership and good governance and
 Strategy 4.3: Advocate for and collaborate with partners for improved accessibility for a broader range of services in the Shire.

9. Conflict of Interest

- 9.1 This report advises that in the preparation of, or in contributing to the preparation of, this report there was no disclosable conflict of interest raised by a member of Council staff in the subject matter of the report.

10. Risk Implications

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
Mitchell is not represented and heard at a major event	Low	Councillors will attend the conference and put	Yes

 AUSTRALIAN LOCAL GOVERNMENT ASSOCIATION - NATIONAL GENERAL ASSEMBLY PROPOSED MOTIONS AND ATTENDANCE (CONT.)

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
		motions forward of local and national significance	

11. Discussion

11.1 Motion 1 *Funding for Major Infrastructure*

Objective

The National General Assembly calls on the Federal and State Governments to ensure the appropriate funding and timing of delivering for vital infrastructure in outer urban growth areas. There should be a significant focus on jobs, social infrastructure, transport and health, community and educational services which are equally accessible for all people across the life stages.

Key arguments

Many emerging communities in greenfield developments in outer urban growth areas face substantial challenges related to place-making, community building and resilience. Often communities within growth areas are made of residents from diverse range of backgrounds having moved from neighbouring areas, cross-city, inter-state or from overseas. As local councils we celebrate and embrace the exciting opportunities to grow and learn which are presented by our new residents.

These communities, however, often suffer from a lack of extant infrastructure and services for many of their formative years. It is vital that social and community infrastructure, accompanying health, community and educational services, along with transport and other basic infrastructure, is provided early and comprehensively.

It is well researched, that the early delivery of infrastructure and services help to nurture a community, improve their resilience, future proof their liveability and promote placemaking.

Federal Government investments are urgently needed to unlock the significant backlog of infrastructure projects which are impeding the development of health, connected, and sustainable communities.

11.2 Motion 2 *Australian Natural Disaster Insurance*

Objective

The National General Assembly calls on the Federal Governments to establish processes and appropriately fund investigations into the feasibility of establishing an Australian Natural Disaster Insurance Scheme. This scheme could help to add a layer of protection and resilience for communities, businesses, and individuals in the wake of future natural disasters.

Key arguments

AUSTRALIAN LOCAL GOVERNMENT ASSOCIATION - NATIONAL GENERAL ASSEMBLY PROPOSED
MOTIONS AND ATTENDANCE (CONT.)

Research has shown that many communities in Australia will be significantly impacted by climate change over the coming decades. With climate change increasing the intensity and frequency of extreme weather events including fire, flooding, and extreme temperatures all possible avenues for increasing community resilience should be adequately explored and considered.

The recent flooding events across Eastern Australia have highlighted issues related to inadequate, overly expensive, or needlessly restrictive insurance cover. Many communities, businesses, and individuals have found themselves left un- or under-insured.

An Australian Natural Disaster Insurance Scheme could add a layer of protection to ensure that in case of future natural disasters appropriate and adequate insurance cover is either in place, or available. The Federal Government should act to examine similar schemes internationally and explore the feasibility of an insurance scheme in Australia.

11.3 Motion 3 *Building Resilience to Natural Disasters*

Objective

The National General Assembly calls on the Federal and State governments to provide funding which will actively support a range of new programs, investments, reviews or other initiatives which aim at increasing a community's resilience to future natural disasters. In part this would also include any requests to review relevant planning or building controls or standards in order to future proof how properties can be built to better alleviate any impacts of a disaster on the structure and its fixtures and fittings.

The increased funding should be widely available in order to ensure a diversity of initiatives and outcomes.

Key arguments

Increasing and more intense natural disasters are likely to impact Australian communities and climate changes progresses over the coming decades. The recent flooding in Eastern Australia, on the back of devastating bushfires has clearly highlighted the vulnerability of many communities across the nation.

Whilst funding is available for certain resilience building projects, considering the significant costs associated with disaster recovery, the funding allocated for preparedness and resilience building is insufficient. Australian governments have long approached funding of health-care through prioritising primary prevention, now is the time to tackle natural disasters in much the same way.

Any review of the relevant planning or building controls should be aimed towards supporting practical changes in the design and construction of a dwelling where fixtures, fittings or equipment can be relocated to areas less likely to be impacted on by a natural disaster. For example, this may include the relocation of services to the roof area when it is likely the floor could be compromised or inundated by flooding.

AUSTRALIAN LOCAL GOVERNMENT ASSOCIATION - NATIONAL GENERAL ASSEMBLY PROPOSED MOTIONS AND ATTENDANCE (CONT.)

Substantially increased, diversified funding, which enables investment by different actors in a range of unique initiatives will have the greatest impact in empowering communities and supporting resilience building.

11.4 Motion 4 *National Volunteer Recruitment Campaign*

Objective

That Emergency Services have the Volunteers and appropriate resources to adequately respond to the increased frequency of major events and disasters linked to climate change.

Key arguments

It is critical that when facing increasingly frequent major emergency events that communities be protected by adequate numbers of trained and equipped volunteers.

Volunteers have been the backbone of emergency response since the European settlement of Australia. Sadly, over recent years the focus has shifted away from volunteers and equipment and the need for enhanced surge capacity within the various emergency service organisations (Rural Fire Services, SES, Red Cross). Further, it must be recognised that in most recent major emergencies, such as the recent flood events and the 2019/2020 Black Summer fires many of the existing Emergency Response Agencies were completely overwhelmed. Large sections of the population were thrown back on private resources and individual initiative.

In a fire scenario the dramatic decline in volunteer numbers and the growing mean age of those remaining (in Victoria) is not offset by the increase in operational firefighting aircraft with their limited ability to operate at night and in extreme weather conditions.

Community resilience will be enhanced with more trained volunteers out in the community. These volunteers will be able to respond and boost the surge capacity of emergency response organisations to major events. Further this would be a most cost-effective and practical way to respond to Climate Change. Far more can be achieved with a national approach to volunteering rather than the current piecemeal, adhoc approach to recruitment. A combination of a national campaign to attract volunteers and adequate resourcing with current and up to date equipment will show that volunteers are needed and valued.

Attachment 1 are motions that have been passed by Mitchell Council and are lodged as background and support to the above motion.

AUSTRALIAN LOCAL GOVERNMENT ASSOCIATION - NATIONAL GENERAL ASSEMBLY PROPOSED MOTIONS AND ATTENDANCE (CONT.)

11.4 Motion 5 *Circular economy*

Objective

To advocate to the Federal government to facilitate and support the development of genuine markets for the use of recyclable materials to accelerate the establishment of a thriving local circular economy

Key arguments

The amount of waste generated in Australia has continued to grow. This is driven by a range of factors such as population growth, increased consumption, excessive packaging and poor product design.

The best way to manage waste is to create less in the first place. The waste hierarchy prioritises waste avoidance and minimisation which can be achieved through consumer behaviour change, improved product and packaging design, and reusing or repairing products.

Both avoiding and reducing the amount of waste we generate will reduce pollution, greenhouse gas emissions and the unsustainable use of virgin resources which can also result in monetary savings.

While we acknowledge and applaud the State government's commitment to supporting a circular economy through the adoption of Recycling Victoria, A New Economy the document is missing key initiatives needed to support a thriving local circular economy, namely the creation of markets for products made from recycled content. The policy places a high emphasis on how we collect and sort materials, however without genuine demand and markets for products made from recycled materials a circular economy will not exist. This was recently demonstrated with the collapse of the REDcycle soft plastic recycling program.

The recent issues experienced within the recycling industry, coupled with significant waste policy changes both within Victoria and both nationally and internationally have highlighted the importance of, and need for, increased action by the State government. To establish a strong Victorian circular economy the State government must demonstrate leadership by facilitating both economically and environmentally sustainable markets for recycled materials and products urgently.

12.1 NOTICE OF MOTION: NO. 1028 - ENHANCED COMMUNITY PROTECTION FOR FIRE RELATED ISSUES

Author: Councillor Bill Chisholm

File No: FP/15/001

Attachments: Nil

I hereby give notice of my intention to move the following motion at the Ordinary Council Meeting to be held on 17 October 2022.

MOTION

THAT Council advocate to all levels of Government, the Municipal Association of Victoria (MAV) and all relevant politicians to try to address the following issues with regard to emergency response preparation across Victoria:

- Recognise a serious shortfall in volunteer numbers (and the mean age of volunteers) in emergency roles, and instigate a State, Federal, or combined level response and recruitment campaign to address same.
- Recognise that with the growing impacts of climate change, a 30 year replacement cycle for Victorian CFA Fire Tankers is woefully inadequate and try over time to reintroduce the previous 20 year replacement cycle.
- Call on all government departments and agencies to recognise their responsibilities under the *CFA Act 1958* and institute relevant fire prevention and mitigation measures on all lands under their control, especially in Urban, and the rural/urban interface areas of our towns and communities.

1. Councillor Comment

- 1.1 With the increasing effects of climate change becoming more apparent, it is critical that responding agencies have the resources and appropriate measures in place to address major incidents. It is of the greatest importance to the communities and residents of this Shire that critical shortfalls are noted and addressed. The recent flood events in northern NSW, and subsequent flood inquiry 2022 have identified significant failings. Important issues such as the three identified in this notice of motion must be addressed before rather than after the next major emergency management event.

2. Officer Comment

- 2.1 In addition to the strong reliance community has on CFA volunteers to respond to fire, Council relies on active CFA members to contribute to the

functionally of its Committees and development of its works programs. Council trust CFA volunteers to represent community on various matters involving Councils own fire preparedness activities. An enhanced volunteer base will not only provide improved response for community, it will also assist Council in its preparedness activities.

- 2.2 It is important that our local volunteers have access to the appropriate fleet. S.43 of the *CFA Act 1958* places a responsibility on all public authorities to take all practical steps to prevent the occurrence of fire, and the spread of fires from its land to ensure it meets its obligation under the Act. Council identifies public authority land that may require fuel reduction works and also actively work with these public authorities to make aware of these concerns.

Signed: _____

Cr Bill Chisholm

Date: 20 September 2022

12.1 NOTICE OF MOTION: NO. 1031- EMERGENCY RESPONSE PREPARATION

Author: *Councillor Bill Chisholm*

File No: *CR/01/097*

Attachments: *Nil*

I hereby give notice of my intention to move the following motion at the Ordinary Council Meeting to be held on 21 November 2022.

MOTION

THAT Council:

1. Advocate to all levels of Government, the Municipal Association of Victoria (MAV) and all relevant politicians to try to address the following issues in regard to emergency response preparation across Victoria.
2. Recognise the serious shortfall in volunteer numbers in emergency roles, especially with regards to the State Emergency Services (SES) and instigate a State, Federal or combined level response and recruitment campaign to address same.
3. Give proper recognition and support for the current volunteers within the SES with a completely revised funding package whereby they are supplied with an adequate State delivered and maintained vehicle fleet and ancillary equipment.

4. Recognise that with the limited equipment and resources supplied by State Government they are severely restricted in achieving many of their roles and tasks. It must be extremely difficult for these volunteers to train and perform basic tasks given they are constantly having to raise money for equipment and maintenance. In stating the above, we should all recognise the great work they currently carry out.

3. Councillor Comment

- 3.1 It is extremely disturbing to discover during an emergency situation that an organisation such as the State Emergency Service is at unit level required for fund the substantial majority of its vehicles and much of its equipment. Mitchell Shire is covered predominantly by two SES units. This is over an area that encompasses approximately thirteen CFA Brigades.
- 3.2 These units are expected to carry out a multitude of tasks. From cutting people out of vehicle accidents, search's and support, flood response, removing fallen trees during storm events. etc, etc the list is virtually endless. It is my understanding that they are supplied with one vehicle and a limited amount of equipment by the State Government.
- 3.3 Thus a significant portion of volunteers precious time is dedicated to "tin rattling" to get the funding to support the replacement of their additional vehicles and the equipment. Volunteers should not be expected or required to raise this money.
- 3.4 The State Government through their Emergency Response Planning require the SES to perform a pivotal role in many emergency situations, they should therefore adequately fund them, to achieve these goals.
- 3.5 We as a Council and community should do everything possible to ensure that the SES funding model adequately supports volunteers, and only requires them to perform limited self-funding. This may also enhance the recruitment of additional members.

Signed: _____

Cr Bill Chisholm

Date: 26 October 2022

8.3 MAV STATE COUNCIL MOTIONS

Author: Lidia Harding - Manager Governance & Risk

File No: CL/04/001-03

Attachments: Nil

1. PURPOSE

- 1.1 This report recommends the submission of three motions to the next Municipal Association of Victoria (MAV) State Council meeting.

2. BACKGROUND

- 2.1 The MAV State Council meeting provides Council with the opportunity to raise motions of state wide significance to bring to the attention of the State Government. Motions are due to be submitted by 20 March 2023.

3. KEY MATTERS

- 3.1 The following motions are proposed to be submitted to the next MAV State Council meeting with regard to the topics:
- Major Infrastructure Funding
 - Supporting building resilience to natural disasters
 - Circular Economy

MAV STATE COUNCIL MOTIONS (CONT.)

RECOMMENDATION

THAT Council officers submit the following motions to the Municipal Association of Victoria State Council meeting being held in May 2023:

Major Infrastructure Funding

THAT the Municipal Association of Victoria call on the Federal and State Governments to develop, prioritise and appropriately fund major infrastructure for communities in Australia's rapidly growing urban fringe including road, transport, and social infrastructure.

Supporting building resilience to natural disasters

THAT the Municipal Association of Victoria call on the Federal and State Governments to increase funding available to local communities, local government, and individuals, and implement legislation, policy, and regulations to improve and support building resilience to natural disasters.

Circular economy

THAT the Municipal Association of Victoria advocate to the State Government to support the establishment of markets in Victoria to support a local circular economy that prioritises reuse of our precious resources.

MAV STATE COUNCIL MOTIONS (CONT.)

4. FINANCIAL, RESOURCE AND ASSET MANAGEMENT IMPLICATIONS

4.1 Nil.

5. CONSULTATION

5.1 The MAV State Council Motions proposed have been informed by officers and are in relation to significant state wide issues.

6. SUSTAINABILITY IMPLICATIONS (SOCIAL AND ENVIRONMENTAL)

6.1 Nil.

7. POLICY AND LEGISLATIVE IMPLICATIONS

7.1 Council is a member council of the MAV and can submit motions which are in line with the MAV Strategy 2021-2025.

8. ALIGNMENT TO COMMUNITY VISION, COUNCIL PLAN AND THE MUNICIPAL HEALTH AND WELLBEING PLAN

8.1 Council Plan 2021 – 2025 Strategic Objective: “Council is accountable to, engaged with and respected by our community and Key Priority 2: Demonstrate strong leadership and good governance.

9. CONFLICT OF INTEREST

9.1 This report advises that in the preparation of, or in contributing to the preparation of, this report there was no disclosable conflict of interest raised by a member of Council staff in the subject matter of the report.

10. RISK IMPLICATIONS

10.1 Risk Ranking is determined using [ROHS201-G1-Corporate Risk Matrix](#). Risk is identified as Low, Medium, High or Very High.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
Council is not afforded the opportunity to advocate on significant issues on behalf of the community	Low	Motions are submitted to the MAV State Council meeting	Yes

MAV STATE COUNCIL MOTIONS (CONT.)

11. DISCUSSION

11.1 The rationale for the three motions proposed is as follows:

Major Infrastructure Funding

Objective

The Municipal Association of Victoria calls on the Federal and State Governments to ensure the appropriate funding and timing of delivering for vital infrastructure in outer urban growth areas. There should be a significant focus on jobs, social infrastructure, transport and health, community and educational services which are equally accessible for all people across the life stages.

Key arguments

Many emerging communities in greenfield developments in outer urban growth areas face substantial challenges related to place-making, community building and resilience. Often communities within growth areas are made of residents from diverse range of backgrounds having moved from neighbouring areas, cross-city, inter-state or from overseas. As local councils we celebrate and embrace the exciting opportunities to grow and learn which are presented by our new residents.

These communities, however, often suffer from a lack of extant infrastructure and services for many of their formative years. It is vital that social and community infrastructure, accompanying health, community and educational services, along with transport and other basic infrastructure, is provided early and comprehensively.

It is well researched, that the early delivery of infrastructure and services help to nurture a community, improve their resilience, future proof their liveability and promote placemaking.

Federal and State Government investments are urgently needed to unlock the significant backlog of infrastructure projects which are impeding the development of health, connected, and sustainable communities.

Supporting building resilience to natural disasters

Objective

The Municipal Association of Victoria calls on the Federal and State Governments to provide funding, or make policy, legislation, or regulatory changes which will actively increase a community's resilience to future natural disasters.

Key arguments

Increasing and more intense natural disasters are likely to impact Australian communities and climate changes progresses over the coming decades. The recent flooding in Eastern Australia, on the back of devastating bushfires has clearly highlighted the vulnerability of many communities across the nation.

Whilst funding is available for certain resilience building projects, considering the significant costs associated with disaster recovery, the funding allocated for preparedness and resilience building is insufficient. Australian governments have

MAV STATE COUNCIL MOTIONS (CONT.)

long approached funding of health-care through prioritising primary prevention, now is the time to tackle natural disasters in much the same way.

Substantially increased, diversified funding, which enables investment by different actors in a range of unique initiatives will have the greatest impact in empowering communities and supporting resilience building.

Along with this State and Federal Governments should act to address issues within legislation, policy, or regulations which leave communities vulnerable to natural disasters. Particular attention should be paid to:

- Planning schemes to ensure that they do not facilitate residential development in disaster prone areas;
- Emergency warning systems to ensure that communities are warned and can prepare for imminent disasters; and
- Education programs which cover the range of potential natural disasters including floods and storms.

*Circular economy**Objective*

To advocate to the State Government to facilitate and support the development of genuine markets for the use of recyclable materials to accelerate the establishment of a thriving local circular economy

Key arguments

The amount of waste generated in Australia has continued to grow. This is driven by a range of factors such as population growth, increased consumption, excessive packaging and poor product design.

The best way to manage waste is to create less in the first place. The waste hierarchy prioritises waste avoidance and minimisation which can be achieved through consumer behaviour change, improved product and packaging design, and reusing or repairing products.

Both avoiding and reducing the amount of waste we generate will reduce pollution, greenhouse gas emissions and the unsustainable use of virgin resources which can also result in monetary savings.

While we acknowledge and applaud the State government's commitment to supporting a circular economy through the adoption of Recycling Victoria, A New Economy the document is missing key initiatives needed to support a thriving local circular economy, namely the creation of markets for products made from recycled content. The policy places a high emphasis on how we collect and sort materials, however without genuine demand and markets for products made from recycled materials a circular economy will not exist. This was recently demonstrated with the collapse of the REDcycle soft plastic recycling program.

The recent issues experienced within the recycling industry, coupled with significant waste policy changes both within Victoria and both nationally and internationally have highlighted the importance of, and need for, increased

MAV STATE COUNCIL MOTIONS (CONT.)

action by the State government. To establish a strong Victorian circular economy the State government must demonstrate leadership by facilitating both economically and environmentally sustainable markets for recycled materials and products urgently.

8.4 INSTRUMENT OF APPOINTMENT AND AUTHORISATION - PLANNING AND ENVIRONMENT ACT 1987

Author: Lidia Harding - Manager Governance & Risk

File No: HR/20/001-02

Attachments: 1. Authorisation - Rick Traficante
2. Authorisation - Naz Sumer

1. Purpose

- 1.1 To seek the appointment of an authorised officer for the purposes of the *Planning and Environment Act 1987* and the regulations made under that Act and under s 313 of the *Local Government Act 2020* which authorises the officer either generally or in a particular case to institute proceedings for offences against the Acts and regulations.

2. Background

- 2.1 The Chief Executive Officer, by authority conferred by Instrument of Delegation from Council dated 22 November 2021, makes these appointments.
- 2.2 Under the *Planning and Environment Act 1987* Authorised Officers can only be appointed by Council resolution as the Act prohibits delegation of the power to appoint Authorised Officers under the Act.

3. Key Matters

- 3.1 Section 188(2) of the *Planning and Environment Act 1987* provides that Councils cannot delegate the power to authorise Officers for the purposes of enforcing the *Planning and Environment Act 1987*.
- 3.2 As the Authorised Officer involved enforce several other Acts and regulations other than the *Planning and Environment Act 1987*, Maddocks Lawyers' other general Instrument of Appointment and Authorisation covering these Acts and regulations will continue to operate in tandem with the separate Instrument of Appointment and Authorisation (*Planning and Environment Act 1987* only) where Authorised Officers are appointed by Council resolution.

INSTRUMENT OF APPOINTMENT AND AUTHORISATION - PLANNING AND ENVIRONMENT ACT 1987
(CONT.)

Recommendation

In the exercise of the powers conferred by s 147(4) of the *Planning and Environment Act 1987*, Mitchell Shire Council resolves THAT –

1. The members of Council staff referred to in the instrument at Attachment 1 be appointed and authorised as set out in the instrument.
2. The instrument comes into force immediately after it is signed by Council's Chief Executive Officer, and remains in force until Council determines to vary or revoke it.

INSTRUMENT OF APPOINTMENT AND AUTHORISATION - PLANNING AND ENVIRONMENT ACT 1987
(CONT.)

4. Financial, Resource and Asset Management Implications

4.1 There are no significant financial or asset management implications arising from the appointment of Authorised Officers.

5. Consultation

5.1 Managers advise Governance of required appointments.

6. Sustainability Implications (Social and Environmental)

6.1 There are no significant environment and sustainability implications arising from the appointment of Authorised Officers.

7. Policy and Legislative Implications

7.1 Section 147(4) of the *Planning and Environment Act 1987* appoints the officer to be an authorised officer for the purposes of the *Planning and Environment Act 1987* and the regulations made under that Act.

7.2 Section 313 of the *Local Government Act 2020* authorises the officer either generally or in a particular case to institute proceedings for offences against the Acts and regulations described in the Instrument of Appointment.

8. Alignment to Community Vision, Council Plan and the Municipal Health and Wellbeing Plan

8.1 Key Priority 2: Demonstrate strong leadership and good governance.

9. Conflict of Interest

9.1 This report advises that in the preparation of, or in contributing to the preparation of, this report there was no disclosable conflict of interest raised by a member of Council staff in the subject matter of the report.

10. Risk Implications

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
Required staff are not provided with the right authorisations to undertake their duties	Low	Officers are authorised under relevant legislation	Yes

11. Discussion

11.1 The Authorisations will be signed by the Chief Executive Officer.



INSTRUMENT

Appointment and Authorisation

S11A. Instrument - Planning and Environment Act 1987

In this instrument "officer" means -

- Enrico (Rick) Traficante

By this instrument of appointment and authorisation Mitchell Shire Council -

1. under section 147(4) of the *Planning and Environment Act 1987* - appoints the officer to be an authorised officer for the purposes of the *Planning and Environment Act 1987* and the regulations made under that Act; and
2. under section 313 of the *Local Government Act 2020* authorises the officer generally to institute proceedings for offences against the Acts and regulations described in this instrument.

It is declared that this instrument -

- (a) comes into force immediately upon its execution;
- (b) remains in force until varied or revoked.

This instrument is authorised by a resolution of **Mitchell Shire Council** on 20 March 2023.

.....
Brett Luxford

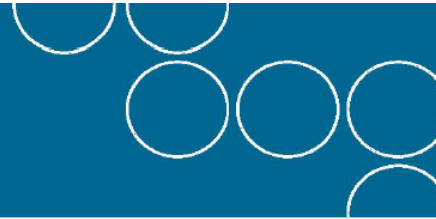
Chief Executive Officer

Date: 20 March 2023



INSTRUMENT

Appointment and Authorisation



S11A. Instrument - Planning and Environment Act 1987

In this instrument "officer" means -

- Naz Sumer

By this instrument of appointment and authorisation Mitchell Shire Council -

1. under section 147(4) of the *Planning and Environment Act 1987* - appoints the officer to be an authorised officer for the purposes of the *Planning and Environment Act 1987* and the regulations made under that Act; and
2. under section 313 of the *Local Government Act 2020* authorises the officer generally to institute proceedings for offences against the Acts and regulations described in this instrument.

It is declared that this instrument -

- (a) comes into force immediately upon its execution;
- (b) remains in force until varied or revoked.

This instrument is authorised by a resolution of **Mitchell Shire Council** on 20 March 2023.

.....

Brett Luxford

Chief Executive Officer

Date: 20 March 2023

8.5 DELEGATE REPORT - AUDIT AND RISK COMMITTEE

Author: Lidia Harding - Manager Governance & Risk

File No: CM/08/003

Attachments: 1. Draft Audit and Risk Committee Minutes - February 2023 - Confidential

1. Purpose

- 1.1 This report provides Council with an overview of items considered by the Audit and Risk Committee (the Committee) at its meeting held on 23 February 2023 for noting (Confidential Attachment 1).

2. Background

- 2.1 Council has established an independent Audit & Risk Committee (Committee) pursuant to section 53 of the *Local Government Act 2020* (the Act), which supports Council in discharging its oversight responsibilities related to financial reporting, risk management, maintenance of sound systems of internal control, assurance activities including internal and external audit and Council's performance with regard to legislative and regulatory compliance and its Codes of Conduct. It acts in this capacity by monitoring, reviewing and advising on issues within its scope of responsibility.

3. Key Matters

- 3.1 At the confidential meeting of the Audit and Risk Committee held on 23 February 2023, the following items were discussed:

Item	Full title of business item
4.1	Matters Arising
5.1	Annual Works Program
6	Probity Questions
7.1	2023/24 Budget and LTFP Preparation
7.1.1	Financial Report for the three months ending 31 December 2022
7.2.1	Monitor the Compliance of Council Policies as they relate to overarching Governance Principles and Local Government Act and Ministerial Direction
7.3.1	Risk Report & OHS Update- February 2023
7.5.1	Internal Audit Status and Update
7.5.2	Landfill Management - Internal Audit Outcome

DELEGATE REPORT - AUDIT AND RISK COMMITTEE (CONT.)

7.5.3	Community Engagement – Internal Audit Outcome
7.5.4	Asset Maintenance Internal Audit Update
7.5.2	Audit Issues Monitor
7.6.1	External Audit Strategy

The minutes have been endorsed out of session by the Members.

Recommendation

THAT Council receives and notes the delegate's report for the Audit and Risk Committee meeting held on 23 February 2023.

DELEGATE REPORT - AUDIT AND RISK COMMITTEE (CONT.)

4. Financial, Resource and Asset Management Implications

4.1 The activities of the Committee are funded within the Council Budget.

5. Consultation

5.1 Not applicable.

6. Sustainability Implications (Social and Environmental)

6.1 No implications

7. Policy and Legislative Implications

7.1 The Audit and Risk Committee is constituted in accordance with Council's Audit and Risk Committee Charter and in accordance with Sections 53 and 54 *Local Government Act 2020*.

8. Alignment to Community Vision, Council Plan and the Municipal Health and Wellbeing Plan

8.1 The activities of the Audit and Risk Committee directly responds to Key Priority 2 "Demonstrate strong leadership and good governance".

9. Conflict of Interest

9.1 This report advises that in the preparation of, or in contributing to the preparation of, this report there was no disclosable conflict of interest raised by a member of Council staff in the subject matter of the report.

10. Risk Implications

10.1

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
Council is not kept informed of the Activities of the Audit & Risk Committee	Low	A report is presented to Council following each meeting of the Committee.	Yes

11. Discussion

11.1 Minutes from the meeting are at Attachment 1.

8.6 ASSEMBLY OF COUNCILLORS RECORD

Author: Ellen McComish - Senior Governance Officer

File No: CL/04/013-02

Attachments: 1. Assembly of Councillors Record February 2023

1. Purpose

- 1.1 This report informs the community about meetings held in the month of February 2023 which are considered records of assembly of Councillors and includes matters considered and any conflict-of-interest disclosures made by a Councillor (Attachment 1).

2. Background

- 2.1 Section 58(a) of the *Local Government Act 2020* refers to the public transparency principles and states that Council decision making processes must be transparent except when the council is dealing with information that is confidential by virtue of this Act or any other Act.

- 2.2 A written record of an assembly of council includes the following:

- Names of all Councillors and members of Council staff attending.
- Matters considered.
- Any conflict-of-interest disclosures made by a Councillor attending the meeting.
- Whether a Councillor who has disclosed a conflict of interest as required leaves the assembly.

3. Key Matters

- 3.1 An assembly of Councillors means:

- A planned or scheduled meeting that includes at least half the Councillors and a member of Council staff (providing that the matter/s considered are intended or likely to be the subject of a future decision by the Council or an Officer decision under delegated authority); or
- An Advisory Committee of the Council where one or more Councillors are present.

ASSEMBLY OF COUNCILLORS RECORD (CONT.)

3.2 Some examples include:

- Councillor Briefings – Strategy meeting, Councillor and Officer Discussion (Pre-Council meeting)
- Advisory Committees: Audit and Risk Committee, Mitchell Environment Advisory Committee, Mitchell Early Years Advisory Committee, Mitchell Fire Consultative Forum, Mitchell Youth Advisory Committee, Health and Wellbeing Advisory Committee, Australia Day Awards Committee and Mitchell Heritage Advisory Committee.

3.3 The Assembly of Councillors Record for February 2023 is attached.

Recommendation

THAT Council receives and notes the record of assembly of Councillors.

ASSEMBLY OF COUNCILLORS RECORD (CONT.)

4. Financial, Resource and Asset Management Implications

4.1 There are no financial resource and asset management implications associated with this report.

5. Consultation

5.1 Assembly of Council records have been received for meetings across Council services.

6. Sustainability Implications (Social and Environmental)

6.1 This is an administration process and does not have any environment and sustainability implications associated with this report.

7. Policy and Legislative Implications

7.1 This report is in line with the requirements of Section 58(a) of the Local Government Act 2020.

8. Alignment to Community Vision, Council Plan and the Municipal Health and Wellbeing Plan

8.1 Council Plan 2021 – 2025 Strategic Objective: “Council is accountable to, engaged with and respected by our community.”

9. Conflict of Interest

9.1 This report advises that in the preparation of, or in contributing to the preparation of, this report there was no disclosable conflict of interest raised by a member of Council staff in the subject matter of the report.

10. Risk Implications

10.1 Risk Ranking is determined using [ROHS201-G1-Corporate Risk Matrix](#). Risk is identified as Low, Medium, High or Very High.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
Perceived lack of transparency	Low	All assembly of council records and the issues discussed are made public	Yes

ASSEMBLY OF COUNCILLORS
Record

February 2023

Assembly details	Councillor details	Officer attendees	Matters discussed	Conflict of interest disclosures
<p>Strategy Briefing 13 February 2023</p>	<p><u>In attendance</u></p> <p>Cr Louise Bannister (left at 1.34pm and returned at 1.42pm. Left again at 3.36pm and returned at 4.44pm. Left again at 5.10pm)</p> <p>Cr Bill Chisholm</p> <p>Cr Nathan Clark</p> <p>Cr Bob Cornish (left at 4.30 and returned at 5.07pm)</p> <p>Cr Rob Eldridge (left at 5.56pm)</p> <p>Cr David Lowe</p> <p>Cr Rhonda Sanderson</p> <p>Cr Fiona Stevens</p> <p><u>Apologies</u></p> <p>Cr Annie Goble</p>	<p>Brett Luxford</p> <p>Mary Agostino</p> <p>Suzane Becker</p> <p>Laurie Ellis</p> <p>Rebecca Sirianni</p> <p>Marcus Cook</p> <p>Mike Freeman</p> <p>Casey Southurst</p> <p>Kellie Massouras</p> <p>Narelle Liepa</p> <p>Tim Partridge</p> <p>Hanna White</p> <p>Lidia Harding</p> <p>Luke Crampton</p> <p>David Bergin</p> <p>Nicole Maxwell</p> <p>Adam Evans</p> <p>Carly Ward</p>	<ul style="list-style-type: none"> • Councillor/CEO Only Time • Draft Council Agenda • Flood Recovery Debriefing for Councillors • Presentation of Draft Community Flood Recovery Plan- Phase 1 • High level update on Grants and Infrastructure 	<p>Nil</p>

ASSEMBLY OF COUNCILLORS
Record

February 2023

Assembly details	Councillor details	Officer attendees	Matters discussed	Conflict of interest disclosures
<p>Strategy Briefing 20 February 2023</p>	<p><u>In attendance</u> Cr Louise Bannister Cr Bill Chisholm (left at 2.02pm and returned at 2.53pm) Cr Nathan Clark (left at 1:32pm and returned at 2:01pm. Left again at 3:15pm and returned at 4:16pm. Left at 5:33pm) Cr Bob Cornish (left at 3.15pm) Cr Rob Eldridge (left at 3.15pm) Cr Annie Goble (left at 2.47pm) Cr David Lowe Cr Rhonda Sanderson Cr Fiona Stevens</p>	<p>Brett Luxford Mary Agostino Suzane Becker Laurie Ellis Tim Partridge Ross Guastalegname Cameron Baird Travis Conway Sean Greer Justin Harding Lidia Harding Kellie Massouras Narelle Liepa Carly Ward Luke Crampton</p>	<ul style="list-style-type: none"> • Councillor/CEO Only Time • Council Agenda Review • ARTC - sites for discussion • Kilmore West Rezoning 	<p>Nil</p>
<p>Audit and Risk Committee 23 February 2023</p>	<p><u>In attendance</u> Cr David Lowe Cr Louise Bannister</p>	<p>Brett Luxford Laurie Ellis Nicole Maxwell</p>	<ul style="list-style-type: none"> • 2023/24 Budget and LTFP Preparation • Financial Report for the three months ending 31 December 2022 • Monitor the Compliance of Council Policies as they relate to overarching Governance 	<p>Nil</p>

ASSEMBLY OF COUNCILLORS
Record

February 2023

Assembly details	Councillor details	Officer attendees	Matters discussed	Conflict of interest disclosures
	Cr Fiona Stevens (ex-officio)	Lidia Harding Suzane Becker Justine Gard Mike Freeman Travis Conway	Principles and Local Government Act and Ministerial Direction <ul style="list-style-type: none"> • Risk Report & OHS Update- February 2023 • Internal Audit Status and Update • Landfill Management - Internal Audit Outcome • Community Engagement – Internal Audit Outcome • Asset Maintenance Internal Audit Update • Audit Issues Monitor • External Audit Strategy 	
Strategy Briefing 27 February 2023	<u>In attendance</u> Cr Louise Bannister Cr Bill Chisholm Cr Bob Cornish Cr Annie Goble Cr David Lowe (left at 6.30pm) Cr Rhonda Sanderson Cr Fiona Stevens (joined 2.41pm)	Brett Luxford Buffy Leadbeater Suzane Becker Laurie Ellis Rebecca Sirianni Nic Adams Jamie Tredoux Sean Greer Ross Guastalegname Tim Partridge Cameron Baird	<ul style="list-style-type: none"> • C152 Beveridge Township • Amendment C157 - Planning Scheme Review • ARTC • Affordable Housing Strategy (Update Council) • Councillor Request Management Workshop 	Nil

ASSEMBLY OF COUNCILLORS
Record February 2023

Assembly details	Councillor details	Officer attendees	Matters discussed	Conflict of interest disclosures
	<u>Apologies</u> Cr Rob Eldridge Cr Nathan Clark	Naveen Kumar Lidia Harding Travis Green Tabitha Williams Juliana Hummerston Justine Gard Sharmayne Bishop Rhonda Willingham		

8.7 DELEGATE REPORT - OVERVIEW AND UPDATE ON ACTIVITIES AND DELEGATE DELIBERATIONS.

Author: Ellen McComish - Senior Governance Officer

File No: CL/04/001-03

Attachments: 1. Delegate Report February 2023

1. Purpose

- 1.1 For Council to receive and note activities and deliberations of groups and associations for which Councillors are an appointed delegate and other activities attended as a Council representative, during February 2023.

2. Background

- 2.1 This report is in line with the requirements set out in the Councillor Code of Conduct.
- 2.2 The Delegate Report is presented to Council each month and provide information on:
 - Activities attended by Councillors as a nominated Council Delegate
 - Other publicly advertised activities attended as an invited representative of Council
- 2.3 The Report excludes:
 - Assemblies of Councillors reported separately in Council Agendas
 - Private activities, discussions or meetings with staff and/or community members
- 2.4 Items in the Report should be verifiable by the Councillor from the Councillor's Council Diary.

3. Key Matters

- 3.1 Councillors have attended meetings online and in person where possible in this period as per their appointments as delegate and other activities as a Council representative.
- 3.2 This Delegate Report is not an exhaustive list of all Councillor activity during the month. Further information on events and activities are available via Mitchell Shire Council's Facebook page, and website www.mitchellshire.vic.gov.au.

DELEGATE REPORT - OVERVIEW AND UPDATE ON ACTIVITIES AND DELEGATE DELIBERATIONS.
(CONT.)

Recommendation

THAT Council notes the Delegate Report, and any additional information on Councillor activity shared by Councillors during the Council meeting, for the February 2023 period.

DELEGATE REPORT - OVERVIEW AND UPDATE ON ACTIVITIES AND DELEGATE DELIBERATIONS.
(CONT.)

4. Financial, Resource and Asset Management Implications

4.1 There are no financial resource and asset management implications associated with this report.

5. Consultation

5.1 Councillors have contributed to the content of this report.

6. Sustainability Implications (Social and Environmental)

6.1 This is an administration process and does not have any environment and sustainability implications associated with this report.

7. Policy and Legislative Implications

7.1 This report is in line with the requirements of Section 58(a) of the *Local Government Act 2020*, and the Councillor Code of Conduct.

8. Alignment to Community Vision, Council Plan and the Municipal Health and Wellbeing Plan

8.1 Council Plan 2021 – 2025 Strategic Objective: “Council is accountable to, engaged with and respected by our community.”

9. Conflict of Interest

9.1 This report advises that in the preparation of, or in contributing to the preparation of, this report there was no disclosable conflict of interest raised by a member of Council staff in the subject matter of the report.

10. Risk Implications

10.1 Risk Ranking is determined using [ROHS201-G1-Corporate Risk Matrix](#). Risk is identified as Low, Medium, High or Very High.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
Perceived lack of transparency	Low	All delegate activities and deliberations made public	Yes

COUNCIL DELEGATE

Reports

Cr Bob Cornish	<u>Invited as Council Delegate</u> 21/2/23 RB Robson Stadium Committee Meeting in Wallan <u>Public events attended as an invited Council representative</u> 1/2/23 Stop the Quarry Meeting in Wallan
Cr David Lowe	<u>Invited as Council Delegate</u> 03/02/2023 Road Safety Goulburn Valley Committee 17/02/2023 Rail Freight Alliance – Presentations on both the Beveridge Intermodal Freight Terminal and the Western Intermodal Freight Terminal. 23/02/2023 Audit and Risk Committee 27/02/2023 Climate Emergency Community Reference Group third meeting <u>Public events attended as an invited Council representative</u> 11/02/2023 “No Quarry” market stall – Wallan Market 27/02/2023 Kilmore Radio.
Cr Rhonda Sanderson	<u>Invited as Council Delegate</u> 14/2/23 Kings Park Committee of Management meeting, Chittick Park Community Place, Pollard Street, Seymour. Much of the discussion revolved around flood recovery. 15/2/23 Australian Light Horse Memorial Park Committee of Management meeting, Seymour Tennis Complex, Howe Street, Seymour. Discussions included the proposed new works as a result of a grant, and the design of a protective roof over the heritage train carriage. 22/2/23 Bushland Park Committee of Management meeting, Telegraph Road, Seymour.

COUNCIL DELEGATE*Reports*Public events attended as an invited Council representative**5/2/23**

Seymour Performers Workshop AGM, Mitchell Shire Concert Band hall, Chittick Park, Pollard Street, Seymour.

SPW had some wonderful successes last year including the 'Annie' production: it also faced challenges such as the flooding of performance, rehearsal, and storage spaces in October. I was honoured to conduct the election of the new Committee.

14/2/23

U3A AGM, Chittick Park Community Place, Pollard Street, Seymour.

This AGM was very well attended, and the group is now re-invigorated after Covid. It was an honour to conduct the election.

19/2/23

Seymour Community Open Day, Chittick Park, Pollard Street, Seymour.

A fantastic event showcasing a range of community groups, clubs and organisations. Mitchell Shire partnered with the 'Healthy Kids' project to supply healthy food. Stall holders were very pleased with the community's interest and many recruited new members.

9 ECONOMY, GROWTH AND INFRASTRUCTURE

9.1 RESOURCE RECOVERY COLLECTIVE HUME - WASTE SERVICES TENDER

Author: Narelle Liepa - Manager Environment and Sustainability

File No: RRCHUM01

Attachments:

1. Resource Recovery Collective Hume Tender Evaluation Report
2. Resource Recovery Collective Hume - Tender Evaluation Report Mitchell Appendix I - Confidential
3. Resource Recovery Collective Hume - Attachment A - Confidential
4. Resource Recovery Collective Hume - Probity Report - Confidential
5. Kerbside Transition Stage 1 Community Engagement - Confidential

1. Purpose

- 1.1 This report relates to Council's participation via a Memorandum of Understanding (MoU) in the Resource Recovery Collective – Hume (RRCH), a regional collaborative tender for waste and recycling services. It outlines the competitive tender process that was undertaken and seeks Council's endorsement on the preferred tenderer for each of the services.

2. Background

- 2.1 At the Ordinary Council meeting in February 2022 Council endorsed Mitchell Shire Council's participation (via a MoU) in the RRCH collaborative procurement for kerbside collection and waste and recycling processing/disposal services.
- 2.2 The former North East and Goulburn Valley Waste and Resource Recovery Groups (now Recycling Victoria) have supported councils and alpine resorts in the Hume region with a regional collaborative tender for kerbside waste and recycling services, as part of the RRCH. This initiative supports the ongoing delivery of essential kerbside waste and recycling collection and processing services beyond current contracts and provide an opportunity for councils and alpine resorts to implement actions contained in the Victorian Government's circular economy policy, Recycling Victoria – A new economy.

RESOURCE RECOVERY COLLECTIVE HUME - WASTE SERVICES TENDER (CONT.)

- 2.3 The RRCH has sought to ensure councils and alpine resorts from across the Hume region continue to lead the state in the diversion of waste from landfill, whilst supporting the achievement of sustainable regional circular economy opportunities and economic growth.
- 2.4 The twelve Participants in the regional tender were:
- a. Alpine Shire Council;
 - b. Benalla Rural City Council;
 - c. Falls Creek Alpine Resort Management Board;
 - d. Mansfield Shire Council;
 - e. Rural City of Wangaratta;
 - f. Towong Shire Council;
 - g. Greater Shepparton City Council;
 - h. Lake Mountain Alpine Resort (Southern Alpine Resort Management Board);
 - i. Mitchell Shire Council,
 - j. Moira Shire Council;
 - k. Murrindindi Shire Council; and
 - l. Strathbogie Shire Council.

Indigo Shire Council exited the RRCH prior to tender release.

- 2.5 Mitchell Shire Council tendered for the following services:

- Kerbside Collection Services
- Event Bins
- Public Place Bin collections
- Bulk Bin transport
- General waste disposal services
- Commingled recycling processing services
- Food and Garden Organic processing services
- Glass processing services

- 2.6 A comprehensive project governance structure has been in place to guide, assess and oversee the RRCH which includes a Collaborative Procurement Working Group (CPWG) with voting delegates from all Participants and a Tender Evaluation Panel consisting of a minimum of two panel members from each Participant.

- 2.7 The Tender Evaluation Panel have been supported by a Chair, and Secretary from Recycling Victoria, observers, and technical, legal and probity advisors.

3. Key Matters

- 3.1 Council's current waste collection and disposal services contracts expire in 2024/2025. The outcome of this tender process will support the implementation of Council's Kerbside transition plan in 2025.

RESOURCE RECOVERY COLLECTIVE HUME - WASTE SERVICES TENDER (CONT.)

- 3.2 ACCC approval was sought early in the process. This process required consultation with industry and approval was provided late in September 2022 to allow the Participants to collaboratively procure waste and resource recovery services until October 2042.

Recommendation**THAT** Council:

1. Awards Contract 2023327, Contract 202328 and Contract 202330 for Kerbside Collection and Transport, Comingled Recycling Processing, and Glass Processing respectively for an estimated annual amount of \$4,000,000 (ex GST) to Cleanaway Pty Ltd.
2. Awards Contract 202329 for Food Organics Garden Organics Processing for an estimated annual amount of \$700,000 (ex GST) to Repurpose It Pty Ltd
3. Determines that these contracts commence from March 2025 for a period of 7.5 years with the option to extend for a further 7.5 years.
4. Notes that any intention to extend any contracts will be presented to Council at conclusion of year five of any Contract.
5. Does not award a contract for General Waste Disposal at this time and seeks to undertake a separate tender for this service in 2024.
6. Authorise the Chief Executive Officer to do all things necessary to execute the contracts, including advising the tenderers of Council's decision in this matter.

RESOURCE RECOVERY COLLECTIVE HUME - WASTE SERVICES TENDER (CONT.)**4. Project Financial Summary**

- 4.1 The two former Waste and Resource Recovery Groups provided significant resourcing and financial support towards the management of the RRCH. This has included funding the costs of specialist probity, legal, technical and procurement resources. A financial contribution has not been sought from Participants.
- 4.2 Council's long term financial plan includes projections and assumptions regarding the cost of kerbside waste and recycling services. This tender will allow Council to project the cost of these services more accurately over the long term.
- 4.3 The ability to leverage significant waste and recycling tonnages from across the region through this collaboration will ensure value for money services can be achieved.

5. Council Policy Implications

- 5.1 This procurement report complies with Council's Procurement Policy and Guidelines.

6. Alignment to Community Vision, Council Plan and the Municipal Health and Wellbeing Plan

- 6.1 As indicated in Section 108 of *the Local Government Act 2020*, whereby Council is required to maintain and utilise a relevant Procurement Policy.
- 6.2 Participation in the *Resource Recovery Collective – Hume* collaborative procurement process is supported by the Council Plan Strategic objective '*Our natural environment is protected, cared for and enhanced and integrated into our decision making*' and the key priorities '*Facilitate waste minimisation, resource reuse and recovery over disposal, and contribute to a circular economy*' and '*Develop partnerships to implement shared innovative solutions to environmental issues*'.

7. Community and Stakeholder Consultation

- 7.1 An early market announcement occurred in March 2022, well prior to the release of the Request for Tender and there was significant promotion of the opportunity including a media release during the tender open period.
- 7.2 The tender was released on 6 June 2022 via eProcure. All subsequent questions and clarifications from tenderers and Participants were managed through eProcure and reviewed by the Probity Advisor where necessary.

RESOURCE RECOVERY COLLECTIVE HUME - WASTE SERVICES TENDER (CONT.)

- 7.3 The tender closing date was extended by 6 weeks to 12 September at the request of prospective tenderers and then again to 19 September to allow tenderers to respond to some changes and clarifications late in the process.
- 7.4 Officers have undertaken significant engagement with the community about the kerbside transition during 2022.
- 7.5 An Engaging Mitchell site 'Our kerbside bins are changing' was established in 2022 and an Exploring the options survey was made available on the site during October and November 2022. A summary of the findings from this consultation is outlined in Attachment 5.
- 7.6 Further engagement with the community will continue following the awarding of these contracts including the establishment of a Kerbside transition community working group in April 2023.

8. Collaborative Procurement

- 8.1 Section 109(2) of the *Local Government Act 2020* requires that any report to Council that recommends entering into a procurement agreement includes information in relation to any opportunities for collaboration with other councils or public bodies which may be available.
- 8.2 In undertaking this procurement process Council has collaborated with nine other councils and two alpine resorts across the Hume region.

9. Sustainability Implications (Social and Environmental)

- 9.1 The '*Resource Recovery Collective – Hume*' collaborative procurement process will seek to ensure councils and alpine resorts from across the Hume region continue to lead the state in the diversion of waste from landfill reducing greenhouse gas emissions, whilst supporting the achievement of sustainable regional circular economy opportunities and economic growth.

RESOURCE RECOVERY COLLECTIVE HUME - WASTE SERVICES TENDER (CONT.)

10. Conflict of Interest

10.1 This report advises that in the preparation of, or in contributing to the preparation of, this report there was no disclosable conflict of interest identified or raised by a member of Council staff in the subject matter of the report.

10.2 Further, all participants in the Collaborative Procurement Working Group signed confidentiality agreements and Conflict of Interest declarations which have been reviewed by the project’s probity consultants.

11. Contract Risk Implications

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
<p>New kerbside collection and processing contracts must be in place by 2023 in order to allow time for the procurement of new vehicles, bins and other infrastructure and to provide adequate time for the roll out of community education programs for the introduction of new services.</p> <p>Current kerbside collection and processing contracts expire in 2024/2025.</p>	<p>High</p>	<p>Participate in the <i>Resource Recovery Collective – Hume</i> collaborative procurement process to facilitate the establish of new kerbside collection and processing contracts</p>	<p>Yes</p>

12. Discussion

12.1 Due to the complexity and high capital costs associated with waste processing contracts, tenderers were able to tender for either a 15-year contract or a 7.5 + 7.5 years with the extension at the sole discretion of the Council.

12.2 The kerbside contracts were only able to be tendered for a 7.5 + 7.5 year period with extension at the discretion of Council and with new vehicles at the start of the extension period.

RESOURCE RECOVERY COLLECTIVE HUME - WASTE SERVICES TENDER (CONT.)**Tender Submissions**

- 12.3 Responses were received from 13 tenderers. All Participants received responses covering all of their particular required services. Some tenderers provided alternate bids as well as compliant bids. Details of responses received are contained in Attachment 2.
- 12.4 The compliance evaluation was conducted by ArcBlue Consulting. All tenders passed the minimal acceptable standard and progressed. Two had no issues of note, eight had minor issues to be noted, three had issues that were recommended for further investigation. None of the issues would exclude tenderers from being awarded.
- 12.5 Subsequent to the initial compliance evaluation, a probity breach was identified which resulted in one tender being set aside for the General Waste Disposal (Landfills) services, and one tender being set aside for the Food Organics and Garden Organics (FOGO) services. This matter is noted in the Probity Report (Attachment 4).

Tender Evaluation Panel

- 12.6 The Tender Evaluation Panel (TEP) was established in accordance with the Tender Evaluation Plan. Recycling Victoria provided the Chair and the Deputy Chair and Secretary, who were non-scoring participants.
- 12.7 The TEP consisted of two officers from each of the Participants and some Participants provided a non-scoring observer from their Procurement team. There was a total of 24 scoring members on the TEP.
- 12.8 Panel members assessed tenders independently and then met on numerous occasions over several months to complete consensus scoring, seek clarifications from tenderers, conduct reference checks and agree on the shortlisting of preferred tenderers.

Tender Evaluation

- 12.9 The tender evaluation process was conducted in accordance with the Tender Evaluation Plan, see Attachment 1.
- 12.10 The received responses were provided to the impacted Participants and qualitative scores were reviewed and discussed with the TEP, then any changes to scores recorded and the final score agreed. These final scores are included in Attachment 2.

RESOURCE RECOVERY COLLECTIVE HUME - WASTE SERVICES TENDER (CONT.)

Post-Tender Contact

- 12.11 Reference checks were undertaken by members of the TEP with three referees for each recommended tenderer. Referees provided feedback on the tenderers experience in providing a similar service. All reference checks were positive for the preferred tenderers.
- 12.12 Vendor credit checks were completed to confirm the financial viability of the tenderers. Assessment results were positive for the preferred tenderers; indicating that they have sound financial capacity to undertake this contract.
- 12.13 Once Participants advise the Tender Evaluation Panel Chair that they have awarded contracts to their preferred tenderers, the Tender Evaluation Panel Chair will advise the unsuccessful tenderers and offer a debrief.

