



INDIGO SHIRE COUNCIL

NOTICE is hereby given that the Ordinary Meeting of the Indigo Shire Council will be held in the **Senior Citizens Rooms, Conness Street, Chiltern** on **Tuesday 6 February, 2007** commencing at **7 pm**.

A handwritten signature in black ink, appearing to read "John P Costello", is written over a light blue horizontal line.

John P Costello
Chief Executive Officer

AGENDA

- 1.0 Welcome - Mayor**
- 2.0 Opening Prayer**
- 3.0 Apologies and Leave of Absence**
- 4.0 Declaration of Pecuniary Interest and Conflict of Interest**
- 5.0 Open Forum**
- 6.0 Condolences**
- 7.0 Confirmation of Minutes**
 - Council meeting 5 December 2006
 - Special meeting of Council 5 December 2006
 - Special meeting of Council 19 December 2006
- 8.0 Business Arising (previous Minutes)**

OUR VISION IS

“A UNITED, PROSPEROUS AND ADMIRABLE COMMUNITY ENRICHING OUR ENVIRONMENT, HERITAGE AND RURAL LIFESTYLE: A GREAT PLACE TO LIVE, WORK AND VISIT.”

Table of Contents

9.0	DEPUTATIONS AND PETITIONS	1
10.0	ECONOMIC DEVELOPMENT AND TOURISM	1
11.0	ENVIRONMENT AND DEVELOPMENT	1
11.1	REQUEST TO AMEND DEVELOPMENT PLAN - 13 LOT SUBDIVISION, ELGIN ROAD, BEECHWORTH – BARDEN CONSULTING ENGINEERS (PP05-321 – ATP)	1
11.2	PLANNING APPLICATION PP06-253 - (IMPERIAL PROPERTY AUSTRALIA PTY LTD (EDSM)	7
11.3	PLANNING PERMIT 06/280 – BROWN (FILE NO: PP06-280 - SSP)	28
11.4	HERITAGE ADVISORY COMMITTEE – RETIREMENT OF MEMBER (FILE NO: E511-03 - EDSM)	37
11.5	PLANNING APPLICATION 06-224 - SCOTT (SSP)	37
11.6	SECTION 173 AGREEMENTS - (05/189, 04/206) (EDSM)	46
11.7	PLANNING APPLICATION 06-219 - SULLIVAN (SSP)	47
11.8	PLANNING APPLICATION 07-009 – SAWYER (SSP)	53
11.9	PLANNING APPLICATION PP06-188 - MITCHELL (SSP)	61
11.10	PLANNING APPLICATION PP06/229 - SUPERCRITICAL EXTRACTION NZ & AUSTRALIA (SSP)	68
11.11	HERITAGE VICTORIA PERMIT APPLICATION FOR HM PRISON BEECHWORTH, WILLIAM STREET, BEECHWORTH (E900, EDSM)	84
11.12	PLANNING APPLICATION 06-250 - GRAEME CONNELLY (BOXAL PTY LTD) (SSP)	92
11.13	INDIGO'S ECO AWARENESS ACTION PLAN (FILE NO: E767-02 - NRMO)	116
11.14	DRAFT DOMESTIC WASTEWATER MANAGEMENT PLAN (FILE NO: W107 - EHO)	117
11.15	INDIGO PLANNING SCHEME AMENDMENT C10 – HERITAGE (FILE NO: E1240-10 - EDSM)	122
11.16	PLANNING APPLICATION 06/293 - NANKERVIS (FILE NO: PP06293 - SSP)	138
11.17	NORTH EAST GREENHOUSE ALLIANCE – PROGRESS REPORT (FILE NO: E352-03 - EDSM)	147
11.18	ENVIRONMENT AND DEVELOPMENT SERVICES PROJECTS – FEBRUARY 2007	148
11.19	PLANNING PERMIT STATISTICS - DECEMBER 2006 (EDSM)	151
11.20	BUILDING PERMIT STATISTICS – DECEMBER 2006 (EDSM)	151
12.0	CIVIL OPERATIONS	152
12.1	SPRING STREET UPGRADE (FILE NO: T480.08-02 – ACTING OM)	152
12.2	WINDHAM ROAD, YACKANDANDAH - ROAD CLOSURE WILLIAM STREET TO YACKANDANDAH CREEK (FILE NO: S290/056 - OM)	157
12.3	TENDERS – REPLACEMENT OF TIMBER BRIDGE DEEP CREEK ROAD BRIDGE OVER BLACK DOG CREEK, CHILTERN (FILE NO: Q06/01 - OM)	160
12.4	TENDERS – CAPPING & REHABILITATION WORKS OF YACKANDANDAH LANDFILL, STEEL RD. YACKANDANDAH (FILE NO: Q06/12 - AOM)	161
12.5	OPERATIONS DEPARTMENT – PROGRESS REPORT – JANUARY 2007 (AOM)	163
13.0	ASSETS AND INFRASTRUCTURE	167
13.1	CAPITAL WORKS – PROGRESS REPORT – FEBRUARY 2007 (AM)	167
14.0	HEALTH AND WELLBEING	168
14.1	CHILTERN BARNAWARTHA COMMUNITY ADVISORY COMMITTEE – PROPOSED NAME CHANGE – (FILE NO: C061.1 - HWBM)	168
14.2	REQUEST FOR INTEREST FREE LOAN - UPGRADE RUTHERGLEN GOLF CLUB CLUBHOUSE (FILE NO C935.2 - CEO)	174
14.3	HEALTH & WELL BEING PROJECTS – PROGRESS REPORT – February 2007	175

