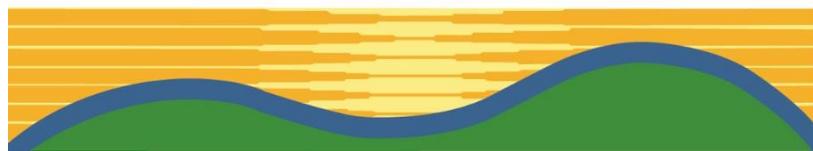


# MITCHELL SHIRE COUNCIL



## ORDINARY COUNCIL MEETING

### AGENDA

**MONDAY 18 NOVEMBER 2019**  
**7.00pm**

**NOTICE IS HEREBY GIVEN** that **Ordinary Council Meeting** of the Mitchell Shire Council will be held at **Mitchell Civic Centre, 113 High Street Broadford**, on **Monday 18 November 2019** commencing at **7.00pm**.

**DAVID TURNBULL**  
**CHIEF EXECUTIVE OFFICER**

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**1 WELCOME AND GOVERNANCE DECLARATION**

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

**2 APOLOGIES AND LEAVE OF ABSENCE****3 DISCLOSURE OF CONFLICTS OF INTEREST**

*In accordance with Section 79 of the Local Government Act 1989.*

**4 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS****RECOMMENDATION**

**THAT** the Minutes of the Ordinary Council Meeting held 21 October 2019, as circulated, be confirmed.

**5 PETITIONS AND JOINT LETTERS**

*In accordance with Clause 66 of the Meeting Procedure Local Law.*

**6 PRESENTATIONS**

*In accordance with Clause 65 of the Meeting Procedure Local Law.*

## 7 ADVOCACY AND COMMUNITY SERVICES

### 7.1 ADDITIONAL FEE CHARGES LOCAL LAWS

**Author:** Adam Evans - Local Laws Coordinator

**File No:** GS/01/011

**Attachments:** Nil

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#### SUMMARY

The Local Laws unit administers a number of fees and charges in relation to the work that it undertakes. All fees and charges are generally approved in each budget cycle. However, more recent discussions have centered around health and wellbeing of dogs in the municipality.

It is a legal requirement that all dogs aged over 12 weeks are registered. All Victorian Councils provide a “dog de-sexed registration” rate. To maintain the health and welfare of a dog, veterinarian advice is that a dog should be at least five (5) months of age prior to being de-sexed. This is in opposition to our current fee structure.

It is proposed that Council apply a new fee charge for “dogs under 12 months and not de-sexed” to accommodate those aged under 12 weeks and by introducing the new fee now, it will be introduced with the next pet registration schedule in April 2020 and allow for appropriate community education and communication.

The proposed fee charge for “dogs under 12 months” will improve animal welfare and increase the number of registered dogs in Mitchell Shire Council (MSC) which in turn will encourage responsible pet ownership through registration.

#### RECOMMENDATION

**THAT** Council adopt a new fee charge for “dogs under 12 months and not de-sexed” at the same rate as a De-sexed dog.

#### BACKGROUND

When registering a dog in Mitchell Shire Council over 12 weeks of age there are several challenges that are encountered that are not currently focused on “Responsible Pet Ownership” or the welfare of the dog.

A number of vets and dog interest groups have identified health issues when de-sexing a dog at a young age. The *Domestic Animals Act 1994* requires that all dogs and cats are to be registered at 12 weeks of age.

This resulted in a number of residents either choosing not to register their dog and if they did, the higher fee of \$220.00 (2018/19) be applied if the dog is over 12 weeks of age and not de-sexed.

## ADDITIONAL FEE CHARGES LOCAL LAWS (CONT.)

At present, if the higher fee is applied, MSC allows the dog owner to provide proof of de-sexing within three (3) months, which then requires in a refund being processed. The refund component takes Council a significant amount of administration time to process.

There are also a number of financial concerns for residents, to pay \$220 (2018/19) for the registration and then upwards of \$200 for de-sexing a dog, which is a significant financial burden for many people.

Whilst there have been no concerns raised in relation to de-sexing a cat at a young age, a new fee structure was approved by Council in the 2019/20 budget in line with the proposed "Cat Curfew". This fee structure reduced the registration cost for cats by 50%

**ISSUES AND DISCUSSION**

The Local Laws unit has tried to improve responsible pet ownership and welfare of dogs and cats, in line with registration in April, as well as reducing the financial burden on residents and make the process of registering a dog and cat easier.

It is proposed that a new fee structure be introduced where the resident can register a dog under 12 months of age at the de-sexed dog rate of \$36.

The resident must ensure prior to the following registration period to produce evidence of de-sexing to receive the de-sexed rate or the full fee will apply (\$220 2018/19).

This will also coincide with the current "Responsible Pet Ownership" initiatives by applying to register a dog prior to 12 weeks of age, where dog owners receive a registration fee of \$5 (not requiring the dog or cat to be de-sexed). This registration fee is one of the cheapest in Victoria.

The dog registration fee will default back to the not de-sexed rate until evidence is then produced by the owner at the start of each registration period for the de-sexed rate to be applied ongoing.

The *Domestic Animals Act 1994* determines when registrations are required to be paid. The registration period is 10 April of each year. The process of issuing the renewals for the 2020/2021 registration period is due to commence in January 2020. To wait for the inclusion of the fee in the next budget would delay the fee inclusion until 2021.

**CONSULTATION**

Consultation has taken place with the Domestic Animal Management Planning Committee that was set up with the implementation of Mitchell Shire Council's Domestic Animal Management Plan 2017-2021. The Committee fully support the implementation of the new charge. The introduction of this new fee outside of the

## ADDITIONAL FEE CHARGES LOCAL LAWS (CONT.)

normal fees and charges cycle allows for introduction with the next pet registration process in 2020.

**FINANCIAL, RESOURCE AND ASSET MANAGEMENT IMPLICATIONS**

The relevant figures for the 2018/19 financial year are as follows;

<b>New dog registrations</b>	<b>Number of new registrations &lt;12 months that paid the full fee of \$220 applied</b>	<b>Number of refunds applied</b>	<b>Financial Cost to Council by applying the new fee structure</b>
1416	184	15	\$37,180

Based on the 2018/19 Financial Year, the financial loss to Council is noted as \$37,180 through the application of the new fee structure. This will be offset by an increase in owners registering their dogs under 12 months that would not have registered their dog due to the cost.

Dog and cat registration revenue over the past three (3) years and predicted 2019/20;

<b>2016/17 FY</b>	<b>2017/18 FY</b>	<b>2018/19 FY</b>	<b>2019/20 forecast</b>
\$364,549	\$414,696	\$446,000	\$470,000

The revenue from dog and cat registrations has increased from previous years. This is due to population growth and further focus on community engagement.

**BENEFITS TO COMMUNITY**

There will be significant benefits for MSC community with the proposed new fee. These benefits will include;

- An increase in the number of dogs registered and being returned home when lost
- “Responsible Pet Ownership” will be encouraged through cheaper registrations being applied in the first instance
- Allowing owners more time to de-sex their dog
- Happier healthier dog by not requiring the dog to be de-sexed at such an early age
- Reducing the financial burden on residents, applying expensive registration requirements and finding the funds to then de-sex their dog

**BENEFITS TO COUNCIL**

There are also a number of benefits for Council, these include:

- Reduced administrative functions required to complete registration refunds
- Reduction of dogs taken to the pound as registered dogs can be returned home
- Encouraging responsible pet ownership through reduced registration fees

## ADDITIONAL FEE CHARGES LOCAL LAWS (CONT.)

- Community engagement through proactive and responsive fee structures that meet community needs
- Being able to return dogs home as a result of increased registrations

**PROACTIVE COMMUNICATION**

The aim is to proactively communicate with MSC residents of the new fee structure and the benefits of registering a dog and cat early.

The charges taking into consideration that the long-term benefits for Council, where the general lifespan of a dog and cat is 10 years, by making the process easier and cheaper and will lead to increased registration revenue overall.

**POLICY AND LEGISLATIVE IMPLICATIONS**

In line with the requirements of the *Domestic Animals Act 1994*.

Our Local Law Section 43. Fees sets out the following:

**43.1** The Council may, from time to time, by resolution determine fees for the purposes of this local law.

**43.2** In determining any fees and charges, the Council may establish a system or structure of fees and charges, including a minimum or maximum fee or charge.

**43.3** The Council may waive or alter a fee with or without conditions.

**SUSTAINABILITY IMPLICATIONS (SOCIAL AND ENVIRONMENTAL)**

Nil

**CHARTER OF HUMAN RIGHTS IMPLICATIONS**

The rights protected in the *Charter of Human Rights and Responsibilities Act 2006* were considered in preparing this report and it's determined that the subject matter does not raise any human rights issues.

ADDITIONAL FEE CHARGES LOCAL LAWS (CONT.)

### **OFFICER DECLARATION OF CONFLICT OF INTEREST**

No officers involved in the preparation of this report have any direct or indirect interest in this matter.

### **CONCLUSION**

Animal welfare is important to MSC. Providing dog owners time to de-sex their dog but still allowing cheaper registration will be beneficial to the dog's welfare and the owner's financial position.

An increase in dog and cats registered, will improve return rates with more dogs and cats being identified and returned home in the first instance.

That Council adopt the new charge "dogs under 12 months and not de-sexed" on an ongoing basis as recommended.

## 7.2 RESPONSE TO NOM 968 - FIRE SEASON

**Author:** Adam Evans - Local Laws Coordinator

**File No:** CM19/171

**Attachments:** Nil

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### SUMMARY

This report responds to a Notice of Motion (NOM) No. 968 which was raised at the Ordinary Council Meeting held on the 16 September 2019.

The report considers the proposed measures to be implemented for the coming fire season in relation to town entrances outside the 60 km zones. It explores the issues relating to town entries at Pyalong and Kilmore in particular and recommends that Council enters into a legally binding agreement with Regional Roads Victoria (RRV) to undertake beautification works specifically for these towns.

This report also highlights some of the key challenges with dealing with a public authority on matters pertaining to their land.

### RECOMMENDATION

**THAT** Council:

1. Continue with its current Municipal Fire Prevention slashing and spraying regime on Council managed land.
2. Inspect public authority land as required or when concerns are raised
3. Send a letter to the Chief Executive Officer of the public authority, if fire hazards are observed.
4. In accordance with Section 46 of the *Country Fire Authority Act 1958*, if no action is taken by the public authority by the due date, the matter will be referred to the Chief Fire Officer for consideration.
5. Enter into an agreement with Regional Roads Victoria to undertake aesthetic works at the town entries of Kilmore and Pyalong.
6. Allocate \$50,000 per annum to maintain the town entries.
7. Explore other town entries/gateways that may require attention and add them to Council's maintenance program.

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RESPONSE TO NOM 968 - FIRE SEASON (CONT.)

## BACKGROUND

The Council Resolution relating to NOM. 968 Fire Season is set out below:

*THAT Council officers prepare a report for the November 2019 Council meeting on the proposed measures they intend to implement for the coming fire season.*

*Specifically:*

*1. How are Council going to address the roadside areas of the rural/urban interface of Mitchell Shire towns and smaller communities outside the 60km speed zones?*

*2. How will NOM 782 as adopted by Council on 14 July 2014 be implemented for the coming fire season. This report highlighted procedures for Council officers to follow for the elimination/mitigation of fire hazards identified on government/agencies controlled land.*

### Mitchell Shire Council Roadside Management Responsibility

Mitchell Shire Council is responsible for managing 1500 kilometers of roadside. This responsibility includes activities that must be undertaken in accordance with the *Country Fire Authority Act 1958* (CFA Act), which sets out, among other things, the duties and powers of councils and public authorities in relation to fire. Section 43 is set out below:

#### ***Section 43 Duties and powers of councils and public authorities in relation to fire***

- (1) *In the country area of Victoria, it is the duty of every municipal council and public authority to take all practicable steps (including burning) to prevent the occurrence of fires on, and minimise the danger of the spread of fires on and from—*
- (a) *any land vested in it or under its control or management; and*
  - (b) *any road under its care and management.*

Council ensures that, in accordance with the *CFA Act 1958*, its responsibilities are achieved through the identification of strategic municipal fire prevention roadside slashing and spraying activities. The roadside slashing and spraying activities for the purpose of municipal fire prevention are undertaken in consultation with community and the CFA.

Whilst it is noted that some minor works are performed outside the 60km zones on land that is in the management of another public authority being Regional Roads Victoria (RRV), these works are conducted for the purpose of beautification of Council small town entrances by Council's Operations and Parks Department.

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RESPONSE TO NOM 968 - FIRE SEASON (CONT.)

## ISSUES AND DISCUSSION

### Response to NOM Part 1

*How are Council going to address the roadside areas of the rural/urban interface of Mitchell Shire towns and smaller communities outside the 60km speed zones?*

Where MSC is the responsible authority for the management of roadsides and road reserves outside the 60km speed zones, works for the purpose of municipal fire prevention will be undertaken to ensure that it;

- 1 Reduces the risk of fire escaping the roadside and road reserve.
- 2 Mitigate the risk of fires escaping Council managed land.
- 3 Provides fire breaks.

By conducting the above activities Council fulfils its obligation under relevant legislation.

For the purpose of Municipal Fire Prevention Slashing or Spraying activities Council will not conduct any works on any land managed by or is the responsibility of another public authority until such time as a legal binding agreement is in place to ensure Council's liability is negated.

### Response to NOM Part 2

*How will NOM 782 as adopted by Council on 14 July 2014 be implemented for the coming fire season. This report highlighted procedures for Council officers to follow for the elimination/mitigation of fire hazards identified on government/agencies-controlled land.*

Notice of Motion 782 as adopted by Council on the 14 July 2014, provided the following process as a mechanism to deal with fire hazards on land managed by a public authority;

- *The property is inspected and if the Municipal Fire Prevention Officer believes that the land is a fire hazard a letter is sent to the Chief Executive Officer of the public authority. This letter will inform the public authority of Council's assessment including remedial action required and a date that this action needs to be completed (this information will be similar to what is included on a fire prevention notice sent to a private landowner). It will also include advice that if no action is taken the matter will be referred to the Chief Fire Officer.*
- *If no action is taken by the due date a letter is forwarded to the Chief Fire Officer outlining Council's assessment and a copy of the letter sent to the relevant public authority.*

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RESPONSE TO NOM 968 - FIRE SEASON (CONT.)

- *Whilst this will satisfy Council's legal requirements, in the event the land has an extreme fire risk Council should also consider the consequences associated to the rest of the community if action is not taken. In some circumstances it may be appropriate to have the fire hazard removed at Council's expense and follow up with the public authority for payment.*

The first two (2) items can be achieved through Council's current fire management processes. However, point three (3) listed above cannot be achieved unless a legal binding agreement has been reached with RRV. Without an agreement in place, no activities can be undertaken on roadsides or land managed by RRV or other public authorities for the purpose of municipal fire prevention.

Arrangements can be made to transfer road management functions in accordance with Section 15 of the *Road Management Act 2004*, which in part states;

**15 Arrangements to transfer road management functions**

- (1) *A road authority may enter into an arrangement with another road authority, a utility or a provider of public transport to transfer a road management function of the road authority that would otherwise apply under section 36 or 37 with respect to a road to the other road authority, the utility or the provider of public transport.*

Whilst Council can enter into an agreement with a public authority to undertake fire prevention works on their land, there are no provisions that allow Council to charge these costs back to the public authority. Effectively the third part of NOM 782 cannot be enforced under existing legislation, however whilst unlikely, it may be possible under an agreement. Council could seek to enter into an agreement to conduct works on land managed by another public authority and require payment for carrying out fire hazard removal works on that land as part of the agreement. It is likely though that the requirement for repayment would jeopardise reaching a legal binding agreement.

There are considerable risks for Council in taking on responsibility for RRV roadsides. Legal advice provided by the Municipal Association of Victoria (MAV) noted that where council decides to take on additional responsibility in relation to RRV roadsides, it will always have a greater exposure to liability as it is taking on further responsibility. Without a legal binding agreement in place Council may be placed at risk. Council would be responsible for any loss or damage arising from its actions. It may also be liable for loss or damage arising from its omissions where it is seen to have taken on responsibility for the roadside.

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RESPONSE TO NOM 968 - FIRE SEASON (CONT.)

Given this is the case, Council should only consider specific areas of RRV roadsides that it would consider managing. With this in mind, Council Officers are working with legal representatives to prepare a binding agreement to propose in negotiations with RRV. This agreement would state that works will be conducted by MSC for the purpose of improving aesthetics outside of the 60km zones of our townships. This is to assist in maintaining a higher presentation standard of a two of the Shires towns i.e. Pyalong and Kilmore and potentially other areas. It is important to note that until an agreement has been reached with RRV, no work within this scope can commence.

Specific works suggested to be undertaken in the first instance are;  
Kilmore - Town entrance to the roundabout on the Northern Highway,  
Pyalong - The 80km zone through Pyalong.  
Further

Cost incurred with these works will be borne by Council, assuming that RRV will not agree to reimbursement of Council's costs.

## RESPONSIBILITY

Whilst the NOM 782 seeks to require Council to take action to remove a fire hazard under another authorities' roadside management, there is a legislative response for failure to comply with the *CFA Act*. In part the *CFA Act* states that;

### ***Section 46 Failure by public authority etc. to observe provisions of this Act***

*Where the Authority upon the report of the Chief Officer or other officer exercising the powers of the Chief Officer is satisfied that the powers and duties conferred and imposed by this Division upon any administrative unit or public authority or upon any officer thereof or upon any municipal council are not being properly and efficiently carried out on and in relation to any land vested in or under the management or control of such administrative unit public authority or municipal council or on and in relation to any road the maintenance of which is charged upon such administrative unit public authority or municipal council, the Authority shall report thereon to the Governor in Council, and thereupon the Governor in Council may take such action in the matter as he thinks fit.*

## RESPONSE TO NOM 968 - FIRE SEASON (CONT.)

It is recommended that where a fire hazard is observed on RRV land that a letter be written to the Chief Officer detailing the area of concern and requesting immediate action to remove the fire hazard. It is also recommended that, in accordance with Section 46 of the *CFA Act*, if no action is taken by the RRV by the due date, the matter will be referred to the Chief Fire Officer for consideration.

**CONSULTATION**

The Municipal Association of Victoria (MAV) were consulted in relation to the Notice of Motion.

Legal advice is being sought from Russell Kennedy Lawyers to facilitate a legal binding agreement with RRV.

**FINANCIAL, RESOURCE AND ASSET MANAGEMENT IMPLICATIONS**

Legal advice and drafting of a legal binding agreement are estimated to be between \$4000 and \$6000.

If any works are to be undertaken by Council for beautification on land owned by a public authority this cost would need to be covered by Council. The beautification works related to Kilmore and Pyalong are estimated at around \$50,000 per annum.

**POLICY AND LEGISLATIVE IMPLICATIONS**

Council has no authority to issue a Fire Prevention Notice to another public authority. Council also has no authority to request payment of works carried out on land that is managed by a public authority.

**RISK IMPLICATIONS**

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?
Conducting works on Vic Roads (RRV) without a legal binding agreement	Very High	Prepare a legal binding agreement	Yes
Conducting works on Vic Roads, without sufficient public liability	Very High	Ensure that works to be performed on another public authority land has adequate public liability	No

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RESPONSE TO NOM 968 - FIRE SEASON (CONT.)

### **SUSTAINABILITY IMPLICATIONS (SOCIAL AND ENVIRONMENTAL)**

Nil

### **CHARTER OF HUMAN RIGHTS IMPLICATIONS**

The rights protected in the *Charter of Human Rights and Responsibilities Act 2006* were considered in preparing this report and it's determined that the subject matter does not raise any human rights issues.

### **CHILDREN AND YOUNG PEOPLE IMPLICATIONS**

Nil

### **OFFICER DECLARATION OF CONFLICT OF INTEREST**

No officers involved in the preparation of this report have any direct or indirect interest in this matter.

### **CONCLUSION**

At present there is a clear delineation of responsibility between Council and RRV regarding roadside management. Council has concerns regarding the public authority's level of maintenance of these roadsides in regard to fire safety. If Council chooses to take on fire management of these roadsides it has no authority to charge RRV for these costs and is unlikely to reach agreement for these costs to be reimbursed.

Council will continue with its current municipal fire prevention processes on Council managed land and undertake inspections of public authority land as required. If this land presents a fire hazard a letter will be sent to the Chief Executive Officer of the public authority.

In accordance with section 46 of the *CFA Act* if no action is taken by the due date by the public authority, the matter will be referred to the Chief fire Officer for consideration and possible action.

It is recommended that Council undertake work on the town entrances of both Kilmore and Pyalong in the first instance, to ensure that they aesthetically pleasing and welcoming for communities and visitors and enter into an agreement with RRV accordingly.

### 7.3 MITCHELL SHIRE LIFE STAGES STRATEGY

**Author:** Sarah Fisher-Cooke - Partnerships Officer

**File No:** CS/19/005

**Attachments:** 1. Mitchell Shire Life Stages Strategy

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#### SUMMARY

The Mitchell Shire Life Stages Strategy (Attachment 1) emphasises the importance of all ages and stages of life and acknowledges the intergenerational setting within which our community sits. Through this Strategy, Council seeks to recognise and respond holistically to the needs of all people across the life stages and provide directed attention at key moments of transition.

The vision of the Mitchell Shire Life Stages Strategy is that people are valued, supported, connected and well as they transition through the life stages. This Strategy is aspirational, aiming to nurture Mitchell Shire as a place where locals are proud to live, learn, work and play.

The Mitchell Shire Life Stages Strategy has three focus areas:

- **Focus Area 1:** Mitchell Shire Council aims to positively influence living, cultural and environmental conditions, that impact the health, wellbeing and safety of the population.
- **Focus Area 2:** Mitchell Shire Council aims to improve access and opportunities for local education, volunteering, employment pathways and business development.
- **Focus Area 3:** Mitchell Shire Council aims to maintain strong partnerships and enhance the planning, integration and quality of services and infrastructure provision.

It identifies 20 aspirations that reflect the three focus areas. The focus areas and aspirations form the base to a four-year action plan.

The Mitchell Shire Life Stages Strategy builds on and is informed by the aspirations and outcomes in: the Council Plan, Municipal Public Health and Wellbeing Plan, and the Municipal Strategic Statement. It is underpinned by the principles and approach outlined in the Mitchell Shire Council Social Justice Framework.

#### RECOMMENDATION

**THAT** Council adopt the Mitchell Shire Life Stages Strategy.

MITCHELL SHIRE LIFE STAGES STRATEGY (CONT.)

## **BACKGROUND**

The Mitchell Shire Life Stages Strategy consolidates and builds upon three previous strategic plans:

- Mitchell Shire Early Years Plan 2012-2016
- Mitchell Shire Youth Strategy 2014-2017
- Mitchell Shire Living Well for Life Strategy 2014-2018.

It addresses identified gaps incorporating a focus on children (aged 6-11 years of age) and adults (25-64 years of age).

The integration of the above Plans/Strategies aims to reduce duplication of:

- Annual action plans
- Reporting
- Presentations
- Advisory Committees and
- Resources.

Local government has a role and responsibility to improve the overall quality of life of people, fostering community cohesion and encouraging active participation in civic life.

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**MITCHELL SHIRE LIFE STAGES STRATEGY (CONT.)**

Local government is well-placed to lead a life staged approach due to its connections, functions and collaboration to community and other key stakeholders/partners.

Importantly, the Mitchell Shire Life Stages Strategy is a tool for Mitchell Shire Council staff and external partners to apply a life stage approach to co-designing and planning for services, places and spaces that support people's wellbeing.

**ISSUES AND DISCUSSION**Development of the Mitchell Shire Life Stages Strategy

The Mitchell Shire Life Stages Strategy is informed and influenced by:

- International, National, Victorian and local policies and frameworks
- Our experience in service and program delivery
- Stakeholder consultations with a broad range of community members and organisations (eg. service providers) through workshops and a survey (on-line and hard copy)
- Review of relevant previous community surveys (Community Wellbeing, Youth Survey, Aged Friendly Communities Project, Your Budget Ideas)
- Research and demographic data analysis.

The Life Stages

There are common needs, issues and transitions that typically occur and correspond to each of the five key life stages. The five life stages are:

- Infants to preschool (0-5 years of age)
- Childhood (6-11 years of age)
- Young people (12-24 years of age)
- Adults (25-64 years of age)
- Older people (65+ years of age)

Implementation

The three focus areas and aspirations form the base of a four-year action plan that identifies Council's role as a provider, facilitator and advocate that focuses on services, places and spaces that support community members across all the life stages.

The action plan will be reviewed every four years, to enable the plan to be current and reflect the changing needs of the Mitchell Shire community, changes in policy developments and to reflect best practice and approaches.

**CONSULTATION**

The Mitchell Shire Life Stages Strategy consultation period was open from 16 July to 2 September 2019 and included consultation with community members, organisations and stakeholders through a range of engagement methods:

## MITCHELL SHIRE LIFE STAGES STRATEGY (CONT.)

- Life Stages Community Survey
- Life Stages Service Provider Survey
- Presentations and discussions at events
- Presentations and discussions at stakeholder workshops and meetings.

The key findings from the consultation period are included in the Strategy. The action plan has been informed by the community consultation data and prioritises the aspirations that are most important to the community.

The Mitchell Shire Life Stages Strategy has also been informed by numerous previous consultation findings, including:

- Community Wellbeing Survey 2017
- The kindergarten art project “I feel safe when...” 2017
- Youth Survey 2017
- Age Friendly Communities Project 2018
- Your Budget Ideas 2019-2020
- Our Lady of the Way Primary School Questionnaire August 2019.

**FINANCIAL, RESOURCE AND ASSET MANAGEMENT IMPLICATIONS**

The development of the Mitchell Shire Life Stages Strategy has been undertaken within existing resources. There may be some modification to the resourcing and alignment of advisory committees and steering committees in this process to streamline activities and avoid duplication.

**POLICY AND LEGISLATIVE IMPLICATIONS**Local Context

The Mitchell Shire Life Stages Strategy adopts a whole of Council approach and informs practice across key Council policy, action plan and commitment areas, including:

- Mitchell Shire Council Plan 2017-2021
- Mitchell Shire Municipal Public Health and Wellbeing Plan 2017-2021
- Mitchell Shire Social Justice Framework 2017-2021
- Mitchell Shire Council Community Engagement Framework
- Mitchell Volunteer Framework
- Mitchell Shire Open Space Strategy 2013-2023

## MITCHELL SHIRE LIFE STAGES STRATEGY (CONT.)

- Mitchell Shire Library Learning Strategy 2014-2024
- Mitchell Shire Integrated Community and Services Infrastructure Plan 2019 (draft)
- Mitchell Environment Strategy 2014-2024

State Context

Victorian legislation relevant to the health and wellbeing of different life stages include:

- *Victorian Home and Community Care Act 1985*
- *Aged Care Act 1997*
- *Victorian Equal Opportunity Act 2010*
- *Children, Youth and Families Act 2005*
- *Health (Commonwealth State Funding Agreement) Act 2012*
- *Child Wellbeing and Safety Act 2005*
- *Charter of Human Rights and Responsibilities Act 2006*
- *Disability Act 2006*
- *Local Government Act 1989*
- *Public Health and Wellbeing Act 2008*
- *Mental Health Act 2014*

**SUSTAINABILITY IMPLICATIONS (SOCIAL AND ENVIRONMENTAL)**

The implementation of the Mitchell Shire Life Stages Strategy ensures the social sustainability of the Mitchell community is considered through a collaborative and community driven focus.

**CHARTER OF HUMAN RIGHTS IMPLICATIONS**

The rights protected in the *Charter of Human Rights and Responsibilities Act 2006* were considered in preparing this report and it's determined that the subject matter does not raise any human rights issues.

**CHILDREN AND YOUNG PEOPLE IMPLICATIONS**

The Mitchell Shire Life Stages Strategy recognises it is vitally important to support people within the early life stages (infants to preschool, childhood and young people) and their families. It highlights that attention given to the early life stages through support, services and infrastructure will improve and enrich the health and wellbeing

MITCHELL SHIRE LIFE STAGES STRATEGY (CONT.)

of individuals throughout the life stages, and in turn positively impact the community as a whole.

### **OFFICER DECLARATION OF CONFLICT OF INTEREST**

No officers involved in the preparation of this report have any direct or indirect interest in this matter.

### **CONCLUSION**

Adopting a life stages approach allows better support around key moments of transition and recognises the importance of family, community, culture and place. It provides increased opportunities for holistic, integrated actions that create supportive and healthy environments for all people throughout their life.

The Mitchell Shire Life Stages Strategy has been developed following a comprehensive research and consultation process. The Strategy aligns closely with the Council Plan 2017-2021 and the Municipal Public Health and Wellbeing Plan 2017-2021. It outlines focus areas and aspirations that will aim to ensure that all people are valued, supported, connected and well as they transition through the life stages.

Progress can only be made with sustained partnership and collective efforts. This Strategy will assist Council to work more collaboratively with service providers, policy makers and community.

A four-year action plan is being developed to be implemented in January 2020.

#### 7.4 TALLAROOK MECHANICS INSTITUTE KITCHEN INSTALLATION

**Author:** *Jo Wilson - Manager Community Strengthening*

**File No:** *CP/10/009-04*

**Attachments:** *Nil*

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#### SUMMARY

The Tallarook Mechanics Institute (TMI) was a building of significance to the local Tallarook community. Established in 1891, the Mechanics Institute and former Free Library was a continuous hub of community activities in Tallarook. It is located on land owned by Mitchell Shire Council (MSC), which also owns the building. The TMI is managed through a community-based Committee of Management (CoM).

On Saturday 5 May 2018, the community was devastated when a fire destroyed most of the building. Independent building surveyor and heritage advice was sought but unfortunately the building had to be demolished.

The building was insured to cover like-for-like replacement of the original structure. Significant community consultation has been undertaken to understand the needs of the community and to ensure the new building is able to honour the heritage and community value of the original site but also produce a building that can support the needs of the community now and into the future.

The community has been offered a second-hand commercial quality kitchen as a donation. The installation of the second-hand kitchen would replace the kitchen that has been designed into the re-build which is of domestic quality only. The proposed installation of the second-hand kitchen is at a domestic level only but would provide full stainless-steel benchtops and cabinetry as well as commercial quality oven, stove and rangehood.

At a community meeting on Thursday 24 October 2019, the majority of community members in attendance voted that their preference was the installation of the secondhand kitchen.

As the TMI is a Council owned building, the approval for the installation of the second-hand kitchen outside of the insurance re-build approval and contract must be sought as a resolution through Council.

#### RECOMMENDATION

**THAT** Council:

1. Approve the installation of the second-hand kitchen to a domestic level
2. Approve any costs caused by revision of electrical drawings or any additional costs that may be incurred due to the kitchen installation to be covered by the Tallarook Mechanics Institute Committee of Management, not Mitchell Shire Council

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TALLAROOK MECHANICS INSTITUTE KITCHEN INSTALLATION (CONT.)

## **BACKGROUND**

On Saturday 5 May 2018, the TMI was destroyed by fire caused by an electrical fault. The remains of the building were demolished within days of the incident.

Whilst well-insured, recreating the building in a manner which honors its social capital and rich history but also considers a range of new opportunities has required significant community consultation. The local Member of Parliament, Jaclyn Symes, announced government funding of \$200,000 to assist the community to achieve an innovative outcome with the final design. These funds are administered through the Department of Environment, Land, Water and Planning (DELWP).

An architect was appointed to work with the community to achieve a design that best meets the needs of the community and will work flexibly into the future. The final design was outside of the like-for-like scope covered by the Council insurance policy. Therefore \$11,594.93 of additional works will be paid for out of the DELWP grant, along with the architect fees. The remaining DELWP funds will be used for audio visual enhancement as advised by Regional Arts Victoria and for building fit out.

Agreement has been reached with the insurance company and the nominated builder Bay Builders and a contract has been signed between Bay Builders and Council.

## **ISSUES AND DISCUSSION**

The building contract has been finalised and agreed upon. The community has been offered a donated commercial quality second-hand kitchen to be installed at the TMI. There has been extensive discussion about the installation of a second-hand kitchen as part of the re-build process. Whilst the community has agreed that the kitchen would be installed to a domestic level only, the flexibility of a stainless-steel kitchen and commercial quality appliances provides the building and CoM the opportunity to broaden the scope of activities offered from the site. Some of the suggested activities have been local start up businesses utilising the space, programs for disengaged youth and the ability to run functions and events.

The kitchen has been donated by a company called Vicinity and it was previously used at a commercial site at the Emporium building in the Melbourne Central Business District. The kitchen is approximately five years old and includes full stainless-steel benchtops and cabinetry, a commercial quality oven, stove and rangehood, fridges, freezers and zip boiler. The oven has been fully cleaned and converted to LPG connections.

However, the building contractor has been reluctant to install a second-hand product due to issues with warranty. Agreement is still being negotiated for the builder to install the donated kitchen. The agreement is dependent upon the associated appliances being fully certified for installation and the Municipal Building Surveyor approving the changes to the submitted permit.

If agreement regarding the installation of the second-hand kitchen cannot be reached with Bay Builders, the designated kitchen area will be left vacant for future installation

## TALLAROOK MECHANICS INSTITUTE KITCHEN INSTALLATION (CONT.)

of the second-hand kitchen. This would be undertaken at the cost of the TMI CoM and completed by a certified builder.

There may also be some associated additional costs with having to revise electrical drawings. If the insurance company will not cover these costs, this will be covered by the CoM. The DELWP funding grant cannot be used for this purpose.

**CONSULTATION**

Significant consultation has been undertaken with the Tallarook community since the fire in May 2018. The majority of community members who have been involved in the re-build process have advised that their preference is to have the second-hand kitchen installed.

**FINANCIAL, RESOURCE AND ASSET MANAGEMENT IMPLICATIONS**

The TMI re-build is covered through the Mitchell Shire insurance policy. Additional value-added out of scope items have been funded through a DELWP grant. The insurance has advised that there will be no discount for not using the domestic assigned kitchen.

Any additional costs that may be associated with the installation of a second-hand kitchen if approved by Council will be borne by the CoM. The DELWP grant cannot be used for this purpose.

Ongoing replacement of any items such as appliances would be at the cost of Council as per the maintenance and upkeep of Council assets.

**POLICY AND LEGISLATIVE IMPLICATIONS**

Nil

**RISK IMPLICATIONS**

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

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
Builder will not install a second-hand product	High	CoM will undertake installation at their cost with a certified builder	CoM resources
Secondhand appliances fail	Medium	All appliances will be certified prior to installation. Any subsequent failure and replacement costs would be covered by MSC as per asset management process	Yes

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TALLAROOK MECHANICS INSTITUTE KITCHEN INSTALLATION (CONT.)

### **SUSTAINABILITY IMPLICATIONS (SOCIAL AND ENVIRONMENTAL)**

The installation of a commercial quality kitchen within the TMI will offer the local community the opportunity to broaden its activities available on site and increase partnerships with social enterprises therefore increasing social sustainability in the local area.

### **CHARTER OF HUMAN RIGHTS IMPLICATIONS**

The rights protected in the *Charter of Human Rights and Responsibilities Act 2006* were considered in preparing this report and it's determined that the subject matter does not raise any human rights issues.

### **CHILDREN AND YOUNG PEOPLE IMPLICATIONS**

Nil

### **OFFICER DECLARATION OF CONFLICT OF INTEREST**

No officers involved in the preparation of this report have any direct or indirect interest in this matter.

### **CONCLUSION**

The Tallarook community has worked collaboratively with Mitchell Shire Council on the re-build process for the TMI. Significant negotiations and collaboration has occurred in partnership with the insurance company and appointed contractors Bay Builders.

The CoM has received a generous donation of a second-hand kitchen for installation at the TMI, that will broaden the scope of activities that can be offered from the site. It has been agreed that if approved, the installation of the commercial quality kitchen and appliances will be installed to domestic level only.

As the TMI is a Council owned asset, approval is sought from Council for the installation of a second-hand product into the new build.

Due to the significant commitment of members of the CoM and the broader community and the level of research undertaken to ensure the appropriateness of the kitchen that is on offer, it is recommended that Council approve the installation of the second-hand kitchen.

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## 8 GOVERNANCE AND CORPORATE PERFORMANCE

### 8.1 QUARTERLY FINANCIAL REPORT FOR THE THREE MONTHS ENDING 30 SEPTEMBER 2019

**Author:** *Hannah White - Management Accounting Coordinator*

**File No:** *FN/12/001-02*

**Attachments:** 1. *Financial Report for the three months ending 30 September 2019*

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#### SUMMARY

This report along with the attachment allows Council to monitor its financial performance.

#### RECOMMENDATION

**THAT** Council note the contents of the Financial Report for the period ending 30 September 2019 and Attachment 1 – Financial Report for the three months ending 30 September 2019.

#### BACKGROUND

Section 136 of the *Local Government Act 1989* (the Act) requires Councils to implement the principles of sound financial management and manage financial risk facing Council prudently. Section 137 of the Act requires Councils to set up a budgeting and reporting framework and Section 138 requires regular reporting. As well as meeting the requirements of the Act, Council planning and reporting should be timely and give a clear picture of financial performance and the current financial state.

#### ISSUES AND DISCUSSION

This report combined with Attachment 1 ensures Council prudently manages its financials in an open and transparent way to meet the requirements of the Act. The attachment forms a package which gives a comprehensive picture of Council's financial performance and current financial state, in comparison to the budget adopted by Council.

The attached report represents the first budget review for the financial year and three months of business ending 30 September 2019. Council's revised adjusted underlying result is predicting a surplus of \$2.81M compared to the adopted budget surplus of \$4.69M. This shift in the adjusted underlying result reflects the impact of end of financial year changes and adjustments that were not foreseen at the time of preparing the 2019-2020 budget. The reduction in the adjusted underlying result of \$1.88M compared to the budget figure directly contrasts with an increase in the actual adjusted underlying result achieved in the last financial year.

The attached report contains further detail; however, the revised result is mainly due to the finalisation of the 2018-2019 financial year, including final carry forwards and adjustments to the recognition timing of grant funds.

QUARTERLY FINANCIAL REPORT FOR THE THREE MONTHS ENDING 30 SEPTEMBER 2019 (CONT.)

The total capital works expenditure forecast for the year is \$39.28M, which is \$3.97M higher than the adopted budget. This is mainly due to the finalised 30 June 2019 carry forwards and successful grant applications.

Capital works expenditure for the three (3) months ended 30 September 2019 was \$2.56M. This represents 7% of the total works program. Capital works expenditure generally increases as the financial year progresses following completion of the necessary procurement requirements and construction commences. Budgets will continue to be refined as the year progresses.

The quarter two (2) forecast will be reviewed in depth in preparation for the annual budget process.

## CONSULTATION

Officers have been consulted in the preparation of this report.

## FINANCIAL, RESOURCE AND ASSET MANAGEMENT IMPLICATIONS

Attachment 1 outlines the financial implications.

## POLICY AND LEGISLATIVE IMPLICATIONS

Council's Financial Planning Principles set parameters under which Council prepares its budgets. It compares actual financial performance and state with that of the prior forecast.

## RISK IMPLICATIONS

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?
There is negligible risk of reputation and financial risk associated with the information contained within this report	1C L4	Monitor and report regularly	Yes

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QUARTERLY FINANCIAL REPORT FOR THE THREE MONTHS ENDING 30 SEPTEMBER 2019 (CONT.)

### **SUSTAINABILITY IMPLICATIONS (SOCIAL AND ENVIRONMENTAL)**

Council's Financial Planning Principles include a principle of long-term sustainability.

### **CHARTER OF HUMAN RIGHTS IMPLICATIONS**

The rights protected in the *Charter of Human Rights and Responsibilities Act 2006* were considered in preparing this report and it's determined that the subject matter does not raise any human rights issues.

### **CHILDREN AND YOUNG PEOPLE IMPLICATIONS**

At Mitchell Shire Council we are committed to ensuring all children and young people reach their full potential as we strive to achieve our mission of working with our communities to build a great quality of life.

### **OFFICER DECLARATION OF CONFLICT OF INTEREST**

No officers involved in the preparation of this report have any direct or indirect interest in this matter.

### **CONCLUSION**

This report compares the actual financial performance and financial state with the adopted budget.

Council continues to focus on sustainable decisions in relation to financial planning and performance.

## 8.2 DEBT MANAGEMENT AND FINANCIAL HARDSHIP RELIEF

**Author:** *Nicole Maxwell - Manager Finance and Assets*

**File No:** *RA/02/022*

**Attachments:**

1. *Debt Management Policy*
2. *Financial Hardship Policy*
3. *Hardship Application Form*

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### SUMMARY

The:

- Financial Hardship Policy
- Financial Hardship Application, and
- Debt Management Policy has been reviewed.

The Financial Hardship Policy is past due for review and the Debt Management Policy, whilst not due for review, has been amended to include suggested improvements following the recent Internal Debtor and Hardship Management Audit.

### RECOMMENDATION

**THAT** Council adopt the revised Financial Hardship Policy including the Financial Hardship Application form and the Debt Management Policy as set out in the attachments to this report.

### BACKGROUND

Council's Debt Management and Hardship policies are applicable to whole of Council operations.

Following a recent Internal Debtor and Hardship Management Audit, various recommendations were made that have been addressed within the revised policies. One key recommendation was to ensure the documents were clear as to the debts the policies aim to cover and to ensure the documents are clear for consistent debt management across the organisation.

### ISSUES AND DISCUSSION

The revised policies and application form are attached for consideration.

#### Financial Hardship Policy

The Financial Hardship Policy was created in August 2012 and has now been revised. Two key changes made to the document are;

1. Wording has been altered to make clearer the intent to include rates, revenue and other debtors. The scope of other debtors being debt incurred for services

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**DEBT MANAGEMENT AND FINANCIAL HARDSHIP RELIEF (CONT.)**

and charges that are essential. The policy is intended for individuals and residential premises.

2. The need for all applications requiring a meeting with a financial counsellor has been removed. There is only one free provider within the Shire and the waitlists are long. We have also experienced that the debtor is usually attending to simply tick a box and receive a referral but are not actually using the service for holistic financial support. We may still require repeat or long term applications to meet with a financial counsellor. We also added links and information for money smart, an ASIC self-help resource.

### Hardship Application Form

The hardship application form has been revised to ensure the information captured relates to rates as well as other debtors and removes the requirement of a referral from a financial counsellor in the first instance. Information referencing ASIC Money Smart resources has also been added.

### Debt Management Policy

Whilst the Debt Management Policy is not due for review, improvements have been identified through the recent Internal Debtor and Hardship Management Audit and it is considered appropriate to revise the policy at the same time as the Hardship Policy. There are three key changes to the Policy, being;

1. Wording has been altered to make clearer the intent to cover rates, revenue and other debtors. It encompasses all money outstanding to Council excluding fines that follow a court process.
2. Council charges interest on Rates income outstanding and the policy previously stated interest would also apply to other sundry debtors however the system has not been set up to action this and the policy is not being followed in this regard. It is intended that in place of interest penalties being applied for sundry debtors, a flat late administrative fee would be charged each month.
3. The policy has in the past remained silent around the point at which Council ceases providing services to those debtors who do not pay user charge fees on time. The policy has been revised to propose services cease where payment has not been made 30 days past the due date. This would apply where debtors have not made contact to enter into a satisfactory arrangement or applied through our Financial Hardship Policy. Manager or Director discretion is not

## DEBT MANAGEMENT AND FINANCIAL HARDSHIP RELIEF (CONT.)

recommended as consistent treatment and practices must be maintained throughout the organisation.

**CONSULTATION**

Consultation has been undertaken internally.

**FINANCIAL, RESOURCE AND ASSET MANAGEMENT IMPLICATIONS**

Improved Financial Management of Council's income outstanding has a direct benefit on Council's cash flow. Outstanding balances require less effort to recover in the early stages and long term outstanding debts reduce the likelihood of recovery.

**POLICY AND LEGISLATIVE IMPLICATIONS**

The policies attached ensure appropriate financial management is undertaken to recover Council's debts whilst ensuring the community experience a fair and consistent approach.

**RISK IMPLICATIONS**

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?
There is a risk that Council's debts are not collected in a timely manner.	Medium	Apply a consistent collection process in line with the proposed policy.	Yes
There is a risk that debt management is undertaken differently amongst services	Medium	Apply a consistent collection process in line with the proposed policy.	Yes
There is a risk of negative community feedback in the delivery of ceased services	Medium	Apply a fair and consistent collection process in line with the proposed policy.	Yes

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DEBT MANAGEMENT AND FINANCIAL HARDSHIP RELIEF (CONT.)

### **SUSTAINABILITY IMPLICATIONS (SOCIAL AND ENVIRONMENTAL)**

There are no sustainability implications within this report.

### **CHARTER OF HUMAN RIGHTS IMPLICATIONS**

The rights protected in the *Charter of Human Rights and Responsibilities Act 2006* were considered in preparing this report and it's determined that the subject matter does not raise any human rights issues.

### **CHILDREN AND YOUNG PEOPLE IMPLICATIONS**

The implications to children and young people may be experienced where services they receive are ceased due to guardian nonpayment. However, the ability for payment arrangements and hardship approval will ensure that children and young people are not disadvantaged due to financial constraints.

### **OFFICER DECLARATION OF CONFLICT OF INTEREST**

No officers involved in the preparation of this report have any direct or indirect interest in this matter.

### **CONCLUSION**

The two policies revised and attached contain improvements to existing policies and practices ensuring a fair and consistent approach across Council for debt management.

# **MITCHELL SHIRE COUNCIL**

## **Council Meeting Attachment**

### **GOVERNANCE AND CORPORATE PERFORMANCE**

**18 NOVEMBER 2019**

**8.2**

#### **DEBT MANAGEMENT AND FINANCIAL HARDSHIP RELIEF**

**Attachment No: 1**

**Debt Management Policy**

**MITCHELL SHIRE COUNCIL.**  
*Policy*



# Debt Management Policy

<b>Policy Owner</b>	Finance and Assets Governance and Corporate Performance
<b>Creation Date</b>	April 2001
<b>Revision Date</b>	November 2019
<b>Next Review Date</b>	November 2023

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**MITCHELL SHIRE COUNCIL**



**Purpose**

This internal policy document is intended to provide a rationale and guide for the way that Mitchell Shire manages the collection of overdue fees. Mitchell Shire acknowledges that circumstances are different for everybody and provides a range of options to assist with and address any overdue charges.

Council makes a commitment to ensure that all debtors are treated equally and given equal opportunities to address and correct any outstanding amounts. Whilst opportunities are given to clear their outstanding fees, Council will initiate legal action when attempts to collect outstanding charges by other means have not been successful.

**Scope**

This policy covers the collection of outstanding Municipal Rates and Charges and Sundry Debtor Accounts.

**Municipal Rates & Charges**

Rates & Charges make up a significant portion of Council's annual revenue and the timely collection of these charges are critical to the ongoing provision of services by Mitchell Shire.

Council raises and collects rates & charges in accordance with the *Local Government Act 1989 (the Act)*.

Council will make all practical attempts to contact a ratepayer directly or through an external debt recovery agency requesting payment of any outstanding rates and charges amount. Requests will be made in writing and issued to the address for service as recorded on Council's property database.