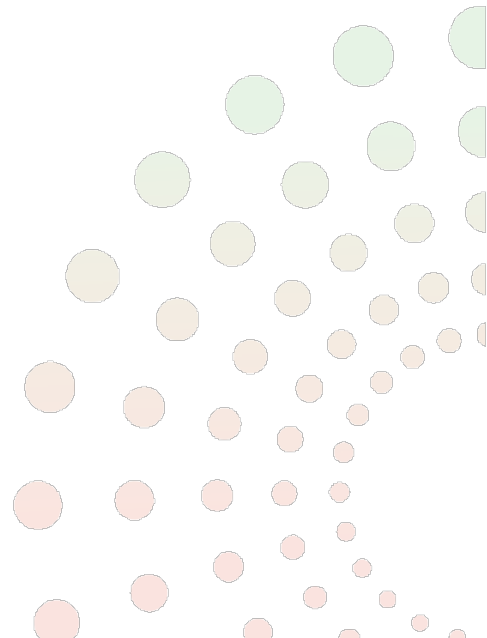
13. Probity

- 13.1 Independent probity oversight was provided by Landell Consulting from November 2021 onwards, as documented in the separate Probity Report (Attachment 4) prepared by Landell Consulting.
- 13.2 All Evaluation Panel Members and external advisors completed confidentiality and Conflict of Interest declarations and confirmed them at each stage of the project.



RESOURCE RECOVERY COLLECTIVE - HUME

EVALUATION REPORT



A collaborative approach to waste and recycling services in the Hume region

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Appendix L	Strathbogie Shire Council

1. PURPOSE

The purpose of this report is to provide a sound understanding of the process, issues and recommendations resulting from the collaborative tender for waste and recycling services, in order to allow participating organisations to progress to contract award with their Council or Board as appropriate.

The report covers all the general information in the body and specific considerations for each Participant in their appropriate appendix.

2. BACKGROUND

2.1 PROJECT BACKGROUND AND SCOPE OF PROCUREMENT

North East and Goulburn Valley Waste and Resource Recovery Groups (NE&GVWRRG) jointly sponsored and facilitated a collaborative tender process to procure collection, general waste disposal and recyclable materials processing services for kerbside waste streams for Local Government Councils and Alpine Resort Management Boards (Participants) within their respective Regions.

The Project is known as the Resource Recovery Collective - Hume (Project).

To establish the framework for the collaboration and confirm the mutual objectives and expectations of the collaboration, an MOU was established and executed under delegation by each participating council and alpine resort to:

- Provide an outline of the commitment to participants through the delivery of the project including the framework and governance structure for project delivery;
- Implement processes to ensure fairness for all participants and the responsible use of funds;
- Support the effective management of probity requirements.

The MOU also provided an outline of requirements from participating councils and alpine resorts including:

- Once the MOU has been executed, withdrawal from the tender process could not occur until the completion of the tender;
- The participating councils/alpine resorts are not compelled to award contracts based on the submissions received via the tender, but are committed to presenting the tender evaluation report / recommendations to the respective delegated authority of their council/alpine resort;
- The participating councils/alpine resorts could not run a parallel tender/market approach for the same waste streams.

The Participants included as part of the MOU were:

- Alpine Shire Council;
- Benalla Rural City Council;
- Falls Creek Alpine Resort Management Board (now ARV);
- Indigo Shire Council (Note Indigo Shire Council withdrew from the activity prior to tender release);
- Mansfield Shire Council;
- Rural City of Wangaratta;
- Towong Shire Council;
- Greater Shepparton City Council;
- Lake Mountain Alpine Resort/Southern Alpine Resort Management Board (now ARV);
- Mitchell Shire Council;
- Moira Shire Council;
- Murrindindi Shire Council; and
- Strathbogie Shire Council.

2.2 AIMS AND OBJECTIVES

Aims

- Encourage regional investment in people, sustainable infrastructure, and innovative services.
- Increase resource recovery while advancing a circular economy.
- Maintain a strategic focus in procurement and service delivery.
- Embrace innovative waste services models.
- Achieve best outcomes for people and the environment.

Objectives

- Encourage regional investment in people, sustainable infrastructure and innovative services.
 - Investing in infrastructure and services that are resilient and flexible as well as socially and environmentally sustainable.
 - Building local service provider capability, resilience, and supplier diversity.
- Increase in resource recovery while advancing a circular economy.
 - Improving recycling and contamination rates as well as maintaining a leadership position in Victoria with adaptable goals.
 - Encouraging services that support a circular economy.
- Maintain a strategic focus in procurement and service delivery.
 - Aligning to Local and State Government requirements with the ability to adapt to new requirements.
 - Improve the measurability and efficiency of waste management data capture to improve services, improve performance and influence customer behaviours.
- Embrace innovative waste services models.
 - Adopt a price and risk model that ensures continuity of service.
 - Turn waste into revenue whilst achieving circular economy outcomes.
 - Encourage innovative management of waste streams where productivity and sustainability outcomes can be achieved.
- Achieve best outcomes for people and the environment.
 - Provision of high-quality service for and on behalf of the community.
 - Education of community to improve waste outcomes and advance local circular economies.
 - Minimising greenhouse gas emissions and environmental impact.

3. PROCESS

3.1 DEVELOPMENT

Due to the size and complexity of the planned tender, consultants were engaged to provide specialist expertise, support, and independence:

- ArcBlue - Procurement process support and planning
- Rawtec - Waste technical advisor and development of detailed specifications
- Russell Kennedy - Legal advisor, contract and tender package development
- Landell - Probity oversight

NE&GVWRRG (Later Recycling Victoria/DELWP) provided central project coordination, administration, document management and a range of localised assistance; including obtaining ACCC authorisation to conduct both this and future collaborative waste related procurement events.

A Collaborative Procurement Working Group (CPWG) was established to steer strategic decision making and monitor risk throughout the process. Each Participant is represented on the CPWG, and all major decisions and recommendations were made by the CPWG.

The CPWG developed the specification and tender documentation collaboratively, with each Participant providing their own data, and identifying the particular services required.

The WRRGs/later Recycling Victoria provided the Chair and Secretary for the CPWG and Tender Evaluation Panel, in a non-voting and non-advising capacity.

Prior to the tender being released Indigo Shire Council elected to exit the process and this was supported by the CPWG.

3.2 RELEASE

Both NEWRRG and GVWRRG released an early market notice of the tender on their respective websites in March 2022 which was accompanied by a media release.

The tender was released 11AM 6 June 2022 via eProcure. All subsequent questions and clarifications from tenderers and Participants were managed through eProcure and reviewed by the Probity Advisor where necessary. The tender closing date was extended by 6 weeks to 12 September at the request of prospective tenderers and then again to 19 September to allow tenderers to respond to some changes and clarifications late in the process.

3.3 RECEIPT

All tenders were successfully loaded without technical or other issues.

3.4 COMPLIANCE EVALUATION

The compliance evaluation was conducted by ArcBlue Consulting. All tenders passed the minimal acceptable standard and progressed. Two had no issues of note, 8 had minor issues to be noted, three had issues that were recommended for further investigation. None of the issues would exclude tenderers from being awarded.

Subsequent to the initial compliance evaluation, a probity breach was identified which resulted in one tender being set aside for the General Waste Disposal (Landfills) services, and one tender being set aside for the Food Organics and Garden Organics (FOGO) services. This matter is noted in the Appendices pertinent to the Participants seeking these services, and also in the Probity Report for these Participants.

3.5 EVALUATION PANEL

The Tender Evaluation Panel (TEP) was established in accordance with the Tender Evaluation Plan. Recycling Victoria provided the Chair and the Deputy Chair and Secretary, who were non-scoring.

Each Participant was to appoint a minimum of two tender panel members wherever possible to score responses related to their services and some provided a non-scoring observer from their Procurement team. No limit was placed on the number of tender panel representatives a Participant could appoint. Where a Participant was not able to provide two delegates, other members of the tender panel were appointed to assist that Participant. There was a total of 24 scoring members on the TEP.

3.6 EVALUATION PROCESS

The evaluation process proceeded in accordance with the Tender Evaluation Plan.

- Evaluators scored individually
- A consensus meeting was then held and scores considered and adjusted by evaluators as agreed
- Clarifications were sought from tenderers throughout the process where further information was required to agree a score
- Where scorers could not attend the meeting, they were contacted by the Chair and their input sought and this was then reconfirmed at the next meeting of the Tender Panel
- Once qualitative scores were established, price scores were added
- Final scores were mapped for Participant organisations, then the range of viable options discussed with each Participant organisation, taking into account their particular circumstances

- Once Participants had shortlisted to between 1 and 3 options for each service, the potential outcomes were communicated to tenderers to see whether this impacted their bids
- Participants then reviewed offers again with this new information, collectively, to identify opportunities offered by multiple-participant volumes
- In parallel, legal departures were negotiated where possible

The evaluation weightings had been agreed prior to tender release, published to the market in the tender invitation and recorded in the Evaluation Plan. The weightings applied differed slightly between Collections and Processing/Disposal services as per the table below, however price remained at 30% for both.

As the final service required a combination of kerbside collector, processor/dispenser, and transportation of collected material; the combination of score and price could only be an indicator to assist in shortlisting.

Each processing/disposal contract option needed to take into consideration the collector transport costs for that processing/disposal option. Each collector would have a different cost to transport material to each processing/disposal option, which made certain combinations much more expensive. A cheap collection cost may be the most expensive option if that collector applied a high transport cost, and the most attractive processor was a large distance away. Therefore, the price needed to be considered for the service in total, however the qualitative scoring could only be applied for the service being offered. This meant a simple "highest score" approach could not be applied as the sole basis for making a recommendation and some flexibility remained for Participants to consider the merits of service combinations, based on a total cost principle, provided this can be quantified and is justifiable.

Each Participant was presented with a range of viable options and the combined options considered in detail. Any decision to exclude an option needed to be supported by a sound and defensible rationale and is recorded in the final report Appendix related to that Participant. It should be noted that if a Participant wishes to proceed with engaging a tenderer where this is not aligned to the outcomes of the evaluation process, that Participant should be aware of the risk of a formal complaint or process challenge from an unsuccessful tenderer on the basis of unfair treatment or arbitrary decision-making.

Contents	Collection	Processing and Bulk Transport
Respondent Details	Mandatory	
Service to be bid	Mandatory	
Compliance and risk	Mandatory	
Performance	4%	4%
Previous relevant experience of Contractors	6%	6%
Subcontractors		
TOTAL	10%	10%
Fleet Plant and equipment	10%	5%
Facilities	0%	5%
Customer support team	2%	5%
Complaints management and rectification	5%	1%
Future capacity and growth	3%	4%
TOTAL	20%	20%
Mobilisation and transition	7%	4%
Performance and continuous improvement	7%	7%
Disaster recovery	2%	4%
Contamination incidents	4%	5%
TOTAL	20%	20%
Employment practices	1%	1%
Local employment	4%	4%
Community and social engagement and education	2%	2%
Environment and sustainability	8%	8%
TOTAL	15%	15%
Innovation Past	1%	1%
Innovation New	4%	4%
TOTAL	5%	5%
Value for money - Calculated in Price sheets	30%	

3.7 RECOMMENDATION PROCESS

The recommendation process followed the process defined in the Tender Evaluation Plan. The combined score for each qualitative score and price score was measured for each potential sequence/combination of services possible per council and/or alpine resort, to provide a score for that combination.

The final price score did not form the only contribution to the final decision. Evaluators assessed the merits of the viable approaches, total cost for each approach, management requirements, risk and other factors. The highest score does not define the combination of services that must be accepted, however informs the range of options that were to be considered.

Any decision to award a combination that was not the highest score was required to be defensible and this logic was required to be outlined in each Participant's appendix. Where this may give rise to probity concerns, this is documented separately in the Probity Report for the relevant Participant.

Recommendations were submitted to the TEP for review and then the CPWG. The CPWG had the power to return recommendations to the TEP for further information or to clarify concerns. This was not necessary and the CPWG endorsed the recommendation then referred this report to Participant Councils and Alpine Resorts for resolution and action.

4. ITEMS OF NOTE

4.1 COUNCILS WHO EXITED THE EVENT

Indigo Shire Council exited the event prior to tender release.

4.2 PROBITY MANAGEMENT

Independent probity oversight was provided by Landell Consulting from November 2021 onwards, as documented in the separate Probity Report prepared by Landell Consulting and which accompanies the Individual Participant specific Appendix.

All Evaluation Panel Members and external advisors completed confidentiality and COI declarations and confirmed them at each stage

4.3 AUSTRALIAN COMPETITION & CONSUMER COMMISSION (ACCC) APPROVAL

ACCC approval was sought early in the process. Interim Authorisation to allow the RRCH procurement project to proceed was received from ACCC in May 2022. Approval was provided late September 2022 to allow the Participants to enter into collaborative procurement for various waste and resource recovery services until October 2042.

5. OUTCOME

5.1 RESPONSES RECEIVED

Responses were received from 13 tenderers. All Participants received responses covering all of their particular required services. Some tenderers provided alternate bids as well as compliant bids. Details of responses received for each Participant are contained in the corresponding Appendix.

As mentioned in section 3.4, one tender for General Waste Disposal services and one tender for Food Organics and Garden Organics Processing services were set aside. Details of the tenders submitted and evaluated for each service are provided in the Participant-specific Appendix to this Report.

Responses had been invited for individual companies to provide services, consortiums, and potentially a lead contractor managing a range of service providers. Only responses were received for each company to provide their services directly.

5.2 OUTCOME OF CLARIFICATIONS

Three rounds of clarifications were sought from tenderers, covering a range of issues including:

- Clarification surrounding aspects of glass processing
- Clarifications covering service offering
- Clarifications related to resourcing and requirements

5.3 QUALITATIVE SCORES AFTER CLARIFICATIONS

The received responses were provided to the impacted Participants and qualitative scores were reviewed and discussed with the TEP, then any changes to scores recorded and the final score agreed. These final scores are included in Participant Appendices, where relevant.

5.4 OUTCOME OF DEPARTURES NEGOTIATIONS

As part of the tender process, tenderers were permitted to submit departures or non-conformances against the Contract and Specifications (refer clause 1.6 of the tender conditions and 'compliance and risk' return schedule).

Contract departures were received from five tenderers.

The Contract departures were assessed by the Project's Legal Advisor. Departures were given a risk rating of low, medium or high, and departures of a commercial nature were identified as such and input was sought from the Technical Advisor. Responses to Contract departures were then reviewed and adopted by the Participants. The Participants' written responses to Contract departures were then provided to the tenderers on 19 December 2022. Responses from tenderers were received on 17 January 2023.

Following the tenderers' responses to Contract departures and a best and final offer pricing request, the Participants elected to proceed with more detailed negotiations with three tenderers to resolve outstanding Contract departures.

As at the date of this Report, a number of Contract departures remain outstanding that are relevant to the Contract risk allocation, technical requirements and pricing offers. The commercial departures from one tenderer are relatively detailed and the commercial impact of these departures have been assessed by the Technical Advisor and considered by the Participants.

In summary, the Contract departures are considered typical for a procurement process of this type and do not pose an unacceptable risk to Participants; apart from one provider who has significant departures which are being outlined to any Participants that wishes to engage them. Based on this assessment it is expected that Contract departures can be resolved and finalised in a commercially and legally reasonable way prior to contract award.

5.5 DUE DILIGENCE

Reference checks and financial viability checks conducted on shortlisted tenderers only.

The Tender Panel considered the results of the reference checks and were satisfied that no re-scoring was required based on this.

5.6 RECOMMENDATION

The recommendations for each Participant have been provided in their relevant Appendix and have been endorsed by the TEP and CPWG. These must be attached to any report submitted to the Council or Alpine Board as agreed in the MOU. Each Participant should engage their recommended providers and finalise a contract directly. The contract terms have been finalised for most tenderers, so this should be an administrative process.

Each Participant must present a report, in their own format, with this report and appropriate Appendix attached, to their respective delegated authority (Council or Board) in order to facilitate award of contracts to the recommended providers.

5.7 CONTRACT EXECUTION

Each Participant will be responsible for the timely execution of contracts. The WRRGs/Recycling Victoria have provided extensive Legal Advisor support and it is anticipated this will continue, (within reason and not after June 2023) until contract execution by each Participant. The tender validity period ends 17 April, so all Participants need to have entered into contracts by this time.

5.8 TENDERER FEEDBACK

Once Participants advise the Tender Evaluation Panel Chair/Recycling Victoria that they have engaged their preferred tenderers, the Tender Evaluation Panel Chair will advise the unsuccessful tenderers and offer a debrief.

9.2 PLANNING SCHEME AMENDMENT C157: IMPLEMENTATION OF PLANNING SCHEME REVIEW - CONSIDERATION OF PLANNING PANEL REPORT AND AMENDMENT ADOPTION

Author: Naveen Kumar - Strategic Planner

File No: PL/05/301

Attachments:

1. Amendment C157 with Panel Report
2. Table of Panel Recommended Changes
3. Amendment C157 with Documentation - Under Separate Cover

1. Purpose

1.1 To consider the recommendations of the Independent Planning Panel to Mitchell Planning Scheme Amendment C157. It is recommended to adopt Amendment C157 with changes.

2. Background

2.1 Amendment C157 implements several findings of the *Mitchell Shire Planning Scheme Review 2020* (the Review). This is the first review of the *Mitchell Planning Scheme* since 2012.

2.2 Amendment C157 was exhibited from 16 June 2022 to 18 July 2022 with sixteen (16) submissions received. Five (5) submissions supported the Amendment and eleven (11) submissions requested changes.

2.3 Council at its Ordinary Council Meeting on 17 October 2022 considered submissions to Amendment C157 and resolved to request an Independent Planning Panel to consider unresolved submissions.

2.4 A two (2)-member Panel was appointed to consider the submissions and a Panel Hearing was held on 12 and 13 December 2022 with the Panel's Report received on 18 January 2023

3. Key Matters

3.1 The Panel recommends retaining the depiction of the quarry at 175 Northern Highway in the Wallan Structure Plan map at Clause 11.03-2L (Wallan). This recommendation is not supported as the map is not in accordance with the adopted amendment C108 - *Wallan Structure Plan 2015*. The map was inserted into the planning scheme as an error by DELWP who acknowledged that the wrong version of the structure plan was in the approved amendment. As this is an error it should be rectified.

PLANNING SCHEME AMENDMENT C157: IMPLEMENTATION OF PLANNING SCHEME REVIEW -
CONSIDERATION OF PLANNING PANEL REPORT AND AMENDMENT ADOPTION (CONT.)

- 3.2 The Panel recommends deleting strategies related to land uses within the Urban Growth Boundary which will have a negative amenity impact from Clause 11.01-1L-01 (Settlement). Officers have reviewed the Panels comments and have suggested alternative wording which addresses the Panels concerns, but also maintains good planning policy direction for growth area planning. It is recommended to update Clause 11.01L-01 (Settlement) to include this policy guidance with modified wording to address some of the Panels concerns.
- 3.3 The Panel supported all other proposed post exhibition changes, including abandoning changes to the objectives within Schedule 1 to Clause 42.03 Significant Landscape Overlay (SLO1) which covers the Kilmore Historic Outdoor Recreation Precinct (KHORP) in Kilmore. Council is currently undertaking the Significant Landscape Study and will address the landscape overlay in more detail as part of this work.

Recommendation

THAT Council:

1. Having considered the Panel Report and its recommendations to Amendment C157 at Attachment 1, resolves to revise Amendment C157 in the following manner:
 - a) Panel Recommendation # 2 which seeks to remove the policy regarding amenity impacts within growth areas at Clause 11.01-1L-01 (Settlement) is not supported. Amendment C157 is revised to include policy regarding amenity impacts.
 - b) Panel Recommendation #3 which seeks to identify a quarry at 175 Northern Highway, Wallan at Clause 11.03-2L (Wallan) is not supported. Amendment C157 is not revised to identify the quarry.
 - c) Revise Amendment C157 in accordance with all other Panel recommendations.
2. Subject to the above changes and pursuant to Section 29 of the *Planning and Environment Act 1987*, adopt with changes Planning Scheme Amendment C157 to the *Mitchell Planning Scheme*, generally in the form provided at Attachment 3.
3. Pursuant to Section 31 of the *Planning and Environment Act 1987*, forward the adopted Planning Scheme Amendment C157 to the Minister of Planning requesting approval.

PLANNING SCHEME AMENDMENT C157: IMPLEMENTATION OF PLANNING SCHEME REVIEW -
CONSIDERATION OF PLANNING PANEL REPORT AND AMENDMENT ADOPTION (CONT.)

4. Financial, Resource and Asset Management Implications

- 4.1 The operating budget of Council's Strategic Planning Team has allowed for the fees associated with the request to approve this Planning Scheme Amendment, should Council resolve to adopt the Amendment with changes and seek Ministerial approval for the Amendment.

5. Consultation

- 5.1 All submitters to Amendment C157 were presented the opportunity to be heard by the Independent Planning Panel.
- 5.2 The Panel's Report was publicly released on 1 February 2023 by Council with a copy available on Council's website. All submitters were directly notified of the publication of the Panel Report.
- 5.3 All submitters to Amendment C157 have received written notification of the process for Council's consideration of the Panel Report, including the details of this Ordinary Council Meeting. All submitters will be notified of the outcome of Council's consideration of this report.

6. Sustainability Implications (Social and Environmental)

- 6.1 The revised local policies have considered and included policy content from several strategic documents that relate to and respond to environmental matters, including the Mitchell Shire Council Environment Policy, May 2020.
- 6.2 The amendment documents include Clause 74.02 Further Strategic Work which identifies further strategic work pertaining to preparation of local policies and structure plans to inform and help manage the growth of townships in a sustainable manner.
- 6.3 The Mitchell 2050 Community Vision was adopted in December 2021. Clause 2.02 (Vision statement) has been updated to reflect the community vision in this Amendment as a post exhibition change. This change is supported by the Panel.

7. Policy and Legislative Implications

- 7.1 The undertaking of a Planning Scheme Review is a legislative requirement under Section 12(b) of the *Planning and Environment Act 1987*. This Planning Scheme Amendment is required to implement key recommendations of the completed Planning Scheme Review into the Mitchell Planning Scheme.
- 7.2 State Government Amendment VC148 introduced changes to the Victoria Planning Provisions (VPP) and all planning schemes arising from the Victorian Government's Smart Planning program.

PLANNING SCHEME AMENDMENT C157: IMPLEMENTATION OF PLANNING SCHEME REVIEW - CONSIDERATION OF PLANNING PANEL REPORT AND AMENDMENT ADOPTION (CONT.)

7.3 This Amendment aligns and translates the Mitchell Planning Scheme with the new format VPP’s, as part of VC148. Council opted to translate the scheme while concurrently updating its local policies. These local policies will assist decision makers in determining planning applications.

8. Alignment to Community Vision, Council Plan and the Municipal Health and Wellbeing Plan

8.1 Amendment C157 includes update to *Clause 2.02 - “Vision statement”* in accordance with the *Mitchell 2050 Community Vision* adopted by Council in December 2021.

8.2 The Amendment proposes to introduce revised local planning policy which seeks to manage and sustainably accommodate population growth, protect the environment and advocate for communities across the Shire in accordance with the *Council Plan 2021-2025*.

8.3 Amendment C157 is in accordance with the *Mitchell Shire Health and Wellbeing Plan 2021-2025* as it provides decision makers with update policy considerations for future planning applications.

9. Conflict of Interest

9.1 This report advises that in the preparation of, or in contributing to the preparation of, this report there was no disclosable conflict of interest raised by a member of Council staff in the subject matter of the report.

10. Risk Implications

10.1 Risk Ranking is determined using [ROHS201-G1-Corporate Risk Matrix](#). Risk is identified as Low, Medium, High or Very High.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
<p>If Council were to adopt the Panel’s recommendation #2, the following risks are identified:</p> <ul style="list-style-type: none"> a) Reputational risk and perception of change in Council’s position. b) Lack of policy direction as there would be a gap in the local planning policy for land in 		<p>Council does not adopt the Panel’s recommendation – however instead alters the wording of proposed Clause 11.01L-01 (Settlement) to remove reference to specific land uses <i>such as extractive industries</i>. Council’s position is maintained regarding providing policy direction to ensure orderly</p>	

PLANNING SCHEME AMENDMENT C157: IMPLEMENTATION OF PLANNING SCHEME REVIEW -
CONSIDERATION OF PLANNING PANEL REPORT AND AMENDMENT ADOPTION (CONT.)

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
the Urban Growth Boundary.		growth of new communities.	
Inconsistent information to community and users of the <i>Mitchell Planning Scheme</i> . If the incorrect map for the Wallan Structure Plan remains in the scheme, it would cause confusion given an inconsistency with the Wallan Structure Plan as adopted by Council at the time of Amendment C108.		Council does not accept the Panel's recommendation and continues with the recommendation to correct an error which was acknowledged by DELWP (now DTP).	

11. Discussion

Background and Exhibition

11.1 Council at its Ordinary Council Meeting held in September 2020 adopted the *Mitchell Shire Planning Scheme Review 2020*. The review recommended changes to the *Mitchell Planning Scheme* in accordance with the State Government's Smart Planning project and in accordance with several Council strategies.

11.2 Council at its Ordinary Council Meeting on 28 June 2021 resolved to seek Ministerial authorisation to prepare and exhibit Amendment C157. Following conditional authorisation received on 9 August 2021 Amendment C157 was placed on exhibition from 16 June to 18 July 2022.

Submissions Summary and Panel Hearing

11.3 Council received sixteen (16) submissions to Amendment C157. Of the submissions received 5 (five) supported the Amendment and eleven (11) requested changes.

11.4 Council at its Ordinary Council Meeting held on 17 October 2022 resolved to forward unresolved submissions to the Independent Planning Panel for review.

PLANNING SCHEME AMENDMENT C157: IMPLEMENTATION OF PLANNING SCHEME REVIEW -
CONSIDERATION OF PLANNING PANEL REPORT AND AMENDMENT ADOPTION (CONT.)

11.5 The following key matters were raised in submissions and were considered by the Planning Panel:

- Six (6) submissions related to changes to Significant Landscape Overlay Schedule 1 (KHORP)
- Four (4) submissions related to local policies relating to settlement within the Urban Growth Boundary which seeks to address various matters, including but not exclusive to extractive industries.

11.6 The Panel Hearing was conducted on 12 and 13 December 2022. Council received the Panel Report (Attachment 1) on 18 January 2023.

Key Issues

Extractive Industry - Local Strategies at Clause 11.01-1L Settlement

11.7 The amendment proposes to introduce Clause 11.01-1L-01 (Settlement). Four (4) submitters, including the Department of Jobs, Precincts and Regions (which oversees quarry operations and approvals) were opposed to the introduction of the following policy (key section underlined for emphasis):

“Avoid the interim development of land where it may prejudice the longer term strategic role of the land as identified in Precinct Structure Plans.

Facilitate growth of housing and employment above other uses that will undermine the delivery of housing and employment, such as extractive industry, within Melbourne’s urban growth boundary.”

11.8 The Panel recommends deletion of these policies (Attachment 1, Page 8) for the following reasons (summarised from Attachment 1, Page 27)

- The Panel did not consider quarries as a land use that should be avoided in a growth area.
- The Panel considers quarries a land use which can be managed and co-located within future residential areas.
- The Panel formed the view that the proposed policy was generally about stopping quarries in growth areas and not avoiding land use conflict

11.9 The Panel also referred to the Panel Report for Amendment C106 (Beveridge North West PSP) and noted *“The Panel concluded that there was clear policy support for the extraction of the stone resource in planning policy...”* in its consideration of the matter.

PLANNING SCHEME AMENDMENT C157: IMPLEMENTATION OF PLANNING SCHEME REVIEW -
CONSIDERATION OF PLANNING PANEL REPORT AND AMENDMENT ADOPTION (CONT.)

- 11.10 While Panel's recommendation does not align with Council's position, the Panel acknowledged outdated State Policy Framework for the Urban Growth Boundary with the following notable comments (Attachment 1, Pages 18 & 19):

"Unfortunately, the Growth Area Framework Plans are hopelessly out of date and cover only a small portion of the growth corridor".

"Unfortunately, the Growth Corridor Plans are not up to date either. Critically the North Growth Corridor Plan does not provide any detail for the Wallan Structure Plan area".

- 11.11 Notwithstanding the above, the Panel dismissed Council's argument of requirement of a local policy direction on conflicting land uses within the Urban Growth Boundary. It is however noted that one of the core concerns from the Panel appears to be use of policy words such as "avoid" for conflicting land uses.

- 11.12 Irrespective of the Panel's recommendations, local policy guidance is required to assist Council in considering applications within the Urban Growth Boundary that will have adverse amenity impacts.

- 11.13 It is recommended to not support Panel Recommendation 2 and instead modify the wording. The following policy wording change is recommended for Clause 11.01L-01 (Settlement) under *Land* within the urban growth boundary strategies:

Discourage the interim use, development or subdivision of land unless it can be demonstrated that the proposed use, development or subdivision will not prejudice the intended use of the land as identified in an approved Growth Corridor Plan and/or an approved Precinct Structure Plan or a yet to be prepared Precinct Structure Plan

- 11.14 The above policy was presented to the Panel as an alternative to that presented within Council's submission.

- 11.15 The above policy does not single out any specific conflicting land use and provides appropriate policy direction to decision makers. This policy will cover all land uses which could have an adverse amenity impact. This provides a clear policy direction for Mitchell's Urban Growth Boundary

Clause 11.03-2L Wallan Structure Plan map

- 11.16 Currently, the Wallan Structure Plan at Clause 21.11-9 (Local Areas/Wallan) shows a quarry and its buffers at 175 Northern Highway Wallan, which is within the Urban Growth Boundary and the Beveridge North West Precinct Structure Plan area. Inclusion of the proposed quarry in the *Mitchell Planning Scheme* was an administrative error when Planning Scheme Amendment C108 (Implementation of the Wallan Structure Plan), was

PLANNING SCHEME AMENDMENT C157: IMPLEMENTATION OF PLANNING SCHEME REVIEW -
CONSIDERATION OF PLANNING PANEL REPORT AND AMENDMENT ADOPTION (CONT.)

approved and gazetted. This incorrect map did not form the Amendment C108 documents adopted by Council in December 2016.

11.17 Amendment C157 sought to rectify this error by reinstating the adopted Structure Plan map which does not show the quarry at Clause 11.03-2L (Settlement/Wallan). DELWP supported Council removing the incorrect plan.

11.18 The Panel in response to submissions recommended to retain the current version of the Wallan Structure Plan map, which identifies the quarry, on the following grounds (Attachment 1, Page 27):

“Until the Minister makes a decision the option for the quarry should be protected by retaining the buffer, this is especially the case as:

- *submission from relevant government agency (being the Department of Jobs, Precincts and Regions) support the quarry*
- *the conclusion of the C106mish panel supported extractive industry and the subsequent Beveridge Committee process were aimed at implementing those conclusions*
- *the permit for the quarry was called in from VCAT”.*

11.19 This finding is not supported for the following reasons:

- The adopted Structure Plan which formed part of amendment C108 did not identify a quarry at 175 Northern Highway, Wallan,
- DELWP supported correcting the map in writing via email dated 12th April 2020 and did not raise this as an issue at review stages for authorisation and prior to exhibition of amendment C157; and
- The Minister for Planning final decision on the quarry application or the Beveridge North West Precinct Structure Plan is a separate issue. This matter essentially deals with correcting an incorrect map. It is a technical error as acknowledged by DELWP.

11.20 It is recommended to update the Wallan Structure Plan at Clause 11.03-2L in accordance with the adopted amendment C108 version, removing this technical error.

Schedule 1 to Significant Landscape Overlay (SLO1)

11.21 SLO1 applies over the KHORP which is public land that includes the Kilmore Golf Club, Kilmore Hospital Reservoir Reserve, Kilmore Cricket Club, Monument Hill Reserve and the Hume and Hovell Monument.

PLANNING SCHEME AMENDMENT C157: IMPLEMENTATION OF PLANNING SCHEME REVIEW -
CONSIDERATION OF PLANNING PANEL REPORT AND AMENDMENT ADOPTION (CONT.)

- 11.22 Amendment C157 proposed to revise the objectives of SLO1. Six (6) community / community group submissions opposed these exhibited changes.
- 11.23 Following consideration of submissions, Council proposed to no longer pursue changes to the objectives of SLO1 as Council is preparing a Significant Landscape Assessment Study. This Study will allow the objectives of SLO1 to be reviewed in detail and for further community consultation on the matter.
- 11.24 As part of Council's Panel submission, it was proposed to abandon any exhibited changes to the objectives of SLO1 pursuant to the Council report on 17 October 2022. The Panel supports Council's approach (Attachment 1, Page 16) and changes to the objectives are now recommended to be formally removed.

**Planning
Panels
Victoria**

Mitchell Planning Scheme Amendment C157mith
Planning Scheme Review

Panel Report

Planning and Environment Act 1987

17 January 2023



How will this report be used?

This is a brief description of how this report will be used for the benefit of people unfamiliar with the planning system. If you have concerns about a specific issue you should seek independent advice.

The planning authority must consider this report before deciding whether or not to adopt the Amendment.

[section 27(1) of the *Planning and Environment Act 1987* (the PE Act)]

For the Amendment to proceed, it must be adopted by the planning authority and then sent to the Minister for Planning for approval.

The planning authority is not obliged to follow the recommendations of the Panel, but it must give its reasons if it does not follow the recommendations. [section 31 (1) of the PE Act, and section 9 of the *Planning and Environment Regulations 2015*]

If approved by the Minister for Planning a formal change will be made to the planning scheme. Notice of approval of the Amendment will be published in the Government Gazette. [section 37 of the PE Act]

Planning Panels Victoria acknowledges the Wurundjeri Woi Wurrung People as the traditional custodians of the land on which our office is located. We pay our respects to their Elders past and present.

Planning and Environment Act 1987

Panel Report pursuant to section 25 of the PE Act

Mitchell Planning Scheme Amendment C157mith

Planning Scheme Review

17 January 2023



Lester Townsend, Chair



Elissa Bell, Member



OFFICIAL

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Glossary and abbreviations

the Amendment	Mitchell Planning Scheme Amendment C157mith
Beveridge Committee	Beveridge North West Precinct Structure Plan, Supplementary Levy Infrastructure Contributions Plan and Quarry Permit Application Ministerial Advisory Committee
BNW PSP	Beveridge North West Precinct Structure Plan
Council	Mitchell Shire Council
DELWP	Department of Environment, Land, Water and Planning
DJPR	Department of Jobs, Precincts and Regions
EPA	Environment Protection Authority
GBCMA	Goulburn Broken Catchment Management Authority
HO	Heritage Overlay
IDM	<i>Infrastructure Design Manual 2019</i>
KHRP	Kilmore Historic Recreation Precinct
LAS	Landscape Assessment Study
LPPF	Local Planning Policy Framework
MPS	Municipal Planning Strategy
PCRZ	Public Conservation and Resource Zone
PE Act	<i>Planning and Environment Act 1987</i>
PPF	Planning Policy Framework
PPRZ	Public Park and Recreation Zone
PSP	Precinct Structure Pan
Planning Scheme	Mitchell Planning Scheme
<i>Scheme Review</i>	<i>Mitchell Planning Scheme Review 2020</i>
SLO1	Significant Landscape Overlay Schedule 1
UGB	Urban Growth Boundary
UGZ	Urban Growth Zone
VCAT	Victorian Civil and Administrative Tribunal
VPA	Victorian Planning Authority
VPP	Victoria Planning Provisions

Overview

Amendment summary	
The Amendment	Mitchell Planning Scheme Amendment C157mith
Common name	Planning Scheme Review
Brief description	Comprehensive scheme review to respond to the requirement for an integrated Planning Policy Framework and recent requirements on form and content of planning schemes
Subject land	The Amendment applies to all of the municipality
Planning Authority	Mitchell Shire Council
Authorisation	9 August 2021
Exhibition	14 June to 18 July 2022
Submissions	16 submissions received (11 submissions seek changes to the Amendment), as shown in Appendix A

Panel process	
The Panel	Lester Townsend (Chair) and Elissa Bell
Directions Hearing	16 November 2022 by video conference
Panel Hearing	12 and 13 December 2022 by video conference
Parties to the Hearing	<p>Mitchell Shire Council represented by Terry Montebello of Maddocks and Justin Harding of Council calling the following expert evidence:</p> <ul style="list-style-type: none"> - Planning issues related to extractive industry form Chris DeSilva of Mesh Planning. <p>Conundrum Holdings Pty Ltd represented by Eliza Minney and Emily Marson of Best Hooper, calling the following expert evidence:</p> <ul style="list-style-type: none"> - Planning from Andrew Clarke of Matrix Planning Australia <p>Mr Jim Lowden</p> <p>Department of Jobs, Precincts and Regions (Earth Resources – Extractives Planning) represented by Helen Crawford</p> <p>Kilmore and District Residents and Ratepayers Association represented by Anne Radden Rose</p> <p>Aurora Construction Materials Pty Ltd (who made written submissions)</p>
Citation	Mitchell PSA C157mith [2023] PPV
Date of this report	17 January 2023

Executive summary

Mitchell Planning Scheme Amendment C157mith (the Amendment) seeks to:

- Replace the Local Planning Policy Framework with:
 - a new Municipal Planning Strategy at Clause 02 of the Planning Scheme
 - local policies in the Planning Policy Framework (PPF) at Clauses 11-19.
- Amend a number of schedules to overlays, general provisions and operational provisions consistent with changes to the Victoria Planning Provisions introduced by Amendment VC148.
- Implement several recommendations of the *Mitchell Planning Scheme Review, September 2020* including:
 - replacing schedules 1 and 2 to the Urban Growth Zone
 - translating local policies related to gaming and waterways to relevant Clauses
 - updating planning permit triggers relevant to native vegetation and fencing
 - making Catchment Management Authorities the referral authority for relevant overlays
 - updating the list of further strategic work.

There is a clear obligation on Council to review the Planning Scheme and update it to respond to the requirement for an integrated PPF. The Amendment proposes Council's most significant revision of the Planning Scheme since introduction of the New Format Planning Scheme in 1999.

The Amendment will significantly improve readability and usability of the Planning Scheme for Council Officers, land owners, developers and the community, as envisaged by the State Government's *Smart Planning Project*.

Submissions covered a wide range of issues. The Panel thanks submitters who undertook a thorough review of the planning scheme. The most significant unresolved issues were to do with extractive industry in the growth area.

For the reasons set out in this report, the Panel concludes that the Amendment:

- is supported by, and generally implements, the relevant sections of the Planning Policy Framework
- is consistent with the relevant Ministerial Directions and Practice Notes
- is generally well founded and strategically justified
- should proceed subject to addressing the more specific issues raised in submissions as discussed in the following chapters.

Extractive industry

The changes that have raised concerns were:

- new policy in the exhibited Clause 11.01-1L-01 (Settlement):
 - Avoid the interim development of land where it may prejudice the longer term strategic role of the land as identified in Precinct Structure Plans.
 - Facilitate growth of housing and employment above other uses that will undermine the delivery of housing and employment, such as extractive industry, within Melbourne's urban growth boundary.
- Changes to the Wallan Structure Plan at Clause 11.03-2L (Wallan) by removing a 'Buffer to proposed quarry' notation.

Submissions on extractive industry referred to growth area policy, but there was confusion at the Hearing as to the applicable policy for the growth area. There are three main policy documents that guide growth area planning:

- Growth Area Framework Plans (2006)
- Growth Corridor Framework Plans (2012)
- *Plan Melbourne 2017-2050*.

The Growth Area Framework Plans are the plans referred to in the Victoria Planning Provisions and are incorporated into planning schemes. Unfortunately the Growth Area Framework Plans are hopelessly out of date and cover only a small portion of the growth corridor. The Growth Area Framework Plans were superseded about 10 years ago by Growth Corridor Plans. Unfortunately, the Growth Corridor Plans are not current either. Critically the North Growth Corridor Plan does not provide any detail for the Wallan area, identifying it as “*Logical inclusions area*”. ‘Logical inclusions’ was an Urban Growth Boundary (UGB) review process that ended in 2012 with the expansion of the UGB.

The Panel does not support the proposed policy changes regarding extractive industry. The exhibited changes were not supported by Council’s expert who proposed a refined policy. Critically the state agency responsible for earth resources did not support the proposed changes (as exhibited and as revised) pointing out how they were contrary to existing State Policy. The Panel is not satisfied that the case for giving up potentially high quality, well located significant resources has been made for all such resources in the growth area. In some cases allowing extractive industry for a defined period of time before urban development will deliver a superior planning outcome. These cases need to be determined on their merits.

The Planning Scheme Review Report usefully tracks where all current policy has landed in the PPF. Essentially, local policy will no longer rely on or reference the North Growth Corridor Plan, focussing instead on the Precinct Structure Plans.

In terms of the Wallan Structure Plan, the permit application for the relevant quarry that gives rise to the buffers is currently being considered by the Minister. Any change to the current policy setting should be informed by the Minister’s decision in that matter.

Recommendations

Based on the reasons set out in this Report, the Panel recommends that Mitchell Planning Scheme Amendment C157mith be adopted as exhibited subject to the following:

1. **Make the post-exhibition changes presented in Council’s Part A submission, namely:**
 - a) **Update the Municipal Planning Strategy Clause 2.02 to reflect the *Mitchell 2050 Community Vision Plan*.**
 - b) **Update Clause 13.07-1L-02 (Impact of Truck Movements).**
 - c) **Update Clause 15.01-3L (Subdivision Design).**
 - d) **Update Clause 16.01-5L (Rural Residential Subdivision).**
 - e) **Update the Schedule to Clause 44.03 (Floodway Overlay).**
 - f) **Abandon the changes to the ‘Landscape character objectives to be achieved’ in Significant Landscape Overlay Schedule 1.**
2. **Delete the following strategies from Clause 11.01-1L-01 (Settlement):**

Avoid the interim development of land where it may prejudice the longer term strategic role of the land as identified in Precinct Structure Plans.

Facilitate growth of housing and employment above other uses that will undermine the delivery of housing and employment, such as extractive industry, within Melbourne's urban growth boundary.

- 3. Retain the current version of the Wallan Structure Plan at Clause Clause 21.11-9 in the new Clause Clause 11.03-2L (Wallan).**

- 4. In Clause 11.01-1L-04 include additional text as underlined:**

Facilitate pedestrian cycling and vehicular linkages between growth areas and the established areas of Kilmore, Sydney Street town centre and existing facilities, and to the Kilmore East train station, through an integrated movement network

1 Introduction

1.1 The Amendment

Mitchell Planning Scheme Amendment C157mith (the Amendment) proposes to:

- Replace the Local Planning Policy Framework (LPPF) with:
 - a new Municipal Planning Strategy (MPS) at Clause 02 of the Planning Scheme
 - local policies in the Planning Policy Framework (PPF) at Clauses 11-19.
- Amend a number of schedules to overlays, general provisions and operational provisions consistent with changes to the Victoria Planning Provisions (VPP) introduced by Amendment VC148.
- Implement several recommendations of the *Mitchell Planning Scheme Review*, September 2020 (*Scheme Review*) including:
 - replacing schedules 1 and 2 to the Urban Growth Zone
 - translating local policies related to gaming and waterways to relevant Clauses
 - updating planning permit triggers relevant to native vegetation and fencing
 - making Catchment Management Authorities referral authority for relevant overlays
 - updating the list of further strategic work.

1.2 Background

Amendment VC148, gazetted on 31 July 2018:

- implemented key recommendations of the State Government's *Smart Planning* program
- introduced major changes to the VPP, including combining state and local planning policies into the PPF.

The *Smart Planning* program requires local government authorities to:

- translate the LPPF contained in Clauses 21 and 22 of the Planning Scheme into the streamlined PPF and MPS
- amend all local Zone, Overlay, General and Operational Schedules in accordance with the revised *Ministerial Direction – Form and Content of Planning Schemes (Ministerial Direction – Form and Content)*.

The Amendment is the result of extensive and detailed policy review work prepared by Red Ink Planning and Elke Cummins Planning with assistance from the Department of Environment, Land, Water and Planning (DELWP) and Council Officers. The Amendment also received support from several State Authorities.

Table 1 Chronology of the Amendment

When	What
21 September 2020	Council resolves to: <ul style="list-style-type: none"> - adopt Mitchell Shire Planning Scheme Review prepared by Redink Planning dated September 2020 (Scheme Review) (Attachment 1): and - submit a copy of the Scheme Review to the Minister for Planning in accordance with section 12(b) of the Planning and Environment Act 1987
28 June 2021	Council resolves to seek Ministerial authorisation to prepare and exhibit the Amendment

When	What
9 August 2021	Ministerial authorisation received to prepare and exhibit the Amendment
14 June 2022	Public exhibition of the Amendment commences
16 June 2022	A notice regarding the Amendment is published in the Government Gazette
18 July 2022	Public exhibition of the Amendment ends
17 October 2022	Council resolves to request the Minister for Planning to appoint an Independent Panel to review submissions and authorised Council officers to continue mediating with submitters to resolve concerns prior to commencement of the Panel

The *Scheme Review* identified minor changes to Local Planning Policy and additional strategic work which was required to be undertaken. Further, the *Scheme Review* made recommendations consistent with the translation requirements of the *Smart Planning* program, the *Ministerial Direction – Form and Content* and Amendment VC148.

Council proposed a number of changes following exhibition in response to submissions. The proposed changes were described by Council as:

- Update Vision Statement in the proposed Clause 02.02 (Vision) to reflect the outcomes of the Mitchell 2050 Community Vision Plan (post exhibition Council update)
- Amend Clause 13.07-1L-02 (Impact of Truck Movements) in accordance with Submission 6 (Environment Protection Authority Victoria (EPA))
- Update Strategy 2 in the proposed Clause 15.01-3L (Subdivision Design) to refer to the retention of canopy trees and for the provision of ultimate infrastructure (post exhibition Council update)
- Insert a fourth strategy in the proposed Clause 16.01-5L (Rural Residential Subdivision) (post exhibition Council update)
- In Clause 42.03 (Significant Landscape Overlay, Schedule 1 (SLO1)), abandon any exhibited changes to Clause 2.0 (Landscape Character to be achieved)
- In Clause 44.03 (Floodway Overlay), update Clause 3.0 (Permit Requirements) in accordance with the submission of Goulburn Broken Catchment Management Authority (GBCMA) (Submission 5).

Council formally resolved:

That Council:

1. Requests the Minister for Planning to appoint an Independent Planning Panel under Part 8 of the Planning and Environment Act 1987 to consider Amendment C157.
2. Submits to the Independent Planning Panel Council's response to the submissions, as generally outlined in Attachment 1 to this report.
3. Requests the Independent Planning Panel to consider unresolved submissions to Amendment C157.
4. Continues mediating with submitters to resolve concerns prior to commencement of the Independent Planning Panel.

The Panel notes that Council did not formally change the Amendment before referring it to the Panel, but the Panel has taken the revised version of the Amendment presented to the Council on 17 October 2022 and presented in Council's Part A submission as the starting point for this report.

1.3 The Panel's approach

Council received 16 submissions in response to the exhibition of the Amendment. Of the 16 submissions received:

- five submissions supported the Amendment
- eleven submissions sought changes to the Amendment.

Issues raised in submissions were:

- Objections to changes to Schedule 1 to Clause 42.03 Significant Landscape Overlay (SLO1 – Kilmore Historic Outdoor Precinct) (Submissions 2, 8, 9, 11, 12 and 13)
- Objections to proposed new extractive industry local strategies under Sub-clause 'Land within the urban growth boundary strategies' at Clause 11.01-1L-01 Settlement (Submissions 3, 4, 10 and 15)
- Objection to the removal of reference to the quarry proposed at 175 Northern Highway Wallan (WA1473) in the Wallan Structure Plan at Clause 11.03-2L Wallan (Submissions 3 and 10).
- Concerns regarding changes to environment, economic development, heritage, and subdivision policy (Submissions 8, 9, 12 and 13).

The Panel has assessed the Amendment against the principles of net community benefit and sustainable development, as set out in Clause 71.02-3 (Integrated decision making) of the Planning Scheme.

The Panel considered all written submissions made in response to the exhibition of the Amendment, and submissions, evidence and other material presented to it during the Hearing. It has had to be selective in referring to the more relevant or determinative material in the Report. All submissions and materials have been considered by the Panel in reaching its conclusions, regardless of whether they are specifically mentioned in the Report.

This Report deals with the issues under the following headings:

- Council supported changes
- Extractive Industry Policy and the Wallan Structure Plan
- Other submissions.

1.4 Strategic justification

There is a clear obligation on Council to review the Planning Scheme and update it to respond to the requirement for an integrated PPF. The *Scheme Review* is a thorough piece of work that carefully details how existing policy text has been transferred into the new structure. Detailed annotations on the existing and proposed policy frameworks presented in the *Scheme Review* make it easy to determine the source of proposed policy and the fate of existing policy.

For the reasons set out in this report, the Panel concludes that the Amendment:

- is supported by, and generally implements, the relevant sections of the PPF
- is consistent with the relevant Ministerial Directions and Practice Notes
- is generally well founded and strategically justified
- should proceed subject to addressing the more specific issues raised in submissions as discussed in the following chapters.

2 Council supported changes

2.1 General refinements

Following exhibition, Council proposed a number of changes to the Amendment either in response to submissions received and in response to feedback received by Council during internal review processes. These changes are in accordance with the Council Report considering submissions of 17 October 2022 (Attachment 5 to Council's Part A submission). None of these changes were opposed by submissions.

(i) Clause 2.02 (Vision)

Council proposes to update MPS Clause 2.02 to reflect the *Mitchell 2050 Community Vision Plan* (Vision Plan), which was adopted by Council at its Ordinary Meeting on 18 October 2021. The potential for this change was noted in the Officer Report seeking authorisation of the Amendment on 28 June 2021. This change will allow for Council's current community vision to be included in the MPS in a timely and efficient manner.

The Panel supports Council's proposal, and recommends:

1. **Make the post-exhibition changes presented in Council's Part A submission:**
 - a) **Update the Municipal Planning Strategy Clause 2.02 to reflect the *Mitchell 2050 Community Vision Plan*.**

(ii) Clause 13.07-1L-02 (Impact of Truck Movements)

Clause 13.07-1L-02 proposes policy regarding minimising the impact of heavy and commercial vehicles. In response to Submission 6 (EPA) it is proposed to reword dot point two under Clause 13.07 from "*Protect the amenity of communities*", which is a broad statement and could apply to any type of amenity impact, to the more specific "*Protect sensitive uses from noise and air quality impacts arising from traffic*". Council submitted that this change provides clear and specific policy guidance.

The Panel supports Council's proposal, and recommends:

1. **Make the post-exhibition changes presented in Council's Part A submission:**
 - b) **Update Clause 13.07-1L-02 (Impact of Truck Movements).**

(iii) Clause 15.01-3L (Subdivision Design)

Clause 15.01-3L provides local subdivision design policy. It is proposed to revise the first Strategy to include reference to retaining native and exotic canopy trees and add a new Strategy discouraging temporary infrastructure.

Council submitted that the revisions to Clause 15.01-3L will allow for policy consideration to be given to retaining exotic canopy trees at the design stage of new subdivisions and discourage temporary infrastructure in new subdivisions, such as incomplete roads, which are often sought by developers.