15.0	CORPORATE SERVICES	177
15.1	LAND PURCHASE FOR EXTENSION OF OFF STREET PARKING IN CHILTERN (FILE NO: D670 – 02 CSM)	177
16.0	FINANCE	178
16.1	DECEMBER 2006 FINANCE REPORT AND FORECAST TO 30 JUNE 2007 - (FILE NO: M064 – CFO)	178
17.0	GOVERNANCE	181
17.1	KERFERD ORATIONS - GEORGE BRISCOE KERFERD MEDALLION - (FILE NO E536.1 - CEO)	181
17.2	PROGRESS REPORT – JANUARY 2007 (CEO)	182
18.0	NOTICE OF MOTION	183
19.0	COMMITTEE AND DELEGATES REPORTS	184
19.1	DECEMBER 06 - JANUARY 07 DIARY - CR P GRAHAM	184
19.2	DEC 06 - JAN 07 DIARY - CR V ISSELL	185
19.3	DECEMBER 2006 - JANUARY 2007 DIARY - CR WALSH	186
19.4	DECEMBER 2006 - JANUARY 2007 DIARY - CR MURDOCH	187
19.5	DECEMBER 2006 - JANUARY 2007 DIARY - CR DALE	187
19.6	DECEMBER 2006 - JANUARY 2007 DIARY - CR HOTSON	188
19.7	MAV DROUGHT TASKFORCE COMMITTEE MEETING, MONDAY 29 JANUARY 2007 (FILE NO: D100.4 - CR HOTSON)	189
20.0	GENERAL BUSINESS	190
21.0	CONFIDENTIAL	190

9.0 DEPUTATIONS AND PETITIONS

10.0 ECONOMIC DEVELOPMENT AND TOURISM

11.0 ENVIRONMENT AND DEVELOPMENT

11.1 REQUEST TO AMEND DEVELOPMENT PLAN - 13 LOT SUBDIVISION, ELGIN ROAD, BEECHWORTH – BARDEN CONSULTING ENGINEERS (PP05-321 – ATP)