It is not practical for Council Officers to make personal contact with all ratepayers with outstanding rates & charges. Where available and possible, Council or an external agency may use other forms of contact eg. SMS or email to contact a ratepayer regarding any overdue amount. In circumstances where a ratepayer is not demonstrating any reasonable effort to make regular payments and no formal payment arrangements have been put in place, Council will make an attempt to contact the ratepayer by phone prior to initiating legal proceedings where these contact details are available.

Council acknowledges that at times, ratepayers may find themselves in a position where the payment of their rates & charges may not be possible. Council can offer

assistance to ratepayers who are unable to meet their rates obligations. Assistance can be in the form of;

- Municipal Rates & Charges Pension Concession
- Payment due date extensions
- Payment arrangements
- Financial Hardship consideration

When discussing outstanding amounts with ratepayers, Revenue Services team members will identify and suggest the most appropriate action. Applications for financial hardship consideration will be processed inline with Councils Financial Hardship Policy. Where assistance is approved under the Financial Hardship Policy, a waiver of penalty interest or legal fees that have been incurred may be provided.

#### **Municipal Rates & Charges - Debt Recovery Action**

Any amount that is overdue may be subject to penalty interest charges as per Section 172 of the Act.

Where amounts due have not been paid by their due dates or a suitable arrangement made, Council may refer the debt to a debt recovery agency. The agency may, under instruction from Council issue further requests or demands for payment.

Should payments remain outstanding, Council may instruct the debt recovery agency to commence legal proceedings to recover any outstanding balances. Legal action will be taken as allowed under Section 180 of the Act with consideration to the amount of the debt, potential legal costs incurred and with regard to any other requirements that are made by the relevant Court. Council will ensure that no fewer than 4 requests for payment have been issued to the ratepayer before commencing legal proceedings. These requests include Annual/Instalment Reminder Notices, Reminder Letters, Demand Letters, telephone calls and sms/e-mail requests .

The type of legal action that is taken for each debt will be determined based on the informed opinions of the collection agency and Senior Revenue Services team members in line with Council procedures and the requirements of the relevant Court.

Council may also choose to take or to instruct the collection agency to take any other action as allowed under the Act. Where this recommendation is to sell land for unpaid rates, Council officers will first refer this recommendation to Council for approval.

In addition to the processes available through the relevant Court, should a ratepayer wish to dispute any legal action that has been taken, they may submit their request in writing to Council's Manager Finance & Assets for review. Decisions to grant any

waiver of legal fees and/or interest will be made on a case by case basis with consideration to any information that has been provided in the request. Any appeals of this decision can be made to the Director Governance and Corporate Performance.

Where a default judgment has impacted a ratepayers credit rating/history, Council may consent to the judgment being set aside only when the ratepayer has no other overdue debts with Council.

#### **Sundry Debtors**

Sundry Debtors include all revenue raised and due outside of Municipal Rates and Charges. Sundry debtors accounts include but are not limited to commercial waste, early education and facility hire. Sundry debtors represent money earned / due to Council that will be paid following the raising of an Invoice and do not include payments made at point of service. The timely collection of these fees and charges are important to the ongoing provision of services by Mitchell Shire as requests for payment for these accounts are generally made after the service has already been provided.

Commented [TP1]: Perhaps expand on this list a little.

Council will make all practical attempts directly or through an external recovery agency to contact a debtor requesting payment of any outstanding fees and charges amounts. Requests will be made in writing and issued to the address for service as recorded on Council's debtor database.

Council acknowledges that at times, particular debtors may find themselves in a position where the payment of their fees and charges may not be possible. Assistance can be in the form of;

- Concessions (Kindergarten Fees only)
- Payment due date extensions
- Payment arrangements
- Financial hardship consideration (where applicable)

On receiving a request for assistance from a debtor, the Revenue Services team will identify and suggest the most appropriate action directly to the Debtor or to the internal team managing the debt.

#### **Sundry Debtors - Debt Recovery Action**

Where amounts due have not been paid by their due dates or suitable alternative arrangements made, Council may refer the debt to a debt recovery agency. The agency may, under instruction from Council issue further requests or demands for payment.

Commented [TP2]: Suggest a process flow chart to make this a little easier to follow.

Council may apply an administrative fee per month on any overdue sundry debtor account. This fee will be charged in accordance with Council's adopted fees and

charges and the accumulative fee balance will be capped at a maximum of 50% of the initial amount due.

Should payments remain outstanding, Council may instruct the debt recovery agency to commence legal proceedings to recover any outstanding balances with consideration to the amount of the debt, potential legal costs incurred and with regard to any other requirements that are made by the relevant Court. Council will apply for orders with the relevant Court to secure any incurred legal fees against the debtor.

Where payments are outstanding on any ongoing Council service and no ongoing payment arrangement or hardship application has been made, the Revenue Department will notify the relevant department manager to ensure that service provision is suspended until such time as all overdue amounts are paid or an acceptable payment arrangement entered. Service suspension will occur where accounts are 30 days past the due date or 7 days where the debtor has a history of late/non payment.

Service suspension will not be applicable to the provision of kindergarten services. However all other recovery actions for kindergarten services will be consistent with this policy.

In addition to the processes available through the relevant Court, should an account holder wish to dispute any legal action that has been taken, they may submit their request in writing to Council's Manager Finance & Assets for review. Decisions to waiver legal fees and/or interest will be made on a case by case basis with consideration to any information that has been provided in the request.

An appeal of any decision made can be made to the Director Governance and Corporate Performance.

Where a default judgment has impacted an account holder's credit rating/history, Council may consent to the judgment being set aside only when the account holder has no other overdue debts with Council.

Where attempts to collect a sundry debtor account are unsuccessful, the debtor is unlikely to require future services and the debt recovery agency advise future collection activity is unlikely to succeed, the Revenue Services team may recommend to the Manager Finance & Assets that the debt be written off. Where a debtor has had any amount written off for the above reason, no future access to services are to be provided until payment in full of all previously due amounts are received in advance of the service being granted. However, an application for hardship or a payment arrangement may be entered for these historical amounts.

**Responsibilities**

The Revenue Services Coordinator has responsibility for maintaining and ensuring compliance with this policy.

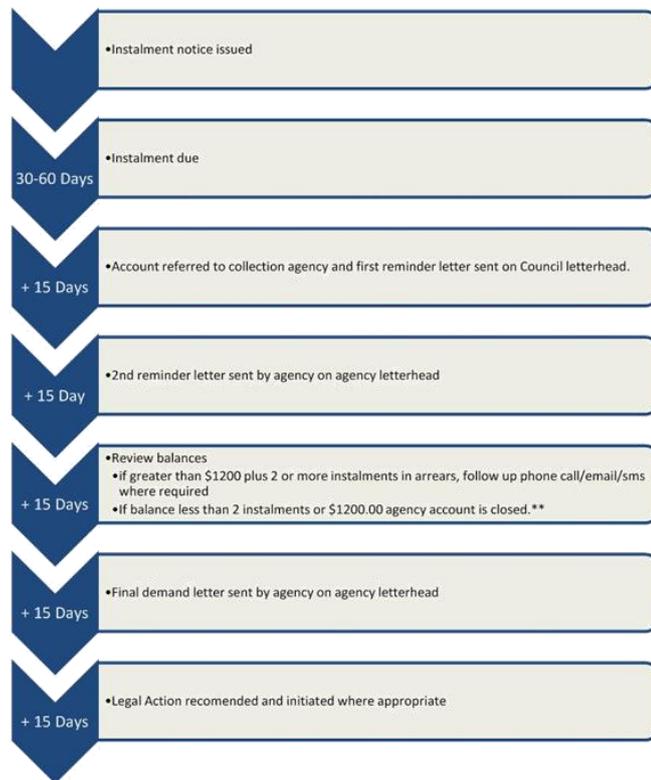
**Related Documents**

*Financial Hardship Policy*  
*Local Government Act 1989*

**Policy Review**

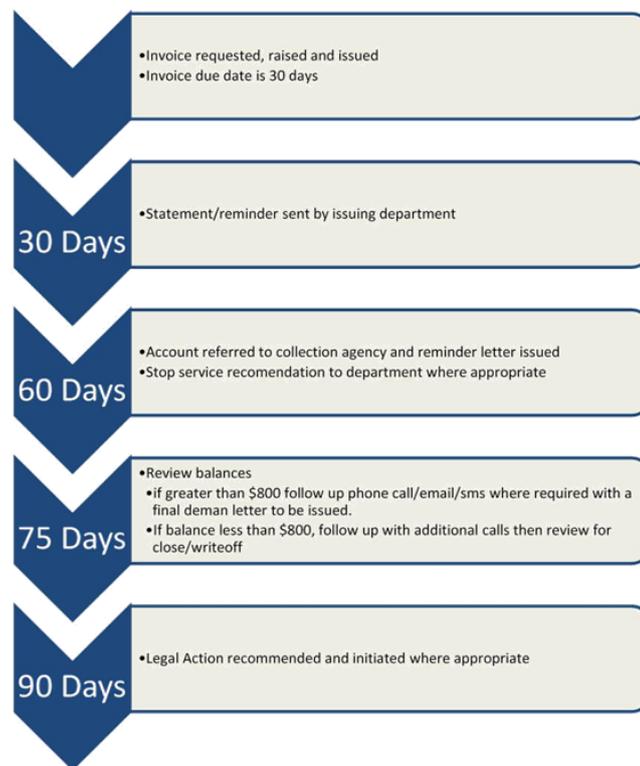
This policy will be reviewed every 4 years or earlier as required.

Appendix 1 – Rates Debt Recovery Process



\*\* ACCC rulings mean that Council should not issue a demand letter warning of legal action unless the action is likely to be taken. Magistrates' Court requirements mean that Council should consider and ensure that the cost of legal action is appropriate to the amount of the potential costs. In this regard, Council has a \$1200 minimum outstanding balance before taking legal proceedings. For these reasons, accounts with balances less than \$1200 are closed after the 2<sup>nd</sup> reminder letter is issued. If they remain unpaid, they go through the process again after the next instalment is due.

Appendix 2 – Sundry Debtor Recovery Process



# **MITCHELL SHIRE COUNCIL**

## **Council Meeting Attachment**

### **GOVERNANCE AND CORPORATE PERFORMANCE**

**18 NOVEMBER 2019**

**8.2**

#### **DEBT MANAGEMENT AND FINANCIAL HARDSHIP RELIEF**

**Attachment No: 2**

**Financial Hardship Policy**

**MITCHELL SHIRE COUNCIL.**  
*Policy*



# Financial Hardship Policy

<b>Policy Owner</b>	Manager Finance and Assets Governance and Corporate Performance
<b>Creation Date</b>	August 2012
<b>Revision Date</b>	November 2019

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Website: [www.mitchellshire.vic.gov.au](http://www.mitchellshire.vic.gov.au)



**Purpose**

*The purpose of this policy is to ensure that Council is able to provide assistance to ratepayers and other debtors who are experiencing financial hardship and are unable to pay all monies outstanding within the payment terms.*

*This policy outlines the requirements for a person seeking to submit an application for assistance as well as providing assurances that Council will treat ratepayers facing financial hardship with a fair and consistent approach.*

*It is not appropriate for Council officers to provide financial advice to any ratepayer and staff will recommend ratepayers access independent support. The Australian Securities & Investment Commission's MoneySmart website, reference material or national debt helpline (1800 007 007) are recommended as an initial source of information/advice.*

*This policy takes into consideration the Municipal Association of Victoria Hardship Policy Guidelines.*

*While this policy is in place primarily for Municipal Rates & Charges it is also to be applied to requests for assistance on a sundry debtor account.*

**Scope**

*Municipal Rates & Charges (including Special Rates & Charges) assistance under this policy is available to property owners on their principal place of residence. This policy specifically excludes properties being used for commercial or industrial purposes and only extends to assistance with municipal rates & charges.*

*Assistance may also be considered on any Council sundry debtor accounts where the service or charge being provided is unavoidable or considered as being essential to the applicant. Assistance on sundry debtor accounts is limited only to accounts held in private names and not issued to any business, company, organisation or similar.*

**Policy**

Section 171A of the *Local Government Act 1989* allows on application for Council to provide assistance on Municipal Rates & Charges by way of a waiver of the whole or any part of a charge or of any interest imposed by late payment to property owners who are suffering financial hardship.

*Council acknowledges that hardship can arise from many different circumstances that are outside of a ratepayers ability to predict or control. Council may provide assistance to ratepayers/debtors who are facing short term or long term hardship.*

This policy allows for the provision of a deferment of any payments due and/or a waiver of penalty interest or costs incurred through debt recovery proceedings. It is Council's position that rates or municipal charges are not to be waived however a fee waiver in part or full may be considered on sundry debtor accounts.

*For the purpose of this policy, financial hardship is defined as any time where the payment of a rate or charge due to Council would result in a ratepayer no longer being able to meet essential day to day living expenses.*

#### **Application**

*An application must;*

- *Be submitted on the applicable hardship application form (see Appendix A),*
- *All mandatory information must be provided,*
- *Include all supporting documentation as outlined on the application form,*
- *Include an ongoing offer for repayment in line with the applicant's financial situation, and*
- *Outline circumstances that have resulted in financial hardship*

*All applications for assistance under this Policy are to be reviewed by the Revenue Services Coordinator or as allowed in Council's instrument of delegation.*

#### **Types of Assistance**

*The type of assistance to be provided may vary and will take into consideration the cause of any hardship being experienced and the individual circumstances of the applicant. This decision will be made in line with Hardship Procedures.*

*Short term assistance will be provided where there is a reasonable expectation or likelihood of recovery. Any short-term assistance provided is to be reviewed in 6 monthly intervals.*

*Long term assistance will be provided where the circumstances resulting in the hardship are not temporary in nature. Assistance provided to ratepayers/debtors experiencing long term financial hardship is to be reviewed annually. Where a ratepayer requires an extension to the hardship consideration previously provided to them, Council may require that the applicant seek assistance from a Financial Counsellor and provide a letter in support of their application before approving the extension.*

*Assistance for the short / long term being provided by Council will comprise of one or more of the below options;*

- *Acceptance of payment arrangements that would otherwise not be approved*
- *Waiver of penalty interest*
- *Waiver of legal fees*
- *Deferment of Rates and Charges and Interest*

*Council may place conditions onto any assistance that is provided. Conditions may include but are not limited to, meeting ongoing payment arrangement obligations or the provision of other supporting documents. Council may revoke any assistance being provided should any arrangement or conditions that have been applied not be met or information is available that shows a change in circumstance.*

**Council's Obligations**

*In line with Council's Customer Service Charter, Council will treat any person applying for assistance with respect and without judgment. Any information that is provided in an application will be used only for the purpose of assessing the eligibility of the application under this policy. All information provided will be treated as confidential and stored in a secure location.*

*While assistance is being provided to a ratepayer or debtor under this policy, Council will not initiate or cause to continue any debt recovery proceeding that will result in additional costs being incurred by the ratepayer or debtor. Correspondence may be issued to the ratepayer or debtor in relation to any ongoing repayment arrangement that has been made or charges that become due.*

**Ratepayer/Debtor Obligations**

*Any person receiving financial hardship assistance must ensure that any conditions offered and accepted on an application are honoured. A person receiving assistance must notify Council should their financial circumstances change.*

**Communication**

*Council will provide any information regarding any application for financial hardship assistance in writing. This may be through email or to the postal address recorded for the applicant in Council's property and rating or debtors system.*

*Council will provide written confirmation on the acceptance/rejection of any application received as well as any updates on the status of any ongoing assistance that has been approved. This includes information on the status of any agreed payment arrangements or assistance period time frames.*

**Right of Appeal**

*Should any person who has applied for financial hardship assistance disagree with any decision that has been made in regard to their application they may apply to have the decision reviewed by Councils Manager Finance & Assets in the first instance. A further appeal may be directed to the Director Governance and Corporate Performance.*

**Responsibilities**

*The Revenue Services Coordinator has responsibility of maintaining and ensuring compliance with this policy.*

**Policy Review**

*This policy will be reviewed within 4 years of being adopted or earlier as required.*

**Related Documents**

*Debt Recovery Policy  
Municipal Association of Victoria Hardship Guidelines  
Local Government Act 1989  
Financial Hardship Assistance Application Form*

[www.moneysmart.gov.au](http://www.moneysmart.gov.au)

# **MITCHELL SHIRE COUNCIL**

## **Council Meeting Attachment**

### **GOVERNANCE AND CORPORATE PERFORMANCE**

**18 NOVEMBER 2019**

**8.2**

#### **DEBT MANAGEMENT AND FINANCIAL HARDSHIP RELIEF**

**Attachment No: 3  
Hardship Application Form**

**APPLICATION FOR CONSIDERATION  
DUE TO FINANCIAL HARDSHIP**



IN ACCORDANCE WITH COUNCILS FINANCIAL HARDSHIP POLICY

**Please complete all sections of this form and return to Council using one of the below options;**

**IN PERSON:** To one of Council’s Customer & Library Service Centres  
(Broadford, Kilmore, Seymour & Wallan)

**BY MAIL:** Addressed to Mitchell Shire Council, 113 High Street Broadford

**EMAIL:** [mitchell@mitchellshire.vic.gov.au](mailto:mitchell@mitchellshire.vic.gov.au)

**SECTION 1 – YOUR DETAILS**

SURNAME	
GIVEN NAMES	
POSTAL ADDRESS	
CONTACT PHONE NUMBER	
CONTACT EMAIL ADDRESS	

DO YOU HOLD A CURRENT PENSION CONCESSION CARD (CENTRELINK OR DVA) OR DVA GOLD CARD (TPI OR WAR WIDOW)?

YES

NO

*NOTE: If you have a valid pension concession card and have not claimed for the Municipal Rates Pension Concession, Council may contact you to discuss this process with you further.*

**SECTION 2B – PROPERTY DETAILS** (COMPLETE THIS SECTION FOR RATES & CHARGES ASSISTANCE)

PROPERTY NUMBER <i>(IF KNOWN)</i>	PROPERTY ADDRESS

IS THE PROPERTY YOUR PRINCIPAL PLACE OF RESIDENCE?

YES  NO

*NOTE: Council cannot approve any applications for assistance on any property that is not the applicants principal place of residence.*

DO YOU OWN ANY OTHER PROPERTY?

YES  NO

*(IF YES PLEASE PROVIDE DETAILS BELOW)*

PROPERTY ADDRESS	MUNICIPALITY	CURRENT COUNCIL VALUATION

HOW MANY PEOPLE OVER 18 YEARS OF AGE LIVE AT THE PROPERTY?

HOW MANY PEOPLE UNDER THE AGE OF 18 LIVE AT THE PROPERTY?

**SECTION 2B – ACCOUNT DETAILS** (COMPLETE THIS SECTION FOR DEBTOR ACCOUNT ASSISTANCE)

ACCOUNT NUMBER	ACCOUNT HOLDERS NAME	SERVICE TYPE (eg. Kindergarten)

**SECTION 3 – ASSESSMENT INFORMATION**

*Note: This information may be provided separately, Council recommends using ASIC’s MoneySmart Budget Planner that can be found on the MoneySmart website [www.moneysmart.gov.au](http://www.moneysmart.gov.au)*

*HOUSEHOLD INCOME*

<b>Monthly Income</b>	<b>Adult 1</b>	<b>Adult 2</b>	<b>Adult 3</b>	<b>Adult 4</b>
Wage/Salary				
Pension/Family Payment				
Child Maintenance				
Rent / Board				
Other				
<b>Total</b>				

*HOUSEHOLD EXPENSES*

<b>Expense Amount / Month</b>	<b>Adult 1</b>	<b>Adult 2</b>	<b>Adult 3</b>	<b>Adult 4</b>
Mortgage / Rent / Board				
Credit Card Repayments				
Other Loan Repayments				
Child Care				
Utilities / Insurance				
Living				
School fees				
Child Maintenance				
Other				
<b>Total</b>				

**Please attach copies of any supporting documentation (eg. payment advice, bank statements) you have that can verify the above information. If this information is not provided Council may not be able to process your application.**



**SECTION 5 – REPAYMENT ARRANGEMENT**

Please indicate a repayment arrangement that you could **realistically** maintain and afford with your current circumstances.

RATES & CHARGES	
Amount	\$ _____
Frequency:	Weekly <input type="checkbox"/> Fortnightly <input type="checkbox"/>
Beginning From:	_____/_____/_____

DEBTOR ACCOUNTS	
Amount	\$ _____
Frequency:	Weekly <input type="checkbox"/> Fortnightly <input type="checkbox"/>
Beginning From:	_____/_____/_____

Council may contact you to request further information in regard to any information that has been provided as part of this application.

**SECTION 6 - ACKNOWLEDGEMENT**

Please read the below statements carefully. If you agree with the below statements, please sign and date where indicated and return this form to Council.

- I confirm that the information provided in this application is true and correct.
- I am seeking consideration due to financial hardship as shown in this application.
- I understand that Council may require supporting documentation for the information provided in this application
- I understand that Council may refuse this application.
- I understand that should this application be accepted that ongoing reviews may be required
- I understand that I may be required to engage the services of a registered financial counsellor should my circumstances not improve during the time that any assistance is provided.

Signature Of Applicant: \_\_\_\_\_

Date: \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_

**Privacy Statement**

*Mitchell Shire Council respects your privacy. The Council collects personal information in order to carry out its functions and powers as well as for statutory purposes pursuant to the Local Government Act 1989 or any other Act. Council will only use personal information to carry out its functions and powers and not for any other purpose. Information held by the Council may be given to others where there is a law specifically authorising that the information be provided. You have the right to access your personal information and you may correct any information held by the Council by notifying of the correction in writing.*

**DO YOU NEED HELP?**

For advice on managing your money or assistance in dealing with financial hardship please contact **ASIC's MoneySmart** help line on **1800 007 007** (9.30am-4.30pm M-F) or visit their website at [www.moneyhelp.org.au](http://www.moneyhelp.org.au)



**ASIC**  
Australian Securities &  
Investments Commission

ASIC's  
**MONEYSMART**  
Financial guidance you can trust

### 8.3 NAMING OF PARK - WALLARA WATERS

**Author:** Lidia Harding - Manager Governance & Corporate Accountability

**File No:** CR/01/064

**Attachments:** Nil

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#### SUMMARY

A new park situated at Bale Way, Mount Eliza Avenue, Waranga and Yan Yean Avenues in Wallara Waters, Wallan opened in October 2019. Council has been approached by the developer Frasers Property Australia to officially name the park and have put forward three possible suggestions based on topographical features:

- Taylors Creek Park
- Strathaird Reserve
- Bidi Park

In line with Council's Place Naming Policy, the list of suggested names was assessed by Council's internal stakeholder group. It is now recommended that details of the naming proposal be released for community comment for a period of 30 days and that a further report, having regard for any comments received during the community consultation period, be prepared for Council consideration.

Once a formal decision is made by Council, the naming proposal will be submitted to the Registrar of Geographic Place Names.

#### RECOMMENDATION

**THAT** Council:

1. Supports the naming of the new park situated at Bale Way, Mount Eliza Avenue, Waranga and Yan Yean Avenues in Wallara Waters.
2. Undertakes community consultation on the preferred name of "Bidi Park" (Option 3) and will in accordance with section 223 of the *Local Government Act 1989*, receive any written submissions and hear from any submitters requesting to be heard, at a meeting of the Community Questions and Hearings Committee.
3. At a later date, consider a Council report to make a final naming recommendation to the Registrar of Geographic Place Names.

#### BACKGROUND

Council has been approached by the developer Frasers Property Australia to officially name the park situated at Bale Way, Mount Eliza Avenue, Waranga and Yan Yean Avenues in Wallara Waters, Wallan as shown in the map below.

## NAMING OF PARK - WALLARA WATERS (CONT.)

**ISSUES AND DISCUSSION**

Frasers Property Australia in submitting their request to officially name the park put forward three possible suggestions based on topographical features. An assessment of these names has been conducted:

**Option 1: Taylors Creek Park** (colloquial name for the wetlands area close by) – there is another park named Taylors Creek Linear Park located in Taylors Lakes (Brimbank City Council) and this particular park is not located on the Taylors Creek nor does it abut or run through the reserve so this name could be misleading. There are a number of references in the area for Taylors Creek, so another reference may see the name being overused and loss of the opportunity to give the park a distinctive name which differentiates the site. Officers do not support this naming proposal.

**Option 2: Straithaird Reserve** (official name for the wetlands area) – this name exists in Narre Warren (City of Casey) and it is officer's understanding that this park was actually part of the Hernes Swamp area. As this reserve area has no creek/waterway through it to associate it to the wetland and Straithaird Creek is located to the west of Wallan, therefore officers do not support this naming proposal.

**Option 3: Bidi Park** (meaning kick ball in Woiwurrung language) – a similar name exists in Western Australia. 'Bidi' is from the language of the Woiwurrung Tribe who were part of the Kulin Nation. This language was used in the Wallan area and it appears that the Woiwurrung did play football. As this reserve has a large southern open space area which would be ideal for kicking the football around and accords with the need to support active families, more movement and outdoor activity, officers support this naming proposal.

NAMING OF PARK - WALLARA WATERS (CONT.)

## CONSULTATION

In accordance with the Naming Rules for Places in Victoria – Statutory Requirements for Naming Roads, Features and Localities – 2016 (the Naming Rules), and Council’s Place Naming Policy, Council is required to consult with the community when considering applications received under the *Geographic Place Names Act 1998*. The method and extent of consultation is dependent on the significance of the feature to be named.

In this case, it is recommended that Council consults with the immediate community, which includes residents, ratepayers and businesses, any government or non-government organisations with an interest in this area, traditional owner groups, local historical societies, emergency services, advisory committees and other community groups.

The proposal will also be advertised on Council’s website, local newspapers and distributed via social media.

## FINANCIAL, RESOURCE AND ASSET MANAGEMENT IMPLICATIONS

There are administrative costs associated with the naming or renaming of geographic place names, including the advertising of proposed names in the local media. These costs can be covered within Council’s operational budget.

## POLICY AND LEGISLATIVE IMPLICATIONS

Under the *Geographic Place Names Act 1998* (the Act) and the related Guidelines for Geographic Names 2010 (the Guidelines), Council has the authority to name or rename places of local significance within the Mitchell municipal area.

## RISK IMPLICATIONS

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?
Park not identified by a name and in case of emergency, location cannot be found by emergency services	Low	Park to be officially named	Yes, and with assistance of Registrar of Geographic Names

## SUSTAINABILITY IMPLICATIONS (SOCIAL AND ENVIRONMENTAL)

Nil.

## CHARTER OF HUMAN RIGHTS IMPLICATIONS

The rights protected in the *Charter of Human Rights and Responsibilities Act 2006* were considered in preparing this report and it’s determined that the subject matter does not raise any human rights issues.

NAMING OF PARK - WALLARA WATERS (CONT.)

### **CHILDREN AND YOUNG PEOPLE IMPLICATIONS**

Nil.

### **OFFICER DECLARATION OF CONFLICT OF INTEREST**

No officers involved in the preparation of this report have any direct or indirect interest in this matter.

### **CONCLUSION**

Council has the legislative responsibility to be the naming authority for places including parks and reserves within Mitchell Shire. It is recommended that the naming proposal to name the new park 'Bidi Park' be released for community comment for a period of 30 days and that a further report be prepared for Council, having regard for any comments received during the community consultation period.

## 8.4 ELECTION PERIOD 'CARETAKER' POLICY

**Author:** Lidia Harding - Manager Governance & Corporate Accountability

**File No:** CL/04/001-03

**Attachments:** 1. Election Period 'Caretaker' Policy

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### SUMMARY

This report recommends that Council endorse an Election Period 'Caretaker' Policy to ensure that the general elections for the Mitchell Shire Council on Saturday, 24 October 2020 and subsequent elections, are conducted in a manner that is ethical, fair and equitable.

### RECOMMENDATION

**THAT** Council adopts the Election Period 'Caretaker' Policy (Attachment 1) for the 2020 general election of Councillors.

### BACKGROUND

The *Local Government Act 1989 (the Act)* sets out the requirements for Municipal general elections (election). The election period, or caretaker period, is the period commencing 32 days before the election. For the next election on 24 October 2020, the election period will commence on 22 September 2020.

The 2020 general election will mark the conclusion of the four-year term of the Council elected in October 2016.

### ISSUES AND DISCUSSION

Following the *Local Government (Improved Governance) Amendment Act 2015 (Amendment Act)*, Mitchell's Election Period "Caretaker" Policy was comprehensively reviewed in preparation for the election in October 2016.

Section 93B of *the Act* requires all councils to review, and if required, amend an election period policy not later than 12 months before the commencement of each election period. The policy must include:

- Procedures intended to prevent the Council from making inappropriate decisions or using resources inappropriately during the election period before a general election;
- Limits on public consultation and the scheduling of Council events; and
- Procedures to ensure that access to information held by Council is made equally available and accessible to candidates during the election.

The Election Period 'Caretaker' Policy has been reviewed and relevant dates updated and reference to provision of a landline for Councillors removed as this is not current practice.

## ELECTION PERIOD 'CARETAKER' POLICY (CONT.)

The policy is required to ensure that councils publicly explain to their communities how they will conduct their business immediately prior to the election. This is to ensure that Council elections are not compromised by inappropriate electioneering by existing Councillors and to safeguard the authority of the incoming council.

The policy covers three key areas as defined by Section 93B(3):

1. Preventing inappropriate decisions and misuse of resources
2. Limiting public consultation and council events
3. Equitable access to council information

**CONSULTATION**

This policy is a legislative requirement and no formal consultation is required.

**FINANCIAL, RESOURCE AND ASSET MANAGEMENT IMPLICATIONS**

There are no financial resource and asset management implications associated with the review of the Election Period 'Caretaker' Policy at this time.

**POLICY AND LEGISLATIVE IMPLICATIONS**

The Election Period 'Caretaker' Policy has been prepared in accordance with Section 93B of the *Local Government Act 1989*.

**SUSTAINABILITY IMPLICATIONS (SOCIAL AND ENVIRONMENTAL)**

This is an administration process and does not have any Environmental or Sustainability implications.

**CHARTER OF HUMAN RIGHTS IMPLICATIONS**

The rights protected in the *Charter of Human Rights and Responsibilities Act 2006* were considered in preparing this report and it is determined that the subject matter does not raise any human rights issues.

**OFFICER DECLARATION OF CONFLICT OF INTEREST**

No Officers involved in the preparation of this report have any direct or indirect interest in this matter.

**CONCLUSION**

It is recommended that the Election Period 'Caretaker' Policy, as revised, be adopted by the Council for the 2020 general election of Councillors.

ELECTION PERIOD 'CARETAKER' POLICY (CONT.)

# **MITCHELL SHIRE COUNCIL**

## **Council Meeting Attachment**

### **GOVERNANCE AND CORPORATE PERFORMANCE**

**18 NOVEMBER 2019**

**8.4**

#### **ELECTION PERIOD 'CARETAKER' POLICY**

**Attachment No: 1**

**Election Period 'Caretaker' Policy**

# Election Period 'Caretaker' Policy

<b>Policy Owner</b>	Governance and Corporate Performance Governance and Corporate Accountability
<b>Creation Date</b>	October 2019
<b>Revision Date</b>	September 2020

## **PURPOSE**

The Election Period 'caretaker' Policy has been developed in order to ensure that the general elections for the Mitchell Shire Council on Saturday 24 October 2020 and subsequent elections are conducted in a manner that is ethical, fair and equitable, and are publicly perceived as such.

This Policy is prepared and endorsed in accordance with section 93B of the *Local Government Act 1989* ("the Act").

This policy addresses the requirements of the Act regarding the responsibilities, actions and behaviours of the Council in the period leading up to a general election.

## **SCOPE**

The policy applies to Mitchell Shire Council, Councillors and Council Officers to ensure the ordinary business of Council continues in a responsible, transparent and legally-compliant manner in the period leading up to an election.

The policy applies only to the actual making of decisions by the Council during the "election period". It does not apply to announcements of decisions by the Council prior to the commencement of the "election period".

## **POLICY**

### **1. CARETAKER PERIOD**

The 'caretaker' period is taken to mean the "election period" as defined in Section 3 of the *Local Government Act 1989* and starts on the last day on which nominations for an election can be received and ends at 6.00pm on Election Day.

The "election period" for the 2020 Council general elections commences on Tuesday 22 September 2020 and ceases at 6.00pm on Election Day, Saturday 24 October 2020.

### **2. COUNCIL DECISION MAKING**

It is an established democratic principle that elected bodies should not unnecessarily bind an incoming government during an election period. The Council therefore commits to the principle that it will make every endeavour to avoid making significant decisions that bind an incoming Council.

This includes a commitment to comply with the requirements of section 93A of the Act relating to "major policy decisions".

#### **2.1 Major Policy Decisions**

Section 93A of the Act prohibits the Council, a Special Committee or a person acting under delegation from the making of major policy decisions during an election period for a general election.

**'Major Policy Decisions'** are defined in the *Local Government Act 1989* to be decisions:

- (a) Relating to the employment or remuneration of a Chief Executive Officer under section 94 of the Act, other than a decision to appoint an acting Chief Executive Officer;
- (b) To terminate the appointment of a Chief Executive Officer under section 94 of the Act;
- (c) To enter into a contract the total value of which exceeds whichever is the greater of \$100,000 or 1% of the Council's revenue from rates and charges levied under section 158 of the Act in the preceding financial year; and
- (d) To exercise any power under section 193 of the Act if the sum assessed under section 193(5A) in respect of the proposal exceeds whichever is the greater of \$100,000 or 1% of the Council's revenue from rates and charges levied under section 158 of the Act in the preceding financial year.

**For the purposes of the 2020 election period, 1% of revenue from rates and charges of the adopted 2019/2020 budget.**

If the Council considers that there are extraordinary circumstances where the municipality or the local community would be significantly disadvantaged by the Council not making a particular major policy decision, the Council will, by resolution, request an exemption from the Minister for Local Government, in accordance with section 93A(2) of the Act.

## **2.2 Significant Decisions**

In addition to major policy decisions as defined, other decisions may be controversial.

The Council will avoid making decisions during an election period that are of a significant nature and which would unnecessarily bind an incoming Council, unless the matter under consideration is Urgent and cannot be deferred without having a negative impact on the Council, the municipality or the local community.

The Council will avoid the following decision types unless absolutely necessary for council operational purposes or pursuant to a statutory requirement:

1. Allocation of community grants or other direct funding to community organisations;
2. Significant planning scheme amendments;

3. Significant planning permit approvals, or planning permit approvals that present a costs risk to Council;
4. Changes to strategic objectives and strategies in Council Plan.

### **3. ELECTORAL MATTER**

The Council will ensure that it complies with section 55D of the Act which requires that a Council must not print, publish or distribute or cause, permit or authorise to be printed, published or distributed an electoral advertisement, handbill, pamphlet or notice during an election period unless it only contains information about the election process.

In accordance with the Act, **any** advertisement, handbill, pamphlet or notice to be printed, published or distributed during the election period will be certified, in writing, by the Chief Executive Officer.

The power and duty to certify an advertisement, handbill, pamphlet or notice will not be delegated by the Chief Executive Officer.

#### **Definitions**

The following definitions from the Act are noted.

- Section 3(1)        **'Electoral advertisement, handbill, pamphlet or notice'** means an advertisement, handbill, pamphlet or notice that contains electoral matter, but does not include an advertisement in a newspaper announcing the holding of a meeting.
- Section 3(1)        **'Publish'** means publish by any means including by publication on the Internet.
- Section 3(1A)      **'Electoral matter'** means matter which is intended or likely to affect voting in an election but does not include any electoral material produced by or on behalf of the returning officer for the purposes of conducting an election.
- Section 3 (1B)     Without limiting the generality of the definition of **'electoral matter'**, matter is to be taken to be intended or likely to affect voting in an election if it contains an express or implicit reference to, or comment on—
- (a) the election; or
  - (b) a candidate in the election; or

- (c) an issue submitted to, or otherwise before, the voters in connection with the election.

#### **4. MEDIA AND PUBLICITY**

Communications during an election period will continue to inform the community about Council services and activities but must not include any electoral matter.

To achieve this objective during an election period, all publications including:

- Newsletters, brochures and pamphlets
- Advertisements/advertorials
- Mail outs (including emails to multiple addresses)
- Website and social media
- Media releases

will be reviewed and scrutinised to ensure they do not contain electoral matter.

The Chief Executive Officer will have final sign-off on all media releases or campaigns.

Any communications which the Chief Executive Officer considers contain electoral matter, will be modified, suspended, or withdrawn from display and/or distribution during the election period.

Communications which are cleared to be printed, published or distributed during the election period will be certified in writing by the Chief Executive Officer.

##### **4.1 Social Media**

Any publication on Council's social media sites during the election period must be certified by the Chief Executive Officer.

Council officers responsible for administering Council's social media sites will monitor these sites during the "caretaker" period and use moderation features where these are available, to ensure that no electoral matter is posted on these sites.

#### **5. DISCRETIONARY FUNDS**

The Council will not make any decisions relating to requests for funding to community, business, sponsorship and/or tourism organisation or individual during the "caretaker" period.

#### **6. COUNCILLORS**

These *provisions* do not restrict the ability of Councillors to issue media releases or make media comment **in their own name and using their own resources**.

Councillors must be careful not to breach the requirements of section 55D of the Act in relation to electoral advertisements, handbills, pamphlet or notices during the election period. Councillors must also be careful not to breach section 76D in relation to improper use of public resources. Serious penalties apply.

There are also a number of other prohibitions in relation to how a candidate conducts himself/herself during an election campaign and again penalties apply. The majority of these are covered in sections 52 to 62B of the *Local Government Act 1989*.

## **7. COUNCIL RESOURCES**

It is an established democratic principle that public resources must not be used in a way that would influence the way people vote in elections, except in regard to supporting the actual election process. The Council therefore commits to the principle that it will ensure that Council resources are not used inappropriately during an election period.

Any staff member who considers that a particular use of Council resources may influence voting in the election must obtain approval as outlined in this policy before authorising, using or allocating the resource.

### **7.1 Events, Activities and Support Services**

In applying this principle, the following will be normal practice during an election period for a general election:

- Public events will only be organised by Council staff if they are part of the normal services or operation of the Council and the scheduling of the event during the election period is deemed to be appropriate.
- Public consultation will only be organised by Council staff if it is part of the normal services or operation of the Council and is a legislative requirement.
- Speeches for Councillors will only be prepared by Council staff in relation to events that are part of the normal services or operation of the Council and such speeches will not be circulated or available for publication.
- Media services, including media releases, will not be provided for individual Councillors by Council staff during the election period.
- Council staff will ensure that action on requests for service will continue to be based on established methods of setting priorities and from existing budget allocations.

### **7.2 Equipment, Stationery and Facilities**

In accordance with current Council policy and practice, Council resources, including office and hospitality facilities, support staff, equipment/services, merchandise and stationery are provided or made available to Councillors for normal Council business and are therefore not to be used in connection with any electoral activities.

Council logos or letterheads, Mitchell Shire Council branding or Council provided photographs will not be used by Councillors in any way that relates to an election.

Similarly, Council funded telephone (mobile)) numbers and email addresses are not to be used by Councillors as contact points in their election campaign material.

Reimbursement of Councillors' out-of-pocket expenses during an election period will apply only to costs that have been incurred in the performance of *duties as a Councillor* as defined and not for expenses that could be perceived as supporting or connected with a candidate's election campaign.

## **8. INFORMATION**

### **8.1 Council Business**

As Councillors must continue to perform their elected role during an election period, they will, as a matter of course, receive all necessary information for them to fulfil that role. Information to be provided to Councillors will include:

- Information that is publicly and freely available – Council Plans, Annual Reports, strategies, policies and the like.
- Information and advice provided by Council staff, as part of Council and Committee meeting agendas.
- Briefing Papers in relation to matters to be decided upon at forthcoming Council meetings. It is likely that the briefing information provided to Councillors during an election period will be of a more routine nature than normal, given the approach to decision making during the election period.

### **8.2 Requests for Information**

All requests received by Council staff for information about Council projects, programs or services, will be responded to in a 'business as usual' manner. This means up to date responses will be provided about progress on Council projects or services to councillors, candidates and members of the community.

A 'business as usual' approach does not include extensive research or analysis involving significant Council resources or providing a level of information which would not normally be available.

Requests for information which require significant resources to be devoted to making a response or which might be perceived to support an election campaign will be referred to the Chief Executive Officer for consideration.

All election related enquiries from candidates or prospective candidates will be referred to the Returning Officer appointed to conduct the election.

Applications for information under Freedom of Information legislation will be dealt with in the normal manner.

## **DEFINITIONS**

### *Caretaker period*

Has the same meaning as 'election period' in section 3(1) of the Act, and means the period that starts on the entitlement date and ends at 6.00pm on Election Day.

### *Publication*

Includes any means of publication including letters and information on the Internet.

### *Public consultation*

Means a process that involves an invitation or invitations to individuals, groups or organisations or the community generally to comment on an issue, proposed action or proposed policy, and includes discussion of that matter with the public.

### *Significant decision*

Means an irrevocable decision that significantly affects the municipality.

### *Significant planning applications:*

- Developments with an estimated value >\$1 million (excluding dwellings)
- Multi-dwelling developments comprising more than 10 dwellings
- Subdivision of more than 10 vacant lots (excluding subdivision of approved or built developments)
- Events such as music festivals
- Uses with potential for amenity impacts (such as gun clubs/ranges, quarries, intensive/extensive animal husbandry or agricultural uses to name a few)

## **RELATED DOCUMENTS**

- *Local Government Act 1989*

## **MONITORING AND REVIEW**

In accordance with section 93B(2b), Council will continue to maintain the election period policy by reviewing and, if required, amending the policy not later than 12 months before the commencement of each subsequent general election period.



## 8.5 ASSEMBLY OF COUNCIL RECORD

**Author:** Lidia Harding - Manager Governance & Corporate Accountability

**File No:** CL/04/013-02

**Attachments:** 1. Assembly of Council

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### SUMMARY

This report provides Records of Assemblies of Councillors that have occurred since the last Council meeting, which includes matters considered and any conflict of interest disclosures made by a Councillor.

### RECOMMENDATION

**THAT** Council receive and note the record of assembly of Councillors.

### BACKGROUND

The *Local Government Act 1989* requires a written record of an assembly of Councillors to form part of the Council Minutes.

The Chief Executive Officer must ensure that the written record includes the following:

- (a) Names of all Councillors and members of Council staff attending.
- (b) Matters considered.
- (c) Any conflict of interest disclosures made by a Councillor attending under subsection (3).
- (d) Whether a Councillor who has disclosed a conflict of interest as required by subsection (3) leaves the assembly.

### ISSUES AND DISCUSSION

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.

Some examples include:

- Councillor Briefings – Strategy meeting, Councillor and Officer Discussion (Pre-Council meeting);

## ASSEMBLY OF COUNCIL RECORD (CONT.)

- Advisory Committees – Audit Committee, Mitchell Environment Advisory Committee, Mitchell Early Years Advisory Committee, Mitchell Fire Consultative Forum, Mitchell Youth Advisory Committee, Social Justice Advisory Committee, Australia Day Awards Committee and Mitchell Heritage Advisory Committee.

Lists of the Assembly of Councillors Records for the period September 2019 are attached.

**CONSULTATION**

Members of the Executive Leadership Team, Mayor, Councillors and relevant Managers have been consulted in preparing this report.

**FINANCIAL, RESOURCE AND ASSET MANAGEMENT IMPLICATIONS**

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

**POLICY AND LEGISLATIVE IMPLICATIONS**

This report is consistent with Section 80A of the *Local Government Act 1989* which requires the Chief Executive Officer to ensure that the written record of an assembly of Councillors is reported at an ordinary meeting of Council as soon as practicable and is incorporated in the Minutes of that Council meeting.

**SUSTAINABILITY IMPLICATIONS (SOCIAL AND ENVIRONMENTAL)**

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

**OFFICER DECLARATION OF CONFLICT OF INTEREST**

No Officers involved in the preparation of this report have any direct or indirect interest in this matter.

**CONCLUSION**

This report is consistent with Section 80A of the *Local Government Act 1989* which requires the Chief Executive Officer to ensure that the written record of an assembly of Councillors is reported at an ordinary meeting of Council as soon as practicable and is incorporated in the Minutes of that Council meeting.

# **MITCHELL SHIRE COUNCIL**

## **Council Meeting Attachment**

### **GOVERNANCE AND CORPORATE PERFORMANCE**

**18 NOVEMBER 2019**

**8.5**

**ASSEMBLY OF COUNCIL RECORD**

**Attachment No: 1**

**Assembly of Council**

## ASSEMBLY OF COUNCILLORS RECORD

OCTOBER 2019

**Assembly of Councillors -**

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

Assembly Details	Councillor Attendees	Officer Attendees	Matters Discussed	Conflict of Interest Disclosures
Special Strategy Briefing 2 October 2019	<u>In Attendance</u> Cr Bill Chisholm Cr Rhonda Sanderson Cr Bob Cornish Cr David Lowe Cr Annie Goble Cr Fiona Stevens Cr Rob Eldridge Cr David Atkinson  <u>Apologies</u> Cr Bob Humm	Director Governance & Corporate Performance Director Development & Infrastructure Director Advocacy & Community Services Manager Waste & Resource Recovery	<ul style="list-style-type: none"> <li>• Capping and Rehabilitation of Seymour and Mitchell Landfills</li> </ul>	Nil
Strategy Briefing 7 October 2019	<u>In Attendance</u> Cr Bill Chisholm Cr Rhonda Sanderson Cr David Lowe Cr Annie Goble (left the meeting at 5.30pm and did not return) Cr Rob Eldridge (left the meeting at 6.01pm and did not return) Cr David Atkinson Cr Bob Humm Cr Bob Cornish	Director Governance & Corporate Performance Director Development & Infrastructure Director Advocacy & Community Services Manager Development Approvals Manager Engineering & Major Projects Manager Jobs, Investments & Communications Manager Waste & Resource Recovery	<ul style="list-style-type: none"> <li>• Audit Committee Annual Report</li> <li>• Hidden valet residential Subdivisions and s173 Agreements</li> <li>• Kilmore Community Hub</li> <li>• Capping and Rehabilitation of Seymour and Mitchells landfills</li> <li>• Flood levee Engagement Update and Flood Mapping Discussion</li> </ul>	Nil

	Cr Fiona Stevens  <u>Apologies</u> Nil			
Strategy Briefing 14 October 2019	<u>In Attendance</u> Cr Bill Chisholm Cr Rhonda Sanderson Cr Fiona Stevens Cr David Lowe Cr Bob Humm Cr David Atkinson  <u>Apologies</u> Cr Bob Cornish Cr Rob Eldridge Cr Annie Goble	Acting Chief Executive Officer Director Governance & Corporate Performance Director Development & Infrastructure Acting Director Advocacy & Community Services Acting Manager Community Strengthening Community Development Officer Manager Liveable Communities Manager Governance & Corporate Accountability Procurement Advisor Economic Development Project Officer Manager Engineering & Major Projects Manager Strategic Planning Manager Operations & Parks Manager Development Approvals Roads Maintenance Coordinator	<ul style="list-style-type: none"> <li>• Place based Planning Update</li> <li>• Kilmore Golf Club</li> <li>• Procurement Policy Review</li> <li>• Draft Council agenda</li> </ul>	Nil

<p>Strategy Briefing 21 October 2019</p>	<p><u>In Attendance</u> Cr Rhonda Sanderson Cr Bob Cornish Cr Bob Humm (attended at 4.02pm) Cr David Lowe Cr David Atkinson Cr Fiona Stevens Cr Annie Goble</p> <p><u>Apologies</u> Cr Rob Eldridge Cr Bill Chisholm</p>	<p>Acting Chief Executive Officer Director Governance &amp; Corporate Performance Acting Director Advocacy &amp; Community Services Acting Director Development &amp; Infrastructure Manager Business Transformation and Information Management Manager Governance &amp; Corporate Accountability Manager Waste &amp; Resource Recovery</p>	<ul style="list-style-type: none"> <li>• Near me Functionality &amp; New Website</li> <li>• Discuss Council agenda</li> </ul>	<p>Nil</p>
<p>Australia Day Awards Committee 22 October 2019</p>	<p><u>In Attendance</u> Cr Rhonda Sanderson Cr Bill Chisholm</p> <p><u>Apologies</u> Cr Bob Cornish Cr Annie Goble</p>	<p>Manager Governance &amp; Corporate Accountability</p>	<ul style="list-style-type: none"> <li>• Australia Day EOI 2021 Host Town Assessment</li> </ul>	<p>Cr Bob Cornish declared an indirect conflict of interest by close association as his spouse works at the Wallan Neighbourhood House Inc.</p>
<p>Strategy Briefing 28 October 2019</p>	<p><u>In Attendance</u> Cr Bill Chisholm Cr Rhonda Sanderson Cr Bob Cornish Cr Bob Humm Cr David Lowe Cr David Atkinson Cr Fiona Stevens Cr Annie Goble</p> <p><u>Apologies</u> Cr Rob Eldridge</p>	<p>Acting Chief Executive Officer Director Governance &amp; Corporate Performance Acting Director Advocacy &amp; Community Services Director Development &amp; Infrastructure Manager Finance &amp; Assets Manager Strategic Planning Strategic Planner</p>	<ul style="list-style-type: none"> <li>• Debt Management Policy &amp; Hardship Policy</li> <li>• Wallara Waters Phase 2 DP</li> </ul>	<p>Nil</p>

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## 9 DEVELOPMENT AND INFRASTRUCTURE

### 9.1 KILMORE EAST SPEED ZONE

**Author:** Cameron Baird - Transport and Development Coordinator

**File No:** CR/01/053

**Attachments:** 1. *Kilmore East Speed Zone Review*

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#### SUMMARY

In response to community concern in relation to road safety at the intersection of Kilmore East Road and O'Gradys Road, Council has sought options to lower the speed limit through this intersection.