The Panel supports Council's proposal, and recommends:

1. **Make the post-exhibition changes presented in Council's Part A submission:**
 - c) **Update Clause 15.01-3L (Subdivision Design).**

(iv) Clause 16.01-5L (Rural Residential Subdivision)

Clause 16.01-5L proposes rural subdivision policy for the Farming Zone and Rural Conservation Zone. It is proposed to revise Clause 16.01-5L to include a fourth Strategy "Avoid battle-axe subdivision". Rural battle-axe subdivisions provide poor safety, lot design, agricultural use and land fragmentation outcomes and are not supported by Council.

The Panel supports Council's proposal, and recommends:

- 1 Make the post-exhibition changes presented in Council's Part A submission:**
 - d) Update Clause 16.01-5L (Rural Residential Subdivision).**

(v) Schedule to Clause 44.03 (Floodway Overlay)

In response to Submission 5 (GBCMA) it is proposed to split dot point 3 under Sub-clause 3 (Permit Requirement) to improve readability and correct a minor spelling error at dot point 9.

The Panel supports Council's proposal, and recommends:

- 1 Make the post-exhibition changes presented in Council's Part A submission:**
 - e) Update the Schedule to Clause 44.03 (Floodway Overlay).**

2.2 Significant Landscape Overlay Schedule 1 (Kilmore Historic Recreation Precinct) Submissions

(i) The issue

The Amendment proposes to update the 'Landscape character objectives to be achieved' of SLO1 to reduce the number of character objectives from eight to five and remove duplicate and unnecessary policy wording.

The Amendment also proposes to relocate referral provisions under Sub-clause 5 (Decision Guidelines) to the Schedule to Clause 66.04 (Referral of Permit Applications Under Local Provisions), in accordance with the requirements of the *Ministerial Direction – Form and Content*.

A number of submissions are opposed to this.

(ii) Background

SLO1 applies to the Kilmore Historic Recreation Precinct (KHRP). The KHRP includes the Kilmore Golf Club, Kilmore Hospital Reservoir Reserve, Kilmore Cricket Club, Monument Hill Reserve and the Hume and Hovell Monument.

SLO1 has covered Monument Hill since introduction of the New Format Planning Scheme in 1999. SLO1 was extended west to cover the Kilmore Golf Course, Cricket Club and Hospital Reservoir Reserve by way of Amendment C056 in September 2015.

Figure 1 Significant Landscape Overlay Schedule 1 Extent, Zoning and Heritage Overlay

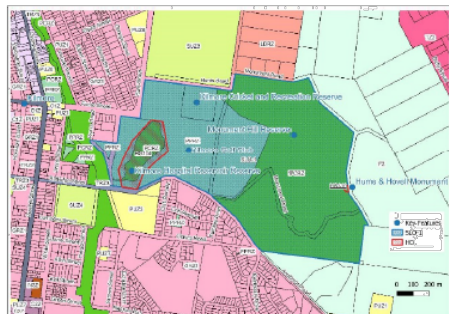


Figure 2 Significant Landscape Overlay Schedule 1 Extent Aerial Plan



The KHRP is publicly owned land in the Public Park and Recreation Zone (PPRZ) and Public Conservation and Resource Zone (PCRZ). The extent of SLO1 matches the PPRZ and PCRZ zoning together with a small section of General Residential Zone road reserve but does not cover any privately owned land.

Within the SLO1, the Heritage Overlay (HO) applies to the Kilmore Hospital Reservoir Reserve (HO104) and the Hume and Hovell Monument (HO318). Vegetation Protection Overlay Schedule 1 (Roadside and Corridor Protection, VPO1) and Design and Development Overlay Schedule 8 (Kilmore Hospital Emergency Service Flight Path (Outer)) also apply to part of the SLO1 extent but are not of relevance to the issues raised.

The proposed change is to ensure the SLO1 is in accordance with the *Ministerial Direction – Form and Content* which limits the number of objectives to 5. This Ministerial Direction was modified on 30 July 2018 after the SLO1 was updated via Amendment C56 on 24 September 2015.

Council has appointed Claire Scott Planning to prepare a Landscape Assessment Study (LAS) for the Shire. The scope of the LAS project includes reviewing existing Significant Landscape Overlay extents and provisions. The LAS project is well advanced with a major component, the Landscape Significance Report, scheduled to be placed on public exhibition for community consultation in early 2023.

(iii) Evidence and submissions

Submissions 2, 8, 9, 11, 12 and 13 oppose the proposed changes to SLO1 on the following grounds:

- The application of the SLO1 and provisions were agreed through the Amendment C056 Panel review process. Amendment C056 updated the extent and provisions of SLO1 in 2015.
- The proposed changes, including removing referrals, would diminish or “water down” the provisions of SLO1.

Submitter 11 raised additional concerns regarding views from the Hume and Hovell Monument, vegetation management and pedestrian safety. These concerns relate to management of the KHRP and are not relevant to the Amendment as they cannot be addressed via changes to the Planning Scheme.

Council submitted that as the provisions of SLO1 were reviewed and updated in 2015 and will be reviewed and updated soon via the LAS project it is appropriate to withdraw changes to Sub-

clause 2 of SLO1 proposed by the Amendment. A focused review of all Significant Landscape Overlays by a landscape expert will provide the opportunity for best practice provisions.

Council advised that DELWP Hume and Metropolitan State Planning Services Officers have verbally advised Council officers that they support retaining Sub-clause 2 of SLO1 as the LAS project is well advanced.

(iv) Discussion and conclusion

Revising Sub-clause 2 to SLO1 is not fundamental to the strategic intent of the Amendment. The extent of SLO1 is limited to public land within Kilmore and does not affect privately owned land. The Panel understands that Council currently has no major works or projects planned for land within the KHRP or SLO1 extent that would trigger a Planning Permit as per the exhibited Amendment.

The Panel agrees that it is appropriate to wait until the completion of the LAS before amending the schedule. This potentially avoids two amendments in relatively short succession which could be confusing.

The Panel recommends:

- 1 Make the post-exhibition changes presented in Council's Part A submission:**
 - f) Abandon the changes to the 'Landscape character objectives to be achieved' in Significant Landscape Overlay Schedule 1.**

3 Extractive Industry Policy and the Wallan Structure Plan

3.1 The issue

Conundrum Holdings Pty Ltd (Submission 3), Aurora Constructions Pty Ltd (Submission 4), Department of Jobs, Precincts and Regions (DJPR) (Submission 10) and Construction Materials Processors Association (Submission 15) raised concerns with the impacts of the Amendment on extractive industry.

What the Amendment proposes

The changes that have raised concerns are:

- new strategies in Clause 11.01-1L-01 (Settlement):
 Avoid the interim development of land where it may prejudice the longer term strategic role of the land as identified in Precinct Structure Plans.
 Facilitate growth of housing and employment above other uses that will undermine the delivery of housing and employment, such as extractive industry, within Melbourne’s urban growth boundary.
- Changes to the Wallan Structure Plan at Clause 11.03-2L (Wallan) by removing a ‘Buffer to proposed quarry’ notation, depicted as a white dashed line in the area outlined in in Figure 3.

The quarry itself is a proposal in the Beveridge North West Precinct Structure Plan (BNW PSP). The Council endorsed Wallan Structure Plan 2015 does not include the proposed quarry buffer.

Figure 3 Current Wallan Structure Plan at Clause 21.11-9

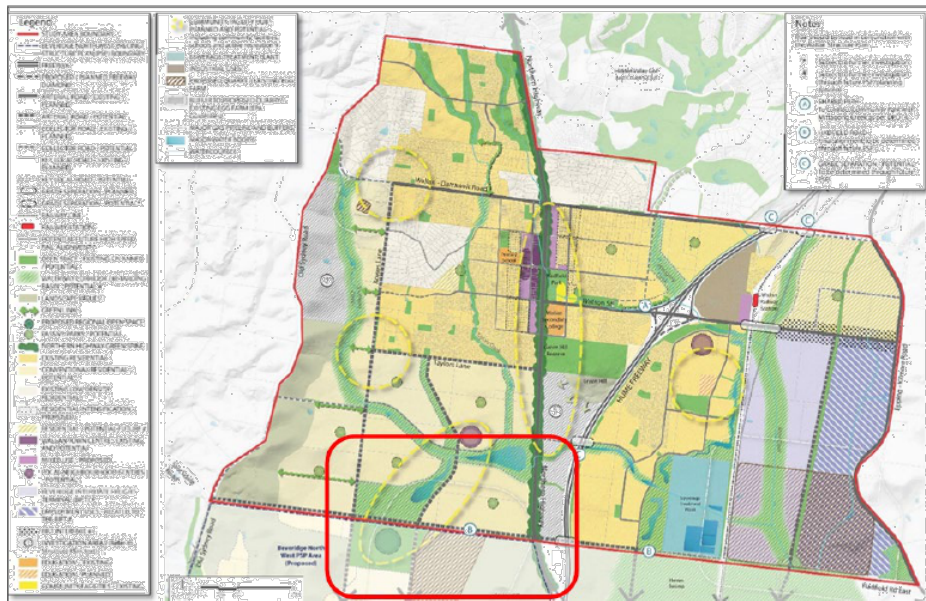
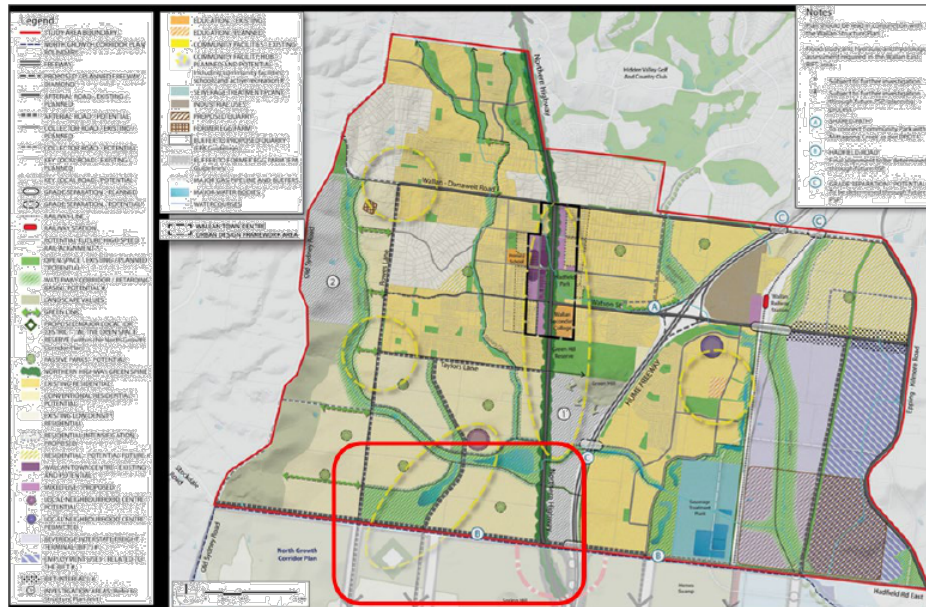


Figure 4 Proposed Wallan Structure Plan at Clause 11.03-2L



3.2 Background

(i) Growth Corridor Planning

State Policy

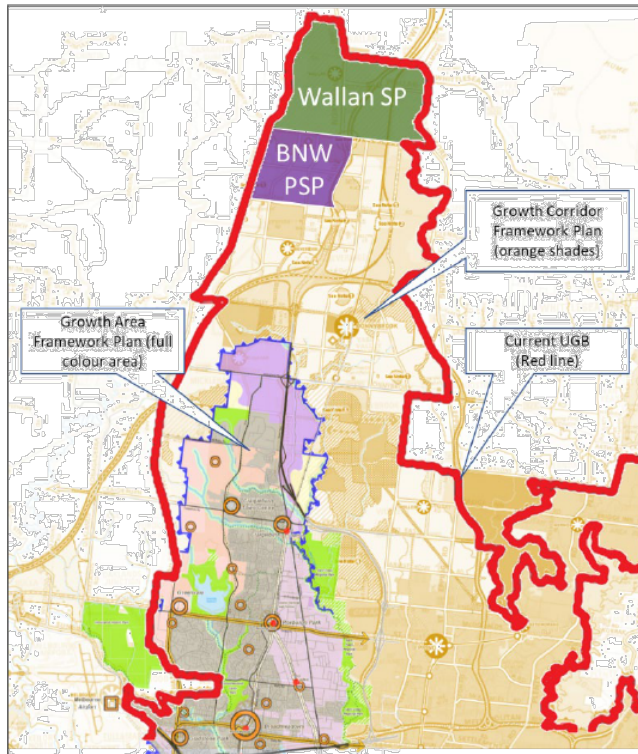
There are three main policy documents that guide growth area planning:

- Growth Area Framework Plans (2006)
- Growth Corridor Framework Plan (2012)
- *Plan Melbourne 2017-2050*.

The framework plans were prepared before the ‘logical inclusions’ process that amended the Urban Growth Boundary.

The Growth Area Framework Plans are the plans referred to in the Victoria Planning Provisions and are incorporated into planning schemes (see Appendix C:1). Unfortunately the Growth Area Framework Plans are hopelessly out of date and cover only a small portion of the growth corridor. Figure 5 shows the Growth Area Framework Plan (2006) in colour over the Growth Corridor Framework Plan (2012) in orange shades, and the current Urban Growth Boundary in red.

Figure 5 Comparison of ‘Growth Area Framework Plan’, ‘Growth Corridor Framework Plan’ (2012) and the UGB



Source: Prepared by the Panel

The Growth Area Framework Plans were superseded about 10 years ago by Growth Corridor Plans. As Council pointed out the Victorian Planning Authority’s website says:

The Growth Corridor Plans are high level integrated land use and transport plans that provide a strategy for the development of Melbourne’s growth corridors over the coming decades.

These plans will guide the delivery of key housing, employment and transport infrastructure in Melbourne’s new suburbs and provide a clear strategy for the development of the growth corridors over the next 30 to 40 years.

Unfortunately, the Growth Corridor Plans are not up to date either. Critically the North Growth Corridor Plan does not provide any detail for the Wallan Structure Plan area (shown as ■ on Figure 5), identifying it as “Logical inclusions area”.¹ ‘Logical inclusions’ was an Urban Growth Boundary (UGB) review process that ended in 2012 with the expansion of the UGB.

The Planning Scheme is somewhat confused as to which policy to apply. This is perhaps best illustrated by the Urban Growth Zone (UGZ). The UGZ comprises two parts – ‘Part A’ provisions,

¹ Version: <https://vpa-web.s3.amazonaws.com/wp-content/uploads/2012/11/North-Growth-Corridor-Plan.pdf>. It is not notated on plans in the earlier report: <https://vpa-web.s3.amazonaws.com/wp-content/uploads/2016/10/Growth-Corridor-Plan-Managing-Melbournes-Growth.pdf>

where no PSP applies, and 'Part B' provisions, where a PSP applies. The decision guidelines take the decision maker to different plans:

37.07-7 Decision guidelines [where no PSP applies]

Before deciding on an application to use or subdivide land, construct a building or construct or carry out works, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:

- Any relevant Growth Corridor Framework Plan.

37.07-14 Decision guidelines [where a PSP applies]

Before deciding on an application to use or subdivide land, construct a building or construct or carry out works, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:

- Any relevant Growth Area Framework Plan.

Surely this is not deliberate.

The current UGB was reaffirmed as the outer limit for growth in *Plan Melbourne 2017-2050* at Policy 2.1.1. It can only be changed by majority vote in both houses of Parliament. Plan Melbourne is the policy that underpins the current location of the UGB.

A strength of the Victorian planning system is the ability to present a comprehensive policy framework for land use and development in one place: the PPF. This is only a strength if the PPF is kept up to date. The current policy in the VPP essentially leaves most of the growth corridor without a comprehensive plan.

Local policy

Clause 21.02-1 (Urban growth) in the current Planning Scheme says:

As metropolitan Melbourne expands, Mitchell's role will continue to evolve in line with the North Growth Corridor Plan, movements in the UGB and the progressive implementation of Precinct Structure Plans for developing areas.

The *Scheme Review* usefully tracks where all current policy has landed in the PPF and advises this is now dealt with in Clause 02.03-1 (Settlement – Settlement within the urban growth boundary):

Settlement within the urban growth boundary

Significant growth is planned to occur in the southern are of Mitchell Shire within the Urban Growth Boundary over the next fifty years. Mitchell Shire has eleven precinct structure plan areas which will guide population growth and the associated infrastructure required as shown on the Mitchell Urban Growth Boundary Plan at Clause 02.04.

Existing settlements within the North Growth Corridor:

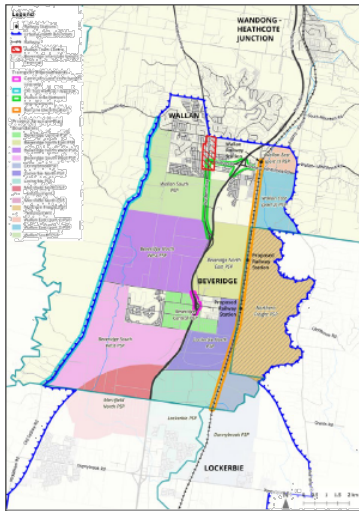
- **Wallan:** identified as an activity centre.
- **Beveridge:** identified as future activity centre.
- **West Beveridge and Lockerbie North:** planned for smaller town centres.
- **Lockerbie:** (located in Hume Council) will become the major activity centre serving southern Mitchell.

Over time these centres will develop to form the activity centre network for southern Mitchell.

The Beveridge Interstate Freight Terminal will be a significant transport and logistics hub for the state and nationally. It will develop as a major employment area.

Essentially, local policy will no longer rely on or reference the North Growth Corridor Plan, focussing instead on the PSPs.

Figure 6 Mitchell Urban Growth Boundary Plan at Clause 02.04



Source: Exhibited Amendment.

(ii) Extractive industries in growth areas

Clause 11.01-1R (Settlement – Metropolitan Melbourne) provides for, amongst others, the following strategies:

Maintain a permanent urban growth boundary around Melbourne to create a more consolidated, sustainable city and protect the values of non-urban land.

Plan Melbourne Policy 1.4.2 is to

Identify and protect extractive resources (such as stone and sand) important for Melbourne's future needs.

It elaborates:

Extractive industry resources in green wedges and peri-urban areas need to be protected and carefully planned to provide for Melbourne's needs without impacting on local amenity. The sequencing of urban development in growth areas should allow strategic resources such as stone and sand to be extracted ahead of establishing urban areas, with provision for these areas to proceed outside defined buffer zones that can subsequently be infilled by other urban land uses.

The strategy recognises that loss of access to strategic resources close to points of demand will increase transport costs, which will contribute to reduced affordability of urban development.

Clause 14.03-1S provides for the following strategies, as relevant:

Provide for the long-term protection of natural resources in Victoria.
Protect the opportunity for exploration and extraction of natural resources where this is consistent with overall planning considerations and acceptable environmental practice.

At Clause 14.03-1R (Resource exploration and extraction – Hume), the Planning Scheme contains the strategy:

Support the availability of construction materials locally and consider measures to facilitate and manage their extraction.

(iii) Beveridge North West PSP**Amendment C106**

Mitchell Planning Scheme Amendment C106mith (Amendment C106) sought to introduce the Beveridge North West PSP. The Victorian Planning Authority (VPA) was the planning authority for the Amendment. A Panel conducted an 18-day hearing in July and August 2020 before submitting its report to the VPA on 7 October 2020.

The Panel concluded that there was clear policy support for the extraction of the stone resource in planning policy and recommended that Amendment C106 be revised to explicitly include precinct level planning for resource extraction from Work Authority Application 1473. The Panel identified several strategic issues with respect to planning for a potential quarry that warranted consideration.

The VPA subsequently prepared two draft Planning Scheme amendments, one to respond to the Amendment C106 Panel recommendations and amend the PSP (C158mith) and one to include an Infrastructure Contributions Plan (C161mith).

The quarry permit application

Conundrum Holdings Pty Ltd (Conundrum) lodged a planning permit application with Council on 4 October 2019 for a quarry in the northeast corner of the PSP area. Conundrum lodged an application to the Victorian Civil and Administrative Tribunal (VCAT) on 19 October 2020 under section 79 of the PE Act for review of Council's failure to determine the application within the prescribed time. There were 138 objections and 291 letters of support received as a result of public notice.

The matter was called in from VCAT by the Minister for Planning, under Clause 58(2)(a) of Schedule 1 to the *Victorian Civil and Administrative Tribunal Act 1998* on 24 February 2021, based on the Minister's view that:²

... the proceeding raises a major issue of policy, and determination of the proceeding may have a substantial effect on the achievement or development of planning objectives.

The Advisory Committee

On 20 December 2021, the Minister for Planning appointed the Beveridge North West Precinct Structure Plan, Supplementary Levy Infrastructure Contributions Plan and Quarry Permit Application Ministerial Advisory Committee (the Beveridge Committee).

The Beveridge Committee's Terms of Reference set out its purpose as to advise the Minister on whether:

- a) Draft Planning Scheme amendment C158mith (Amendment C158) is acceptable and appropriately implements the recommendations of the Amendment C106mith (Amendment C106) Panel, and any appropriate consequential changes to the Beveridge North West Precinct Structure Plan (PSP) area;
- b) Draft Planning Scheme amendment C161mith (Amendment C161) for the supplementary levy Infrastructure Contributions Plan (ICP) is acceptable; and
- c) Planning permit PLP268/19 (Permit Application) should be granted to 'use and develop the subject land for stone extraction and the creation of access to a road in a Road Zone Category 1' at the Conundrum Quarry Land under Work Authority Application 1473 having regard to the Mitchell Planning Scheme (as modified by the planning controls proposed by Amendment C158), and if so, the appropriate permit conditions.

² Document V39.

The Beveridge Committee's report is not yet publicly available. Its public release is a matter for the Minister.

3.3 Submissions and evidence

Non-urban uses in the UGB

Council submitted that the planning context lies in planning policies that relate to:

- settlement
- natural resources management.

Land in growth areas is typically zoned UGZ. The purpose of the UGZ is:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To manage the transition of non-urban land into urban land in accordance with a precinct structure plan.
- To provide for a range of uses and the development of land generally in accordance with a precinct structure plan.
- To contain urban use and development to areas identified for urban development in a precinct structure plan.
- To provide for the continued non-urban use of the land until urban development in accordance with a precinct structure plan occurs.
- To ensure that, before a precinct structure plan is applied, the use and development of land does not prejudice the future urban use and development of the land.

Council observed that the purpose of UGZ, and planning policy framework upon which it relies, is to 'manage' the transition of urban land to non-urban land – this process of management requires some active role on Council's part.

Council submitted:

- the UGZ expressly seeks to provide protection to existing non-urban land uses as distinct from encouraging new non-urban land uses.

Council submitted that where there is a conflict between policies, Clause 71.02 refers to the test of net community benefit. Assessing net community benefit is not an easy endeavour and requires the assessment of qualitative considerations, not quantitative. However, qualitative considerations do not easily lend themselves to forensic assessment.

Mr De Silva's revised wording

Mr De Silva gave evidence for Council. Mr De Silva was of the opinion that:

- ... management of the implications associated with interim use, development and subdivision of land in growth areas is a strategically important issue that warrants recognition within policy.

Although Mr De Silva's overall opinion was that the "*desire to establish policy direction is strategically justified*". He did not however support the exhibited version of the proposed changes to Clause 11.01 in relation to interim use of land and extractive industry. He proposed a revised drafting of Clause 11.01 that in his opinion, appropriately:

- considers the status of any PSP
- reflects the relative importance of extractive industry within and beyond the UGB
- recognises the potential negative impacts associated with interim use, development and subdivision of land in growth areas
- identifies locations where extractive industries are to be encouraged and discouraged

- protects existing and approved extractive industry sites from encroachment by sensitive land uses.

His proposed wording was as follows:

Facilitate the development of well serviced and attractive growth areas.

Discourage the interim use, development or subdivision of land unless it can be demonstrated that the proposed use, development or subdivision will not prejudice the intended use of the land as identified in an approved Growth Corridor Plan and/or an approved Precinct Structure Plan or a yet to be prepared Precinct Structure Plan.

Recognise the value of extractive resources and seek to protect existing or approved extractive sites from encroachment of sensitive uses within the urban and rural parts of the Shire.

Encourage establishment of new extractive industries in locations outside of the Urban Growth Boundary.

Discourage establishment of new extractive industries within the Urban Growth Boundary on land that is subject of an approved Precinct Structure Plan where land has been prioritised for delivery of housing and employment.

Where any new extractive industry proposals are located within the Urban Growth Boundary on land that does not have an approved Precinct Structure Plan only support such applications where it can be demonstrated that the proposal will not:

- cause an unacceptable environmental or visual impact
- create unreasonable amenity impacts on any existing sensitive land uses
- unreasonably prejudice future use and development of the land for urban purposes
- result in reliance on adjoining privately owned land for buffer purposes.

Council accepted the concerns expressed by Mr De Silva and saw merit in his alternative proposal. Council submitted that the Panel should take his alternative drafting into consideration in preference to those provisions which were exhibited.

Avoiding or managing conflicts

Council's essential contention was that, at its most fundamental, planning should avoid, rather than manage, the co-location of conflicting land uses. It said that the most recent examples of these large-scale activities in the municipality have endeavoured to manage the co-location of conflicting land uses:

Ultimately whilst one hopes that it is possible to *manage* the co-location of conflicting land uses, unless further guidance is established, it is an experiment that has potentially enormous social and economic costs associated with it.

Council submitted that smarter strategic planning indicates that there should be additional guidance to avoid conflicts between urban growth and extractive industries. What Council said it had seen within Mitchell Shire is that in the consideration of large-scale proposals, the net community benefit is assessed on qualitative assessments which do not lend themselves to properly weighing the benefits of one proposal over the other.

Council submitted:

21. What is missing is local guidance to assist the decision-maker in going about the task of exercising discretion.
23. In the above context we submit that it is quite appropriate for the planning scheme, at the local level, not to be silent on an issue of such significance. By reference to the planning scheme map for the parts of Mitchell Shire south of the Dividing Range, it is apparent that these southern parts are identified as having an important role in providing housing and employment for the growing population of Victoria. It is also important to acknowledge that

planning schemes strictly control where urban development may take place, limiting it to defined areas which are, essentially, zoned residential, township or UGZ.

Part of Council's concern was that the significant long term infrastructure investment requirement by both the public and private sector will

... inevitably struggle where timelines for the orderly rollout of infrastructure and the receipt of income from development contributions is interrupted and made more inherently uncertain by the introduction of land uses that are, historically, conducted over longer timeframes than what is originally envisaged and put forward.

Until a machinery of government change on 1 January 2023, the Department of Jobs, Precincts and Regions – Strategic Resources Planning (DJPR) was tasked with securing extractive resources to help ensure the supply of affordable construction materials to meet current and future housing and infrastructure needs in Victoria. This function was undertaken by the Resources Branch of DJPR, a branch now located in the new Department of Jobs, Skills, Industry and Regions.

The Resources Branch viewed the proposed local policy (as exhibited and proposed by Mr De Silva) as contrary to Plan Melbourne and the policy framework, and unnecessary given other content in the Planning Scheme. The branch stated that in any greenfield urbanisation process, there can be land uses that are incompatible with urban land uses, particularly sensitive receptors. For example, intensive animal husbandry or rural industry. Such uses can also represent substantial investment, contribute to local economies and operate for many years.

The branch submitted:

Mitchell Shire is proven to have good supplies of local rock, which is fortunate given its growth forecasts, and this Regional Policy strategy [at Clause 14.03-1R Resource exploration and extraction – Hume] encourages making use of such construction materials. The proposed local policy's discouraging the availability of locally sourced construction materials is inconsistent with the Regional policy. No particular evidence has been provided that would justify departure from this strategy. On the grounds of planning policy, nothing supports the Amendment's proposed version of Clause 11.01-1L-01.

Aurora Constructions submitted:

38. The implications of Council's proposed Clause 11.01-1L are potentially broad and long term, serving to thwart the establishment of new extractive industry and the continued operation of and expansion of existing extractive industry. This could be in the form of extensions of time to existing permits, amendments to existing permits, decisions regarding land uses and developments on land adjoining or adjacent to existing facilities.

Conundrum's sole interest in the Amendment was with the way it said the Council:

... seeks to slip through the backdoor significant, unjustified and unnecessary policy changes which appear aimed only at agitating and re-prosecuting old scores. This is despite the amendment being intended to be administrative in nature, policy neutral and simply translate the Mitchell Shire Planning Scheme (Scheme) to the new state format.

Andrew Clarke gave evidence for Conundrum, and recommended:

The Clause 11.01-1L-01 strategy ... should be deleted. It does not need to be replaced or reworded. There are existing mechanisms provided in the planning scheme to balance and resolve competing planning policy outcomes if they exist. ...

Changes to the Wallan Structure Plan

Council submitted that the planning scheme provisions it seeks to put in place are not and cannot be retrospective, saying that decisions about that particular land use in Beveridge North West in which Submitter 3 has an interest are likely to be considered in the context of the existing Planning Scheme. Council noted:

Nothing in this Amendment is likely to influence those outcomes.

Council submitted that the inclusion of the proposed North Central Quarry and its associated buffers was an anomaly, given the Wallan Structure Plan approved by Council on 14 December 2015 does not include any reference to the proposed quarry.

Mr Clarke recommended:

With respect to the quarry site and its necessary buffer the Wallan Structure Plan map should be either:

- Unchanged from the existing map, or
- Annotated differently (for example if the extent of buffer is less precise) to reflect the existence of the current planning processes to facilitate the quarry and its buffer.

3.4 Discussion

Non-urban uses in the UGB

The Panel does not agree with Council that the purpose of the UGB *“To provide for the continued non-urban use of the land until urban development in accordance with a precinct structure plan occurs”* only applies to existing uses. A reference to, say ‘commercial use’ in a policy in an activity centre that says ‘support commercial uses’ is a broader reference than the existing shops and offices. Likewise, a reference to ‘non-urban uses’ is, in the Panel’s view, a reference to a category or class of uses as opposed to the specific instances of those uses. This is the way the table of uses in the UGB is constructed, and the fact that permits for quarries have been granted within the UGB would indicate decision makers and VCAT have taken a similarly broader view.

Council itself noted approval of:

- a large clay quarry has been introduced into the middle of an area identified as an employment area, the Beveridge Interstate Freight Terminal
- a stone extraction quarry foreshadowed in an area which is supposed to be the prime growth area for the provision of housing within the municipality.

Mr De Silva’s revised wording

Nobody supports the exhibited text and the Panel thinks this is a strong argument of simply deleting it. Mr De Silva’s ‘refinements’ go beyond mere nuancing and the Panel is concerned that these words have not been publicly exhibited, and such an important change ought to be subject to a proper review process.

The Panel gives significant weight to the submissions of the state body tasked with ensuring an appropriate supply of stone resources. This is especially the case in the light of Council’s more local concerns.

Much of what Mr De Silva proposes seems to duplicate existing policy settings with perhaps two exceptions:

Encourage establishment of new extractive industries in locations outside of the Urban Growth Boundary.

Where any new extractive industry proposals are located within the Urban Growth Boundary on land that does not have an approved Precinct Structure Plan only support such applications where it can be demonstrated that the proposal will not:

...

- result in reliance on adjoining privately owned land for buffer purposes.

The Panel is concerned about the broader implications of the statement to *“Encourage establishment of new extractive industries in locations outside of the Urban Growth Boundary.”* The Panel understand that this is intended to be relative to land inside the UGB, but this is not what the policy says. It is not clear it is appropriate to encourage extractive industry in all areas outside the UGB in Mitchell and this is certainly a policy existing residents of these areas might want to have a say about.

The Panel is not convinced there is merit in a policy requiring buffers to be owned by the quarry operator in all cases. This may be an important consideration, but could be determined in relation to specific circumstances.

Avoiding conflicts

The VPP identify a range of things that should be ‘avoided’. Quarries in growth areas is not one of them. But the proposed policy is not about avoiding conflict, it is essentially about stopping quarries in growth areas. The Panel follows the logic of the C106 Panel. If planning prevents the extraction of stone resource through a PSP process or blanket policy approach, then the resource is likely sterilised for all time.

There may well be times when that decision is appropriate; the Panel is not satisfied here that the case for giving up potentially high quality, well located significant resources has been made. Indeed, the Council gave examples of where permit conditions had neatly ensured two uses would be separated temporally. Urban development of most of the growth area should be possible during resource extraction, with the balance developed post-quarrying. Thus, the Panel is not convinced that the Amendment as exhibited has framed the issue correctly; it should be possible to deliver a very significant urban development outcome and resource extraction in the long term. In the Panel’s view, that would be the net community benefit and sustainable development outcomes that planning seeks to achieve.

Even if the Panel were convinced that conflicts needed to be avoided rather than managed the Panel would need to be convinced that net community benefit always meant that quarries should give way to urban growth. This case has not been made.

Changes to the Wallan Plan

The Panel accepts that the planning permit application associated with the North Central Quarry is currently before the Minister for Planning for consideration and has not yet been approved. But it disagrees with Council that this means that the depiction of the quarry and quarry buffer on the Wallan Structure Plan should only be considered if the Minister determines that a planning permit should be issued.

Removing the buffer only has a practical effect if it allows for development of the land in the buffer. This would pre-empt the Minister’s decision on the quarry as it may prevent the quarry being developed.

Until the Minister makes a decision the option for the quarry should be protected by retaining the buffer, this is especially the case as:

- submission from relevant government agency support the quarry
- the conclusion of the C106mith panel supported extractive industry and the subsequent Beveridge Committee process were aimed at implementing those conclusions
- the permit for the quarry was called in from VCAT.

The Minister's decision on the quarry is unknown, but its approval, is clearly an option before the Minister.

The next decision on the buffer should be the final decision: there should not be a protentional 'off again, on again' process.

3.5 Recommendation

The Panel recommends:

- 2. Delete the following strategies from Clause 11.01-1L-01 (Settlement):**
Avoid the interim development of land where it may prejudice the longer term strategic role of the land as identified in Precinct Structure Plans.
Facilitate growth of housing and employment above other uses that will undermine the delivery of housing and employment, such as extractive industry, within Melbourne's urban growth boundary.
- 3. Retain the current version of the Wallan Structure Plan.**

4 Other submissions

4.1 Policy Submissions

4.1.1 'Paper roads'

Clause 02.03-2 (Environmental and Landscape Values)

Submitter 9 requested the wording of MPS Clause 02.03-2 (Environmental and Landscape Values) on roadside vegetation (last paragraph under Biodiversity subheading) be expanded to note that unused road reserves or "paper roads" also contain significant indigenous remnant vegetation.

Council acknowledged that unused road reserves can contain significant vegetation, but thought the exhibited statement appropriately acknowledged roadside vegetation and that it was unnecessary to specifically acknowledge remnant vegetation within unused road reserves within the MPS.

Council submitted the requested changes do not improve the wording of the Strategies and are not supported.

The Panel supports Council's approach.

4.1.2 Bushfire

Clause 02.03-3 (Environmental Risks and Amenity) and

Clause 15.01-3L (Subdivision Design)

Bushfire safety issues

The Amendment proposes to transfer, with minor changes, the existing local bushfire policy (that does not repeat State Policy) at Clause 21.04-5 (Environmental Risks - Bushfire) to MPS Clause 02.03-3.

The Amendment at Clause 15.01-3L (Built Environment – Subdivision Design) proposes the following policy:

Avoid single accessway subdivisions to facilitate ease of movement by emergency vehicles and improve vehicle, cycle and pedestrian permeability.

This policy, whilst not prohibiting single accessway subdivisions, makes it clear that policy is to avoid them.

Submitters 8 and 13 requested that proposed MPS Clause 2.03-2 be revised to include policy requiring new and existing development to provide two entry and exit points, safe refuge areas and independent power for bushfire safety. Submitter 13 also requested that this policy is added to Clause 15.01-3L in addition to Clause 02.03-2.

Council advised that the proposed Clause 02.03-2 does not contain detailed bushfire safety policy as the purpose of the MPS is to provide an overview of important local planning issues and set out vision and strategy for use and development for Mitchell Shire.

Council said that it is not always possible to achieve two entry and exit points for new development.

State Policy in the PPF and Particular Provisions provide a robust policy framework for assessing subdivision design against bushfire safety and protection:

- Clause 13.02-1S (Bushfire Planning) is clear on bushfire protection policy, and any subdivision within a bushfire prone or bushfire management overlay is referred to the Country Fire Authority who assess access and safety design. The Clause has the objective:
 - To strengthen the resilience of settlements and communities to bushfire through risk-based planning that prioritises the protection of human life.
- Particular Provisions Clause 56.06-4 (Neighbourhood Street Design Objective) also provides appropriate policy guidance for road network safety, including the following Standards:
 - Provide safe and efficient access to all lots for service and emergency vehicles.
 - Provide safe movement for all vehicles.

Council advised that refuge areas are designated through Emergency Management Victoria's Bushfire Place of Last Resort program (or Neighbourhood Safer Places) and typically utilise open space areas or community facilities for this purpose. Council considered that specifying a requirement for bushfire refuges in Local Planning Policy is unnecessary.

Council did not support any changes to Local PPF bushfire safety policy in response to Submissions 8 and 13.

The Panel supports Council's approach

Bushfire environmental issues

Submitter 9 requested additional policy is added to Clause 02.03-3 regarding protection of flora and fauna from climate change and protection of flora and fauna from bushfires and planned burns.

Council advised that protection of flora and fauna from climate change is already noted under the proposed Clause 02.03-3 policy which notes that:

Climate change will impact on water resources, primary production and infrastructure and will effect ecological and human health.

Council also noted that the Planning Scheme provides significant policy protection for flora and fauna, including Particular Provisions Clause 52.17 (Native Vegetation) and that planned burn-offs for fire safety are not managed by the Planning Scheme.

Council did not support the changes to Clause 02.03-3 requested by Submitter 9.

The Panel supports Council's approach.

4.1.3 Equine tourism Clause 02.03-7 (Economic Development)

Submitter 13 requested that MPS Clause 02.03-7 be updated under the Tourism subheading to include reference to the economic importance of the equine industry which the submitter said was the largest employer in the Shire.

Council advised that the equine industry is important to Mitchell Shire but is not the largest employer. Clause 02.03-7 as exhibited notes equine tourism as an attraction.

Council did not support the changes to Clause 02.03-7 requested by Submitter 13.

The Panel supports Council's approach.

4.1.4 Kilmore**Clause 11.01-1L-04 (Kilmore)**

The Amendment proposes to relocate Local Policy for Kilmore from the LPPF at Clause 21.01-11 (Local Areas – Kilmore) to PPF Clause 11.01-1L-04.

Submitter 9 requested a new Strategy regarding protection of the KHRP is inserted due to concerns that the former police residence and former police paddock in the area do not have appropriate planning controls.

Council advised that the KHRP is protected by SLO1 (see Chapter 2.2). SLO1 covers the former police paddock. The privately-owned former Kilmore police residence at 5 Ryans Road is protected by the Heritage Overlay (HO81).

Council submitted that further policy protection for this area is not supported as part of the Amendment as it would require further investigation into the adequacy of the existing Heritage Overlay listing and citation. Such an investigation is typically undertaken via a Heritage Overlay audit.

The Panel supports Council's approach.

4.1.5 Bushfire**Clause 12.01-1S (Protection of Biodiversity)**

Submitter 9 requested that Clause 12.01-1S is revised to include a Strategy regarding the detrimental impacts of bushfire and planned burns on the conservation of Victoria's biodiversity.

Council did not support adding local strategy to this Clause as the Planning Scheme has existing significant bushfire protection policy.

Submitter 9 also sought a strategy at Clause 12.01-1S regarding developing a compliance tool for native vegetation removal that is available for public scrutiny. Council submitted that this matter cannot be resolved through changes to the Planning Scheme and is not relevant to the Amendment.

The interaction of bushfire and biodiversity policy is a state-wide issue, and it is not clear to the Panel that there is a need for a local policy. There has not been strategic work to support such a policy.

The Panel supports Council's approach.

4.1.6 Kilmore: protecting the KHRP**Clause 12.05-1S (Environmentally Sustainable Areas) and****Clause 12.05-2S (Landscapes)**

Submitter 9 requested that strategies are added to Clauses 12.05-1S and 12.05-2S regarding protecting of the KHRP.

Council did not support adding new Local PPF policy to either Clause regarding protection of the KHRP ahead of the completion of further strategic work.

The Panel supports Council's approach.

4.1.7 Ridgeline protection Clause 12.05-2L (Landscapes)

The Amendment proposes to relocate existing local landscape provisions from LPPF Clause 21.03-2 (Environmental and Landscape Values – Significant Environments and Landscapes) to PPF Clause 12.05-2L. Submitter 13 noted their support for the proposed ridgeline protection policy and requested adding a further strategy noting that hilltops still require protection even if already developed with buildings.

Council pointed out that the proposed policy at Clause 12.05-2L, *“Maintain visual links with the surrounding natural environment by avoiding further development along any ridgeline or hilltop”* (emphasis added) covers all development. Council considered this change was not necessary as the issue is already addressed.

The Panel supports Council’s approach.

4.1.8 Forestry and Timber Production Clause 14.01-3S (Forestry and Timber Production)

Submitter 9 is opposed to the State Policy *“To facilitate the establishment, management and harvesting of plantations and the harvesting of timber from native forests”* and requested a new local strategy is applied that ensures new plantations consider relevant Government legislation.

The Panel notes that Clause 14.01-3S refers to the *Code of Practice for Timber Production 2014*. All plantations must be in accordance with the Code of Practice in addition to the Planning Scheme.

Inserting the requested strategy would repeat existing policy and is not supported by the Panel.

4.1.9 Urban heat island Clause 15.01 (Built Environment)

Submitter 8 requested that PPF Clause 15.01 is revised to include policy to avoid the heat island effect by encouraging larger gardens, shared back yards and community and drought tolerant gardens.

The Planning Scheme recognises that climate change and the heat island effect will impact new and existing communities. Several policies directly address this including:

- Clause 12.01-1S: Protection of Biodiversity
- Clause 15.01-1S: Subdivision Design
- Clause 13.01-1S: Climate Change, which includes the Strategy:
Plan development to respond to a changing climate through the application of environmentally sustainable design.
- Clause 32.08-3: General Residential Zone – Subdivision, which sets out minimum garden area requirements for smaller lots.
- Particular Provisions:
 - Clause 56.03: Residential Subdivision – Liveable and Sustainable Communities
 - Clause 56.03: Residential Subdivision – Urban Design
 - Clause 52.17: Native Vegetation.

Proposed Clause 12.01-1L (Protection of Biodiversity) relocates policy from Clause 21.05-1 (Natural Resource Management – Agriculture) and includes the policies requiring protection of indigenous flora and fauna through increased canopy planting.

Council submitted that changes to Clause 15.01 in response to Submission 8 were not supported as this would repeat existing policy within the Planning Scheme.

Council advised it is taking major steps to minimise the heat island effect through its Urban Forest Strategy, which has planted approximately 3,500 new urban trees since 2020.

The Panel agrees that the urban heat island effect is an issue that need to be tackled, and notes Council's urban tree planting efforts. The Panel agrees with Council that the Planning Scheme does not prohibit or discourage shared gardens or drought tolerant gardens, and that education programs can encourage land owners to plant drought tolerant gardens. However a critical step in these processes is knowing which species to plant. Council could consider developing a list of appropriate species for the municipality or bioregions within it.

In term of Planning Scheme changes, the Panel supports Council's approach.

4.1.10 Urban heat island

Clause 15.01-3L (Subdivision Design) and Clause 19.02-4L (Social and Community Infrastructure)

Submitter 13 requested that Council in all medium density developments larger than six dwellings acquire 5 per cent of the site for a small-scale park or tree planting instead of collecting a cash contribution under the *Subdivision Act 1988* to alleviate the heat island effect. Submitter 13 requested this policy is inserted into Clause 15.01-3L and 19.02-4L.

Council submitted that while well intended, there is no strategic justification for this change. Such an approach would need to be justified by an open space strategy and / or infrastructure framework plan. Undertaking such work is outside the scope of the Amendment.

As stated above, the Panel agrees that heat island effects can be significant and needs to be dealt with but it is not clear that the submitters proposal would be effective. The Panel is also concerned it may be a misuse of the open space contributions which are intended to deliver areas for resort and recreation.

The Panel supports Council's approach.

4.1.11 Heritage

Clause 15.03-1L (Heritage conservation)

The Amendment proposes to relocate LPPF Clause 22.02 (Heritage) to Clause 15.03-1L.

Submitter 13 requested that the following policy is added:

Adjacent structures on the same site or adjacent sites need to be constructed sensitively so that the actual construction does not detract from the continuing structural viability of the original heritage building.

Council submitted that all new buildings must be structurally sound and not impact on existing neighbouring buildings, regardless whether they are heritage or not. Planning Permits typically require a Construction Management Plan is endorsed prior to construction which identifies how to minimise disturbance and impacts on neighbouring properties during construction.

The Amendment also retains and relocates the following relevant provisions from Clause 22.02 to Clause 15.03-1L:

- Support development that integrates with the surrounding heritage buildings and streetscape.

- Encourage development both within and adjacent to the Heritage Overlay to be visually recessive and compatible in terms of its scale, siting, design, form and materials with the historic character and significance of the heritage place. (Emphasis added).

The proposed Clause 15.03-1L policy applies to land affected by and abutting a Heritage Overlay. Council did not support the proposed policy change sought by Submitter 13 as heritage buildings are protected by building regulations and relocated existing heritage provisions.

Submitter 13 also requested that electronic advertising signs are prohibited under Clause 15.03-1L. Council advised that it cannot prohibit uses under the PPF. Particular Provisions Clause 52.05 provides signage Controls. Within Clause 52.05 there is significant policy consideration given to new signs within heritage areas, including the following Decision Guidelines at Clause 52.05-8 (emphasis added):

The sensitivity of the area in terms of natural environment, heritage values, waterways and open space, rural landscape or residential character.

Major promotion signs are discouraged where they will form a dominant visual element from residential areas, within a heritage place or where they will obstruct significant views.

The Panel supports Council's approach.

4.1.12 Aged care

Clause 16.01-5S (Residential Aged Care Facilities)

Submission 13 requested that local policy for aged care is inserted that requires aged care facilities to include garages adjacent to units, ramps, wheelchair accessible dwellings and other accessibility features and that these dwellings should not come at additional cost.

Council said further consideration could be given to preparing a local policy specifying preferred requirements for aged care facility design, however that is outside the scope of this Amendment and requires further strategic work. Therefore, this change is not supported.

The Panel supports Council's approach.

4.1.13 Active transport

Clause 18.02 (Movement Networks)

Submitter 8 sought to provide greater policy priority to alternatives to car-based transport, including walking, riding and public transport.

Council submitted that State Policy within PPF Clause 18.02 and Particular Provisions Clause 56.06-1 (Residential Subdivision – Access and Mobility Management) provides significant policy support for active transport and public transport.

Council said that the Amendment appropriately addresses active transport and public transport and proposes to include the following Local Policies within PPF Clause 18.02:

- Clauses 18.02-1L (Walking) and 18.02-2L (Cycling) seek to improve walking and cycling routes between subdivisions and local destinations.
- Clause 18.02-2L (Public Transport) provides policy supporting a new train station at Beveridge, electrification of the train line to Wallan and upgrading pedestrian links between the town centres of Wallan and Kilmore and their train stations.

Council proposed no changes to Clause 18.02 in response to Submission 8.

Clause 18.02-2L (Public Transport) appears to be mis-numbered and should be Clause 18.02-3L (Public Transport).

Submitter 13 requested a local policy identifying the need for a pedestrian path between Kilmore and Kilmore East Train Station at Clause 18.02-2L.

Council submitted that this was *“an advocacy matter and outside the scope of the Amendment. Therefore, this change is not supported.”*

The Panel notes that the strategies for Kilmore at 11.01-1L-04 include a number of advocacy items as well as:

Facilitate pedestrian, cycling and vehicular linkages between growth areas and the established areas of Kilmore, Sydney Street town centre and existing facilities through an integrated movement network.

The Kilmore Structure Plan includes the action:

A13 Undertake a feasibility study into alignment and construction of pedestrian and/or cycle connection between Sydney Street and Kilmore East Train Station.

The Mitchell Open Space Strategy includes:

K5 Provide an off-road trail between the town centre and Kilmore East / Kilmore Railway Station. This will require determining the most feasible route and advocating for its construction.

There is clear policy support for improved pedestrian access to Kilmore East Railway Station. It is not clear to the Panel while a link supported by strategic work would be omitted from a strategy specifically seeking to facilitate certain links.

The Panel recommends:

4. In Clause 11.01-1L-04 include additions text as underlined:

Facilitate pedestrian cycling and vehicular linkages between growth areas and the established areas of Kilmore, Sydney Street town centre and existing facilities, and to the Kilmore East train station, through an integrated movement network.

4.1.14 Footpaths

Clause 18.02-1L (Walking)

Submitter 13 requested that a policy is included in Clause 18.02-1L requiring a footpath on at least one side of every street, that major connector roads require footpaths on each side of the road and footpaths should be constructed in older areas.

Council advised that it uses the *Infrastructure Design Manual 2019 (IDM)* standards for road cross sections which determines road widths and provision of footpaths. The IDM is listed as a local background document at Clause 21.10-3 (Infrastructure – Infrastructure Planning, Design and Construction). It is proposed to relocate the IDM to Clauses 19.03-2L (Development Infrastructure – Infrastructure Design and Provision) and the Schedule to Clause 72.08 (Background Documents) as exhibited by the Amendment.

The IDM includes the requirement for a footpath on one side of the street for local roads and on both sides of the street for higher order roads, such as bus capable connector roads. Council said it was aware of missing footpath links in older established areas and is progressively working on constructing these. Providing new footpaths in established areas typically does not require a planning permit and is not relevant to the Amendment. Active transport is strongly supported by the existing Planning Scheme.

The Panel supports Council’s approach.

4.1.15 Culs-de-sac**Clause 18.02-4L (Road System)**

Submitter 13 requested that narrow roads in subdivisions with housing on one side be prohibited and that court bowls and dead-ends are not allowed in Clause 18.02-4L (Road system). Road design is guided by the IDM.

Council advised that Court bowls and dead-ends are discouraged throughout the Planning Scheme which seeks to provide permeable neighbourhoods and subdivision design, such as at Clause 56.02-02 (Residential Subdivision – Neighbourhood Street Objective):

To provide for direct, safe and easy movement through and between neighbourhoods for pedestrians, cyclists, public transport and other motor vehicles using the neighbourhood street network

Standard C17 includes minimising the provision of cul-de-sacs.

Council did not support any change.

The Panel supports Council's approach.

4.1.16 Open space**19.02-6S (Community Infrastructure – Open Space)**

Submitters 8 and 13 note that provision of passive and active open space do not appear to be specified within State Policy. Submitter 8 also requested that any public open space monetary contribution received under the *Subdivision Act 1988* is spent on acquisition of land for new public open space. The *Subdivision Act 1988* provides Council with an ability to seek open space based on the needs and nexus of individual planning applications.

Council noted that Clause 19.02-6S (Community Infrastructure – Open Space) provides open space policy. The Amendment proposes to relocate policy from LPPF Clause 21.02-3 (Settlement – Open Space) to PPF Clause 19.02-6L and include a new reference to the *Mitchell Open Space Strategy 2013 – 2023*.

Council considered that undertaking the changes requested would require significant strategic justification, such as an open space strategy or infrastructure framework plan. Council proposed no changes in response to the submissions.

The Panel agrees that such a change would require a more detailed assessment, and notes monies collected for open space must be spent on open space, but this can include the upgrading of existing reserves.

The Panel supports Council's approach.