For Decision

SUMMARY

Application No:	PP05-321
Applicant:	Barden Consulting Engineers
Subject Land:	Lot 2 PS128019F, Elgin Road, Beechworth
Proposal:	Request to Amend Development Plan in respect of a 13 Lot subdivision, Elgin Road, Beechworth and Planning Permit PP05-321
Recommendation:	Refusal

RECOMMENDATION

It is recommended that Council refuse to amend the approved development plan and Conditions 13 and 17 of planning permit PP05-321 for the following reasons:

1. There is an adequate nexus between the requirements of the development plan and the proposal;
2. Conditions 13 and 17 are in accordance with the approved development plan;
3. Should the requirement to provide suitable linkages between the site and urban areas for road, public, bicycle and pedestrian transport facilities be deleted from the development plan, the development plan would not adequately address Clause 43.04 of the Indigo Planning Scheme, and;
4. The present Conditions recognise the matters set out in Section 60 of the Act and in particular any significant social and economic effects of the use or development for which the application is made.

BACKGROUND

Council resolved at its meeting of 4 July 2006 to approve a Development Plan which outlines a proposal for a 13 lot subdivision off Elgin Road, Beechworth. The land is approximately 1.47 ha in area and is currently zoned Residential 1 Zone. The land is also affected by the Development Plan Overlay which requires the preparation of a Development Plan prior to any application for subdivision being approved.

An application for a Planning Permit generally in accordance with the approved Development Plan was received on 13 April 2006. Following Council's resolution to approve the Development Plan, the Planning Permit was subsequently approved under Delegation on 19 July 2006. The Permit was later amended on the 14/09/2006 to allow for procedural changes to the implementation of restrictions in relation to lots 2, 3, and 4.

On 14 August 2006 a separate application was received to amend Conditions 13 and 17 of the permit (see attachments). Notice of the application was given and three objections to the amendment were received (see attachments).

Partial amendment to the permit was subsequently made on the 25/10/2006 in relation to Condition 17 to allow for the use of Colourbond as a fencing material and for agreements to be entered into between the Developer and adjoining land holders in relation to the provision of fencing. Condition 1(ii) was also amended at this time in relation to the restrictions to be created on lots 2, 3, and 4. Procedural changes were also made to Condition 2 at this time. Amendment to Condition 13 was not further considered following a meeting between the applicant and Council staff whereupon it was understood that amendment to this Condition was not to be pursued.

Clarification of Council's decision regarding the above amendments was subsequently sought and given (see attachments – letters dated 8/12/2006 and 15/12/2006), and a further request received on the 21st December 2006 to amend both the approved Development Plan and Conditions 13 and 17 of Planning Permit PP05-321 (see attachments).

Consistent with Council practice public notice of the originally submitted Development Plan was given to adjoining landowners. In response 6 submissions/objections were received. The concerns raised covered a wide range of issues and highlighted a number of valid considerations to the development plan including:

- Impacts of future development on adjacent dwellings and private open space;
- The density of the proposed development and lack of sympathy to the environs of the site, and;
- Fencing.

As a result of the above submissions a Planning Focus Meeting was held on the 26th May 2006, in which 7 submitters attended. The issues discussed at the meeting included:

- Fencing: A consistent fencing style should be provided at the cost of the developer. In this instance there is a nexus between the proposed development and the need to upgrade existing rural style fencing to residential standards. Any

subsequent planning application should therefore have regard to the apportioning of costs in relation to this;

- Provision of Footpaths: Due to the close proximity of the town centre, and the undeveloped nature of the road reserve, it is reasonable to request specific bicycle and pedestrian facilities in accordance with “*Indigo Shire Council Strategic Bicycle Plan – Final Report March 2002*” at the subdivision stage.

Clause 43.04 of the Indigo Planning Scheme applies to the subject land and provides that a permit must not be granted to use or subdivide land, construct a building or construct or carry out works until a development plan has been prepared to the satisfaction of the Responsible Authority. A permit granted must:

- Be generally in accordance with the development plan.
- Include any conditions or requirements specified in the schedule to the development plan overlay.