This report outlines the engagement with VicRoads and an independent expert review of the existing speed zone operating through Kilmore East. A proposal is offered to alter the speed limit through the township to 60km/h and extend this zone to encompass the intersections of Kilmore East Road, O'Gradys Road and Kilmore East and Dry Creek Road.

This proposal has been shared with the community. 19 responses were obtained from the community with 89% in support of the proposal.

It is now proposed that officers seek RRV/VicRoads approval to the speed zone change and on approval implement these changes.

#### RECOMMENDATION

**THAT** Council:

1. Seek VicRoads approval for the speed zone changes as detailed in Figure 3 of this report.
2. Subject to approval, implement these speed zone changes to Kilmore East roads.

KILMORE EAST SPEED ZONE (CONT.)

## **BACKGROUND**

Councilor and community concern have been raised with the current speed zone through the intersection of O'Gradys Road and Kilmore East Road in Kilmore East.

Various proposals have been discussed with VicRoads to address this concern and provide a viable alternative in line with the Victorian Speed Zoning Guidelines.

Following development of a possible solution to address this issue, independent traffic experts have been engaged to consider and review the existing and proposed speed zones for the area.

This report summarises the findings of this independent review and recommends actions to seek to resolve the speed zone concerns at this location.

*Note: Victorian Councils are not delegated the necessary functions and powers under the Road Management Act 2004 to set speed limits. Rather, these delegated powers sit with VicRoads as the State Road Management Authority. As such, any alternation to a speed zone on a Council managed road must have the prior written approval of VicRoads.*

## **ISSUES AND DISCUSSION**

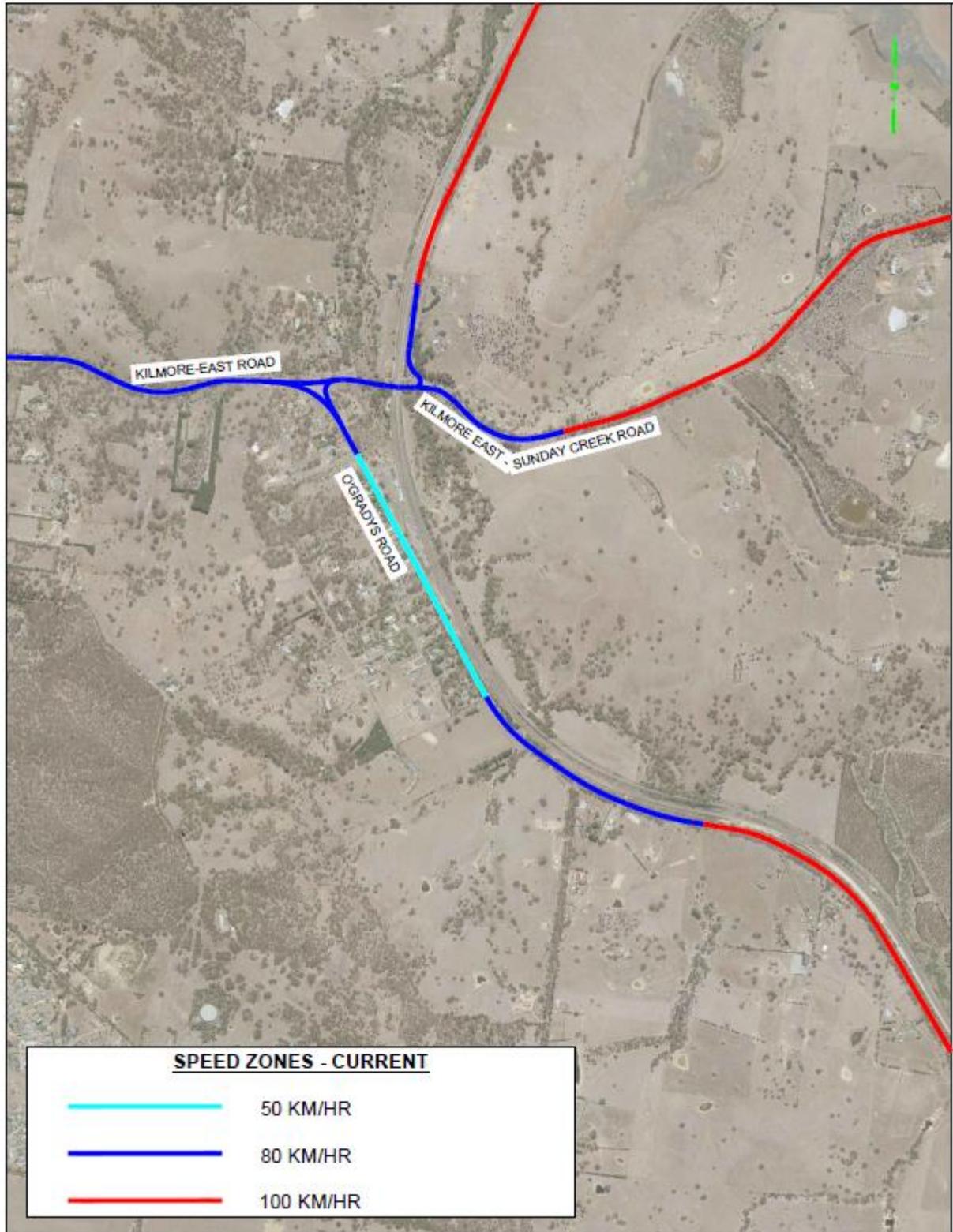
Kilmore East is a small hamlet located approximately 2km East of the Kilmore township. It primarily consists of low-density residential housing, a small local area

## KILMORE EAST SPEED ZONE (CONT.)

park, the Kilmore East train station and its associated support facilities including a railway works depot. The township contains no commercial facilities.

O'Grady's Road which runs generally north south through the hamlet is currently zoned as a 50km/h zone. Figure 1 below details the current speed zones applied throughout the study area.

KILMORE EAST SPEED ZONE (CONT.)



**Figure 1 – Locality and Existing Speed Zoning**

Ongoing community concern has been raised around the existing 80km/h speed zone that runs through the Y-shaped intersection of Kilmore East Road and O’Grady’s Road. Relatively poor sight lines on some intersection legs and the frequency of Heavy Vehicle usage at this intersection are at the core of most of these concerns.

## KILMORE EAST SPEED ZONE (CONT.)

A reduction in the speed limit through the intersection is seen as an important mechanism to help mitigate some of these concerns in the absence of a complete redesign and reconstruction of the intersection.

In discussions with VicRoads concerning the viability of reducing the speed limit in this area, VicRoads have acknowledged that the existing 50km/h speed zone through the township does not currently meet the framework and criteria set out in the Victorian Speed Zoning Guidelines for a 50km/h zone. Rather, VicRoads indicate this would more appropriately be designated as a 60km/h zone.

Further to this, Council officers have been advised that the extension of this existing 50km/h zone further to the North to encompass the intersection of Kilmore East Road and O'Gradys Road would not be supported and rather that the existing 50km/h speed zone should be reviewed in conjunction with any future proposal to review speed limits in this area.

To address this issue, Council officers have prepared a possible concept for a speed zone change throughout the township to seek to address safety concerns and respond

KILMORE EAST SPEED ZONE (CONT.)

to Victorian Speed Zoning Guidelines. Figure 2 details the initial proposal presented for review by the independent expert.

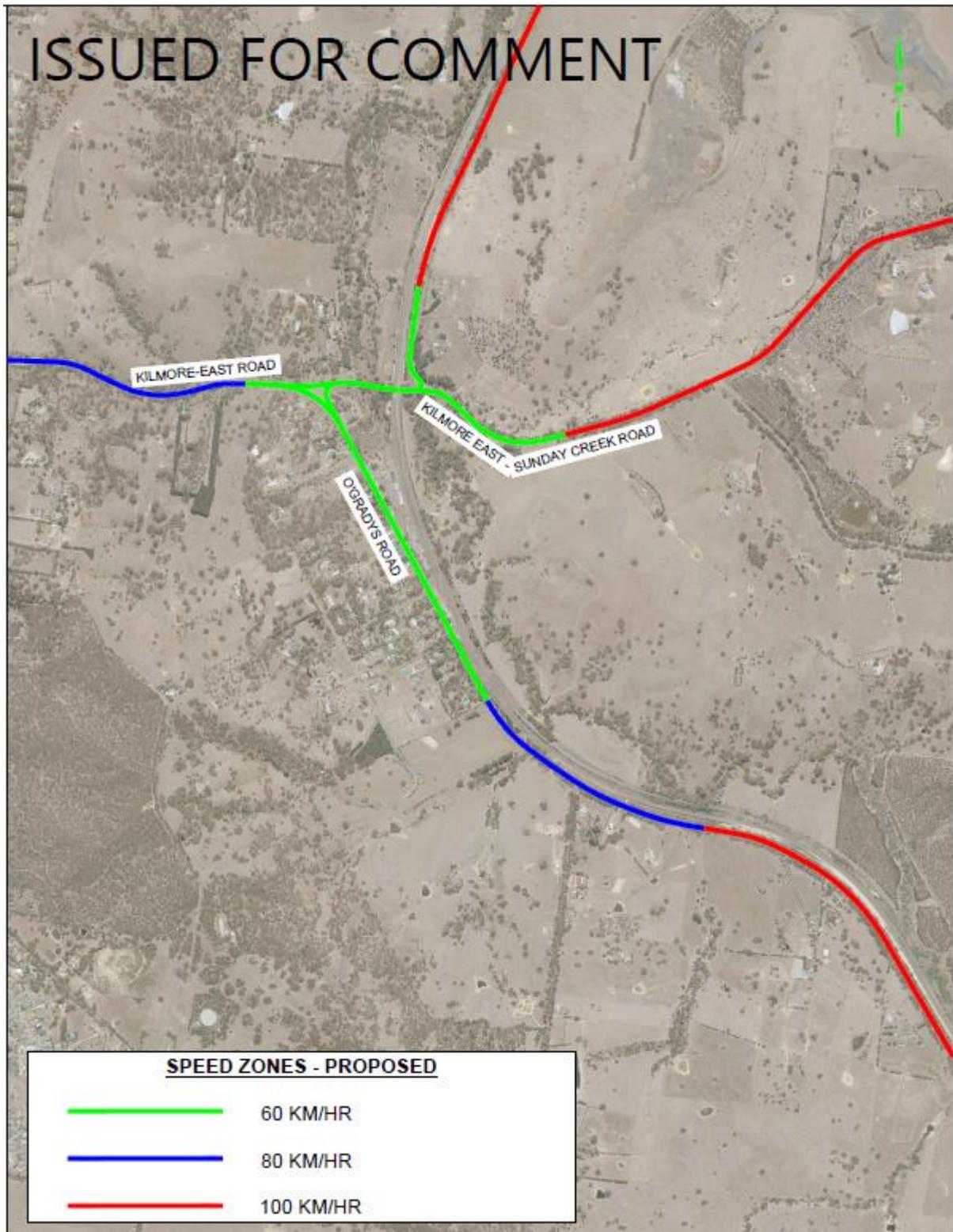


Figure 2 – Initial Speed Zoning Proposal

## KILMORE EAST SPEED ZONE (CONT.)

This proposal would require an increase in the speed zone through the Kilmore East hamlet to 60km/h, however it would also provide a lower speed zone through the concerning intersection of Kilmore East Road and O'Gradys Road (currently 80km/h). This proposal is also more aligned with the Victorian Speed Zoning Guidelines when compared to the existing arrangements.

Given the proposed increase in speed zoning along O'Gradys Road, an independent traffic safety review of the proposal and the existing conditions has been obtained.

**Independent Report Recommendations**

The independent report recommended that Council seek to generally implement the proposed speed zone changes as per Figure 2, noting that they did not support the retention of the existing 80km/h 'buffer zone' on O'Gradys road between the 100km/h zone and the 50km/h zone on the Southern approach to Kilmore East.

The report instead recommended changing this 80km/h buffer zone to a "ahead 60" warning sign in line with current VicRoads speed zone guidelines effectively extending

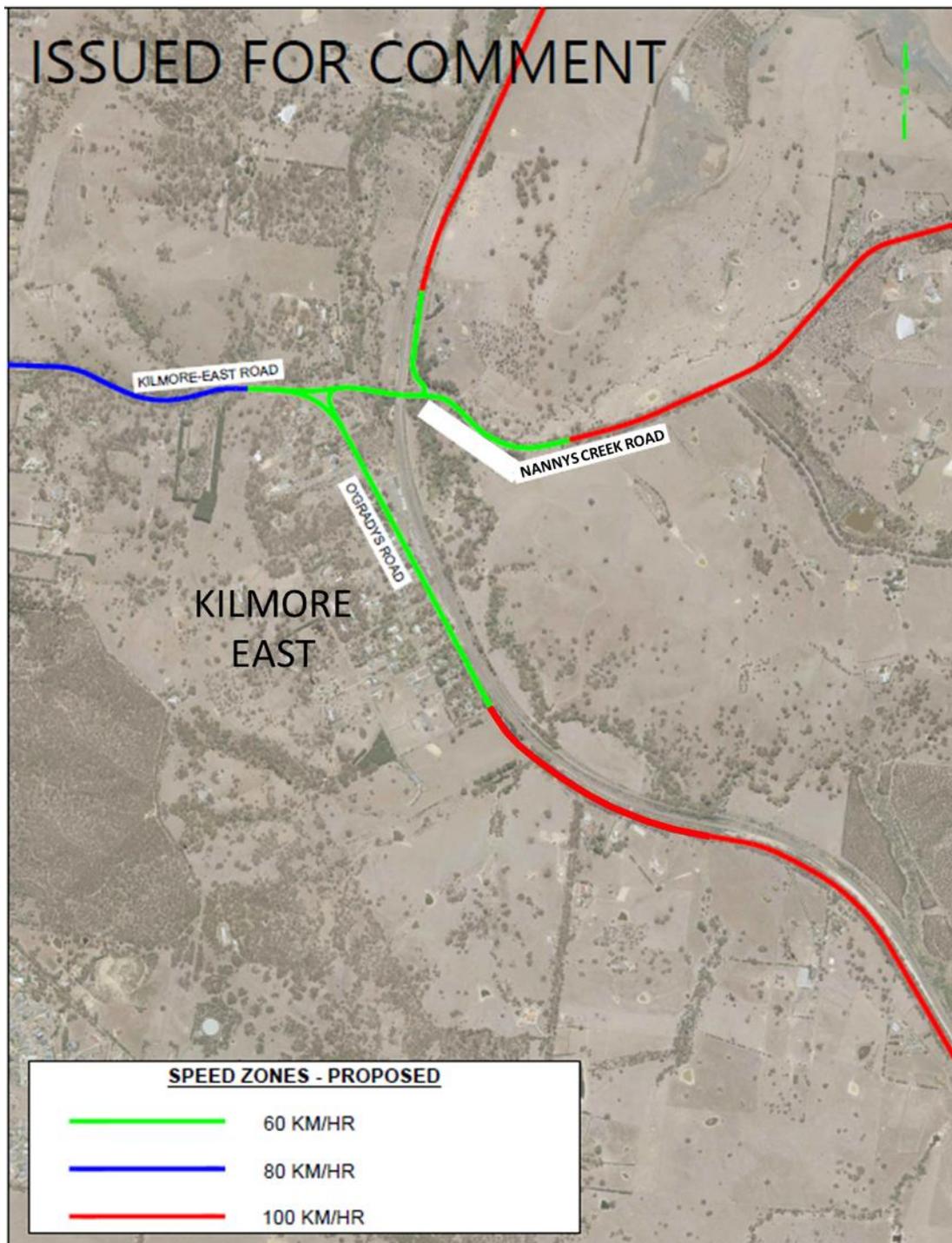
## KILMORE EAST SPEED ZONE (CONT.)

the existing 100km/h zone up to the proposed 60km/h zone where the residential properties commence.

The independent review supports the increase from 50km/h to 60km/h on O'Gradys Road through the hamlet in order to gain additional benefit of extending this zone through the concerning intersection.

The review also supports the implementation of the 60km/h zone on sections of Kilmore East Road, Nannys Creek Road and Dry Creek Road to the extents shown in Figure 3. A full copy of this draft report is provided as Attachment 1.

KILMORE EAST SPEED ZONE (CONT.)



**Figure 3 – Recommended Speed Zone Changes**

**CONSULTATION**

Preliminary consultation has been conducted with VicRoads with regard to the proposed alterations to speed zones contained in this report.

VicRoads have advised that subject to an appropriate community consultation process being undertaken and no discernable community concern being raised, that the proposed speed zoning changes could be supported.

## KILMORE EAST SPEED ZONE (CONT.)

The local Victorian Police (Kilmore) have also been consulted on this proposal and have expressed support for the inclusion of the Kilmore East and Dry Creek Road intersection into a combined 60km/h zone within the study area and as detailed in Figure 3. It was also acknowledged that proposed 60km/h for O'Gradys Road through Kilmore East is likely to be more consistent with motorist expectations and observed motorist behavior in the area.

Community Consultation

Community consultation has been carried out on the speed change proposal detailed in Figure 3.

The following consultation occurred:

- Owners and occupiers of properties located adjacent to those roads proposed to have speed zone alterations were written to (approx. 44 properties) advising them of the proposal and inviting any feedback;
- Advertised the proposal in the North Central Review and on Engaging Mitchell.

The consultation was open for approximately four (4) weeks and allowed the community to provide feedback via a number of avenues. In total 19 responses were provided on the proposal. Of these responses, 17 supported the proposal and 2 did not. This represents an 89% approval rate for the proposed changes in the responses provided.

Both responses that were not in support suggested that the speed needed to be lowered to 50km/h through the proposed area and the 80km/h buffer zone retained. These proposals were previously put to VicRoads/RRV. They did not support these, as they were not considered to be in line with the Victorian Speed Zoning Guidelines.

The feedback also offered opportunity to provide any other comment on the area. The following list of additional comments were provided by those responding in support of the proposal:

1. The 80km/h speed buffer should be retained at the southern end.
2. Would appreciate advance notice on the intended intersection works.
3. Consider a time-based variable speed zone near the station and reserve.
4. Entire length of O'Gradys Road should be reduced speed limit. O'Gradys Road and Kilmore East Road intersection needs realignment.
5. Looking forward to further community consultation on the intersection realignment proposal.
6. O'Gradys Road is a bit too narrow, which is dangerous for cyclists and avoiding animals.
7. Please review start of the 60Km/h zone on Dry Creek Road, possible 80 buffer or 60 ahead?
8. Possibly extend 60km/h to Saunders Road intersection.
9. Would prefer a roundabout at O'Gradys Rd and Kilmore East Road intersection

It is not proposed to consider substantial changes to the proposal such as items 1, 3, 4 and 8, given the expert review and VicRoads in-principal support for the proposal put to consultation. It Should also be noted that 80km/h buffer zones are no longer part of

KILMORE EAST SPEED ZONE (CONT.)

the speed zone guidelines. Item 7 will be addressed as part of the proposal. 60 Ahead signs will be included on these approaches.

### **FINANCIAL, RESOURCE AND ASSET MANAGEMENT IMPLICATIONS**

The implementation of these speed zone changes is anticipated to cost approximately \$6,000 – \$9,000.

### **POLICY AND LEGISLATIVE IMPLICATIONS**

No policy or legislative impacts are envisaged from this proposal.

### **RISK IMPLICATIONS**

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?
Consultation has not captured the thoughts of the larger community	Low	Significant Consultation has occurred through letter drops, website, social media and North Central Review.	Consultation carried out using existing staff resources.

### **SUSTAINABILITY IMPLICATIONS (SOCIAL AND ENVIRONMENTAL)**

There are no known sustainability implications with this proposal.

### **CHARTER OF HUMAN RIGHTS IMPLICATIONS**

The rights protected in the *Charter of Human Rights and Responsibilities Act 2006* were considered in preparing this report and it's determined that the subject matter does not raise any human rights issues.

KILMORE EAST SPEED ZONE (CONT.)

### **CHILDREN AND YOUNG PEOPLE IMPLICATIONS**

There are no known specific implications for children or young people with this proposal. The general safety improvements through more consistent lower speeds at higher conflict points should improve safety for all.

### **OFFICER DECLARATION OF CONFLICT OF INTEREST**

No officers involved in the preparation of this report have any direct or indirect interest in this matter.

### **CONCLUSION**

Following an independent expert review of the existing speed zones within Kilmore East, alterations to these speed zones are being proposed

The speed zone proposal detailed in Figure 3 of this report responds to the primary road safety concerns raised by the community and better aligns with current Victorian Speed Zoning Guidelines.

The community has been consulted and 89% of respondents support the proposal.

The approval of VicRoads, as the State Road Authority and delegated authority for setting speed zones in Victoria, is required in order to implement these proposed changes.

Subject to Council approval, Officers will seek RRV/VicRoads approval for the proposal and its implementation.

**9.2 WATSON STREET SOUTH, WALLAN DEVELOPMENT PLAN (DPO15 EASTERN PORTION)**

**Author:** *Paul Bezemer - Senior Strategic Planner*

**File No:** *PL/13/065*

**Attachments:** 1. *Development Plan Overlay Assessment*  
2. *Submission Summary*  
3. *Development Plan Maps and Report*

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**SUMMARY**

In accordance with Clause 43.04 (Development Plan Overlay – Schedule 15 ‘Watson Street South, Wallan’)) of the *Mitchell Planning Scheme*, an application for a Development Plan approval has been received from Paroissien Grant and Associates Pty Ltd.

The Development Plan Overlay requires the approval of a Development Plan prior to the issue of any planning permits for the subdivision of land at 16, 17 and 18 McCarthy Court and 6A Butler Court in Wallan.

Whilst no statutory public exhibition of the Development Plan is required, notification was provided to relevant agencies and surrounding landowners with the prepared Development Plan being placed on public exhibition between 8 July 2019 and 22 July 2019. In response to this notification, a total of nine (9) submissions were received.

A summary of the submissions received, and the officer response is provided in Attachment 1. Of the submissions, three (3) were from the landowners of 16, 17 and 18 McCarthy Court, objecting with changes sought. These submissions have been resolved. Five (5) submissions received were from landowners in the surrounding area objecting without any changes sought and one (1) submission is from the CFA.

Following a review of the Development Plan, consideration of the submissions made, discussion with the various landowners and a Community Questions and Hearings Committee (14 October 2019), it is recommended that the proposed Development Plan be approved.

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WATSON STREET SOUTH, WALLAN DEVELOPMENT PLAN (DPO15 EASTERN PORTION) (CONT.)

## RECOMMENDATION

**THAT** Council:

1. Approves the Development Plan pursuant to Clause 43.04 Development Plan Overlay (DPO15 East) of the *Mitchell Planning Scheme*, as provided within Attachment 1 to this report.
2. Supports the necessary steps under the *Local Government Act 1989* to give Public Notice for the proposed sale and receive submissions in accordance with s 223 (1) of the Act for the sale of Council land held in the reserve at 7 Butler Court Wallan contained in V9867 F041. This process will be subject to a future Council report prior to finalisation.
3. Authorises the Chief Executive Officer to enter into a section 173 agreement(s) with the applicant / landowners pertaining to development contributions prior to any planning permit being issued for residential development or subdivision.

## BACKGROUND

### Subject site and surrounds

The land affected by the Development Plan consists of four separate parcels:

- 16 McCarthy Court
- 17 McCarthy Court
- 18 McCarthy Court
- 6A Butler Court

The site has a combined total area of 5.866 hectares and is located south of Watson Street and west of the Hume Freeway in Wallan.

The Wallan Structure Plan was adopted by Council in December 2015. The Wallan Structure Plan supported the rezoning of 6A Butler Court from Farming Zone to General Residential Zone and the application of the Development Plan Overlay across



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WATSON STREET SOUTH, WALLAN DEVELOPMENT PLAN (DPO15 EASTERN PORTION) (CONT.)

the responsible authority must consider a range of requirements. The development plan must show and include:

- The development and use of each part of the land.
- Proposed subdivision layout demonstrating a diversity of residential lot sizes.
- The staging of development.
- Vehicle entry and exit points.
- A traffic impact assessment.
- A noise attenuation report, to the satisfaction of VicRoads.
- A pedestrian walkway and cycle path plan.
- An assessment of the community infrastructure and open space needs generated by the subdivision.
- An assessment consistent with the requirements of the permitted clearing of native vegetation guidelines.
- A landscape plan.
- A civil infrastructure and drainage report.

A full assessment of the Development Plan against the requirements of the Development Plan Overlay (DPO) has been undertaken and can be found within Attachment 1.

Before deciding on an application for a permit or a request to approve a development plan or a request to amend an approved development plan, the responsible authority must consider six guidelines according to the Development Plan ordinance. A full assessment can also be found within Attachment 1.

The main point of discussion has been multiple vehicle entry and exit points. Where the development itself has three entry and exit points (Butler Court, McCarthy Court and Kirribili Crescent), these eventually all merge into one entry and exit point from Watson Street.

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WATSON STREET SOUTH, WALLAN DEVELOPMENT PLAN (DPO15 EASTERN PORTION) (CONT.)

Proposed Development Plan:

The proposed Development Plan consists of:

- An internal road network connecting Kirribili Crescent, McCarthy Court and Butler Court.
- Construction of a widened path with emergency services access along Duke Street.
- Provision of 6,838 m<sup>2</sup> of Landscape Zone to provide improved landscape amenity to the Hume Freeway corridor.
- Pedestrian footpaths along all internal roads and new footpaths along Butler Court and Kirribili Crescent.

The proposed Development Plan is supported by a range of documentation, including an accompanying report (focusing on services, drainage and landscape), an acoustic report, a Flora and Fauna assessment and a Transport Impact Assessment.

## **ISSUES AND DISCUSSION**

### Alternative point of entry and exit

In order to achieve multiple vehicle entry and exit points, the construction of Duke Street was an option that has been considered and further examined. Based on current costs for a standard connector street, which vary between \$3,500 and \$4,000 per metre, the construction of approximately 680 meters of road is estimated to cost between \$2.5m and \$3.0m (including upgrades to existing intersections).

The construction of Duke Street is not necessary from a traffic volume point of view, as capacity on the current McCarthy Court – Watson Street intersection is sufficient to accommodate for the additional traffic generated by this development. The construction of Duke Street, if it ever eventuated, would also likely create an alternative route or ‘rat run’ for those avoiding the intersection of Watson Street and Northern Highway, thus creating significantly higher volumes through the neighbourhood than current conditions or projections within this residential area.

In addition, the CFA did not require an alternative point of access in their submission, confirmed in a meeting with the CFA in September. The CFA welcomed the idea of having a fire access track and / or widened path along the Duke Street reservation in the event it can be used for emergency vehicle access / egress in case of an emergency.

The CFA confirmed the use of the Duke Street reservation as a fire access track along the full length (680m) will satisfy their needs in the event of an emergency. The CFA also advised that this link should not be used for residential vehicle access in an emergency. In the scenario of a grass fire, local residents abutting the fire risk will be asked to move two streets back into the neighbourhood rather than leaving by car. In order to facilitate the appropriate level of access for emergency vehicles along the Duke Street reservation, it is intended that this development will part fund the construction of this access.

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WATSON STREET SOUTH, WALLAN DEVELOPMENT PLAN (DPO15 EASTERN PORTION) (CONT.)

### Council Owned Reserve at 7 Butler Court

To be able to develop the land at 6A Butler Court, a new access road at 7 Butler Court is required. Council is the owner of the land at 7 Butler Court, known as Council Reserve No 1 PS 206205A, V9867 F041, which is 667 m<sup>2</sup> meters in size and zoned General Residential Zone (GRZ1).

The reserve has been set aside for municipal purposes and came into Council ownership in 1993. It is currently vacant land that is affected by drainage easements and is informally used by pedestrians as an accessway to destinations such as Greenhill Reserve or Wallan Secondary College.

In order to be able to sell the land, Council will need to consider whether or not the Reserve is surplus to Council's requirements and, if so, will need to embark upon the statutory processes prescribed by *Section 24A of the Subdivision Act 1988* (1988 Act) to secure the removal of the reserve status from the land. This will require either Council applying to itself for a planning permit, or the Developer undertaking the application on Council's behalf, to securing the removal of the reserve status from the land. When a planning permit is issued, the certification and registration of a Section 24A plan by the Registrar of Titles will give effect to the removal of the reserve status from the land.

Any proposed sale of the Council Reserve to the Developer would require Council's compliance with Sections 189 and 223 of the *Local Government Act 1989* (1989 Act), including giving public notice of the consideration of the sale; inviting, receiving and considering submissions in respect of a proposal under Section 223; and resolving whether or not to sell the Council Reserve. This statutory process also requires Council to obtain a current market valuation of the Council Reserve which is not more than six (6) months old at the time of sale. The land will not be sold for less than the final market valuation.

An estimated land valuation for this reserve on 23 May 2019, has indicated the land to be worth \$245,000. The developer has verbally agreed they have an intention of purchasing this land and, if the sale is supported, confirmation of this commitment would be obtained in writing prior to the commencement of the process to remove the reserve status along with a commitment for the reimbursement of all Council's costs associated with the sale.

It is recommended that, subject to Council support, the reserve status is removed from the reserve at 7 Butler Court, pursuant to section 24A of the Subdivision Act 1988, with the intent to sell this land to the landowners of 6A Butler Court to be incorporated within the development.

### Medium density lots and design guidelines

The Development Plan provides the framework to facilitate a variety of lot sizes across the site with the overall lot yield and lot sizes to be determined at the future planning permit / subdivision stage. As part of the design of the layout, a 'superlot' is proposed to be orientated towards Greenhill Reserve that would deliver townhouse product and will be subject to design guidelines at the planning permit application

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WATSON STREET SOUTH, WALLAN DEVELOPMENT PLAN (DPO15 EASTERN PORTION) (CONT.)

stage. The guidelines will identify the need for future development to address the reserve frontage that will allow for passive surveillance opportunities through the appropriate design and orientation of dwellings in this location.

### Developer Contributions

Consistent with the effects of population growth, the creation of additional lots in Wallan will have a level of impact on the demand for local infrastructure and services. It is recognised that landowners must contribute (either financially or through completion of works) to the provision of services and infrastructure. As part of consideration of the proposed Development Plan, there have been ongoing negotiations with regard to the financial contributions which are to be paid by the landowners.

### Open Space

A contribution towards public open space is required in accordance with the *Subdivision Act 1988* for an amount up to 5% of the land value. The area affected by the development plan overlay is approximately 58,664m<sup>2</sup>. The current proposal provides for 6,838 m<sup>2</sup> (12%) which is to be set aside as a landscape zone along the eastern boundary, adjacent to the freeway. However, this is land that is not typically considered to be usable (or credited) open space.

As a result, an additional financial contribution will be required and will allow Council, as the Responsible Authority, to allocate the contributions to nearby local open space, such as the Greenhill Reserve.

### Footpath Infrastructure

The proposed development will result in the construction of a footpath along Kirribili Crescent and Butler Court which will connect into the adjacent residential neighbourhood. In addition, a fire access track along Duke Street and a shared path (at 3.0m wide) along part of the Duke Street reserve will also be required to accommodate appropriate emergency and pedestrian access into and out of the development area.

### Community Infrastructure

The proposed development will result in an increased demand on existing infrastructure and services within Wallan. Council will be requesting a contribution of \$1,150 per residential lot as part of any future subdivision applications which is consistent with the community infrastructure levy for new dwellings in greenfield areas. This is to be included in future agreements with the landowner.

## **CONSULTATION**

### Exhibition of Development Plan DPO15 East

In accordance with the *Planning and Environment Act 1987* and the *Mitchell Planning Scheme*, there was no requirement to formally exhibit the Development Plan documentation and consider submissions.

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WATSON STREET SOUTH, WALLAN DEVELOPMENT PLAN (DPO15 EASTERN PORTION) (CONT.)

However, it was determined by officers to notify surrounding landowners of the proposed Development Plan, along with the relevant agencies. The Development Plan was placed on formal exhibition from 8 July 2019 until 22 July 2019 in accordance with the *Mitchell Shire Community Framework 2014*. Exhibition comprised:

- Direct notification of relevant referral agencies and adjoining landowners (50).
- Advertisement in the North Central Review (9 July 2019).
- Public Notice on site (8 July 2019).
- Electronic copies of the documentation were made available on Council's website.
- Hard copies of the documentation were made available at the Wallan Planning and Building Office.

### Submission Review

A total of nine (9) submissions were received. Three (3) submissions received are from landowners who own land within the development plan area. No communication between the various landowners was undertaken by the applicant in preparation of the exhibited development plan.

Attachment 2 provides a summary of the key issues raised within the submissions, which focusses mainly on increased traffic during construction, once the houses are developed and the construction of Duke Street as a potential second access road into the neighborhood.

Other issues raised through submissions are in relation to design and layout of the development and the function and capacity of McCarthy Court and the Watson Street / McCarthy Court intersection.

### Mediation between landowners

Council officers held various meetings with the landowners of 16, 17 and 18 McCarthy Court and 6A Butler Court after the exhibition period to discuss design and layout concerns. This was largely in relation to the retention of existing dwellings within the layout. These meetings led to a second round of discussions between the landowners and consultants on the proposed road and subdivision layout.

The final design and road layout was workshopped with the affected landowners and will allow residential development to the rear of the properties at 16, 17 and 18 McCarthy Court while retaining the existing dwellings. It also provides each landowner with the opportunity to develop their land, independent from other landowners. Importantly the final road layout does not compromise development outcome and allows for connections between the properties.

### Development Plan Changes after submissions

The current Development Plan addresses the objections raised by the landowners of 16, 17 and 18 McCarthy Court, which includes the ability to retain the existing dwellings within the ultimate subdivided layout.

WATSON STREET SOUTH, WALLAN DEVELOPMENT PLAN (DPO15 EASTERN PORTION) (CONT.)

The road interface towards the Green Hill reserve has also been changed to meet CFA buffer requirements, via a widened road reserve.

The proposed Open Space reserve has been removed as it was necessary to be able to have a road loop around the site. The landscape buffer along the eastern boundary has been extended to the wetlands in order to create amenity and pedestrian connectivity in the southern part of the development.



Figure 2: The Proposed Development Plan layout

A full copy of the Development Plan maps that are recommended to be endorsed, can be found within Attachment 3.

Council officers are of the opinion that with the proposed layout, the primary concerns from the landowner submissions from 16, 17 and 18 McCarthy Court have been resolved.

WATSON STREET SOUTH, WALLAN DEVELOPMENT PLAN (DPO15 EASTERN PORTION) (CONT.)

The submissions of nearby landowners who are not part of the development, have been unresolved. Their concerns relate to traffic impacts in McCarthy Court and the functioning of the intersection of Watson Street/McCarthy Court intersection. The construction of Duke Street was also raised however, this in its own right is not warranted by the traffic generated from this development alone, therefore the nexus is not justified.

All submitters were invited to a Community Questions and Hearings Committee on 14 October 2019, where they had the opportunity to further state their objections. The proponent was the only party who took the opportunity to present to Council through this forum. All submitters will be notified of Council's decision following consideration of this proposal.

### **FINANCIAL, RESOURCE AND ASSET MANAGEMENT IMPLICATIONS**

There are minimal financial implications for Council as this is a proponent-led Development Plan. The applicant will bear the costs associated with processing this development plan and the costs associated with purchasing the land at 7 Butler Court.

### **POLICY AND LEGISLATIVE IMPLICATIONS**

The proposed Development Plan is consistent with the *Mitchell Shire Council Plan 2017-2021*. Key strategy 3.1 of the Council Plan states that Council should “*Plan for growth and change through best practice design of services, infrastructure, open space and recreation facilities*”.

### **RISK IMPLICATIONS**

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a reputation risk that the submitters disagree with the Council resolution and that development should not occur in this location.	2C - Medium.	Community Questions and Hearings Committee prior to deciding on the Development Plan.	Yes.

### **SUSTAINABILITY IMPLICATIONS (SOCIAL AND ENVIRONMENTAL)**

The proposed residential development cannot occur without first obtaining a planning permit. The planning permit application will be required to respond to the site conditions, including any environmental features.

### **CHARTER OF HUMAN RIGHTS IMPLICATIONS**

The rights protected in the *Charter of Human Rights and Responsibilities Act 2006* were considered in preparing this report and it's determined that the subject matter does not raise any human rights issues.

### **CHILDREN AND YOUNG PEOPLE IMPLICATIONS**

WATSON STREET SOUTH, WALLAN DEVELOPMENT PLAN (DPO15 EASTERN PORTION) (CONT.)

The potential loss of the Council Reserve at 7 Butler Court is compensated by a large accessible landscape zone, improved access to the Green Hill Reserve and a financial contribution towards improvements to local open space. Overall access to and availability of open space will improve.

### **OFFICER DECLARATION OF CONFLICT OF INTEREST**

No officers involved in the preparation of this report have any direct or indirect interest in this matter.

### **CONCLUSION**

In accordance with the requirements at Schedule 15 of the Development Plan Overlay within the *Mitchell Planning Scheme*, Development Plan approval has been requested to facilitate the future residential subdivision of the land at 16, 17 and 18 McCarthy Court and 6A Butler Court in Wallan.

As part of the Development Plan assessment process, non-statutory notification was provided to Stage Agencies and surrounding landowners.

The Development Plan was placed on public exhibition between 6 July and 22 July 2019. In total nine (9) submissions were received by Council, including three (3) from landowners affected by the Development Plan area. Key issues raised through submissions included increased localised traffic and the construction of Duke Street. The three submissions from the landowners who are part of this Development Plan have been resolved through mediation by Council officers.

It is recommended that Council resolves to approve the proposed Development Plan.

WATSON STREET SOUTH, WALLAN DEVELOPMENT PLAN (DPO15 EASTERN PORTION) (CONT.)

# **MITCHELL SHIRE COUNCIL**

## **Council Meeting Attachment**

### **DEVELOPMENT AND INFRASTRUCTURE**

**18 NOVEMBER 2019**

**9.2**

**WATSON STREET SOUTH, WALLAN  
DEVELOPMENT PLAN (DPO15 EASTERN  
PORTION)**

**Attachment No: 1**

**Development Plan Overlay Assessment**

## Attachment 1: Assessment against Development Plan Overlay

#	Requirements of DPO 15	Development Plan Response	Met?
1	The development and use of each part of the land.	The Development Plan identifies that the land will be used for residential and open space purposes.	✓
2	Proposed subdivision layout demonstrating a diversity of residential lot sizes.	A range of residential lot sizes are proposed, from 200 m <sup>2</sup> up to 450 m <sup>2</sup> . There are medium density townhouses proposed as well as more standard residential lots.	✓
3	The staging of development.	The Development Plan is set up in a way each of the landowners can develop their land regardless of the others developing theirs.	✓
4	Multiple vehicle entry and exit points to facilitate connectivity linkages as well as safety in the event of fires, accidents or other unforeseen emergencies.	The construction of Duke Street has been examined. Based on current PSP costs for a connector street, which vary between \$ 3.500 and \$ 4.000 per meter, the construction of approx. 680 meters of road along Duke Street is likely to cost between \$ 2.500.000 and \$ 3.000.000 dollars.	✗
5	A traffic impact assessment report which reviews internal and external traffic and movement impacts, to the satisfaction of the responsible authority.	A traffic impact assessment report has been prepared by OneMileGrid, outlining the movement impacts.	✓
6	A noise attenuation report prepared to the satisfaction of VicRoads.	An acoustic report has been prepared by Octave Acoustics and been referred to VicRoads. They've given feedback which has been implemented into the final report.	✓
7	A pedestrian walkway and cycle path plan.	A pedestrian and cycle path plan is part of the maps relating to the development plan. Pedestrian paths will be provided along Butler Court, Kirribilli Crescent and the internal road network.	✓

#	Requirements of DPO 15	Development Plan Response	Met?
8	An assessment of community infrastructure and open space needs generated by the subdivision or development of the land.	As part of the Accompanying report, community infrastructure and open space needs have been investigated. It is proposed that a contribution per lot for Community Infrastructure (\$ 1,150). An area of 1,369 sqm is set aside to provide for Public Open Space.	✓
9	An assessment of native vegetation.	A Flora and Fauna Assessment and Native Vegetation Impact and Offset Requirements report has been prepared by Practical Ecology. Two trees at the south end of the property have been identified as non-planted indigenous trees.	✓
10	A landscape plan which identifies treatments of a public reserve and species of street trees.	A landscape plan is part of the maps relating to the development plan. Specific species for each subdivision will be determined through further consultation with Council staff.	✓
11	Civil Infrastructure and drainage report that addresses the capacity of infrastructure.	As part of the Accompanying report, civil infrastructure and drainage has been investigated. Drainage will be directed to the southern edge where a retarding basin and integral wetland for stormwater treatment is opposed to cater for the overall development.	✓

## Assessment against Decision Guidelines.

#	Decision Guideline DPO 15	Response	Met?
1	How the development plan addressed the Key Directions and Strategies of the Wallan Structure Plan.	<p>The Wallan Structure Plan identified the subject site which should consider:</p> <ul style="list-style-type: none"> <li>- The interface with the Hume Freeway and Watson Street.</li> <li>- Providing Housing frontages to the Green Hill volcanic cone.</li> <li>- Pedestrian access to Watson Street and the station.</li> <li>- Vehicle access to the site to the south.</li> <li>- Pedestrian access to Green Hill volcanic cone.</li> </ul> <p>All key directions and strategies are met.</p>	✓
2	How the development plan provides for a coordinated development outcome for the entire relevant residential infill area.	The workshops with all landowners have led to a road and subdivision layout Council officers believe will provide both a coordinated outcome for the entire area once developed, and gives each landowner the opportunity to develop independent from others.	✓
3	In the case of a proposal that is lodged prior to a development plan being approved, that the proposal will not prejudice a coordinated development outcome for the entire residential infill area.	Not applicable in this development plan approval.	✓
4	The views of Yarra Valley Water, VicRoads, Melbourne Water, Country Fire Authority and other relevant State Government departments / authorities.	Responses have been received from Yarra Valley Water (12 March), Melbourne Water (2 April) and VicRoads (17 May). Other authorities have had the opportunity to send their referral but choose not to.	✓

#	Decision Guideline DPO 15	Response	Met?
5	Impact of the development on the external road network and (including but not limited to works identified in the transport impact assessment report) and any related developer contributions.	A traffic impact assessment report has been prepared by OneMileGrid, outlining the movement impacts.	
6	Arrangements for the provision and contribution for any necessary physical and social infrastructure as a result of development.	The physical and social infrastructure has been examined and will be secured through a Section 173 agreement with each landowner.	

# **MITCHELL SHIRE COUNCIL**

## **Council Meeting Attachment**

### **DEVELOPMENT AND INFRASTRUCTURE**

**18 NOVEMBER 2019**

**9.2**

**WATSON STREET SOUTH, WALLAN  
DEVELOPMENT PLAN (DPO15 EASTERN  
PORTION)**

**Attachment No: 2**

**Submission Summary**

## Attachment 2: Submission Summary Table – DPO15 East

#	Submitter	Summary	Officer Response	Status
1	Hardeep Saini (17 McCarthy Court)	<p>In 2016, the landowner has prepared a Development Plan together with 16 and 18 McCarthy Court.</p> <p>Wishes to keep our respective houses.</p> <p>Wishes to be able to develop independently from other landowners.</p>	<p>Council officers have met with the submitter on three occasions. During these workshops, alternative layouts have been drafted and discussed.</p> <p>This has resulted in a layout meeting both Councils requirements and the landowner's initial objection.</p>	<p>Partly resolved.</p> <p>The original reasons for objection have been addressed and changed.</p>
2	Michael Cappello (16 McCarthy Court)	<p>Want to keep his house.</p> <p>Does not want to sell or move from the location.</p>	<p>Council officers have met with the submitter's former planning consultant. During these workshops, alternative layouts have been drafted and discussed.</p> <p>The approval of a development plan does not mean the landowner has to move, sell or demolish his house. He can choose to keep living there as he currently does.</p> <p>This has resulted in a layout meeting both Councils requirements and the landowner's initial objection.</p>	<p>Partly resolved.</p> <p>The original reasons for objection have been addressed and changed.</p>

#	Submitter	Summary	Officer Response	Status
3	Cvetan Veljanovski (18 McCarthy Court)	Doesn't agree with the current proposal.  Open to collaborate on any future development proposals.	Council officers have met with the submitter on three occasions. During these workshops, alternative layouts have been drafted and discussed.  This has resulted in a layout meeting both Councils requirements and the landowner's initial objection.	Partly resolved.  The original reasons for objection have been addressed and changed.
4	Peter Praag (22 McCarthy Court)	Increased Traffic          Heavy vehicles will use McCarthy Court during construction.	According to the Traffic Impact Assessment provided by the proponent, an additional 970 vehicle movements can be expected daily. The provided Traffic Impact Assessment and the referral from VicRoads indicate a second entry and exit point is not required. The Watson Street / McCarthy Court intersection is expected to continue operating well within capacity, taking into account the additional developmental traffic volumes under interim, ultimate and future (2028) conditions.  Enhancements to the Watson Street / McCarthy Court entrance are not necessary based on the Traffic Impact Assessment provided. During the duplication works from VicRoads, an alternative road layout will be constructed.  Traffic issues during construction can be limited by applying conditions at the permit approval stage, however can't be eliminated altogether.	Unresolved.