4.1.17 Kilmore open space**Clause 19.02-6L (Open Space Strategies)**

Submitter 13 requested that a strategy is added to Clause 19.02-6L requiring a full-size football oval within the Kilmore South East Growth Precinct. The *Kilmore Structure Plan 2017* has been implemented into the Planning Scheme. Local Policy for Kilmore at Clause 21.11-3 (Local Areas – Kilmore) is proposed to be relocated to Clause 11.01-1L-04 (Kilmore).

The Structure Plan and proposed Clause 11.01-1L-04 identifies a 6.5-hectare active open space area within the Precinct. A Development Plan for the precinct was approved in June 2022 providing a 6.5-hectare active open space area which is large enough for a full-size football oval

should that be identified as the prevailing need for the land during the more detailed design stage. For context JJ Clancy Reserve, Kilmore's senior football reserve, is approximately 5.2 hectares. Council considered that no change was required.

The Panel supports Council's approach.

4.2 Overlays

4.2.1 Clause 42.01-3 (Environmental Significance Overlay Schedules)

Submitter 13 objected to deletion of Clause 42.01-3 Environmental Significance Overlay Schedule 3 (Watercourse Conservation). The Amendment does not propose to delete Clause 42.01-3.

Submitter 13 objected to removal of objectives at Sub-clause 2 (Environmental objective to be achieved) of the following Environmental Overlay Schedules:

- Environmental Overlay Schedule 4, Rural Conservation Area (ESO4)
- Environmental Overlay Schedule 6, Urban Conservation Area (ESO6).

The Amendment revises the number of objectives to one, as required by the *Ministerial Direction – Form and Content*. Therefore, Council did not support multiple objectives within ESO-4 and ESO-6. The revised single objective of ESO-4 and ESO-6 appropriately captures the objectives of each ESO schedule.

The Panel supports Council's approach.

4.2.2 Clause 42.02-1: Vegetation Protection Overlay Schedule 1 (Roadside and Corridor Protection)

Submitter 13 requested that removal of exotic iconic vegetation should require a planning permit under Clause 42.02-1. Council considered this change is outside the scope of the Amendment as further strategic work is required to implement this change. Council is investigating further tree protection policy options, including for significant exotic trees.

The Panel supports Council's approach.

4.2.3 Clause 42.02-2: Vegetation Protection Overlay Schedule 2 (Freeway Environs)

Submitters 8 and 13 sought clarification on deletion of policy within Clause 42.02-2, Vegetation Protection Overlay Schedule 2 (Freeway Environs, VPO2). The Amendment proposes the following changes to VPO-2:

- Sub-clause 2 (Vegetation protection objective to be achieved) is proposed to be revised from 9 objectives to 5, with redundant and unenforceable objectives or objectives duplicated elsewhere in the Planning Scheme deleted in accordance with the *Ministerial Direction – Form and Content*.
- Sub-clause 3 (Permit requirement) is proposed to be revised in accordance with the *Ministerial Direction – Form and Content*.
- Sub-clause 5 (Decision Guidelines) is to be revised by relocating referrals to the Schedule to Clause 66.04 (Referral of Permit Applications Under Local Provisions), in accordance with the *Ministerial Direction – Form and Content*.

Council submitted that the proposed changes to VPO-2 do not dilute the controls. The revisions to the objectives of Sub-clause 2 provides more readable and usable policy and removes policies that are not enforceable such as *"Discourage the intensification of development in undesirable*

locations". Sub-clause 3 permit requirement provisions make it clearer that removal of native vegetation triggers a planning permit.

Council proposed no changes to VPO-2 in response to Submission 8.

The Panel supports Council's approach.

4.2.4 Clause 42.03-3: Significant Landscape Overlay Schedule 3 (Kilmore Creek Environs)

Submitter 13 requested that SLO3 include a permit trigger for electronic signs. SLO3 covers public land along Kilmore Creek that is within the PPRZ and PCRZ. Any new signage within SLO3 must consider the purposes and decision guidelines of the PPRZ and PCRZ in addition to Clause 52.05 (Signs). Council considered that this provides an appropriate policy framework for consideration of new signage, including electronic signs, under SLO3, and did not support any changes the Amendment.

The Panel supports Council's approach.

4.2.5 Clause 43.02-4: Design and Development Overlay Schedule 4 (Kilmore Town Centre and Key Gateway Sites)

Submitter 13 requested changes to signage policy within Clause 43.02-4. Council referred to its earlier comments on signage.

The Panel supports Council's approach.

4.3 Other matters raised in submissions

4.3.1 Kilmore heritage review

At the Directions Hearing Submitter 9 advised that a hard copy letter addressed to Council dated 5 July 2022 and received by Council on 8 July 2022 forms part of their submission to the Amendment. This is in addition to their email submission received 17 July 2022.

The letter dated 5 July 2022 includes no reference to the Amendment, refers to a review of Kilmore's heritage and provides background information on Kilmore's history. The Amendment does not entail a review of Kilmore's heritage; however, the Amendment does propose changes to general heritage policy and may have led to this interpretation.

Council considered that the information within the letter is not relevant to the Amendment but can be considered during a future heritage review. It is noted that Submitter 9 did provide an electronic submission regarding SLO1 and several other matters which have been responded to in its submissions in the Council Report considering submissions to the Amendment.

The Panel supports Council's approach.

4.3.2 Expansion of KHRP and Kilmore Recreation Ground

Submission 12 notes that the Kilmore Recreation Ground (or Kilmore Racecourse) should be returned "to the people" and the current trustees of the site replaced.

Submission 12 requested that Council enter into a first right of refusal agreement to purchase the property abutting the north of Anderson Road, Kilmore for future expansion of the KHRP. Council

said that expansion of the KHRP is not relevant to the Amendment and Council cannot use this process to commence a first right of refusal process.

Council said that these issues were not relevant to the Amendment.

Clearly open space provision, in general, is relevant to the Amendment (but not the trustees issue). The Panel agrees that expansion of the KHRP has not been identified in the Amendment, but this does not mean that it is not a matter that could have potentially been identified. Expansion of the KHRP is not relevant because there is no Council strategy to increase the reserve, and so no strategic justification for such a strategy, not because open space provision is irrelevant to these types of amendments.

4.3.3 Corrections

Two corrections are worth noting.

Amendment VC205 in August 2022, replaced and renamed the Road Zone to the Transport Zone. Amendment VC205 updated the Transport Zone reference in VPO-2. The Amendment proposes to refer to the now outdated Road Zone. Council noted this error and will correct this prior to lodging the Amendment for approval.

The Panel notes that the Clause number for the public transport appear incorrect.

Appendix A Submitters to the Amendment

No	Submitter
1	North Central Catchment Management Authority (NCCMA)
2	Kilmore Historical Society
3	Conundrum Holdings
4	Aurora Construction Materials Pty Ltd
5	Goulburn Broken Catchment Management Authority (GBCMA)
6	Environment Protection Authority
7	Kilmore Cricket and Recreation Reserve Inc.
8	BEAM Mitchell Environment Group
9	Norm Stimson
10	Department of Jobs, Precincts and Regions
11	Kilmore Mechanics Institute
12	Jim Lowden
13	Kilmore and District Residents and Ratepayers Association
14	Victorian Planning Authority
15	Construction Material Processors Association Inc
16	Goulburn Valley Water

Appendix B Document list

No.	Date	Description	Provided by
1	8 Nov 2022	Letter from Jim Lowden to the Panel attaching his submission	Mr Lowden
2	25 Nov 2022	Council Part A Submission	Council
3	25 Nov 2022	Files form Kilmore and District Residents and Ratepayers Association	KDRRA
4	28 Nov 2022	Expert Evidence of A Clarke	Conundrum
5	29 Nov 2022	Mitchell Shire Extractive Industry Evidence Chris DeSilva of Mesh Planning	Council
6	7 Dec 2022	Mitchell Part B Submission	Council
7	9 Dec 2022	Jim Lowden submission to Hearing	Mr Lowden
8	9 Dec 2022	DJPR Resources Branch Panel submission to Hearing	DJPR
9	12 Dec 2022	Conundrum Holdings submission to Hearing	Conundrum
10	13 Dec 2022	Mitchell Shire Works Authorities	DJPR
11	12 Dec 2022	Submissions from Aurora Construction Material (Plant) Pty Ltd	Aurora
12	13 Dec 2022	C157mith post exhibition track changes	Council
14	13 Dec 2022	Post exhibition track changes	Council
14	13 Dec 2022	Mitchell Shire Works Authorities	Conundrum

Appendix C Key planning policy and guidance

C:1 Growth corridor policy

The VPP sets out a policy for managing growth corridors:

11.02-3S (Sequencing of development)

Objective

To manage the sequence of development in areas of growth so that services are available from early in the life of new communities.

Strategies

Define preferred development sequences in areas of growth to better coordinate infrastructure planning and funding.

Ensure that new land is released in areas of growth in a timely fashion to facilitate coordinated and cost-efficient provision of local and regional infrastructure.

Require new development to make a financial contribution to the provision of infrastructure such as community facilities, public transport and roads.

Improve the coordination and timing of infrastructure and service delivery in areas of growth.

Support opportunities to co-locate facilities.

Ensure that planning for water supply, sewerage and drainage works receives high priority in early planning for areas of growth.

Policy documents

Consider as relevant:

- Any applicable Growth Area Framework Plans (Department of Sustainability and Environment, 2006)
- *Precinct Structure Planning Guidelines (Victorian Planning Authority, 2021)*
- *Ministerial Direction No. 12 – Urban Growth Areas*

11.03-2S (Growth areas)

Objective

To locate urban growth close to transport corridors and services and provide efficient and effective

infrastructure to create sustainability benefits while protecting primary production, major sources

of raw materials and valued environmental areas.

Strategies

...

Implement the strategic directions in the Growth Area Framework Plans.

...

Develop Growth Area Framework Plans that will:

- Include objectives for each growth area.
- Identify the long term pattern of urban growth.
- Identify the location of broad urban development types, for example activity centre, residential, employment, freight centres and mixed use employment.
- Identify the boundaries of individual communities, landscape values and, as appropriate, the need for discrete urban breaks and how land uses in these breaks will be managed.
- Identify transport networks and options for investigation, such as future railway lines and stations, freight activity centres, freeways and arterial roads.

- Identify the location of open space to be retained for recreation, and/or biodiversity protection and/or flood risk reduction purposes guided and directed by regional biodiversity conservation strategies.
 - Show significant waterways as opportunities for creating linear trails, along with areas required to be retained for biodiversity protection and/or flood risk reduction purposes.
 - Identify appropriate uses for constrained areas, including quarry buffers.
- Develop precinct structure plans consistent with the *Precinct Structure Planning Guidelines* (Victorian Planning Authority, 2021) approved by the Minister for Planning to:
- Establish a sense of place and community.
 - Create greater housing choice, diversity and affordable places to live.
 - Create highly accessible and vibrant activity centres.
 - Provide for local employment and business activity.
 - Provide better transport choices.
 - Respond to climate change and increase environmental sustainability.
 - Deliver accessible, integrated and adaptable community infrastructure.

Policy documents

Consider as relevant:

- Any applicable Growth Area Framework Plans (Department of Sustainability and Environment, 2006)
- *Precinct Structure Planning Guidelines* (Victorian Planning Authority, 2021)
- *Ministerial Direction No. 12 – Urban Growth Areas*

The VPP incorporate:

Growth Area Framework Plans (Department of Sustainability and Environment September 2006), VC41

C:2 Practitioner's Guide

A Practitioner's Guide to Victorian Planning Schemes Version 1.5, April 2022 (Practitioner's Guide) sets out key guidance to assist practitioners when preparing planning scheme provisions. The guidance seeks to ensure:

- the intended outcome is within scope of the objectives and power of the PE Act and has a sound basis in strategic planning policy
- a provision is necessary and proportional to the intended outcome and applies the VPP in a proper manner
- a provision is clear, unambiguous and effective in achieving the intended outcome.

Proposed post exhibition changes

Clause	Exhibited content	Proposed change	Panel Recommendation
Clause 02.02 Vision	Exhibited content did not include the current Community Vision which was adopted in October 2021.	<p>Insert the following text to reflect the current community vision:</p> <p>The <i>Mitchell 2050 Community Vision Plan</i> provides our community’s vision for Mitchell Shire and states:</p> <p><i>“We are a healthy, vibrant and connected community that values nature, diversity and innovation”</i></p> <p>This Community Vision Plan articulates the type of municipality that the community envisages for the future and identifies the following six key themes arising from the community aspirations:</p> <ol style="list-style-type: none"> 1. Vibrant Communities 2. Working, learning and tourism 3. Travelling and getting around 4. Shaping neighbourhoods 5. Nature and parks 6. Climate Action <p><u>Council Officer recommended change.</u></p>	Supported by Panel
Clause 13.07-1L-02 Impact of Truck movements	Dot point 2 - Protect the amenity of communities	<p>Reword the dot point to read as:</p> <p>Protect sensitive uses from noise and air quality impacts arising from traffic. Submission 6 (EPA).</p>	Supported by Panel

<p>Clause 15.01-3L Subdivision Design</p>	<p>Design subdivisions to retain canopy trees and existing native vegetation</p>	<p>Insert the following text to read as:</p> <p>Design subdivisions to retain <i>existing high retention value, native and exotic</i>, canopy trees and existing native vegetation</p> <p>Council Officer recommended change.</p>	<p>Supported by Panel</p>
<p>Schedule 1 to Clause 42.03 Significant Landscape Overlay</p>	<p>Revision of Clause 2.0 - <i>Landscape Character Objectives to be achieved</i> to reduce the number of objectives from 8 to 4.</p> <p>Relocation of <i>Referral of Applications</i> from SLO1 to Clause 1.0 of SCHEDULE TO CLAUSE 66.04 REFERRAL OF PERMIT APPLICATIONS UNDER LOCAL PROVISIONS</p>	<p>Abandon any exhibited changes to Clause 2.0 <i>Landscape Character Objectives to be achieved</i></p> <p>Retain the relocation of Referral Clause from SLO1 to Clause 66.04.</p> <p>Change in response to community and community group Submissions 2, 7, 11, 9, 12 and 13,</p>	<p>Supported by Panel</p>
<p>Schedule to Clause 44.03 Floodway Overlay</p>	<p>Dot point 3 at Clause 3.0 Permit requirement reads as</p> <p><i>an upper storey extension to an extension building within the existing building footprint; a pergola, veranda, decking, garage, carport or domestic shed associated with an existing dwelling</i></p>	<p>Split the dot points into two separate dot points to read as:</p> <ul style="list-style-type: none"> • <i>an upper storey extension to an extension building within the existing building footprint;</i> • <i>a pergola, veranda, decking, garage, carport or domestic shed associated with an existing dwelling</i> <p>Change in response to Submission 5 from the Goulburn Catchment Management Authority.</p>	<p>Supported by Panel</p>
<p>Clause 11.01-1L-04 Kilmore</p>	<p>Dot point 4 reads as:</p> <p><i>Facilitate pedestrian, cycling and vehicular linkages between growth areas</i></p>	<p>Modify Dot point 4 to insert the underlined text to read as:</p>	<p>Panel recommended change</p>

	<i>and the established areas of Kilmore, Sydney Street town centre and existing facilities through an integrated movement network.</i>	<i>Facilitate pedestrian cycling and vehicular linkages between growth areas and the established areas of Kilmore, Sydney Street town centre and existing facilities, and to the Kilmore East train station, through an integrated movement network</i>	
		Change in response to Submission 13 community group KARRA	
Schedule 2 to Clause 42.02 Vegetation Protection Overlay	<p>Dot points 1 and 2 at Clause 2.0 <i>Vegetation protection objective to be achieved</i> read as</p> <p><i>Maintain and enhance the amenity, safety and service capability of the <u>Road Zone</u> and their environs.</i></p> <p><i>Protect and improve scenic views from Road Zones and to preserve and enhance the visual character of the areas adjacent to the Road Zones approaching and within the townships</i></p>	<p>VC205 in August 2022 replaced and renamed the Road Zone to the Transport Zone and updated the reference to Transport Zone in VPO2. The exhibited scheme refers to the outdated Road Zone.</p> <p>Rectify incorrect reference to Transport Zone (introduced by VC205) as Road Zone at Clause 2 and replace the Road Zone to Transport Zone as per the following:</p> <p><i>Maintain and enhance the amenity, safety and service capability of the <u>Transport Zone 2 or Transport Zone 3</u> and their environs.</i></p> <p><i>Protect and improve scenic views from a Transport Zone 2 or a Transport Zone 3 and to preserve and enhance the visual character of the areas adjacent to a <u>Transport Zone 2 or a Transport Zone 3</u> approaching and within the townships</i></p> <p>Council Officer Change</p>	Panel Recommended Correction
Panel Recommended Changes to be adopted by Council with change			
Clause 11.01L-01 Settlement	2nd and 3 rd strategies at <i>Land within the urban growth boundary strategies</i> read as:	<p>Retain Strategy 1 as exhibited.</p> <p>Replace the exhibited 2nd and 3rd strategies with the following strategies</p>	The Panel recommended to delete 2 nd and 3 rd Strategies from <i>Land within the</i>

	<p><i>Avoid the interim development of land where it may prejudice the longer term strategic role of the land as identified in Precinct Structure Plans.</i></p> <p><i>Facilitate growth of housing and employment above other uses that will undermine the delivery of housing and employment, such as extractive industry, within Melbourne’s urban growth boundary.</i></p>	<p><i>Discourage the interim use, development or subdivision of land unless it can be demonstrated that the proposed use, development or subdivision will not prejudice the intended use of the land as identified in an approved Growth Corridor Plan and/or an approved Precinct Structure Plan or a yet to be prepared Precinct Structure Plan.</i></p> <p>Retain Strategy 1 as exhibited.</p>	<p><i>urban growth boundary strategies at the clause.</i></p>
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9.3 PLANNING PERMIT APPLICATION PLP288/22 FOR REMOVAL OF RESERVE STATUS AT EAST STREET KILMORE

Author: Ana Neiva - Statutory Planner

File No: PLP288/22

Attachments:

1. Application Material
2. Extent of Public Notification
3. Proposed Conditions

Property No.:	108018
Title Details:	Reserve 1 on Plan of Subdivision 114048 Vol. 09528 Fol. 963
Applicant:	Kilmore Racing Club C/ Ethos Urban – Henry Wallis
Zoning:	Public Use Zone – Local Government (PUZ6)
Overlays:	None
Objections Received:	Yes, nine objections received.
Cultural Heritage Management Plan Required:	No
Reason Reported to Council	Four or more objections
Officer Declaration of Conflict of Interest:	No officers involved in the preparation of this report have any direct or indirect interest in this matter

PLANNING PERMIT APPLICATION PLP288/22 FOR REMOVAL OF RESERVE STATUS AT EAST STREET KILMORE (CONT.)

1. Site Map

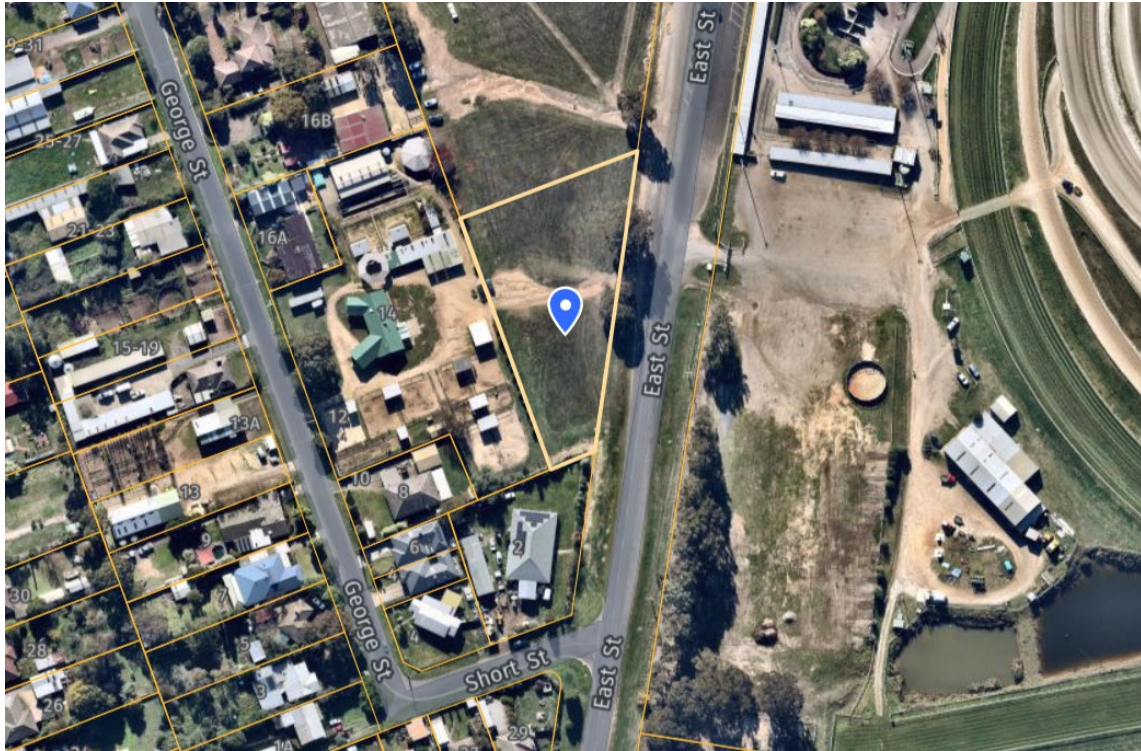


Figure 1 - Subject Site



Figure 2 - Surrounding Area

PLANNING PERMIT APPLICATION PLP288/22 FOR REMOVAL OF RESERVE STATUS AT EAST STREET KILMORE (CONT.)

2. Summary

- 2.1 Council received the application for the Removal of the Reserve status from the land at East Street, Kilmore on 11 August 2022.
- 2.2 The Kilmore Racing Club proposes the removal of the 'Reserve for municipal purposes' status at the site. The Reserve is marked on Plan of Subdivision LP114048, approved on 9 June 1975 as Reserve No. 1 for Municipal Purposes.
- 2.3 The site is within the Public Use Zone – Local Government (PUZ6) and is not affected by any planning overlays.
- 2.4 The land is privately owned by the Kilmore Race Club who purchased the land in December 2004.
- 2.5 Pursuant to Clause 52.02 a planning permit is required before any persons proceed under Section 24A of the *Subdivision Act 1988*.
- 2.6 The application was advertised for a period of 14 days by the following means:
 - Letters to adjoining landowners and occupiers
 - A notice was placed on the subject site
 - An advert was including in the Northern Central Review Newsletter.
- 2.7 This report recommends issuing a Notice of Decision to Approve Planning Permit for the removal of the reserve status at Reserve 1 on Plan of Subdivision 114048.

3. Site and Surrounds

Subject Site Description

- 3.1 The subject site is located at East Street, Kilmore and is legally described as Reserve 1 on Plan of Subdivision 114048 (Vol. 09528 Fol. 963).
- 3.2 The site is approximately 3,800 m² and is currently vacant land.
- 3.3 The subject site is currently used for overflow racecourse parking, a Neighbourhood Safe Place and an informal secondary access to properties on George Street.

PLANNING PERMIT APPLICATION PLP288/22 FOR REMOVAL OF RESERVE STATUS AT EAST STREET KILMORE (CONT.)



Figure 3 - Subject Site



Figure 4 - Street view from East Street

Surrounding Context

3.1 The subject site is situated within the equine precinct of the Kilmore township as identified by the Kilmore Structure Plan.

PLANNING PERMIT APPLICATION PLP288/22 FOR REMOVAL OF RESERVE STATUS AT EAST STREET KILMORE (CONT.)

- 3.2 The site is bound by residential and equine properties to the west (14 George Street) and vacant land to the north identified as 15-35 East Street, Kilmore and to the East is the Kilmore Race club.

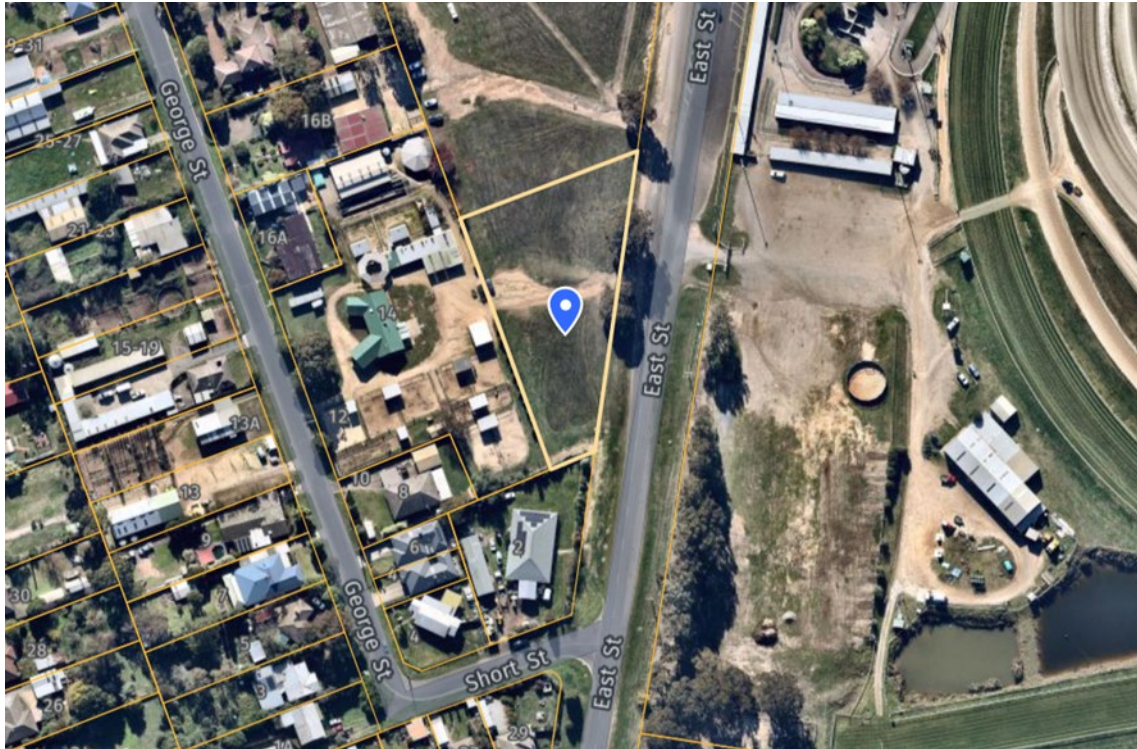


Figure 5 - Surrounding Area

Planning Background

- 3.3 Amendment C154 related to a proposed planning scheme amendment which sought to re-zone the Subject Land (15-35 East Street and Reserve 1 on Plan of Subdivision 113048) from Public Use Zone (PUZ6) to General Residential Zone – Schedule 1. This amendment was abandoned in 2022 (Attachment 2: C154).

Title/Restriction/Agreements

- 3.4 Apart from its designation as a reserve for municipal purposes, the majority of the land in the title is not encumbered by any restrictions. However, a three metre wide easement traverses the site along the southern boundary.

4. Proposal

- 4.1 The applicant proposed the removal of the 'Reserve for Municipal Purposes' status at the site. The Reserve is marked on Plan of Subdivision LP114048 as Reserve No.1 for Municipal Purposes.

PLANNING PERMIT APPLICATION PLP288/22 FOR REMOVAL OF RESERVE STATUS AT EAST STREET KILMORE (CONT.)

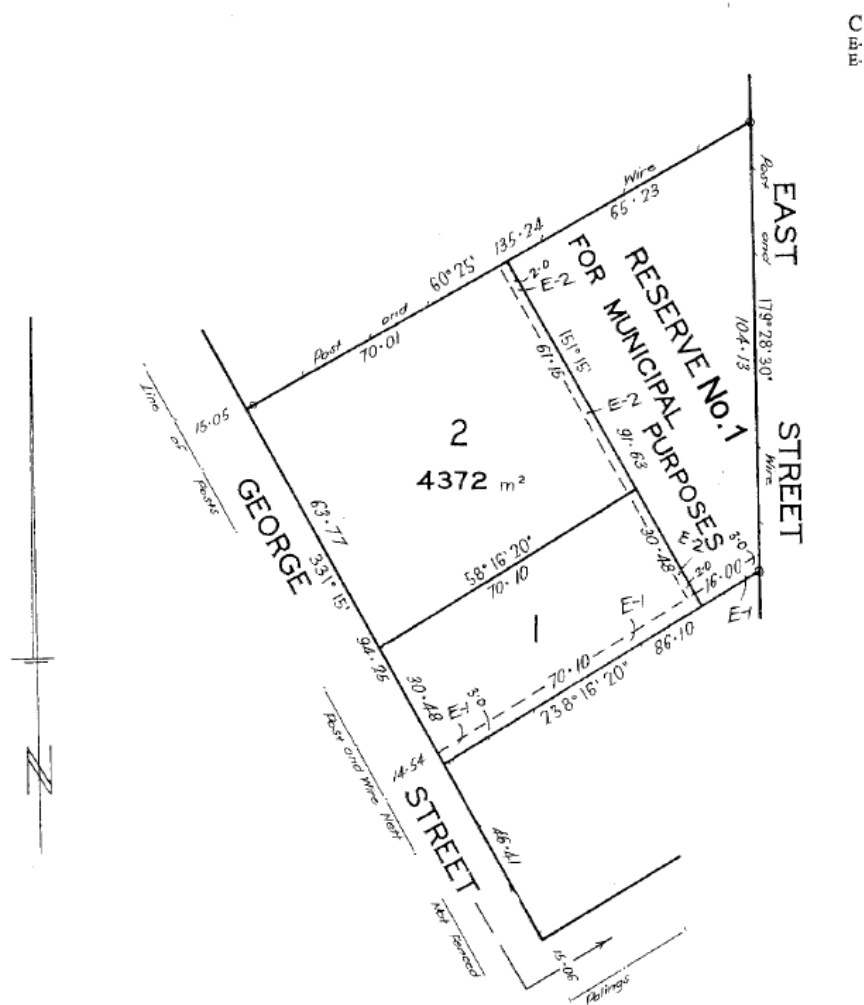


Figure 6 - Extract from the Reserve Plan

4.2 Please refer to Attachment 3 for the application material.

5. Referrals

Internal

5.1 The application has been referred to the following internal Council Units:

- Arborist (Parks and Gardens)
- Environment
- Recreation & Open Space
- Revenue
- Strategic Planning
- Subdivision – Development Contributions

PLANNING PERMIT APPLICATION PLP288/22 FOR REMOVAL OF RESERVE STATUS AT EAST STREET KILMORE (CONT.)

- Property Services

All internal departments did not object to the proposal.

External

- 5.2 The application was not required to be referred to any external referral authorities under section 55 of the *Planning and Environment Act 1987* (the Act) pursuant to Clause 66 of the Scheme.

6. Application History

- 6.1 Planning Permit Application PLP288/22 was received by Council on 11 August 2022.
- 6.2 The application was Publicly Notified from 22 November 2022 to 11 December 2022.

7. Planning Policy Assessment

Planning Policy Framework and Local Planning Policy Framework

- 7.1 The following planning policies are applicable to the proposal to remove the Reserve Statement, including:
- Clause 11 – Settlement
 - Clause 11.01-1S – Settlement
 - Clause 21.02- Settlement
 - Clause 21.11-3 Local Areas – Kilmore
- 7.2 The proposal demonstrates consistency with the relevant Planning Policy Framework and Local Planning Policy Framework provisions in the scheme. This is discussed further below.

Zoning

Public Use Zone – PUZ6

- 7.3 The subject site is located with the Public Use Zone 6 –(Local Government).
- 7.4 The purpose of the PUZ6 is:
- *To recognise public land use for public utility and community services and facilities.*
 - *To provide for associated uses that are consistent with the intent of the public land reservation or purpose.*

PLANNING PERMIT APPLICATION PLP288/22 FOR REMOVAL OF RESERVE STATUS AT EAST STREET KILMORE (CONT.)

7.5 A planning permit is not required to remove a reserve status under the zone.

Overlay

7.6 No overlays affect the subject site.

Particular Provisions

Clause 52.02 – Easements, Restrictions and Reserves

7.7 The purpose of clause 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.

7.8 Pursuant to Clause 52.02 a planning permit is required before a person proceeds under Section 24A of the *Subdivision Act 1988*.

7.9 Clause 52.02 sets out a single decision guideline:

- Before deciding on an application, in addition to the decision guidelines in clause 65, the responsible authority must consider the interests of affected people.

Subdivision Act 1988 – Reserves and other similar land.

7.1 Section 24A of the Subdivision Act 1988 is a related provision that is relevant to the application. Section 24A(2) states that the Council may certify a plan removing a reservation or restriction prepared under subsection (1) [of section 24A of the Subdivision Act 1988] if the applicant satisfies Council that the land in the plan *need no longer be used for the purpose for which it is currently reserved or used*.

7.2 While section 24A applies to a different step in the process, namely the step where a plan is sought to be certified, it is logical that the consideration raised in section 24A(2) also be considered at this point in the process.

Clause 65.01 – General Considerations

7.3 Clause 65.01 provides general considerations before approval of an application or a plan. It states that before deciding on an application or approval of a plan, the responsible authority must consider a range of matters including:

- 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.

PLANNING PERMIT APPLICATION PLP288/22 FOR REMOVAL OF RESERVE STATUS AT EAST STREET KILMORE (CONT.)

- 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.

Kilmore Structure Plan

7.4 The Kilmore Structure Plan is the overarching strategic document for the Kilmore Township. This document provides guidance for land use, development and infrastructure for the growth of the Kilmore Township. This document will be reviewed in greater detail in the discussion section of the report.

8. Alignment to Council Plan

8.1 The application has no bearing on any of the objectives set out within the Mitchell Shire Council Plan 2021-2025.

9. Public Notification

9.1 Formal notification of the application was given by means of sending letters to adjoining landowners and occupiers, placing a notice on site and an advert in the Northern Central Review Newsletter. A map Showing the extent of advertising has been provided at Attachment 4.

10. Discussion

10.1 The application is required to be assessed against the relevant Planning Policy Framework, the relevant Local Planning Policy Framework, Clause 52.02 Easements, Restrictions and Reserves and the General Decision Guidelines of Clause 65.

Response to Planning Policy Framework and Local Planning Policy Framework

10.2 The relevant planning policy framework must be taken into consideration when deciding on a planning permit application. As such the following clauses are relevant to the proposal and the decision making of the application:

- Clause 11 (Settlement) advocates for planning to anticipate and respond to the needs of existing and future communities through the provision of zoned and serviced land for housing, employment, recreation and open space, commercial and community facilities and infrastructure.

PLANNING PERMIT APPLICATION PLP288/22 FOR REMOVAL OF RESERVE STATUS AT EAST STREET
KILMORE (CONT.)

- Clause 11.01-1S (Settlement) seeks to “facilitate the sustainable growth and development of Victoria and deliver choice and opportunity for all Victorians through a network of settlements”.
- Clause 21.02 Settlement provides local context to Clause 11 of the PPF. The relevant objective of this Clause is to “endeavour to plan for the orderly development of existing settlements”.
- Clause 21.11-3 – Kilmore focuses on Local Area implementation of Mitchell Planning scheme objectives and strategies. Relevant objectives and strategies are as follows:
 - (i) Ensure that any proposed use or development within Kilmore is generally consistent with the Kilmore Structure Plan, August 2016 and the Kilmore Infrastructure Framework, August 2017 which guides preferred growth and development outcomes and prioritises delivery of infrastructure for the town.

Clause 52.02 – Easements, Restrictions and reserves

10.3 The decision guideline of Clause 52.02 requires the responsible authority to consider the interests of affected people and it is also necessary to consider the matters set out in Clause 65.01.

10.4 The interests of the affected people are considered below:

10.5 The interests of the affected people have been considered below:

The sites usability as Informal Access to George Street

- The proposal seeks to remove the reserve status and inherently will not affect the use of the lot as informal access to adjacent lots along George Street, however, it is noted that;
 - As the lot is privately owned, the use of the subject site for accesses to George Street from East Street is presently allowed via an informal arrangement, at the discretion of the Kilmore Racing Club.
- Primary road access to these businesses is provided from George Street.

Designated Bushfire Place of Last Resort

- The subject site has not been designated as a Neighbourhood Safe Place. The adjoined lots to the north (15-35 East Street, Kilmore) is a Neighbourhood Safe Place.

PLANNING PERMIT APPLICATION PLP288/22 FOR REMOVAL OF RESERVE STATUS AT EAST STREET KILMORE (CONT.)

- The ability for the neighbouring site to the north to be used as a Neighbourhood Safe Place will not be affected by the removal of the Reserve Status.

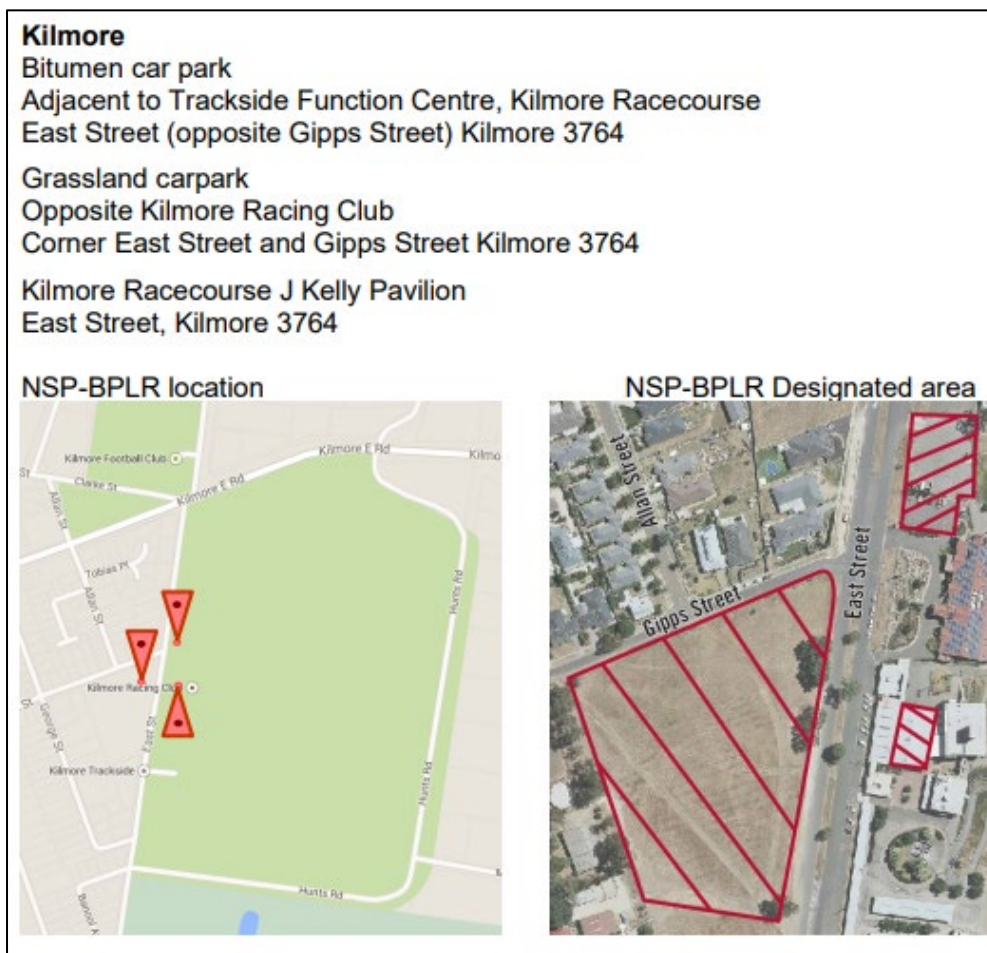


Figure 7 - NSP Designated area

The provision of open space to the community

- The area is currently vacant and not being utilised as a formal reserve or formal public open space. It does however present as part of an open area directly adjacent to the Kilmore Racecourse and might be regarded as part of the environs of the Kilmore Racecourse.
- The site is not earmarked to be incorporated into the open space network by any other strategy. There is open space provided in a variety of other larger identified locations nearby, however it is noted that smaller passive open spaces are limited in this location, however it is noted that smaller passive open spaces are limited in this location.

PLANNING PERMIT APPLICATION PLP288/22 FOR REMOVAL OF RESERVE STATUS AT EAST STREET KILMORE (CONT.)

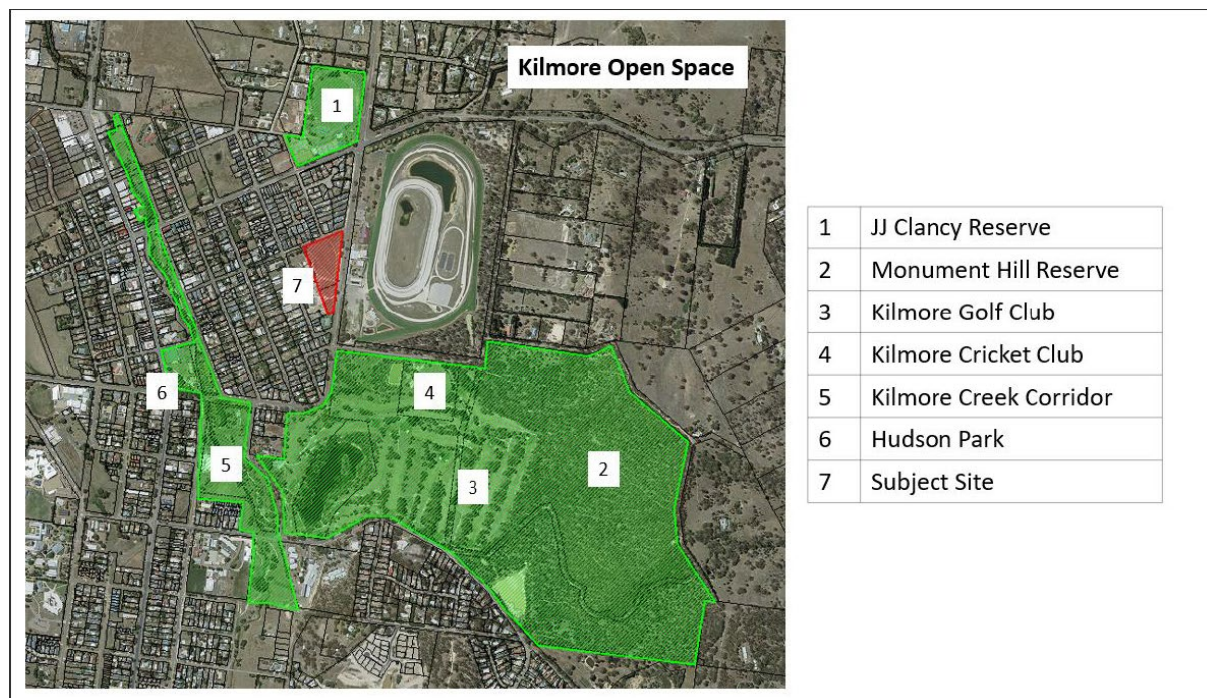


Figure 8 - Kilmore Open space

Kilmore Structure Plan

10.6 The proposal is consistent with the intent of the Kilmore Structure plan, which is an incorporated document within the Mitchell Planning Scheme.

While the land is subject to the reserve, the Kilmore Structure Plan does not identify the site as either ‘Active’ or ‘Passive’ open pace for public use.

11. Response to Objectors

Objection	Response
<p>The advertisement was non-compliant</p> <ul style="list-style-type: none"> The wording did not include the actual address of the property The advertisement period was insufficient The community was denied proper consultation. 	<p>The address is formally known as East Street, Kilmore (Reserve 1 on Plan of Subdivision 114048). The proposal has no legal connection with 15-35 East Street, Kilmore.</p> <p>Pursuant to Section 52 of the <i>Planning and Environment Act 1987</i>, the statutory timeframe for formal notice of a planning application is “at least 14 days after the date of the last notice given”. This notice period has been complied</p>

PLANNING PERMIT APPLICATION PLP288/22 FOR REMOVAL OF RESERVE STATUS AT EAST STREET KILMORE (CONT.)

	<p>with, with the application advertised from 22 November 2022 to 11 December 2022, a total of 20 days.</p> <p>The applicant and objectors have been invited to attend this meeting of the Community Questions and Hearing Committee to make a brief presentation in support of their submission.</p>
<p>The community will lose the public benefit of the reserve status and the loss of public open space.</p>	<p>The area is currently vacant and not being utilised as a formal public open space reserve.</p> <p>Additionally, the Structure Plan does not earmark the Subject Site to be incorporated into the open space network. There is open space provided in a variety of other identified areas nearby.</p>
<p>The proposal to remove the reserve status is with intent to re-zone, subdivide and sell the property.</p>	<p>The application submitted an under assessment is pursuant to Clause 52.02 to remove the reserve status on the Plan of Subdivision.</p> <p>This application does not provide for a re-zoning of the site which would need to be sought through a planning scheme amendment. The site is for the time being to remain Public Use Zone 6 (Local Government) even though the land is privately owned.</p> <p>This proposal does not include any subdivision which would require a separate planning permit and does not identify what is proposed for the land.</p>
<p>The proposal will result in the inability for the property to be used as a Neighbourhood Safe Place.</p>	<p>The land is in private ownership, and is currently not designated as a NSP.</p> <p>The land to the north is the designated NSP within Council's adopted <i>Neighbourhood Safer Places – Bushfire Places of Last Resort Plan 2022</i>.</p>

PLANNING PERMIT APPLICATION PLP288/22 FOR REMOVAL OF RESERVE STATUS AT EAST STREET KILMORE (CONT.)

<p>The proposal will block access to the adjacent George Street properties.</p>	<p>As the lot is privately owned, the use of the subject site for access to George Street from East Street is presently allowed via an informal arrangement, at the discretion of the Kilmore Racing Club.</p> <p>The property at 14 George Street will continue to have legal vehicular access to George Street.</p>
<p>The loss of 15-35 East street as land uses for Public Use.</p>	<p>This proposal does not apply to 15-35 East Street.</p>
<p>The site is not identified in the Kilmore Structure Plan as a residential Infill area.</p>	<p>No infill development is proposed as part of the application and it is unclear what is proposed purpose for removing the reserve status.</p>

12. Conflict of Interest

12.1 This report advised that in the preparation of, or in contributing to the preparation of, this report there was no disclosable conflict of interest identified or raised by a member of Council staff in the subject matter of the report.

13. Applicant's material

As far as Council is aware, there has not been any work done as part of this application, by the Kilmore Racing Club to identify a future use for the site. While the reserve is for municipal purposes, this suggest some element of municipal use of the land. It is understood that the land is not being used for municipal purposes. The application has not given an indication of the future land use of the site.

Section 24A of the *Subdivision Act* makes it clear that it is for the applicant to satisfy Council that the land in the plan need no longer be used for the purpose for which it is currently reserved or used. While the applicant has provided a planning report to support the application (the land is not being used for municipal purposes) , the planning report is silent on the future of the land.

PLANNING PERMIT APPLICATION PLP288/22 FOR REMOVAL OF RESERVE STATUS AT EAST STREET KILMORE (CONT.)

14. Conclusions

- 14.1 The application has been assessed against the relevant Planning Policy Framework, the relevant Local Policy Framework, the decision guidelines of Clause 52.02, the provisions of section 24A of the *Subdivision Act*, and the General Decision Guidelines of Clause 65.
- 14.2 It is considered that the proposal is consistent with the relevant provisions of the Mitchell Planning Scheme

RECOMMENDATION

THAT Council having complied with the relevant sections of the *Planning and Environment Act 1987*, resolve to issue a Notice of Decision to Approve a Planning Permit in respect of Application No. PLP288/22 for Removal of Reserve Status at Status at Reserve 1 on Plan of Subdivision 114048, known as East Street, Kilmore, subject to the following conditions:

1. Before the Certification of the Plan of Subdivision under the *Subdivision Act 1988*, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and an electronic copy must be provided. The plans must be generally in accordance with the advertised plans but further modified to show:
 - a. The Plan of Removal of Reservation clearly nominating the removal of the reserve and nominating the Lot as 'Lot 1 on LP 114048'.

General:

2. The layout of the plan of subdivision as shown on the endorsed plans must not be altered or modified unless otherwise agreed in writing by the Responsible Authority.
3. The plan of subdivision submitted for certification under the *Subdivision Act 1988* must be referred to the relevant authority in accordance with Section 8 of that Act.

PLANNING PERMIT APPLICATION PLP288/22 FOR REMOVAL OF RESERVE STATUS AT EAST STREET KILMORE (CONT.)

Permit Expiry

4. This permit will expire if one of the following circumstances applies:
 - a. The plan of subdivision is not certified within 2 years of the date of this permit;
 - b. The registration of the relevant stage of subdivision is not completed within five years from the date of certification of the plan of subdivision.

The Responsible Authority may extend the permit if a request is made in writing in accordance with Section 69 of *Planning and Environment Act 1987*.



Planning Enquiries
Phone: 03 5734 6200
Web: <http://www.mitchellshire.vic.gov.au>

Office Use Only

Application No.:

Date Lodged: / /

Application for Planning Permit

If you need help to complete this form, read [How to complete the Application for Planning Permit form](#).

⚠ Any material submitted with this application, including plans and personal information, will be made available for public viewing, including electronically, and copies may be made for interested parties for the purpose of enabling consideration and review as part of a planning process under the *Planning and Environment Act 1987*. If you have any concerns, please contact Council's planning department.

⚠ Questions marked with an asterisk (*) are mandatory and must be completed.

⚠ If the space provided on the form is insufficient, attach a separate sheet.

Clear Form

The Land **i**

1 Address of the land. Complete the Street Address and one of the Formal Land Descriptions.

Street Address*

Unit No.:	St. No.:	St. Name: East Street
Suburb/Locality: Kilmore		Postcode: 3764

Formal Land Description*

Complete either A or B.

⚠ This information can be found on the certificate of title.

A Lot No.: Respa Lodged Plan Title Plan Plan of Subdivision No.: 114048

OR

B Crown Allotment No.: Section No.:

Parish/Township Name:

The Proposal

⚠ You must give full details of your proposal and attach the information required to assess the application. Insufficient or unclear information will delay your application.

2 For what use, development or other matter do you require a permit? **i**

If you need help about the proposal, read: [How to Complete the Application for Planning Permit Form](#)

Pursuant of Clause 52.02, a permit is required before a person proceeds under Section 24A of the Subdivision Act 1988.

Provide additional information on the proposal, including plans and elevations; any information required by the planning scheme, requested by Council or outlined in a Council planning permit checklist; and if required, a description of the likely effect of the proposal.

3 Estimated cost of development for which the permit is required* **i**

Cost \$0 **⚠** You may be required to verify this estimate.

Insert '0' if no development is proposed (eg. change of use, subdivision, removal of covenant, liquor licence)

Existing Conditions **i**

4 Describe how the land is used and developed now*

eg. vacant, three dwellings, medical centre with two practitioners, licensed restaurant with 80 seats, grazing.

Vacant Land

Provide a plan of the existing conditions. Photos are also helpful.

Title Information 1

5 Encumbrances on title*

If you need help about the title, read: How to complete the Application for Planning Permit form

Does the proposal breach, in any way, an encumbrance on title such as a restrictive covenant, section 173 agreement or other obligation such as an easement or building envelope?
Yes. (If 'yes' contact Council for advice on how to proceed before continuing with this application.)
No
Not applicable (no such encumbrance applies).

Provide a full, current copy of the title for each individual parcel of land forming the subject site. (The title includes: the covering register, search statement, the title diagram and the associated title documents, known as 'instruments', eg. restrictive covenants.)

Applicant and Owner Details 1

6 Provide details of the applicant and the owner of the land.

Applicant*

The person who wants the permit.

Where the preferred contact person for the application is different from the applicant, provide the details of that person.