Schedule 1 to Clause 43.04 applies to the subject land and states that the Development Plan must:

- Provide appropriate arrangements for the provision and funding of necessary physical and social infrastructure.
- Provide suitable linkages between the site and urban areas for road, public, bicycle and pedestrian transport facilities.

Council resolved at its meeting of the 4th July 2006 to approve a Development Plan which includes the following discussion on the above two points:

Provide appropriate arrangements for the provision and funding of necessary physical and social infrastructure

Detailed physical infrastructure provision for the development will be the subject of subsequent planning applications for subdivision. All internal roads will be sealed and appropriately drained on a whole of catchment basis. Underground drainage and the use of WSUD principles such as on-site detention and grass swale drains at the surface level will be further investigated as part of any future planning permit application. All lots will be connected to reticulated water and sewer.

Servicing of the subdivision will also provide drainage and sewerage service for other Elgin Road properties fronted by the extension of these services. Subject to more detailed investigation with Council, it may be appropriate to provide for stormwater open swale drains for 1:100 year or higher peak storm overland flows from the adjoining proposed Krasota Estate to the proposed downtrain detention basin before discharge to the natural drainage water course.

Due to the size of the proposed lots, density of the subdivision, and given the proximity of existing social infrastructure, it is contended that the development plan does not need to make arrangements for the provision of additional social infrastructure. In accordance with the provisions of the Subdivision Act, a 5% contribution of the value of lots 2 to 13

of the subdivision will be made at the time of the subdivision of the land in lieu of actually providing any public open space.

The boundary between the subject site and adjoining properties not in common ownership, shall be fenced to an agreed standard at the cost of the developer.

Provide suitable linkages between the site and urban areas for road, public, bicycle and pedestrian transport facilities

Road and footpath facilities are proposed that will also link the adjoining Krasota Estate with Elgin Road. Due to the close proximity of the town centre, and the undeveloped nature of the Elgin Road road reserve, specific bicycle and pedestrian facilities in accordance the Indigo Shire Council Strategic Bicycle Plan will be provided at the subdivision stage connecting the proposed development with facilities to be provided in High Street as part of the Krasota Estate.

The amendment to the development plan and permit PP05-321 currently before Council seeks to delete the requirement for specific bicycle and pedestrian facilities connecting the proposed development with facilities to be provided in High Street as well as the requirement to fence the boundary between the subject site and adjoining properties not in common ownership, to an agreed standard at the cost of the developer. Each of these requests will be discussed separately below.

DISCUSSION

Pathways

Council's Assets Manager provides the following comments in relation to the proposal to amend Condition 13 of the permit and the requirement to provide suitable linkages between the site and urban areas for road, public, bicycle and pedestrian transport facilities:

The 13 lot Mossgrove Way subdivision is located off Elgin Rd, Beechworth. Elgin Rd serves as a mixed function road, providing access to a number of residential and rural residential lots and also access to significant areas of pine plantation.

In considering the needs of the future residents of this development and the impacts of the development on Council's infrastructure it was recognised that it would be unsafe to force pedestrians and young cyclists on to the Elgin Rd roadway. There is particular concern in this case as the seal width is only 5.4m which is barely sufficient for 2 cars to pass and insufficient for a truck and car.

As well as providing pathways within the subdivision and along the Elgin Rd frontage of the subdivision the developer has been required to complete the pathway link along Elgin Rd to High St. At this point the proposed pathway can link to existing gravel paths in a southerly direction which will provide a safe route to the Beechworth Primary School and further. The linkage to the north and to the Secondary College is to be provided by other developers.

The developer is being required to provide off-site infrastructure which would normally be the responsibility of others however given the dangers of forcing pedestrians on to Elgin Rd and the unknown timing of other developments which may eventually construct this link then there is a very strong nexus between this development and the need to construct the footpath link to High St.