#	Submitter	Summary	Officer Response	Status
		<p>Road safety issues in McCarthy Court.</p> <p>Lack of second access road.</p> <p>Emergency services access.</p> <p>Further development south of Butler Court</p>	<p>It will be required that the developer ensures the road surface on McCarthy Court will be in similar condition after development as it was before development starts.</p> <p>Through this development plan, it is proposed to construct footpaths through Butler Court and Kirribili Court, connecting to the existing path along Watson Street.</p> <p>Construction of Duke Street as a road for this development has been investigated, however has been deemed economically unfeasible.</p> <p>Council Officers have asked the proponent to investigate the possibility to construct a shared path along Duke Street, that could be used for emergency vehicles in case of an emergency.</p> <p>The land south of Butler Court is zoned PPRZ, Public Parks and Recreation Zone. Currently Council is working on a Master Plan for the Green Hill reserve, which will include more Active Open Space. To my knowledge, there are no future residential developments planned south of Butler Court.</p>	
5	Allan and Pamela Cowen <i>(23 McCarthy Court)</i>	<p>Only one entry and access road.</p> <p>Heavy work equipment and trucks creating traffic, noise and dust.</p>	See response under #4.	Unresolved.

#	Submitter	Summary	Officer Response	Status
		<p>Emergency services access. Alternative: create another road entrance off the Northern Highway opposite Taylors Lane.</p>		
6	<p>Brett Anderson (12 Kirribilli Crescent)</p>	<p>Enhancements made to the entrance / exit of McCarthy Court to facilitate Construction and Earth Moving equipment vehicles?  Will Duke Street be open during or after development?</p>	<p>See response under #4..</p>	<p>Unresolved.</p>
7	<p>Christine Hanco (10 McCarthy Court)</p>	<p>Increase in traffic. 1600 vehicles a day.  Increased level of noise, rubbish and impact to road surfaces during construction.  No footpaths along McCarthy Court.  Proposed Wallan Interchange.</p>	<p>See response under #4.  Unfortunately, the southern Ramps on Wallan are not in the current Federal and State Government budgets. Mitchell Shire keeps advocating for</p>	<p>Unresolved.</p>

#	Submitter	Summary	Officer Response	Status
		<p>Public Housing will bring increased crime.</p> <p>Did not want to live in an urban growth area.</p> <p>Period and length of exhibition</p>	<p>construction of these ramps, but can't provide a timeframe on when they will be constructed.</p> <p>Not everyone wants to live in a detached dwelling, and by providing a range of densities and housing types in new developments, it provides the opportunity for new residents to have a choice.</p> <p>Mitchell Shire is an identified metropolitan growth area with a significant amount of land within the Urban Growth Boundary by the state Government in 2012. This means that Wallan and the surrounding area are likely to change over time as landowners see the possibilities to develop new residential neighborhoods.</p> <p>Council is supportive of the growth as it also means more, and improved services will be delivered to its existing and new residents over time.</p> <p>In accordance with the <i>Planning and Environment Act 1987</i> and the <i>Mitchell Planning Scheme</i>, there was no requirement to formally exhibit the Development Plan documentation and consider submissions.</p> <p>However, it was determined by officers to notify surrounding landowners of the proposed Development Plan and we are happy to you and</p>	

#	Submitter	Summary	Officer Response	Status
			other residents in the neighbourhood have taken the opportunity to share your views on this development.	
8	Fiona and Rod Wilson <i>(11 McCarthy Court)</i>	Increased traffic.  McCarthy Court is struggling as it is the only road in and out of the estate.  Construction of Duke street would solve this problem.	See response under #4.	Unresolved.
9	CFA	An assessment of the bushfire exposure of lots on the western interface (adjoining Green Hill Reserve) should be prepared.	Changes to the exhibited development plan have been made to consider Column A, Table 2 to c53.02 of the Planning Scheme.	Resolved.

**9.3 WALLARA WATERS PHASE 2 DEVELOPMENT PLAN (DPO4)**

**Author:** Paul Bezemer - Senior Strategic Planner

**File No:** PL/13/075

**Attachments:** 1. Development Plan  
2. Submission Summary

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**SUMMARY**

In accordance with Clause 43.04 (Development Plan Overlay – Schedule 4 “Wallan”) of the *Mitchell Planning Scheme*, an application for a Development Plan approval has been submitted by Reeds Consulting on behalf of the landowner.

The Development Plan Overlay requires the approval of a Development Plan prior the issue of any planning permits for the subdivision of land at 40 Macsfield Road in Wallan.

Whilst no statutory public exhibition of the Development Plan is required, notification was provided to relevant agencies and surrounding landowners with the prepared Development Plan being placed on public exhibition between 8 July 2019 and 5 August 2019. In response to this notification, a total of fourteen (14) submissions were received.

A summary of the submissions received, and the officer response is provided in Attachment 2. Most of the submissions relate to the proposed drainage strategy and the restoration of Hernes Swamp which is a matter of significance for the Northern Growth Corridor.

Following a review of the Development Plan, consideration of the submissions made and discussion with various submitters, it is recommended that the Development Plan be approved.

**RECOMMENDATION**

**THAT** Council:

1. Approves the Development Plan pursuant to Clause 43.04 Development Plan Overlay (DPO4) of the *Mitchell Planning Scheme*, as provided within Attachment 1 to this report.
2. Continues to work with Melbourne Water and Yarra Valley Water in order to provide a drainage strategy for the full catchment of Taylors Creek to realise the intended outcomes for the restoration of the Herne Swamp area.

WALLARA WATERS PHASE 2 DEVELOPMENT PLAN (DPO4) (CONT.)

## **BACKGROUND**

### Subject Site and Surrounding Land

The Wallara Waters Estate has a total site area of over 200 hectares. The site abuts the Hume Freeway to the west, the Hadfield Road reservation to the south (unconstructed future arterial road), the Wallan Wastewater Treatment Plant and Newbridge Estate to the east and Wallan-Whittlesea Road to the north.

The site is located within the Urban Growth Boundary and the North Growth Corridor Plan designates this land as Existing Urban to reflect the site being in the Mixed-Use Zone (MUZ). The abutting land to the south is within the future Precinct Structure Plan



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**WALLARA WATERS PHASE 2 DEVELOPMENT PLAN (DPO4) (CONT.)**

- The development plan for “Phase 1” was approved on 15 June 2010, identifying the development of 600 residential lots.
- The activity centre development was approved on 6 October 2011, that will allow for future commercial uses and provide for community uses, including a medical centre and childcare centre.
- The “Balance of Phase 1” development plan was approved on 21<sup>st</sup> May 2018, allowing an additional 365 residential lots to be developed.
- At full development, the Wallara Waters Estate will accommodate close to 2,000 residential allotments and have an estimated population of over 6,000 people.
- Combined with the Newbridge development to the east, the Wallan East area could accommodate in the order of 3,000 lots with a total population of approximately 9,000 people.
- The future Wallan East PSP and developments around Station Street will further boost numbers to approximately 5,000 houses and 15,000 residents east of the Hume Freeway, once all land has been developed.

**Proposed Development Plan**

The proposed Development Plan (refer to Attachment 1) will provide a master planned subdivision that will facilitate the development of land to accommodate approximately 1080 residential lots.

The Phase 2 land comprises a total area of 90.13 hectares which will provide for the following:

- 68.96 hectares of net developable land (for residential purposes) which will accommodate 1080 residential allotments at a dwelling density of 15.6 lots per hectare (average lots size of 430 square metres).
- 17.70 hectares of land is set aside for drainage services including Taylors Creek which is a tributary to the Merri Creek.
- 3.5 hectares reserved for a future Primary School and 1.0 hectare reserved for a Community Facility.
- 2.48 hectares of unencumbered reserves.

The proposed Development Plan includes a planning assessment report and the following background technical documents:

- Traffic Impact Assessment, GTA Consultants, 3 June 2019
- Traffic Noise Assessment, MarshallDay, 30 May 2019
- Landscape Master plan, Group GSA, 19 November 2018
- Biodiversity Assessment, Ecolink Consulting, September 2018
- Community Infrastructure Assessment, ASR Research, January 2018

**CONSULTATION****Exhibition of Development Plan DPO4 – Wallara Waters Phase 2**

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WALLARA WATERS PHASE 2 DEVELOPMENT PLAN (DPO4) (CONT.)

In accordance with the *Planning and Environment Act 1987* and the *Mitchell Planning Scheme*, there was no requirement to formally exhibit the Development Plan documentation and consider submissions.

However, it was determined by officers to notify surrounding landowners of the proposed Development Plan, along with the relevant agencies and stakeholders. A process of non-statutory public notice of the proposed Development Plan was undertaken. The Development Plan was placed on formal exhibition from 8 July 2019, until 5 August 2019 in accordance with the *Mitchell Shire Community Framework 2014*. Exhibition comprised:

- Direct notification of relevant referral agencies and adjoining landowners (20).
- Advertisement in the North Central Review (9 July 2019).
- Public Notice on site (8 July 2019).
- Electronic copies of the documentation were made available on Council's website.
- Hard copies of the documentation were made available at the Wallan Planning and Building Office.

#### Submission Review

A total of fourteen (14) submissions were received. Seven (7) submissions from agencies, six (6) submissions are from groups interested in the future restoration of Hernes Swamp and one (1) submission from the landowner south of Hadfield Road. Attachment 2 provides a summary of the key issues raised within the submissions.

### **ISSUES AND DISCUSSION**

#### Drainage and Hernes Swamp Restoration

On 18 December 2009, Melbourne Water approved the overall drainage scheme (# 6530 Wallan Airfield Strategy) which outlined floodplain modifications for Wallan Creek and Taylors Creek. This strategy informed the drainage works associated with the existing development for Wallara Waters Phase 1 and the Balance of Phase 1, which have been designed and constructed. The exhibited drainage plan for the Phase 2 development was also based on this strategy.

The exhibited strategy relied on deepening of the outfall waterway channel (Taylors Creek) to create a higher capacity outflow towards the railway line and eventually into the Merri Creek.

Through submissions to this development plan, the Nature Glenelg Trust, Friends of Wallan Creek, Wallan Environment Group, the Merri Creek Management Committee and Yarra Valley Water have commented on the exhibited drainage strategy. The submissions were concerned about the environmental impacts on both the restoration of Hernes Swamp and Merri Creek that could result as a consequence of the drainage strategy.

Council officers have met with the developer, consultants, Melbourne Water and Yarra Valley Water to discuss this issue.

## WALLARA WATERS PHASE 2 DEVELOPMENT PLAN (DPO4) (CONT.)

The requirements for the development plan as listed in the DPO4 schedule are that the development plan must show:

- Road reservations, widths and alignments.
- The number and size of allotments to be created.
- The nature and use of all lots.
- A comprehensive landscape plan.

The Development Plan does not need to have a detailed drainage plan, determining the outfall levels at the exact height and location, which have caused the submitters to respond.

Melbourne Water has commenced working on a hydraulic study in September 2019 for the broader catchments in the Wallan area (which currently comprises six (6) separate drainage strategies). This study will lead to a Development Services Scheme, which will inform the final drainage plan for this Development Plan, future Precinct Structure Plans being Wallan South and Wallan East as well as the Wallan Regional Park study undertaken by DELWP.

The 17.7 hectares designated for a drainage reserve as shown on the proposed Development Plan has been deemed adequate to provide for a sufficient drainage solution by Melbourne Water.

The specific drainage solution of either deepening the outfall and creating new wetlands or through a more swamp-like approach will need to be resolved as part of a future planning permit application.

The Development Plan for Phase 2 can be approved without a detailed drainage strategy for this development. More work will be undertaken with the relevant agencies to ensure an outcome is achieved that can work from both a drainage and environmental perspective.

Whilst acknowledging this specific development is not responsible for all drainage matters within the Taylors Creek catchment, it is considered appropriate that this development plan can be approved on the understanding that a broader and more strategic response is underway from Melbourne Water in relation to the water planning for the entire catchment.

#### “Southern Access Link” / Macsfield Road Bridge

Through this development, it is proposed to construct a “Southern Access Link” which is a two (2) -lane connector road that will be in the general vicinity of the existing Macsfield Road alignment that provides for the construction of a bridge across the Hume Freeway and construction of a new intersection at the Northern Highway / Macsfield Road.

The landowner, VicRoads and Council entered into an agreement in August 2017 (Section 173 AQ622691) requiring the owner to construct and complete the Southern Access Link, at their own cost (currently estimated at \$16,000,000), to the satisfaction of VicRoads prior to the issue of a Statement of Compliance for the 871<sup>st</sup> residential lot within Wallara Waters. This agreement also imposed construction timeframes being:

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**WALLARA WATERS PHASE 2 DEVELOPMENT PLAN (DPO4) (CONT.)**

- a) Construction of the Southern Access Link commences by 1 November 2024; and
- b) Construction of the Southern Access Link is completed to the satisfaction of VicRoads by 1 November 2026.

There is existing planning permission within the Wallara Waters Estate to deliver 965 residential lots through the Phase 1 and Balance of Phase 1 areas that will trigger the requirement for the Southern Access Link to be delivered. Approval of the Phase 2 Development Plan will enable the developer to proceed with detailed design and construction of the Macsfield Road bridge.

The Traffic Impact Assessment Report (TIAR) submitted with the proposal anticipates an additional 505 / 591 peak hour vehicle movements (AM and PM peak hour) and an additional 6,337 daily vehicle movements will be generated as a result of the additional residential allotments. The TIAR identifies that there is adequate capacity in the road network, including the Macsfield Road connection, to accommodate the additional traffic to be generated.

The proposed Development Plan will provide the following key road links:

- Macsfield Road and Macsfield Road bridge, connecting the Northern Highway with Wallara Waters Boulevard.
- The extension of the Wallara Waters Boulevard to the future Hadfield Road alignment to the south.

Hadfield Road will be a future east-west arterial road with the alignment forming the southern boundary of the Wallara Waters Estate. No concept plans or delivery timeframes have been identified at this stage. The delivery of this road would be the responsibility of Regional Roads Victoria and the North Growth Corridor Plan identifies this road as being included within the Principal Road Network.

#### Potential Primary School and Community Centre

The Development Plan shows a Potential Community node, including an option for a 3.5-hectare future government primary school site, if required by the Department of Education and Training. The Victorian School Building Authority (VSBA) has submitted to this development plan, expressing an interest in locating a future primary school on this site. There will be future discussion between the proponent, the VSBA and Council about the potential delivery of this school.

The Development Plan shows a potential option for a future Community Facility required by Council of approximately 1.0 ha. Council's Community Services Department has expressed an interest in this site. Negotiations on acquiring the land for this purpose are ongoing as provision of this land to Council is not covered by an existing Section 173 Agreement.

#### Open Space and Community Infrastructure Levy

Prior to development commencing in the Wallara Waters Estate, an agreement was entered into by the landowner and Council on 9 October 2009, pursuant to section 173 of the *Planning and Environment Act 1987* (Section 173 AG804301F). This

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WALLARA WATERS PHASE 2 DEVELOPMENT PLAN (DPO4) (CONT.)

agreement, amongst other things, identified agreed development contributions towards open space and community infrastructure. The agreed contributions are as follows:

- Provision of public open space will equate to 8% of the total area of land and in accordance with an open space plan prepared in 2008.
- The agreement also outlines that encumbered open space must have only half its actual land area calculated to the total open space area.
- Community Development Levy of \$500 per residential lot.

Within the existing S173 Agreement it states that *“any Public Open Space which is Encumbered Public Open Space must have only half of its actual land area attributed to the calculation of the total Public Open Space required to be provided under this Agreement.* Although this approach would not be accepted by today’s standards, this development plan applies the open space required as per the existing agreement. The applicant does not propose to amend the existing agreement and arrangements in place for the delivery of public open space.

With regard to the spatial distribution of open space, the majority of residential allotments will be within 400 metres walking distance of an open space reserve.

There is also the opportunity to connect the wetlands, creek corridor and landscape interface with the noise attenuation wall via an off-road link that can be constructed as part of the landscaping works in these areas. This will encourage residents to actively use the open space areas within the development.

The additional 1080 residential allotments proposed in the Phase 2 Development Plan area would result in the collection of \$540,000 for community infrastructure (\$500 per lot). This could be used towards acquisition of the land for a future Community Facility mentioned above.

## **FINANCIAL, RESOURCE AND ASSET MANAGEMENT IMPLICATIONS**

Population growth will create an additional demand for services, which Council provides. As the population of Wallan continues to grow, it is vital that Council plan for service provision accordingly.

Financial contributions will be collected through the Community Development Levy in accordance with the existing section 173 Agreement (AG804301F) entered into on 9 October 2009. The contributions to be collected for community infrastructure from Phase 2 will be \$540,000 and could be used towards the provision of the Community Centre as discussed in the Issues and Discussion section of this report.

## **POLICY AND LEGISLATIVE IMPLICATIONS**

### Council Plan

The proposed Development Plan is generally consistent with the strategic objective of responsible planning and the following key strategies within the Council Plan 2017-2021:

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WALLARA WATERS PHASE 2 DEVELOPMENT PLAN (DPO4) (CONT.)

Strategic Objective: *To demand best practice outcomes when planning for future growth.*

Key Strategies:

3.1 – Plan for growth and change through best practice design of services, infrastructure, open space and recreation facilities.

3.2 – Plan for a diversity of housing and households.

State Planning Policy Framework

The following Clauses within the State Planning Policy Framework (SPPF) are considered relevant to this proposal:

- Clause 11 – Settlement
- Clause 15 – Built Environment and Heritage
- Clause 16 – Housing
- Clause 19 - Infrastructure

The proposed Development Plan is consistent with the relevant SPPF and will deliver on the State's vision to encourage population growth as identified in *Plan Melbourne 2017-2050: Metropolitan Planning Strategy* and will facilitate additional residential development close to public transport networks.

Local Planning Policy Framework

The following Clauses within the State Planning Policy Framework (SPPF) are considered relevant to this proposal:

- Clause 21.02 - Settlement
- Clause 21.06 – Built Environment and Heritage
- Clause 21.07 – Housing
- Clause 21.10 – Infrastructure
- Clause 21.11-9 - Wallan

The proposed Development Plan is consistent with the relevant LPPF and the Wallan Structure Plan. The residential development provides a diversity of housing types

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WALLARA WATERS PHASE 2 DEVELOPMENT PLAN (DPO4) (CONT.)

which will be within close proximity to existing / future services, open space and public transport linkages.

### Mixed Use Zone

The subject site is located within the Mixed-Use Zone and the purpose of this includes (but is not excluded to) the following:

- To provide for a range of residential, commercial, industrial and other uses which complement the mixed-use function of the locality.
- To provide for housing at higher densities.
- To encourage development that responds to the existing or preferred neighbourhood character of the area.

The proposed Development Plan is consistent with the intent of the Mixed-Use Zone. The proposed subdivision density is consistent with the existing residential development being delivered in Wallara Waters (within the Phase 1 area) and will deliver a similar product to the emerging character of the area.

### Overlays

- Development Plan Overlay – Schedule 4 (Wallan) applies to the entire site.
- Vegetation Protection Overlay – Schedule 2 (Freeway Environs Protection) – applies to land approximately 100m either side of the Hume Freeway. The proposed Development Plan includes an encumbered open space reserve along the length of the Hume Freeway which enables vegetation planting and a pedestrian and cycle network which is considered consistent with the objectives of this overlay.
- Floodway Overlay – applies to Taylors Creek with approximately 40m of land either side of Taylors Creek. Land Subject to Inundation Overlay – applies to a large extent of the eastern portion of the site. The drainage strategy will need to identify measures to address flood mitigation and water quality treatment to the satisfaction of Melbourne Water and Council prior to development commencing in the Phase 2 area.

### Particular Provisions (Clause 56)

The Development Plan Overlay requires that residential subdivision in the Mixed Use Zone must meet the requirements of Clause 56 as specified in the zone. A detailed assessment of the proposed Development Plan against the requirements within Clause 56 will be undertaken as part of a future planning permit application.

The proposed Development Plan was submitted with a planning report that included an assessment against Clause 56. The information submitted is considered sufficient to demonstrate the ability for future planning permit applications to be assessed against the requirements of Clause 56 and that the proposed Development Plan generally meets the relevant objectives.

## **RISK IMPLICATIONS**

## WALLARA WATERS PHASE 2 DEVELOPMENT PLAN (DPO4) (CONT.)

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
Environment – Environmental/flooding implications	Moderate	Allows Melbourne Water to undertake a strategic hydraulic study for the full catchment, which will inform not only the Wallara Waters area but also Wallan South and Wallan East PSPs.	Yes

**SUSTAINABILITY IMPLICATIONS (SOCIAL AND ENVIRONMENTAL)**

The proposed residential development cannot occur without first obtaining a planning permit. The planning permit application will be required to consider the detailed nature of key environmental matters and drainage requirements prior to any future subdivision permits.

**CHARTER OF HUMAN RIGHTS IMPLICATIONS**

The rights protected in the *Charter of Human Rights and Responsibilities Act 2006* were considered in preparing this report and it's determined that the subject matter does not raise any human rights issues.

**CHILDREN AND YOUNG PEOPLE IMPLICATIONS**

The provision of a primary school and community centre within this development plan will greatly benefit the children and young people within the full Wallan East community.

**OFFICER DECLARATION OF CONFLICT OF INTEREST**

No officers involved in the preparation of this report have any direct or indirect interest in this matter.

**CONCLUSION**

In accordance with the requirements at Schedule 4 of the Development Plan Overlay within the *Mitchell Planning Scheme*, Development Plan approval has been requested to facilitate the future residential subdivision of the land at 40 Macsfield Road in Wallan

As part of the Development Plan assessment process, non-statutory notification was provided to agencies and surrounding landowners which included an exhibition period between 6 July and 5 August 2019. In total fourteen (14) submissions were received by Council.

It is recommended that Council resolve to approve the proposed Development Plan, which will bring greater certainty on the development of the road network (Macsfield

WALLARA WATERS PHASE 2 DEVELOPMENT PLAN (DPO4) (CONT.)

Road bridge) and Community Infrastructure (government primary school and Community Facility) to support the needs of the emerging Wallan East community.



# **MITCHELL SHIRE COUNCIL**

## **Council Meeting Attachment**

### **DEVELOPMENT AND INFRASTRUCTURE**

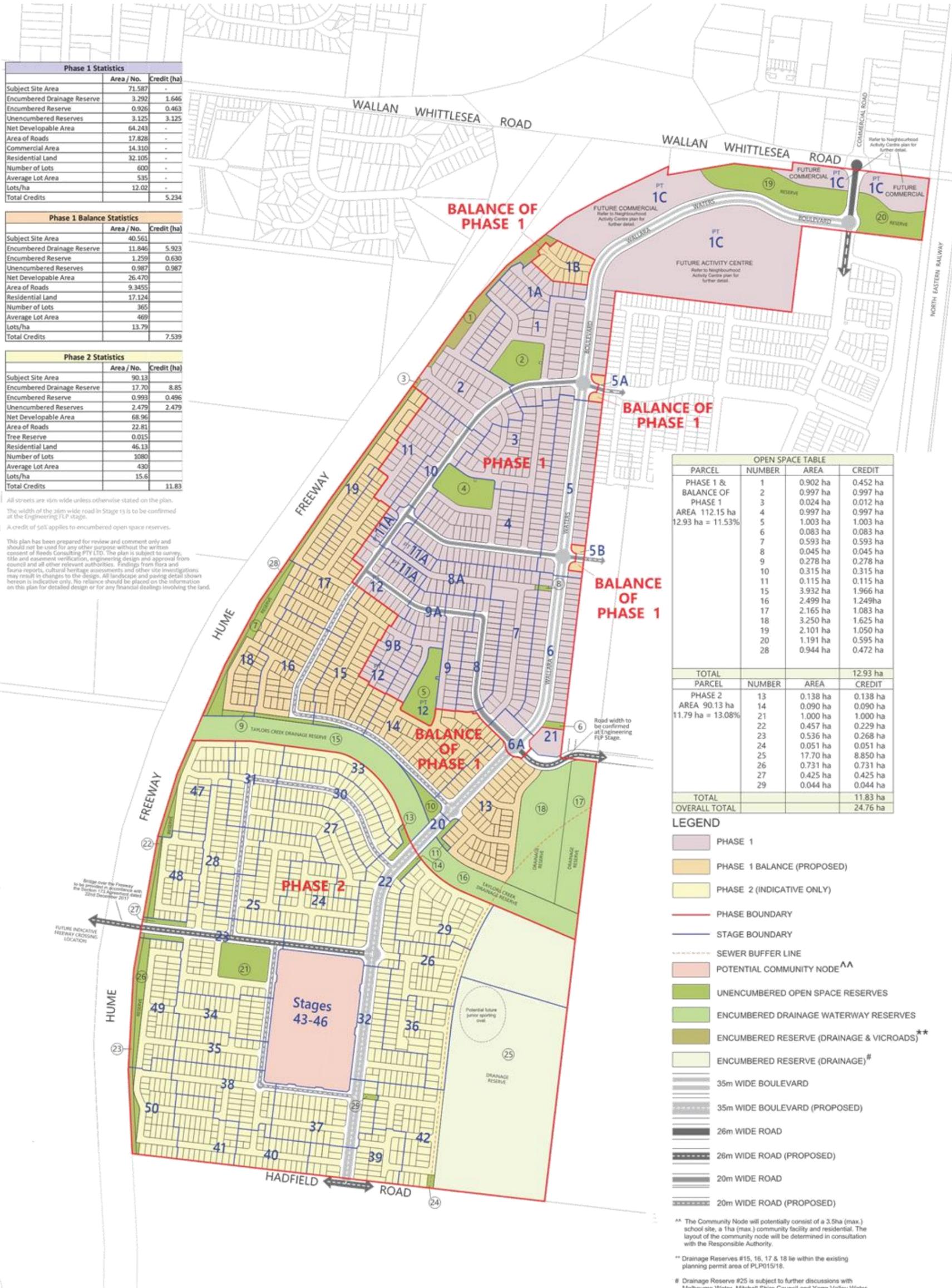
**18 NOVEMBER 2019**

**9.3**

#### **WALLARA WATERS PHASE 2 DEVELOPMENT PLAN (DPO4)**

**Attachment No: 1  
Development Plan**





Phase 1 Statistics		
	Area / No.	Credit (ha)
Subject Site Area	71.587	-
Encumbered Drainage Reserve	3.292	1.646
Encumbered Reserve	0.926	0.463
Unencumbered Reserves	3.125	3.125
Net Developable Area	64.243	-
Area of Roads	17.828	-
Commercial Area	14.310	-
Residential Land	32.105	-
Number of Lots	600	-
Average Lot Area	535	-
Lots/ha	12.02	-
Total Credits		5.234

Phase 1 Balance Statistics		
	Area / No.	Credit (ha)
Subject Site Area	40.561	-
Encumbered Drainage Reserve	11.846	5.923
Encumbered Reserve	1.259	0.630
Unencumbered Reserves	0.987	0.987
Net Developable Area	26.470	-
Area of Roads	9.3455	-
Residential Land	17.124	-
Number of Lots	365	-
Average Lot Area	469	-
Lots/ha	13.79	-
Total Credits		7.539

Phase 2 Statistics		
	Area / No.	Credit (ha)
Subject Site Area	90.13	-
Encumbered Drainage Reserve	17.70	8.85
Encumbered Reserve	0.993	0.496
Unencumbered Reserves	2.479	2.479
Net Developable Area	68.96	-
Area of Roads	22.81	-
Tree Reserve	0.015	-
Residential Land	46.13	-
Number of Lots	1080	-
Average Lot Area	430	-
Lots/ha	15.6	-
Total Credits		11.83

All streets are 40m wide unless otherwise stated on the plan.  
 The width of the 26m wide road in Stage 13 is to be confirmed at the Engineering FLP stage.  
 A credit of 56% applies to encumbered open space reserves.  
 This plan has been prepared for review and comment only and should not be used for any other purpose without the written consent of Reeds Consulting Pty Ltd. The plan is subject to survey, title and easement verification, engineering design and approval from council and all other relevant authorities. Findings from flora and fauna reports, cultural heritage assessments and other site investigations may result in changes to the design. All landscape and paving detail shown hereon is indicative only. No reliance should be placed on the information on this plan for detailed design or for any financial dealings involving the land.

OPEN SPACE TABLE			
PARCEL	NUMBER	AREA	CREDIT
PHASE 1 & BALANCE OF PHASE 1	1	0.902 ha	0.452 ha
	2	0.997 ha	0.997 ha
	3	0.024 ha	0.012 ha
AREA 112.15 ha	4	0.997 ha	0.997 ha
12.93 ha = 11.53%	5	1.003 ha	1.003 ha
	6	0.083 ha	0.083 ha
	7	0.593 ha	0.593 ha
	8	0.045 ha	0.045 ha
	9	0.278 ha	0.278 ha
	10	0.315 ha	0.315 ha
	11	0.115 ha	0.115 ha
	15	3.932 ha	1.966 ha
	16	2.499 ha	1.249 ha
	17	2.165 ha	1.083 ha
	18	3.250 ha	1.625 ha
	19	2.101 ha	1.050 ha
	20	1.191 ha	0.595 ha
	28	0.944 ha	0.472 ha
TOTAL			12.93 ha

PARCEL	NUMBER	AREA	CREDIT
PHASE 2	13	0.138 ha	0.138 ha
AREA 90.13 ha	14	0.090 ha	0.090 ha
11.79 ha = 13.08%	21	1.000 ha	1.000 ha
	22	0.457 ha	0.229 ha
	23	0.536 ha	0.268 ha
	24	0.051 ha	0.051 ha
	25	17.70 ha	8.850 ha
	26	0.731 ha	0.731 ha
	27	0.425 ha	0.425 ha
	29	0.044 ha	0.044 ha
TOTAL			11.83 ha
OVERALL TOTAL			24.76 ha

- LEGEND**
- PHASE 1
  - PHASE 1 BALANCE (PROPOSED)
  - PHASE 2 (INDICATIVE ONLY)
  - PHASE BOUNDARY
  - STAGE BOUNDARY
  - SEWER BUFFER LINE
  - POTENTIAL COMMUNITY NODE<sup>AA</sup>
  - UNENCUMBERED OPEN SPACE RESERVES
  - ENCUMBERED DRAINAGE WATERWAY RESERVES
  - ENCUMBERED RESERVE (DRAINAGE & VICROADS)<sup>\*\*</sup>
  - ENCUMBERED RESERVE (DRAINAGE)<sup>#</sup>
  - 35m WIDE BOULEVARD
  - 35m WIDE BOULEVARD (PROPOSED)
  - 26m WIDE ROAD
  - 26m WIDE ROAD (PROPOSED)
  - 20m WIDE ROAD
  - 20m WIDE ROAD (PROPOSED)

<sup>AA</sup> The Community Node will potentially consist of a 3.5ha (max.) school site, a 1ha (max.) community facility and residential. The layout of the community node will be determined in consultation with the Responsible Authority.  
<sup>\*\*</sup> Drainage Reserves #15, 16, 17 & 18 lie within the existing planning permit area of PLP015/18.  
<sup>#</sup> Drainage Reserve #25 is subject to further discussions with Melbourne Water, Mitchell Shire Council and Yarra Valley Water in terms of the design of the reserve.

**OVERALL DEVELOPMENT PLAN**  
 WALLARA WATERS ESTATE, WALLAN

SCALE 1:4000 SHEET A1  
 REF 20569/ODP VERSION P DATE 21/10/19  
 G:\20569\ODP\Current\Dev Plans from 06-09\Overall Development Plan\ODP\A1.dgn

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# **MITCHELL SHIRE COUNCIL**

## **Council Meeting Attachment**

### **DEVELOPMENT AND INFRASTRUCTURE**

**18 NOVEMBER 2019**

**9.3**

#### **WALLARA WATERS PHASE 2 DEVELOPMENT PLAN (DPO4)**

**Attachment No: 2  
Submission Summary**

## Attachment: Submission Summary Table – DPO4 Wallara Waters

#	Submitter	Summary	Officer Response	Status
1	Melbourne Water (MW)	<p>Prior to commencement of works, in the interim it is expected that upstream properties conduct an ecological study to determine the flow regime and its impacts caused by the development.</p> <p>Requirements for the herbaceous wetland i.e. water depth, quality, frequencies of dry and wet phase.</p> <p>Developer is to negotiate with downstream landowners to obtain a free draining outfall through their property.</p> <p>Alignment of roads and reserves with any adjoining estates must ensure continuity and provide uninterrupted conveyance of the overland flows.</p>	No action from Council required at this point in time.	Consent with conditions for a future planning permit.
2	Department of Transport (DoT)	<p>Subdivision stages containing bus stops must be referred to DoT.</p> <p>Location of the bus stops should be noted on the subdivision plan.</p>	No action from Council required at this point in time.	Consent with conditions for a future planning permit.
3	Yarra Valley Water (YVW) <i>05 August 2019</i>	<p>The landowners must enter into an agreement with Yarra Valley Water.</p> <p>Sewer buffer must be maintained between Wastewater Treatment Plant.</p>	No action from Council required at this point in time	Consent with conditions for a future planning permit.

#	Submitter	Summary	Officer Response	Status
4	EPA	<p>Construction and post-construction activities must be in accordance with EPA Construction Techniques for Sediment Pollution Control.</p> <p>Supports the nominated 700m buffer distance between the wastewater treatment plant and the development.</p> <p>Supporters the sound barrier requirements to block noise from the Hume Freeway.</p>	<p>No action from Council required at this point in time.</p>	<p>Consent with conditions for a future planning permit.</p>
5	Nature Glenelg Trust	<p>DP is contrary to Planning Scheme Provisions and Strategies.</p> <p>Would like drainage strategy to be reworked as it has no consideration for the current Hernes Swamp footprint.</p> <p>Key design problems: Eastern drainage reserve of Phase 2 is within the former footprint of Hernes Swamp and this area is still prone to inundation after heavy rainfall. Therefore, as the drainage plans interfere with the natural topography, the surface of the natural wetland and its functioning will be disrupted.</p> <p>Proposed infill areas of Phase 2: the finished surface level of these reclaimed areas will be problematic for future drainage management. This will lead to knock-on effects: capacity pressure on Taylors Creek, will reduce the potential options in terms of restoration efforts.</p> <p>Alternative solution:</p>	<p>It is proposed to not endorse the current drainage strategy proposal. MW and YVW have stated that enough land has been set aside to provide a drainage solution. The detailed design can be subject to further discussion.</p> <p>MW will undertake hydrology study of the full catchment area which form the basis for any future works.</p>	<p>Resolved.</p>

#	Submitter	Summary	Officer Response	Status
		<p>Stormwater from the Phase 2 development to be discharged in the Phase 2 eastern drainage reserve at natural surface level and allowed to inundate across this site and adjacent Yarra Valley land earmarked for wetland restoration.</p> <p>Would like DP on hold or at least for Council to not approve the drainage plans to enable enough revisions.</p>		
6	Friends of Wallan Creek	<p>Requests for DP to be put on hold until feasibility study for a Southern Regional Park is completed (with State Government budget).</p> <p>Allowing Phase 2 to go ahead beforehand will put at risk the possibility for this major environmental and social asset to the established.</p>	<p>Land set aside for drainage is sufficient to be able to provide a solution.</p> <p>Feasibility study completion is still years away. Land already rezoned for mixed use purposes is ready to be developed.</p>	Resolved.
7	Wallan Environment Group	<p>Request drainage works to be postponed until feasibility study for the Southern Regional Park takes place. The Phase 2 area is suitable for proposed wetland restoration. Significant flora and fauna sightings at the site that would be affected.</p> <p>The wetlands' natural functioning cannot happen if Taylors Creek is deepened. Quick drainage equals no ecological benefit.</p>	It is recommended that the drainage strategy will not be approved now.	Resolved.

#	Submitter	Summary	Officer Response	Status
8	Claudia and David James	Same as objection 6 – refer to above comments.	It is recommended that the drainage strategy will not be approved now.	Resolved.
9	Akron Property Group  Developer of Deloraine Farm, 500 Old Hume Highway	Stormwater outflows onto Akron site in an unregulated / unmanaged manner. Suggest drainage outflows should be managed via the Taylors Creek reserve. Objects to Hadfield Road alignment being located outside of the Hadfield Road reserve, in particular within land owned by Akron. No reason for deviation in road reserve. DP does not reflect long established road connection of north south arterial road between Wallara Waters and Akron site. DP is proposing a T intersection only.	It is recommended that the drainage strategy will not be approved now.  Hadfield Road alignment will not be decided through this DP and is removed from the final version. However, initial discussion with VicRoads confirms the preference of having the full road and batter within 1 landholding which will extend over existing road reservation.  Intersection into Akron site is not part of this DP and will not be shown on the DP map.	Resolved.
10	Merri Creek Management Committee (MCMC)	Potential for Swamp to be restored is compromised by Drainage Strategy. Lowering of level of Taylors Creek and the level of the discharge point is not compatible with the restoration of Hernes Swamp. Risk of soil erosion and sediment pollution is not addressed.	It is recommended that the drainage strategy will not be approved now.	Resolved.

#	Submitter	Summary	Officer Response	Status
		<p>No inclusion of management of bulk earthworks and management of erosion and sediment pollution risk in DP.</p> <p>Suggestions:                      Drainage Strategy be reviewed and revised to retain potential to restore Hernes Swamp.                      Soils investigation should be undertaken to identify risk of highly erosive dispersive soils.                      Development Plan should include section on bulk earthworks.</p>		
11	YVW – Property Manager 200 South Station Street.	<p>Owner of Wallan Wastewater Treatment Plant. Deepening of Taylors Creek will limit restoration ability of Hernes Swamp.</p> <p>YVW are working with developers in area as a project partner to consider the drainage options available for Hernes Swamp.</p> <p>Alternative options currently being considered as part of Wallan Restorative Project and Upper Merri Creek Integrated Water Management Plan Pilot.</p>	It is recommended that the drainage strategy will not be approved now.	Resolved.
12	BEAM	<p>BEAM supports the Nature Glenelg Trusts proposal to revisit the drainage plans for Phase 2 and seek the full plan to be put on hold, or at least not approve the drainage plans, and for Mitchell Shire to play an active role in facilitating development in and around Hernes Swamp that is consistent with the wetland restoration plan.</p>	It is recommended that the drainage strategy will not be approved now.	Resolved.

#	Submitter	Summary	Officer Response	Status
13	Department of Environment Land, Water, Planning (DELWP)	Remediation of revegetation works should be done with indigenous species of local provenance. Standard best practise should be implemented to minimise the spread of weeds and soil pathogens through movement of soil on and offsite.	Changes to the species list in the Landscape Masterplan have been made. The best practise comment will be applied at the later, subdivision stage.	Resolved.
14	Victorian School Building Authority (VSBA)	VSBA is seeking to identify a suitable location for a potential future government primary school east of the Hume Freeway at Wallan to cater for anticipated future demand. State Government policy now requires any identified primary school site to also include provision for a kindergarten on, or adjacent to, the site.	Council is excited to hear the interest in a potential future school site and Officers will work with the VSBA in further resolving any remaining issues.	Resolved and will be further discussed with the VSBA and the developer.

**9.4 PLANNING PERMIT APPLICATION P307127/12.01 FOR THE USE OF THE LAND FOR CAMPING AND USE OF EXISTING BUILDINGS FOR A HOST FARM AND FUNCTION CENTRE (PERMIT AMENDMENT) AT 160 SCOTTS ROAD TALLAROOK**

**Author:** *Holly Sawyer - Senior Statutory Planner*

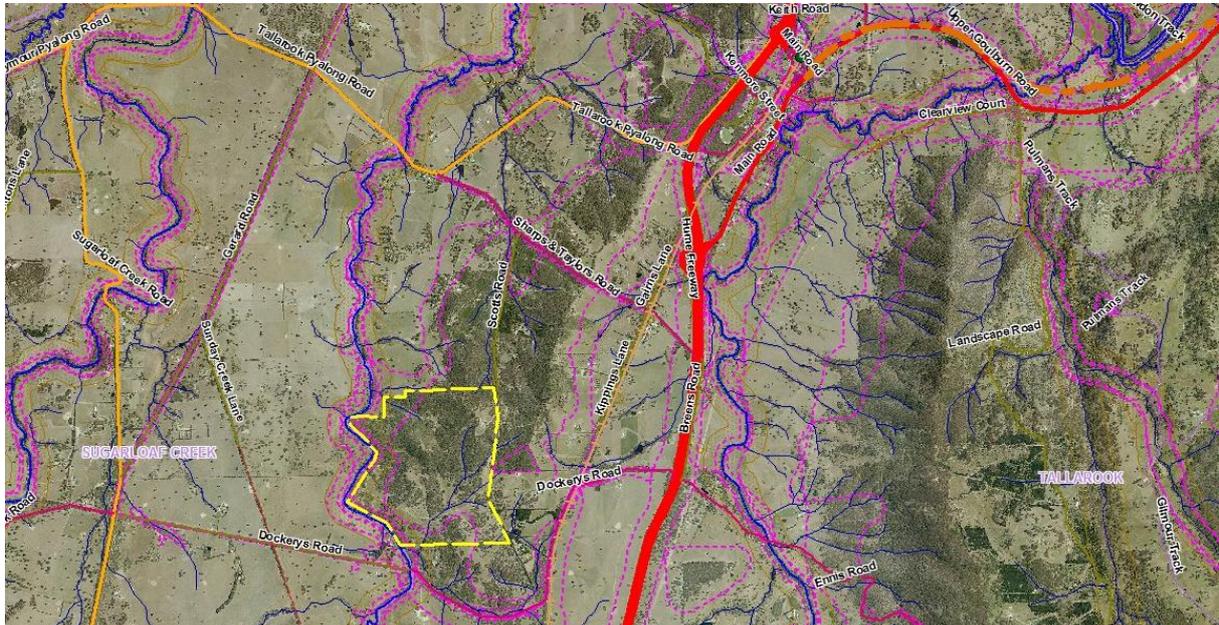
**File No:** *P307127/12.01*

**Attachments:** 1. *Site plans*  
2. *Planning Policy Framework*

<b>Property No.:</b>	104014
<b>Title Details:</b>	Crown Allotments 24A, 28, 28A and 28B Parish of Lowry Volume 09778 Folio 230 Crown Allotment 23 Parish of Lowry Volume 10641 Folio 326
<b>Applicant:</b>	Plan-It Rural Pty Ltd
<b>Zoning:</b>	Farming Zone
<b>Overlays:</b>	Bushfire Management Overlay Erosion Management Overlay Land Subject to Inundation Overlay Environmental Significance Overlay – Schedule 3
<b>Objections Received:</b>	Eight, at the time of preparing this report
<b>Cultural Heritage Management Plan Required:</b>	No, the uses are located outside of the area of cultural heritage sensitivity
<b>Officer Declaration of Conflict of Interest:</b>	No officers involved in the preparation of this report have any direct or indirect interest in this matter

PLANNING PERMIT APPLICATION P307127/12.01 FOR THE USE OF THE LAND FOR CAMPING AND USE OF EXISTING BUILDINGS FOR A HOST FARM AND FUNCTION CENTRE (PERMIT AMENDMENT) AT 160 SCOTTS ROAD TALLAROOK (CONT.)

## SITE MAP



## SUMMARY

The application is seeking to amend planning permit P307127/12 which permits the use of the land and existing buildings for a host farm and function centre. The application for amendment sought to include the use of the land for camping and to increase the patron numbers for the host farm and function centre already approved under the permit.

The land is located within the Farming Zone and is affected by the Bushfire Management Overlay, Erosion Management Overlay, Land Subject to Inundation Overlay and the Environmental Significance Overlay – Schedule 3 of the Mitchell Planning Scheme.

The application was advertised by mail to adjoining landowners and occupiers. A total of eight objections have been received at the time of writing this report.

The application was notified to the CFA in recognition of the site's location in a bushland setting. The CFA requested additional information however, the applicant has not satisfactorily addressed this request to date.

This report recommends that Council issue a Notice of Decision to Refuse a Planning Permit for planning application P307127/12.01, as the application has not demonstrated that the proposed camping use and increased host farm and function centre uses are consistent with planning policy seeking to protect human life and property particularly as it relates to compliance with the objectives of the Bushfire Management Overlay.

## SITE AND SURROUNDS

### Subject Site Description

The site is located at 160 Scotts Road Tallarook and consists of Crown Allotments 23, 24A, 28, 28A and 28B, Parish of Lowry. The site is irregular in shape, with a total site

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PLANNING PERMIT APPLICATION P307127/12.01 FOR THE USE OF THE LAND FOR CAMPING AND USE OF EXISTING BUILDINGS FOR A HOST FARM AND FUNCTION CENTRE (PERMIT AMENDMENT) AT 160 SCOTTS ROAD TALLAROOK (CONT.)

area of approximately 203ha. The site is accessed via Scotts Road, which runs in a southerly direction from Sharps and Taylors Road to Dockerys Road. Scotts Road is adjacent to the eastern boundary of the site, with the western boundary of the site abutting Sunday Creek.

The subject site is undulating in nature and is heavily vegetated, especially throughout the sloping areas of the site and along Sunday Creek. Areas predominately cleared of vegetation within the site have been utilised for pasture and are currently grazed by goats. A number of outbuildings are found on the site for the purpose of feed storage and animal shelters.

The site also contains two dwellings that are currently incorporated into the existing use of the land for a host farm (guest accommodation), which is conducted in association with the agricultural use of the land (goat husbandry). The site is also currently used as a function centre (such as weddings, dinners, small parties, educational events and conferences) within the larger of the existing dwellings. There are existing car parking areas around each dwelling.

#### *Planning Background*

Council records indicate that the following planning related outcomes have been determined for the site:

- PLA303157/02: Issued 9 December 2002 allowing for the construction of a dwelling on the land.
- P304802/07: Issued on 2 October 2007 allowing for the construction of an agricultural outbuilding on the land.
- P305664/09: Issued on 24 June 2009 (amended 20 May 2011) allowing for an extension to the existing dwelling on the land.
- P307127/12: Issued on 13 August 2013 allowing for the use of existing buildings for a host farm and function centre in accordance with the endorsed plans.

#### *Title/Restrictions/Agreements*

The relevant titles to the land indicate that the subject site is affected by Caveat AM635221R in relation to interests held by other parties to the land. This caveat has no bearing on this application.

#### Surrounding Area

The surrounding area is found within common zoning (Farming Zone), with two pockets of Public Conservation and Resource Zone (PCRZ) found to the east and south of the site. This land within the PCRZ is identified as the Lowry Bushland Reserve. Sunday Creek is found running north-south and is located immediately to the west of the subject site. Several drainage lines are found within the vicinity of the subject site and typically act as tributaries to Sunday Creek.

The surrounding area consists of a range of lot sizes, with lots to the east typically used for rural-residential purposes along Kippings Lane. Land to the west contains larger allotments that are generally used for agricultural purposes with some dwellings interspersed within the area.

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PLANNING PERMIT APPLICATION P307127/12.01 FOR THE USE OF THE LAND FOR CAMPING AND USE OF EXISTING BUILDINGS FOR A HOST FARM AND FUNCTION CENTRE (PERMIT AMENDMENT) AT 160 SCOTTS ROAD TALLAROOK (CONT.)