Please provide at least one contact phone number.*

Owner*

The person or organisation who owns the land

Where the owner is different from the applicant, provide the details of that person or organisation.

Name: Title: First Name: Surname:

Organisation (if applicable): Kilmore Racing Club

Postal Address: Unit No.: St. No.: St. Name: PO Box 96

Suburb/Locality: Kilmore State: VIC Postcode: 3764

Contact person's details * Same as applicant (if so, go to 'contact information') []

Name: Title: First Name: Henry Surname: Wallis

Organisation (if applicable): Ethos Urban

Postal Address: Unit No.: St. No.: 8/30 St. Name: Collins Street

Suburb/Locality: Melbourne State: VIC Postcode: 3000

Contact information

Business Phone: 0409 524 842 Email: hwallis@ethosurban.com

Mobile Phone: Fax:

Name: Same as applicant []

Title: First Name: Surname:

Organisation (if applicable): Kilmore Racing Club INC

Postal Address: Unit No.: St. No.: St. Name: East Street

Suburb/Locality: Kilmore State: VIC Postcode: 3764

Owner's Signature (Optional): Date: day / month / year

Declaration 1

7 This form must be signed by the applicant*

Remember it is against the law to provide false or misleading information, which could result in a heavy fine and cancellation of the permit.

I declare that I am the applicant, and that all the information in this application is true and correct, and the owner (if not myself) has been notified of the permit application.

Signature: [Handwritten Signature]

Date: 2/8/22 day / month / year

Need help with the Application?

If you need help to complete this form, read [How to complete the Application for Planning Permit form](#). General information about the planning process is available at www.dpcd.vic.gov.au/planning

Contact Council's planning department to discuss the specific requirements for this application and obtain a planning permit checklist. Insufficient or unclear information may delay your application.

8 Has there been a pre-application meeting with a Council planning officer?

No Yes

Checklist

9 Have you:

- Filled in the form completely?
- Paid or included the application fee? Most applications require a fee to be paid. Contact Council to determine the appropriate fee.
- Provided all necessary supporting information and documents?
 - A full, current copy of title information for each individual parcel of land forming the subject site
 - A plan of existing conditions.
 - Plans showing the layout and details of the proposal
 - Any information required by the planning scheme, requested by council or outlined in a council planning permit checklist.
 - If required, a description of the likely effect of the proposal (eg traffic, noise, environmental impacts).
- Completed the relevant Council planning permit checklist?
- Signed the declaration (section 7)?

Lodgement

Lodge the completed and signed form, the fee payment and all documents with:

Mitchell Shire Council
113 High Street Broadford VIC 3658

Contact information:
Telephone: 61 03 5734 6200
Email: mitchell@mitchellshire.vic.gov.au
DX: 66003

Deliver application in person, by fax, or by post:

Make sure you deliver any required supporting information and necessary payment when you deliver this form to the above mentioned address. This is usually your local council but can sometimes be the Minister for Planning or another body.

Save Form:

You can save this application form to your computer to complete or review later or email it to others to complete relevant sections.



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REGISTER SEARCH STATEMENT (Title Search) Transfer of Land Act 1958

Page 1 of 1

VOLUME 09528 FOLIO 963

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LAND DESCRIPTION

Reserve 1 on Plan of Subdivision 114048.
PARENT TITLE Volume 08803 Folio 017
Created by instrument K557924 23/09/1983

REGISTERED PROPRIETOR

Estate Fee Simple
Sole Proprietor
KILMORE RACING CLUB INC of EAST STREET KILMORE VIC 3764
AR148995B 20/06/2018

ENCUMBRANCES, CAVEATS AND NOTICES

MORTGAGE AR148996Y 20/06/2018
BENDIGO AND ADELAIDE BANK LTD

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SUBDIVISIONAL
CERTIFICATE OF TITLE V. 8803 F. 017

FOR TITLE REFERENCES TO LOTS
SEE PARCELS INDEX

LP 114048
BACK OF SHEET 1

LODGED BY IAN B. STILL AND CO.

DEALING No. DATE 8TH/NOV./1974

DECLARED BY ERIC GEORGE SALTER

ON 18TH/APRIL/1974

COUNCIL SHIRE OF KILMORE

DATE OF CONSENT 7TH/AUG./1974

PLAN MAY BE LODGED / /

PLAN APPROVED. DATE 9TH/JUNE/1975 TIME 3:35^{PM}

THE LAND COLOURED YELLOW
IS APPROPRIATED
OR SET APART FOR
EASEMENTS OF SEWERAGE

THE LAND COLOURED BLUE
IS APPROPRIATED
OR SET APART FOR
EASEMENTS OF DRAINAGE

Application for Planning Permit

Reserve Status Removal

East Street, Kilmore
Kilmore Racing Club



Prepared by Ethos Urban
Submitted for Kilmore Racing Club




2 August 2022 | 3200080



Ethos Urban acknowledges the Traditional Custodians of Country throughout Australia and recognises their continuing connection to land, waters and culture.

We acknowledge the Wurundjeri Woi Wurrung people, of the Kulin Nation, the Traditional Custodians of the land where this document was prepared, and all peoples and nations from lands affected.

We pay our respects to their Elders past, present and emerging.

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Lily Brown	02/08/2022	Henry Wallis 02/08/2022	
Version No.	Date of issue	Prepared By	Approved by
1.0 (DRAFT)	02/08/2022	LB	HW
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1.0 Executive Summary

Site Location and Context

The subject site is located at East Street, Kilmore. The site is approximately 3,800 m² and is currently vacant land used for overflow racecourse parking and secondary access to properties on George Street.

The land is privately owned by Kilmore Racing Club. It was briefly held by Mitchell Shire Council from September 1983 to October 1984. Council then disposed of the land to the Kilmore Racecourse recreation Reserve Trustees. In December 2004, Kilmore Racing Incorporated purchased the land, paying stamp duty. Kilmore Racing Club became the owner in 2018 after the Turf and Harness Clubs ceased to exist.

The surrounding area is located within the equine precinct of the Kilmore Township. The site is bounded by residential and equine properties to the west, vacant land to the north, and East Street to the east. The Kilmore racecourse is located to the east of the Site on the opposite side of East Street.

Proposal

The Kilmore Racing Club proposes the removal of the 'Reserve for municipal purposes' status at the site. The Reserve is marked on Plan of Subdivision LP114048, approved on the 9th of June 1975 as Reserve No. 1 for Municipal Purposes.

The land is privately owned by KRC and Mitchell Shire Council have advised that the land is no longer required for Municipal Purposes, specifically the use of the land as open public space. Therefore, the Kilmore Racing Club propose to remove the Reserve Status to allow for the orderly future development of the site as per the Kilmore Structure Plan.

Planning Permit Triggers

The following planning permit triggers apply:

- Pursuant of Clause 52.02, a permit is required before a person proceeds under Section 24A of the *Subdivision Act 1988*.

Reasons why the Proposal should be supported

The proposal satisfies the relevant sections of the VPP and should be supported for as it:

- Addresses the relevant PPF, LPPF and MSS policies by providing an opportunity for an alternative use on the land.
- Assists in ensuring the ongoing provision of land for infrastructure to support sustainable urban development and to meet forecast demands of the community.
- Has considered the impacts on affected people ensuring that informal access to the adjacent George Street properties will not be affected by the removal of the Reserve status. The ability for the site to be used as a Neighbourhood Safe Place will not be affected by the removal of the Reserve status. The current use of the site will not be altered by this proposal.
- Aligns with the Council's open space strategy. Mitchell Shire Council have stated that the site is not required for the Kilmore open space network making the Reserve redundant.
- Considers the orderly development of the area, as the site is no longer required for open space and is set to be rezoned, as per the Kilmore Structure Plan.

2.0 Overview and Context

2.1 Introduction

Ethos Urban have been engaged by the Kilmore Racing Club to prepare a planning permit application for the removal of the Reserve Status on vacant land on East Street, Kilmore.

The land is privately owned by Kilmore Racing Club. It was briefly held by Mitchel Shire Council from September 1983 to October 1984. Council then disposed of the land to the Kilmore Racecourse recreation Reserve Trustees. In December 2004, Kilmore Racing Incorporated purchased the land, paying stamp duty. Kilmore Racing Club became the owner in 2018 after the Turf and Harness Clubs ceased to exist.

The site is located within the Public Use Zone – Schedule 6 and is not affected by any overlays. The site is contained within the equine precinct and forms part of a large parcel of vacant land along East Street (Figure 1).



Figure 1 Aerial image of East Street, Kilmore

Source: Nearmap

2.2 Planning Summary

The Kilmore Racing Club proposes the removal of the Reserve placed on the parcel of land located on East Street, Kilmore in the Mitchell Shire Council.

The following drawings and documents are appended to this report:

- Copy of Certificate of Title

Table 1 Planning Summary

Item	Application Specifics
Address	East Street, Kilmore
Existing Use and Development	Vacant land
Proposed Use and Development	N/A
Existing Zone(s)	Public Use Zone – Schedule 6

Item	Application Specifics
Overlay(s)	N/A
Planning Policy Framework	<ul style="list-style-type: none"> • Clause 11 – Settlement • Clause 21.02 – Settlement • Clause 21.11 – Local Areas
Particular Provisions	<ul style="list-style-type: none"> • Clause 52.02 – Easements, restrictions and Reserves
Application Triggers	Pursuant of Clause 52.02, a permit is required before a person proceeds under Section 24A of the <i>Subdivision Act 1988</i> .
Restrictive Covenants & Easements	Reserve No. 1 for Municipal Purposes (Plan of Subdivision LP114048)
Incorporated Documents	N/A
Reference Documents	<ul style="list-style-type: none"> • Kilmore Structure Plan (2016) • Kilmore Infrastructure Framework (2017)
Title	Crown Allotment 13M1 on TP486390G

2.3 Site and Surrounds

The subject site on East Street is located in the township of Kilmore in the Mitchell Shire Council.

The site is known as Crown Allotment 13M1 on TP486390G, and forms part of the larger parcel of vacant land along East Street. The site is bounded by residential land accommodating the Kilmore Equine Clinic to the west and vacant land to the north, with the Kilmore Racecourse to the east. The site has an irregular shape and has an area of approximately 3,800 m².

No formal crossovers currently exist to directly access the site. Access is achieved using the crossover from East Street at 15-35 East Street, adjacent to the Site. East Street provides single lane traffic in each direction and includes wide verges accommodating a swale drain and scattered canopy planting.

The site currently provides informal secondary access to equine properties along George Street. This informal arrangement provides property users with rear from East Street. This use of the site has been informally established by the relevant property owners.

The site is also currently utilised as a Neighbourhood Safe Place (NSP) for the town of Kilmore, being a place of last resort during a bushfire emergency. The NSP primarily relates to the J K Pavilion to the east of East Street.

2.4 Certificate of Title and Encumbrance

This site is referred to as Crown Allotment 13M1 on TP486390G. The Reserve is marked on Plan of Subdivision LP114048 as Reserve No. 1 for Municipal Purposes.

3.0 Planning Controls and Strategic Documents

3.1 Zoning

The site is located within the Public Use Zone – Schedule 6 (PUZ6) (Figure 2).

The purpose of the PUZ6 is:

- To recognise public land use for public utility and community services and facilities.
- To provide for associated uses that are consistent with the intent of the public land reservation or purpose.

A permit is not required to remove a Reserve status.

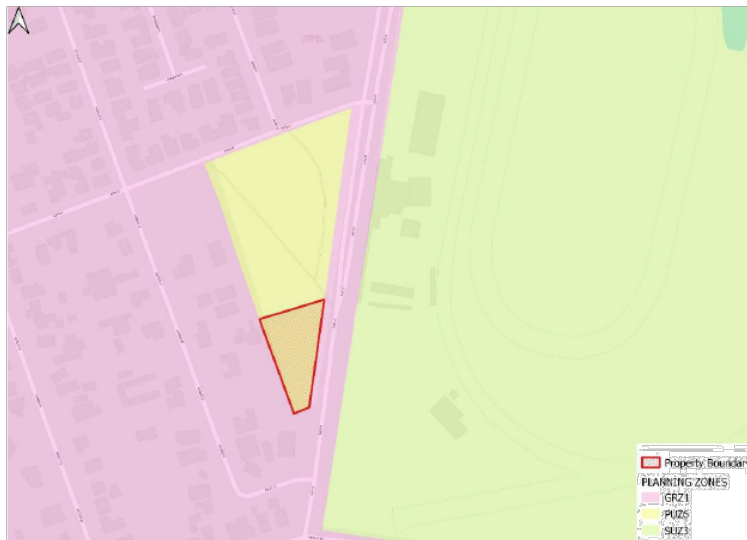


Figure 2 Planning Zones

Source: VicPlan

3.2 Overlays

There are no overlays currently affecting the site.

3.3 Particular Provisions

Clause 52.02: Easements, Restrictions and Reserves

Clause 52.02 applies to the removal or variation of an easement or restriction. The Purpose of this Clause 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.

Pursuant of Clause 52.02, "a permit is required before a person proceeds under Section 24A of the Subdivision Act 1988."

Clause 52.02 sets out a single decision guideline:

- Before deciding on an application, in addition to the decision guidelines in clause 65, the responsible authority must consider the interests of affected people.

3.4 Clause 65 – General Provisions

Clause 65.01 provides standard decision guidelines which must be considered before the granting of a permit for the removal of a Reserve on land as follows:

- The matters set out in Section 60 of the Act.

- The Municipal Planning Strategy and the Planning Policy Framework.
- The purpose of the zone, overlay or other provisions.
- 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.
- 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.

3.5 Strategic Documents

Kilmore Structure Plan (2016)

The Kilmore Structure Plan provides a long-term vision for the township of Kilmore articulated through key objectives, strategies and actions which consider a range of land use planning issues including urban form, residential development, transport networks, open space, community facilities, local employment, and a range of other services.

The Structure Plan aims to support the development of the Kilmore Racecourse complex, including Action 48 to *rezone land owned by Kilmore Racecourse currently zoned PUZ to SUZ*¹⁰. This confirms that the Mitchell Shire Council is not invested in pursuing the use of the land at the site under the Reserve.

4.0 The Proposal

4.1 Overview

The Kilmore Racing Club proposes the removal of the 'Reserve for municipal purposes' status at the site. The Reserve is marked on Plan of Subdivision LPT14048, approved on the 9th of June 1975 as Reserve No.1 for Municipal Purposes (Figure 3).

The Mitchell Shire Council have advised that the land is not required for Municipal Purposes, specifically the use of the land as open public space. Therefore, the Kilmore Racing Club propose to remove the Reserve Status to allow for the orderly future development of the site as per the Kilmore Structure Plan.

The vacant land at the site is currently utilised as part of the Neighbourhood Safe Place for the town of Kilmore, being a place of last resort during a bushfire emergency. The NSP primarily relates to the J Kelly Pavilion. Additionally, the vacant land is used as secondary informal access to properties on George Street.

It should be noted that the proposal will not affect the use of the site as the Neighbourhood Safe Place nor as an accessway to properties on George Street.



Figure 3 Extract from Reserve Plan indicating the location of the Reserve

Source: LPT14048

4.2 Document Review

The Mitchell Shire Planning Scheme Amendment C154 Planning Panel Part A Submission prepared by the Mitchell Shire Council on 21 February 2022, responds to the Panels directions on matters relating to a planning scheme amendment proposed for zone changes to 15-35 East Street and associated land.

The Submission talks to the Reserve at the site and states that "the Reserve status of the Reserve on the Reserve Plan may be removed under Section 24(A) of the Subdivision Act 1988 via a planning scheme amendment or planning permit. The submission goes on to state that "since the Subject Site remains in private ownership, it is unlikely that Council would seek to object to the removal of the Reserve status of the Reserve."

The Submission on behalf of the Planning Authority, Amendment C154mth to the Mitchell Planning Scheme, prepared on by Maddocks on 25th February 2022, outlines Part B of Council's submission to the directions of the Planning Panel. The Submission addresses the unlikely use of the site as public open space, noting that "the Structure Plan does not earmark the subject site to be incorporated into the open space network. However, sufficient open space is, and will be, provided in a variety of other identified areas nearby."

5.0 Policy Context

5.1 Planning Policy Framework (PPF)

The Planning Policy Framework includes State and Regional policy that provides the broad objectives and strategies for planning in Victoria. The policies enable planning at a state and regional/municipal level and guide the formulation of local policies to implement good planning outcomes. The key provisions of the PPF relevant to this application are:

- Clause 11 – Settlement

Key objectives and strategies of each clause as applicable to this proposal are detailed below, with a response from the proposal for each Clause.

Clause 11 – Settlement

Clause 11 advocates for planning to anticipate and respond to the needs of existing and future communities through the provision of zoned and serviced land for housing, employment, recreation and open space, commercial and community facilities and infrastructure.

Planning should recognise the need to contribute towards health, wellbeing and safety, diversity of choice, adaption 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 and land use and transport integration.

Clause 11 also advocates for planning to prevent environmental problems created by siting incompatible land uses close together and to facilitate sustainable development that takes full advantage of existing settlement patterns, and investment in transport and communication, water and sewerage and social facilities.

Clause 11.01-1S (Settlement) seeks to *“facilitate the sustainable growth and development of Victoria and deliver choice and opportunity for all Victorians through a network of settlements”*.

Strategies to achieve this objective of relevance to the subject site include:

- *Ensure regions and their settlements are planned in accordance with their relevant regional growth plan.*
- *Guide the structure, functioning and character of each settlement taking into account municipal and regional contexts and frameworks.*
- *Deliver networks of high-quality integrated settlements that have a strong identity and sense of place, are prosperous and are sustainable by:*
 - *Balancing strategic objectives to achieve improved land use and development outcomes at a regional, catchment and local level.*

Clause 11.02-1S (Supply of urban land) seeks to *“ensure a sufficient supply of land is available for residential, commercial retail, industrial, recreational, institutional and other community uses.”*

Strategies to achieve this objective of relevance to the subject site include:

- *Ensure the ongoing provision of land and supporting infrastructure to support sustainable urban development*
- *Ensure that sufficient land is available to meet forecast demand.*

5.2 Local Planning Policy Framework (LPPF)

The Local Planning Policy Framework forms part of the PPF and is prepared by Council to apply high level State policies to a local context, responding to specific requirements and features of the municipality. Key policies of relevance to this application are:

- Clause 12.02 – Settlement
- Clause 21.11 – Local Areas

Key objectives and strategies of each Clause as applicable to this proposal are detailed below.

Clause 21.02 – Settlement

This Clause provides local context to Clause 11 of the PPF. Relevant objectives and strategies are as follows:

- *To plan for the orderly development of existing settlements*
- *Implement town structures and establish growth boundaries around primary settlements*

Clause 21.11 – Local Areas

This Clause focuses on Local Area implementation of Mitchell Planning scheme objectives and strategies. Relevant objectives and strategies are as follows:

- *Ensure that any proposed use or development within Kilmore is generally consistent with the Kilmore Structure Plan, August 2016 and the Kilmore Infrastructure Framework, August 2017 which guides preferred growth and development outcomes and prioritises delivery of infrastructure for the town.*

6.0 Planning Assessment

6.1 State and Local Planning Policy

The proposal is consistent with the policy directions and strategies outlined in the Mitchell Planning Scheme. These include the following:

- The removal of the Reserve at the site responds to the local strategic direction, enabling a more relevant economic use at the site to support the prosperity of the local area, consistent with Clause 11, 21.02 and 21.11.
- Removing the Reserve status at the site makes the land more accessible to respond to the future needs of the existing and future community within the area, consistent with Clause 11.
- The proposal seeks to remove the reserve on the land to ensure the ongoing provision of land for infrastructure to support sustainable urban development and to meet forecast demands of the community, consistent with Clause 11.02.
- As the site is not required for the use as open space, the proposal to remove the Reserve assists in delivering orderly development of the existing surrounding settlement, consistent with Clause 21.02.
- The removal of the Reserve ensures consistency with the regional growth plan of the area, consistent with Clause 21.11.

6.2 Land Use

As the proposal will not change the existing use of the land, a permit is not required.

6.3 Easements, Restrictions and Reserves

Pursuant to Clause 52.02, a permit is required before a person proceeds under Section 24A of the *Subdivision Act 1988*.

The proposal is consistent with the decision guidelines of Clause 52.02 and Clause 65.01 as:

- The proposal has addressed the relevant policies within the Municipal Planning Strategy and the Planning Policy Framework as it seeks to be consistent with the regional planning framework of the area and ensures the provision of land for future uses and infrastructure as per future forecast demand.
- There are no relevant requirements under the zone which relate to the proposal to remove the reserve status and the site is not affected by any overlays.
- The interests of affected people have been considered. Informal access to the adjacent George Street properties will not be affected by the removal of the Reserve status. The ability for the site to be used as a Neighbourhood Safe Place will not be affected by the removal of the Reserve Status. The current use of the site will not be altered by this proposal.
- The proposal to remove the Reserve status will assist in achieving the strategic planning objective of evolving the use of the land from public space to a use that is more consistent with the local strategic planning direction of the area.
- In the submissions to the directions of the Planning Panel in relation to planning scheme Amendment C154, Council outlined that it is unlikely to object to a planning permit to remove the Reserve status from the site.
- It is consistent with the matters set out in Section 60 of the Act in that it considers the Mitchell Planning Scheme, has accounted for the affect that the reserve status removal will have on the surrounding landowners and users, and is consistent with the regional planning framework.
- Supports the orderly planning of the area through consistency with the regional planning framework.
- It will not affect the amenity of the area.
- The site is in proximity to the Kilmore Racecourse which is public land. The removal of the reserve status will not impact on the amenity, access, or productivity of the Racecourse or its users and visitors.
- Removal of the Reserve status will not contribute to land degradation, salinity or reduce water quality.
- The removal of the Reserve status is not proposing to removal or destroy any native.
- It does not impact on the adequacy of loading and unloading facilities and any associated amenity, traffic flow and road safety impacts. At the Panel hearing the operator of the Vet clinic at 14 George Street confirmed that loading and unloading of horses occurs within the clinics land to ensure safety of horses and the public.

7.0 Conclusion

7.1 Final Assessment

As discussed throughout this report, the proposal to remove the Reserve satisfactorily responds to the relevant planning policy framework and should be supported as it:

- Addresses the relevant PPF, LPPF and MSS policies by providing an opportunity for an alternative use on the land.
- Assists in ensuring the ongoing provision of land for infrastructure to support sustainable urban development and to meet forecast demands of the community.
- Has considered the impacts on affected people ensuring that informal access to the adjacent George Street properties will not be affected by the removal of the Reserve status. The ability for the site to be used as a Neighbourhood Safe Place will not be affected by the removal of the Reserve status. The current use of the site will not be altered by this proposal.
- Aligns with the Council's open space strategy. Mitchell Shire Council have stated that the site is not required for the Kilmore open space network making the Reserve status redundant.
- Considers the orderly development of the area, as the site is no longer required for open space and is set to be rezoned, as per the Kilmore Structure Plan.

Appendix A Certificate of Title



Maddocks

Date: 25 February 2022

Submission on behalf of the Planning Authority
Amendment C154mith to the Mitchell Planning Scheme

Council's submission: Part B

[8708630:31989235_1]

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Maddocks

Introduction

1. This submission is made on behalf of Mitchell Shire Council (**Council**).
2. Council is the Planning Authority for Amendment C154 (**Amendment**) to the Mitchell Planning Scheme (**Scheme**).
3. The proponent (**Proponent**) for the Amendment is the Kilmore Racing Club Incorporated (**KRCI**).
4. The Amendment applies to the land at:
 - 4.1 15-35 East Street Kilmore;¹ and
 - 4.2 Reserve 1 on Plan of Subdivision 113048
 (collectively, the **Subject Site**).
5. On 21 February 2022, Council circulated its Part A submission in accordance with Direction 4 of the Panel Directions issued on 18 February 2022 (**Panel Directions**). The Part A Submission addressed the following themes:
 - 5.1 background to the Amendment including chronology of events and summary of site zoning history based on available and accessible information;
 - 5.2 strategic context and assessment including how the proposed zone and Development Plan Overlay is consistent with the Municipal Strategic Statement and *Kilmore Structure Plan 2016* (**Structure Plan**) to support Kilmore's equine industry and equine precinct;
 - 5.3 issues identified in submissions including issues relating to access and impacts on adjoining equine uses and clarification of the Neighbourhood Safer Place status of the land identified in the CFA submission;
 - 5.4 Council's understanding of the implications of the Reserve for municipal purposes status of the Reserve lot and any future steps required to address this; and
 - 5.5 Any suggested changes to the Amendment in response to submissions.
6. This submission responds to Direction 9 of the Panel Directions, which directs Council to address the following issues through its Part B Submission:
 - 6.1 response to submissions; and
 - 6.2 Council's final position on the Amendment.
7. Council reserves the right to make further submissions in its Reply Submissions to new matters raised in the Panel hearing (by way of new submissions, cross-examination of witnesses or Panel member queries, where relevant).

¹ Comprising Lot 1 on TP00236D (**Lot 1**) and Lot 1 on Title Plan 002403E (**Lot 2**)



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Summary of key issues raised in submission

8. Council received 15 submissions (including 1 petition) in response to the exhibition of the Amendment. Of the 15 submissions received:
 - 8.1 4 submissions supported the Amendment; and
 - 8.2 11 submissions objected to the Amendment.
9. The common issues raised in submissions were:
 - 9.1 historical land transfers and ownership²;
 - 9.2 loss of access to Kilmore Racecourse for business adjoining the Subject Site³;
 - 9.3 use of the Subject Site for public open space and community use⁴;
 - 9.4 designation of the Subject Site as a Designated Bushfire Place of Last Resort (or Neighbour Safer Place)⁵;
 - 9.5 loss of car and horse float parking⁶;
 - 9.6 loss of privacy for dwellings adjoining Subject Land on George Street⁷; and
 - 9.7 increase in traffic due to residential development.⁸
10. Council provides its response to the issues raised in these submissions below.

Council's response to key issues raised in the submission

11. In accordance with the Panel Directions, Council provides its response to the issues raised by submitters below.

Historical land transfers and ownership

12. A number of submissions opposed the Amendment on the basis that:
 - 12.1 the Reserve was provided to Kilmore Shire Council (as it was then) as a development contribution, on the understanding that the site must be utilised for a public car park to accommodate the use of the Racecourse;
 - 12.2 the former Kilmore Shire Council transferred the Reserve to the Kilmore Trotting Club on the proviso that it be returned if the site was no longer required for this purpose and could not be sold privately;
 - 12.3 the transfer of the Reserve to the Kilmore Racecourse Trustees was unlawful because the PUZ applied at the time it was transferred; and

² Submissions Nos. 6, 7, 8, 9, 10, 11.

³ Submissions Nos. 4, 7, 9, 11.

⁴ Submissions Nos. 3, 10, 12.

⁵ Submissions Nos. 6, 11, 14.

⁶ Submissions Nos. 1, 11.

⁷ Submission No. 12.

⁸ Submission No. 7.



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- 12.4 the transfer in ownership of the Reserve from the Racecourse Trustees to the Proponent was unlawful and therefore invalid.
- 13. In this respect, we rely on the Panel's response to Procedural Issue 1 in the Panel Directions:

The issue has been extensively examined by Council through legal advice and the position of submitters is clearly understood by the Panel. **The Panel is not in a position to make rulings about the legalities of historical land title and transfer processes or make findings about them.** The Panel is of the view that it will not be particularly assisted by extensive and detailed submissions on this issue. Based on the requests to be heard the Panel considers there is little risk of the proceedings being focused or dominated by this issue and it is reluctant to issue a direction as sought by Council. **However, it is the expectation of the Panel that the submissions of parties at the Hearing will focus on planning issues related to the Amendment.** Any commentary on land title issues should be limited to brief context to any of the identified planning issues. The Panel will manage the Hearing and monitor verbal submissions on this issue accordingly.
- 14. Council acknowledges and agrees with the approach of the Panel to the issue. Council has provided the Panel and submitters with legal advice and a summary of the material available to it in this respect.

Loss of access for adjoining businesses

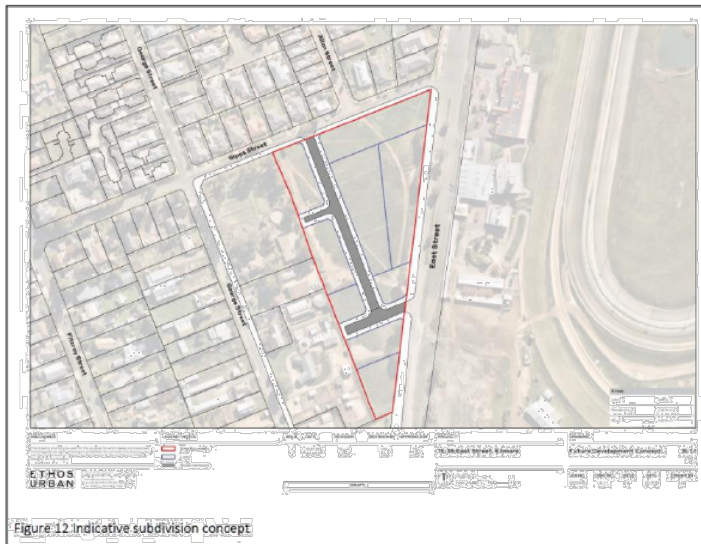
- 15. Several submissions object to the Amendment on the basis that it will impact upon existing access arrangements for businesses adjoining the Subject Site.
- 16. Council broadly addressed this issue in its Part A Submission, however provide further consideration below.
- 17. Two (2) equine veterinarian clinics at 14 and 16B George Street, gain informal access to the rear of their properties from East Street through the Subject Site.





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- 18. Use of the Subject Site for access to these businesses from East Street is presently allowed via an informal arrangement, at the discretion of the Kilmore Racing Club.
- 19. Primary road access to these businesses is provided from George Street. Although the total distance between the businesses and the Racecourse is great from George Street compared with the existing informal access arrangements, the Racecourse is still readily and conveniently accessible.
- 20. The use of the Subject Site as a means of informal access between the businesses on George Street and the Racecourse is not in itself an appropriate outcome. Though the Panel may consider existing access in assessing the Amendment, this must also be balanced against policy and objectives within the Scheme and, particularly, the Structure Plan. In Council's view, these businesses could utilise its existing primary points of access from George Street with little impact upon its viability and the Equine Precinct as a whole.
- 21. Nonetheless, rear access to these businesses is a matter that can be addressed at the time a development plan is being prepared under the DPO10. In this respect, we refer to the Proponent's Part Submission, where an indicative subdivision concept plan is provided at Figure 12.⁹



- 22. Although the access arrangements depicted on the above plan are merely indicative, it is Council's view that the application of the GRZ1 and DPO10 enables the Proponent and any affected businesses to consider the appropriate development of the Subject Site.
- 23. In particular, the DPO10 requires any development plan prepared under that provision to be generally in accordance with the Structure Plan. Clause 4.0 in the DPO10 also requires a development plan to be accompanied by, and demonstrate consistency with:
 - 23.1 a Traffic Impact Assessment Report; and
 - 23.2 a Local Street Level Concept Plan.

⁹ Proponent's Part A Submission, p 24.



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24. Accordingly, it is Council's view that the Amendment would ensure that proper traffic and access arrangements are considered in preparing a development plan. Once this has occurred, any permit to use or develop the Subject Site must similarly be generally in accordance with that development plan.

Designated Bushfire Place of Last Resort

25. As advised in Council's Part A Submission, it is acknowledged that the Subject Site is a Neighbourhood Safer Place (NSP).
26. The submission of the Country Fire Authority (CFA) identifies its support for the Amendment, and further provides that:
- 26.1 Council should undertake early community engagement regarding any changes to the extent of NSPs in the municipality, including the Subject Site;
- 26.2 any future development of the Subject Site should consider the local road network to facilitate ingress/egress on days of increased fire danger when community members may access the NSP at the Racecourse; and
- 26.3 any future development should consider appropriate water supply to meet the needs of emergency services.
27. Council considers that all of the above may be addressed by way of a development plan prepared under the DPO10.
28. Additionally, Council is in the process of reviewing its NSPs to determine whether those currently located on the Subject Site and the Racecourse may be relocated to the JJ Clancy Reserve. Acknowledging that this process is still ongoing, Council can provide the assurance that any development within Kilmore will not be allowed at the cost of emergency safety.
29. Accordingly, it is Council's view that the status of the Subject Site as a NSP can be appropriately managed and any issues resolved prior to the development of the Subject Site. In this respect, emergency access and community safety are matters that can and should be considered in the preparation of the development plan under the DPO10.

Loss of privacy

30. Concerns have been raised in respect of the potential impacts of developing the Subject Land, in particular, upon residents and dwellings located on George Street.
31. In this respect, Council is satisfied that the development of the Subject Site for, say, a residential development, would be require to comply with the requirements of the GRZ1 and DPO10.
32. The GRZ1 would require any proposed use or development to meet the requirements of clause 55 or clause 56 of the Scheme, as appropriate. Those provisions, amongst others, provide objectives and standards for the development of multiple dwellings and/or the subdivision of land.
33. The DPO10 requires any development plan to:
- 33.1 generally accord with the Structure Plan, including the provision of information relating to surrounding land uses and interfaces;
- 33.2 be accompanied by, and demonstrate consistency with:
- 33.2.1 a Planning Assessment and Design Response Report; and



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33.2.2 a Local Street Level Concept Plan.

34. Council is satisfied that any future development of the Subject Site will be required to comply with a number of objectives, standards and requirements, some of which necessitate the consideration of privacy and impacts upon adjoining properties and residents.
35. The applications of the GRZ1 and DPO10 to the Subject Site will ensure that any issues relating to loss of privacy are addressed at the planning approval stage.

Loss of car parking

36. Concerns have been raised with the impact of the Amendment on the availability of car parking on the Subject Site and surrounding area.
37. In its Part A Submission, the Proponent advises that, presently, the Racecourse only utilises the Subject Site for overflow car parking during the annual Kilmore Cup. No other events or functions require overflow car parking.
38. Additionally, the Proponent notes that it is considering the expansion of the existing Racecourse car park. In the meantime, the Proponent advises that the Kilmore Football Club is able to accommodate overflow car parking, if required.
39. A particular advantage of applying the DPO10 to the Subject Site is the following requirement that an approved development be accompanied by, and demonstrate consistency with (at cl 4.0):

A Traffic Impact Assessment Report which reviews projected internal and as required external traffic and movement network impacts, and to the satisfaction of the responsible authority, and identifies costs for developer contributions where the impact is deemed outside the developable area. The following must be considered within the assessment report:

- The distribution, hierarchy and characteristics of vehicular and pedestrian circulation networks.
 - The ability to achieve safe access to the surrounding road network.
 - Consideration of any known relevant VicRoads infrastructure projects
40. Accordingly, it is Council's view that the Amendment will ensure, if not enhance, car parking and traffic conditions within the vicinity of the Subject Site.

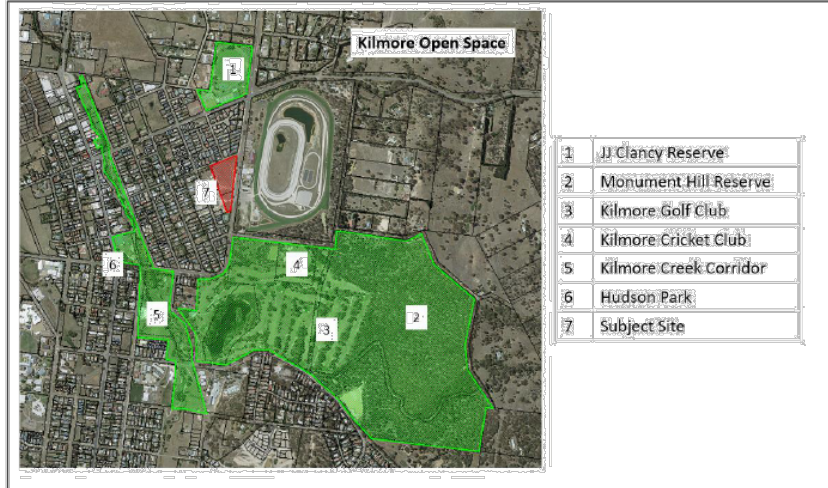
Use for open space and community facilities

41. One submission objects to the Amendment on the basis that the Subject Site should be preserved as public open space.
42. The supply of open space for the use of the community is a firm objective of the Structure Plan. The Structure Plan seeks to incorporate diverse open space throughout the Kilmore township, including a mix of formal recreation, walking/cycle networks and reserves.



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- 43. The following plan indicates the considerable amount of formal and informal open space located within close proximity to the Subject Site.



- 44. The Structure Plan does not earmark the Subject Site to be incorporated into the open space network. However, sufficient open space is, and will be, provided in a variety of other identified areas nearby.
- 45. Accordingly, it is clear that the Amendment will affect the delivery of the formal and informal open space network identified in the Structure Plan.

Council’s final position on the Amendment

- 46. Council considers that the Amendment is strategically justified and appropriately addresses the intent and objectives of the Structure Plan.

State and Local Policy

PPF and LPPF

- 47. The Amendment demonstrates consistency with relevant Planning Policy Framework and Local Planning Policy Framework provisions in the Scheme, including:
 - 47.1 Clause 11 – Settlement;
 - 47.2 Clause 11.01-1S – Settlement;
 - 47.3 Clause 15 – Built Environment and Heritage;
 - 47.4 Clause 15.01-1 - Urban Design;
 - 47.5 Clause 16 – Housing;
 - 47.6 Clause 16.01-1S – Integrated Housing;



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- 47.7 Clause 16.01-2S – Location of Residential Development;
- 47.8 Clause 16.01-3S – Housing Diversity; and
- 47.9 Clause 21.11-3 – Kilmore.
48. Additionally, the Amendment appropriately responds to the aspirations and objectives of a number of strategic policies:
- 48.1 *Plan Melbourne 2017-2050*; and
- 48.2 the *Hume Regional Growth Plan (2014)*.

Ministerial Direction and Practitioner's Guide

49. The *Ministerial Direction on the Form and Content of Planning Schemes (Ministerial Direction)*, issued by the Minister for Planning under s 7(5) of the Act, provides directions relating to the form and content of planning schemes. Planning authorities, such as Council, must comply with.
50. Relevantly, the Ministerial Direction provides for the following direction in respect of the PUZ:
- A planning scheme may only include land in a Public Use Zone, Public Park and Recreation Zone or Public Conservation and Resource Zone if the land is Crown land, or is owned by, vested in or controlled by a Minister, government department, public authority or municipal council.
51. Section 5.1.1 of the *Practitioner's Guide to Victorian Planning Schemes (Practitioner's Guide)*¹⁰ similarly provides:¹¹
- The Ministerial Direction The Form and Content of Planning Schemes specifies that a planning scheme may only include land in a public land zone if the land is Crown land or is owned, vested in or controlled by a Minister, government department, public authority or a municipal council.
- Public land zones are not intended to identify the legal status of the land or indicate the existing land use. They are intended to set out appropriate statutory requirements that apply to the use and development of the land in addition to the relevant land management legislation.
- Land should not be automatically included in a public land zone just because it is public land. There will be situations where a public land zone is not the most appropriate zone, such as a road or remnant parcel of public land in a rural area. In such cases the use of other zones and overlays can appropriately recognise the purpose for which the land is reserved.**
- [Emphasis added]
52. Accordingly:
- 52.1 land must only be included in a PUZ if the land is owned by, vested in or controlled by a Minister, government department, public authority or municipal council;
- 52.2 land should not automatically be included in a PUZ just because it is public land; and

¹⁰ Version 1.4, DELWP (April 2020).

¹¹ At p 31.

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52.3 other zones and overlays can appropriately recognise the purpose for which land is reserved.

Kilmore Structure Plan

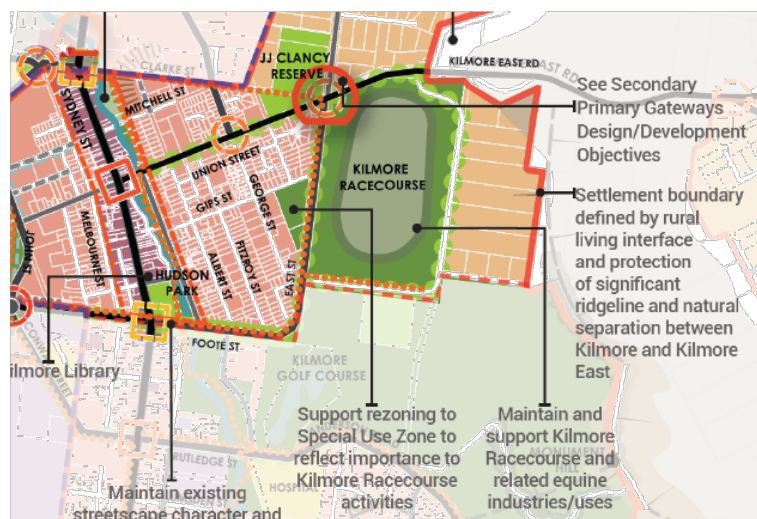
53. The Kilmore Structure Plan was unanimously endorsed by Council at it's Ordinary Meeting held on 15 August 2016. Subsequently, Amendment C123 to the Scheme was gazetted on 28 March 2019, which amended the Scheme to implement, amongst other things, planning controls according with the vision, objectives, strategies and actions of the Structure Plan.

54. The Executive Summary of the Structure Plan provides:¹²

Notwithstanding relatively modest historical rates of development, the Kilmore Structure Plan identifies sufficient land to accommodate a long-term population of over 20,000 persons. Importantly the plan identifies a range of potential growth options including incremental infill development opportunities, strategic infill development sites and green-field growth areas all of which have been assessed on a precinct basis.

Importantly, land will not be rezoned in advance of development but rather Council will assess rezoning requests on a discretionary basis having careful regard to the recommendations of the Kilmore Structure Plan and the extent to which proposals can achieve a net community benefit. This approach is consistent with community feedback which emphasised the need to ensure that growth is well planned and can make a positive contribution to the town as a whole.

55. The Subject Site is identified within Precinct 1A – Established Areas:



Extract of Precinct 1A Structure Plan – Figure 52 (p 109)

56. It is acknowledged that the Structure Plan expresses support for rezoning the Subject Site to the Special Use Zone (**SUZ**). Since the preparation and implementation of the Structure Plan, the Proponent has advised that the Subject Site is surplus to its needs.

¹² At p 1.



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57. Since the Subject Site is presently located in the PUZ - which is contrary to the intent of the *Ministerial Direction and Practitioner's Guide* - it is necessary to look to the Structure Plan to consider how to address this anomaly.
58. Action A48, which specifically relates to the Subject Site, is contained in Table 10 (Minor Amendments Implementation) and Table 11 (Specific Action Implementation – Elements), and provides:¹³
- Rezone land owned by Kilmore Racecourse currently zoned PUZ to support its development as part of the Kilmore Racecourse complex.
59. Action A48 is also identified as a 'Local Employment' element of the Structure Plan. The Guiding Principle of 'Local Employment' elements within the Structure Plan provides:¹⁴
- Integral to the success of Kilmore will be protecting and creating employment opportunities that will meet not only the needs of residents today, but well into the future as Kilmore's population exceeds 20,000 people. Future employment opportunities within Kilmore must be planned for, protected and adaptable to changes in market conditions and technology influences.
60. The Key Objectives & Strategies for 'Local Employment' are provided at Figure 13, and comprise 9 overarching aspirations:
- LE1** To strengthen and diversify existing employment nodes Kilmore to meet the current and future needs of its residents.
 - LE2** To encourage the growth of industrial and employment uses to meet the growing and changing needs of residents for their important local employment opportunities and ensure employment land is appropriately zoned.
 - LE3** To maintain and strengthen Kilmore's established education and health sectors as an important employment generating industries.
 - LE4** To maintain and strengthen Kilmore's equine industry as an important employment generator.
 - LE6** To recognise the economic benefits of tourism within Kilmore as a positive employment generating industry.
 - LE7** To support employment generating uses within the Sydney Street town centre.
 - LE8** To maintain the role, size and function of Kilmore's second activity centre
 - LE9** To recognise, support and protect farming uses and associated employment opportunities in proximity to Kilmore.
61. Accordingly, the intent of Action A48 is to support a commercial or other ancillary use (for example, accommodation or conference centre) to support the Kilmore Racecourse activities on both sides of East Street. So long as the Subject Site is used and developed in accordance with these objectives, it will be doing so in accordance with the vision of the Structure Plan
62. The Amendment can facilitate the potential uses and developments specified above, so long as any future use and development:
- 62.1 complies with the Structure Plan's objectives and strategies; and
 - 62.2 comprises an appropriate planning outcome with respect the GRZ1 and DPO10.

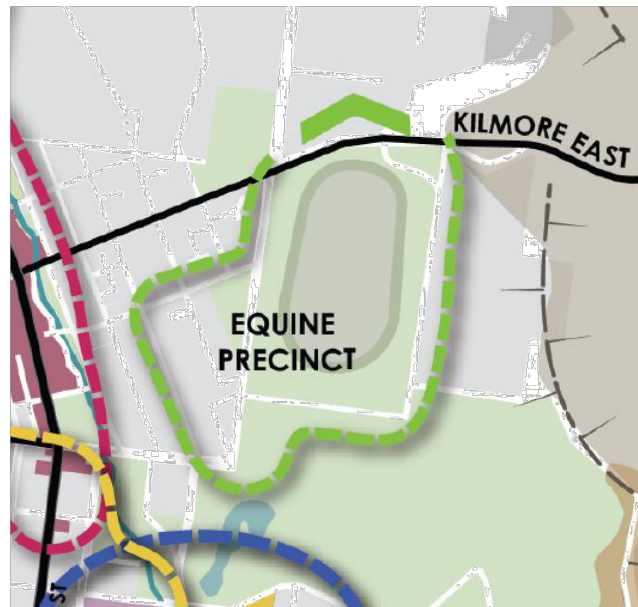
¹³ At p 85.

¹⁴ At p 19.



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63. A purpose of the GRZ1 is “to allow a limited range of other non-residential uses to serve local community needs in appropriate locations”. This purpose then informs the table of uses with accommodation, convenience shop, food and drink premises as well as place of assembly (function centre) all permissible land uses in the GRZ subject to a planning permit.
64. The Proponent has provided correspondence and advised in its Part A Submission that the Subject Site is surplus to its ongoing operations and requirements. The Club has adequate area for all current and future activities within the primary land title encompassing the racecourse itself on the eastern side of East Street. This land is appropriately zoned to facilitate the ongoing use of the land for racing and associated purposes.
65. In this respect, it is key that Figure 52 of the Structure Plan indicates the support for the rezoning of the Subject Site to the SUZ ‘to reflect the importance to Kilmore Racecourse activities’.¹⁵ If the Proponent submits that the Subject Site is surplus to the Racecourse’s needs, then Council considers that an alternative zoning would be appropriate so long as it accords with the Structure Plan.
66. A number of equine training-based activities associated with the Racecourse are now largely located to the north of the Racecourse. Further, the Structure Plan envisions that uses and developments associated with the Equine Precinct will largely be directed north of the Racecourse.



Extract from Figure 43 (Local Employment) – p 83

67. As discussed, Objective LE4 of the Structure Plan seeks “to maintain and strengthen Kilmore’s equine industry as an important employment generator”.
68. The existing zones applied to the land north of the Kilmore Racecourse include the Farming Zone (FZ), Low Density Residential Zone (LDRZ) and Rural Living Zone (RLZ). These zones are better suited to accommodate the equine associated activities given they are more likely to provide land of larger size than the Subject Land.

¹⁵ Figure 52, p 109.



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69. The private ownership of the Subject Site, its scale and location closely reflect the characteristics of Strategic Infill Development Sites (**SID Sites**) within Precinct 1 of the Structure Plan. In respect of Sites, section 3.2.3 of the Structure Plan provides:¹⁶
- There are a number of larger, vacant landholdings within the established areas of Kilmore which are suitable for infill development. These sites are identified as Strategic Infill Development Sites and will play an important role in the delivery of diverse housing outcomes in Kilmore (see Figure 12).
- Given the importance of infill sites in providing for the future housing needs of Kilmore and their proximity to established services and facilities, the Structure Plan identifies these sites separately within Chapter 4 and sets a series of design objectives to ensure they are planned and developed for in a holistic manner. Strategic Infill Development Sites will complete some of Kilmore's missing road and pedestrian links and localised drainage issues. More detail is provided in Chapter 4.
- Many Strategic Infill Development Sites have existing planning permits for subdivision, and others are vacant parcels. Some planning approvals issued for development have not been enacted providing an opportunity to better integrate these sites with the town core and preferred character of Kilmore.
70. Actions A72 to A77 apply to SID Sites with Precinct 1 of the Structure Plan, with the following actions being particularly relevant to the Amendment:
- A72** Require proponents to apply the General Residential Zone and Rural Living Zone and as identified in Figure 33.
- A73** Apply the Development Plan Overlay to key sites marked in accordance with Figure 33 to ensure delivery of the Design Objectives and to ensure achievement of coordinated development outcomes.
- A76** For sites requiring the preparation of a Development Plan, the Development Plan should include the following information:
- Local street level concept plan
 - Drainage strategy
 - Flora and fauna assessment and response
 - Heritage assessments (post-contact and Aboriginal) including Cultural Heritage Management Plan
 - Traffic impact assessment
 - Servicing strategy
 - Infrastructure delivery strategy
71. Accordingly, SID Sites play an important role in the delivery of diverse future housing outcomes in Kilmore given the close proximity to existing services and facilities. The sites are further required to comply with a number of design objectives within the Structure Plan to ensure that the use and development of any site is assessed holistically.
72. Given:
- 72.1 the context of the Subject Site being deemed surplus to requirements by the Proponent;

¹⁶ At p 36.



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72.2 the Proponent's position that a commercial use or other use ancillary to the Racecourse's activities is not necessary and is unlikely to be pursued; and

72.3 the immediate residential interfaces to the Subject Site -

the application of the GRZ1 and DPO10 to the Subject Site accords with the vision of the Structure Plan.

73. We consider each of these provisions as follows.

Application of the GRZ1

74. Consistent with other SID Sites identified by the Structure Plan, Council submits that the application of the GRZ1 to the Subject Site is strategically justified.

75. Clause 32.08 of the Scheme provides for the purpose of the GRZ:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To encourage development that respects the neighbourhood character of the area.
- To encourage a diversity of housing types and housing growth particularly in locations offering good access to services and transport.
- To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.

76. The GRZ1 does not provide for any variations to the requirements under clauses 54 and 55 of the Scheme.

77. Since the GRZ1 applies to many properties in close proximity to the Subject Site, we consider that it is generally consistent with the strategic direction and character of the area.

78. Council agrees with the Proponent's Part A Submission that, subject to planning approval, the SUZ3 would permit the use of the Subject Site for a number of uses, including:

78.1 Betting agency;

78.2 Cinema;

78.3 Leisure and recreation;

78.4 Market; and

78.5 Place of assembly (less than 2,500 patrons or a horse racing event as of right);

79. In light of the surrounding use and development of the Subject Site, as well as its common characteristics with SID Sites, the application of the GRZ1 to the Subject Site is strategically justified by, and consistent with, the Structure Plan.

Application of the DPO10

80. In Council's view, the application of the DPO10 to the Subject Site is supported by the Structure Plan.

81. Additionally, the DPO10 itself must generally accord with the Structure Plan. Any proposed use or development of the Subject Site would be heavily guided by the requirements of the Structure Plan.



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- 82. The Application of the DPO10 does not conflict with the Structure Plan. On the contrary, any approved development plan approved under the DPO10 will guide the development of the Subject Site in a manner generally consistent with the aspirations for Precinct 1 under the Structure Plan.
- 83. Accordingly, it is Council's position that the DPO10 should be applied to the Subject Site.

Council's position

- 84. For the reasons outlined above, Council submits:
 - 84.1 the application of the GRZ1 to the Subject Site is strategically justified; and
 - 84.2 the DPO10 should be applied to the Subject Site.

Conclusion

- 85. This completes Council's 'Part B' submission.
- 86. Council reserves its right to respond to any new matters raised through submissions in its reply.

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Charlie Wurm
Maddocks
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25 February 2022



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Date 5 October 2021

Subject Amendment C154 | 15-35 East Street, Kilmore

Questions Council has asked us to review submissions it has received in response to Proposed Amendment C154 (**Amendment C154**) to the Mitchell Planning Scheme (**Scheme**), associated documents provided by the applicant, Kilmore Racing Club Incorporated (**Kilmore RC**), and Council's proposed submission table outlining its response to those submissions.

In particular, Council has requested our advice on the following matters raised by submitters to Amendment C154, namely whether:

- Council validly and lawfully transferred the Subject Land to the Trustees of the Kilmore Racecourse (**Trustees**);
- a valid agreement exists (or existed) between Council and the Trustees requiring the Subject Land to be returned to Council if the Subject Land was no longer required; and
- the Trustees validly and lawfully transferred the Subject Land to the Kilmore RC in 1999 and 2004?

Summary of advice *Below is a summary of our advice. Please read it in conjunction with the detailed advice that follows.*

Our assessment of the various dealings relating to the Subject Land is outlined below.

On the basis of our assessment:

- Council validly and lawfully transferred the Subject Land to the Trustees of the Kilmore Racecourse. The principle of indefeasibility of title is likely to apply;
- having assessed the various instruments of transfer, we have been unable to locate any evidence of a restriction of, or condition of, the transfer of the Subject Land to Council that prohibited its subsequent sale to the Trustees of the Kilmore Racecourse.

Interstate offices
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Further, we consider that there is insufficient evidence that Council entered into a formal agreement with any previous or subsequent owners that the Subject Land be returned to Council if it was no longer required;

- Council validly and lawfully transferred the Subject Land to the Trustees of the Kilmore Racecourse.

We note that the southernmost parcel of the Subject Land (Reserve No. 1 on Plan of Subdivision 114048 (**Reserve**)) is still marked as a reserve 'for municipal purposes'. Accordingly, Council should be aware of this aspect in assessing and responding to Amendment C154.

More broadly we doubt the relevance of these matters to whether the planning scheme amendment should be approved.

Contact

Your Ref: PO 82410

Our Ref: TGM: CWUR:8708630

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Partner

Terry Montebello



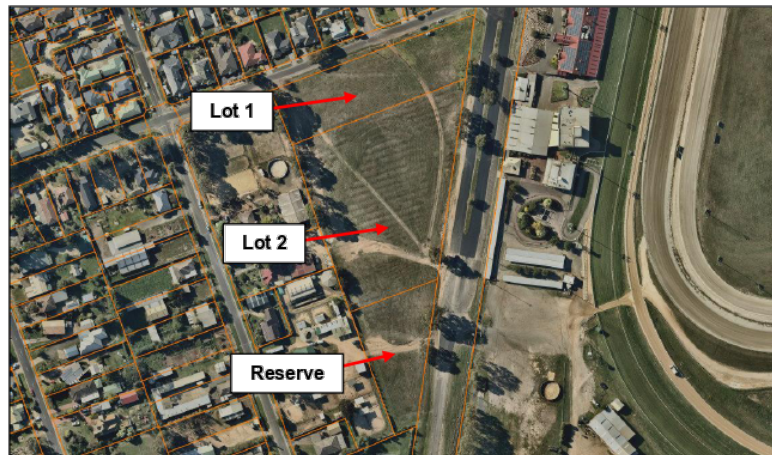
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Detailed analysis

Background

Site Context

1. The Subject Land is owned by the Kilmore Racing Club Incorporated (**Kilmore RC**), which became the registered proprietor in fee simple on 20 June 2018.
2. The Subject Land comprises three separate lots:
 - 2.1 Lot 1 on Title Plan 002368D (**Lot 1**);¹
 - 2.2 Lot 1 on Title Plan 002403E (**Lot 2**);² and
 - 2.3 Reserve 1 on Plan of Subdivision 114048 (**Reserve**).³



3. The Subject Land is approximately 21,500m² in area, is relatively flat and has a direct interface to both East Street to its east and Gipps Street to its north. The Subject Land adjoins residentially zoned land to the north, south and west. The Kilmore Racecourse is located opposite the Subject Land to its east, across East Street.
4. The Subject Land has historically been vacant and is not used of for any prevailing purpose, save for overflow parking during events at the Kilmore Racecourse and for informal rear access to properties along George Street to the west. We make no comment on whether those activities were lawful or not. That does not seem to be germane to the central issues.
5. Relevantly, the Subject Land has been subject to several transfers of ownership.
6. In respect of Lot 1:

¹ Certificate of Title Volume 10177 Folio 711.

² Certificate of Title Volume 10178 Folio 097.

³ Certificate of Title Volume 09528 Folio 963.



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- 6.1 Lot 1 was originally contained in a general law title;⁴
- 6.2 correspondence sent to Council by Ethos Urban, on behalf of the Kilmore RC, explains that private owners transferred Lot 1 to Council in 1984. As Lot 1 comprised general law land, we have been unable to obtain instruments of transfer confirming dealings with Lot 1 prior to 1994;
- 6.3 on 6 June 1994, Lot 1 was converted to Torrens title land and a certificate of title was issued. The owners of Lot 1 at the time of its conversion to Torrens title land were [REDACTED]
- 6.4 on 28 May 1999, the Trustees transferred ownership of Lot 1 to the Kilmore Turf Club Incorporated (**Turf Club**) and Kilmore Harness Racing Club Incorporated (**Harness Racing Club**);
- 6.5 on 20 June 2018, the Kilmore RC became the registered proprietor of Lot 1, after the Turf Club and Harness Racing Club were amalgamated into the Kilmore RC.⁵
7. In respect of Lot 2:
- 7.1 Lot 2 was originally contained in a general law title;
- 7.2 On 6 June 1994, Lot 2 was converted to Torrens title land, and the certificate of title for Lot 2 was issued. The Trustees were the owners of Lot 2 at the time of its conversion to Torrens title;
- 7.3 On 28 May 1999, the Trustees transferred ownership of Lot 2 to the Kilmore Turf Club and Harness Racing Club;
- 7.4 On 20 June 2018, the Kilmore RC became the owner of Lot 2, following its amalgamation with the Turf Club and Harness Racing Club.
8. In respect of the Reserve:
- 8.1 the Reserve was created in April 1974 when land owned by Donald Stewart and Lorelei Stewart was subdivided into 3 parcels;
- 8.2 On 11 November 1983, Mr & Mrs Stewart transferred ownership of the Reserve to the then Shire of Kilmore;
- 8.3 On 3 October 1984, the Shire of Kilmore transferred ownership of The Reserve to the Trustees; and
- 8.4 On 10 March 2004, the Trustees transferred ownership of the Reserve to the Kilmore RC.
9. We consider the nature of these dealings more closely in this advice.

⁴ As general law land titles are only able to be viewed in person at Land Use Victoria, we have not been able to consider the general law land title for Lot 1 in preparing this advice.

⁵ We are instructed that the Subject Land was transferred to the Kilmore RC, due to the amalgamation of the Kilmore Turf Club Incorporated and Kilmore Harness Racing Club Incorporated into the Kilmore RC.



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Amendment C154

10. Kilmore RC has lodged an application to rezone the Subject Land as part of proposed Scheme Amendment C154 (**Amendment C154**), which was placed on exhibition between 11 June and 19 July 2021.
11. Amendment C154 proposes to:
 - 11.1 rezone the Subject Land from Public Use Zone – Schedule 6 (**PUZ6**) to General Residential Zone – Schedule 1 (**GRZ1**); and
 - 11.2 apply the Development Plan Overlay – Schedule 10 (**DPO10**) to the Subject Land and Reserve.
12. Upon exhibition, Council received several objections to Amendment C154.
13. On 29 July 2021, the Kilmore and District Residents & Ratepayers Association Incorporated (**KADRRA**) sent correspondence to Council which was curiously marked without prejudice. We say curious because the letter seemed to be part of a public process and the reference to without prejudice does not really make sense. In any event, in objecting to Amendment C154, KADRRA explained that it was concerned with the validity of the various transfers of ownership relating to the Subject Land since Council transferred ownership to the Trustees.
14. On 19 July 2021, Ms Vyvienne Whitehurst, also the President of KADRRA, lodged a separate objection in a personal capacity. Ms Whitehurst raises similar concerns to those raised in KADRRA's objection. In particular, Ms Whitehurst alleges that:
 - 14.1 the Subject Land was transferred to the Kilmore Trotting Club in 1984 on the condition that it cannot be sold off 'privately'; and
 - 14.2 the Subject Land was transferred from the Trustees to the Kilmore RC in 2004 without any consultation with the community and in contravention of the alleged condition prohibiting the sale of the Subject Land to a private owner.
15. On 19 July 2021, Mr Ian Stewart lodged an objection to Amendment C154 providing for his concerns with the validity of the transfer of the Reserve from Council to the Trustees and, then, the Kilmore RC.
16. Accordingly, Council seeks advice regarding the concerns raised by the submitters and particularly whether our conclusions may have resulting impacts on Amendment C154.

Qualifications and assumptions

17. General law land titles are not available to be obtained electronically, and we have not been able to confirm the nature of any dealings of Lot 1 and Lot 2 prior to the issue of certificates of title.
18. We are instructed that Council and the Trustees have been unable to locate a copy of any alleged agreement between Council and the Trustees that the Subject Land cannot be sold to a private owner.
19. If Council is provided with a copy of any such agreement, and that agreement confirms that the Subject Land was transferred to the Trustees and then the Kilmore RC despite the existence of that agreement, it is likely that our advice would change.



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Legal analysis

Was Council permitted to transfer the Reserve to the Racecourse Trustees?

Objectors' concerns

20. At the outset, we make the observation that the matters which are raised in the objector submissions do not, in our opinion, relate to planning issues. They relate to issues involving land ownership. On that basis, we doubt the relevance of the issues that were raised.
21. Furthermore, we note that the submissions challenge the correctness and validity of the ownership status of land which is held in the register at the Titles Office. The register creates at the least, a presumption that the person named on the register is the owner of the land and the suggestion that the register is wrong (if that is what is being submitted) is not a submission that Council can form an opinion on that has any weight.
22. Several submitters object to Amendment C154 on the basis that the Subject Land is intended to be retain for public use.
23. Objections lodged by Ms Whitehurst, KARRA and Mr Stewart raise concerns with the validity of the transactions relating to the Reserve in particular, alleging that:
 - 23.1 Mr & Mrs Stewart intended that the Reserve only be used for public purposes when it transferred the Reserve to the Shire in 1984;
 - 23.2 the title for the Reserve states 'Kilmore Racecourse and Recreational Reserve Trustees';
 - 23.3 the Shire of Kilmore intended to transfer the Subject Land to the Trustees provided that 'the land so designated is to remain as one and at any time can be returned to the Shire, but at no time can the land be sold privately; and
 - 23.4 due to the zoning of the Subject Land for 'public use,' Kilmore RC, a private owner, could not validly purchase the Subject Land from the Trustees.
24. For the purposes of considering the validity of the transfer of the Subject Land to the Trustees and subsequently to the Kilmore RC, even if it were relevant and up for consideration as it were (which we doubt) one must determine:
 - 24.1 whether Council could have validly transferred the Reserve to the Trustees if the Reserve was vested in Council as part of the development of adjacent land; and
 - 24.2 whether a valid agreement exists (or existed) between Council and the Trustees requiring the Subject Land to be returned to Council if the Subject Land was no longer required.

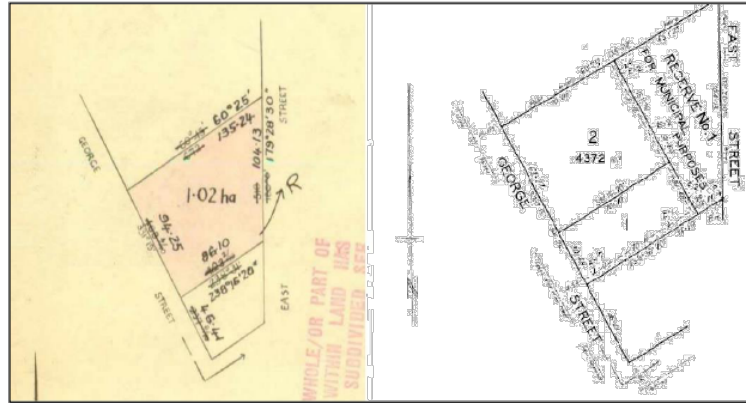
Analysis

25. It is firstly necessary to closely consider the history of land transfers relating to the Reserve.



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- 26. The Reserve was created when land owned by Donald Stewart and Lorelei Stewart was subdivided in April 1974 in accordance with Plan of Subdivision 114048. The Reserve is depicted on Plan of Subdivision 114048 as 'Reserve No. 1 for Municipal Purposes'.



Comparison of the Reserve prior to and following subdivision

- 27. Although the Reserve is still marked as a reserve 'for municipal purposes,' subsequent owners of the Reserve have not sought to remove this status and transform the Reserve to a 'lot' under the *Subdivision Act 1988 (SD Act)*.
- 28. On 11 November 1983, Mr & Mrs Stewart transferred ownership of the Reserve to the then Shire of Kilmore (now Council) under instrument no. K557924, which provides:

We, Donald George Stewart...and Lorelei Robina Stewart...being registered as the proprietors of an estate in fee simple in the land hereinafter described...**being set aside as a reserve for municipal purposes on Plan of Subdivision No. 114048** do hereby transfer to the President, Councillors and Ratepayers of the Shire of Kilmore all our estate and interest in all that piece of land...described in Certificate of Title Volume 8803 Folio 017 which land is coloured red on the plan annexed hereto.

[Emphasis added]



Plan annexed to Instrument No. K557924



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29. On 3 October 1984, the Shire of Kilmore transferred ownership of the Reserve to the Trustees under instrument of transfer L390187Y as a 'gift' for \$1 in consideration.
30. Instrument of transfer L390187Y did not impose any conditions, restrictions or encumbrances to which the sale of the Reserve was subject, including any requirement that the Reserve be transferred to Council in the event it was no longer needed.
31. Importantly, we have been unable to locate any express agreement between Council or any subsequent owners that the Reserve is prohibited from being sold to a private owner, as alleged in several objections.
32. We have been provided with a copy of minutes taken during a Council meeting on 5 December 1984, which refers to an 'Agreement with the Trustees of the Kilmore Racecourse & Recreation Reserve'.
33. Council has been unable to locate a copy of this agreement, and we are instructed that members of the Trustees have verbally advised Council that 'no such agreement exists'.
34. We are instructed that Council has contacted KADRRA and representatives of the Kilmore RC to confirm the basis for KADRRA's assertion that the Shire and the Trustees entered into a written agreement that broadly provides for the matters referred to above. We are instructed that KADRRA and the Trustees have been unable to provide Council with a copy of this agreement.
35. It is unclear whether the agreement referred to in the Council minutes provides for the matters alleged in KADRRA's objection, namely that the Subject Land cannot be sold to a private owner.
36. It is notable, however, that the Council minutes were recorded in December 1984, two months after Council transferred the Reserve to the Trustees. Despite this, it is unclear from the excerpt we have been provided that the agreement pertains to the transfer of the Subject Land to the Trustees.
37. Even if we proceed on the basis that this agreement related to Council's transfer of the Reserve to the Trustees, this agreement would have been executed **after** the Reserve was transferred. We doubt that the agreement comprised a form of agreement between Council and the Trustees that the Reserve was unable to be transferred or sold to a private owner. Logically, such an agreement would have been incorporated into the transfer of the Reserve to the Trustees at the time, and **not** after, the Reserve was transferred to the Trustees.
38. On balance, we do not consider that there is sufficient information to confirm that it was the intention of Mr & Mrs Stewart, and subsequently Council, that the Reserve could not be sold to a private owner.
39. We have also considered the statutory requirements relevant to the sale and conveyance of Council-owned land at the time of its transfer from Council to the Trustees.
40. At the time the Subject Land was sold to the Trustees, Council was required to comply with the *Local Government Act 1958 (1958 LG Act)* in selling or transferring Council-owned land. Section 236(1) of the 1958 LG Act⁶ provided:

Any municipality may with the consent of the Governor in Council sell and convey in fee simple or for any lesser estate any lands purchased for value or acquired by such municipality from Her Majesty or any other person which are not in the opinion of the council required for the purposes of any undertaking for which the same were purchased or acquired and are not otherwise subject to any trust.

⁶ The 1958 LG Act was repealed and replaced with the *Local Government Act 1989*, which has recently been largely replaced by the *Local Government Act 2020*.



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41. Although we can only speculate on the basis of the information before us, the 'agreement' referred to in the Council minutes may have related to the Minister for Local Government's consent to the transfer of the Reserve from Council to the Trustees. However, we do not have enough information before us to confidently draw such an inference.
42. We have not been provided with any information relating to Council's dealing with the Reserve under section 236(1) of the 1958 LG Act. However, we proceed on the basis that Council transferred the Reserve to the Trustees in accordance with the 1958 LG Act.
43. In the absence of any further evidence of an agreement or restriction precluding the sale of the Reserve to a private owner, and provided Council correctly followed the correct procedure under the 1958 LG Act, it is our view that Council was entitled to transfer the Reserve to the Trustees.
44. Accordingly, we consider that the Reserve was validly and lawfully transferred from Council to the Trustees in 1984.

Was the transfer of the Subject Land to the Kilmore RC lawful and valid?

45. Submitters to Amendment C154 have also raised concerns with the subsequent transfer of the Subject Land from the Trustees to the Kilmore RC.
46. In its objection, KADDRA maintains that when the Trustees (being, in its view, a public body responsible for the management of the Kilmore Racecourse) transferred ownership of the Reserve to the Kilmore RC in 2004, the transfer conflicted with the intent of the original transfer of the Reserve to Council.
47. By way of correction, KADDRA incorrectly states that all 3 parcels in the Subject Land were transferred to the Kilmore RC in 2004:
 - 47.1 The Trustees transferred Lots 1 and 2 to the Turf Club and Harness Racing Club under instrument of transfer W073903S on 4 May 1999, before the Kilmore RC became owner in 2018; and
 - 47.2 The Trustees transferred the Reserve to the Kilmore RC under instrument of transfer AD268711V on 2 December 2004.
48. Additionally, we note that the 'Trustees' are not strictly referred to as such on the titles for the Subject Land, including in any instruments of transfer, although this is alleged in KADDRA's objection. The Trustees are specified by their individual names and were, in effect, joint private owners of the Subject Land.
49. Absent evidence of any restriction, condition or agreement that existed at the time the Subject Land was respectively transferred, we cannot see any reason why the Trustees were precluded from transferring the Subject Land to the Kilmore RC as a gift.
50. Accordingly, we consider the transfers of:
 - 50.1 Lots 1 and 2, in 1999; and
 - 50.2 the Reserve, in 2004 -
 from the Trustees to the Turf Club and Harness Racing Club were valid and lawful.

Implications on Amendment C154

51. We seek to make some final observations on the implications of our advice on Amendment C154.



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- 52. We have been provided with a proposed response to submissions received in respect of Amendment C154. We broadly agree with the Council officer’s comments relating to the validity of land transfer relating to the Subject Land.
- 53. We consider that nothing in the sale and transfer of the Subject Land at various stages forbids or precludes Amendment C154 from proceeding. Of course, whether Amendment C154 comprises an acceptable planning outcome is a matter to be considered on its merits as part of the forthcoming Panel hearing. We do not seek to comment on the merits of Amendment C154.
- 54. However, we make a final observation regarding the status of the Reserve, which remains marked as a reserve ‘for municipal purposes’ on PS114048.
- 55. Neither Council nor any subsequent owners have sought to remove the Reserve’s status as a ‘reserve’ on PS114048. We are instructed that the Reserve is sporadically used for the purposes of providing car parking overflow during events at the Kilmore Racecourse.
- 56. Although we have not been instructed to advise Council on this particular issue, Council should be aware of any implications of the Reserve’s status as a ‘reserve’ under the SD Act.
- 57. It may well be appropriate that the Kilmore RC and Council consider whether to remove the Reserve’s status as a ‘reservation’ to create a ‘lot’ that can be disposed of under s 24A(1) of the *Subdivision Act 1988 (SD Act)*, which relevantly provides:

If required or authorised to do so by the planning scheme or a permit, a person or body listed in column 1 of the Table may lodge at the Titles Office for registration a certified plan to do any of the things listed in relation to that person or body in column 2 of the Table in relation to the whole or any part of land referred to in that part of the column

TABLE

Column 1 Person or body	Column 2 Action
[...]	
The person or body in whom or in which the land is vested	Remove a reservation from land set aside as a reserve on a certified and registered plan.
[...]	

- 58. Put simply, section 24A(1) of the SD Act requires Kilmore RC, as the owner, to do the following:
 - 58.1 first, obtain a planning permit, **or a planning scheme amendment**, authorising the removal of the reserve status from the land; and
 - 58.2 second, procure the certification and registration of a plan of subdivision removing the reservation from the land.
- 59. Further, section 24A(2) provides:
 - (2) In addition to the requirements of this Act about the certification of plans, the Council may certify a plan removing a reservation or restriction prepared under

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subsection (1) if the applicant satisfies it that the land in the plan need no longer be used for the purpose for which it is currently reserved or used.

60. Whether Council would support this may well comprise a matter for another day. However, we consider that Council should be aware of this aspect where:

60.1 the Reserve remains expressly marked as a 'reserve for municipal purposes'; and

60.2 Amendment C154 seeks to rezone the Reserve from PUZ6 (for local government purposes) to GRZ1.

61. We have not been instructed as to whether the Reserve is no longer required for Council's purposes, although this will undoubtedly need to be considered more closely as part of the Amendment C154 process, especially if the Amendment was changed to also include the removal of the reserve designation over the Reserve.

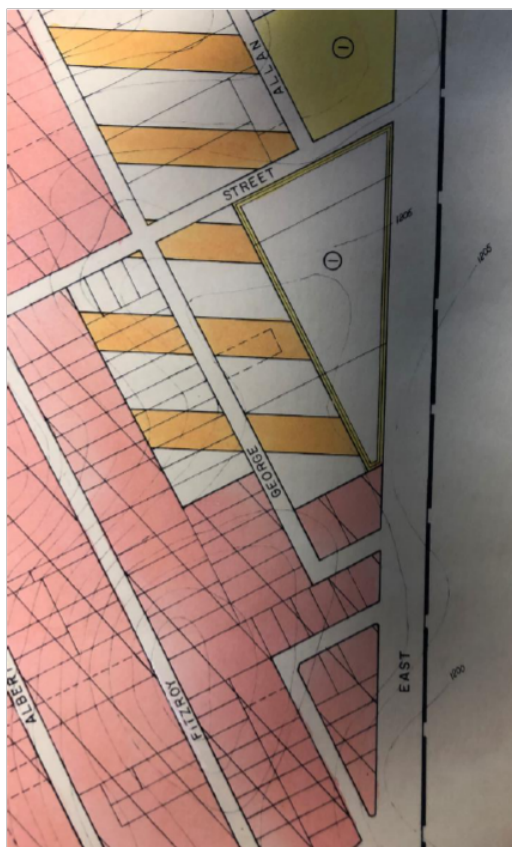
Contact

Please contact Charlie Wurm on 03 9258 3570 or email charlie.wurm@maddocks.com.au if you have any other queries.

Amendment C154: Kilmore East Street Rezone Historical Zoning

The subject site was zoned Proposed Public Purposes – Carpark in 1978. Council has no other pre-new format planning scheme maps on record, or maps dated after 1978 and before 1999 for the former Kilmore Shire.

Surrounding land was zoned Rural B Zone and Residential Zone. Directly north of the subject site was Existing Public Purposes – Carpark. The racecourse was zoned Existing Public Open Spaces – D Racecourse.



Contact us:
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RESERVATION OF LAND		
RAILWAY LAND	• •	
EXISTING PUBLIC OPEN SPACES LETTER AND LIST PROVIDED	• •	
PROPOSED PUBLIC OPEN SPACES LETTER AND LIST PROVIDED	• •	
EXISTING PUBLIC PURPOSES NUMBER AND LIST PROVIDED	• •	
PROPOSED PUBLIC PURPOSES NUMBER AND LIST PROVIDED	• •	
LAND USE ZONES		
RURAL 'A' ZONE	• •	
RURAL 'B' ZONE	• •	
RESIDENTIAL ZONE	• •	

Figure 1: Kilmore Zone Map 1978 and legend (extract, unable to scan large map sheet)

In 1999 the subject site was within the Public Use Zone – Schedule 6 (Local Government) and is still within this zone today. Surrounding land is within the Residential 1 Zone (now General Residential Zone) and the racecourse is within the Special Use Zone 3.

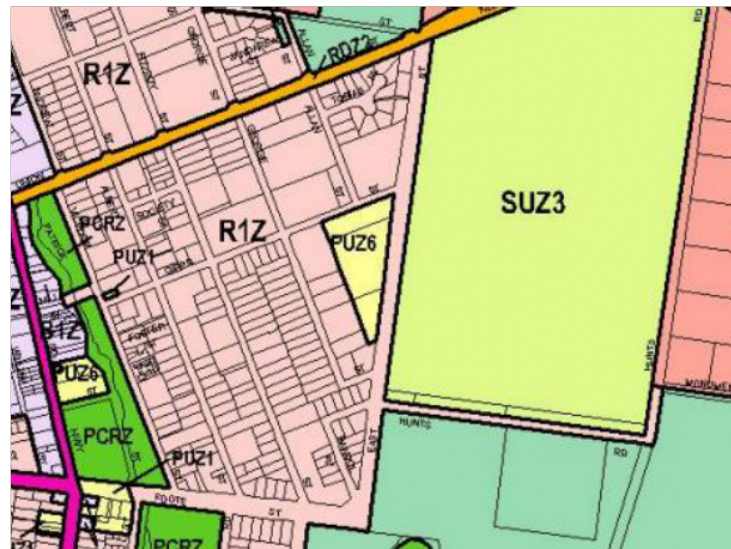


Figure 2: 1999 zone map

Therefore between 1978 and 1999 the land was rezoned from Proposed Public Purposes to Public Purposes and subsequently Public Use Zone with introduction of the New Format Planning Scheme which we currently operate under.

Officers have reviewed historical Shire of Kilmore Planning Scheme documentation and have been unable to determine exactly when between 1978 and 1999 the subject site was rezoned.

RECOMMENDATION

That Council having complied with the relevant sections of the *Planning and Environment Act 1987*, resolve to issue a Notice of Decision to Approve a Planning Permit in respect of Application No. PLP288/22 for Removal of Reserve Status at Reserve 1 on Plan of Subdivision 114048, known as East Street, Kilmore, subject to the following conditions:

1. Before the Certification of the Plan of Subdivision under the *Subdivision Act 1988*, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and an electronic copy must be provided. The plans must be generally in accordance with the advertised plans but further modified to show:
 - a. The Plan of Subdivision clearly nominating the removal of the reserve and nominating the Lot as 'Lot 1 on LP 114048'.

General:

1. The layout of the plan of subdivision as shown on the endorsed plans must not be altered or modified unless otherwise agreed in writing by the Responsible Authority.
2. The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to the relevant authority in accordance with Section 8 of that Act.

Permit Expiry

3. This permit will expire if one of the following circumstances applies:
 - a. The plan of subdivision is not certified within 2 years of the date of this permit;
 - b. The registration of the relevant stage of subdivision is not completed within five years from the date of certification of the plan of subdivision.

The Responsible Authority may extend the permit if a request is made in writing in accordance with Section 69 of Planning and Environment Act 1987

9.4 PLANNING PERMIT APPLICATION PLP334/22 FOR DISPLAY OF MAJOR PROMOTION SIGN AT 5A SYDNEY STREET KILMORE

Author: Max Williams - Statutory Planner

File No: PLP334/22

Attachments:

1. Grounds of Refusal
2. Proposed Plans
3. Town Planning Report
4. Application Form
5. Council Heritage Refusal

Property No.:	106590
Title Details:	Lot 2 on Title Plan 011772U
Applicant:	Regional Billboard Co Pty Ltd
Zoning:	Commercial 1 Zone
Overlays:	Heritage Overlay (HO99) Design and Development Overlay Schedule 4 (DDO4)
Objections Received:	Yes, two (2)
Cultural Heritage Management Plan Required:	No
Summary Recommendation	Notice of Decision to Refuse a Planning Permit
Reason Reported to Council	Officer recommendation to refuse
Officer Declaration of Conflict of Interest:	No officers involved in the preparation of this report have any direct or indirect interest in this matter

PLANNING PERMIT APPLICATION PLP334/22 FOR DISPLAY OF MAJOR PROMOTION SIGN AT 5A SYDNEY STREET KILMORE (CONT.)

1. Site Map



Figure 1 – Aerial imagery of subject site, located adjacent to Hudson Park along Sydney Street in Kilmore (Nearmap February 2023)

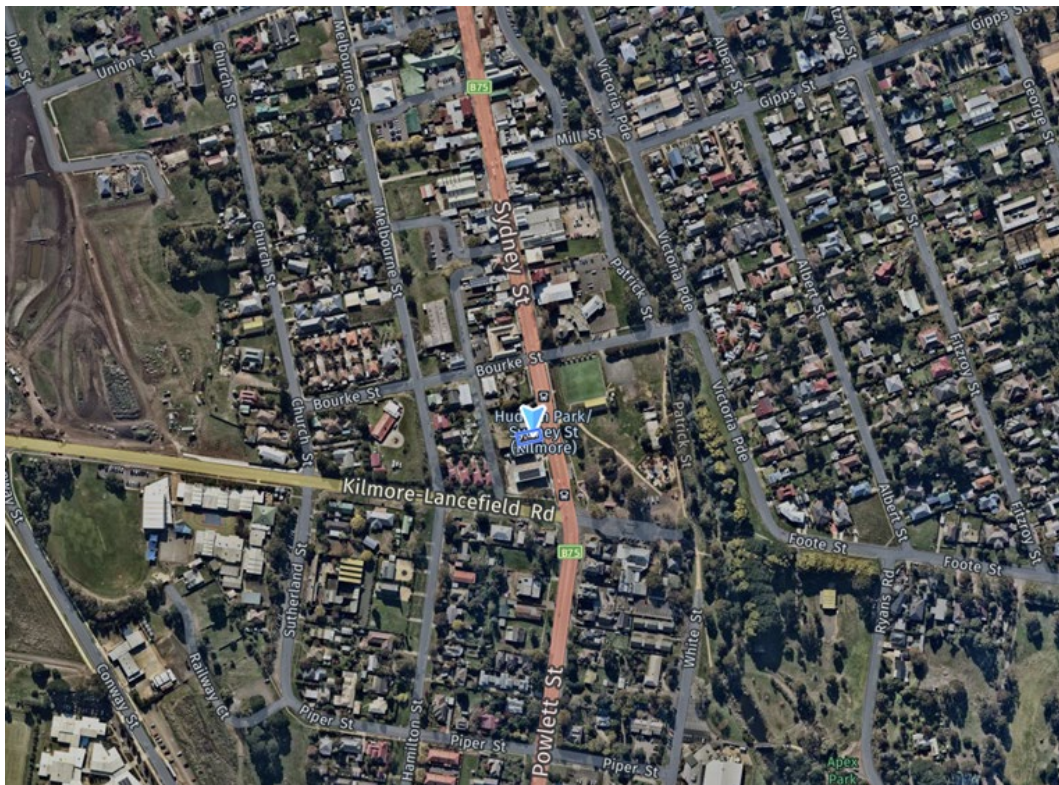


Figure 2 – Surrounding Area (Nearmap February 2023)

PLANNING PERMIT APPLICATION PLP334/22 FOR DISPLAY OF MAJOR PROMOTION SIGN AT 5A SYDNEY STREET KILMORE (CONT.)

2. Summary

- 2.1 The proposal seeks to display major promotion signage in the form of two (2) non-illuminated major promotion signs and third-party advertising signage on the northern and southern facades of the existing building. The subject site is located within the Commercial 1 Zone and is affected by the Design and Development Overlay Schedule 4 (Kilmore Town Centre and Key Gateway Sites) and Heritage Overlay – HO99 (Kilmore Town Centre Precinct) of the Mitchell Planning Scheme.
- 2.2 The total proposed signage area is 26.26sqm. Both major promotion signs will protrude 10cm from the external façade and will have the following dimensions:
- Sign 1: South facing – 8.3m in length, 2.2m in width, for a total display face area of 18.26 square metres, located 2.3m above pavement level.
 - Sign 2: North facing – 6m in length, 3m in width, for a total display face area of 18sqm, located 1.5m above pavement level.
- 2.3 The application was advertised via letters to adjoining landowners and occupiers and a sign was displayed on the site. A total of two (2) objections have been received at the time of writing this report with grounds summarised as follows:
- The proposed signage is too large and visually obtrusive
 - The proposed signage detracts from the heritage features of the existing contributory building
 - The proposed signage would distract drivers entering and exiting the Kilmore Senior Citizens Centre at 7 Sydney Street, and the Liberty Service Station at 1-3 Sydney Street.
 - Advertising signage has potential to prejudice operations of Liberty Service Station.
- 2.4 A copy of these objections is included at Attachment 5 and Attachment 6.
- 2.5 The application proceeded to a Delegate Committee Meeting where the application was recommended to an Ordinary Council meeting for decision.

PLANNING PERMIT APPLICATION PLP334/22 FOR DISPLAY OF MAJOR PROMOTION SIGN AT 5A SYDNEY STREET KILMORE (CONT.)

2.6 The primary matters discussed later in this report are related to:

- The Heritage significance of the subject site as part of the Kilmore Town Centre Precinct
- The proposal does not accord with the decision guidelines of Clause 52.05 (Signage)

2.7 This report recommends that a Notice of Decision to Refuse a Planning Permit be issued for the proposal, as it is considered the proposed signage will:

- Detrimentally impact on the historic character of the Kilmore Town Centre Precinct
- Cause signage clutter and detrimentally impact on the quality of the Heritage Building

RECOMMENDATION

THAT Council having complied with the relevant Sections of the *Planning and Environment Act 1987*, resolve to issue a Notice of Refusal in respect of Application No. PLP334/22 for Display of Major Promotion Signage at Lot 2 on Title Plan 011772U Vol 10405 Fol 833, known as 5A Sydney Street, Kilmore, subject to the grounds in Attachment 1.

PLANNING PERMIT APPLICATION PLP334/22 FOR DISPLAY OF MAJOR PROMOTION SIGN AT 5A SYDNEY STREET KILMORE (CONT.)

3. Site and Surrounds

- 3.1 The site is located on the western side of Sydney Street, opposite Hudson Park, at 5A Sydney Street, Kilmore. The land is formally described as Lot 2 on Title Plan 011772U and is generally flat. The site is rectangular in shape with a frontage of 10.06m to Sydney Street, a depth of 22.63m, and a total area of 227m.
- 3.2 The site is within the Commercial 1 Zone and is affected by the Heritage Overlay (HO99) identified within the Kilmore Town Centre Precinct.
- 3.3 A contributory heritage building exists on the subject land, currently divided into two (2) retail spaces with separate entries onto Sydney Street, being Free Choice Tobacconist and North Central Hire. The building is a brick structure with 4.5m walls forming the frontage to Sydney Street.
- 3.4 The building has a corrugated red roof that rises to 5m in height and is recessed from the frontage. The façade to Sydney Street comprises cream-painted bricks with brown framing around the doors and large glass display windows (one with metal bars). The building features a standard shopfront fascia, with a large space on the upper section of the wall and a smaller area overhanging the footpath.
- 3.5 There are other, smaller buildings located towards the rear of the lot, which are storage and outbuildings, some of which are connected to the main structure.
- 3.6 On-street parking is available in front of the Subject Site; there is no on-site parking or vehicle access to the site.

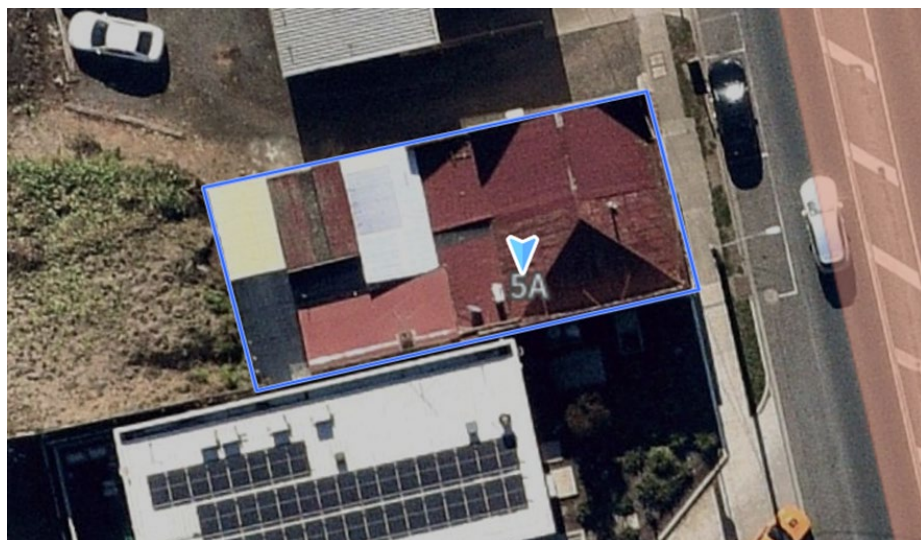


Figure 3 – Site and surrounds (Nearmap, February 2023)

- 3.7 Currently the site features a variety of business identification signage located on the eastern, northern and southern facades. Photos of existing signage are shown below:

PLANNING PERMIT APPLICATION PLP334/22 FOR DISPLAY OF MAJOR PROMOTION SIGN AT 5A SYDNEY STREET KILMORE (CONT.)



Figure 4 – Site photos and existing displayed signage

Surrounding Area

- 3.8 The site is located at the gateway to the Kilmore Town Centre and commercial/retail precinct predominantly zoned as Commercial 1 Zone and affected by the Design and Development Overlay Schedule 4 (Kilmore Town Centre and Key Gateway Sites). Abutting properties to the north, south and west are similarly zoned as Commercial 1 Zone. The Heritage Overlay (HO99 – Kilmore Town Centre Precinct) affects most properties interfacing Sydney Street within this main precinct. Sydney Street is a main thoroughfare through Kilmore that continues through the town to become the Northern Highway.
- 3.9 The character of the immediate area, particularly heading northwards along Sydney Street, consists primarily of a mix of commercial/office uses, food and drink premises, other community facilities and parks. The built form within this precinct is a combination of single and double storey buildings. Many sites are individually listed on Heritage Registers or have specific controls within the Mitchell Planning Scheme.
- 3.10 The topography of the surrounding area is generally flat along Sydney Street, which elevates steeply to the west beyond the subject site, and gradually declines east of Sydney Street towards Kilmore Creek.
- 3.11 Whilst many business identification signs are located within the main street, the majority are static signs at or below parapet/verandah height. It is noted some signs are internally illuminated such as MacNamara's Irish Pub.
- 3.12 The Kilmore Senior Citizens Centre exists north of the subject site, whilst Liberty Service Station exists south of the subject site. Access to the Kilmore Senior Citizens Centre is via an accessway that abuts the subject site.
- 3.13 Sydney Street is a Transport Zone 2 Road (Principal Road Network)

PLANNING PERMIT APPLICATION PLP334/22 FOR DISPLAY OF MAJOR PROMOTION SIGN AT 5A SYDNEY STREET KILMORE (CONT.)

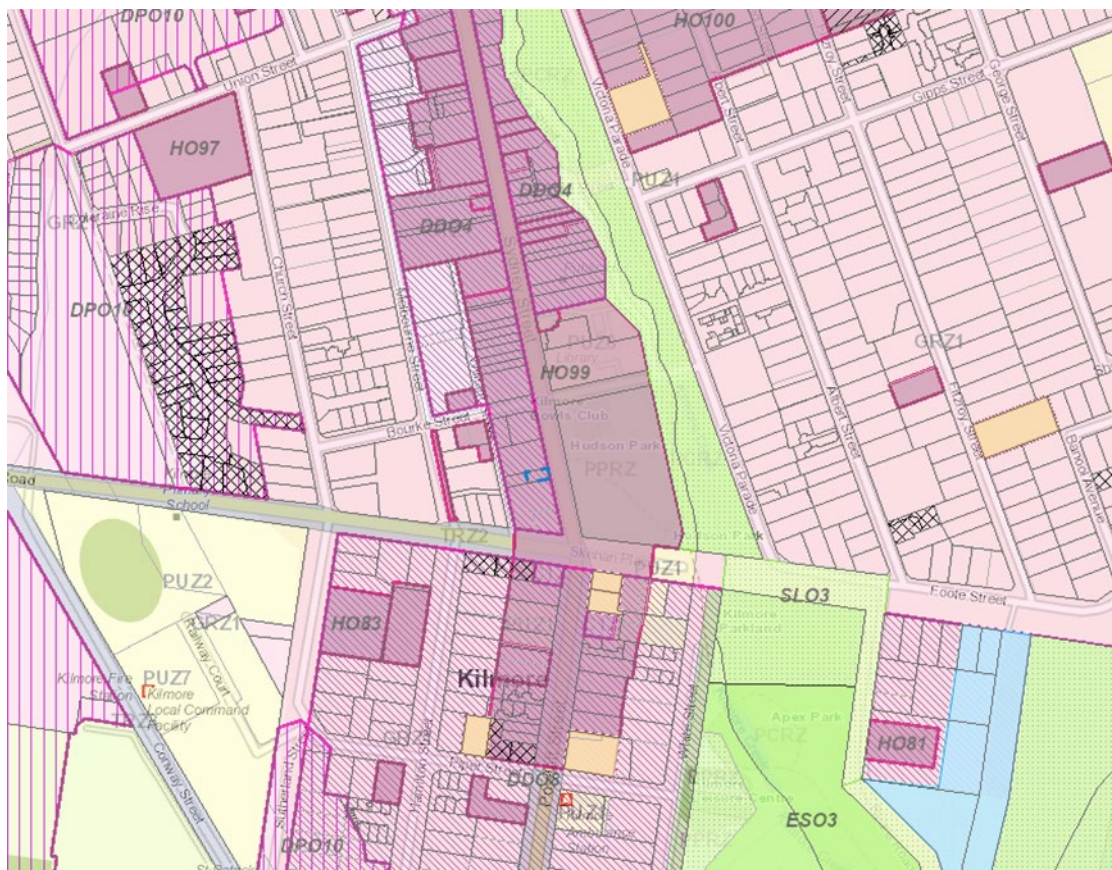


Figure 5 – Zoning Map (VicPlan, February 2023)

Planning Background

3.14 Planning permit PLA301893/99 was issued in 1999 for the display of advertising signage at the subject site.

Title/Restrictions/Agreements

3.15 The title of the site is not encumbered by any covenants or agreements nor do any easements traverse through the property.

4. Proposal

4.1 The proposal seeks to display major promotion signage in the form of two (2) non-illuminated major promotion signs and third-party advertising signage. Plans are provided in Attachment 2.

Dimensions

4.2 Both major promotion signs will protrude 10cm from the external façade and will have the following dimensions:

- Sign 1: South facing – 8.3m in length, 2.2m in width, for a total display face area of 18.26 square metres, located 2.3m above pavement level.

PLANNING PERMIT APPLICATION PLP334/22 FOR DISPLAY OF MAJOR PROMOTION SIGN AT 5A SYDNEY STREET KILMORE (CONT.)

- Sign 2: North facing – 6m in length, 3m in width, for a total display face area of 18sqm, located 1.5m above pavement level.

4.3 The total proposed display area is 36.36sqm.

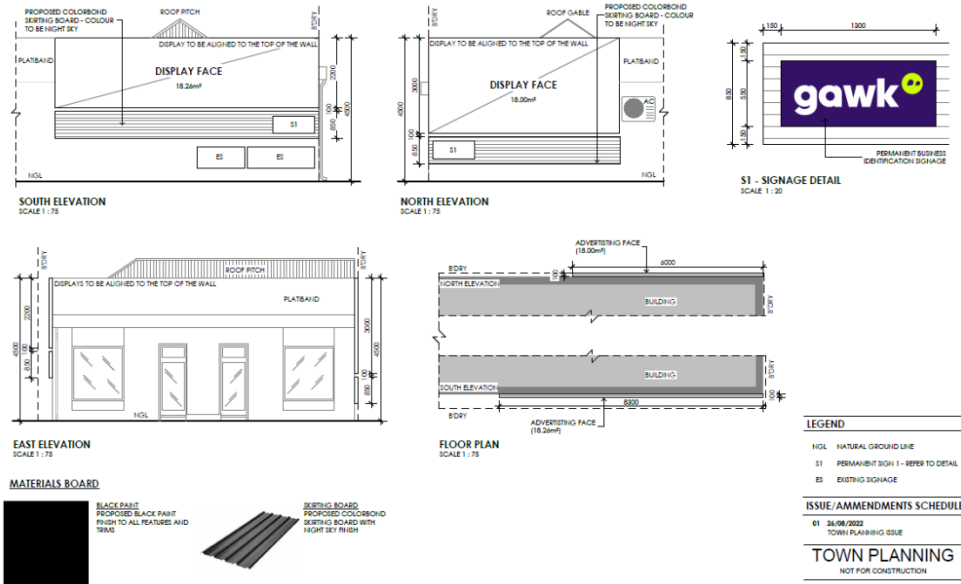


Figure 6 – Proposed signage dimensions and elevations (Gawk, 2022)

Location

- 4.4 The proposed signage will be located on the northern and southern facades of the existing building.

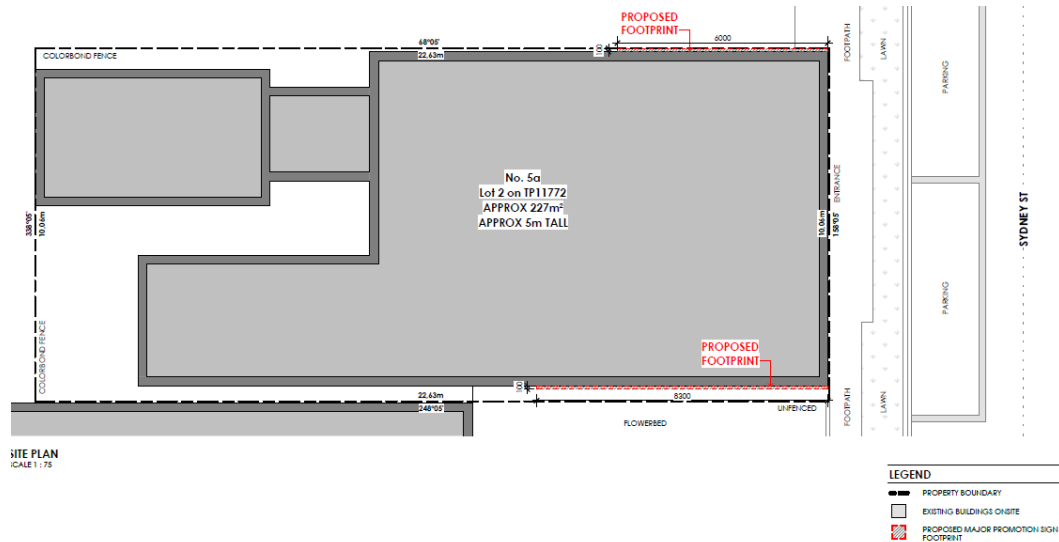


Figure 7 – Location of proposed signage

PLANNING PERMIT APPLICATION PLP334/22 FOR DISPLAY OF MAJOR PROMOTION SIGN AT 5A SYDNEY STREET KILMORE (CONT.)

- 4.5 The application also proposes buildings and works to contrast external colorbond skirting boards beneath major promotion signage on both interfaces (South facing skirting board dimensions: 8.3m x 0.85m and located 1.35m above pavement level for a total area of 7.06sqm) (North facing dimensions: 6m x 0.85m and located 0.55m above pavement level for a total area of 5.1sqm).
- 4.6 The proposed 1.3m x 0.55m third-party business identification signage comprising of one (1) sign on both the southern and northern frontage is as of right within the Commercial 1 Zone (Clause 52.05-11).

Signage details

- 4.7 No specific details of proposed signage have been provided, with the exception of third-party business identification signage.

5. Referrals

External

- 5.1 The application was not required to be referred to any external referral authorities under section 55 of the *Planning and Environment Act 1987* (the Act) pursuant to Clause 66 of the Scheme

Internal

- 5.2 The application was referred to Council's heritage advisor who strongly objected to the proposal for the following reasons:
- As proposed the development would be of detriment to the heritage significance of HO99 and may be damaging to the building itself.
 - The proposal should not be supported

6. Planning Policy Assessment

Commercial 1 Zone

- 6.1 Subject site is located within the Commercial 1 Zone pursuant to Clause 34.01 of the Mitchell Planning Scheme. There are no specific permit requirements for signage within the Commercial 1 Zone, although Clause 34.01-9 specifies that any proposed sign must be considered under Category 1 of Clause 52.05 (Signs) of the Scheme.

Design and Development Overlay

- 6.2 Subject site is affected by the Design and Development Overlay pursuant to Clause 43.02 of the Scheme. Pursuant to Clause 43.02-4 the Schedule to Clause 44.03-2, any proposed sign must be considered under Clause 52.05 (Signs) of the Scheme.

PLANNING PERMIT APPLICATION PLP334/22 FOR DISPLAY OF MAJOR PROMOTION SIGN AT 5A SYDNEY STREET KILMORE (CONT.)

Heritage Overlay

- 6.3 The subject site is affected by the Heritage Overlay pursuant to Clause 43.01 of the Scheme. Pursuant to Clause 43.01-1 a permit is required to construct a building or construct or carry out works, including construct or display a sign.

Particular Provisions

Clause 52.05 (Signs)

- 6.4 Pursuant to Clause 34.02-8, sign requirements are considered under Clause 52.05-11 (Category 1 – Commercial areas). Decision guidelines for Major Promotion signs are listed at Clause 52.05-8, and will be discussed below.
- 6.5 Pursuant to Clause 52.05-11, a planning permit is required to display Major Promotion Signage.

Planning Policy Framework

- 6.6 The following State and Local Planning Policies are relevant to this application.

<p>Clause 15.01-1S Urban Design</p>	<p>This clause is relevant and has the following objective:</p> <p><i>Require development to respond to its context in terms of character, cultural identity, natural features, surrounding landscape and climate.</i></p> <p><i>Ensure development supports public realm amenity and safe access to walking and cycling environments and public transport.</i></p> <p><i>Ensure that development, including signs, minimises detrimental impacts on amenity, on the natural and built environment and on the safety and efficiency of roads.</i></p> <p><i>Promote good urban design along and abutting transport corridors.</i></p> <p>6.7</p>
<p>Clause 15.03-1S Heritage Conservation</p>	<p>This clause is relevant and has the following objective:</p>

PLANNING PERMIT APPLICATION PLP334/22 FOR DISPLAY OF MAJOR PROMOTION SIGN AT 5A SYDNEY STREET KILMORE (CONT.)