The topography of the surrounding area is undulating, with vegetation across the landscape varying. To the north and south of the subject site, vegetation is quite dense, with areas of cleared land between the patches. Land along Kippings Lane and to the west of the subject site contains scattered vegetation and is generally clear of trees.

## PROPOSAL

The application is seeking to amend the planning permit under Section 72 of the *Planning and Environment Act 1987* to include the use of the land for camping and to increase the host farm use.

The details of the proposed camping use are as follows:

- Introduction of camping sites to support the host farm use already approved;
- Eleven unpowered campsites (see attachment 1) are proposed to be located central to the subject site, with each site containing a radius of approximately 25 metres (although there is no formal boundary for each site);
- Campsites will include firepits and purpose made cut-off oil drums, with most sites also containing picnic tables and non-potable water supplies;
- Maximum of 120 persons on site at any one time for the proposed camping use;
- Campsites are to be accessed via existing tracks associated within the existing agricultural land use;
- Campers will have the option to bring their own camping equipment or hire equipment from the permit holder (including portable toilets, generators, gas bottles, drinking water and/or firewood);
- No chainsaws are permitted to be brought onto the site by campers;
- Campers will also be given the option of renting a purpose-built 'Big Tiny Home' which can be towed to the relevant campsite for the duration of the campers stay. As these are built on trailers and are non-permanent structures, they do not constitute buildings and works as part of the proposal.

The proposed changes to the planning permit in relation to increasing the function centre and host farm use are as follows:

- Amend condition 2 (which currently allows for no more than seven guests to be accommodated in the smaller dwelling/cottage and 15 guests to be accommodated in the larger dwelling/homestead at any one time) to allow for nine guests in the smaller dwelling and 20 guests to the larger dwelling. The increased numbers are proposed to be facilitated through the reconfiguration to the bedding options available within the existing structures, rather than making structural changes to the dwellings;
- Amend condition 3 (which currently allows no more than 40 patrons to attend the site for functions) to increase the maximum number of patrons to 80. The increased number is justified as a result of increased demand for outdoor settings for certain types of functions. An area of approximately 900sqm directly south of the larger dwelling is proposed to be used for the increased patrons.

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PLANNING PERMIT APPLICATION P307127/12.01 FOR THE USE OF THE LAND FOR CAMPING AND USE OF EXISTING BUILDINGS FOR A HOST FARM AND FUNCTION CENTRE (PERMIT AMENDMENT) AT 160 SCOTTS ROAD TALLAROOK (CONT.)

- Amended condition 9 (which currently requires an area to be set aside for 12 parking spaces) to require the provision of 24 spaces in accordance with the increased patron numbers. This will be facilitated through the existing parking area which has ample space for additional car spaces.
- There are no proposed changes to the frequency of functions per annum (currently restricted at ten functions per year).

### APPLICATION HISTORY

The application was received by Council on 23 February 2018. Further information was requested by Council on 14 March 2018 and was received on 23 May 2018. It was identified that the proposed camping sites shown on the amended plans would require the preparation and submission of a Cultural Heritage Management Plan on 29 May 2018. Amended plans were submitted on 3 August 2018 to relocate the proposed camping sites outside of the area identified as being of cultural heritage sensitivity.

The application commenced public notification on 29 August 2018 and concluded on 14 September 2018. Eight (8) objections were received in relation to the proposal.

Further information was requested by the CFA on 12 June 2018, 4 September 2018 and 3 December 2018 in relation to the submission of a Bushfire Management Statement and Bushfire Emergency Plan. The applicant has submitted a response to this to which the CFA have sought additional information. This request has not been satisfied despite repeated requests from officers.

### PLANNING SCHEME PROVISIONS

#### Zoning

##### *Farming Zone (FZ)*

The subject site is located within the Farming Zone pursuant to Clause 35.07 of the Mitchell Planning Scheme (Scheme). A planning permit is required for the use of the land for camping. A permit is also required to increase the existing use of the land for a host farm and function centre.

#### Overlays

##### *Bushfire Management Overlay (BMO)*

The site is affected by the Bushfire Management Overlay pursuant to Clause 44.06 of the Scheme. The purpose of Clause 44.06 is (amongst others) to:

- *To ensure that the development of land prioritises the protection of human life and strengthens community resilience to bushfire;*
- *To identify areas where bushfire hazard warrants bushfire protection measures to be implemented;*
- *To ensure development is only permitted where the risk to life and property from bushfire can be reduced to an acceptable level.*

As there are no buildings and works proposed as part of the application to amend the permit, a permit is not required for the proposed camping use and increased function centre and host farm use pursuant to Clause 44.06-2 of the Scheme.

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PLANNING PERMIT APPLICATION P307127/12.01 FOR THE USE OF THE LAND FOR CAMPING AND USE OF EXISTING BUILDINGS FOR A HOST FARM AND FUNCTION CENTRE (PERMIT AMENDMENT) AT 160 SCOTTS ROAD TALLAROOK (CONT.)

*Erosion Management Overlay (EMO)*

The site is affected by the Erosion Management Overlay pursuant to Clause 44.01 of the Scheme. A planning permit is not required for the proposed use of the land for camping and increased use of the land for a host farm and function centre as there are no buildings and works proposed as part of the amendment.

*Environmental Significance Overlay – Schedule 3 (ESO3)*

The site is partially affected by the Environmental Significance Overlay – Schedule 3 pursuant to Clause 42.01 of the Scheme. As the proposed use is located outside of the area affected by this overlay, planning approval is not required under the ESO3.

*Land Subject to Inundation Overlay (LSIO)*

The site is partially affected by the Land Subject to Inundation Overlay pursuant to Clause 44.04 of the Scheme. As the proposed use is located outside of the area affected by this overlay, planning approval is not required under the LSIO.

Particular Provisions

*Clause 52.06 (Car parking)*

Clause 52.06 of the Scheme is relevant to this application and has the following purpose:

- To ensure that car parking is provided in accordance with the Municipal Planning Strategy and the Planning Policy Framework;
- To ensure the provision of an appropriate number of car parking spaces having regard to the demand likely to be generated, the activities on the land and the nature of the locality;
- To support sustainable transport alternatives to the motor car;
- To promote the efficient use of car parking spaces through the consolidation of car parking facilities;
- To ensure that car parking does not adversely affect the amenity of the locality;
- To ensure that the design and location of car parking is of a high standard, creates a safe environment for users and enables easy and efficient use.

Pursuant to Clause 52.06-5, for the proposed increase to the function centre use the required number of car parking spaces is 0.3 spaces to each patron permitted. As the proposal is seeking to increase the patron numbers from 40 to 80, the number of car parking spaces required under Clause 52.06 is 24. As the submitted site plan indicates that there is adequate space for at least 52 car parking spaces adjacent to the homestead on the site, this requirement is considered to have been met.

*Clause 65 (Decision guidelines)*

The relevant decision guidelines of Clause 65.01 to this application are as follows:

- The purpose of the zone, overlay or other provision;
- The orderly planning of the area;

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PLANNING PERMIT APPLICATION P307127/12.01 FOR THE USE OF THE LAND FOR CAMPING AND USE OF EXISTING BUILDINGS FOR A HOST FARM AND FUNCTION CENTRE (PERMIT AMENDMENT) AT 160 SCOTTS ROAD TALLAROOK (CONT.)

- The effect on the amenity of the area;
- 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 minimize any such hazard.

### Planning Policy Framework (PPF) and Local Planning Policy Framework (LPPF)

A number of policies are relevant to this application, the most relevant of which are discussed in the discussion section of this report below. A comprehensive list of all relevant policies is included as at Attachment 2.

### **PUBLIC NOTIFICATION (ADVERTISING)**

Formal notification of the application was given by means of letters to adjoining landowners and occupiers. A total of eight (8) objections have been received and are addressed in the section Objectors' Concerns later in this report.

### **REFERRALS**

#### External

The application was referred to the CFA under Section 52 of the *Planning and Environment Act 1987* for comment, who provided comments and a request for additional information.

The application was not required to be referred to any external authorities under Section 55 of the *Planning and Environment Act 1987*.

#### Internal

The application was discussed internally with Council's Environmental Health Unit and Environment Unit. Neither raised objection to the issue of an amended permit.

### **DISCUSSION**

#### Bushfire concerns

Clause 13.02-1S (Bushfire planning) and Clause 21.04-5 (Bushfire) set out a number of matters to be considered in the assessment of the current proposal, including the consideration of bushfire risk associated with the proposed use of the land for camping.

Consideration of the bushfire risk associated with the subject site is a strong policy objective that seeks to protect life and property from fire. For this reason, comments were sought from the CFA under Section 52 of the Act to ensure that bushfire risk was appropriately addressed as part of the application.

The CFA requested additional information in order to ensure that the relevant bushfire risk within the site and surrounds was identified in order to determine the appropriate measures and actions to mitigate bushfire risk. The applicant has not provided the required information. Given the priority given to the protection of human life in areas of bushfire risk, it is considered paramount to ensure that guests of the proposed use of the land are well protected from bushfire risk.

PLANNING PERMIT APPLICATION P307127/12.01 FOR THE USE OF THE LAND FOR CAMPING AND USE OF EXISTING BUILDINGS FOR A HOST FARM AND FUNCTION CENTRE (PERMIT AMENDMENT) AT 160 SCOTTS ROAD TALLAROOK (CONT.)

The required information is not considered appropriate to request as part of conditional consent, as it should be demonstrated that the use is able to operate safely within the identified level of risk prior to any approval being granted. This will ensure that the layout of the proposed use meets any measures to mitigate bushfire risk, including the provision of water for firefighting purposes, access and restricting the use on days of extreme fire danger.

Therefore, regardless of whether the proposal is acceptable under the objectives of the Farming Zone and other relevant provisions of the Mitchell Planning Scheme, the application should not be supported on the grounds that risk to human life has not been satisfactorily addressed.

### OBJECTORS' CONCERNS

The objections received in relation to the current proposal cover a number of matters and are addressed below:

Concern:	Response:
Commercialisation of a rural property	The use of the land for camping is not a prohibited land use under Clause 35.07-1 of the Scheme. Further, there is regional and local policy which encourages land uses that support tourism and a diversification of the economy.
Impact to privacy and amenity	As the proposal has relocated the camping sites away from the frontage of Sunday Creek, it is considered that the proposed camping sites are adequately located to avoid impacting the amenity of adjoining landowners and occupiers.
Noise impacts from loud music, cars, sirens, etc.	There is an existing condition on the permit ensuring that noise generated as a result of the uses of the land is in accordance the EPA requirements.
Bushfire risk associated with campfires and bushfire prone area	It is considered that bushfire risk associated with the subject site has not been addressed, as discussed previously.
Bushfire risk associated with limited mobile phone coverage within immediate area	See above.
Request that all noise cease between midnight and 6am.	There are existing conditions on the permit restricting hours of operation for the function centre. Although additional conditions could be imposed to restrict

PLANNING PERMIT APPLICATION P307127/12.01 FOR THE USE OF THE LAND FOR CAMPING AND USE OF EXISTING BUILDINGS FOR A HOST FARM AND FUNCTION CENTRE (PERMIT AMENDMENT) AT 160 SCOTTS ROAD TALLAROOK (CONT.)

	noise associated with the camping use between these times.
Excessive use of recreational vehicles.	The proposal is seeking to utilize existing access tracks, although there is an existing condition on the permit regarding the use of recreational vehicles which is considered to be sufficient in this instance.
Straying of livestock.	As the use of the land for agriculture is as of right, the assessment of this application is for the proposed use of the land for camping and increased patronage of the function centre and host farm. Therefore, conditions cannot be imposed in relation to the straying of livestock.
Erosion along Sunday Creek as a result of camping previously conducted without approval.	The proposed camp sites have been relocated away from the banks of Sunday Creek.
Limited vehicle access to the site.	Given the bushfire risk associated with the site, this concern has not been addressed.
Chainsaws	Existing noise conditions on the permit are considered adequate to address noise issues.
Number of camping sites is incorrectly reflected in planning report versus website (advertising 20 sites for up to 300 people)	Should approval be granted, the camping sites must be compliant with the endorsed site plans.
Tourism value of proposal does not benefit community	The potential tourism value of the proposal does not have to benefit the entire surrounding community, with different land uses providing different scales of benefit. As the proposal is seeking to provide an accommodation option on a site used for agritourism, this is considered to be of benefit to tourism.
Decrease in property values	Property values are not a planning consideration.
Treatment of grey water and wastewater	Council's Environmental Health Unit have provided comments and conditions to manage wastewater treatment within the site.

PLANNING PERMIT APPLICATION P307127/12.01 FOR THE USE OF THE LAND FOR CAMPING AND USE OF EXISTING BUILDINGS FOR A HOST FARM AND FUNCTION CENTRE (PERMIT AMENDMENT) AT 160 SCOTTS ROAD TALLAROOK (CONT.)

Type of people utilizing the campsite may be of "lower socio economic standing" that may bring associated social and justice issues to the area (alcohol abuse and illicit drug use)	The type of people utilising the proposed camping sites is not a planning consideration.
Validation of water tanks within camping sites (not shown on site plan)	The storage of water for firefighting purposes has not been shown.
Increased traffic posing risk to local wildlife	Patron numbers can be conditioned.
Request for planting of native vegetation for dust and noise protection and to establish wildlife corridors	Given that the site is used for agricultural purposes, it is not considered appropriate to decrease the amount of productive land for revegetation.
Introduction of speed limits and noise limits in relation to traffic	Speed limits along an existing local road cannot be imposed through the planning permit process.

## CONCLUSION

The proposed use of the land for camping is not considered to be an appropriate outcome as bushfire risk associated with the site has not been appropriately mitigated. Increasing patron numbers for the existing function centre and introducing campers to the site without a Bushfire Management Plan that adequately addresses the site risks to protect human life is not considered to represent orderly planning and should not be supported.

## RECOMMENDATION

**THAT** Council having complied with the relevant Sections of the *Planning and Environment Act 1987*, resolve to issue a Notice of Decision to Refuse a Planning Permit in respect of Application No. P307127/12.01 for the use of the land for camping and use of existing buildings for a host farm and function centre in accordance with the endorsed plans at Crown Allotments 24A, 28, 28A and 28B Parish of Lowry Volume 09778 Folio 230 and Crown Allotment 23 Parish of Lowry Volume 10641 Folio 326, known as 160 Scotts Road Tallarook, on the following grounds:

1. The proposal does not demonstrate compliance with Clause 13.02-1S (Bushfire planning) of the Mitchell Planning Scheme, as insufficient information has been provided to demonstrate that the use can be managed to protect human life.
2. Compliance with Clause 21.04-5 (Bushfire) has not been demonstrated, as the application does not demonstrate that the risk to life, property and the environment from bushfire can be achieved.

PLANNING PERMIT APPLICATION P307127/12.01 FOR THE USE OF THE LAND FOR CAMPING AND USE OF EXISTING BUILDINGS FOR A HOST FARM AND FUNCTION CENTRE (PERMIT AMENDMENT) AT 160 SCOTTS ROAD TALLAROOK (CONT.)

3. The application is inconsistent with the objectives of Clause 44.06 (Bushfire Management Overlay), as the proposal does not demonstrate that the risk to life and property from bushfire can be reduced to an acceptable level.
  
4. The application is not consistent with the decision guidelines of Clause 65.01 of the Scheme as the proposal does not represent orderly planning as insufficient information was provided to demonstrate that fire hazard associated with the location of the land can be managed to minimise risk.

PLANNING PERMIT APPLICATION P307127/12.01 FOR THE USE OF THE LAND FOR CAMPING AND USE OF EXISTING BUILDINGS FOR A HOST FARM AND FUNCTION CENTRE (PERMIT AMENDMENT) AT 160 SCOTTS ROAD TALLAROOK (CONT.)

# **MITCHELL SHIRE COUNCIL**

## **Council Meeting Attachment**

### **DEVELOPMENT AND INFRASTRUCTURE**

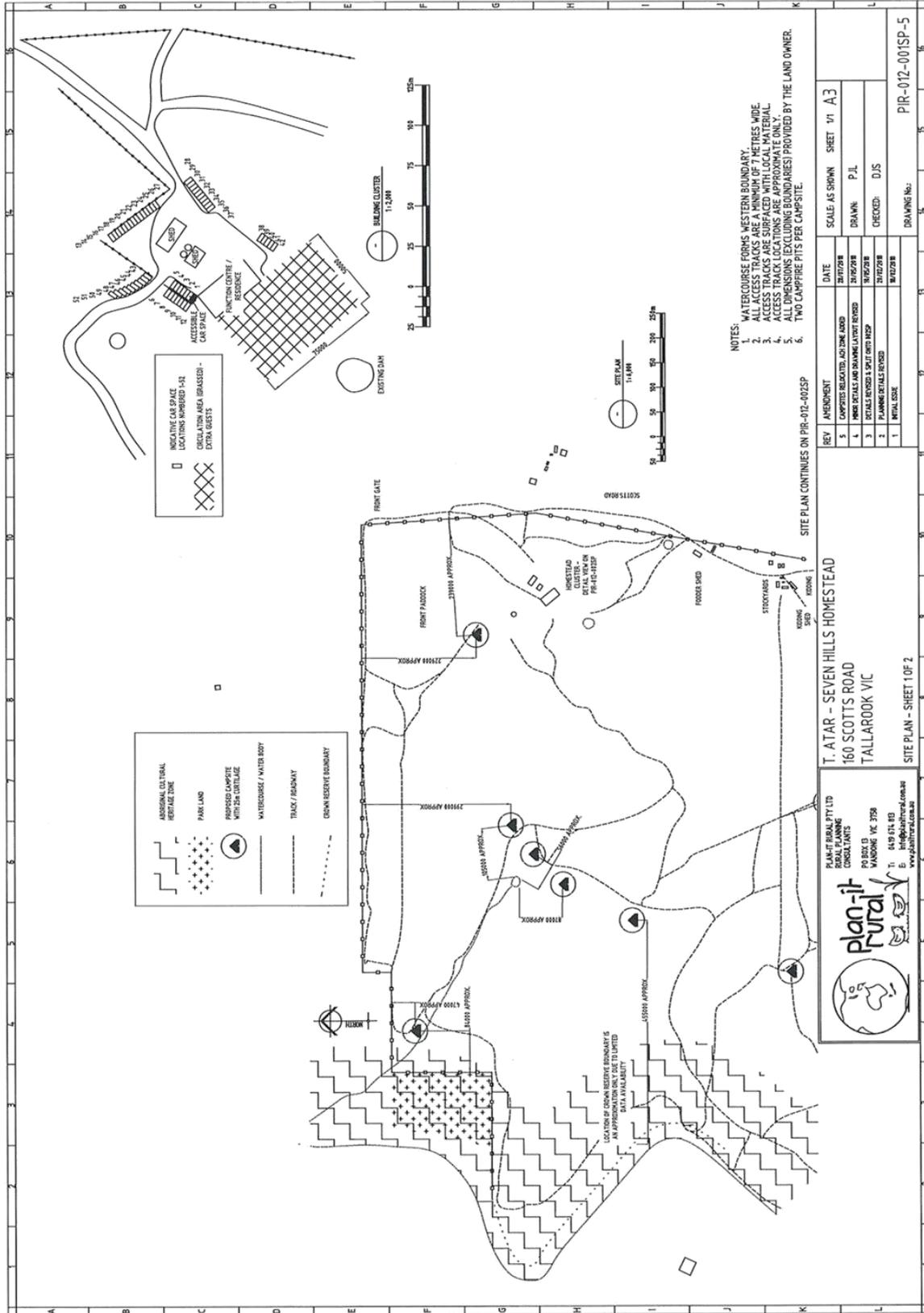
**18 NOVEMBER 2019**

**9.4**

**PLANNING PERMIT APPLICATION  
P307127/12.01 FOR THE USE OF THE LAND  
FOR CAMPING AND USE OF EXISTING  
BUILDINGS FOR A HOST FARM AND  
FUNCTION CENTRE (PERMIT AMENDMENT)  
AT 160 SCOTTS ROAD TALLAROOK**

**Attachment No: 1**

**Site plans**



- NOTES:
1. WATERCOURSE FORMS WESTERN BOUNDARY.
  2. ALL ACCESS TRACKS ARE A MINIMUM OF 7 METRES WIDE.
  3. ALL ACCESS TRACKS ARE TO BE CONSTRUCTED TO FULL WIDTH.
  4. ACCESS TRACK LOCATIONS ARE APPROXIMATE ONLY.
  5. ALL DIMENSIONS (EXCLUDING BOUNDARIES) PROVIDED BY THE LAND OWNER.
  6. TWO CAMPFIRE PITTS PER CAMPSITE.

REV	AMENDMENT	DATE	SCALE AS SHOWN	SHEET	OF
1	CAMPFIRE REDUCED TO ONE PER SITE	28/02/08		11	A.3
2	HORSE SHEDS AND STOCKSHEDS REDUCED	28/02/08			
3	LOCALS REDUCED TO ONE PER MSCP	28/02/08			
4	FRANKMERE LAKE REDUCED	28/02/08			
5	INITIAL SIZE	28/02/08			

DRAWN: P.J.L.  
CHECKED: D.J.S.  
DRAWING No: PIR-012-001SP-5

T. ATAR - SEVEN HILLS HOMESTEAD  
160 SCOTT'S ROAD  
TALLAROOK VIC

PLAN-IT RURAL PTY LTD  
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CONSULTANTS  
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RURAL PLANNING CONSULTANTS

SITE PLAN - SHEET 1 OF 2



# **MITCHELL SHIRE COUNCIL**

## **Council Meeting Attachment**

### **DEVELOPMENT AND INFRASTRUCTURE**

**18 NOVEMBER 2019**

**9.4**

**PLANNING PERMIT APPLICATION  
P307127/12.01 FOR THE USE OF THE LAND FOR  
CAMPING AND USE OF EXISTING BUILDINGS  
FOR A HOST FARM AND FUNCTION CENTRE  
(PERMIT AMENDMENT) AT 160 SCOTTS ROAD  
TALLAROOK**

**Attachment No: 2**

**Planning Policy Framework**

**PLANNING POLICY FRAMEWORK (PPF) AND LOCAL PLANNING POLICY FRAMEWORK (LPPF)**

Policy	Objective
Clause 12.05-2S (Landscapes)	<p>This clause is relevant and has the following objective:</p> <p><i>To protect and enhance significance landscapes and open spaces that contribute to character, identity and sustainable environments.</i></p> <p>Strategies of this clause include:</p> <p><i>Ensure important natural features are protected and enhanced.</i></p>
Clause 13.02-1S (Bushfire planning)	<p>This clause is relevant and has the following objective:</p> <p><i>To strengthen the resilience of settlements and communities to bushfire through risk-based planning that prioritises the protection of human life.</i></p> <p>Strategies of this clause include:</p> <p><i>Consulting with emergency management agencies and the relevant fire authority early in process to receive their recommendations and implement appropriate bushfire protection measures.</i></p> <p><i>Ensuring that strategic planning documents, planning scheme amendments, planning permit applications and development plan approvals properly assess bushfire risk and include appropriate bushfire protection measures.</i></p>
Clause 13.05-1S (Noise abatement)	<p>This clause is relevant and has the following objective:</p> <p><i>To assist the control of noise effects on sensitive land uses.</i></p> <p>Strategies of this clause include:</p> <p><i>Ensure that development is not prejudiced and community amenity is not reduced by noise emissions, using a range of building design, urban design and land use separation techniques as appropriate to the land use functions and character of the area.</i></p>

Clause 13.07-1S (Land use compatibility)	<p>This clause is relevant and has the following objective:</p> <p><i>To safeguard community amenity while facilitating appropriate commercial, industrial or other uses with potential off-site effects.</i></p> <p>Strategies of this clause include:</p> <p><i>Ensure the compatibility of a use or development as appropriate to the land use functions and character of the area by:</i></p> <ul style="list-style-type: none"> <li>- <i>Directing land uses to appropriate locations;</i></li> <li>- <i>Using a range of building design, urban design, operational and land use separation measures.</i></li> </ul>
Clause 14.01-1S (Protection of agricultural land)	<p>This clause is relevant and has the following objective:</p> <p><i>To protect the state's agricultural base by preserving productive farmland.</i></p> <p>Strategies of this clause include:</p> <p><i>Protect productive agricultural land from unplanned loss due to permanent changes in land uses.</i></p>
Clause 17.01-1R (Diversified economy – Hume)	<p>This clause is relevant and has the following strategy:</p> <p><i>Encourage appropriate new and developing forms of industry, agriculture, tourism and alternative energy production.</i></p>
Clause 17.04-1R (Tourism – Hume)	<p>This clause is relevant and has the following strategy:</p> <p><i>Facilitate rural tourism activities that support agricultural enterprises such as cellar door and farm gate sales and accommodation in appropriate locations.</i></p>
Clause 21.04-4 (Noise and air)	<p>This clause is relevant and has the following objective:</p> <p><i>To reduce noise and air pollution.</i></p> <p>Strategies of this clause include:</p>

	<p><i>Ensure appropriate planning permit conditions, such as hours of operation and building setbacks are applied and enforced to address noise and air pollution.</i></p>
<p>Clause 21.04-5 (Bushfire)</p>	<p>This clause is relevant and has the following objective:</p> <p><i>To minimise the risk to life, property and the environment from bushfire.</i></p> <p>Strategies of this clause include:</p> <p><i>Ensure that use and development include adequate fire protection measures.</i></p>
<p>Clause 21.05-1 (Agriculture)</p>	<p>This clause is relevant and has the following objective:</p> <p><i>To ensure that the use, development or subdivision of land is not prejudicial to agricultural enterprises or to the productive capacity of the land.</i></p> <p>Strategies of this clause include:</p> <p><i>Retain productive land for agricultural purposes.</i></p>
<p>Clause 21.08-3 (Tourism)</p>	<p>This clause is relevant and has the following objective:</p> <p><i>To facilitate Mitchell becoming a recognised tourist destination.</i></p> <p>Strategies of this clause include:</p> <p><i>Encourage new uses that promote or assist local tourist attractions and visitation.</i></p>

**9.5 PLANNING PERMIT APPLICATION PLP079/19 FOR THE USE OF THE LAND FOR A STORE (DAMAGED VEHICLE DEPOT) AT 7 OLD HUME HIGHWAY BEVERIDGE**

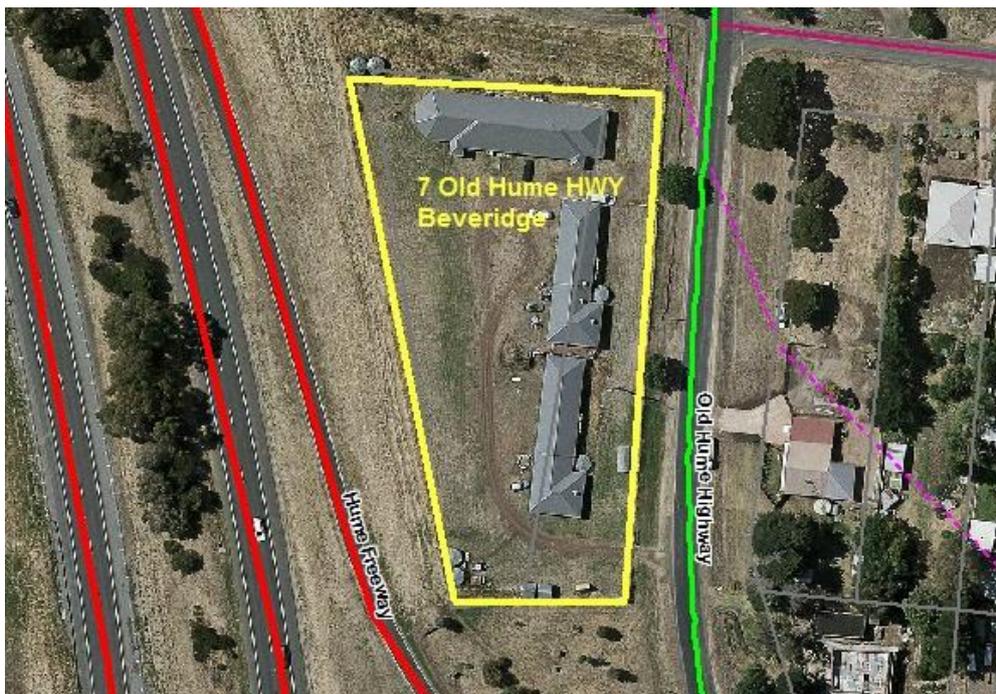
**Author:** Mathew Mertuszka - Principal Planner

**File No:** PLP079/19

- Attachments:**
1. Relevent Planning Policies
  2. Site Plan
  3. Supporting Documentation

<b>Property No.:</b>	110043
<b>Title Details:</b>	Land in Plan of Consolidation 355064F
<b>Applicant:</b>	Deltacorp Investments
<b>Zoning:</b>	Township Zone
<b>Overlays:</b>	Vegetation Protection Overlay Public Acquisition Overlay – Schedule 7
<b>Objections Received:</b>	Yes, 7 objections and 1 petition with 100 signatories
<b>Cultural Heritage Management Plan Required:</b>	No, the subject site is not within an area of Aboriginal Cultural Heritage Significance
<b>Officer Declaration of Conflict of Interest:</b>	No officers involved in the preparation of this report have any direct or indirect interest in this matter

**SITE MAP**



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PLANNING PERMIT APPLICATION PLP079/19 FOR THE USE OF THE LAND FOR A STORE (DAMAGED VEHICLE DEPOT) AT 7 OLD HUME HIGHWAY BEVERIDGE (CONT.)

## **SUMMARY**

This report recommends that Council resolve to issue a Notice of Refusal to Grant a Planning Permit for Planning Application PLP073/17, which proposes to use and develop the land for a store (damaged vehicle depot) at 7 Old Hume Highway, Beveridge.

The application was advertised with seven (7) objections received, including a petition with over 100 signatures. The majority of concerns raised by residents being that the proposal would result in increased traffic, noise, unsightly and general loss of amenity.

Council Officers consider the proposed use to be incompatible with existing surrounding uses, resulting in conflicts with sensitive uses, which predominantly comprise of residential and commercial. Furthermore, the proposal will affect the surrounding area, including views and vistas heading into the Shire and the town of Beveridge by having unsightly appearance of storing materials and goods on the land. For these reasons, and others explored in this report, it is recommended that Council issue a notice of refusal to grant a planning permit.

## **SITE AND SURROUNDS**

### Subject Site Description

The subject site is located at 7 Old Hume Highway, Beveridge and is legally described as Land in Plan of Consolidation 355064F. The land has an area of approximately 4,821 square meters and is irregular in shape. The site is immediately adjacent to the Hume Freeway and is to the west of the old Hume Highway.

The land is currently developed with a partially completed motel consisting of three (3) buildings as well as several water tanks. The site is not serviced by reticulated sewerage or town water, but has access to electricity. The land has a fall towards to the west and is cleared of all vegetation. All internal accessways are unsealed and crossovers are informal.

### Planning Background

The following planning related outcomes have been determined on the subject land:

- Planning permit application PLP073/17 was refused for the use and development of the land for a motel, function room, care-takers residence and business signage.
- Planning permit PLA304116/05 was issued for use and development of a motel, removal of vegetation and erection of internally illuminated signage on the land on 26 July 2006. This permit has since lapsed with the development not being fully completed.
- Plan of consolidation PCE200330/04 was given SOC and registered on title on 23 April 2004.

### Title/Restrictions/Agreements

PLANNING PERMIT APPLICATION PLP079/19 FOR THE USE OF THE LAND FOR A STORE (DAMAGED VEHICLE DEPOT) AT 7 OLD HUME HIGHWAY BEVERIDGE (CONT.)

The title is encumbered by caveats AG621604E and AG771816X that relate to the transfer of land but do not affect the assessment of this application.

### Surrounding Area

The subject land is within an area close to the centre of the existing Beveridge township. Land is mostly within the Township Zone and developed with predominantly detached residential uses, all on large parcels of land. The semi-rural character of the town is dictated by the lack of services in the area. Topography is undulating and consists of mostly planted vegetation

## **PROPOSAL**

The proposal is seeking to use the land for a store, with the primary purpose of storing damaged vehicles. Details of the proposal include:

- The storing of up to six (6) damaged vehicles at any given time on the subject land, within designated car spaces adjacent to the existing buildings on site. The vehicles will be stored on an area of crushed rock within the boundaries of the site;
- Vehicles will be stored on premises temporarily for a period up to 48 hours until they are processed by police or insurance companies, then transported to other locations for further processing;
- The tow truck will be stationed at the site and could be deployed 24 hours, seven (7) days a week to transport vehicles to and from the site on an as needs basis;
- The use will require the installation of a 2 metre high black cyclone fence, however no permit is required for the installation of the fence. No other works are proposed.

## **PLANNING SCHEME PROVISIONS**

### Zoning

#### *Township Zone*

The site is affected by the Township Zone. Pursuant to Clause 32.05-3 of the Mitchell Planning Scheme a planning permit is required to use the land for a store (salvage yard).

### Overlays

The site is affected by the Public Acquisition Overlay – Schedule 7. Pursuant to Clause 45.01-1 a planning permit is required to use the land for a store (damaged vehicle depot)

### Particular Provisions

The following Particular Provisions are relevant to this application:

#### *Clause 52.06 – Car parking*

Pursuant to Clause 52.06-5, the following number of car parking is required for the uses proposed (where car parking is to Council's Satisfaction means the use has not been listed in Table 1 of Clause 52.06-5 and there is no specified number of car parking required):

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PLANNING PERMIT APPLICATION PLP079/19 FOR THE USE OF THE LAND FOR A STORE (DAMAGED VEHICLE DEPOT) AT 7 OLD HUME HIGHWAY BEVERIDGE (CONT.)

*Clause 52.29 - Land adjacent to a road zone, category 1, or a public acquisition overlay for a category 1 road*

Pursuant to Clause 52.29-2 a permit is required to create or alter access to Land in a Public Acquisition Overlay if the purpose of acquisition is for a Category 1 road.

### **PUBLIC NOTIFICATION (ADVERTISING)**

Formal notification of the application was given by means of posting notices to adjoining property owners and occupiers, and the erection of a sign at the front of the site. A total of seven (7) objections plus one (1) petition with over 100 signatories has been received and is addressed in the section objectors' concerns later in this report.

### **REFERRALS**

The application was referred externally to VicRoads, who did not object to the proposal subject to conditions. VicRoads advised the following:

*"VicRoads advises that in assessing the planning permit application, the subject land is to be acquired for the purposes of the construction of the Camerons Lane interchange. Given the temporary nature of the proposed use of the land, VicRoads on this premise has no objection to the issue of a planning permit"*

VicRoads requires the following conditions should a permit be granted:

1. The salvage, repairing or dismantling of any motor vehicles or parts is not permitted.
2. The temporary storage of any vehicle must be no longer than 10 business days.
3. Prior to the acquisition of the property under PAO7, any contamination arising out of the activity arising from the permit hereby approved:
  - a) Must be removed and mitigated to the satisfaction of and at no cost to VicRoads and Council; and
  - b) Is the responsibility of the landowner to mitigate during the use of the land.

### **DISCUSSION**

The subject site is located in a prominent location within the township of Beveridge. Due to the prominence of the site, a number of important considerations must be taken into account when assessing the proposal. These considerations include (but are not limited to) the following:

- Appropriateness of the proposed use;
- Impact of the proposal on surrounding residential amenity; and
- Response to application requirements & information provided in application.

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PLANNING PERMIT APPLICATION PLP079/19 FOR THE USE OF THE LAND FOR A STORE (DAMAGED VEHICLE DEPOT) AT 7 OLD HUME HIGHWAY BEVERIDGE (CONT.)

Clause 11 (Settlement) of the Mitchell Planning Scheme requires planning to prevent amenity problems created by siting incompatible land uses close together.

Clause 13.07-1S (Land use compatibility) seeks to ensure that land uses are in appropriate locations.

The above objectives have been considered as relevant in assessment of this application and shall be addressed in the following sections.

#### Proposed Use

The above referenced clauses of the Planning Policy Framework must be considered when assessing the proposed use of the subject site. This is to ensure growth is appropriately managed in and around Beveridge.

Clause 11 (Settlement) states planning is to prevent environmental and amenity problems created by siting incompatible land uses close together. This is further supported by Clause 13.07-1S which directs that land uses to be in appropriate locations. The immediate surrounding area is of a small country town with residential areas. The proposed damaged vehicle depot is not considered to be appropriate within the context of the surrounding area and foreseen to create amenity impacts.

#### *Amenity*

Under the provisions of the Township Zone at Clause 32.05-4, proposals for use of land for industrial or warehouse purposes must be considerate of the following:

*The use of land for an industry or warehouse must not adversely affect the amenity of the neighbourhood, including through:*

- *The transport of materials or goods to or from the land.*
- *The appearance of any stored materials or goods.*
- *Traffic generated by the use.*
- *Emissions from the land.*

It is considered that the proposed use has the potential to negatively impact upon the amenity of the neighbourhood. The predominant land use in the vicinity is residential and the use of the site for a use more akin to industrial purposes, having the potential to negatively impact upon existing residential amenity.

The provisions of the Township Zone should only entertain the approval of industrial development where appropriate, and in this context the proposed use is at clear odds with existing uses within the immediate surrounds and the context of the site.

The appearance of the land could be improved with landscaping, however Council officers would only contemplate taking this approach if the use proposed was appropriate. In this case, Council officers are concerned that the proposed use is not appropriate. In summary, the proposal would result in the following amenity impacts:

- The operation of the use may result in increased traffic noise at inappropriate times, reducing the amenity of sensitive uses;
- Have implications on sight lines looking north to Mt Fraser, detracting from views on the 'gateway' into the Shire;

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PLANNING PERMIT APPLICATION PLP079/19 FOR THE USE OF THE LAND FOR A STORE (DAMAGED VEHICLE DEPOT) AT 7 OLD HUME HIGHWAY BEVERIDGE (CONT.)

- The use is incompatible with established commercial uses immediately adjacent to the site, reducing the amenity of patrons enjoying the hotel/tavern due to the unsightly nature of the proposed use, including associated noise during the loading and unloading of vehicles;
- The use will detract from the existing context of the Beveridge township, affecting tourism and the overall experience of residents passing through the town.

### OBJECTORS' CONCERNS

The objections received in relation to the current proposal cover a number of planning related matters and are addressed below (other concerns raised by objectors without planning merit such as decreased land values, competing commercial interest, external legislation and general dissatisfaction of the proposal have not been included in the discussion):

- The use is not compatible with its surrounds and does not respect the character of the area due to extensive operating hours;

Response – Council officers agree that the predominant use in the area consists of a mixture of commercial and residential uses, mainly trading throughout normal business hours and into the evening. The proposal has the potential of operating on a 24-hour basis, causing conflict with surrounding sensitive uses such as the nearby primary school.

- The proposed use is unsightly and detract from the natural features of the landscape;

Response – The proposal has the capacity to store up to six (6) damaged vehicles and a tow truck, which would mostly be screened from view when passing the site along the Old Hume Highway, however given the elevated position of the land and the fall towards the Hume Freeway heading to the west, the storage of any vehicles would impact views from the Freeway. Particularly when travelling northbound and when entering the township, damaged vehicles stored on the land would detrimentally affect views and sightlines, especially being a gateway site into the Municipality.

- Storing of vehicles may result in a number of onsite hazards such as vermin and other pests such as snakes, fire risk

Response – Although the maximum number of vehicles would be limited to six (6) and are likely to be processed within 48 hours of arriving on site, it is unlikely that the site would increase the risk of pest/vermin activity on the site. It is acknowledged however, if more vehicles were to be stored for a longer period of time this would become an issue, but the proposal does not anticipate this to be an issue.

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PLANNING PERMIT APPLICATION PLP079/19 FOR THE USE OF THE LAND FOR A STORE (DAMAGED VEHICLE DEPOT) AT 7 OLD HUME HIGHWAY BEVERIDGE (CONT.)

- Regular tow truck activity to and from the site would be detrimental to safety and would reduce amenity through increases to traffic and noise.

Response – The use of a tow truck including the loading and unloading of vehicles with the potential of this occurring all hours of the night could result in unreasonable detriment to surrounding residential land uses. These noise impacts would be difficult to control given the sporadic nature of deliveries throughout the night resulting in difficulty for enforcement.

## CONCLUSION

Following an assessment of the application, it is recommended that Council issue a Notice of Refusal to Grant a Planning Permit for Planning Application PLP079/19, which seeks approval for the use and development of the land at 7 Old Hume Highway, Beveridge for store (damage vehicle depot).

The subject site is a prominent location within the existing Beveridge township and its use for the purpose of a damaged vehicle depot is not considered appropriate. Additionally, regardless of scale and extent of the use, a 24-hour operation and the unsightly nature of the business is not considered appropriate for the subject site in close proximity to a number of dwellings.

Given the above, the proposed use would result in an incompatible land use for the site resulting in a disorderly planning outcome for the area and therefore should be refused.

## RECOMMENDATION

**THAT** Council having complied with the relevant Sections of the *Planning and Environment Act 1987*, resolve to issue a Notice of Refusal to Grant a Planning Permit in respect of Application No. PLP079/19 for The use and development of the land for a store (damaged vehicle depot) at Land in Plan of Consolidation 355064F, known as 7 Old Hume Highway Beveridge, subject to the following conditions:

1. The proposal is inconsistent with Clause 11 (Settlement) as the proposal creates incompatible land uses close together.
2. The proposal is inconsistent with the objective and strategies of Clause 13.07-1S (Land use compatibility).
3. The proposal is inconsistent with the objective and strategy of Clause 13.07-1S (Noise abatement).
4. The proposed use is inconsistent with Clause 32.05-4 (Township Zone) as it negatively impacts on the amenity of the neighbourhood.
5. The proposal is inconsistent with the purpose and decision guidelines of Clause 32.05-13 (Township Zone) which seeks to encourage use that respects the neighbourhood character of the area.

PLANNING PERMIT APPLICATION PLP079/19 FOR THE USE OF THE LAND FOR A STORE (DAMAGED VEHICLE DEPOT) AT 7 OLD HUME HIGHWAY BEVERIDGE (CONT.)

6. The proposal is inconsistent with the decision guidelines at Clause 65 of the Mitchell Planning Scheme as the proposal does not advance the objectives of planning in Victoria and would not result in orderly planning outcomes.

PLANNING PERMIT APPLICATION PLP079/19 FOR THE USE OF THE LAND FOR A STORE (DAMAGED VEHICLE DEPOT) AT 7 OLD HUME HIGHWAY BEVERIDGE (CONT.)

# **MITCHELL SHIRE COUNCIL**

## **Council Meeting Attachment**

### **DEVELOPMENT AND INFRASTRUCTURE**

**18 NOVEMBER 2019**

**9.5**

**PLANNING PERMIT APPLICATION PLP079/19  
FOR THE USE OF THE LAND FOR A STORE  
(DAMAGED VEHICLE DEPOT) AT 7 OLD HUME  
HIGHWAY BEVERIDGE**

**Attachment No: 1  
Relevant Planning Policies**

The following clauses of the SPPF and LPPF are considered relevant to this application	
Clause - 11.03-3S Peri Urban Areas	The objective of this policy is: <i>Enhance the character, identity, attractiveness and amenity of peri-urban towns</i>
Clause 13.05-1S – Noise Abatement	The objective of this policy is: <i>Ensure that development is not prejudiced and community amenity is not reduced by noise emissions, using a range of building design, urban design and land use separation techniques as appropriate to the land use functions and character of the area</i>
Clause 13.07-1S – Land Use Compatibility	The objective of this policy is: <i>To safeguard community amenity while facilitating appropriate commercial, industrial or other uses with potential off-site effects.</i>  <i>Ensure the compatibility of a use or development as appropriate to the land use functions and character of the area by: Directing land uses to appropriate locations. Using a range of building design, urban design, operational and land use separation measures.</i>
Clause 17.03-2S – Industrial Development Siting	The objective of this policy is: <i>Encourage industrial uses that meet appropriate standards of safety and amenity to locate within activity centres</i>
Clause 21.06-1 - Urban environment	The objectives of this policy is: <i>To enhance the presentation of towns and their main road entrances; and</i>  <i>To enhance the safety of neighbourhood</i>
Clause 21.08-1 - Economic growth	The objective of this policy is: <i>To facilitate new development and employment opportunities in business, industry and tourism.</i>
Clause 21.11-1 – Beveridge	The objective of this policy is: <i>Provide for a level of population that will achieve a 'self-contained township' with a full range of urban and community facilities.</i>  <i>Ensure that development of this area is adequately serviced and integrated with the existing Beveridge township</i>

# **MITCHELL SHIRE COUNCIL**

## **Council Meeting Attachment**

### **DEVELOPMENT AND INFRASTRUCTURE**

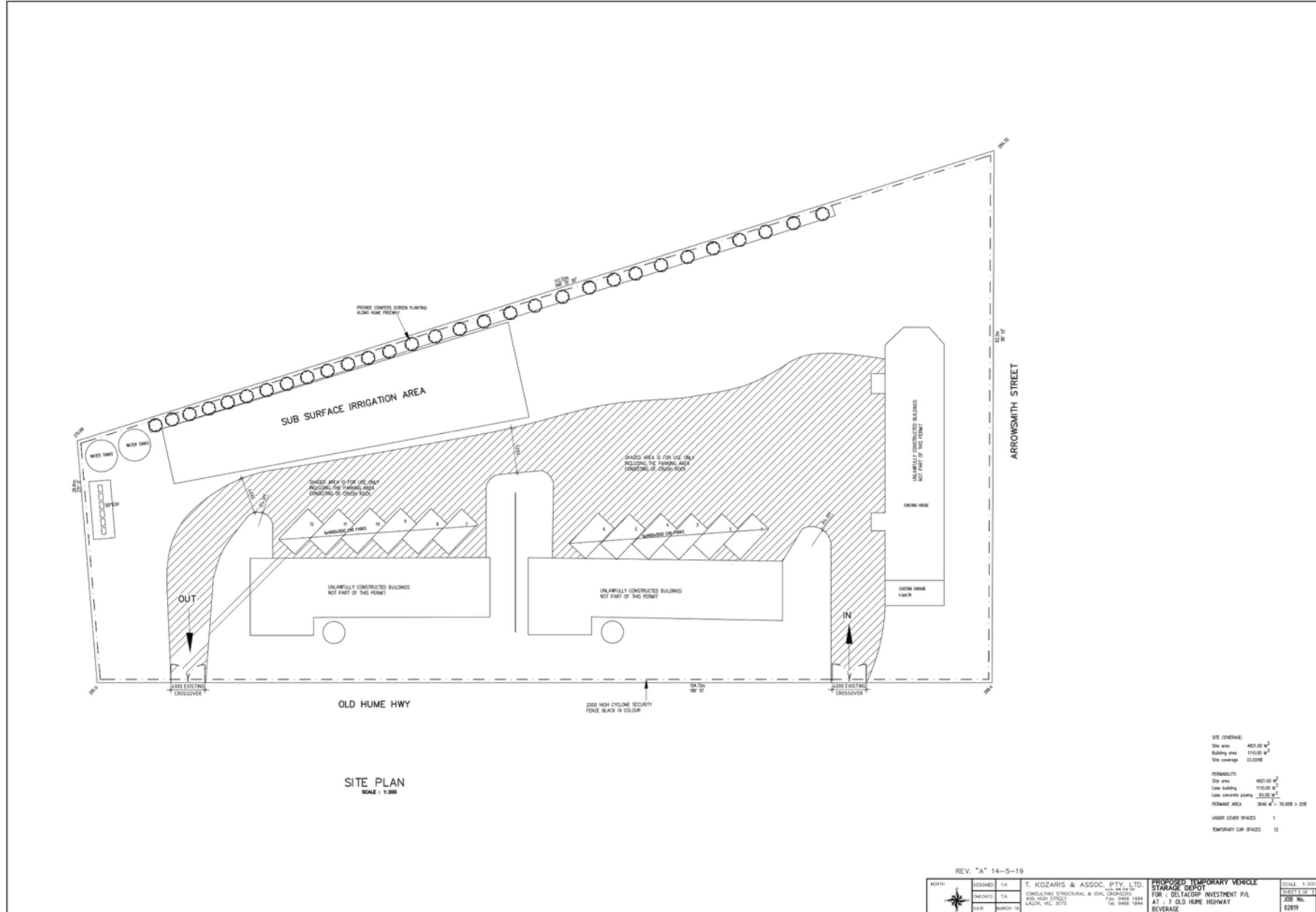
**18 NOVEMBER 2019**

**9.5**

**PLANNING PERMIT APPLICATION PLP079/19  
FOR THE USE OF THE LAND FOR A STORE  
(DAMAGED VEHICLE DEPOT) AT 7 OLD HUME  
HIGHWAY BEVERIDGE**

**Attachment No: 2**

**Site Plan**



# **MITCHELL SHIRE COUNCIL**

## **Council Meeting Attachment**

### **DEVELOPMENT AND INFRASTRUCTURE**

**18 NOVEMBER 2019**

**9.5**

**PLANNING PERMIT APPLICATION PLP079/19  
FOR THE USE OF THE LAND FOR A STORE  
(DAMAGED VEHICLE DEPOT) AT 7 OLD HUME  
HIGHWAY BEVERIDGE**

**Attachment No: 3**

**Supporting Documentation**

**T. KOZARIS & ASSOCIATES PTY LTD**  
**CONSULTING STRUCTURAL & CIVIL ENGINEERS**  
**405 HIGH STREET, LALOR VIC 3075**  
**Phone 9466 1844 Fax 9466 1484**  
**Mob 0412 568575**

Mathew Mertuszka  
Mitchell Shire Council  
Town Planning Department

14 May 2019

Dear Mathew

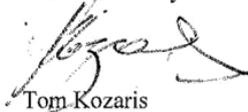
**RE: PLANNING Application No. 079/19**  
7 Old Hume Highway, Beveridge

In reference to the letter dated the 22 March 2019 for additional information

- Item.1. a. Refer to plan indicating area to be used part of this planning application.
- b. Refer to plan indicating direction of flow of traffic and access way with turning Circle
- c. Refer to plan indicating landscaping screening cars from Hume freeway.

Could you please provide extension of time for the additional information which you may further require?

Yours Faithfully



Tom Kozaris

# Deltacorp Investments Pty Ltd

10 -14 Salicki Avenue  
Epping VIC 3076  
PH: 03 9401 1212

19 March 2019

Town Planning Officer  
Planning & Building Office  
Mitchell Shire  
4A & 4B, 61 High Street  
WALLAN VIC 3756



**Town Planning Application by Deltacorp Investments Pty Ltd**  
**Property: 7 Old Hume Highway, Beveridge**

The following information is provided in support of the Application by Deltacorp Investments Pty Ltd.

The Property referred above is the proposed site of the Town Planning Application that is proposed to be operated as an approved Vic Roads Towing and Storage Depot (the business).

The business entails the towing of damaged motor vehicles to the depot following motor vehicle accidents. Vic Roads provides on allocation tow number authorising the tow from the motor vehicle accident scene. The motor vehicles are then held at the site for only a temporary period to enable the transfer of the damaged vehicles during normal business hours to where the owner or insurer directs.

The business operates as follows: -

- Towing and Temporary Storage Facility.
- The hours of operation are normal business hours Monday to Friday from 8:00am to 5:00pm.
- The business is open during these hours to enable contact with customers and/or the insurers.
- The towing service of the business is available on a 24-hour call to service the public to enable motor vehicles owned by the public to be towed 24-hour hours a day.
- The tow truck driver lives at the Depot in the residence on the property.
- The business activity outside normal business hours is just the towing of motor vehicles to the depot for storage tile normal business hours when the customer organises the destination of the vehicle.
- The gates and business only open during business hours. At all other times the area is locked and secure save for the gates being opened to enable towed vehicles to be securely placed in the property.
- The property also has 2 undercover parking spaces for motor vehicles that may need cover owing to the Police wanting to inspect vehicles for forensic evidence reasons.
- Motor vehicles are normally then towed to a location nominated by the Insurer or Owner, or other salvage yard, within 24 to 48 hours once authorised during business hours.
- The property is properly secured with locked gates and fencing.

- A maximum of 3 to 6 motor vehicles would be expected to be stored temporarily. Very often motor vehicles are towed directly to other premises as directed by the owner or Insurer.
- No salvage or repairing will be done at the property. The business does not involve this work.
- Benefits to the public:
  - Area lacks towing services
  - No present approved Vic Road Depot at Kalkallo, Beveridge or Mickleham
  - Closest tows now are from Wallan, Kilmore or Kinglake and cost to public is high.

Yours faithfully  
Deltacorp Investments Pty Ltd



Con Donchos - Director

## 9.6 PLANNING PERMIT APPLICATION PLP162/19 FOR SUBDIVISION OF THE LAND AT 475 ARKELLS LANE WANDONG

**Author:** *Enes Bilgic - Statutory Planner*

**File No:** *PLP162/19*

**Attachments:** 1. *Plan of Subdivision*  
2. *Planning Policy Framework and Local Planning Policy Framework*

<b>Property No.:</b>	108767
<b>Title Details:</b>	Lot 1 on TP 800879B Volume 10630 Folio 155
<b>Applicant:</b>	Eric Salter
<b>Zoning:</b>	Farming Zone – Schedule 1
<b>Overlays:</b>	Bushfire Management Overlay Erosion Management Overlay – Schedule 1 Vegetation Protection Overlay – Schedule 1
<b>Objections Received:</b>	No objections have been received, letters sent to adjoining neighbours and notification sign facing Arkells Lane
<b>Cultural Heritage Management Plan Required:</b>	No, not in an area of Aboriginal Cultural Heritage Significance
<b>Officer Declaration of Conflict of Interest:</b>	No officers involved in the preparation of this report have any direct or indirect interest in this matter

PLANNING PERMIT APPLICATION PLP162/19 FOR SUBDIVISION OF THE LAND AT 475 ARKELLS LANE WANDONG (CONT.)

## SITE MAP



## SUMMARY

Council has received an application for a 3-lot subdivision of the land at 475 Arkells Lane, Wandong. The application is seeking to create 2 additional lots, each in excess of 40 hectares. One proposed lot will have an existing dwelling with an overall lot area of 40.10 hectares and the additional proposed lots will have lot area of 40.10 hectares and 41.82 hectares.

The application was advertised by letter to surrounding properties and a notification sign on site facing Arkells Lane, Wandong. No objections were received.

This report recommends that Council resolve to issue a Notice of Refusal to Grant a Planning Permit for Planning Application PLP162/19. Refusal is recommended as the proposed subdivision is not consistent with relevant Planning Policy Framework and the purpose of the Farming Zone, as it fragments productive agricultural land and will adversely affect the agricultural viability of the surrounding agricultural land. Further, the subdivision proposes conflict between residential uses and agricultural uses.

## SITE AND SURROUNDS

### Subject Site Description

The subject land is legally described as Lot 1 on Title Plan 800879B and is located at 475 Arkells Lane, Wandong. The land currently contains a single dwelling located within the north western portion of the irregularly shaped lot, having a land area of approximately 126 hectares.

The land mostly flat to the east and becomes undulating to the west. Heavy patches of vegetation can be found along the southern portion and centre of the subject site.

A watercourse traverses the northern portion of the site and terminates near the existing dwelling. Several dams are scattered throughout the property. The applicant has described the land being used for cattle and sheep grazing.

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PLANNING PERMIT APPLICATION PLP162/19 FOR SUBDIVISION OF THE LAND AT 475 ARKELLS LANE  
WANDONG (CONT.)

### *Planning Background*

A search of Council's electronic database indicates a planning permit was issued on 19 July 2007, for building and works in association with two dams.

### *Title/Restrictions/Agreements*

The title of the site is not encumbered by any covenants or agreements nor do any easements traverse through the property.

### Surrounding Area

The subject site is abutted to the south by Hidden Valley Estate and a historic railway reserve along the north east boundary. The land to north, east and west are within the Farming Zone and are typically large parcels of land varying in size, with the larger lots mainly found to the north and west.

The subject site is approximately 1.4km west of the Hume Freeway and approximately 4km north west of the Wallan town centre.

## **PROPOSAL**

The applicant is seeking Council approval for a three-lot subdivision. Details are as follows:

### Lot 1

- Contains existing dwelling, a dam and outbuilding located on the boundary of lot 1 and 2.
- Proposed to have a frontage of 414.11 metres and a lot depth along the western boundary of 785.58 metres with an overall area of 41.82 hectares.

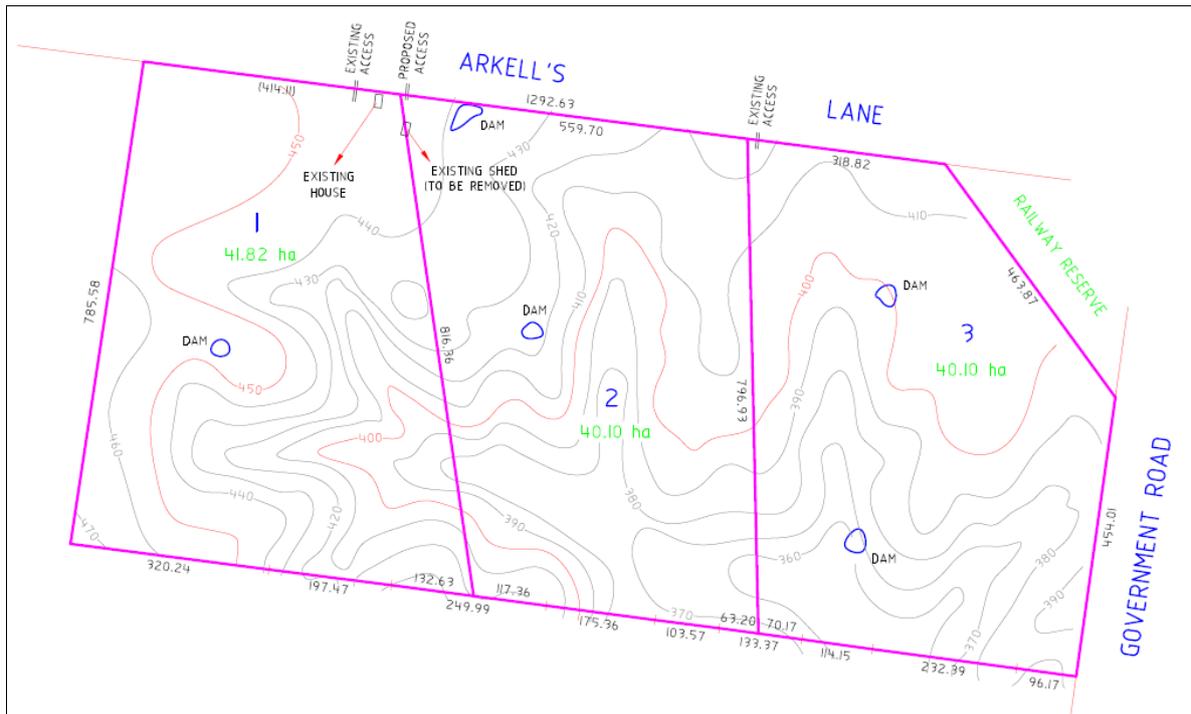
### Lot 2

- Contains 2 existing dams and there are currently no existing structures.
- Proposed to have a lot frontage facing Arkells Lane of 559.70 metres and lot depth along the eastern boundary of 796.9 metres with an overall lot size of 40.10 hectares.

### Lot 3

- Contains 2 existing dams and abuts a railway reserve along the north east corner. No existing structures are on the proposed lot.
- Proposed to have a frontage of 318.82 metres and a lot depth of 796.9 metres along the western boundary.

PLANNING PERMIT APPLICATION PLP162/19 FOR SUBDIVISION OF THE LAND AT 475 ARKELLS LANE WANDONG (CONT.)



Plan of Proposed Subdivision

**APPLICATION HISTORY**

An application was received by Council on 31 May 2019. Further information letter was sent to the Applicant requesting application requirements pursuant to the Bushfire Management Plan and to respond to concerns of fragmentation of agricultural land on 27 June 2019. On 30 July 2019 the further information response was received. Referrals were sent to the relevant authorities on 21 August 2019 and all responses were received by 19 September 2019. Public notification commenced on 27 August 2019.

**PLANNING SCHEME PROVISIONS**

Zoning

*Farming Zone*

Pursuant to Clause 35.07-3, a planning permit is required to subdivide land. Each lot must be a minimum of 40 hectares in area, however a planning permit may be granted to create a smaller lot, including where the subdivision is, a 2-lot subdivision and is to create a lot for an existing dwelling.

When considering an application for subdivision, the following considerations are relevant to this application; agricultural issues, the impacts from non-agricultural uses and loss of agricultural land.

PLANNING PERMIT APPLICATION PLP162/19 FOR SUBDIVISION OF THE LAND AT 475 ARKELLS LANE WANDONG (CONT.)

### Overlays

#### *Bushfire Management Overlay*

Pursuant to Clause 44.06-2 a planning permit is required to subdivide land and must meet the application requirements of Clause 44.06-3 and requirements of Clause 53.02 (Bushfire Planning).

#### *Erosion Management Overlay*

Pursuant to Clause 44.01-5 a planning permit is required to subdivide land.

#### *Vegetation Protection Overlay*

Pursuant to Clause 42.02 a planning permit is not required to subdivide land.

### Particular Provisions

#### *Clause 65 – Decision Guidelines*

Clause 65.02 of the Planning Scheme provides several decision guidelines to be considered as part of the assessment of an application to subdivide land. These decision guidelines are relevant to the current application.

### Planning Policy Framework (PPF) and Local Planning Policy Framework (LPPF)

*Note, see attachments for Planning Policy Framework*

## **PUBLIC NOTIFICATION (ADVERTISING)**

Formal notification of the application was given by means of posting notices to adjoining property owners and occupiers and erecting a notification sign facing Arkells Lane on the subject site. No objections were received.

## **REFERRALS**

### External

The application was referred to the following authorities under Section 55 of the Planning and Environment Act 1987 pursuant to Clause 66 of the Scheme.

<b>Authority</b>	<b>Response</b>
Melbourne Water (Sewerage and Water)	<i>The application was referred to Melbourne Water who provided their conditional consent for the proposal.</i>
APA Group (Gas)	<i>The application was referred to APA Group who provided their conditional consent for the proposal.</i>
AusNet Services (Electricity)	<i>The application was referred to AusNet Services who provided their conditional consent for the proposal.</i>
CFA	<i>Has provided their unconditional consent.</i>

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PLANNING PERMIT APPLICATION PLP162/19 FOR SUBDIVISION OF THE LAND AT 475 ARKELLS LANE  
WANDONG (CONT.)

### Internal

The application was discussed internally with Council's Engineering and Environmental Health teams who suggested conditions that might be applied in any permit issued.

## **DISCUSSION**

### Response to Policy Framework

In Farming Zone areas, such as where the subject site is located, the Planning Policy Framework and Local Planning Policy Framework of the Mitchell Planning Scheme seeks to protect land and support the enhancement of agricultural land and industry. The proposal fails to respond to the relevant Planning Policy Framework (attached to this report) as the proposal will result in the fragmentation of agricultural land.

The proposed subdivision does not relate to or extend the existing farming land use practice. If permitted, the subdivision would fragment agricultural land and impact the continuation of the existing lot for agricultural production. Further, if permitted the subdivision would lead to proposed lots 2 and 3 having an as-of-right entitlement for dwelling as lot sizes proposed are in excess of 40 hectares.

This outcome is not deemed appropriate as it results in the loss of land for primary production. This has the potential to lead to future land use conflicts and issues over 'right to farm' as it results in the potential for rural residential lifestyle lots as opposed to the current farming use.

Current policy requires that any proposed subdivision will provide for benefit and clear land management practices. The result of the subdivision will fragment the land holding losing the efficiency of best land management, which is contrary to planning policy.

### Zoning Implications

Further to the policy implications discussed in the foregoing, the subject land is zoned Farming Zone pursuant to the Mitchell Planning Scheme. A planning permit is required to subdivide land. The zone provisions state that the minimum lot size is 40 hectares. Any proposed subdivision must fulfil the purposes of the Farming Zone which include:

- *To provide for the use of land for agriculture.*
- *To encourage the retention of productive agricultural land.*
- *To ensure that non-agricultural uses, including dwellings, do not adversely affect the use of land for agriculture.*
- *To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.*

It is submitted that the proposed subdivision does not adequately respond to the purposes of the Farming Zone, as the primary purpose of the subdivision is not based on the continued agricultural production of the land. Rather, it is intended to create a

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PLANNING PERMIT APPLICATION PLP162/19 FOR SUBDIVISION OF THE LAND AT 475 ARKELLS LANE WANDONG (CONT.)

lot for an existing dwelling for a rural residential lifestyle and provide additional lots greater than 40 hectares with an as-of-right entitlement for a dwelling.

As a result, the productive agricultural land will be fragmented between the three proposed lots. Further, the introduction of the 'as of right' dwelling use into the area may be detrimental to the surrounding agricultural uses. Therefore, the proposed subdivision will not lead to the long-term sustainable management of the land as required under the zone.

The Farming Zone also sets out several decision guidelines which must be considered in the assessment of an application. The relevant decision guidelines are:

- *Whether the use or development will support and enhance agricultural production.*
- *Whether the use or development will adversely affect soil quality or permanently remove land from agricultural production.*
- *The potential for the use or development to limit the operation and expansion of adjoining and nearby agricultural uses.*
- *The capacity of the site to sustain the agricultural use.*
- *The agricultural qualities of the land, such as soil quality, access to water and access to rural infrastructure.*

Having regards to the relevant decision guidelines the following assessment is made:

- The proposal will be detrimental to the agricultural production of the land as it will fragment the high-quality agricultural land into three lots.
- The fragmentation of the high-quality agricultural land leads to the permanent removal of this land for agriculture use.
- The subdivision may lead to a conflict between residential uses and surrounding agricultural uses.
- No detail has been provided by the applicant on how each proposed lot could sustain an agricultural use in its own right.

Having considered the relevant matters of the Farming Zone, it is concluded that the proposed development does not meet the tests of the zone and is contrary to the purposes of the zone.

Therefore, the proposed subdivision does not comply with current planning policy or the zoning requirements of the Mitchell Planning Scheme and cannot be supported.

Subdividing land in the farming zone could be appropriate if it is ensured that non-agriculture uses, such as dwellings do not adversely impact on the use of the land for agriculture. In this instance as no dwellings are proposed, it is determined that the as-

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PLANNING PERMIT APPLICATION PLP162/19 FOR SUBDIVISION OF THE LAND AT 475 ARKELLS LANE WANDONG (CONT.)

of-right dwelling entitlement on proposed lots 2 and 3 would adversely impact on the agricultural land.

## CONCLUSION

The proposed subdivision will fragment viable agricultural land. The fragmentation will lead to the loss of agricultural land and no longer ensures that the land will be used for agriculture uses. Further, the subdivision proposes conflict between residential uses and agricultural uses. Therefore, it is considered that the proposal cannot be supported.

## RECOMMENDATION

**THAT** Council having complied with the relevant Sections of the *Planning and Environment Act 1987*, resolve to issue a Notice of Refusal to Grant a Planning Permit in respect of Application No. PLP162/19 for a 3 Lot Subdivision at Lot 1 on Title PLAN 800879B, known as 475 Arkells Lane, Wandong, on the following grounds:

1. The proposal is inconsistent with Clause 14.01-1S (Protection of Agricultural Land) of the Mitchell Planning Scheme as the proposal will result in the permanent removal of agricultural land for primary production purposes and will detract from the long-term capacity of productive agricultural land to continue production.
2. The proposal is inconsistent with Clause 16.01-5S (Rural Residential Development) of the Mitchell Planning Scheme as the proposal will not reduce the amount of new rural-residential development in farming areas.
3. The proposal is inconsistent with Clause 21.05-1 (Agriculture) of the Mitchell Planning Scheme as the proposal:
  - a) fails to protect farming and other agricultural practises from the encroachment of urban growth;
  - b) fails to retain productive land for agricultural purposes;
  - c) fragments agricultural land that is currently in a productive capacity;
  - d) produces a subdivision layout that is inconsistent with the character of the area.
4. The proposal is inconsistent with the purpose and decision guidelines of the Clause 35.07 (Farming Zone) of the Mitchell Planning Scheme as the proposal will create a residential lot in a rural area and will adversely affect the use of the land for agricultural purposes.
  - a) The proposal seeks to create a lot greater than 40 hectares which will have an as-of-right entitlement for a dwelling.
  - b) The proposal does not retain and fragments the productive agricultural land.
  - c) Potential for rural land use conflict with lots used for residential use and the surrounding agricultural uses.

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PLANNING PERMIT APPLICATION PLP162/19 FOR SUBDIVISION OF THE LAND AT 475 ARKELLS LANE  
WANDONG (CONT.)

5. The proposal is inconsistent with the decision guidelines at Clause 65 of the Mitchell Planning Scheme as the proposal does not advance the objectives of planning in Victoria and would not result in orderly planning outcomes.

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PLANNING PERMIT APPLICATION PLP162/19 FOR SUBDIVISION OF THE LAND AT 475 ARKELLS LANE  
WANDONG (CONT.)

# **MITCHELL SHIRE COUNCIL**

## **Council Meeting Attachment**

### **DEVELOPMENT AND INFRASTRUCTURE**

**18 NOVEMBER 2019**

**9.6**

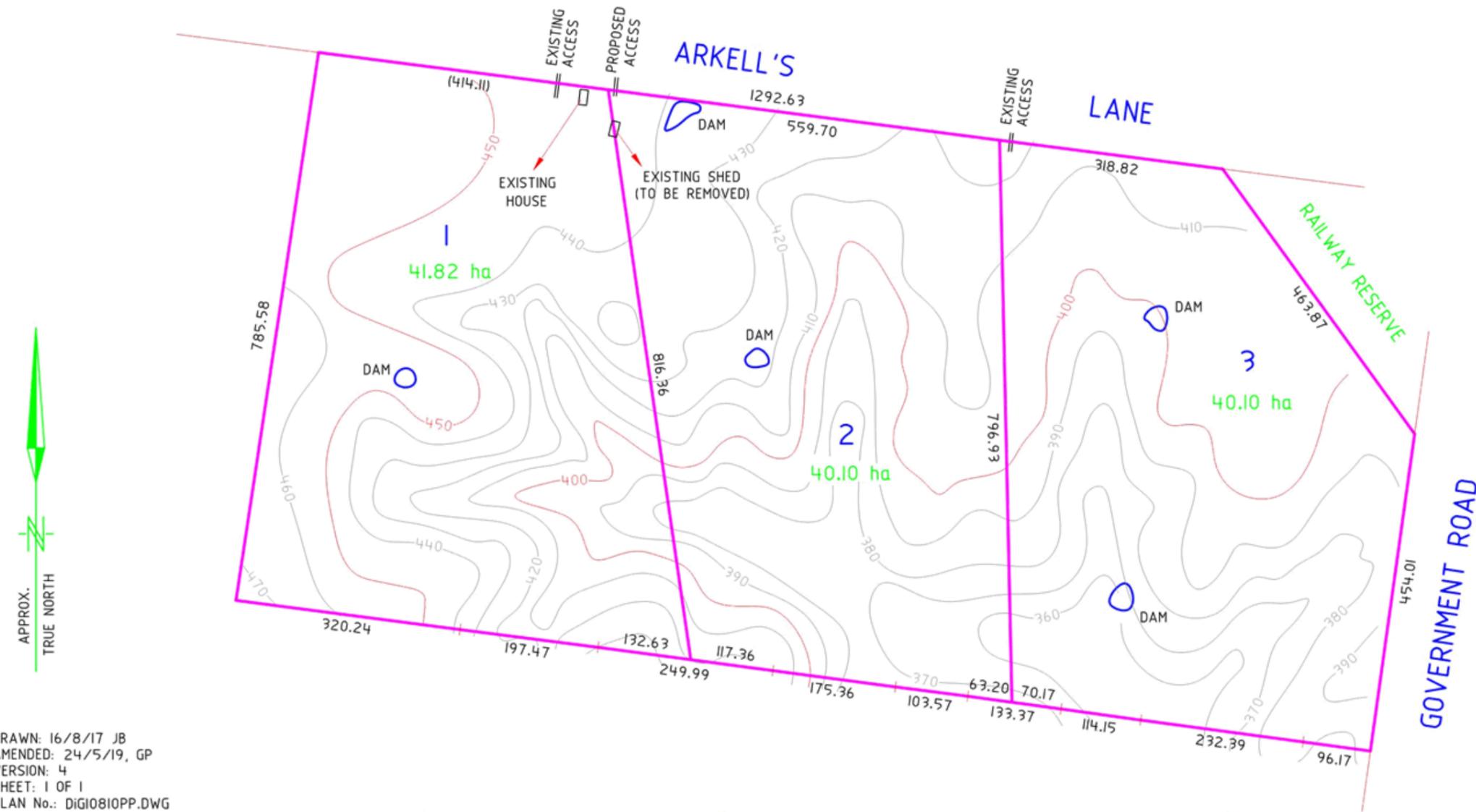
**PLANNING PERMIT APPLICATION PLP162/19  
FOR SUBDIVISION OF THE LAND AT 475  
ARKELLS LANE WANDONG**

**Attachment No: 1  
Plan of Subdivision**

- \* THIS PLAN HAS BEEN PREPARED FOR THE PURPOSE OF SUPPORTING A TOWN PLANNING APPLICATION AND SHOULD BE USED FOR NO OTHER PURPOSE WHATSOEVER.
- \* PRIOR TO ANY DEMOLITION, EXCAVATION OR CONSTRUCTION ON THE SITE, A "DIAL BEFORE YOU DIG" AND/OR THE RELEVANT AUTHORITY SHOULD BE CONTACTED TO ASCERTAIN THE POSSIBLE LOCATION OF ANY SERVICES THAT WERE UNABLE TO BE LOCATED BY DIRECT MEASUREMENT ON THE DATE OF SURVEY.

- \* SEE THE CERTIFICATE OF TITLE FOR FURTHER DETAILS OF ANY EASEMENTS THAT MAY BE AFFECTED BY THE SITE SHOWN.
- \* THIS PLAN HAS BEEN PREPARED TO THE SCALE AND SHEET SIZE SHOWN ELSEWHERE ON THIS PLAN. THESE FACTORS SHOULD NOT BE MANIPULATED AS IT MAY IMPAIR THE ACCURACY OF THE PLAN.
- \* THE INFORMATION SHOWN ON THIS PLAN REPRESENTS SITE CONDITIONS AS EXISTED ON THE DATE OF SURVEY. ERIC SALTER PTY. LTD. ACCEPTS NO RESPONSIBILITY FOR ANY CHANGES TO SITE CONDITIONS SINCE THAT DATE.

- \* INTELLECTUAL PROPERTY REMAINS WITH ERIC SALTER PTY. LTD. FOR ALL THE INFORMATION SHOWN ON THIS PLAN.
- \* ALL NOTES ON THIS PLAN ARE IMPORTANT AND AN INTEGRAL PART OF THIS PLAN, AND MUST REMAIN ON THIS PLAN AND SHOULD BE READ IN CONJUNCTION WITH THE INFORMATION SHOWN HEREON.
- \* THE LOT AREAS & DIMENSIONS SHOWN HEREON ARE APPROXIMATE ONLY & ARE SUBJECT TO CHANGE PENDING A FINAL SURVEY OF THE LAND



DRAWN: 16/8/17 JB  
 AMENDED: 24/5/19, GP  
 VERSION: 4  
 SHEET: 1 OF 1  
 PLAN No.: DiG10810PP.DWG



**SALTER SURVEYING PTY. LTD.**  
 52A. SYDNEY STREET KILMORE 3764  
 TEL.5782 1414 FAX.5782 2416  
 125 ROBERTS STREET ESSENDON 3040  
 TEL.9374 3008

**NOTATIONS**

PARISH OF BYLANDS  
 CROWN PORTION 103 (PART)  
 LOT 1 on TP800879B

**PLAN OF PROPOSED SUBDIVISION**

475 ARKELL'S LANE, BYLANDS

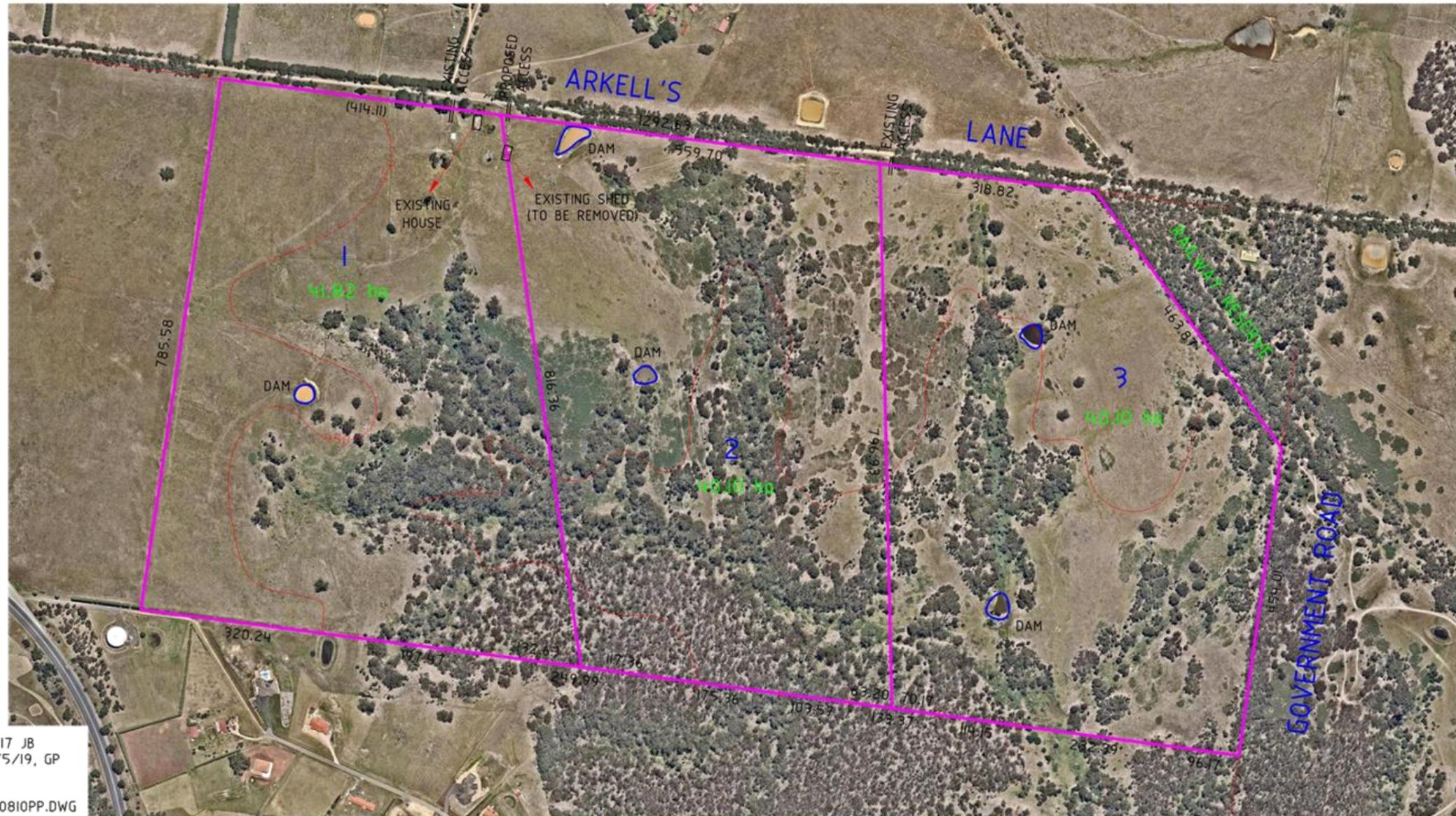
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- \* THIS PLAN HAS BEEN PREPARED FOR THE PURPOSE OF SUPPORTING A TOWN PLANNING APPLICATION AND SHOULD BE USED FOR NO OTHER PURPOSE WHATSOEVER.
- \* PRIOR TO ANY DEMOLITION, EXCAVATION OR CONSTRUCTION ON THE SITE, A "DIAL BEFORE YOU DIG" AND/OR THE RELEVANT AUTHORITY SHOULD BE CONTACTED TO ASCERTAIN THE POSSIBLE LOCATION OF ANY SERVICES THAT WERE UNABLE TO BE LOCATED BY DIRECT MEASUREMENT ON THE DATE OF SURVEY.

- \* SEE THE CERTIFICATE OF TITLE FOR FURTHER DETAILS OF ANY EASEMENTS THAT MAY BE AFFECTED BY THE SITE SHOWN.
- \* THIS PLAN HAS BEEN PREPARED TO THE SCALE AND SHEET SIZE SHOWN ELSEWHERE ON THIS PLAN. THESE FACTORS SHOULD NOT BE MANIPULATED AS IT MAY IMPAIR THE ACCURACY OF THE PLAN.
- \* THE INFORMATION SHOWN ON THIS PLAN REPRESENTS SITE CONDITIONS AS EXISTED ON THE DATE OF SURVEY. ERIC SALTER PTY. LTD. ACCEPTS NO RESPONSIBILITY FOR ANY CHANGES TO SITE CONDITIONS SINCE THAT DATE.

- \* INTELLECTUAL PROPERTY REMAINS WITH ERIC SALTER PTY. LTD. FOR ALL THE INFORMATION SHOWN ON THIS PLAN.
- \* ALL NOTES ON THIS PLAN ARE IMPORTANT AND AN INTEGRAL PART OF THIS PLAN, AND MUST REMAIN ON THIS PLAN AND SHOULD BE READ IN CONJUNCTION WITH THE INFORMATION SHOWN HEREON.
- \* THE LOT AREAS & DIMENSIONS SHOWN HEREON ARE APPROXIMATE ONLY & ARE SUBJECT TO CHANGE PENDING A FINAL SURVEY OF THE LAND



DRAWN: 16/8/17 JB  
 AMENDED: 24/5/19, GP  
 VERSION: 4  
 SHEET: 1 OF 1  
 PLAN No.: DiG10810PP.DWG



**SALTER SURVEYING PTY. LTD.**  
 52A. SYDNEY STREET KILMORE 3764  
 TEL.5782 1414 FAX.5782 2416  
 125 ROBERTS STREET ESSENDON 3040  
 TEL.9374 3008

**NOTATIONS**

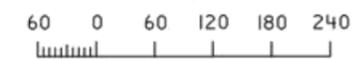
PARISH OF BYLANDS  
 CROWN PORTION 103 (PART)  
 LOT 1 on TP800879B

**PLAN OF PROPOSED  
 SUBDIVISION**

475 ARKELL'S LANE, BYLANDS

SCALE  
 1:6000  
 OUR REF.  
 10810  
 SHEET SIZE A3

**SCALE**



LENGTHS ARE IN METRES

# **MITCHELL SHIRE COUNCIL**

## **Council Meeting Attachment**

### **DEVELOPMENT AND INFRASTRUCTURE**

**18 NOVEMBER 2019**

**9.6**

**PLANNING PERMIT APPLICATION PLP162/19 FOR  
SUBDIVISION OF THE LAND AT 475 ARKELLS  
LANE WANDONG**

**Attachment No: 2**

**Planning Policy Framework and Local Planning  
Policy Framework**

Planning Policy Framework (PPF) and Municipal Strategic Policy Framework (MSPF)

The following clauses of the PPF and MSPF are considered relevant to this application

Clause 12.01-1S Protection of biodiversity	This clause is relevant and has the following objective: <i>To assist the protection and conservation of Victoria's biodiversity.</i>
Clause 13.02-1S Bushfire Planning	This clause is relevant and has the following objective: <i>To strengthen the resilience of settlements and communities to bushfire through risk-based planning that prioritises the protection of human life.</i>
Clause 13.04-2S Erosion and landslip	This clause is relevant and has the following objective: <i>To protect areas prone to erosion, landslip or other land degradation processes.</i>
Clause 14.01-1S Protection of agricultural land	This clause is relevant and has the following objective: <i>To protect the state's agricultural base by preserving productive farmland.</i>
Clause 14.01-2S Sustainable agricultural	This clause is relevant and has the following objective: <i>To encourage sustainable agricultural land use.</i>
Clause 15.01-3S Subdivision Design	This clause is relevant and has the following objective: <i>To ensure the design of subdivisions achieves attractive, safe, accessible, diverse and sustainable neighbourhoods.</i>
Clause 15.01-6S Design for rural areas	This clause is relevant and has the following objective: <i>To ensure development respects valued areas of rural character.</i>
Clause 16.01-5S Rural residential development	This clause is relevant and has the following objective: <i>To identify land suitable for rural residential development.</i>
Clause 21.03-1 Biodiversity	This clause is relevant and has the following objective: <i>To protect and enhance indigenous flora, fauna and habitat.</i>
Clause 21.03-2 Significant environments and landscapes	This clause is relevant and has the following objective: <i>To protect and enhance the visual quality of rural and urban landscapes.</i>
Clause 21.04-3 Soil degradation	This clause is relevant and has the following objective: <ul style="list-style-type: none"> <li><i>To ensure that the use and development of land does not cause significant land disturbance.</i></li> <li><i>To minimise land degradation.</i></li> </ul>

Clause 21.04-5 Bushfire	<p>This clause is relevant and has the following objective:</p> <p><i>To minimise the risk to life, property and the environment from bushfire.</i></p>
Clause 21.05-1 Agriculture	<p>This clause is relevant and has the following objective:</p> <ul style="list-style-type: none"> <li>• <i>To ensure that the use, development or subdivision of land is not prejudicial to agricultural enterprises or to the productive capacity of the land.</i></li> <li>• <i>To support the diversification of agriculture, the development of agro-forestry and the processing of agricultural products grown within the municipality.</i></li> <li>• <i>To encourage and promote environmentally sustainable management of land, water and biological resources.</i></li> </ul>
Clause 21.07-2 Rural living development	<p>This clause is relevant and has the following objective:</p> <p><i>To ensure that farming operations in the Farming Zone are not adversely constrained by the inappropriate construction or siting of dwellings in nearby areas.</i></p>

**9.7 PLANNING PERMIT APPLICATION PLP035/19 FOR THE USE OF THE LAND FOR ANIMAL KEEPING AND ASSOCIATED BUILDINGS AND WORKS AT 10 STONE JUG LANE MIA MIA VIC 3444**

**Author:** Rees May - Statutory Planner

**File No:** PLP035/19

**Attachments:** Nil

**Reference:** PLP035/19

<b>Property No.:</b>	113933
<b>Title Details:</b>	Lot 1 on Plan of Subdivision 424781D (Volume 10511 Folio 180)
<b>Applicant:</b>	Karen Elizabeth Barber
<b>Zoning:</b>	Farming Zone
<b>Overlays:</b>	Environmental Significance Overlay – Schedule 2
<b>Objections Received:</b>	Four objections have been received.
<b>Cultural Heritage Management Plan Required:</b>	No. The subject site is not located within an area of Cultural Heritage Significance.
<b>Officer Declaration of Conflict of Interest:</b>	No officers involved in the preparation of this report have any direct or indirect interest in this matter

**SITE MAP**

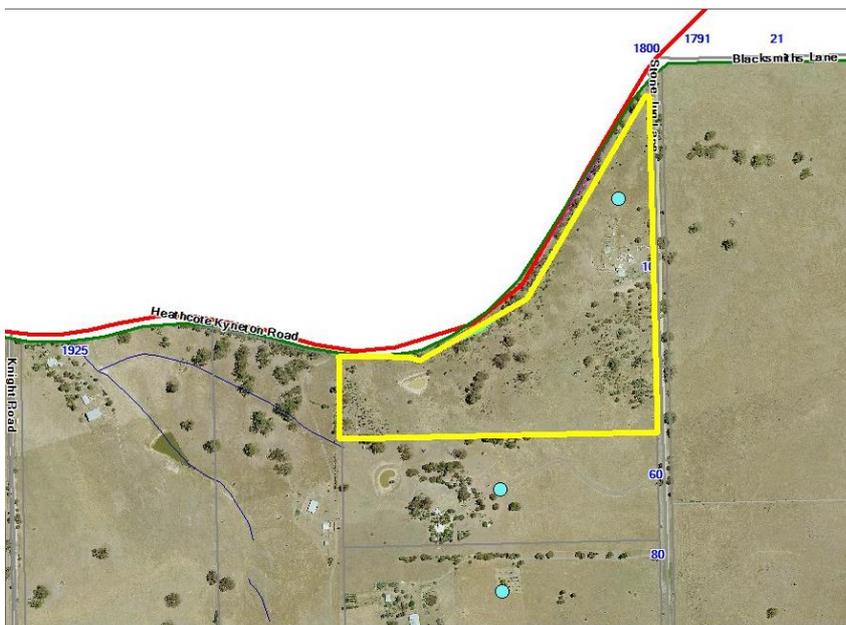


Fig 1. Site Plan

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PLANNING PERMIT APPLICATION PLP035/19 FOR THE USE OF THE LAND FOR ANIMAL KEEPING AND ASSOCIATED BUILDINGS AND WORKS AT 10 STONE JUG LANE MIA MIA VIC 3444 (CONT.)

## SUMMARY

The proposal seeks retrospective approval for the use of the land for animal keeping (dog breeding) and associated buildings and works at 10 Stone Jug Lane, Mia Mia. The land is included in the Farming Zone and is subject to the Environmental Significance Overlay.

The application was advertised by sending letters to adjoining landowners and occupiers and placing a notice on the site. A total of four (4) objections were received.

This report recommends that Council resolve to issue a Notice of Decision to Grant a Planning Permit for Planning Application PLP035/19. The proposed use is considered appropriate on the basis that the site is located in an area zoned for agricultural purposes. A total of eight (8) dogs are proposed for breeding and the location of the proposed use will have appropriate setbacks to minimise any adverse amenity impacts as a result of noise and/or odour.

Any breeding operation must be conducted in accordance with the Code of Practice for the Operation of Breeding and Rearing Businesses which was prepared by the Department of Economic Development, Jobs, Transport and Resources (DEDJTR). Based on the information provided, it is considered that the current operation is not complying with the requirements outlined within the Code of Practice. However, through appropriate conditioning of a planning permit the proposed use will be able to be brought into compliance with the Code.

## SITE AND SURROUNDS

### Subject Site Description

The subject site is located at 10 Stone Jug, Mia Mia and is legally described as Lot 1 on Plan of Subdivision 424781D (Volume 10511 Folio 180). The subject site is irregular in shape and has an overall area of 12.45 hectares. The subject site has frontage onto Stone Jug Land to the east of the site and frontage onto Heathcote Kyneton Road to the north.

The subject site currently contains a dwelling in the northern portion of the site. Surrounding the dwelling is a number of yards used as dog runs. Each of these yards include shelters for the dogs. An agricultural shed is also located on the site towards the north-west of the existing dwelling. The site also contains an amount of native vegetation scattered throughout the site, with most of the vegetation located to the south of the dwelling. A dam is also located in the western portion of the site.

The subject site is accessible via an existing vehicle crossover onto Heathcote Kyneton Road. The topography of the site is undulating with a slight slope from the south-east towards the north-west of the site. The below image shows the subject site from Stone Jug Lane.

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PLANNING PERMIT APPLICATION PLP035/19 FOR THE USE OF THE LAND FOR ANIMAL KEEPING AND ASSOCIATED BUILDINGS AND WORKS AT 10 STONE JUG LANE MIA MIA VIC 3444 (CONT.)



Subject Site Entry

### *Planning Background*

A search of Council's Electronic Record Management System indicates that the following applications have been lodged on the site:

- Planning Permit PLA302748/01 was issued for a shed
- Planning Permit PLA302856/02 was issued for a dwelling.

### *Title/Restrictions/Agreements*

The title of the site is not encumbered by any covenants or agreements.

An easement for the purpose of powerlines in favour of Powercorp Australia traverses through the central portion of the property.

### Surrounding Area

The context immediately surrounding the subject site is as follows:

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PLANNING PERMIT APPLICATION PLP035/19 FOR THE USE OF THE LAND FOR ANIMAL KEEPING AND ASSOCIATED BUILDINGS AND WORKS AT 10 STONE JUG LANE MIA MIA VIC 3444 (CONT.)

- To the north of the site is Heathcote Kyneton Road. On the other side of Heathcote Kyneton Road is Land with the City of Greater Bendigo municipality.
- To the east of the site is Stone Jug Lane. On the other side of Stone Jug Lane is a parcel of land within different ownership. This parcel of land is currently vacant and used for agricultural purposes including grazing. The site contains a watercourse in the southern portion of the site and there is a small amount of native vegetation scattered throughout the site.
- To the south of the site is a parcel of land within different ownership. This parcel of land contains a dwelling in the southern portion of the site, a dam in the north-western corner of the site and native vegetation scattered throughout the central portion of the site.
- To the west of the site is a parcel of land within different ownership. This parcel of land has frontage onto Heathcote Kyneton and contains a dwelling and two (2) associated outbuildings. There is also a small amount of native vegetation scatter throughout the site, with the majority of the vegetation in the northern portion of the site.

## PROPOSAL

The proposal is seeking retrospective approval for the use of the land for animal keeping (dog breeding) associated buildings and works. The applicant is proposing to breed border collie dogs. The proposal is for a total of eight (8) dogs (including six (6) fertile female and two males) that will be used for breeding purposes. The applicant has advised a maximum of three litters will be produced each year.

The application seeks to retain the existing dog runs and shelter buildings. The dogs that are proposed to be kept on the subject site will be housed in 6 separate fenced yards. Each yard will contain a shelter for each dog or multiple dogs, along with bedding and access to food and water.

The applicant has advised that up to three litters will occur each year and puppies will be re-homed between eight (8) and 16 weeks of age.

## APPLICATION HISTORY

Planning Permit Application PLP035/19 was received by Council on 6 February 2019. A further information request was sent to the applicant on 22 February 2019. The further information response was received by Council on 5 July 2019.

The application proceeded to advertising on 7 August 2019 and the advertising period completed 28 August 2019 with a total of four objections being received.

## PLANNING SCHEME PROVISIONS

### Zoning

#### *Farming Zone*

The site is affected by the Farming Zone pursuant to Clause 35.07 of the Mitchell Planning Scheme where a planning permit is required to use the land for domestic animal husbandry (dog breeding) as the proposal is for more than five (5) dogs.

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PLANNING PERMIT APPLICATION PLP035/19 FOR THE USE OF THE LAND FOR ANIMAL KEEPING AND ASSOCIATED BUILDINGS AND WORKS AT 10 STONE JUG LANE MIA MIA VIC 3444 (CONT.)