	<p><i>Provide for the conservation and enhancement of those places that are of aesthetic, archaeological, architectural, cultural, scientific or social significance.</i></p> <p><i>Encourage the conservation and restoration of contributory elements of a heritage place.</i></p> <p>6.8</p>
<p>Clause 21.06-1 Urban Environment</p>	<p>This clause is relevant and has the following objective:</p> <p><i>To enhance the presentation of towns and their main road entrances</i></p> <p><i>To recognise and protect places of heritage, cultural and social significance</i></p>
<p>Clause 22.02 Heritage Policy</p>	<p>This clause is relevant and has the following objective:</p> <p><i>Encourage advertising signs to adopt traditional locations on heritage buildings.</i></p> <p><i>Discourage above verandah, sky, animated, reflective and electronic advertising sign.</i></p>

7. Conflict of Interest

7.1 This report advised that in the preparation of, or in contributing to the preparation of, this report there was no disclosable conflict of interest identified or raised by a member of Council staff in the subject matter of the report.

8. Discussion

8.1 The proposal has been assessed against the relevant policy provisions of the Mitchell Planning Scheme and the context of the site and surrounds.

8.2 The proposal is not supported for the reasons discussed below, predominantly surrounding two main policies:

- Heritage Overlay – Kilmore Town Centre Precinct
- Clause 52.05 (Signs)

PLANNING PERMIT APPLICATION PLP334/22 FOR DISPLAY OF MAJOR PROMOTION SIGN AT 5A SYDNEY STREET KILMORE (CONT.)

Planning Policy Framework and Local Planning Policy Framework

For reasons as set out within the 'heritage overlay' and 'signs' section of this chapter, it is noted the proposal does not respond to the objectives of 15.01-1S (Urban Design) and 21.06-1 (Urban Environment). Particularly, the proposal does not contribute to a sense of place or enhance the heritage significance of the contributory building, conversely it detracts. The proposed signage has potential to dominate the existing built form of the heritage building and affect the amenity of adjacent landowners, particularly, the signage could be distracting to vehicles safely entering and existing abutting properties due to its scale, size and coverage

Strategies that have been considered in regard to this determination include:

- Development should respond to its context and surrounding landscape
- Development should support public realm amenity
- Ensuring that development, including signs, minimises detrimental impacts on amenity and built environment.

Further, Clause 22.02 specifically states the following objectives in regards to advertising signage:

- Encourage advertising signs to adopt traditional locations on heritage buildings.
- Discourage above verandah, sky, animated, reflective and electronic advertising sign.

Heritage overlay – Kilmore Town Centre Precinct

8.3 The Heritage Overlay (Clause 43.01) clearly states a number of objectives and decision guidelines that must be considered, including (but not limited to):

- To conserve and enhance those elements which contribute to the significance of heritage places
- To ensure that development does not adversely affect the significance of heritage places
- Whether the proposed sign will adversely affect the significance, character or appearance of the heritage place

PLANNING PERMIT APPLICATION PLP334/22 FOR DISPLAY OF MAJOR PROMOTION SIGN AT 5A SYDNEY STREET KILMORE (CONT.)

- 8.4 The existing building on the subject site is specifically heritage listed as a small single story standalone building, constructed in the 1860s as the home of the Kilmore Free Press. It is a contributory building within the broader heritage precinct (Schedule HO99) and is a key viewing area due to its position at the entry of the Kilmore Town Centre, the width of Sydney Street, and the high traffic numbers along Sydney Street as a major thoroughfare through Kilmore.
- 8.5 There are examples of Heritage buildings (11-13 Sydney Street, 29 Sydney Street) within this precinct with appropriate signage that does not dominate or significantly detract from the heritage significant of the precinct.



Figure 8 – 11-13 Sydney Street (Street view, Google Maps 2022)

PLANNING PERMIT APPLICATION PLP334/22 FOR DISPLAY OF MAJOR PROMOTION SIGN AT 5A SYDNEY STREET KILMORE (CONT.)

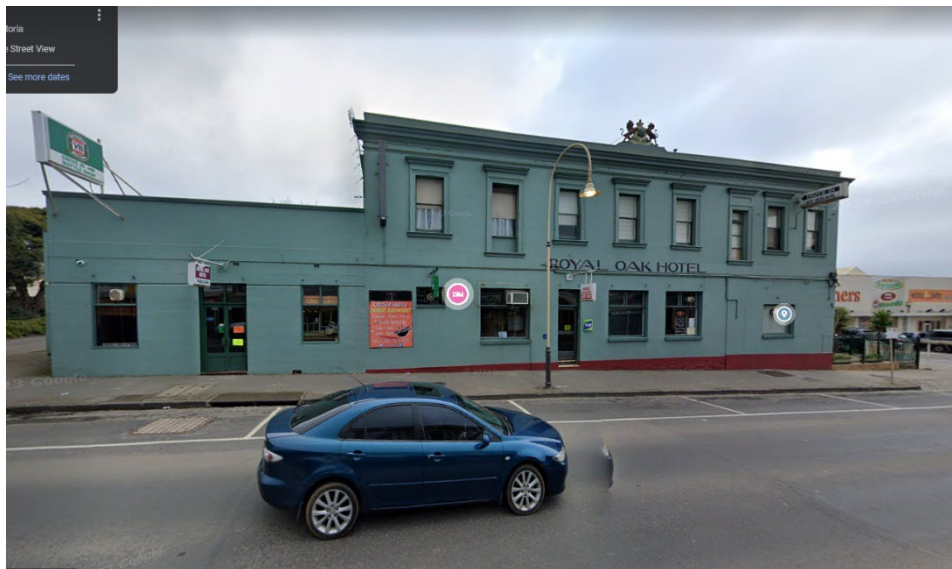


Figure 9 – 29 Sydney Street (Street view, Google Maps 2022)

- 8.6 The location of the proposed major promotion signage is dominant within the streetscape due to its size, scale and positioning aligned along a majority of the length of the northern and southern building facades to the top of the wall.
- 8.7 When viewed from the streetscape, the proposed signage will detract from the heritage character of the wider precinct and the significance of the specifically listed contributory heritage building on the subject land.
- 8.8 The style, scale and location of signage within this Heritage Precinct should be appropriate to the era of the building and consider its interfaces. The proposal is not considered to positively respond to the relevant purposes and decision guidelines of the Heritage Overlay or Clause 22.02 (Heritage Policy). This is reflected in the Heritage Advisor comments, which stipulate that the proposed signage “would be of detriment to the heritage significance of HO99 and may be damaging to the building itself”.
- 8.9 The current signage displayed on the subject site, whilst it could be considered excessive, is smaller in size than the proposed major promotion signage, and mainly relates to the tenancy and businesses occupying the building. The proposed Major Promotion Signage would occupy a far greater surface area relative to the existing building, further detracting from the Heritage significance of the Kilmore Town Centre Precinct and the building itself.

Clause 52.05 (Signs)

PLANNING PERMIT APPLICATION PLP334/22 FOR DISPLAY OF MAJOR PROMOTION SIGN AT 5A SYDNEY STREET KILMORE (CONT.)

8.10 Clause 52.08-5 provides a number of decision guidelines that must be considered for major promotion signage applications. Relevant considerations include:

- Significant streetscapes, buildings and skylines.
- The visual appearance of a significant view corridor, viewline, gateway location or landmark site identified in a framework plan or local policy.
- Residential areas and heritage places.

8.11 When determining the effect of a proposed major promotion sign, the following locational principles must be taken into account:

- Major promotion signs are encouraged in commercial and industrial locations in a manner that complements or enhances the character of the area.
- Major promotion signs are discouraged along forest and tourist roads, scenic routes or landscaped sections of freeways.
- Major promotion signs are discouraged where they will form a dominant visual element from residential areas, within a heritage place or where they will obstruct significant view lines.
- In areas with a strong built form character, major promotion signs are encouraged only where they are not a dominant element in the streetscape and except for transparent feature signs (such as neon signs), are discouraged from being erected on the roof of a building.

8.12 Sydney Street is a main thoroughfare of Kilmore associated with the commercial hub of the township with commercial and main road services located to both sides of the street. The area is characterised by consistent built form. Whilst signage is expected within the streetscape, consideration must be given to what constitutes appropriate signage that complements or enhances the character of the Town Centre Precinct.

8.13 The proposed Major Promotion Signage is not sympathetic to the heritage characteristics of the contributory building or the broader precinct, instead, the proposed signage would be a dominant element on the external building façade and would create unnecessary visual clutter within the precinct of Sydney Street. The current building is already subject to excessive signage considering the level of signage compared to other contributory buildings within the precinct and affected by HO99.

PLANNING PERMIT APPLICATION PLP334/22 FOR DISPLAY OF MAJOR PROMOTION SIGN AT 5A SYDNEY STREET KILMORE (CONT.)

9. Consultation and Response to Objections

Objection	Response
<p>Heritage Concerns</p> <ul style="list-style-type: none"> The proposed signage detracts from the heritage features of the existing contributory building 	<ul style="list-style-type: none"> Application was referred to Council's Heritage Advisor who recommended Council refuse the application on the basis that the proposed signage is visually obtrusive and significantly detracts from the quality and characteristics of the contributory on the subject site.
<p>Amenity Concerns</p> <ul style="list-style-type: none"> Advertising signage has potential to prejudice operations of Liberty Service Station. 	<ul style="list-style-type: none"> The proposed signage will overwhelm the frontage adjacent to Liberty Service Station and generate advertising clutter. This has been considered in the discussion.
<p>Safety Concerns</p> <ul style="list-style-type: none"> The proposed signage would distract drivers entering and exiting the Kilmore Senior Citizens Centre at 7 Sydney Street, and the Liberty Service Station at 1-3 Sydney Street. 	<ul style="list-style-type: none"> Council is in agreeance that the proposed signage would be distracting to drivers travelling along Sydney Road into Kilmore Township, and would be distracting for residents and visitors entering and existing the adjacent properties.

10. Conclusion

10.1 The proposed signage is considered to be in conflict with the objectives and decision guidelines of key provisions of the Mitchell Planning Scheme, being both Heritage and Signage policy.

10.2 Additionally, the proposal is in conflict with the strategies and objectives of Clause 15.01-1S Urban Design, Clause 21.06-1 Urban Environment, and Clause 22.02 Heritage Policy.

PLANNING PERMIT APPLICATION PLP334/22 FOR DISPLAY OF MAJOR PROMOTION SIGN AT 5A SYDNEY STREET KILMORE (CONT.)

10.3 The proposed Major Promotion Signage is deemed unnecessary and inappropriate, does not improve the streetscape, and detracts from the heritage significance of the Kilmore Town Centre Precinct and the specific contributory building (former Kilmore Free Press Office). The proposal will detrimentally impact on the heritage nature of the street, and the amenity of adjoining uses by promoting on a dual frontage where a relatively large extent of signage already exists. As such, the proposed signage will exacerbate the issue and add additional visual clutter to both the site and the street.

10.4 In consideration of all these factors, the application should be refused.



March 2023

GROUNDS OF REFUSAL – PLP334/22 – 5A Sydney Street, Kilmore

1. The proposal does not meet the objectives and strategies of the Planning Policy Framework including Clause 15.01-1S Urban Design, Clause 15.03-1S Heritage Conservation, Clause 21.06-1 Urban Environment, and Clause 22.02 Heritage Policy of the Mitchell Planning Scheme.
2. The proposal does not respond to the purposes or decision guidelines of Clause 43.01 Heritage Overlay of the Mitchell Planning Scheme.
3. The proposal does not respond to the purposes or decision guidelines of Clause 52.05 Signs of the Mitchell Planning Scheme.
4. The proposed signage is visually invasive to the site and surrounds

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KILMORE - PROPOSED DOUBLE SIDED, NON-ILLUMINATED, MAJOR PROMOTION SIGN

5A SYDNEY STREET.
KILMORE, VIC 3764

TOWN PLANNING DRAWINGS

- A01 COVER PAGE
- A02 SITE PLAN
- A03 FLOOR PLAN & ELEVATIONS
- A04 PERSPECTIVE VIEWS



PHOTO 01



PHOTO 02



PHOTO 03

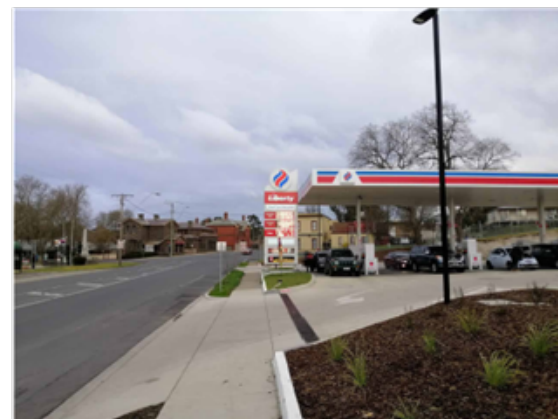


PHOTO 04



KEY PLAN
SCALE 1 : 750

PHOTO LEGEND	
NO.	DESCRIPTION
01	PHOTOGRAPHIC VIEW OF THE PROPOSED LOCATION FOR THE SIGN (NORTH ELEVATION).
02	PHOTOGRAPHIC VIEW OF THE PROPOSED LOCATION FOR THE SIGN (SOUTH ELEVATION).
03	PHOTOGRAPHIC VIEW NORTH FROM SYDNEY STREET.
04	PHOTOGRAPHIC VIEW SOUTH FROM THE PROPOSED LOCATION OF THE SIGN.

ISSUE/AMMENDMENTS SCHEDULE

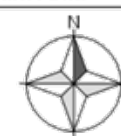
01 26/08/2022
TOWN PLANNING ISSUE

TOWN PLANNING
NOT FOR CONSTRUCTION



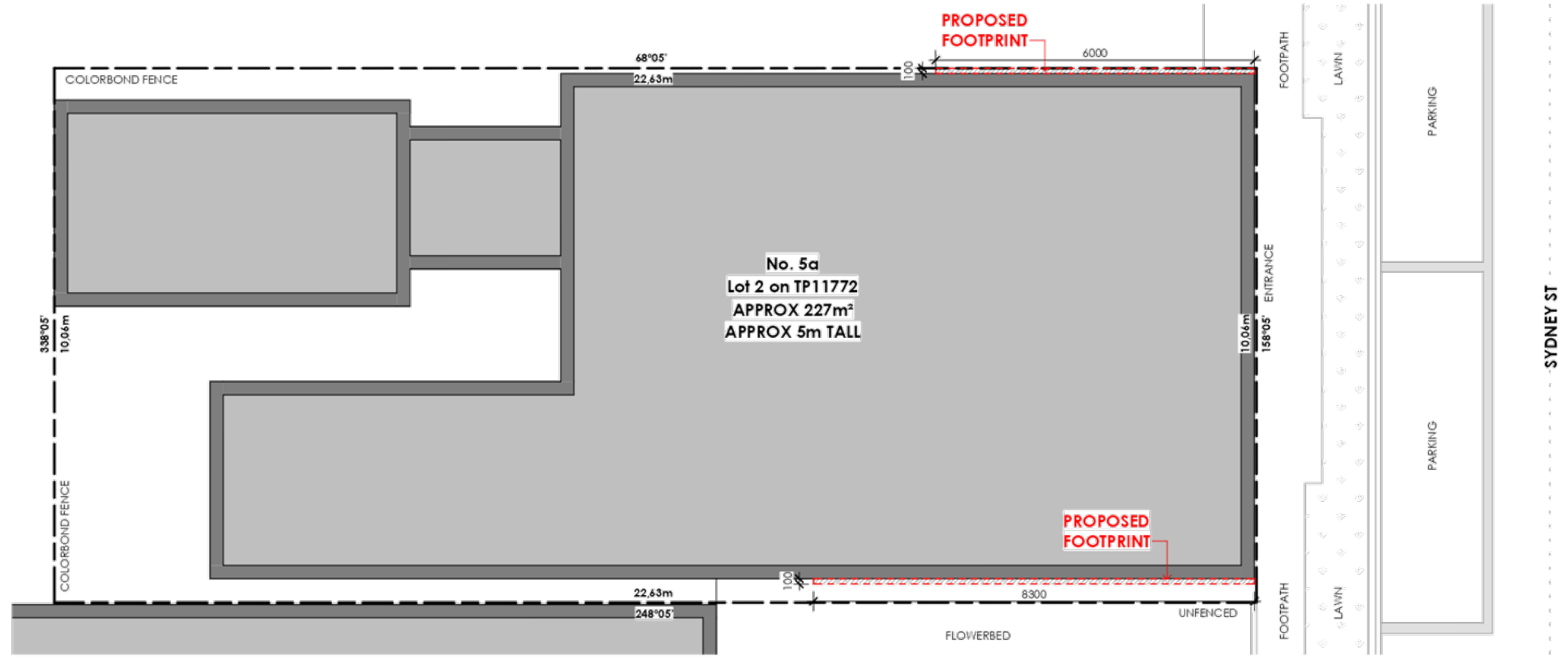
PROJECT
KILMORE - PROPOSED DOUBLE SIDED, NON-ILLUMINATED, MAJOR PROMOTION SIGN
ADDRESS
5A SYDNEY STREET.
KILMORE, VIC 3764

NORTH POINT



DATE
26/08/2022
DRAWING NO.
A01
DRAWN BY
AP
PROJECT NO.
22-029
PAGE SIZE
A3
ISSUE NO.
01





SITE PLAN
SCALE 1 : 75

LEGEND

- PROPERTY BOUNDARY
- EXISTING BUILDINGS ONSITE
- PROPOSED MAJOR PROMOTION SIGN FOOTPRINT

ISSUE/AMMENDMENTS SCHEDULE

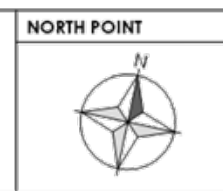
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TOWN PLANNING
NOT FOR CONSTRUCTION



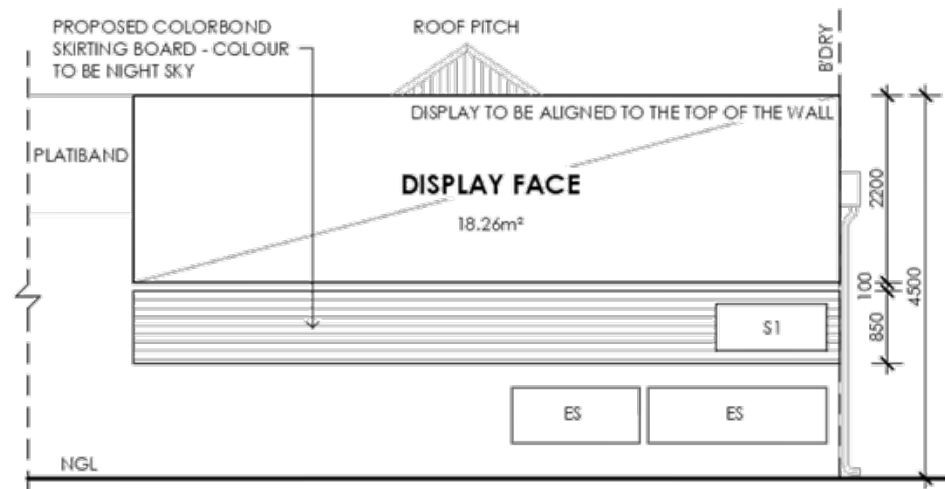
PROJECT
KILMORE - PROPOSED DOUBLE SIDED, NON-ILLUMINATED, MAJOR PROMOTION SIGN

ADDRESS
5A SYDNEY STREET,
KILMORE, VIC 3764

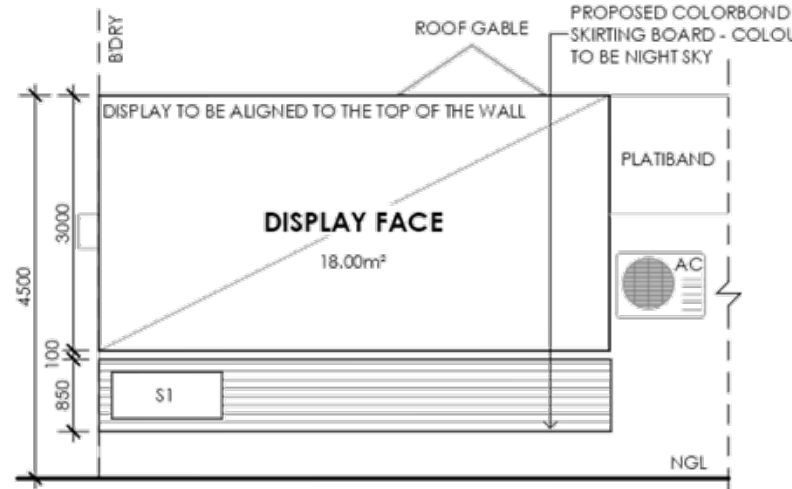


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PROJECT NO. 22-029	PAGE SIZE A3	ISSUE NO. 01

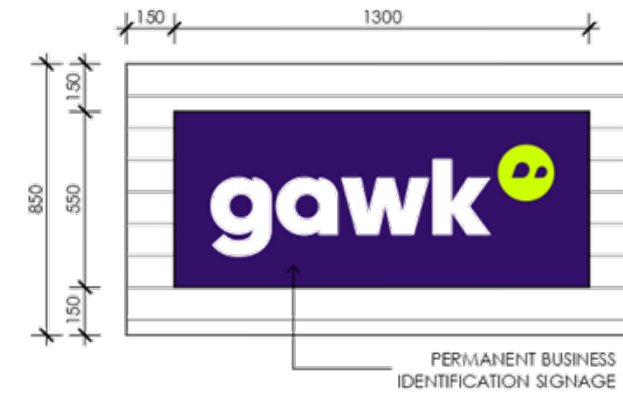




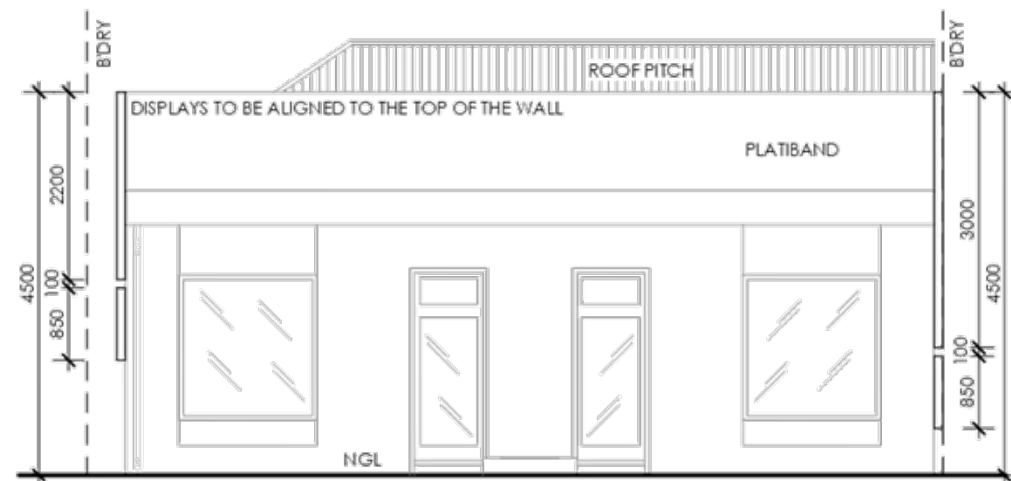
SOUTH ELEVATION
SCALE 1 : 75



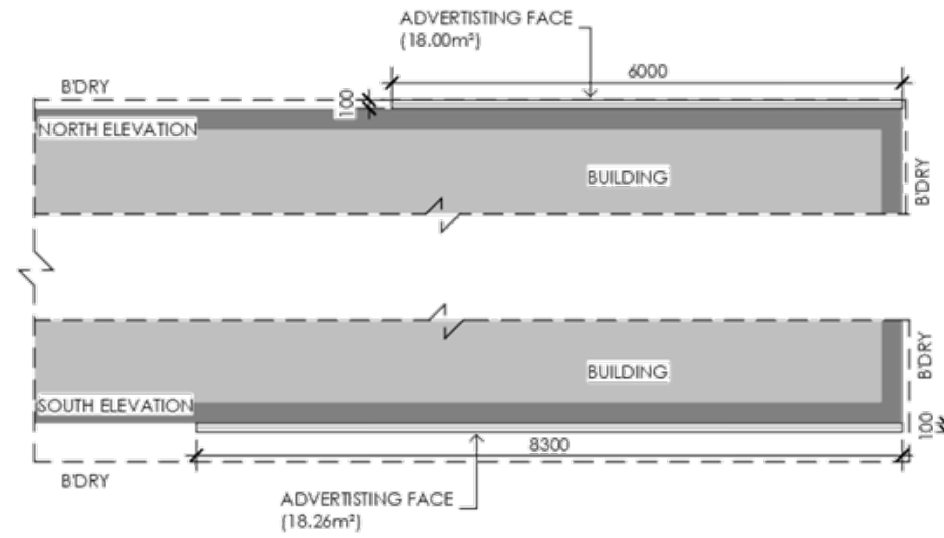
NORTH ELEVATION
SCALE 1 : 75



S1 - SIGNAGE DETAIL
SCALE 1 : 20



EAST ELEVATION
SCALE 1 : 75



FLOOR PLAN
SCALE 1 : 75

MATERIALS BOARD



BLACK PAINT
PROPOSED BLACK PAINT
FINISH TO ALL FEATURES AND
TRIMS



SKIRTING BOARD
PROPOSED COLORBOND
SKIRTING BOARD WITH
NIGHT SKY FINISH

LEGEND

- NGL NATURAL GROUND LINE
- S1 PERMANENT SIGN 1 - REFER TO DETAIL
- ES EXISTING SIGNAGE

ISSUE/AMMENDMENTS SCHEDULE

- 01 26/08/2022
TOWN PLANNING ISSUE

TOWN PLANNING

NOT FOR CONSTRUCTION



PROJECT
KILMORE - PROPOSED DOUBLE SIDED, NON-ILLUMINATED,
MAJOR PROMOTION SIGN
ADDRESS
5A SYDNEY STREET,
KILMORE, VIC 3764

NORTH POINT



DATE
26/08/2022
DRAWING NO.
A03
DRAWN BY
AP
PROJECT NO.
22-029
PAGE SIZE
A3
ISSUE NO.
01





EXISTING PERSPECTIVE VIEW #01 - NORTHBOUND TRAFFIC



EXISTING PERSPECTIVE VIEW #02 - SOUTHBOUND TRAFFIC



PERSPECTIVE VIEW REFERENCE
SCALE 1 : 1200



PROPOSED PERSPECTIVE VIEW #01 - NORTHBOUND TRAFFIC



PROPOSED PERSPECTIVE VIEW #02 - SOUTHBOUND TRAFFIC

GENERAL NOTES

PROPOSED PERSPECTIVE VIEW IS AN ARTIST'S IMPRESSION OF THE PROPOSAL ONLY. SIZE AND SCALE ARE REFERENCED ON THE FLOOR PLANS AND ELEVATIONS.

ALL DRAWINGS TO BE READ IN CONJUNCTION WITH THE SUPPLIED TOWN PLANNING REPORT

REFER TO THE TOWN PLANNING REPORT FOR THE WRITTEN STATEMENT REGARDING THE METHODOLOGY DURING THE PREPARATION OF PERSPECTIVE VIEWS

LEGEND

◆ #00 PERSPECTIVE VIEW - LOCATION IN WHICH PHOTOGRAPHIC VIEWS WERE TAKEN

ISSUE/AMMENDMENTS SCHEDULE

01 26/08/2022
TOWN PLANNING ISSUE

TOWN PLANNING

NOT FOR CONSTRUCTION



PROJECT
KILMORE - PROPOSED DOUBLE SIDED, NON-ILLUMINATED, MAJOR PROMOTION SIGN
ADDRESS
5A SYDNEY STREET,
KILMORE, VIC 3764

NORTH POINT



DATE 26/08/2022	DRAWING NO. A04	DRAWN BY AP
PROJECT NO. 22-029	PAGE SIZE A3	ISSUE NO. 01





PLANNING PERMIT APPLICATION

PROJECT Non-illuminated, Major Promotion Sign

LOCATION 5a Sydney St,
Kilmore, VIC 3764

DATE September 5, 2022



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2. INTRODUCTION

2.1. Overview of Regional Billboard Co

Regional Billboard Co Pty Ltd (“RBC”) is a family run business that develops, owns and operates outdoor advertising billboards throughout Victoria – primarily in regional areas. The company was founded by James & Luke Course – who have extensive experience in Outdoor Advertising, Town Planning and Managing Projects. The business was founded to ensure that local and regional businesses have access to Outdoor Advertising to grow their businesses.

2.2. Outdoor Advertising Industry

While traditional forms of media (radio, television, print) have been in decline for the past decade, Outdoor has been flourishing and has been used by a huge number of businesses to grow. Total out of home industry revenue in Australia has grown for the past 8 consecutive years, with over 6% growth from 2016-2017 (source:OMA).

2.3. Advertising Content

At RBC we pride ourselves on helping local businesses grow using outdoor advertising. Companies within a small radius to our advertising signs will always take preference over large nationwide advertising campaigns. Typically, at least 50% of the advertising content is for businesses located within a 5km radius of the sign. Road safety messages from the TAC are also very common across regional billboards.

We currently have sites throughout regional Victoria, local businesses within a 5km radius of these sites currently have an 81% share of the advertising content. This record proves how strongly we value our promise to local businesses and the economic development of regional communities. The remaining 19% has been booked by TAC with road safety messages.

Advertising content is governed by the Australian Advertising Standards Bureau – which has a code of ethics in addition to industry specific controls for sensitive industries such as alcohol. The code of ethics is strictly obeyed and does not allow for religious, racist, sexually explicit or offensive advertising content.





2.4. Community Benefits

Our billboards help grow local businesses as well as attract visitors to the town. Advertisements often prompt travellers to stop in that town which puts money in the local economy when motorists may have not otherwise stopped. In addition to the immense benefits for advertiser's RBC provides value to our landlords from which it leases property. Our landlords receive fixed rent payments each year throughout our lease term which can provide stability and increase their property value. Additionally, wherever possible we use local contractors for construction and ongoing installation of billboard skins.

3. SITE SELECTION

When seeking a site in an area there are numerous factors that are considered. RBC seeks to work within the planning policies and frameworks within the council and avoids sites that have planning overlays which discourage major promotion signs. Properties in commercial and industrial areas along major highways and arterial roads are typically what RBC looks for.

Properties owned by local property owners and small businesses are prioritised over large national investors. When choosing the exact location on the property we seek an area that is currently unused and will not impact the day-to-day use of the property. It is also important to ensure the location where the sign will be located does not inhibit any development or future plans for the property. This collaboration is important to us as having a positive relationship with our property owners is something we pride ourselves on.

During the site selection process, RBC focuses on areas outside the realm of residentially utilised and zoned properties. Ensuring there is always an extended visual and spatial barrier between the proposal and any potentially effected residential properties. The major focus is to identify areas with a built form character where the size and scale of the proposed sign will be justified by the surrounding context of the proposed site.





4. SITE DESCRIPTION & EXISTING CONDITIONS

4.1. Site Description

The Subject Site is a commercially zoned lot with a use that is consistent with that zoning. It is owned by Omarzah Pty Ltd.

The primary built form is a shopfront building facing Sydney St that is divided into two retail spaces with separate entries, one occupied by North Central Hire, a weddings, parties and events retail business, and the other by Free Choice Tobacconist, a tobacco shop.

The building is a brick structure with 4.5m walls forming the frontage to Sydney St. Set back from the frontage, the building has a corrugated red roof that rises to 5m in height. In comparison to other commercial premises along Sydney St, the main building is comparatively of a smaller scale.

The façade to Sydney St comprises cream-painted bricks with brown framing around the doors and large glass display windows (one with metal bars) typical of the property's commercial use. The building features a standard shopfront fascia, with a large space on the upper section of the wall and a smaller area overhanging the footpath.

There are other, smaller buildings located towards the rear of the lot, which are storage and outbuildings, some of which are connected to the main structure.

The site is rectangular in shape with direct frontage to Sydney St of approximately 11.2 m. The total size of the site is approximately 264m² which is smaller than most other commercial lots in the area.

On-street parking is available in front of the Subject Site; there is no on-site parking or vehicle access to the site.

The topography of the site is almost entirely flat with an even gradient across the entire property within the boundaries. This topography is consistent with adjacent properties.





The proposed double-sided major promotion sign will target traffic on Sydney St in the town centre of Kilmore. The sign on the southern side of the Subject Site will mainly be viewed by northbound traffic on Sydney St, while also having some visibility from Foote St, customers of Liberty Kilmore Petrol Station (cnr. Sydney St and Foote St) and from Skehan Pl, located on the other side of Sydney St. The sign on the northern side of the Subject Site will be viewed primarily by southbound traffic on Sydney St.

A copy of the certificate of title and associated title plan are attached as part of this town planning submission.



Figure 1 – Aerial Photograph of Subject Site

4.2. Surrounding Context



Figure 2 – Aerial Photograph of Surrounding Area

The locality characteristics are:

- To the northern boundary lies 7 Sydney St, a commercially zoned property occupied by the Kilmore Senior Citizens Centre. The next road to the north is Bourke St.





- The eastern boundary abuts the principal road network of Sydney St (Northern Hwy), beyond which is land zoned for Public Park and Recreation use, occupied by Hudson Park, home to Hudson Park playground, Kilmore Bowls Club and Kilmore Skatepark. Beyond the park is Victoria Pde.
- To the southern boundary lies 1-3 Sydney St, commercially zoned land occupied by Liberty Kilmore Petrol Station, which is on the corner of Foote St.
- The western boundary abuts 5b Sydney St, a lot zoned for commercial use that backs onto William St, beyond which is residential land.

The intersection where Powlett St become Sydney St, just to the south of the Subject Site, marks the beginning of the main commercial precinct within Kilmore, which continues some 1.5 km to the north. This stretch is characterised by medium-large scale commercial buildings, which are designed to provide visibility to Sydney St traffic. The heritage aesthetic of these buildings become more prominent moving north of the Subject Site. The vast majority of properties are occupied by commercial businesses. Typical occupants include car dealers, automotive services, hardware, fast food, supermarkets, service stations, agricultural services, trade services and accommodation providers.

The properties immediately surrounding the Subject Site are of similar size and scale, with the common theme of commercial zoning. Most buildings are constructed from brick and concrete. Both 7 Sydney St (Kilmore Senior Citizens Centre) and 1-3 Sydney St (Liberty Kilmore Petrol Station) have a non-residential/commercial focus, which is typical of the robust commercial nature of Sydney St. The land on the opposite side of the road is a green space used for recreation. In general, this area of Sydney St represents a shift from the combined commercial and residential setting to the south into the main town centre, which acts as a commercial hub.

As one would expect in a robust commercial area, signage is prevalent all along Sydney St. On most properties this is in the form of medium-scale business identification signage. Freestanding, fascia and wall-mounted signs are common. This signage theme is continued for the entire stretch of Sydney St in a northern direction from the intersection with Foote St, although there are some examples of large business identification signage in another commercial area to the south along Powlett St (Northern Hwy), including Mitre 10 Kilmore, Kilmore Toyota, Ford Kilmore and United Petrol





Station. Images detailing this advertising theme are provided in Appendix 5 of this report.

There are no existing major promotion signs in Kilmore.

The appropriate zoning and the robust commercial context were key factors in choosing this site for this development.

5. PROPOSED DEVELOPMENT

5.1. Description of Proposed Development

The proposal seeks approval for the erection and display of a double-sided major promotion sign to the property at 5a Sydney St, Kilmore including the display of third-party advertising within the proposed advertising area specified on the attached town planning documentation.

The proposed double-sided wall-mounted major promotion sign (as detailed in the attached town planning package) proposes two display faces, 18.26m² and 18m² respectively. The proposed sign will target traffic on Sydney St in the town centre of Kilmore, with the sign on the southern side of the Subject Site mainly viewed by northbound traffic, while the sign on the northern side will be viewed primarily by southbound traffic.

In addition to this display face, there will be a permanent 0.27m² 'Gawk' business identification sign on the skirting board below each display face. Therefore, the total advertising area will be 36.8m². Refer to the town planning documentation for further details.

5.2. Design Response

The proposal is carefully sited and designed, to ensure that:

- It has a clear connection to the built form character along Sydney St. Northbound traffic will view the proposed sign in context with the commercial stretch of Sydney St. Southbound traffic will view the sign with the Liberty Kilmore Petrol Station in the background.
- The location of the sign allows local advertisers to reach a key audience of local and visitor traffic entering Kilmore. This is a valuable audience for local advertisers that can have very positive impacts on the local economy.
- The height of the proposed sign has been carefully designed to be no higher than the built form on the subject property. This will ensure the





sign does not block any views and seamlessly fits in to its surrounding context. The height of the proposed sign is in line with the wall height of the property and lower than the roof on the property. It is significantly lower than the petrol station 1-3 Sydney St and lower than the Senior Citizens Centre at 7 Sydney St. The proposed sign has been designed to be visible but not dominant to its surrounds.

- The site was carefully selected due to its location within one of the main commercial precincts in Kilmore and outside the view of any residentially zoned properties. This ensures the effects on the surrounding properties is minimal.
- The proposed sign is sited to align with the existing built form to seamlessly fit in to its surrounding context.
- The size and height of the major promotion sign was designed to ensure it is visible to traffic, without compromising any views or impacting on the visual amenity of this area in Kilmore.

All surrounding properties have a consideration for the robust commercial precinct. Almost all properties are designed to be visible and prominent for passing traffic. This is reinforced by the frequency of signage in the area—a clear theme which can be viewed in Appendix 5.

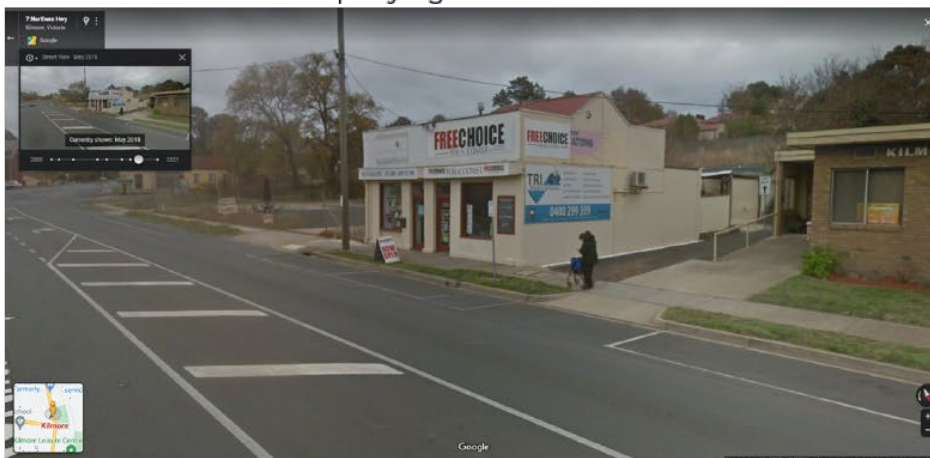
It is worth noting that the site has had a history of third party promotion over the past 10 years, with similar signage being located on the property. The following historical street view show some examples of what this looked like:

2014: a 6m x 3m third party major promotion sign.





2018: A smaller scale third party sign



2017: A smaller scale third party sign





6. STATUTORY PLANNING CONTROLS

6.1. Zoning

The Subject Site is situated within the Commercial 1 Zone; therefore, the following items are relevant to the proposal outlined in this application:

- Promotional signs are encouraged in commercial and industrial locations in a manner which complements or enhances the character of the area. The character of this particular area is commercial.
- Advertising sign requirements are at Clause 52.05. This zone is in Category 1 (minimum limitation).

Refer to Appendix 4 for a detailed response to the provisions and requirements set out in Clause 52.05.

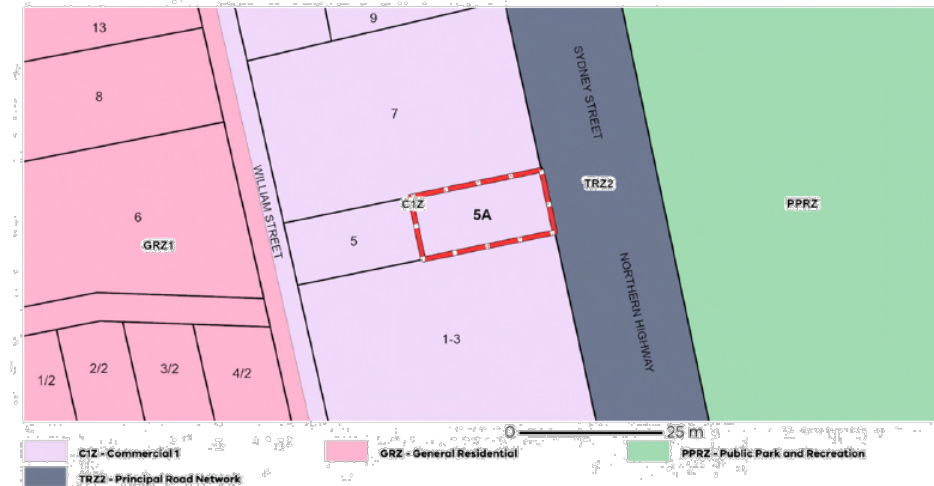


Figure 3 – Zone Controls of the Site & Surrounds





6.2. Overlays

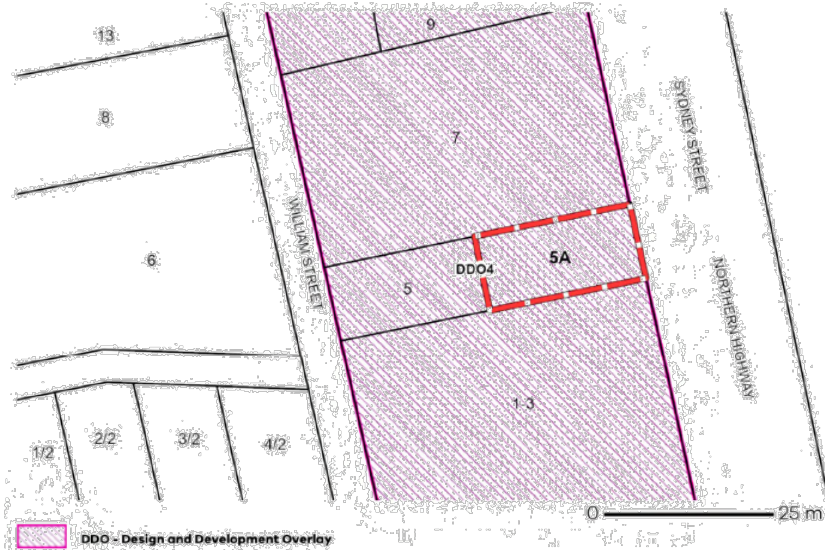


Figure 4 – Design and Development Overlay

The Subject Site has a design and development overlay “DDO” encompassing the land parcel. This overlay generalises the importance of amenity of commercial areas. As is identified within clause 52.05 (statewide provisions for promotional signage) major promotion signs are encouraged in commercial areas to enhance colour and vitality to the area. The proposal also encourages local economic development with a focus on local advertising campaigns targeted at motorists passing by and encouraging them to stop on their way through. The proposed sign is in keeping with the general requirements outlined in DDO4, which does not specify any requirements for signs.





Figure 5 – Heritage Overlay

The Subject Site has a heritage overlay on it, HO99, which relates to its location in the Kilmore Town Heritage Precinct. This overlay requires a permit to externally paint a building, an activity not required for the installation of the proposed sign. Further, extensive consideration has been given to the impact of the proposed sign on the character of the existing buildings and streetscape, with design decisions taken to ensure that the heritage of this precinct is respected in relation to the sign's size and positioning.

Nearby properties are subject to the heritage overlay HO53, which relates to the Former Primitive Methodist Church (Masonic Hall) located at 13-15 Bourke St. XYZ. The proposed sign will not be visible from this location, so there will be no impact to the heritage value of HO53.

The design and siting of the proposal is in keeping with the appearance of the area. It does not impact on any site lines or vistas to the other more significant heritage building in Kilmore, due to it's location wholly within the built form of the existing building.





Figure 6 – Aboriginal Cultural Overlay

Department of Premier and Cabinet

Process List

Project Name: Sydney St
 Project Location: Kilmore
 Date: 30-Aug-2022

	QUESTION	ANSWER
Question 1	Is the proposed activity, or all the proposed activities, exempt?	Yes
Answer:	ON THE BASIS OF THE ANSWERS YOU HAVE ENTERED YOU ARE NOT REQUIRED BY THE REGULATIONS TO PREPARE A CULTURAL HERITAGE MANAGEMENT PLAN FOR THIS PROJECT	
	This process list is for information purposes only; the result must not be relied upon by a statutory authority in deciding whether a cultural heritage management plan is required for a proposed activity.	

The overlay identifies restricted use for the subject site which is unrelated to the proposal. This overlay sets out guidelines regarding the use of the land, however, it is identified that a cultural heritage management plan is unrequired for the erection of a promotion sign.





Figure 7 – Designated Bushfire Prone Area Map

The map identifies that the Subject Site is not in a Designated Bushfire Prone area.

7. LOCAL PLANNING POLICIES

Clause 21.02 Settlement

To plan for the orderly development of existing settlements.

Strategies

- Implement town structure plans and establish growth boundaries around primary settlements.
- Maintain and strengthen the individual attributes of existing settlements, including the urban-rural lifestyle mix.
- Minimise the impact of urban development on the historic, environmental and rural settings of settlements and on the productive capacity of surrounding agricultural land.
- Ensure that sufficient suitably zoned land is provided to support the economic well-being of settlements.





With consideration for the above clause, the proposed sign is located in the most suitable area in Kilmore for such a development. It is in the most robust commercial area and does not impact significant historic, environmental or rural areas. It is located in an area with a commercial focus but away from the main heritage precinct of the town. It will also contribute positively to the local economy with a large portion of advertising content expected to be from local Kilmore businesses, thus supporting the economic well-being of settlements.

Clause 21.08-1 Economic Development – Economic Growth

To plan for the orderly development of existing settlements.

Strategies

- Implement town structure plans and establish growth boundaries around primary settlements.
- Maintain and strengthen the individual attributes of existing settlements, including the urban-rural lifestyle mix.
- Minimise the impact of urban development on the historic, environmental and rural settings of settlements and on the productive capacity of surrounding agricultural land.
- Ensure that sufficient suitably zoned land is provided to support the economic well-being of settlements.

As recognised in this policy, any thriving town needs to support business and provide them with the tools to grow. Advertising is a key component of business growth, and of all forms of traditional media outdoor advertising is by far the fastest growing. As television, radio and print have declined, outdoor advertising has grown quickly. It is important for local businesses to have access to this form of advertising—which the proposed sign will provide. Our local sourcing policy will also support the local economy, as we will endeavour to use local Kilmore contractors for construction and ongoing installation.





Clause 21.08-3 Economic Development – Tourism

Key issues

- Maximising the benefits derived from tourism.

Objective 1

To facilitate Mitchell becoming a recognised tourist destination.

Strategies

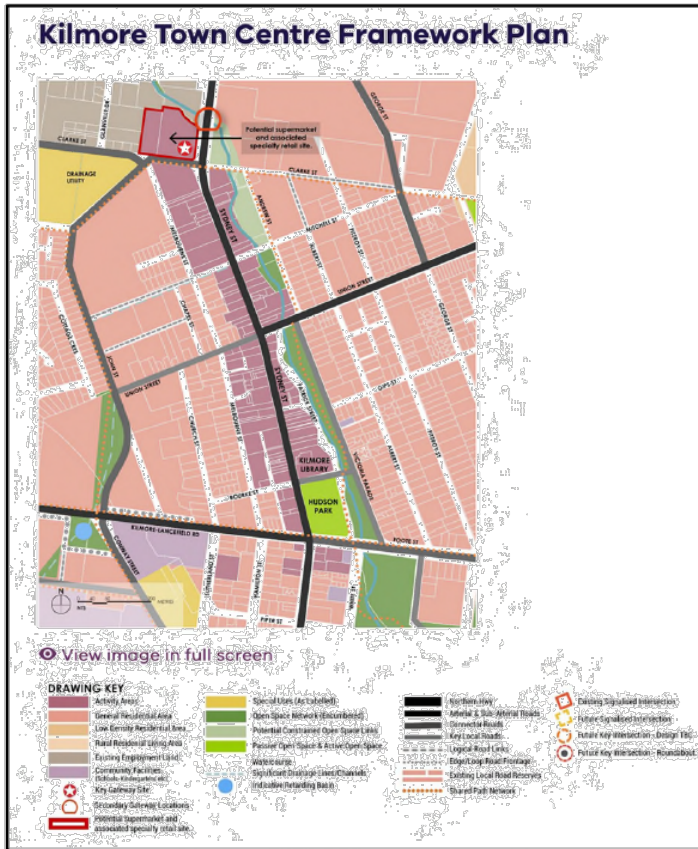
- Support and develop the tourism industry.
- Encourage new uses that promote or assist local tourist attractions and visitation.
- Support visitation and tourism based on Mitchell's heritage character.

The tourism industry is one of our biggest advertiser segments. We specifically target locations which capture tourist traffic, which gives local tourism-facing businesses the opportunity to get their message across to this valuable audience. The location of the proposed sign in Kilmore meets this objective without any impacts on historically significant areas or views. Careful consideration has been taken to ensure the proposal will be positioned in such a way that it does not detract from Mitchell Shire's heritage character.





Clause 21.11-3 Local Areas – Kilmore



The Kilmore Town Centre Framework Map shows that the Subject Site is located within a precinct designated as an “Activity Area” of Kilmore. This area has clearly been earmarked for commercial development, to which the proposed sign could contribute. The Map highlights that the proposal will not have any impact on residential areas of Kilmore due to the location of the Subject Site in this Activity Area, meaning it is in keeping with the Mitchell Shire Council's vision for the town. Further, it is not within a Key Gateway Site, so policies related to those areas do not apply.





Sydney Street Town Centre

- Protect and reinforce the Sydney Street town centre as the primary destination and focus of Kilmore.
- Support consolidation of Sydney Street town centre by prioritising all retail and other activity-generating uses within the town centre as per the *Kilmore Structure Plan August 2016*.
- Facilitate establishment of accommodation uses within Sydney Street town centre and other diverse activity-generating uses compatible with the town centre environment.
- Support land uses which will provide activation of Sydney Street and increase night time trade and activity.

The proposal is in accordance with the planning outlined for Sydney St Town Centre, in which the Subject Site is located. The development of a double-sided major promotion sign within this precinct will provide significant opportunities that reinforce this area as a focal point of Kilmore. Its usage to promote local economic development represents the type of activity-generation cited in the above policy. The sign has been designed to be non-illuminated, so it will only be visible during daylight hours.

Schedule 4 to Clause 43.02 Design and Development Overlay – Kilmore Town Centre and Key Gateway Sites

1.0 Design Objectives

- To ensure that development within the town centre is of appropriate scale and form and has regard to the underlying heritage character, is of architectural interest and respects but does not mock or replicate the heritage features of the town centre.
- To improve the appearance of Sydney Street and Patrick Street by encouraging development of vacant or under-utilised sites and active street fronts, including al-fresco dining on Sydney Street and Patrick Street and shop top dwellings.

2.0 Buildings and works – General requirements

- Buildings are to activate the street edge at the ground floor level and provide interest for pedestrians by:
 - Logical placement of visible building entries, windows and openings.
 - Avoiding the presentation of blank walls to the public realm.

Policies such as the above related to the development of Sydney St highlight a preference for additions that upgrade existing or additional built forms to provide net community benefits. The proposal fulfills this objective by making use of an existing built form in a way that aligns with the current height and scale of the built form on the Subject Site. Further, the proposal is specifically designed not to impinge on the heritage value of the streetscape through the location of the Subject Site and the positioning of the sign. Additionally, it contributes to the desire to avoid





the presentation of blank walls to the public realm by making use of two prominent empty walls in this area of Sydney St.