Pursuant to Clause 35.07-4, a planning permit is also required to construct a building, or construct or carry out works associated with a Section 2 use of Clause 35.07-1.

### Overlays

#### *Environmental Significance Overlay – Schedule 2*

The site is affected by the Environmental Significance Overlay pursuant to Clause 42.02 of the Scheme with a permit required to construct a building, or to construct or carry out works.

### Particular Provisions

There are no particular provisions relevant to the planning permit application.

### Planning Policy Framework (PPF) and Municipal Strategic Policy Framework (MSPF)

There are a number of policies of the PPF and MSPF relevant to the consideration of this application. The most relevant are addressed in the discussion section of the report however a full list of the applicable policies is included as an attachment to this report.

## **PUBLIC NOTIFICATION (ADVERTISING)**

Formal notification of the application was given by means of sending letters to adjoining landowners and occupiers and placing a notice on the site. A total of four (4) objections have been received. The grounds of which are summarized as follows and a response provided within the section Objectors' Concerns later in this report:

- Noise disturbance as a result of dogs barking.
- The further construction of poorly unorganised and unattractive structures cause adverse amenity impacts.
- Escaping dogs have previously attacked livestock
- Property devaluation

## **REFERRALS**

### External

The application was referred externally to Goulburn Murray Water who provided consent subject to conditions being included in any permit issued.

### Internal

The application was discussed internally with Council's Local Laws and Environmental Health Departments.

Local Laws objected to the proposed for a number of reasons which are discussed below.

The Environmental Health officers provided conditions to be included in any permit issued.

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PLANNING PERMIT APPLICATION PLP035/19 FOR THE USE OF THE LAND FOR ANIMAL KEEPING AND ASSOCIATED BUILDINGS AND WORKS AT 10 STONE JUG LANE MIA MIA VIC 3444 (CONT.)

## DISCUSSION

Councils Local Laws Department was made aware of the animal keeping and its facilities. Upon an investigation from Local Laws it was discovered the land did not have a planning permit for the proposed use. A retrospective planning permit application was lodged to legitimise the animal keeping (dog breeding).

The Planning Policy Framework seeks to ensure that land designated for agricultural use is used appropriately. The proposal for the use of the land for animal keeping (dog breeding) and associated building and works is considered to be appropriate within under the zone. The proposal has demonstrated that the use and development will not adversely impact upon the environment and amenity through the emission of wastewater, noise and smell. The applicant has lodged management plans detailing the proposal and these plans are acceptable. The planning permit application has demonstrated that the proposal is permissible subject to conditions.

### *Farming Zone*

The requirements of the Farming Zone seek to ensure that a number of matters are considered in the assessment of a proposal, including:

- the potential impact of a proposal on the ability of the land or nearby land to be used for agricultural purposes;
- whether the proposal will enhance the agricultural use of the land; and
- whether the proposal can be appropriately accommodated on the land with regard to any site constraints.

The proposed animal keeping (dog breeding) is considered appropriate within a Farming Zone. Animal keeping (dog breeding) will promote the agricultural use of the land. Farming and agricultural activities can often be intrusive with regard to noise, odour and other factors and amenity expectations are not consistent with a residential zone. Given that the nearest dwelling is approximately 500 metres away, the proposed land use is considered to be appropriate and not cause amenity impacts unreasonable with the Farming Zone.

### *Local Laws Department response*

The application has been referred to Council's Local Laws Unit who have objected to the proposal as the site is non-compliant with the Code of Practice for the operation of a breeding and rearing establishment.

It is considered that the Farming Zone is the ideal zone for animal keeping (dog breeding) and the concerns raised by Council's Local Laws Unit can be addressed through appropriate conditioning of the planning permit. If non-compliance occurs with the planning permit, Councils Planning Enforcement Department will investigate the matter and appropriate action will be taken to rectify the non-compliance.

## OBJECTORS' CONCERNS

The objections received in relation to the current proposal cover a number of matters and are addressed below:

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PLANNING PERMIT APPLICATION PLP035/19 FOR THE USE OF THE LAND FOR ANIMAL KEEPING AND ASSOCIATED BUILDINGS AND WORKS AT 10 STONE JUG LANE MIA MIA VIC 3444 (CONT.)

The notification period attracted four (4) objections in relation to the application, the grounds of which were summarized in the Public Notification section above. A response to the concerns is as follows:

- *Noise disturbance as a result of dogs barking*

The subject site is located in a rural area and is within an appropriate area for animal keeping (dog breeding). The location where the dogs will be kept is central within the property and a significant distance from the property boundaries.

The barking of a dog cannot be prevented whether the animal be kept as a pet or for breeding. The applicant has supplied a management plan which has detailed that training will occur to prevent barking.

- *The further construction of poorly unorganised and unattractive structures cause adverse visual amenity impacts.*

No further structures are proposed as a result of the application. The applicant is seeking retrospective approval for the existing dog yards and shelters located on the site. The structures are small in scale and not foreseen to cause visual amenity impacts within the surrounding area.

- *Escaping dogs have previously attacked livestock*

Dogs will be required to be appropriately contained within yards with suitable fencing to prevent dogs from escaping. This concern can be addressed if a permit is to be issued a condition could be included on the permit to require the yards to be fenced to contain dogs. This will minimise the risk of dogs attacking livestock.

- *Property devaluation*

Property devaluation is not a consideration under the planning scheme and not considered relevant to the assessment of the application.

## CONCLUSION

The application proposed to establish retrospective approval for a dog breeding operation at the subject site. The land is zoned farming which provides for the use of the land for agriculture which the use of the land for dog breeding is nested within pursuant to Clause 73.04-2 of the Mitchell Planning Scheme. It is considered that the off-site impacts of the proposed operation can be mitigated to a degree through appropriate conditioning of the permit to comply with the code.

## RECOMMENDATION

**THAT** Council having complied with the relevant Sections of the *Planning and Environment Act 1987*, resolve to issue a Notice of Decision to Grant a Planning Permit in respect of Application No. PLP035/19 for the use of the land for animal keeping and associated buildings and works. at Lot 1 on Plan of Subdivision 424781D (Volume 10511 Folio 180), known as 10 Stone Jug Lane, Mia Mia, subject to the following conditions:

Amended plans

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PLANNING PERMIT APPLICATION PLP035/19 FOR THE USE OF THE LAND FOR ANIMAL KEEPING AND ASSOCIATED BUILDINGS AND WORKS AT 10 STONE JUG LANE MIA MIA VIC 3444 (CONT.)

1. Before the use starts, amended plans and documents 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) A Land Capability Assessment in accordance with condition 8:
  - b) An overall business management plan detailing compliance with the relevant code of practice and registration details with a relevant animal welfare organisation.
  - c) An amended fully dimensioned site plan drawn to an appropriate scale which includes, as appropriate:
    - i. The use of each building upon the subject site in relation to the various activities that form part of the proposed use;
    - ii. Details of fencing heights and type associated with the animal breeding use. This fencing must be compliant with the fencing requires for exercise areas specified in the Code of Practice;
    - iii. Details of screening of the exercise yards to minimise noise pollution impacts.
  - d) Fully dimensioned floor plans of the dog housing drawn at a scale of 1:100 or 1:200 which includes:
    - i. Compliance with minimum pen sizes;
    - ii. Details of bedding;
    - iii. Details of surface finishes.
  - e) Fully dimensioned elevation plans drawn at a scale of 1:100 or 1:200 which includes:
    - i. Colours, materials and finishes of all buildings associated with the animal breeding;
    - ii. Ventilation details
    - iii. Weatherproof dog housing.
  - f) An amended animal health management plan that provides the following:
    - i. An endorsement of the Health Management Plan by a veterinary practitioner who will be undertaking the necessary veterinary and health management planning and activities associated with the business:
  - g) An amended noise and odour management plan.
    - i. Details of activities and goods used for animal noise control;

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PLANNING PERMIT APPLICATION PLP035/19 FOR THE USE OF THE LAND FOR ANIMAL KEEPING AND ASSOCIATED BUILDINGS AND WORKS AT 10 STONE JUG LANE MIA MIA VIC 3444 (CONT.)

- ii. Details of how the dog housing will be insulated to reduce noise emission.

### General

2. The layout of the use and the development on the endorsed plans must not be altered or modified unless otherwise agreed in writing by the Responsible Authority.
3. The use and/or development must be managed so that the amenity of the area is not detrimentally affected though the:
  - a) transport of materials, goods or commodities to or from the land;
  - b) appearance of any buildings, works or materials;
  - c) emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, reflection or glare, steam, soot, ash, dust, waste water, waste products, grit or oil;
  - d) the presence of vermin; and
  - e) in any other way.

to the satisfaction of the Responsible Authority.

4. All fences must be kept in a good state of repair so that all the dogs are contained within the designated areas on the subject land to the satisfaction of the Responsible Authority.
5. All dogs must be contained within then designated fenced areas at all times, unless with the written consent of the Responsible Authority.
6. There must be no offensive odour(s) beyond the boundary of the premises.

### Restrictions on use

7. Unless with prior written consent of the Responsible Authority, no more than eight (8) dogs may be accommodated on the land at any one time excluding litters (which will not be incorporated within the total number of dogs until after 6 months of age).
8. Unless with the prior written consent of the Responsible Authority, no more than three (3) litters may be bred on the land per year.

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PLANNING PERMIT APPLICATION PLP035/19 FOR THE USE OF THE LAND FOR ANIMAL KEEPING AND ASSOCIATED BUILDINGS AND WORKS AT 10 STONE JUG LANE MIA MIA VIC 3444 (CONT.)

Environmental Health conditions

9. The proposed development is located within the potable catchment/high risk site there for the council requests a land capability assessment to be completed. The land capability assessment must address design and maintenance for the wastewater disposal system. Address present features and setbacks located on the site as well as sizing and location of disposal and reserve field.
  
10. All wastewater from proposed dwelling/lots must be treated and contained within the property boundaries in accordance with the current EPA Code of Practice – Onsite Wastewater Management: Guidelines for Environmental Management, Australian Standards 1547 and Council requirements.
  
11. No part of the septic tank system may be located within a fill pad.
  
12. All waste water and liquid is to be contained and treated on site by an approved septic tank system or equivalent. The system must be at least 60 metres from any watercourse and/or dam (non-potable water supply), on the subject or neighbouring properties, and must meet the Guidelines for Environmental Management: Code of Practice – Onsite Wastewater Management 891. 4 (2016).
  
13. Sewage, sullage and other liquid wastes to arise from the development shall be treated and retained on site by a septic tank system in accordance with the requirements of the Environment Protection Act 1970, the Guidelines for Environmental Management: Code of Practice – Onsite Wastewater Management 891. 4 (2016).and the Responsible Authority
  
14. Prior to the commencement of construction of the dwelling or shed, plans of a suitable effluent disposal system and its location on the land must be approved in writing by the Responsible Authority
  
15. Animal wastes on the property must be treated or dispersed in such a manner to ensure that:
  - a) Offensive odours are reduced to a minimum; and
  - b) The wastes are not a nuisance as described in the Public Health and Well Being Act 2008 and are contained within the boundaries of the site to the satisfaction of the Responsible Authority

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PLANNING PERMIT APPLICATION PLP035/19 FOR THE USE OF THE LAND FOR ANIMAL KEEPING AND ASSOCIATED BUILDINGS AND WORKS AT 10 STONE JUG LANE MIA MIA VIC 3444 (CONT.)

16. The proposed waste water system must hold a current Jas-ANZ certificate of conformance in compliance with AS/NZS 1546 and be approved to treat waste to a 20/30 treatment level for suspended solids and biological oxygen demand and disposed of via pressure compensating subsurface irrigation in accordance with the Environment Protection Act 1970, The Guidelines for Environmental Management: Code of Practice – Onsite Wastewater Management 891. 4 (2016) and the LCA report number (insert number).

Goulburn Murray Water conditions

17. No structures of any kind are to be constructed over the septic tank disposal area in a manner which may cause damage to or interference with the function of the trenches.
18. No faecal waste material from the dogs or stormwater containing faecal matter is to be discharged to any waterways or dams on waterways.
19. Solid faecal waste must be collected from the pens/kennels and managed to the satisfaction of council's Environmental Health Department.
20. Any on-site treatment and disposal system for wastewater or faecal waste material from the pens/kennels must be located at least 100m from the nearest waterway or dam on a waterway.
21. All construction and ongoing activities must be in accordance with sediment control principles outlined in 'Construction Techniques for Sediment Pollution Control' (EPA, 1991).

Permit expiry

22. 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.
  - c) The use is not started within four years of the date of this permit.
  - d) The use is discontinued for a period of two years.

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.

**PERMIT NOTES**

PLANNING PERMIT APPLICATION PLP035/19 FOR THE USE OF THE LAND FOR ANIMAL KEEPING AND ASSOCIATED BUILDINGS AND WORKS AT 10 STONE JUG LANE MIA MIA VIC 3444 (CONT.)

Relevant Authority	Information provided to assist the applicant or owner
Council Building Unit	<p><b>Please note that this approval does not constitute a Building Permit.</b> You should enquire with Council's Building Services Unit on 5734 6230 to ascertain if a building permit is required for this proposal.</p>
Council Engineering Services Unit	<p>A legal point of discharge must be obtained from Council prior to the construction of the drainage.</p> <p>A road-opening permit must be obtained from Council's Engineering Services Unit before any vehicle crossover is constructed.</p>
Council Environmental Health Unit	<p>An application to install a Septic Tank System must be submitted to the Environmental Health Unit including any prescribed fee and plans detailing the distance of the system from boundaries and the size of the effluent area.</p> <p>If any proposed buildings, new boundaries or works encroach over any part of the existing septic tank system, including buffer zones, the system must be relocated to the satisfaction of Council.</p>

**9.8 PLANNING PERMIT APPLICATION PLP047/19 FOR DEVELOPMENT OF THE LAND FOR A FOOD AND DRINK PREMISES (FOOD VANS), DEMOLITION WITHIN THE HERITAGE OVERLAY, SALE AND CONSUMPTION OF LIQUOR, ALTERATION OF ACCESS TO A ROAD ZONE - CATEGORY 1 AND REDUCTION IN CAR PARKING REQUIREMENTS AT 33-37 SYDNEY STREET KILMORE**

**Author:** Holly Sawyer - Senior Statutory Planner

**File No:** PLP047/19

- Attachments:**
1. Proposed plans
  2. Engineer's report
  3. Planning Policy

<b>Property No.:</b>	106613, 118311
<b>Title Details:</b>	Lot 1 on Title Plan 014176V Volume 10450 Folio 955, Land in Plan of Consolidation 351319U Volume 10015 Folio 075
<b>Applicant:</b>	Plan Urban Pty Ltd
<b>Zoning:</b>	Commercial 1 Zone
<b>Overlays:</b>	Heritage Overlay (HO99), Design and Development Overlay – Schedule 4
<b>Objections Received:</b>	17 objections received
<b>Cultural Heritage Management Plan Required:</b>	Not required
<b>Officer Declaration of Conflict of Interest:</b>	No officers involved in the preparation of this report have any direct or indirect interest in this matter

**SITE MAP**



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PLANNING PERMIT APPLICATION PLP047/19 FOR DEVELOPMENT OF THE LAND FOR A FOOD AND DRINK PREMISES (FOOD VANS), DEMOLITION WITHIN THE HERITAGE OVERLAY, SALE AND CONSUMPTION OF LIQUOR, ALTERATION OF ACCESS TO A ROAD ZONE - CATEGORY 1 AND REDUCTION IN CAR PARKING REQUIREMENTS AT 33-37 SYDNEY STREET KILMORE (CONT.)

## SUMMARY

The application is seeking approval for the development of the land for a food and drink premises (food vans), demolition within the heritage overlay, sale and consumption of liquor, alteration of access to a Road Zone – Category 1 and reduction of car parking requirements. The land is located within the Commercial 1 Zone and is affected by the Heritage Overlay (HO99) and Design and Development Overlay – Schedule 4 of the Mitchell Planning Scheme.

The application was advertised via letters to adjoining landowners and occupiers and a sign was displayed on the property. A total of 17 objections have been received at the time of writing this report.

The primary matters discussed later in this report are related to the appropriateness of the service of liquor, heritage, car parking, access, and waste management.

This report recommends that a Notice of Decision to Refuse a Planning Permit be issued for the proposal, as it is considered that insufficient information has been provided to protect the heritage significance of the site and appropriately manage car parking and waste collection.

## SITE AND SURROUNDS

### Subject Site Description

The subject site is located on the western side of Sydney Street and consists of two (2) title lots. The site contains 33 Sydney Street (Land in Plan of Consolidation 351319U) and 37 Sydney Street (Lot 1 on Title Plan 014176V), with both lots containing existing buildings.

33 Sydney Street currently contains a commercial building with a number of tenancies fronting Sydney Street (some currently vacant). The land area is 3,165 sqm, with four (4) shipping containers also located within the rear of the site. With existing vehicle access located on Sydney Street, this part of the site currently contains 12 car parking spaces within the front setback of the existing building.

37 Sydney Street is the smaller of the two (2) parcels, with a land area of approximately 644sqm. The site currently contains an existing food van fronting Sydney Street and a structure to the rear of the van. This structure previously formed the rear of a two (2) storey shop that was demolished due to unsafe structural integrity. The remaining building was retained as it was deemed structurally sound at the time. The Mitchell Shire Heritage Citations 2013 provide the following description of 37 Sydney Street (pg. 204-205):

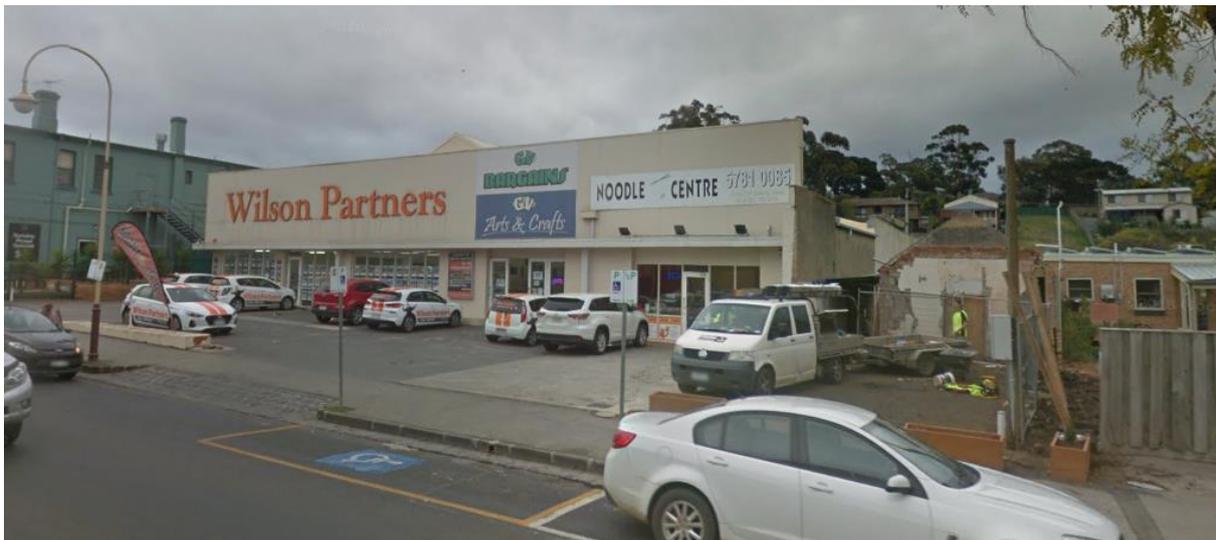
*This building was known as 'Commercial House'. The 1982 Heritage Study states that this building, erected for John Bruce, was one of a pair. The southern half was demolished around 1917. The northern building was erected by Bruce's brother-in-law, Donald McGregor, and is the extant building at 37 Sydney Street. Some tenants of this building included in the late 1850s Donald McGregor, jeweller and watchmaker, Leonard Stimson, grocer, in the mid 1860s; Terence Joseph Geoghegan, draper, in the 1870s; Alfred McKenzie Luckie, draper, to the late 1890s; Margaret Tuckwell's*

PLANNING PERMIT APPLICATION PLP047/19 FOR DEVELOPMENT OF THE LAND FOR A FOOD AND DRINK PREMISES (FOOD VANS), DEMOLITION WITHIN THE HERITAGE OVERLAY, SALE AND CONSUMPTION OF LIQUOR, ALTERATION OF ACCESS TO A ROAD ZONE - CATEGORY 1 AND REDUCTION IN CAR PARKING REQUIREMENTS AT 33-37 SYDNEY STREET KILMORE (CONT.)

*Coffee Palace from 1903 to 1912; William Crilley, saddler from 1913 to 1936; and later, McLean's pie shop.*



Street view of the subject site dated May 2015 (Google Maps).



Street view of the subject site dated May 2018 (Google Maps).

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### *Planning Background*

The following planning related outcomes have been determined for the sites:

- PLP299/17 (33 Sydney Street): Buildings and works for temporary shipping containers – Issued.
- PLA303013/02 (37 Sydney Street): External painting – Issued.
- PL6143/06 (37 Sydney Street): External and internal alterations to shop, demolition and removal of shed, removal of native vegetation – Issued.
- P306207/10 (37 Sydney Street): To demolish buildings in a heritage overlay – Refused.
- PLP023/18: Buildings and works for a takeaway food premises, display of signage and reduction of car parking requirements – Issued.

The building notice for the previous shop at 37 Sydney Street was issued on 27 June 2016, with demolition occurring mid-2017.

### *Title/Restrictions/Agreements*

The copies of title submitted with the application indicate that the site is not affected by any restrictive covenants or agreements, although the following easements do traverse the site:

- E-1 (33 & 37 Sydney Street): party wall (associated with demolished shop);
- A-1 (33 & 37 Sydney Street): party wall (associated with demolished shop).

### Surrounding Area

The subject site is located centrally within the Kilmore commercial precinct along Sydney Street. The immediately surrounding area is characterized by 19<sup>th</sup> and early 20<sup>th</sup> century buildings with varying land uses, including hotels, residences, food and drink premises (cafes) and offices. All buildings within the surrounding area contain zero street setbacks, with the majority of parking provided on-street.

The Sydney Street area is affected by the Heritage Overlay HO99, which is a large precinct with a number of individually noted properties (including 37 Sydney Street, as discussed above). The precinct is *characterized by the commercial and civic centre properties, constructed over a period of about fifty years, either side of Sydney Street with a concentration of predominantly nineteenth and some very early twentieth century buildings. A total of 52 important heritage places have been identified. The National Estate citation states that the relatively intact commercial streetscape of Sydney Street represents the early character of Kilmore in the nineteenth century, and, based on the evidence presented here, this opinion is still intact* (Mitchell Shire Heritage Citations 2013, pg. 211).

## **PROPOSAL**

The application is seeking approval for the development of the land for a food and drink premises (food vans), demolition within the heritage overlay, sale and consumption of

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PLANNING PERMIT APPLICATION PLP047/19 FOR DEVELOPMENT OF THE LAND FOR A FOOD AND DRINK PREMISES (FOOD VANS), DEMOLITION WITHIN THE HERITAGE OVERLAY, SALE AND CONSUMPTION OF LIQUOR, ALTERATION OF ACCESS TO A ROAD ZONE - CATEGORY 1 AND REDUCTION IN CAR PARKING REQUIREMENTS AT 33-37 SYDNEY STREET KILMORE (CONT.)

liquor, alteration of access to a Road Zone – Category 1 and reduction of car parking requirements. The details of the proposal are as follows:

*Food and drink premises*

The proposal is seeking to use the majority of the existing building on 33 Sydney Street for a food van ‘park’. This will include 11 permanent and temporary food vans within the warehouse area of the building (the existing takeaway premises and office tenancy are to remain as is) and to the north of the building within 37 Sydney Street which will require the demolition of the extant structure.

Entry to the building is proposed via the Sydney Street car parking area and down the side of the subject site. Pedestrian entry will be available via the door fronting Sydney Street from the car park and from the outdoor van area within 37 Sydney Street. Seating areas are proposed to be interspersed between the indoor and outdoor vans and within a proposed outdoor dining area on the western side of the building. An indoor kids play area and ancillary bar will be located within the existing structure.

The proposed works to the western end of the building including the outdoor eating area and the outdoor kids play area. These works will be set upon a new retaining wall to accommodate the site slope, although this will restrict access from the rear of the site into the building except for a section adjacent to the existing roller door on the western wall of the building which will be level with the ground. Additional doors and windows will be installed on the northern wall to provide access and sunlight to the indoor dining and van area.

A bin enclosure is proposed to the south of the outdoor dining area, with collection proposed within the car parking area by a private collector.

The proposal has listed the following operating hours:

- Tuesday – Sunday 11am to 12am.

*Sale and consumption of liquor*

The proposal is seeking to include a red line around the indoor and outdoor van areas and the outdoor dining area. The sale and consumption would be onsite only and served between the hours of 11am to 12am Tuesday to Sunday.

*Alteration to a Road Zone – Category 1 and car parking*

The application is seeking to reduce the car parking requirement for the proposal. The existing 12 car parking spaces are proposed to be retained as is.

Whilst the locations of the crossovers will remain as is, the southern crossover is proposed to be changed to ingress only and the northern crossover egress only.

*Demolition*

The proposal is seeking to demolish the extant building on 37 Sydney Street to accommodate access for the food vans and provide space for the outdoor van and dining area. The demolition also seeks to remove the canopy that exists between the extant building and the building at 33 Sydney Street.

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PLANNING PERMIT APPLICATION PLP047/19 FOR DEVELOPMENT OF THE LAND FOR A FOOD AND DRINK PREMISES (FOOD VANS), DEMOLITION WITHIN THE HERITAGE OVERLAY, SALE AND CONSUMPTION OF LIQUOR, ALTERATION OF ACCESS TO A ROAD ZONE - CATEGORY 1 AND REDUCTION IN CAR PARKING REQUIREMENTS AT 33-37 SYDNEY STREET KILMORE (CONT.)

The proposal can be viewed at attachment 1 and the engineers report can be viewed at attachment 2.

## APPLICATION HISTORY

The application was received by Council on 13 February 2019. Further information was requested on 7 March 2019, which was received in full on 24 June 2019. Public notification of the application commenced on 17 July 2019 and concluded on 1 August 2019. Seventeen objections were received.

## PLANNING SCHEME PROVISIONS

### Zoning

#### *Commercial 1 Zone (C1Z)*

The subject site is located within the Commercial 1 Zone pursuant to Clause 34.01 of the Mitchell Planning Scheme. The objectives of Clause 34.01 relevant to this application are as follows:

- *To create vibrant mixed-use commercial centres for retail, office, business, entertainment and community uses.*

Pursuant to Clause 34.01-1, a planning permit is not required for the use of the land for a food and drink premises. Although, pursuant to Clause 34.01-4, a planning permit is required to construct a building or construct or carry out works.

### Overlays

#### *Heritage Overlay (HO99)*

The subject site is affected by the Heritage Overlay (HO99) pursuant to Clause 43.01 of the Scheme. The objectives of Clause 43.01 relevant to this application are as follows:

- *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.*

Pursuant to Clause 43.01-1, a planning permit is required to demolish or remove a building and construct a building or carry out works.

#### *Design and Development Overlay – Schedule 4 (DDO4)*

The subject site is affected by the Design and Development overlay – Schedule 4 pursuant to Clause 43.02 of the Scheme. The objectives of Schedule 4 to Clause 43.02 relevant to this application are as follows:

- *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.*

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- *To encourage high quality development outcomes along Melbourne Street which has regard to its residential interface and supporting role to Sydney Street.*

Pursuant to Clause 2 of Schedule 4, a planning permit is required to construct a building or construct or carry out works that are visible from the public realm.

### Particular Provisions

#### *Clause 52.06 – Car parking*

Clause 52.06 of the Scheme includes the following objectives that are relevant to this application:

- *To ensure the provision of an appropriate number of car parking spaces having regard to the demand likely to be generated, the activities on the land and the nature of the locality.*

Pursuant to Table 1 of Clause 52.06-5, 4 car parking spaces must be provided to each 100sqm of leasable floor area for a food and drink premises. Therefore, for the proposed food and drink premises, which has a total floor area of 1,088sqm, requires 43.52 car parking spaces. Although, the bulk of this floor area was previously used for retail purposes which carries the same car parking requirements. Therefore, the additional floor area for the food and drink premises proposed herein may only be considered as there is an existing credit. For the additional outdoor dining areas, which contain a floor area of approximately 410sqm, a total of 16 car parking spaces are required.

As no additional car parking spaces are proposed, the reduction of 16 car parking spaces requires planning approval pursuant to Clause 52.06-3 of the Scheme.

#### *Clause 52.27 – Licensed premises*

The purpose of Clause 52.27 of the Scheme is to ensure that licensed premises are situated in appropriate locations and to consider the potential impact of licensed premises on the amenity of the surrounding area.

Pursuant to Clause 52.27, a planning permit is required to use land to sell or consume liquor.

#### *Clause 52.29 – Land adjacent to a Road Zone, Category 1*

Clause 52.29 of the Scheme seeks to ensure that appropriate access is provided to appropriate roads.

Pursuant to Clause 52.29-2, a planning permit is required to alter access to a Road Zone, Category 1.

### Planning Policy Framework (PPF) and Local Planning Policy Framework (LPPF)

A number of policies are applicable to this application and are included at attachment 3.

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PLANNING PERMIT APPLICATION PLP047/19 FOR DEVELOPMENT OF THE LAND FOR A FOOD AND DRINK PREMISES (FOOD VANS), DEMOLITION WITHIN THE HERITAGE OVERLAY, SALE AND CONSUMPTION OF LIQUOR, ALTERATION OF ACCESS TO A ROAD ZONE - CATEGORY 1 AND REDUCTION IN CAR PARKING REQUIREMENTS AT 33-37 SYDNEY STREET KILMORE (CONT.)

### **PUBLIC NOTIFICATION (ADVERTISING)**

Formal notification of the application was given by means of letters to adjoining landowners and occupiers and a sign displayed on the site. A total of 17 objections have been received and are addressed in the section Objectors' Concerns later in this report.

### **REFERRALS**

#### External

The application was referred to VicRoads pursuant to Section 55 of the *Planning and Environment Act 1987*, who did not object to the issue of a permit subject to conditions regarding ingress and egress to the site and line marking the internal parking bays.

#### Internal

The application was referred to Council's Environmental Health Unit who did not object to the issue of a permit subject to conditions regarding compliance with wastewater and grease trap requirements.

The application was also referred to Council's Municipal Building Surveyor who identified that a building permit would be required for the proposal and that fire separation issues would need to be addressed as part of that process.

The application was referred to Council's Engineering Unit who did not object to the issue of a permit subject to conditions regarding access, construction plans and management plans, and reinstatement requirements.

The application was also referred to Council's Heritage Advisor who did not object to the issue of a permit provided that archival recording was required as part of any conditional consent.

### **DISCUSSION**

#### Development of the land for food trucks & sale and consumption of liquor

The proposed food and drink premises is an 'as of right' land use under the Commercial 1 Zone, although planning approval is required for the sale and consumption of liquor associated with the use. The proposal is seeking to include a redline that would allow patrons to consume alcohol both within the existing building and within the outdoor dining areas. Consumption of alcohol outside of the subject site is not sought.

Clause 52.27 requires the Responsible Authority to consider the impact of the sale or consumption of liquor on the amenity of the surrounding area and whether there are any cumulative impacts likely to result from the licensed premises on the surrounding area.

Given that the sale and consumption of liquor is sought in conjunction with the food truck park, it is considered that the proposal within the context of the subject site is appropriate. Further, given the character of Sydney Street as a commercial precinct with a number of premises that serve alcohol, the proposal is not at odds with the surrounding land uses. Further, the hours of service proposed would align with the

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proposed hours of operation for the food truck park, which is considered to be appropriate.

### Heritage Overlay

The application was accompanied by an engineer's report to determine the structural stability of the extant structure at 37 Sydney Street. This report highlighted that the structure's walls have spread beyond acceptable limits, with a lack of drainage to the building also resulting in moisture damage. A lack of internal bracing and inadequate footings has rendered the structure 'unstable'. The report also states that rectification works would be of little benefit to make good the structure. In order to sufficiently stabilise the structure, the building would require dismantling and rebuilding with additional structural requirements that may impact on the heritage significance of the original building.

Whilst the above comments are not challenged, the proposal does not provide any information as to how the heritage significance of the structure is to be reinterpreted on the site. Given the age and history of the structure within the commercial origins of Sydney Street, it is considered paramount to ensure that the footprint of the structure (and potentially the two-storey structure demolished in 2017) is marked out within the new paved area using the relevant building material and reinterpretation outlining the history of the site and buildings that once occupied it is provided as part of the proposal. Given the sensitivity of the site and loss of heritage significance already experienced along Sydney Street, it is considered that this information should be provided prior to the granting of a permit to ensure that the proposed reinterpretation is reviewed and appropriate. This information has been requested of the applicant who chose not to provide the information.

Therefore, it is considered that as the retention of the heritage significance through interpretation has not been demonstrated, that the demolition of the extant building cannot reasonably be supported.

Additional concerns relating to the proposal are the location of the proposed food vans within the context of the Sydney Street streetscape. Whilst the food vans have the capacity to be a vibrant addition to the streetscape, the location of the vans in place of the extant building is considered to be overbearing to the heritage character of the area. The existing food van in addition to a number of vans to the rear is considered to detract from the heritage significance of 39 Sydney Street. Insufficient information has been provided to either relocate the food vans behind the front wall of the existing building on 33 Sydney Street or provide sensitive screening that will ensure that the appearance of the vans do not detrimentally impact on the wider heritage streetscape. Therefore, the proposal is not considered to be consistent with the requirements of the Design and Development Overlay – Schedule 4 which seeks to ensure that new development respects the heritage character of the streetscape and the Heritage Overlay itself.

### Car parking

The response to the proposed car parking reduction provided by the applicant stated that patrons of the proposed food truck park would most likely be visiting the site in

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conjunction with other sites along Sydney Street. Further comments are that peak operating hours are expected in the evening which would allow the majority of the 12 car parking spaces on site, due to the existing office use being closed. Further comments related to the existing on street car parks along Victoria Parade, Patrick Street and Bourke Street, and the bus service that runs along Sydney Street to further support the reduction of 16 car parking spaces.

Policy relating to the provision of car parking seeks to ensure that an adequate supply of car parking that is appropriately design and located is provided. The reduction of 16 car parking spaces is considered to be viable along a main commercial strip, given the supply of existing on street car parks located within surrounding streets that are within walking distance of the site. Further, reduced car parking encourages ride sharing and the use of public transport, which is considered to be a sustainable option and appropriate.

Although, the above comments are relevant in instances where there is no capacity within the subject site to provide car parking. Given the expanse of vacant land to the rear of the site, it is considered that the proposal could reasonably be amended to provide access and car parking from Melbourne Street to relieve parking congestion along Sydney Street. Therefore, it is not recommended that the proposed parking reduction be supported.

#### Waste management

The proposal is seeking to provide a bin storage area at the rear of the existing building and for collection to occur within the parking area fronting Sydney Street. Whilst a waste management plan from a private contractor has been provided, it has not demonstrated that the collection of waste from Sydney Street is viable for the movement of waste collection vehicles that will not impact on the availability of parking spaces.

The collection of waste from the parking area would require locating bins within the parking spaces, should those spaces be taken by patrons of the food truck park and left overnight, waste collection would not be able to occur. Further, were bins to be left out, then parking would be limited. This is not considered to be an appropriate response, and as mentioned above, the provision of access from Melbourne Street would facilitate safe and efficient waste collection that would not impact on the existing parking spaces fronting Sydney Street.

#### **OBJECTORS' CONCERNS**

The objections received in relation to the current proposal cover a number of matters and are addressed below:

<b>Objection:</b>	<b>Response:</b>
Loss of heritage significance at 37 Sydney Street	As heritage interpretation details have not been provided, the demolition of the extant building is not appropriate as the recording and inclusion of the information

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	within the proposal has not been provided.
Structural stability of 37 Sydney Street is not unsafe	The engineers report stated that the structure was structurally unsound, with major cracking evident in the walls of the structure. Council's Heritage Advisor also provided comments supporting this.
Approval of demolition would result in precedent allowing demolition of any building in the Heritage Overlay	Given that insufficient information has been provided as to how the heritage significance of the structure is to be reinterpreted, the demolition is not considered appropriate in this instance.
The proposed food and drink premises (food vans) are not appropriate within the Heritage Overlay	Adaptive reuse of sites are encouraged under the Heritage Overlay, although it should be noted that the use of the land for a food and drink premises (food trucks) is as of right under the Commercial 1 Zone. Only the proposed demolition and buildings and works can be assessed under the provisions of the Heritage Overlay.
Reduction of car parking inappropriate due to lack of parking along Sydney Street	Given the available land at the rear of the site that could be used for access and parking, the reduction of car parking is not supported.
Food trucks would be detrimental to the character of the town and attract unwanted behaviour	The proposed use is as of right under the Commercial 1 Zone, the assessment of the proposal is in relation to the buildings and works and the service of liquor. Given the character of Sydney Street as a commercial precinct with a number of food and drink premises that serve alcohol, the proposal is not considered to be at odds with the surrounding area.
Additional venue where liquor can be purchased is not appropriate in the town	As discussed previously, the service of liquor is considered to be appropriate in conjunction with the food and drink premises.
Noise and smell impacts on surrounding area	The use would be required to be compliant with environmental health requirements and EPA requirements.
Inconvenience to adjoining businesses due to lack of parking	The reduction of car parking is not supported.

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Ingress/egress of food vans unsafe from the Northern Highway / Sydney Street	The sole use of Sydney Street to access to the site is not supported.
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## CONCLUSION

The proposal is not considered to fully address the requirements of the Mitchell Planning Scheme for ensuring orderly and appropriate planning outcomes. The proposal does not demonstrate that the heritage significance of the extant structure can be appropriately reinterpreted, nor have car parking and waste management options to the rear of the site been sufficiently explored. Therefore, it is recommended that the proposal is not supported.

## RECOMMENDATION

**THAT** Council having complied with the relevant Sections of the *Planning and Environment Act 1987*, resolve to issue a Notice of Decision to Refuse in respect of Application No. PLP047/19 for the development of the land for a food and drink premises (food vans), demolition within the heritage overlay, sale and consumption of liquor, alteration of access to a Road Zone – Category 1 and reduction of car parking requirements at Lot 1 on Title Plan 014176V Volume 10450 Folio 955 and Land in Plan of Consolidation 351319U Volume 10015 Folio 075, known as 33-37 Sydney Street Kilmore, on the following grounds:

1. The proposal does not represent orderly planning pursuant to Clause 65.01 of the Mitchell Planning Scheme, as the proposed reduction of car parking and waste management would result in detrimental amenity impacts on the surrounding area.
2. The proposal is not considered to be respectful of the heritage significance of the site and surrounds pursuant to Clause 15.03-1S, Clause 21.06-3 and Clause 22.02 of the Mitchell Planning Scheme, as insufficient information has been provided to demonstrate that the heritage significance can be retained through reinterpretation.
3. The proposal does not meet the design objectives of the Design and Development Overlay – Schedule 4 (Clause 43.02) which seek to ensure that development within the town centre has regard to the underlying heritage character of the area and encourages high quality development outcomes to Melbourne Street.
4. The objectives of Clause 18.02-4S (Car parking) of the Mitchell Planning Scheme have not been satisfied, as the site has capacity to supply the required car parking spaces under Clause 52.06 of the Scheme.

PLANNING PERMIT APPLICATION PLP047/19 FOR DEVELOPMENT OF THE LAND FOR A FOOD AND DRINK PREMISES (FOOD VANS), DEMOLITION WITHIN THE HERITAGE OVERLAY, SALE AND CONSUMPTION OF LIQUOR, ALTERATION OF ACCESS TO A ROAD ZONE - CATEGORY 1 AND REDUCTION IN CAR PARKING REQUIREMENTS AT 33-37 SYDNEY STREET KILMORE (CONT.)

# **MITCHELL SHIRE COUNCIL**

## **Council Meeting Attachment**

### **DEVELOPMENT AND INFRASTRUCTURE**

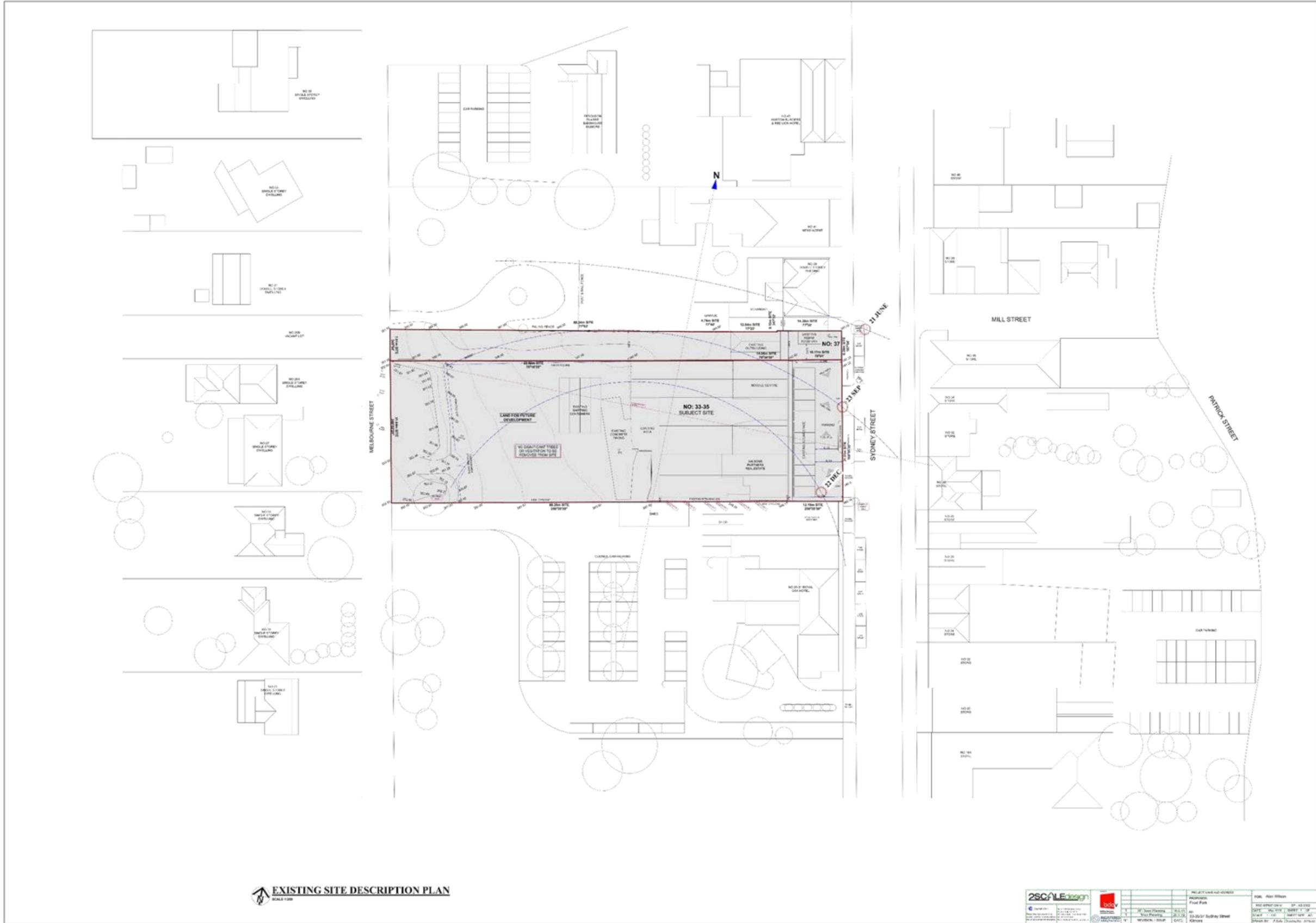
**18 NOVEMBER 2019**

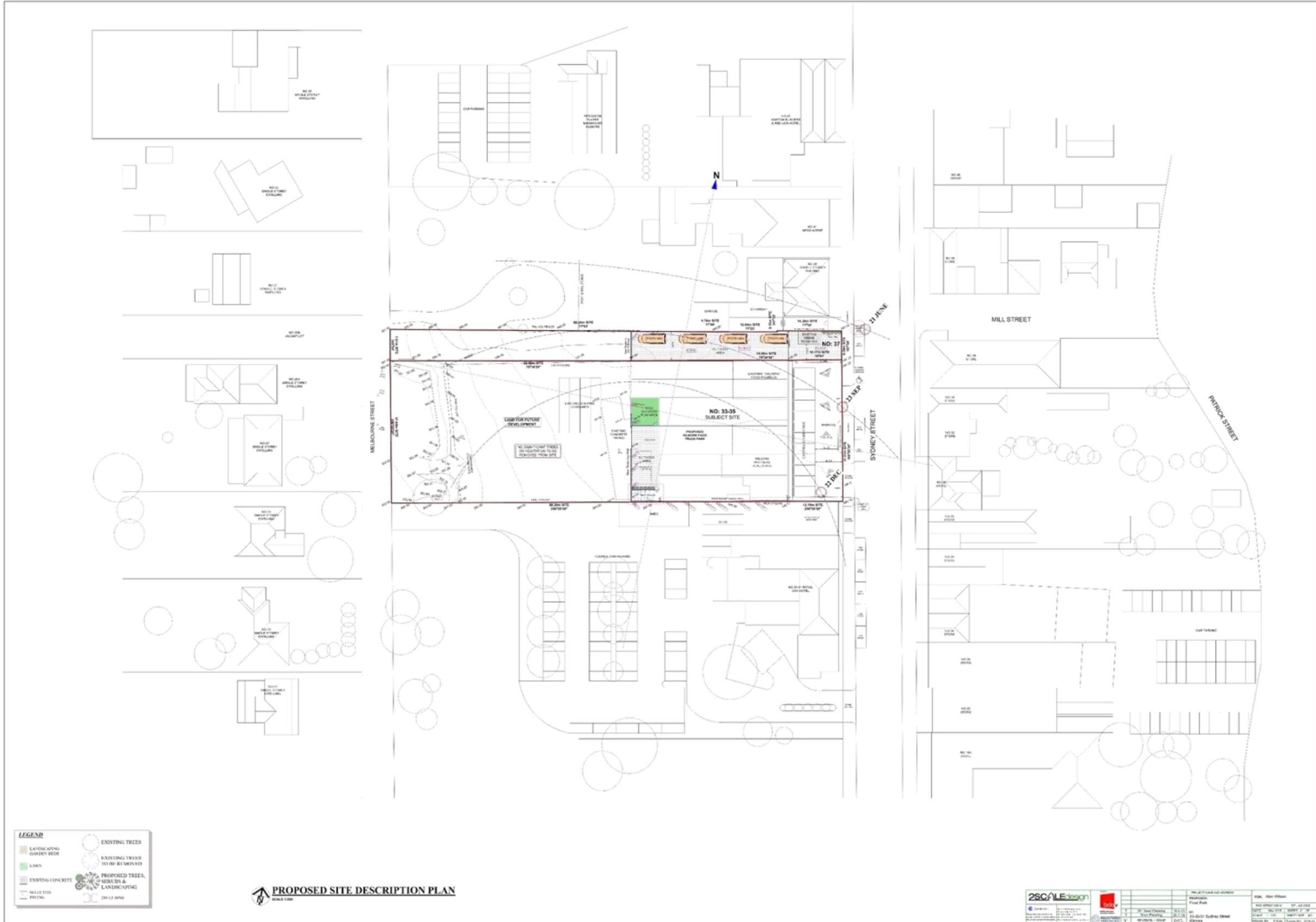
**9.8**

**PLANNING PERMIT APPLICATION PLP047/19  
FOR DEVELOPMENT OF THE LAND FOR A  
FOOD AND DRINK PREMISES (FOOD VANS),  
DEMOLITION WITHIN THE HERITAGE  
OVERLAY, SALE AND CONSUMPTION OF  
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KILMORE**

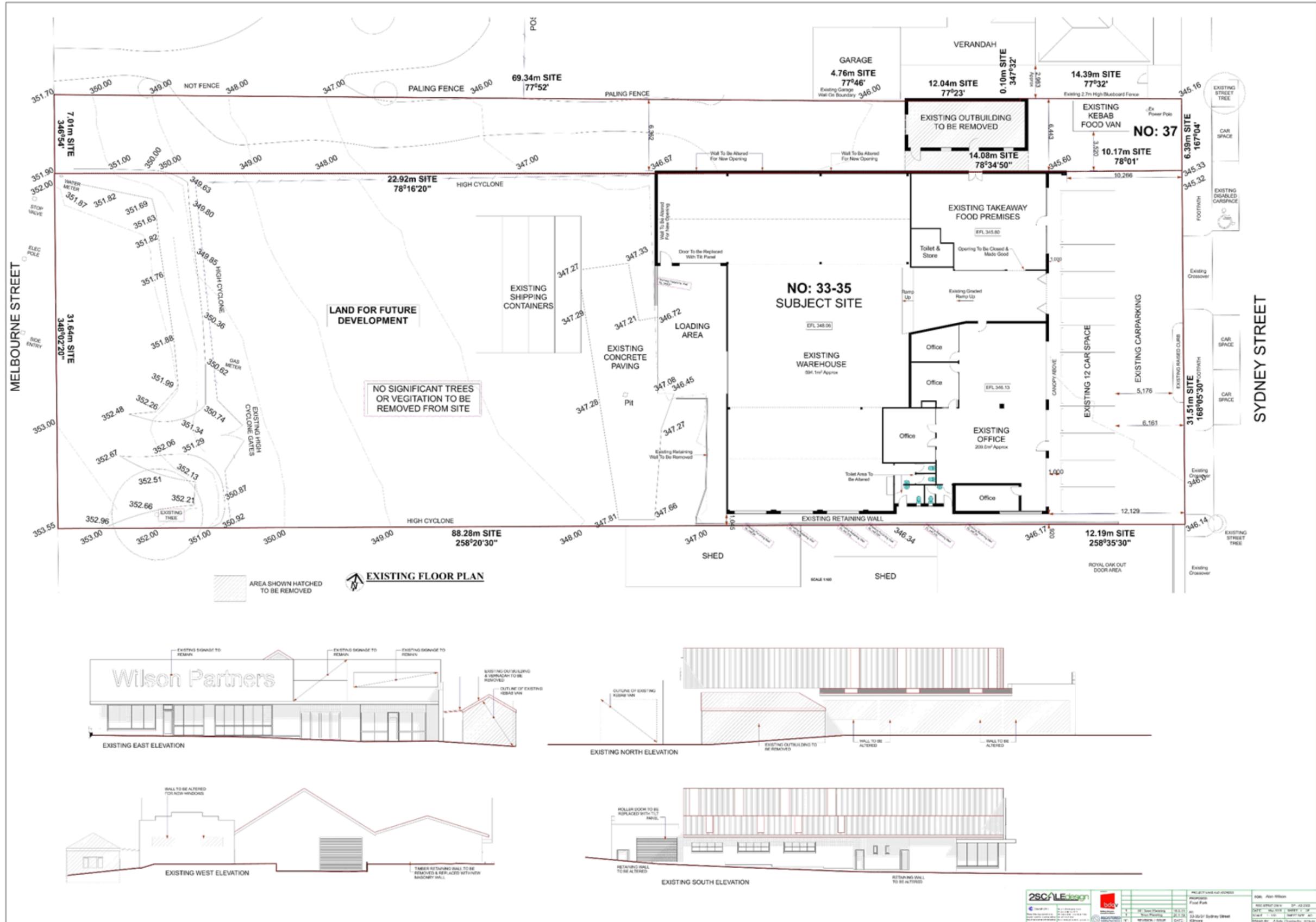
**Attachment No: 1**

**Proposed plans**









# **MITCHELL SHIRE COUNCIL**

## **Council Meeting Attachment**

### **DEVELOPMENT AND INFRASTRUCTURE**

**18 NOVEMBER 2019**

**9.8**

**PLANNING PERMIT APPLICATION PLP047/19 FOR  
DEVELOPMENT OF THE LAND FOR A FOOD AND  
DRINK PREMISES (FOOD VANS), DEMOLITION  
WITHIN THE HERITAGE OVERLAY, SALE AND  
CONSUMPTION OF LIQUOR, ALTERATION OF  
ACCESS TO A ROAD ZONE - CATEGORY 1 AND  
REDUCTION IN CAR PARKING REQUIREMENTS  
AT 33-37 SYDNEY STREET KILMORE**

**Attachment No: 2**

**Engineer's report**

**CGB Consulting Engineers Pty.Ltd.**

ABN 133 7793 2751  
91 Snell Gave Oak Park, 3046  
PH: (03) 9306-6593 FX: (03) 9306-6599 Mob: (0411) 452-254  
E: [carlos@cgbconsulting.com.au](mailto:carlos@cgbconsulting.com.au)  
*Civil, Structural, Geotechnical Engineers, Forensic Engineering.*

Sheet 1 of 4

**REPORT SITE: No. 37 Sydney St. Kilmore.**

**DATE : Issued 9 April, 2019.**

**REF : 13975**

**CLIENT : Alan Wilson**

**INSPECTION DATE:**

**ASSUMED DIRECTIONS : Front (road facing) of structure is assumed to face East.  
Residence is on the West side of Sydney Street. The street runs North-South.**

**CONTENT :**

This report has been prepared based on recent observations and wall lean measurements taken on site during our site visit. I have considered verbal instructions provided to me by our client and I have referred to our previous report on this structure that was prepared on 2nd December, 2016.

The information gathered on site has been used to assess the existing site conditions and to aid in the decision- making process in order to conclude which measures are to be taken with the structure as it manifests on site.

This report has been prepared based on the client brief and our observations to date on site. It is also prepared to provide an opinion of the structure and also to provide guideline with regards to rectifications if deemed adequate.

As a commissioned expert witness I have formulated this report to provide guidance and report on my findings and provide a response to my client's request and act not solely to the party retaining myself as expert.

I am a qualified and registered Civil, Structural and Geotechnical Engineering Consultant. My area of expertise is in building related problems, design and performance. The matters associated with the above site and rectification works are considered to be within my experience and expertise and I am competent to provide expert opinion in relation to same.

Sheet 2 of 4

SITE/STRUCTURE:

The site does not have a notable but rather a mild fall towards the rear of the property or Westerly. The structure is the remains of a previous residence that existed to the front of this building. It is of single storey in nature and has been constructed out of a mixture of bluestones (original) and brickwork (later date), the remaining and present structure was at one time the lower section of a two storey construction. The two storey construction has been demolished as it was deemed unsafe and a danger to general public.

The original structure had steel cross anchors that are still evident but unfortunately have been disconnected and are now ineffective. The purpose of the steel cross anchors was to secure the perimeter walls to stop them from spreading outwards. Given these are now rendered ineffective, the walls have spread beyond acceptable limits.

General catering for drainage and moisture variation to footings is non-existent with the end result being a gradual deterioration of building performance.

PROFESSIONAL COMPLIANCE:

I have read the ethical code of conduct for expert witnesses and in particular practice note No. 2 of the Victorian Administrative Tribunal and agree to abide by it although it may not be of immediate relevance in this instance and for the purpose of this report.

I am instructed to prepare a report which:

- a) Assesses the condition of the existing single storey structure and
- b) To make recommendations with regards to the next step to take.

In the preparation of this report I have considered verbal instructions and information from my client and have taken these at face value and the report has been prepared according to my observations. More importantly, I have reverted back to our original report on this site together with the photographs taken at the time in order to assist us with our conclusion. I have made all the inquiries that I believe are desirable and appropriate and that no matters of significance which I regard as relevant have to my knowledge been withheld from mention in this report.

Sheet 3 of 4

## FINDINGS /DISCUSSION:

The structure evident on site is the remains of what used to be a two storey residence which existed to the front of the site and has now been removed. There appears to have been some interlocking between the two structures which is now not the case and as a result, the evident structure is now considered to be "free standing".

Given the structure is now free standing, a major structural requirement is that it must be able to support all the natural forces bestowed upon it. These forces are naturally gravity and wind forces that cause "sway" of the structure. Finally, overall stability is another factor that must be satisfied for any structure to be safe.

The two main forces mentioned above are counteracted by footings (gravity), the strength of supporting members (gravity) and their connections. The wind forces are counteracted by the structures' bracing ability and the strength of that bracing.

The current structure was found not to have the necessary internal bracing to counteract any design wind loading. The footings (as opposed to foundations) were found to be inadequate and not complying with any current or past Australian Standards and as such the entire structure is "tilting".

In so far as the overall constructed structure is concerned the damaged perimeter walls by way of Cracking and bond breaking between bluestone and brickwork, has rendered the structure "unstable" This classification is of serious concern for as we know any structure that is deemed to be "unstable" is at the point of collapse.

The question of rectification must be asked, and the simple response is, there is no structural benefit to rectify or make good any structure if the footings and foundations are inadequate. For any rectification to be effective, the structure must be dismantled and re-built with the added Structural requirements of modern day construction that will satisfy the three major criteria, being stability, serviceability and strength.

Naturally, the way to rectify the structure is totally invalid, unfeasible and impracticable. This leads to the question of whether or not to consider rectification works and the simple answer is no.

## RECOMMENDATIONS:

The only feasible recommendation that can be made is to demolish the structure as a matter of urgency. A council order must be applied for and a copy of this report be handed over to them as evidence of our findings.

Sheet 4 of 4

The main reasons for the structure to be demolished, other than those discussed above are to:

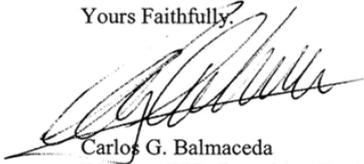
- a) provide safety to the public. Currently the general public utilizes the adjoining clearway as a thoroughfare with exposed levels of danger due to an eminent collapse of the structure.
- b) The structure is alarmingly leaning to the North and as such has now encroached over to the adjoining property (see photos) with an expected and certain future collapse.
- c) All bonding agents (mortar) between bluestone and bluestone or brickwork to brickwork or bluestone to brickwork are rendered ineffective to the point of becoming powdery providing no bonding strength at all and as such the structure is very unstable.
- d) The construction does not have any interlocking members to stop, alleviate or help avoid an inevitable collapse.

**CONCLUSION:**

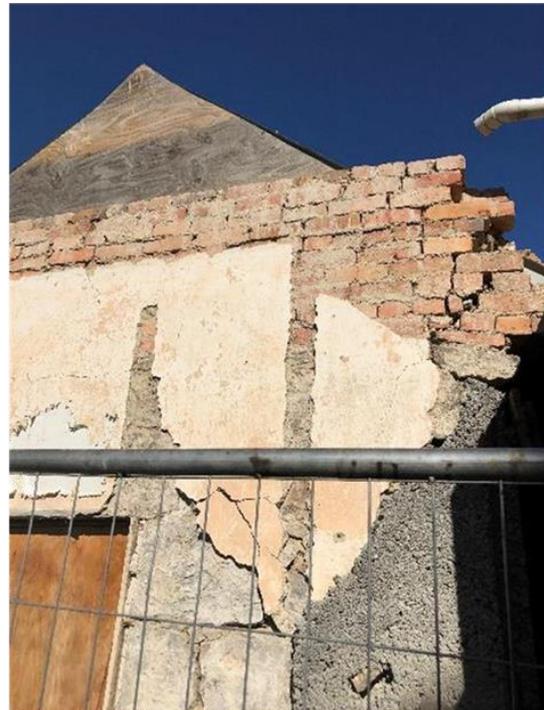
There is no higher level of urgency that I can place on this structure recommending it to be demolished. The demolition is to take place prior to the coming change in weather with heavy rainfall expected that will loosen the supporting ground leading to further de-stabilization.

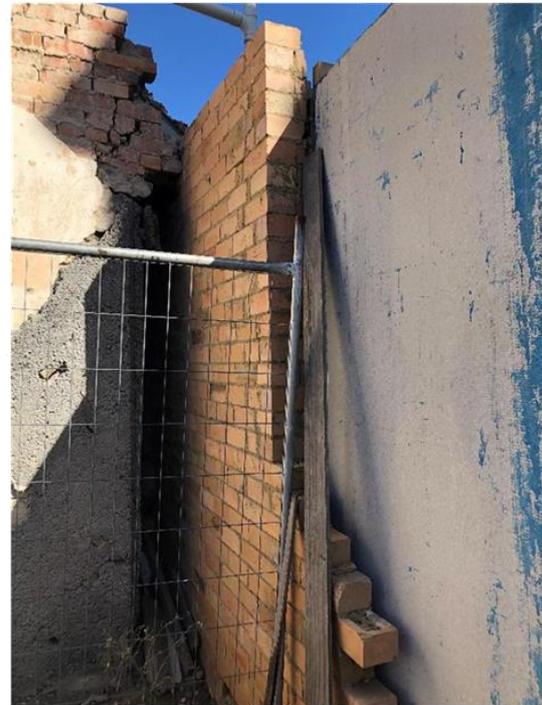
I trust this is to your satisfaction, please feel free to contact me should you wish for me to expand on any mentioned item.

Yours Faithfully,



Carlos G. Balmaceda  
Director CGB Consulting Engineers.







# **MITCHELL SHIRE COUNCIL**

## **Council Meeting Attachment**

### **DEVELOPMENT AND INFRASTRUCTURE**

**18 NOVEMBER 2019**

**9.8**

**PLANNING PERMIT APPLICATION PLP047/19  
FOR DEVELOPMENT OF THE LAND FOR A  
FOOD AND DRINK PREMISES (FOOD VANS),  
DEMOLITION WITHIN THE HERITAGE OVERLAY,  
SALE AND CONSUMPTION OF LIQUOR,  
ALTERATION OF ACCESS TO A ROAD ZONE -  
CATEGORY 1 AND REDUCTION IN CAR  
PARKING REQUIREMENTS AT 33-37 SYDNEY  
STREET KILMORE**

**Attachment No: 3**

**Planning Policy**

**PLANNING POLICY FRAMEWORK (PPF) AND LOCAL PLANNING POLICY FRAMEWORK (LPPF)**

Policy	Objective
Clause 15.01-1S (Urban design)	<p>This clause is relevant and has the following objective:</p> <p><i>To create urban environments that are safe, healthy, functional and enjoyable and that contribute to a sense of place and cultural identity.</i></p> <p>Strategies of this clause include:</p> <p><i>Require development to respond to its context in terms of character, cultural identity, natural features, surrounding landscape and climate.</i></p>
Clause 15.01-2S (Building design)	<p>This clause is relevant and has the following objective:</p> <p><i>To achieve building design outcomes that contribute positively to the local context and enhance the public realm.</i></p> <p>Strategies of this clause include:</p> <p><i>Ensure development respond and contributes to the strategic and cultural context of its location.</i></p>
Clause 15.01-5S (Neighbourhood character)	<p>This clause is relevant and has the following objective:</p> <p><i>To recognise, support and protect neighbourhood character, cultural identity, and sense of place.</i></p> <p>Strategies of this clause include:</p> <p><i>Ensure development respond to its context and reinforces a sense of place and the valued features and characteristics of the local environment and place by emphasising the:</i></p> <ul style="list-style-type: none"> <li>• <i>Pattern of local urban structure and subdivision.</i></li> <li>• <i>Underlying natural landscape character and significant vegetation.</i></li> <li>• <i>Heritage values and built form that reflect community identity.</i></li> </ul>
Clause 15.03-1S (Heritage conservation)	<p>This clause is relevant and has the following objective:</p>

	<p><i>To ensure the conservation of places of heritage significance.</i></p> <p>Strategies of this clause include:</p> <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 appropriate development that respects places with identified heritage values.</i></p>
Clause 17.01-1S (Diversified economy)	<p>This clause is relevant and has the following objective:</p> <p><i>To strengthen and diversify the economy.</i></p> <p>Strategies of this clause include:</p> <p><i>Protect and strengthen existing and planned employment areas and plan for new employment areas.</i></p>
Clause 17.02-1S (Business)	<p>This clause is relevant and has the following objective:</p> <p><i>To encourage development that meets the community's needs to retail, entertainment, office and other commercial services.</i></p> <p>Strategies of this clause include:</p> <p><i>Locate commercial facilities in existing or planned activity areas.</i></p>
Clause 18.02-4S (Car parking)	<p>This clause is relevant and has the following objective:</p> <p><i>To ensure an adequate supply of car parking that is appropriately designed and located.</i></p>
Clause 21.06-3 (Heritage)	<p>This clause is relevant and has the following objective:</p> <p><i>To recognise and protect places of heritage, cultural and social significance.</i></p> <p>Strategies of this clause include:</p>

	<p><i>Conserve and enhance the heritage places that distinguish each town.</i></p> <p><i>Support the preservation of heritage places threatened by development or neglect.</i></p>
Clause 21.08-1 (Economic growth)	<p>This clause is relevant and has the following objective:</p> <p><i>To facilitate new development and employment opportunities in business, industry and tourism.</i></p> <p>Strategies of this clause include:</p> <p><i>Protect and improve the attractiveness of towns, particularly their main streets.</i></p>
Clause 21.11-3 (Kilmore)	<p>This clause is relevant and has the following objective:</p> <p><i>Support land uses which will provide activation of Sydney Street and increase night time trade and activity.</i></p>
Clause 22.02- (Heritage policy)	<p>This clause is relevant and has the following objective:</p> <p><i>To conserve and enhance buildings, features and precincts that help to convey how the Shire of Mitchell originated and developed over time.</i></p> <p><i>To ensure that the significance of heritage places is not diminished by the loss of any fabric, which contributes to the significance of the heritage place or precinct or by inappropriate new development.</i></p> <p>Policies of this clause include:</p> <p><i>Discourage the demolition of a significant or contributory heritage building unless the building is structurally unsound.</i></p>

## 9.9 VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL HEARINGS AND ACTIVITIES CARRIED OUT UNDER DELEGATION

**Author:** James McNulty - Manager Development Approvals

**File No:** CL/04/004

**Attachments:** Nil

### SUMMARY

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.

### RECOMMENDATION

**THAT** Council receive and note the report on the Victorian Civil and Administrative Tribunal Hearings and Activities carried out under delegation.

### Victorian Civil and Administrative Tribunal (VCAT) activity update.

#### Upcoming appeals

The following is an update of the upcoming VCAT appeals.

APPEAL DATE	REFERENCE NOS.	ADDRESS	PROPOSAL	APPEAL AGAINST
10 October 2019 – awaiting decision	VCAT – P668/2019 Council – PLP129/18	63 High Street, Broadford	Buildings and works for the construction of an office building, 2-lot re-subdivision, reduction of car parking requirements and alteration of access to a Road Zone Category 1	Appeal against Council's refusal to grant a planning permit
28 November 2019	VCAT – P1085/2019 Council – PLP344/18	7 McCarthy Court, Wallan	Buildings and works for the construction of 7 dwellings	Appeal against Council's refusal to grant a planning permit
New hearing date – 3 February 2020	VCAT – P125/2019 Council – PLP206/18	8 Eden Place, Wallan	Development of the land for multiple dwellings	Appeal against Council's refusal to grant a planning permit
10 February 2020	VCAT – P1542/2019 Council – TP93/100	Hillview Drive, Broadford	Subdivision of the land into 25 lots and the removal of native vegetation	Appeal against Council's refusal to extend the completion date of the permit

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL HEARINGS AND ACTIVITIES CARRIED OUT UNDER DELEGATION (CONT.)

### VCAT decisions since last report

No VCAT decisions have been made since the last report.

### Activities Carried out Under Delegation

A list of planning permit applications dealt with under delegated powers for the month of October 2019 is included below.

Permit No.	Address	Description of Permit	Decision	Date Approved
<b>South Ward</b>				
PLP038/19	24A & 24B Stanley Street WALLAN	Development of the land for five dwellings and reduction of visitor car parking requirements	Planning Permit	03/10/19
PLP038/19	15 King Street WALLAN	Removal of a restrictive covenant	Planning Permit	04/10/19
PLP218/19	Hume Freeway BEVERIDGE	Buildings and works for the construction of a weighbridge shelter	Planning Permit	02/10/19
PLP051/19	6 Caladenia Court WANDONG	Use and development of the land for domestic animal husbandry (dog breeding)	Planning Permit	10/10/19
PLP183/19	2742 Epping Kilmore Road WALLAN	Use and development of the land for animal husbandry (14 dogs)	Planning Permit	10/10/19
PLP012/19	88 - 94 High Street WALLAN	Buildings and works for the construction of an extension to an existing hotel, reduction in car parking requirements, increase in licensed area and patron numbers	Planning Permit	22/10/19
PLP087/16.01	Theodore Court WANDONG	Use and development of the land for a warehouse (self-storage units) and reduction of car parking requirements	Section 72 Amendment	29/10/19
<b>Central Ward</b>				
PLP173/19	25 - 31 Allan Street KILMORE	Development of the land for multiple dwellings	Planning Permit	01/10/19
PLP198/19	7 Anvil Avenue KILMORE	Development of the land for a warehouse	Planning Permit	09/10/19
PLP306/18	56B Fitzroy Street KILMORE	Development of the land for four (4) dwellings	Planning Permit	11/10/19
PLP127/19	40-48 Sutherland Street KILMORE	Use of the land for a place of assembly	Planning Permit	10/10/19

## VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL HEARINGS AND ACTIVITIES CARRIED OUT UNDER DELEGATION (CONT.)

		(School Fete) and associated licensed premises for the sale and consumption of liquor		
PLP212/19	18 Glanville Drive KILMORE	Development of the land for 2 warehouses	Planning Permit	10/10/19
PLP115/19	Jeffreys Lane BROADFORD	Use and development of the land for a single dwelling and shed	Planning Permit	14/10/19
PLP137/19	12 Piper Street KILMORE	Development of the land for a second dwelling, two-lot subdivision and removal of vegetation within a Heritage Overlay	Planning Permit	28/10/19
PLP279/19	488 Broadford Wandong Road CLONBINANE	VICSMART Buildings and works for the construction of a carport	Planning Permit	29/10/19
<b>North Ward</b>				
PLP046/19.01	1245 Seymour Tooborac Road HILLDENE	Development of the land for a dwelling	Section 72 Amendment	07/10/19
PLP112/19	28 Anzac Avenue SEYMOUR	Buildings and works for the construction of two dwellings, two lot subdivision and demolition of existing buildings on the land	Planning Permit	02/10/19
PLP202/19	Burrabaroo 155 Tallarook Pyalong Road TALLAROOK	Construction of storage shed	Planning Permit	03/10/19
PLP050/19	26-28 Burges Lane Broadford	Staged multi lot subdivision and creation of easements	Planning Permit	17/10/2019
PLP199/19	104 High Street SEYMOUR	Development of the land for a dwelling and outbuilding	Planning Permit	09/10/19
PLP231/19	44 Main Road TALLAROOK	Use and development for a hall (Tallarook Mechanics Institute) and reduction of car parking requirements	Planning Permit	18/10/19
PLP167/19	1 Longview Court PYALONG	Use and development of the land for a dwelling	Planning Permit	28/10/19

**CHARTER OF HUMAN RIGHTS IMPLICATIONS**

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL HEARINGS AND ACTIVITIES CARRIED OUT UNDER DELEGATION (CONT.)

The rights protected in the *Charter of Human Rights and Responsibilities Act 2006* were considered in preparing this report. Failure to comply with the Child Safe Standards and associated legal responsibilities would be a breach of human rights.

**OFFICER DECLARATION OF CONFLICT OF INTEREST**

No officers involved in the preparation of this report have any direct or indirect interest in this matter.

## **10 EXECUTIVE SERVICES**

Nil Reports

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## 11 NOTICES OF MOTION

### 11.1 NOTICE OF MOTION: NO. 971 - REUSE WATER IN KILMORE

**Author:** *Councillor Bob Humm*

**File No:** *PL/09/004-01*

**Attachments:** *Nil*

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I hereby give notice of my intention to move the following motion at the Ordinary Council Meeting to be held on 18 November 2019.

#### **MOTION**

**THAT** Council officers investigate the operational feasibility of using reclaimed treated wastewater from the Kilmore Wastewater Management Facility on Council's sporting reserves including JJ Clancy Reserve and the Kilmore Golf Club. This investigation should also explore the cost of such a project, with the potential to include for consideration in Council's future budget considerations.

It should also gauge the level of community support towards the use of treated wastewater for irrigation of such sports field surfaces.

Councillor comment:

Central Highlands Regional Water are currently supplying the Central Goldfields Shire Council with reuse water that they are using on sporting grounds in Maryborough and Wannon Water are supplying reuse water to Dunkeld for their sporting grounds.

I would like to see Council commit funds in the 2019-2020 budget towards a similar initiative.

Officer comment:

Goulburn Valley Water (GVW) are currently preparing a detailed design for a pipeline to get treated wastewater to the Kilmore Racecourse. This is an initiative between GVW and Kilmore Racetrack and does not require Council involvement at this stage. However, this scheme is being future proofed to allow Council to make use of the pipeline to get recycled water to other areas of Kilmore as it sees appropriate. Council would need to fund branch pipelines to extend this scheme to areas it would like to see irrigated.

The use of recycled wastewater product on Council's sports grounds has operational challenges that also need to be considered, including containment of the product and

NOTICE OF MOTION: NO. 971 - REUSE WATER IN KILMORE (CONT.)

exclusion of the public from irrigated surfaces for a period of time, as well as community perceptions, which will need to be worked through with the community.

Any decision to utilise a wastewater product on Councils sporting ovals including JJ Clancy Reserve needs further investigation and consultation with the community undertaken.

Signed: \_\_\_\_\_

Cr Bob Humm

Date: 4 November 2019

**11.2 NOTICE OF MOTION: NO. 972 - REMOTE ACCESS TO COUNCIL MEETINGS**

**Author:** Councillor Rhonda Sanderson

**File No:** GV/10/022

**Attachments:** Nil

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I hereby give notice of my intention to move the following motion at the Ordinary Council Meeting to be held on 18 November 2019.

**MOTION**

**THAT** Council officers prepare a report to the February 2020 Council meeting regarding the feasibility of various low cost, simple options for providing our community with more accessible and transparent means of viewing/listening to Council's Ordinary Council meetings.

Councillor comment:

In the spirit of open, accessible and transparent governance, 83% of Melbourne metropolitan councils, 80% of Interface Councils and 63% of all Victorian Councils use some means, such as live-streaming or recording, to provide their citizens with accessible and convenient access to Ordinary Council Meetings.

Openness and transparency

Most people would agree that openness and transparency are crucial to a positive relationship between Council and the community that it serves. A number of current Mitchell Shire Councillors have committed to voters in their election platforms, and publicly since being elected, that they would pursue openness, accountability and/or transparency. Consideration of live-streaming/publicly accessible recordings would be an example of 'action speaking louder than words'.

Accessibility and inclusion

Live streaming/accessible recordings would assist a number of ratepayers who are currently excluded from attending Council meetings, e.g., people with:

- mobility issues who are unable to leave their residences;
- hearing issues who require specific technology not available at Council; or
- family/work/carer/community responsibilities who are unable to attend Council meetings;
- little or no access to public transport to enable them to attend Council meetings at night.

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NOTICE OF MOTION: NO. 972 - REMOTE ACCESS TO COUNCIL MEETINGS (CONT.)

Mitchell Shire covers a very large land area, i.e., 2864 sq. kms, which also provides geographical barriers to some community members wishing to observe local democracy in action.

Examples of longer travel times:

Glenhope East to Broadford - 43 minutes by car one-way

Tarcombe to Broadford - 49 mins one-way

#### Reputation

Many Victorian Councils currently utilise some form of digital technology to allow their community to remotely view their Council in action. It is possible that providing accessible means of viewing Council meetings remotely may improve Council's reputation for openness and transparency, i.e., demonstrate 'we have nothing to hide.'

This NOM is seeking a brief report to investigate possible options to provide our citizens with greater access to Council decisions and debate.

Signed: \_\_\_\_\_

Cr Rhonda Sanderson

Date: 4 November 2019

**11.3 NOTICE OF MOTION: NO. 973 - BEAUTIFICATION AND FIRE SAFETY TO COUNCIL'S TOWNS AND SMALLER COMMUNITIES**

**Author:** *Councillor Bill Chisholm*

**File No:** *EC/01/001-01*

**Attachments:** *Nil*

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I hereby give notice of my intention to move the following motion at the Ordinary Council Meeting to be held on 18 November 2019.

**MOTION**

**THAT** Council:

1. In conjunction with pursuing a Memorandum of Understanding (MOU) with Regional Roads Victoria (RRV) on the cleanings up of entrances to our towns investigate the various ways we could possibly establish fire buffer zones/tidy areas on the entrances to some of these towns.

The investigation to include but not be limited to, approaching RRV with a formal letter of proposal, that Council are prepared to conduct joint trials on appropriate RRV land on a town interface. This could involve a test/trial areas where various methods of beautification and fire reduction treatments could be established. The report to also include engagement with the community (particularly with adjacent landowners and farmers) in the exploration of the feasibility, of;

- cutting and baling hay on roadsides
  - the establishment of grass species with lower flammable characteristics that are easily maintained
  - the sowing down of Lucerne or similar crops that have a dual purpose (fire mitigation) and have the potential to supply fodder in the event of drought or other alternatives
2. That this report be presented to the February 2020 Council meeting.

Councillor Comments:

We are currently endeavouring to reach a MOU with RRV, that will involve possibly significant ratepayers' funds to tidy up the entrance' to our towns. We may possibly

NOTICE OF MOTION: NO. 973 - BEAUTIFICATION AND FIRE SAFETY TO COUNCIL'S TOWNS AND SMALLER COMMUNITIES (CONT.)

be paying contractors for the privilege of tidying up the Roadsides on RRV controlled land. Mitchell Shire Council see three real benefits in reaching an MOU with RRV.

They are in no particular order:

- 1 Fire Prevention and Mitigation.
2. Aesthetics' (beautification)
3. Increased Road Safety (sight lines etc.)

Signed: \_\_\_\_\_

Cr Bill Chisholm

Date: 11 November 2019

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## 12 DELEGATES REPORTS

### 12.1 DELEGATE REPORT - OVERVIEW AND UPDATE ON ACTIVITIES AND DELEGATE DELIBERATIONS

**Author:** Lidia Harding - Manager Governance & Corporate Accountability

**File No:** CL/04/001-03

**Attachments:** 1. Councillor Delegate Report

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#### SUMMARY

This delegate's report provides an update on activities and deliberations of groups and associations for which Councillors are an appointed delegate for the period September 2019 and also other activities attended as a Council representative.

#### RECOMMENDATION

**THAT** the Delegate's Report on Overview and Update on Activities and Delegate Deliberation by Councillors for September 2019 be received and noted.

#### BACKGROUND

The 2016 Council Elections were held on 22 October 2016. New committee and organisation delegates were appointed on 26 November 2018. This report is presented in response to NOM 881 of the 21 November 2016 meeting which requested that each Councillor submits a Delegate Report for inclusion in the monthly Council Meeting agenda, commencing from the December 2016 meeting.

The Delegates Reports will include:

- a) Activities attended as a nominated Council Delegate; and
- b) Other activities attended as a Council representative.

The Report will not include:

- a) Assemblies of Councillors (as they are already reported in Council Agendas);
- b) Private meetings.

The Report should be verifiable by the Councillor from the Councillor's Council Diary.

#### DISCUSSION

Councillors have attended several meetings in this period as per their appointments as delegate and other activities as a Council representative as per Attachment 1.

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

# **MITCHELL SHIRE COUNCIL**

## **Council Meeting Attachment**

### **DELEGATES REPORTS**

**18 NOVEMBER 2019**

**12.1**

**DELEGATE REPORT - OVERVIEW AND  
UPDATE ON ACTIVITIES AND DELEGATE  
DELIBERATIONS**

**Attachment No: 1  
Councillor Delegate Report**

**Councillor Delegate Report – October 2019**

**Cr David Atkinson**

Cr Atkinson submitted the following Delegate report for this period:

Meetings and events attended as a delegate:

Other meetings and events attended as a Council representative include:

1 October 2019 - Local Government Rating Strategy Review with Mayor Chisholm and Cr Sanderson and three Councillors from Strathbogie Shire, Seymour

1 October 2019 – Attended the Kilmore Historical Society meeting and listened to an interesting speaker, Glenys Crome and her topic was "English China". The talk then expanded to "antiques" in general and how they have lost so much of their value in recent times

2 October 2019 Attended the Budget pop up session with a Council officer at Coles Kilmore. Lots of residents had discussions on the budget [and many other issues which were forwarded to customer service to action] and we handed out lots of budget bookmarks

4 October 2019 - Attended Tilba Tilba Scouts Annual Report and Awards Presentation Night – Guide and Scout Hall Kilmore with the Mayor. There were many speeches made by District and Regional Commissioners. The whole night was MC'd by a teenage scout who did an excellent job and was so confident, which I mentioned in my speech as well as partnering with Council in their endeavours in building a new unit in the fast-growing Mandalay/Beveridge area

5 October 2019 - Attended the Worm Farm workshop at BLLC in Broadford which was very well attended and ran a quick Budget pop up session with a Council officer and later on the Mayor. Again, lots of residents had discussions on the budget [and many other issues which were forwarded to customer service to action] and we handed out lots of budget bookmarks

15 October 2019 - Harley Hammond Annual General meeting [with no change to the committee – although some highlighted it would be their last year!] which was followed by the Committee of Management meeting at Harley Hammond Reserve, Broadford. I handed out budget bookmarks to everyone that was present

15 October 2019 - Attended the Seymour Flood Levee session with other Councillors and Officers at Chittick Park Seymour. Lots of residents had discussions on the levee and some feedback was "thanks for listening"

17 October 2019 - Attended the Municipal Association of Victorian Annual General meeting, annual conference and dinner with almost 250 delegates and 46 Councillors who received awards for long service to their communities and the local government sector with Mayor Bill Chisholm in Melbourne. There were some great speakers including Sarah Barker, Special Counsel at Minter Ellison, Head of Climate Risk Governance, speaking on risk and a panel discussion on future direction and innovation on waste and recycling

24 October 2019 - Attended with other Councillors and officers the 2020-2021 budget session in the John Taylor Meeting Room

28 October 2019 - Attended with other Councillors, officers and residents in welcoming over 40 new Australians at the Citizenship Ceremony in Broadford

**Cr Bill Chisholm**

Cr Chisholm submitted the following Delegate report for this period:

Meetings and events attended as a delegate:

17 October 2019 - Municipal Association of Victoria, MAV State Conference and formal dinner. Cr Atkinson in attendance, again very good speakers. Legality issues involving Climate Change was particularly relevant and impressed me. Sarah Barker is a name to remember

30 October 2019 - Mitchell Fire Management Planning Committee Meeting (MFMPC) Broadford. A good attendance of local fire Brigade representatives

Other meetings and events attended as a Council representative include:

1 October 2019 - Local Government Rating Systems Review, Seymour Club., Crs Atkinson, Sanderson and I attended representing Mitchell Shire Council

1 October 2019 - Attended Kilmore Historical Society Meeting with Cr Atkinson. Very informative and well attended

2 October 2019 - ABC News Shepparton Radio interview with Tim Partridge regarding Seymour Levee

3 October 2019 - Media/photo session promotion on the installation of the solar panels at SSAC, Seymour

4 October 2019 - Community Infrastructure Loan Scheme Local Government Information session, Melbourne

4 October 2019 - Attended the opening night of the Seymour Show, wet and cold, numbers down

4 October 2019 - Attended the Tilba Scouts Annual Report and Awards Presentation Night at the Scout Hall in Kilmore. Great night

5 October 2019 - Broadford Living and Learning Centre, Councils Budget and Worm Farming session. Great event and over 60 people in attendance

5 October 2019 - Seymour Show Opening Ceremony and the Mitchell Shire Council drop in session on the proposed Seymour Levee

6 October 2019 – Mitchell Shire Council Budget session at the Tallarook Market. Good community engagement

6 October 2019 - Broadford State Motorcycle Centre expansion feasibility information session on location in Broadford. Cr Sanderson and Cr Humm were also there

8 October 2019 - Opportunities for Inland Rail, Information session held in Benalla. 4 Mitchell Shire Council Officers in attendance. Extremely good opportunity for networking and gaining additional information

10 October 2019 – Pre-City Deals Roundtable, Melbourne

15 October 2019 - Broadford State Motorcycle Centre, expansion feasibility information session at the Council office Broadford.

15 October 2019 – Mitchell Shire Council Seymour Levee Community drop in session at Chittick Park Seymour. Good attendance and community engagement

16 October 2019 - Rural Councils Victoria (RCV) Annual Forum at the State Library of Victoria, Melbourne. Some really good speakers especially around Rural issues. Good networking with our adjoining Rural Shires

18 October 2019 - Windup of the conference with the voting carried out on the various motions put up by Councils across the State. Mitchell had a number of successful motions

23 October 2019 - Walking School Bus Project launch at the Island Reserve in Broadford. Whole of Broadford Primary School attended, great atmosphere

23 October 2019 - Mitchell Community Energy Annual General meeting. I was asked to conduct the election of the new Committee. Followed by a good discussion on long term environmental issues

24 October 2019 - Tallarook Community Meeting regarding the installation of the new Kitchen in the Rebuild of the Tallarook Hall. Meeting at the Tallarook Hotel and was well attended

25 October 2019 - Emergency Management Relief Centre Exercise conducted at the Kilmore Hall. Very beneficial to be attending

25 October 2019 - Official opening of the "Wallan Futures Hub" with Cr Cornish. Danielle Green MP and Rob Mitchell MP in attendance. We a very rewarding occasion meeting members of the various community groups involved

28 October 2019 - Opening of New Community Play space in Kilmore. Cr Atkinson presiding with Jacelyn Symes MP

28 October 2019 - Kilmore Radio with Cr Humm discussing Mitchell Matters

28 October 2019 - Mitchell Shire Council Citizenship Ceremony with 45 new citizens taking the Oath and Affirmation. Extremely rewarding

31 October 2019 - Seymour Radio Show with the Deputy Mayor Cr David Atkinson

31 October 2019 - Tallarook Mechanic's Institute (TMI) Committee Meeting. Update's from various members and discussion on the proposed new kitchen

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**Cr Bob Cornish**

Cr Cornish submitted the following Delegate report for this period:

Meetings and events attended as a delegate:

Other meetings and events attended as a Council representative include:

28 October 2019 - Citizenship Ceremony in Broadford

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**Cr Rob Eldridge**

Cr Eldridge submitted the following Delegate report for this period:

Meetings and events attended as a delegate:

Other meetings and events attended as a Council representative include:

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**Cr Annie Goble**

Cr Goble submitted the following Delegate report for this period:

Meetings and events attended as a delegate:

Other meetings and events attended as a Council representative include:

28 October 2019 - Citizenship Ceremony in Broadford

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**Cr Bob Humm**

Cr Humm submitted the following Delegate report for this period:

Meetings and events attended as a delegate:

16 October 2019 - Mitchell Heritage Advisory Meeting

30 October 2019 - Chaired Mitchell Fire Consultative Meeting with the Shire CFA fire Fighters

Other meetings and events attended as a Council representative include:

6 October 2019 - Broadford Motorcycle Complex Open Day

8 October 2019 - Chair of Annual General meeting at Kilmore Football Netball Committee

9 October 2019 - Chair of Annual General meeting at JJ Clancy Reserve Committee of Management meeting

13 October 2019 - Nationals Tim Fisher Day - lobbying Damien Drum for Fire Ground Water Funding on Bores

15 October 2019 - Broadford Community Meeting on Motorcycle Expansion and Businesses effect

18 October 2019 - Seymour Rail Underpass Art Opening

25 October 2019 - Emergency Relief Centre Exercise in Soldiers Memorial Hall

28 October 2019 - Centenary Drive Playspace Opening

28 October 2019 - Kilmore Radio Broadcasting Shire Works

28 October 2019 - Citizenship Ceremony in Broadford

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**Cr David Lowe**

Cr Lowe submitted the following Delegate report for the period May and June:

Meetings and events attended as a delegate:

Other meetings and events attended as a Council representative include:

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**Cr Rhonda Sanderson**

Cr Sanderson submitted the following Delegate report for this period:

Meetings and events attended as a delegate:

8 October 2019 - Kings Park Committee of Management meeting, Second Oval Building, Kings Park, Seymour

16 October 2019 - Australian Light Horse Memorial Park Committee of Management meeting, Ken Hall Pavilion, Kings Park, Seymour

19 October 2019 - Australian Local Government Women's Association Annual State Conference, Victorian Emergency Management Institute, Mount Macedon

Other meetings and events attended as a Council representative include:

31 October 2019 - Bushland Park Committee of Management Annual General meeting, Chittick Park Community Place, Seymour

1 October 2019 - Seymour U3A 'Melting Pot', Open Food Network 'Food Security' presentation, Chittick Park Community Place, Pollard Street, Seymour. The very informative guest speaker was Jen Sheridan of the Open Food Network

1 October 2019 - State Government 'Local Government Rating System Review' Council Forum, Seymour Club, Elizabeth Street, Seymour. Six Councillors attended - three each from the Strathbogie and Mitchell Shires

1 October 2019 - State Government 'Local Government Rating System Review' Public Forum, Seymour Club, Elizabeth Street, Seymour. Approximately 16-18 people attended this public forum including a number from Shepparton.

5 October 2019 – Mitchell Shire Council Seymour Levee Drop-in Information Session, Seymour Agricultural and Pastoral Show, Kings Park, Seymour. A steady stream of visitors popped into this stall.

5 October 2019 - Seymour Agricultural and Pastoral Society Show Official Opening, Kings Park, Seymour. The Show was officially opened by Matt Coleman, Chair and President of the Royal Agricultural Society of Victoria.

6 October 2019 – Mitchell Shire Council Budget Consultation stall, Tallarook Farmers' Market, Railway Place, Tallarook. A number of budget ideas were received.

6 October 2019 - State Motorcycle Complex Expansion Feasibility Study - Open Day and Community Listening Post, Strath Creek Road, Broadford

10 October 2019 – Mitchell Shire Council Seymour Levee Community Drop-In session, Chittick Park Community Place, Pollard Street, Seymour. This session was very well-attended. Residents had the opportunity to speak with Councillors, Council staff, consultants and a number of technical experts including a Goulburn Broken Catchment Management Authority representative, a levee designer, a hydrology consultant, and Mitchell Shire Council engineers

10 October 2019 - Victorian Local Government Association Hogan's Hotel VCAT Matter community meeting, Wallan Multi-purpose Centre, Bentinck Street, Wallan

12 October 2019 - Mitchell Shire Council Budget Consultation Wallan Olde Time Market, Hadfield Park, Wallan

15 October 2019 - Mitchell Shire Council Seymour Levee Project Community Drop-in Session, Chittick Park Community Place, Seymour. This session was again very well attended

16 October 2019 - Mitchell Shire Council Budget Consultation, IGA Supermarket, Anzac Avenue, Seymour

17 October 2019 - DELWP 'Pick My Project' Seymour Viaduct 'Art Attack' Project Launch, Anzac Avenue, Seymour. State Minister for Regional Development Jaclyn Symes officially opened this project which was initiated by members of The Seymour We Want. I was pleased to make a speech of welcome and appreciation to everyone concerned

18 October 2019 - Seymour and District Art Society 'Art Beyond the Divide' annual art exhibition launch, Wine x Sam, Anzac Avenue, Seymour. Over 200 artworks were on display at this successful 3-day exhibition. The guest speaker and judge were artist Maudie Palmer

23 October 2019 - Australian Institute of Company Directors Essential Update, Lakeside Hotel, Napier Street, Bendigo

23 October 2019 - Melbourne Cup Tour to Tallarook event, Tallarook Hotel, Main Road, Tallarook. This was a very successful fundraiser for the Tallarook Mechanics Institute rebuild project and Goulburn Options disability service

24 October 2019 - Mitchell Shire Council Tallarook Mechanics' Institute community meeting, Tallarook Hotel, Main Road, Tallarook. Discussions were held with interested community members regarding the offer of a second-hand donated kitchen for the new TMI

28 October 2019 - Mitchell Shire Council Citizenship Ceremony, Broadford Shire Hall, Murchison Street, Broadford. Over 40 residents received their Australian citizenship at this very positive event

31 October 2019 - Tallarook Mechanics Institute Committee of Management meeting, Tallarook Hotel, Main Road, Tallarook

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**Cr Fiona Stevens**

Cr Stevens submitted the following Delegate report for the period September/October:

Meetings and events attended as a delegate:

5 September 2019 - Attended and chaired Annual General meeting for Old Courthouse Committee, Seymour

16 October 2019 - Attended and chaired Annual General meeting for Seymour Tennis Club, Seymour

Other meetings and events attended as a Council representative include:

19 September 2019 - Attended the Seymour Revitalisation meeting, Seymour

4 October 2019 - Attended briefing/ update with staff regarding pending community consultation meetings re Seymour Levee, Seymour

5 October 2019 - Attended Official opening of Seymour Show, Seymour

8 October 2019 - Attended the Senior Citizen Concert, Broadford

10 October 2019 - Attended the Seymour Business and Tourism Meeting, Seymour

10 October 2019 - Attended the Community Consultation at Chittick Park regarding Seymour Levee

15 October 2019 - Attended the Community Consultation at Chittick Park regarding Seymour Levee, Seymour

16 October 2019 - Attended IGA budget drop in consultation opportunity, Seymour

24 October 2019 - Attended a meeting regarding the rebuilding of the Tallarook Hall, Tallarook

28 October 2019 - Attended and assisted at the Mitchell Shire Citizenship Ceremony, Broadford

31 October 2019 - Presented on air Radio 103.9 - Mitchell News - with Mayor Chisholm

**13 GENERAL BUSINESS**

*In accordance with Clause 30 of the Meeting Procedure Local Law.*

**14 URGENT BUSINESS**

*In accordance with Clause 31 of the Meeting Procedure Local Law.*

**15 CONFIDENTIAL BUSINESS****RECOMMENDATION**

**THAT** in accordance with Section 89(2) of the *Local Government Act 1989*, Council resolves to close the meeting to members of the public to consider the following items which relate to matters specified under Section 89(2), as specified below.

**15.1 Confirmation of Minutes of previous Confidential Meeting****15.2 Re-opening of Meeting to members of the public****16 DATE OF NEXT MEETING**

The next Ordinary meeting of Council is scheduled to be held on Monday 16 December 2019 at the Mitchell Council Chambers, 113 High Street Broadford, commencing at 7.00pm.

**17 CLOSE OF MEETING**