8. CONCLUSION

In conclusion, we submit that:

- The proposal seeks the approval for the development of a double-sided major promotion sign on the property at 5a Sydney St, Kilmore.
- The Subject Site is the most suitable for the proposed sign in all of Kilmore. It is located in the heart of the commercial precinct and is not in close proximity to any residential properties.
- The proposal is clearly supported by local policies in the Mitchell Shire Council Planning Scheme—whether evaluating the location or design of the sign.
- The proposed sign will primarily be used to advertise local businesses. This can have very positive impacts on the local economy.
- The proposal employs a high level of consideration to the provisions and policies set out about advertising signage in clause 52.05.
- The proposal is consistent with the built form on the Subject Site and surrounding properties. The design has carefully considered the height of nearby buildings and has ensured no important views or vistas will be impacted.

Overall, we conclude that the proposed development is consistent with the relevant state and local planning policies. The development also addresses the strategic directions and policy objectives of Mitchell Shire Council.





9. APPENDIX 1 – COPY OF TITLE



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REGISTER SEARCH STATEMENT (Title Search) Transfer of Land Act 1958 Page 1 of 1

VOLUME 11591 FOLIO 594 Security no : 124099840569V
Produced 24/08/2022 11:37 AM

LAND DESCRIPTION

Lot 1 on Title Plan 011772U.
PARENT TITLE Volume 10405 Folio 833
Created by instrument AM114662Q 18/08/2015

REGISTERED PROPRIETOR

Estate Fee Simple
Sole Proprietor
OMARZAH PTY LTD of 149 NEWLANDS ROAD COBURG NORTH VIC 3058
AS111138X 24/04/2019

ENCUMBRANCES, CAVEATS AND NOTICES

Any encumbrances created by Section 98 Transfer of Land Act 1958 or Section 24 Subdivision Act 1988 and any other encumbrances shown or entered on the plan set out under DIAGRAM LOCATION below.

Warning as to Dimensions
Any dimension and connecting distance shown is based on the description of the land as contained in the General Law Title and is not based on survey information which has been investigated by the Registrar of Titles.

DIAGRAM LOCATION

SEE TP011772U FOR FURTHER DETAILS AND BOUNDARIES

ACTIVITY IN THE LAST 125 DAYS

NIL
-----END OF REGISTER SEARCH STATEMENT-----

Additional information: (not part of the Register Search Statement)

Street Address: 5 SYDNEY STREET KILMORE VIC 3764

DOCUMENT END





10.APPENDIX 2 – COPY OF PLAN

EDITION 1		TITLE PLAN TP11772U		
Location of Land Parish: WILLOWHAVER Township: Crown Allotment: Section: Crown Portion: LTO base record: Last plan Reference: Title Reference: Depth Limitation:		Notations Warning as to dimensions: Any dimension and connection distance shown is based on the description of the land as contained in the General Law Title and is not based on survey information which has been investigated by the Registrar of Titles.		
Location of Land Parish: WILLOWHAVER Township: Crown Allotment: Section: Crown Portion: LTO base record: Last plan Reference: Title Reference: Depth Limitation:		EAST BUTLEDGES CROWN SPECIAL SURVEY S.D.M.B.-C (RURAL) NIL		
Easement Information E - Encumbering Easement R - Encumbering Easement (ROAD) A - Appurtenant Easement				THIS PLAN HAS BEEN PREPARED FOR LAND REGISTRY, LAND VICTORIA FOR TITLE DIAGRAM PURPOSES
Easement Reference	Purpose/Authority	Width	Origin	Land benefited in favour of
NIL				
				Checked by: Date: 9/10/98 Assistant Registrar of Titles
LENGTHS ARE IN METRES	NOT TO SCALE	SHEET SIZE A3	FILE No. AP82626H	
				DEALING CODE 260
Sheet 1 of 1				





11. APPENDIX 3 – PERSPECTIVE VIEWS WRITTEN STATEMENT

Prepared By: James Course
Qualification: Advanced Diploma of Building Design (Architectural)
Including: BUIL5922 – Undertake site survey and analysis to inform design process

Software: Adobe Photoshop Creative Cloud
Informed by: Site features and measurements plan prepared in Autodesk Revit 2018

Methodology: Relevant data obtained from site measure up performed by James Course in conjunction with topographical maps from various online sources: services.land.vic.gov.au/maps & <https://www.google.com.au/maps>

Perspective View 01: Camera: INE-LX2
 Type: Digital
 Lens Size: 27mm
 Angle: Landscape – Parallel to ground
 Date: 14/06/2020
 Time: 04:08pm
 Height Above Ground: 1600mm
 Modified elements: Nil
 Assumptions: Height and Length are relative to the documented site features plan; however definitive accuracy cannot be guaranteed.

Perspective View 02: Camera: INE-LX2
 Type: Digital
 Lens Size: 27mm
 Angle: Landscape – Parallel to ground
 Date: 14/06/2020
 Time: 04:09pm
 Height Above Ground: 1600mm





Modified elements: Nil
Assumptions: Height and Length are relative to the documented site features plan; however definitive accuracy cannot be guaranteed.

12. APPENDIX 4 – CLAUSE 52.05

The relevant requirements for advertising signage are set out in Clause 52.05, which outlines that the following items must be addressed:

Site Context Report

Included on page A01 & A02 of the town planning documentation.

Location for Proposed Sign

Included on page A02 of the town planning documentation.

Location and Size of Existing Signage on the Site

The Subject Site features a shopfront fascia that displays business identification signage for each of the two retail businesses, in their corporate colours—both differing shades of white and red—as well as wall-mounted signage (approx. 9m each) in similar aesthetics.

On the northern-most side of the front wall, there is a small blackboard used for advertising specials and offerings at Free Choice Tobacconist.

A brick wall dominates the northern boundary of the property and currently features some small business identification signs below the location for one of the proposed major promotion signs.

Photos of all of the signage described above are provided below:





Location and Form of Existing Signage on Abutting Properties

The property to the south at 1-3 Sydney St, Liberty Kilmore Petrol station, has small and large free-standing plus fascia advertising and business identification signage in bold commercial colours.

Images these signs are below:





The Location of Closest Traffic Control Signs

The closest traffic control signs are located in front of the Subject Site. These are parking signs informing drivers of the limits for the parking spaces located in front of the Subject Site. The proposal is considered to have no effect over the visibility to these signs, as they will not be viewed by traffic at the same time as the proposed signs. These signs are shown in the below photo:





View Lines or Vistas Which May Be Affected by the Proposed Sign:

There are no views or vistas impacted by the proposed sign, the height and wall-mounted positioning of which were designed to address this issue.

Dimensions, Height Above Ground Level and Extent of Projection of the Proposed Sign

Included on page A03 of the town planning documentation.

Height, Width & Depth of the Total Sign Structure Including Method of Support and any Associated Structures Such as Safety Devices and Service Platforms

Included on page A03 of the town planning documentation.

Details of Associated On-Site Works

Excavations of footings in line with engineer's specifications (size and depth to be confirmed), concrete pour for footings, steel erection via crane (no onsite welding, all bolted together), installation of cladding/display face fixed on to steel structure.

Details of any Form of Illumination Including Details of Baffles and the Times at Which the Sign Would be Illuminated

The proposed sign is not illuminated in any way.

The Colour, Lettering Style and Materials of the Proposed Sign

Included on page A03 of the town planning documentation.

The Size of the Display (Total Advertising Area Including all Sides of a Multi-Sided Sign)

Included on page A03 of the town planning documentation. Also referenced in section 5.1 of this report.

The Location of any Corporate Logo Box and Proportion of Display Area Occupied by such a Logo Box

Included on page A03 of the town planning documentation.

Any Landscaping Details

No additional landscaping details.





A Description of the Existing Character of the Area Including Built Form and Landscapes

Refer to section 4 of this report.

The Location of any Other Signs Over 18 Square Metres, or Scrolling, Electronic or Animated Signs Within 200 Metres of the Site

There are no other signs above 18m² within 200m. There are, however, a number of large signs—these can be viewed in Appendix 5.

Any Existing Identifiable Advertising Theme in the Area

As shown above and in Appendix 5, the majority of properties along this stretch of Sydney St have medium-large sized business identification signage. There is a mixture of fascia, freestanding and wall-mounted signs.

Photo Montages or a Streetscape Perspective of the Proposed Sign

Included on page A04 of the town planning documentation.

Level of Illumination

The sign will not be illuminated

The Relationship to any Significant or Prominent Views and Vistas

As identified above, the proposal is deemed as having no effect on any significant views or vistas.

In summary, the proposal is representative of the guidelines set out in clause 52.05. The proposal is characteristic to the scale of the surrounding context of built form. The impacts on any important or significant views are negligible.





13. APPENDIX 5 – SURROUNDING SIGNAGE & BUILT FORM











14.APPENDIX 7 – VICROADS TEN POINT CHECKLIST

No.	Item	Comment/Response
01	Obstructs a driver's line of sight at an intersection, curve or point of egress from an adjacent property.	The proposed signs are positioned to have no impact on line of sight of drivers at nearby intersections or points of egress from an adjacent property, as they are mounted to the existing built form.
02	Obstructs a driver's view of a traffic control device, or is likely to create a confusing or dominating background which might reduce the clarity or effectiveness of a traffic control device.	Nearby traffic control signs will not be affected by the proposed display faces, as they will never be viewed in conjunction with them.
03	Could dazzle or distract drivers due to its size, design or colouring, or it being illuminated, reflective, animated or flashing.	The advertising faces have strict guidelines regarding the design and coloration of advertising. The sign will not be reflective, animated or flashing.
04	Is at a location where particular concentration is required, such as a high pedestrian volume intersection.	The location is deemed to have no special consideration.
05	Is likely to be mistaken for a traffic control device, because it contains red, green or yellow lighting, or has red circles, octagons, crosses, triangles or arrows.	The advertising face is reviewed under strict guidelines to ensure no traffic control symbolism exists.
06	Requires close study from a moving or stationary vehicle in a location where the vehicle would be unprotected from passing traffic.	As with other advertising billboards, it is considered that the proposal would not require a detailed study.
07	Invites drivers to turn where there is fast moving traffic or the sign is so close to the turning point that there is no time to signal and turn safely.	It is understood that the proposed sign would not have any traffic control symbolism or directional advice to drivers.
08	Is within 100 metres of a rural railway crossing.	The proposal is not within 100m of a rural railway crossing.
09	Has insufficient clearance from vehicles on the carriageway.	The proposal will not effect the current clearance conditions on the Subject Site.
10	Could mislead drivers or be mistaken as an instruction to drivers.	As is outlined above, strict guidelines are adhered to in order to ensure advertising faces do provide instructions to drivers.





Office Use Only

Application No.: _____ Date Lodged: / /

Application for Planning Permit

Planning Enquiries
Phone: 03 5734 6200
Web: <http://www.mitchellshire.vic.gov.au>

If you need help to complete this form, read [How to complete the Application for Planning Permit form](#).
⚠ Any material submitted with this application, including plans and personal information, will be made available for public viewing, including electronically, and copies may be made for interested parties for the purpose of enabling consideration and review as part of a planning process under the *Planning and Environment Act 1987*. If you have any concerns, please contact Council's planning department.

- ⚠** Questions marked with an asterisk (*) are mandatory and must be completed.
- ⚠** If the space provided on the form is insufficient, attach a separate sheet.

Clear Form

The Land i

1 Address of the land. Complete the Street Address and one of the Formal Land Descriptions.

Street Address *

Unit No.:	St. No.: 5a	St. Name: Sydney St
<input type="text"/>	<input type="text"/>	<input type="text"/>
Suburb/Locality: Kilmore		Postcode: 3764
<input type="text"/>		<input type="text"/>

Formal Land Description *

Complete either A or B.

⚠ This information can be found on the certificate of title.

A Lodged Plan Title Plan Plan of Subdivision

OR

B

The Proposal

⚠ You must give full details of your proposal and attach the information required to assess the application. Insufficient or unclear information will delay your application.

2 For what use, development or other matter do you require a permit? *

i If you need help about the proposal, read: [How to Complete the Application for Planning Permit Form](#)

Provide additional information on the proposal, including: plans and elevations; any information required by the planning scheme, requested by Council or outlined in a Council planning permit checklist; and if required, a description of the likely effect of the proposal.

3 Estimated cost of development for which the permit is required *

⚠ You may be required to verify this estimate.
 Insert '0' if no development is proposed (eg. change of use, subdivision, removal of covenant, liquor licence)

Existing Conditions i

4 Describe how the land is used and developed now *
eg. vacant, three dwellings, medical centre with two practitioners, licensed restaurant with 80 seats, grazing.

Provide a plan of the existing conditions. Photos are also helpful.

Need help with the Application? **i**

If you need help to complete this form, read [How to complete the Application for Planning Permit form](#)
General information about the planning process is available at www.dpcd.vic.gov.au/planning

Contact Council's planning department to discuss the specific requirements for this application and obtain a planning permit checklist. Insufficient or unclear information may delay your application.

8 Has there been a pre-application meeting with a Council planning officer?

No Yes

Checklist **i**

9 Have you:

- Filled in the form completely?
- Paid or included the application fee? ⚠ Most applications require a fee to be paid. Contact Council to determine the appropriate fee.
- Provided all necessary supporting information and documents?
 - A full, current copy of title information for each individual parcel of land forming the subject site
 - A plan of existing conditions.
 - Plans showing the layout and details of the proposal
 - Any information required by the planning scheme, requested by council or outlined in a council planning permit checklist.
 - If required, a description of the likely effect of the proposal (eg traffic, noise, environmental impacts).
- Completed the relevant Council planning permit checklist?
- Signed the declaration (section 7)?

Lodgement **i**

Lodge the completed and signed form, the fee payment and all documents with:

Mitchell Shire Council
113 High Street Broadford VIC 3658

Contact information:
Telephone: 61 03 5734 6200
Email: mitchell@mitchellshire.vic.gov.au
DX: 66003

Deliver application in person, by fax, or by post:

Make sure you deliver any required supporting information and necessary payment when you deliver this form to the above mentioned address. This is usually your local council but can sometimes be the Minister for Planning or another body.

Save Form:

You can save this application form to your computer to complete or review later or email it to others to complete relevant sections.

Max Williams

From: Joanne Guard
Sent: Wednesday, 2 November 2022 10:44 AM
To: Max Williams
Cc: Jasmine Tysoe
Subject: RE: 5A Sydney Street, Kilmore HO99 PLP334/22
Attachments: Kilmore Town Centre Kilmore HO99 2012 citation.pdf

Hi Max

Thanks for referring this application to me for the installation of advertising signage on 5A Sydney Street Kilmore. I apologise for the delayed response.

The proposal seeks to add third party advertising signage to the north and south elevations of 5A Sydney Street. This property is currently used as 2 separate premises - Free Choice Tobacconist, and North Central Hire. It appears that the signage will be applied to the building via a steel structure but no details are given of any fixing methods. Confusingly the documentation refers to excavations and concrete footings but I assume this is generic template text. From the documentation provided it appears that the signage will be 3.95m x 6m (north elevation) and 3.15m x 8.3m (south elevation). A Colorbond skirting below each sign is proposed to contain permanent advertising for the signage company). The total advertising area proposed is 36.8m sq.

I strongly object to the application for the following reasons:

5A Sydney Street is within the Kilmore Town Centre Heritage Overlay (HO99). The precinct is of local historic, architectural, social and scientific significance to Mitchell Shire. (Please find attached a copy of the heritage citation report for HO99, from which the information below is taken).

5A Sydney Street is a small single storey building, constructed in the 1860s as the home of the Kilmore Free Press. It is contributory to the heritage significance of HO99. The applicant appears to have considered planning scheme clauses relating to settlement and economic growth in their application, but not the HO.

The objectives of the HO include the following:

- *To ensure that the significance of heritage places within the precinct is conserved or revealed.*
- *To conserve the historic low scale, low density character of the precinct and ensure that new development is compatible with it.*
- *To ensure that new development does not become a dominant visual element in the precinct.*
- *To conserve the historic setting of buildings.*
- *To conserve and enhance significant views, vistas and landmarks in the precinct.*
- *To ensure that archaeological remains are not inadvertently damaged or destroyed.*

It is Council policy to encourage the style, scale and location of signage to be appropriate to the era of the building.

Similarly, under the HO Decision guidelines it is policy to consider, as appropriate:

- *The citation/s in the Mitchell Shire Heritage Study, including the precinct and, where relevant, any individual statement of significance for the place.*

- *The visual prominence of a new building or addition to a building from within or outside of the precinct.*
- *The impact upon any views or vistas, particularly the views to and from Victoria Street from within and outside the precinct, and the views to and from Sydney Street.*

To support the proposal the applicant refers to other signage in the vicinity. The examples shown are either outside the HO or related to buildings which are not significant or contributory to the heritage significance of the town centre. Previous and existing signage on the subject building is much smaller in size, mainly relates to the tenancy of the building, and may not in itself be permitted signage. Some of the existing signage is detrimental to the heritage significance of HO99 and I would like to know whether it is unauthorised.

As proposed the development would be of detriment to the heritage significance of HO99 and may be damaging to the building itself and I suggest that it be refused.

Please let me know if you have any queries.

Cheers

Jo



Jo Guard
Heritage Advisor
Mitchell Shire Council | Located – Wellington Square 12/81 High Street, Wallan
Correspondence – 113 High Street, Broadford 3658
T +61 3 5734 6214 | F +61 3 5734 6214

Office Hours – Alternate Tuesdays



♻️ please consider the environment before printing this email
TTY users phone 133 677 then ask for (03) 5734 6200. TIS users call 13 14 50.



9.5 WALLAN EAST - EMPLOYMENT NEEDS ASSESSMENT

Author: *Travis Conway - Manager Strategic Planning and Economy*

File No: *PL/13/079*

Attachments: 1. *Wallan East Precinct Plan*

1. Purpose

- 1.1 To undertake and proceed with an employment needs assessment in relation to the existing and emerging land use context in Wallan East.

2. Background

- 2.1 The subject land as identified in Attachment 1 is located inside Melbourne's Urban Growth Boundary (UGB) and is subject to a Precinct Structure Planning (PSP) process.
- 2.2 The Wallan East Precinct Structure Plan (Part 1) applies to this land.
- 2.3 The Wallan East Precinct Structure Plan (Part 1) is presently under preparation and is being led by the Victorian Planning Authority (VPA), who are the Planning Authority for this matter.

3. Key Matters

- 3.1 The emerging Wallan East PSP has been under preparation for over 2 years.
- 3.2 The PSP only considers land north of Wallan-Whittlesea Road and does not intend to include land further south, which is earmarked for future employment land.
- 3.3 The plan contemplates a residential outcome however, throughout the preparation of the PSP, Council has raised concerns in relation to the viability of the precinct as a residential outcome given its relative small scale, location to the east of the rail corridor and has also raised other concerns in relation to the extent of drainage and accessibility.
- 3.4 As a result, this has raised concerns in relation to the end land use, being either residential or employment.

WALLAN EAST - EMPLOYMENT NEEDS ASSESSMENT (CONT.)

Recommendation

THAT Council:

1. Proceed with the preparation of an employment needs assessment; and
2. In principle, support the opportunities for alternative uses for this land, subject to the findings from the investigations.

WALLAN EAST - EMPLOYMENT NEEDS ASSESSMENT (CONT.)

4. Financial, Resource and Asset Management Implications

- 4.1 Council is procuring and leading the preparation of an employment needs assessment. Council has engaged Ernst and Young to undertake this work and has budgeted \$35K to complete the relevant investigations.

5. Consultation

- 5.1 External stakeholders including representatives of the Victorian Planning Authority (VPA) and the Department of Transport and Planning (DTP) will be involved in working through this matter as the investigations proceed.
- 5.2 Relevant landowners and/or their representatives within the Precinct will also be informed as the investigations proceed.
- 5.3 Once the report is completed, it will assist Council in justifying any potential land use change

6. Sustainability Implications (Social and Environmental)

- 6.1 The employment needs assessment will identify whether there is a need for additional employment land within the Wallan area.
- 6.2 Should additional land be needed for employment related purposes, it will have the opportunity to facilitate and increase the number of local jobs available for our growing community.
- 6.3 Importantly, any future jobs will be located within close commuting distance of the existing township.

7. Policy and Legislative Implications

- 7.1 This land was introduced into the metropolitan area by expanding the Urban Growth Boundary in 2011 via the Logical Inclusions process.
- 7.2 The current Growth Corridor Plans were never updated and do not formally designate any formal land use in this area.
- 7.3 Through the preparation of the Council led Wallan Structure Plan, 2015, this plan identified the land as potential/future residential and subject to investigations through a PSP process.
- 7.4 In 2019, the State Government released its Melbourne Industrial and Commercial Land Use Plan (MICLUP) which identified land south of Wallan-Whittlesea Road as *State Significant Industrial Land* however, there was no recommendation for employment/industrial land north of Wallan-Whittlesea Road.
- 7.5 In 2021, the State Government released the Land Use Framework Plans which identifies this PSP as a future urban area.

WALLAN EAST - EMPLOYMENT NEEDS ASSESSMENT (CONT.)

- 7.6 Should the investigations conclude that additional employment land is needed, it will have implications for the emerging PSP and Land Use Framework Plans.
- 7.7 The study can also be an input into the preparation of the updated Wallan Structure Plan and help determine a land use outcome for Wallan East.

8. Alignment to Community Vision, Council Plan and the Municipal Health and Wellbeing Plan

8.1 The investigations will align with the Council Plan as follows:

- Built Environment

Plan and advocate for growth that is respectful of the unique and special nature of our communities.

- Community

Look for innovative ways to attract and support businesses, education and employment providers

9. Conflict of Interest

9.1 This report advises that in the preparation of, or in contributing to the preparation of, this report there was no disclosable conflict of interest raised by a member of Council staff in the subject matter of the report.

10. Risk Implications

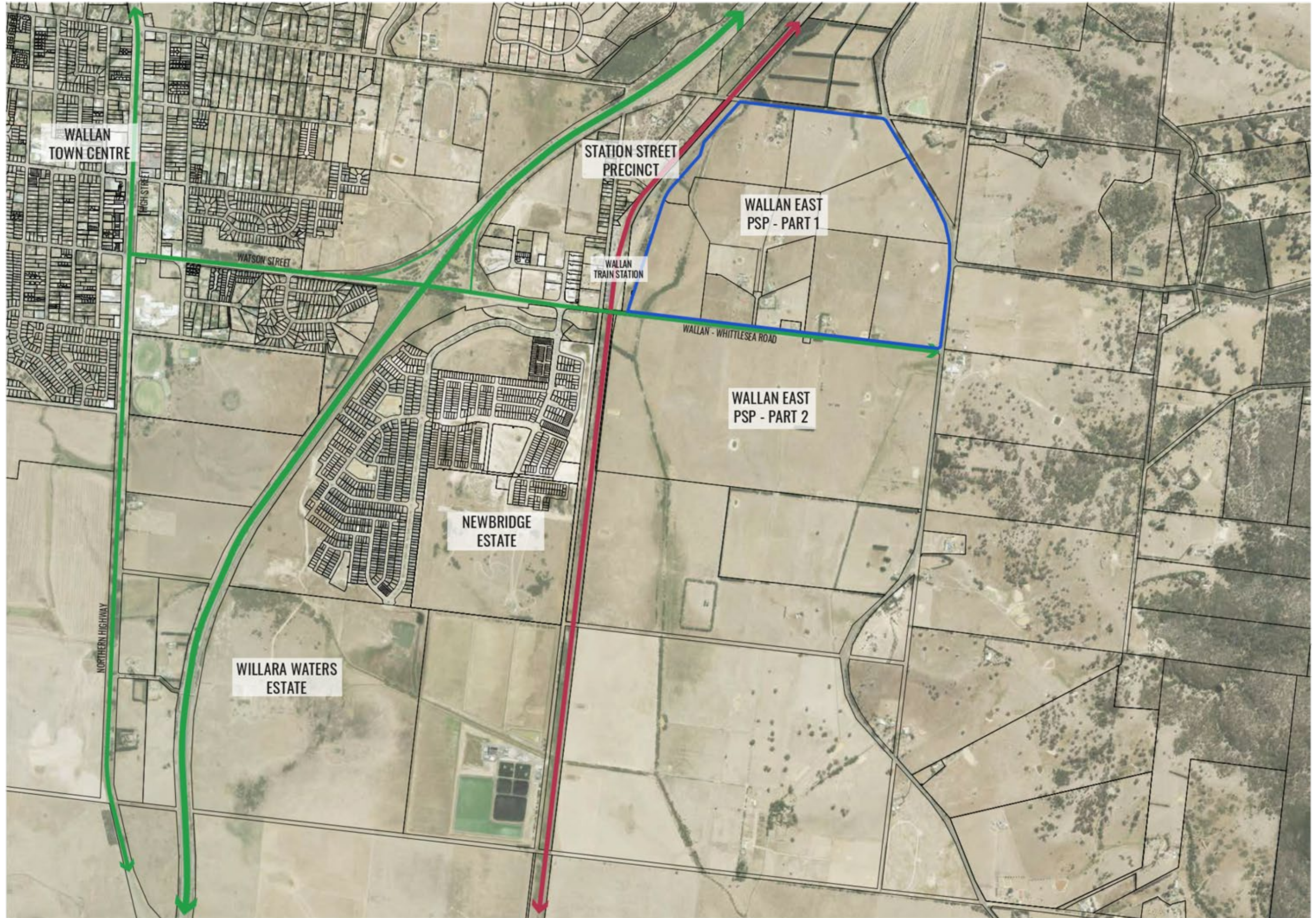
10.1 Risk Ranking is determined using [ROHS201-G1-Corporate Risk Matrix](#). Risk is identified as Low, Medium, High or Very High.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
The investigations identify a clear need for additional employment land	Medium	A formal council resolution will be required and should employment land be further pursued, Council will need to defend this position at any future planning panel process	Yes

WALLAN EAST - EMPLOYMENT NEEDS ASSESSMENT (CONT.)

11. Discussion

- 11.1 The Wallan East PSP (Part 1) has been in the preparation phase for 2-3 years.
- 11.2 It has been prepared based on a residential land use and will include localised amenity through a proposed primary school, open spaces and convenience retailing.
- 11.3 However, it is being prepared in a somewhat piecemeal manner in that the plan area is only considering land north of Wallan Whittlesea Road rather than all land east of the rail corridor (north and south of Wallan-Whittlesea Road).
- 11.4 Given the ever-changing policy context for this area, starting from the Logical Inclusions process, through to the Growth Corridor Plans, and now the emerging Land Use Framework Plans, there are a number of conflicting policy intentions for this land.
- 11.5 There are some challenges with this precinct, including its ability to effectively and viably deliver a new residential community however, it is noted that the Wallan train station abuts the PSP which provides enhanced accessibility to the area.
- 11.6 As a result of the challenges and emerging issues, an employment needs assessment is required to assist all key stakeholders, including Council, understand the future land use context.
- 11.7 The assessment is intended to provide factual information to assist in any future decision to alter the land use from residential to employment.
- 11.8 Once the investigations are completed, the findings will be shared with the VPA and landowners to assist in moving the planning for the precinct forward.



9.6 VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL HEARINGS AND ACTIVITIES CARRIED OUT UNDER DELEGATION

Author: David Bergin - Manager Development Approvals

File No: CL/04/004

Attachments: Nil

1. Purpose

- 1.1 The following is a summary of planning activity before the Victorian Civil and Administrative Tribunal (VCAT) as well as a list of decisions on planning permit applications dealt with under delegated powers for the period detailed.

2. Key Matters

VCAT Appeals

- 2.1 The following is an update of the VCAT appeals where a decision has not been made.

APPEAL DATE	REFERENCE NOS.	ADDRESS	PROPOSAL	APPEAL AGAINST
17, 18 & 19 May 2023	VCAT - P1673/2022 Council – PLP407/21	8 Eden Place, Wallan	Multi dwelling development (24 houses).	Appeal against Council's failure to determine a planning permit.
27 April 2023	VCAT – P1487/2022 Council – PLP253/20	19-21 Darraweit Road, Wallan	Development of the land for multiple (27) dwellings.	Appeal against Council's refusal to grant a planning permit.
5 & 8 May 2023	VCAT - P1442/2022 Council – PLP125/21	360 The Bridle Track, Glenaroua	Staged multi lot subdivision and native vegetation removal.	Appeal against Council's refusal to grant a planning permit.
30 June 2023	VCAT – P1715/2022 Council – PLP003/22	41 Sanctuary Road, Tallarook	Four lot subdivision	Appeal against Council's condition on a planning permit.

VCAT Decisions Since Last Report

- 2.1 P11219/2021 – PLP6067/06.01 – 210 Tallarook-Pyalong Road, Tallarook
- The recent Tribunal Order regarding El-Gamal v Mitchell SC [2022] VCAT 129 upheld Council's decision to refuse changes to Condition 10 & 11 and deletion of Condition 12.

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL HEARINGS AND ACTIVITIES CARRIED OUT UNDER DELEGATION (CONT.)

- The original Permit allows for the use of the land for a place of assembly (annual music festival with ancillary uses for accommodation and a food and drink premises). The festival is permitted to be held over the Easter long weekend (Good Friday to Easter Monday) with no more than 2,000 people permitted on the site at any one time. More commonly referred to 'Our Friends Farm Environment and Entertainment Park'.
- Condition 10 relates to the hours of operation of the licensed premises. The requested amendment is to vary hours for the general licensed area. This is by an increase in the hours for the licensed premises to operate until 3am on all days. This is an extension from 1am, as the condition is currently worded.
- Condition 11 relates to the music program. The first three dot points in the condition limit music to 1am and allow an indoor disco between midnight and 3am on three festival days. The applicant does not seek to change the first three points of the condition, only to remove the word 'indoor' so that a disco can operate outdoors in three locations.
- The VCAT member determined that the impacts are not properly and/or fully documented and understood, and current Permit conditions do not provide an acceptable means to overcome the deficiencies. The amendments sought were therefore not approved.

3. Activities Carried out Under Delegation

3.1 A list of planning permit applications dealt with under delegated powers for the month of December 2022 is included below.

Permit No.	Address	Description of Permit	Decision	Date Approved
South Ward				
PLP424/22	615 Hume Freeway BEVERIDGE	Two lot subdivision	Planning Permit	09/02/2023
Central Ward				
PLP331/22	3 Barwon Drive WANDONG	Use and development of the land for a dwelling	Planning Permit	7/02/2023
PLP016/23	4 Swan Court Wandong	Development of the land for an outbuilding	VicSmart Planning Permit	10/02/2023
PLP331/21	94-96 Powlett Street KILMORE	Use and development of the land for a childcare centre and associated signage.	Planning Permit	8/02/2023
PLP092/22	39 Sutherland Street KILMORE	Development of the land for an extension to a building and partial	Planning Permit	10/02/2023

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL HEARINGS AND ACTIVITIES CARRIED OUT UNDER DELEGATION (CONT.)

Permit No.	Address	Description of Permit	Decision	Date Approved
		demolition of a building in a Heritage Overlay		
PLP313/22	6 Grange View KILMORE	Development of the land for an outbuilding	Planning Permit	10/02/2023
PLP433/22	21 Silvan Street WALLAN	Development of the land for a dwelling in a land subject to inundation overlay	Planning Permit	7/02/2023
PLP388/22	8 Juniperina Circuit WALLAN	Development of the land for a dwelling in a land subject to inundation overlay	Planning Permit	7/02/2023
PLP421/22	16 Juniperina Circuit WALLAN	Development of the land for a dwelling in a land subject to inundation overlay	Planning Permit	6/02/2023
PLP417/22	18 Raglan Street WALLAN	Development of the land for Community Centre Accommodation	Planning Permit	15/02/2023
PLP183/22	97 Hamilton Street KILMORE	Development of the land for multiple dwellings	Planning Permit	15/02/2023
PLP378/22	50 Kelby Lane WALLAN	Use and development of the land for a dwelling	Planning Permit	20/02/2023
PLP307/22	70 Stanley Street WALLAN	Development of the land for multiple dwellings	Planning Permit	20/02/2023
North Ward				
PLP386/21	90 Whitegate Road HIGH CAMP	Development of the land for a replacement dwelling and outbuildings in a Farming Zone	Planning Permit	3/02/2023
PLP017/23	66 High Street SEYMOUR	Development of the land for an outbuilding within the Heritage Overlay	VicSmart Planning Permit	10/02/2023
PLP312/22	410 Highlands Road SEYMOUR	Use and development of the land for agriculture and an agricultural building	Planning Permit	9/02/2023
PLP300/22	2 Station Street SEYMOUR	Two-lot subdivision	Planning Permit	10/02/2023
PLP306/22	38B Wimble Street SEYMOUR	Development of the land for a dwelling in a land subject to inundation overlay	Planning Permit	3/11/2022
PLP256/22	90 Whitegate Road HIGH CAMP	Use and development of the land for a store, associated earthworks and a dispensation to car parking requirements	Planning Permit	22/02/2023

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL HEARINGS AND ACTIVITIES CARRIED OUT UNDER DELEGATION (CONT.)

RECOMMENDATION

THAT the information in the report be received and noted.

10 EXECUTIVE SERVICES

Nil Reports

11 NOTICES OF MOTION

11.1 NOTICE OF RESCISSION: NO. 1036 - PLANNING PERMIT APPLICATION PLP099/22 FOR DEVELOPMENT OF THE LAND FOR MULTIPLE DWELLINGS AT 33 GEORGE STREET KILMORE

Author: Councillor Fiona Stevens
Councillor Louise Bannister
Councillor Rhonda Sanderson

File No: PLP099/22

Attachments: Nil

NOTICE OF RESCISSION

We hereby give notice of our intention to move the following motion at the Ordinary Council Meeting to be held on 20 March 2023.

MOTION

THAT Council rescind the following motion that was passed at the Ordinary Council meeting on 20 February 2023 for item 9.4 - Planning Permit Application PLP099/22 For Development of the land for multiple dwellings At 33 George Street Kilmore:

“THAT Council having complied with the relevant sections of the *Planning and Environment Act 1987*, issue a Planning Permit in respect of Application No. PLP099/22 for development of the land for multiple dwellings at 33 George Street, Kilmore, subject to the following conditions:

1. The development as shown on the endorsed plans must not be altered or modified unless otherwise agreed in writing by the Responsible Authority.
2. Construction activities must be managed so that the amenity of the area is not detrimentally affected through the:
 - a) transport of materials, goods or commodities to or from the land;
 - b) inappropriate storage of any works or construction materials;
 - c) hours of construction activity;
 - d) emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, reflection or glare, steam, soot, ash, dust, waste and storm water runoff, waste products, grit or oil;
 - e) presence of vermin; and
 - f) in any other way.to the satisfaction of the Responsible Authority.
3. All areas of disturbed ground must be stabilised and revegetated at the completion of the development to the satisfaction of the Responsible Authority.
4. Car spaces, access lanes and driveways must be kept available for these purposes at all times and maintained to the satisfaction of the Responsible Authority.

NOTICE OF RESCISSION: NO. 1036 - PLANNING PERMIT APPLICATION PLP099/22 FOR DEVELOPMENT OF THE LAND FOR MULTIPLE DWELLINGS AT 33 GEORGE STREET KILMORE (CONT.)

5. No fewer than one visitor car space must be provided on the land to the satisfaction of the responsible Authority.

Goulburn Valley Water

6. *Standard Water Authority Conditions.*

Engineering Conditions

Upgrade Requirements

7. Prior to the issue of the Occupancy Permit, unless otherwise agreed to in writing by the Responsible Authority, the permit holder must construct a minimum 1.5m wide concrete footpath along George Street frontage through to the existing along 36 George Street in accordance with Council's adopted design manual to the satisfaction of the Responsible Authority.
8. Prior to the issue of the Occupancy Permit, unless otherwise agreed to in writing by the Responsible Authority, the permit holder must construct kerb & channel with associated asphalt widening & drainage along Gipps Street frontage in accordance with Council's adopted design manual and to the satisfaction of the Responsible Authority.

Access Requirements

9. Prior to the issue of the Occupancy Permit, unless otherwise agreed to in writing by the Responsible Authority, the permit holder must provide suitable vehicle
 1. manoeuvrability that facilitates forward moving ingress and egress from the development site to the satisfaction of the Responsible Authority.
 2. Prior to the issue of the Occupancy Permit, unless otherwise agreed to in writing by the Responsible Authority, an internal driveway with a minimum width of 3m must be completed to an engineering sealed finish, to the satisfaction of the Responsible Authority.

Drainage Requirements

3. Prior to the issue of the Occupancy Permit, the permit holder must construct at no cost to Council, drainage works between the development and the Council nominated point of discharge, all to the satisfaction of the Responsible Authority
4. Prior to the issue of the Occupancy Permit, the subject must be connected to an underground drainage system including an on-site detention system to control flows to pre-development levels and treat stormwater wholly within the boundaries of the subject land, to the satisfaction of the Responsible Authority.

NOTICE OF RESCISSION: NO. 1036 - PLANNING PERMIT APPLICATION PLP099/22 FOR DEVELOPMENT OF THE LAND FOR MULTIPLE DWELLINGS AT 33 GEORGE STREET KILMORE (CONT.)

Construction Plan Requirements

5. Prior to the commencement of any works associated with the development, detailed construction plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The construction plans must be drawn to scale with dimensions. The plans must include:
 - a. Crossover details,
 - b. Turning movements demonstrating forward motion ingress & egress;
 - c. Driveway construction and drainage details including driveway grades and indication of fall, and
 - d. Underground drainage details, Overland flow path and supporting calculations.

6. Prior to the issue of the Occupancy Permit, all works as shown on the approved detailed construction plans must be carried out and completed to the satisfaction of the Responsible Authority.

Construction Management Plans

7. Before any works associated with the development start, a Construction Management Plan must be submitted to, and be to the satisfaction of the Responsible Authority. The Construction Management Plan must include details of:
 - a) Working hours;
 - b) Details of Site Environmental Controls;
 - c) Methods to contain sediment, dust, spillages, mud and debris within the subject land, and the method and frequency of clean up procedures;
 - d) A traffic management plan for both vehicle and pedestrian movements including working hours and after-hours signage;
 - e) A liaison officer to contact by residents and the Responsible Authority in the event of relevant enquiries or problems experienced with construction activity;
 - f) Details of stock pile areas, other proposed storage and a site office.

Reinstatement Requirements

10. Prior to issue of the Occupancy Permit, unless otherwise agreed to in writing by the Responsible Authority, all reinstatement works must be completed, and Asset Protection Permit must be finalised to the satisfaction of the Responsible Authority.

NOTICE OF RESCISSION: NO. 1036 - PLANNING PERMIT APPLICATION PLP099/22 FOR DEVELOPMENT OF THE LAND FOR MULTIPLE DWELLINGS AT 33 GEORGE STREET KILMORE (CONT.)

Landscaping

11. Detailed landscape plans are to be prepared by a suitably qualified landscape designer and submitted to the Responsible Authority for approval. Landscape plans are to include the following:
 - a) Plant schedule including botanical name, container size, mature height & width and quantities/density
 - b) Planting details
 - c) Relevant specifications
 - d) Reference the relevant Australian Standards
 - e) Nominate all surfaces, finishes and edge treatments
 - f) Be accurately scaled to show appropriate detail
 - g) Nominate a scale bar and widths of key features to assist in digital assessment of the plans
 - h) To ensure canopy closure and suppress weeds, garden bed species should be spaced at 75% of the mature width of the plant
 - i) The locations of any trees to be retained both on site and adjacent to the site, including details of the species, tree protection zones, tree protection measures and tree sizes, where required.
 - j) The locations of any street trees to be removed.
 - k) Existing naturestrip trees are to be identified on the plans and protected during all construction activity.

When approved, the landscape plan will form part of the permit.

12. All landscape works must be installed in accordance with the endorsed landscape plans before use of the site commences. When the landscaping works have been completed, written confirmation must be provided to the satisfaction of the Responsible Authority that landscaping has been undertaken in accordance with the endorsed landscape plans.
13. Nominate a street tree in George Street on the Landscape Plan. A street tree fee will be payable, for Council to plant street trees on the naturestrip of this development. The tree species will be determined by Council to enhance the existing or future streetscape masterplan. Payment of the street tree fee is required prior to commencement of works.
14. Prior to removal of any public/council trees, a tree replacement or Amenity value must be paid to the responsible authority, in line with Council's Urban Tree Management Policy to account for the loss of canopy and amenity to the community. Payment is required prior to commencement of works.

NOTICE OF RESCISSION: NO. 1036 - PLANNING PERMIT APPLICATION PLP099/22 FOR DEVELOPMENT OF THE LAND FOR MULTIPLE DWELLINGS AT 33 GEORGE STREET KILMORE (CONT.)

Waste

15. Provision must be made on the land for the storage and collection of waste and recyclables. This area must be graded and drained and screened from public view to the satisfaction of the Responsible Authority.

General

16. All external materials, finishes and paint colours must be non-reflective and finished in natural colours or shades to the satisfaction of the Responsible Authority.
17. All new walls on or facing the boundary of an adjoining property must be cleaned and finished to the satisfaction of the Responsible Authority.
18. No plant, equipment, services or architectural features other than those shown on the endorsed plans are permitted above the roof level of the building unless otherwise agreed in writing by the Responsible Authority.
19. All piping and ducting (excluding down pipes, guttering and rainwater heads) must be concealed from public view to the satisfaction of the Responsible Authority.
20. All areas of disturbed ground must be stabilised and revegetated at the completion of the development to the satisfaction of the Responsible Authority.

Expiry

21. This permit will expire if one of the following circumstances applies:
 - a) The development is not started within two years of the date of this permit.
 - b) The development is not completed within four years of the date of this permit.

The Responsible Authority may extend the permit if a request is made in writing in accordance with Section 69 of *Planning and Environment Act 1987*.

NOTICE OF RESCISSION: NO. 1036 - PLANNING PERMIT APPLICATION PLP099/22 FOR DEVELOPMENT OF THE LAND FOR MULTIPLE DWELLINGS AT 33 GEORGE STREET KILMORE (CONT.)

PERMIT NOTES	
Relevant Authority	Information provided to assist the applicant or owner
Council Building Unit	Please note that this approval does not constitute a Building Permit. You should enquire with Council's Building Services Unit on 5734 6230 to ascertain if a building permit is required for this proposal.
Council Engineering Services Unit	A legal point of discharge must be obtained from Council prior to the construction of the drainage. A road-opening permit must be obtained from Council's Engineering Services Unit before any vehicle crossover is constructed.

Signed: _____

Cr Fiona Stevens

Signed: _____

Cr Louise Bannister

Signed: _____

Cr Rhonda Sanderson

Date: 21 February 2023

11.2 NOTICE OF MOTION: NO. 1037 - EMERGENCY RELIEF CENTRE OPERATIONAL PLAN

Author: *Councillor Bill Chisholm*

File No: *CR/01/102*

Attachments: *Nil*

I hereby give notice of my intention to move the following motion at the Ordinary Council Meeting to be held on 20 March 2023.

MOTION

THAT officers provide a report to Council once the debrief of all organisations involved in the running of the Seymour Flood Relief Centre has occurred, (this especially applies to all of the volunteer community organisations).

- a) The report should outline the lessons learnt and any additional protocols and procedures to be incorporated into the standardised manual for the running of relief centres.
- b) A copy of this operational manual should be supplied to all organisations possibly involved in the running of a relief centre.

1. Officer Comment

- 1.1 The State Emergency Management Plan requires Council to establish and manage emergency relief centres to shelter members of the community displaced by an emergency including, but not limited to flood, fire, storm etc. Council does have a Standard Operating Procedure for its Emergency Relief Centres.
- 1.2 This Operating Procedure will be reviewed with input from the Municipal Emergency Management Planning Committee at the conclusion of the flood debriefs and Emergency Relief Centre training and exercise which is scheduled for April and May 2023.

Signed: _____

Cr Bill Chisholm

Date: 23 February 2023

11.3 NOTICE OF MOTION: NO. 1038 - HIDDEN VALLEY PLANNING SCHEME AMENDMENT

Author: *Councillor David Lowe*

File No: *CM/06/008*

Attachments: *Nil*

I hereby give notice of my intention to move the following motion at the Ordinary Council Meeting to be held on 20 March 2023.

MOTION

THAT Council officers prepare a report on the progress on, and the current status of, the Planning Scheme Amendment that was foreshadowed at the Ordinary Council meeting of June 2020.

1. Councillor Comment

- 1.1 Hidden Valley is a mixed development outside Wallan. It was planned in the late 1990s and comprises 1000 hectare development around a golf course, and other leisure facilities, originally planned to include approximately 950 dwellings. Each block has a set of design guidelines and constraints, not the least of which is a section 173 agreement. Not all the section 173 agreements are identical, but they do contain a large degree of commonality. One such aspect of this is the fact that all contain an absolute veto on subdivision. Many of the conditions within the section 173 agreements had some different conditions applied to the expiry dates and also a condition that the Council could take over the control and enforcement of these conditions.
- 1.2 The residents, as represented by an association, were particularly keen to not let the section 173 agreements lapse. In 2019 the Council planning officers chose to go in a different direction and have the section 173 agreements incorporated in a planning scheme amendment. Accordingly, money was budgeted for consultants to explore the options. This was reported to Council at the June 2020 Council meeting. It was subsequently agreed that a further budget would be made available to collate all the disparate section 173 agreements and distil the various conditions into a common and or desirable base. It is believed this work has been done and the funds expended but no report has been published or circulated.
- 1.3 During this latter part of the exercise regular meetings were scheduled and held with resident representatives to report on progress. This stopped with the introduction of COVID restrictions, and nothing further has been reported to the residents for the last year or so. The residents were also previously advised that, in the event of delays in the planning scheme

NOTICE OF MOTION: NO. 1038 - HIDDEN VALLEY PLANNING SCHEME AMENDMENT (CONT.)

amendment process, an interim solution would be put in place to ensure no section 173 agreements would lapse.

2. Officer Comment

- 2.1 A potential Planning Scheme Amendment to update planning controls across Hidden Valley has been explored. Additional information has become available since the Council report considered at the June 2020 Council Meeting.
- 2.2 Legal advice was obtained in February 2022. This advice reviewed a range of options available to council having regard to potentially transitioning the requirements of the Hidden Valley 173 agreements into the Mitchell Planning Scheme.

In providing this advice it was noted that Council had been previously advised that the agreement would expire. The subsequent advice provided to Council was that there was no defined expiry date, but more that it was at the discretion of Hidden Valley after the expiry of 10 years from the date of the agreement. The specific clause wording being as follows:

If at any time after the expiration of 10 years from the date of this Agreement, Hidden Valley no longer has a legal interest in the Site or the Development, and has not legally assigned its interest under this Agreement to a nominated successor for the purpose of the ongoing administration and enforcement of the Guidelines under Clauses 4 and 5, the Council may in its absolute discretion and without consultation with any party, and by notice in writing to the Owner of each Allotment:

- (a) assume the role of Hidden Valley under Clauses 4 and 5 of this Agreement; or
(b) unilaterally end the Agreement.*

The legal advice to Council if Council elected to take responsibility would be to transition the controls to a revised Comprehensive Development Zone via a planning scheme amendment process.

- 2.3 Also, Council would need to be satisfied that the matters proposed to be included and excluded from the Agreements in the proposed planning controls are deemed reasonable. Council would need to carefully consider the structure of the schedule to the Comprehensive Development Zone (CDZ) and what classes of development will require a planning permit.
- 2.4 An option could be to do a targeted separate character/ design guideline assessment for Hidden Valley. This would provide the strategic justification for the amendment but would need to be budgeted in the 23/24 FY.

Signed: _____

Cr David Lowe

Date: 08 March 2023

11.4 NOTICE OF MOTION: NO. 1039 - GIVING A VOICE TO PEOPLE WITH DISABILITIES

Author: *Councillor Rhonda Sanderson*

File No: *CR/01/001*

Attachments: *Nil*

I hereby give notice of my intention to move the following motion at the Ordinary Council Meeting to be held on 20 March 2023.

MOTION

THAT Council officers prepare a report investigating the possibility of creating an All Abilities Community Consultative Committee comprised of local residents living with disabilities.

1. Councillor Comment

- 1.1 The purpose of the Committee would be to provide a direct voice to Council from people with lived experience of disability in order to improve their quality of life.

2. Officer Comment

- 2.1 Councils Access and Inclusion Advisory Committee formed in 2013 to support the delivery of the Access and Inclusion Plan (2013-2017). In 2017 the A&I Plan was then consolidated into Mitchell Shire Social Justice Framework with the priority focus of **Equitable Access to Services – Supporting Vulnerability and Disability**. The formation of the Social Justice Advisory Committee meant that the Access and Inclusion Committee no longer existed as a standalone Advisory Committee but instead existing as a sub-committee from the Social Justice Advisory Committee.
- 2.2 Through extensive consultation with both internal and external stakeholders' further consolidation of our strategic plans have taken place and the Social Justice Framework has now been integrated into the Mitchell Health & Wellbeing Plan. The consultation regarding this consolidation was used with data collection and best practice evidence analysis to inform the plan and the plans priorities. An intersectional approach has been used throughout the development of the Health & Wellbeing Plan to ensure the Social Justice Framework priorities areas are being addressed in ALL priorities, goal and outcomes. The facilitation of Councils first Health & Wellbeing Advisory Committee took place in April 2022 and is convened on a quarterly basis. Both RIAC (Rights Information and Advocacy Centre) and Nexus Primary Health Diversity Officer attend these quarterly meeting.

NOTICE OF MOTION: NO. 1039 - GIVING A VOICE TO PEOPLE WITH DISABILITIES (CONT.)

Furthermore in addition to organisations who participate in the advisory committee Council continues to encourage the participation of community with lived experience.

- 2.3 Council has recently appointed a new Social Justice and Life Stages - Community Development Officer supporting the disability portfolio. This Officer will be working closely with our community facilitating projects and assisting in community sector consultation, program delivery, advocacy and supporting the community to build programs for the aged and those with disabilities.

Signed: _____
Cr Rhonda Sanderson

Date: 08 March 2023

12 DELEGATES REPORTS

Nil Reports

13 GENERAL BUSINESS

Nil Reports

14 URGENT BUSINESS**15 CONFIDENTIAL BUSINESS****RECOMMENDATION**

THAT in accordance with Section 66(1) and 66(2)(a) of the *Local Government Act 2020*, Council resolves to close the meeting to members of the public to consider the following items which relate to matters specified under Section 3(1), as specified below.

15.1 Confirmation of Minutes of previous Confidential Meeting

s3(1)h confidential meeting information, being the records of meetings closed to the public under section 66(2)(a)

The Minutes of the previous confidential meeting of Council contain information that has been determined by Council to be confidential in accordance with s3(1) of the Local Government Act 2020.

15.2 Contract No. 202194: Sydney Street Rejuvenation Project - Variation to Contract

s3(1)(a) Council business information, being information that would prejudice the Council's position in commercial negotiations if prematurely released, and s3(1)(g)(ii) Private commercial information, being information provided by a business, commercial or financial undertaking that if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage.

15.3 Purchase of land, Wallara Waters estate, as Part of the Wallara Waters Development Plan

s3(1)(a) Council business information, being information that would prejudice the Council's position in commercial negotiations if prematurely released.

15.4 Re-opening of Meeting to members of the public

16 DATE OF NEXT MEETING

The next Council Meeting is scheduled to be held on Monday 17 April 2023 online and at the Mitchell Council Chambers, 113 High Street Broadford, commencing at 7.00pm.

17 CLOSE OF MEETING