In light of the above and as Schedule 1 to Clause 43.04 states that the Development Plan must provide suitable linkages between the site and urban areas for road, public, bicycle and pedestrian transport facilities, and given that the currently approved development plan is in accordance the Indigo Shire Council Strategic Bicycle Plan and there is a clear nexus between the proposed subdivision and the need for this link, it is not considered appropriate to delete this requirement from the development plan.

Had this requirement been omitted from the original development plan, it is considered that the development plan would not have adequately addressed the requirements of Schedule 1 to Clause 43.04, and would not have been recommended for approval. Pedestrian linkages form a key component in the design and servicing of residential development and are particularly critical in this instance due to safety considerations. As no alternate linkages have been proffered by the applicant, it is not considered appropriate to ignore this requirement of the development plan overlay.

Fencing

Partial amendment to the permit was made on the 25/10/2006 in relation to Condition 17 to allow for the use of Colourbond as a fencing material and for agreements to be entered into between the Developer and adjoining land holders in relation to the provision of fencing.

Submissions received at that time in relation to the request to amend Condition 17 concurred with the proposed changes to the fencing materials from timber paling to "Riversand" Colourbond. Objections were however received in relation to the proposed provision of the replacement fence.

In this regard based on the premise that the existing fences are adequate, the applicant proposed to make a one off cash payment equal to half the cost of a replacement fence to adjoining landholders on the basis that the boundary fence could then be replaced under the provisions of the Fences Act 1968 when it has reached the end of it's physical life (see attachments).

Condition 17 as originally drafted and as amended on the 25/10/2006, is a Condition commonly used by Council where there is a nexus between a proposed subdivision or development and a consequent need to upgrade a dividing fence. In this instance issues regarding fencing uniformity are proposed, by the applicant, to be controlled via covenants on the lots created.

The issue in relation to the amendment of Condition 17 therefore relates to cost apportionment and the timing of the provision of the replacement fence. It is considered that the timing of the provision of the replacement fence (if not required prior to completion of the subdivision) could be controlled via a Section 173 Agreement that could, for instance, require the replacement dividing fence to be constructed within 3

months of completion of a dwelling. As Planning approval would not be required for single dwellings on the lots created however, such a scenario would be difficult for Council to administer and enforce.

Having regard to the applicant's proposal to make a cash contribution to adjoining landholders, in this instance whilst this may be a cost effective means of apportioning costs for the Developer, it is considered that Council would be unable to require this as a Condition of approval on a Planning Permit for the subdivision of the subject land. Such a proposal would require the Planning approval to make the Developer make a cash contribution to multiple third parties as well as require the third parties to accept the contribution, placing Council in an untenable position, particularly given that objections have been received in relation to this.

Whilst it is recognised that both the subject land and adjoining allotments are within a residential zone, it is the proposed subdivision and resultant increase in density that has created the need for boundary fencing to be upgraded. One of the objectives of planning in Victoria is to ensure that the effects on the environment are considered and provide for explicit consideration of social and economic effects when decisions are made about the use and development of land.

The development of the land and change to higher densities as a result of approval of the development plan will have social and economic effects on adjoining properties, as was recognised in approval of the subject development plan where it was stated that "the boundary between the subject site and adjoining properties not in common ownership, shall be fenced to an agreed standard at the cost of the developer" as a requirement of providing appropriate arrangements for the provision and funding of necessary physical and social infrastructure. It is considered therefore, that as there is a nexus between the need to upgrade fencing and the proposal, it is not unreasonable for the development plan to place the burden of upgrading the boundary fencing on the developer.

Condition 17 of the permit is considered to be in accordance with the approved development plan, and by allowing written agreement between the developer and the relevant adjoining landholder, is an adequate alternate means of accomplishing a variation to the provision of fencing.

CONCLUSIONS

Having regard to the above it is concluded that the requirements of the development plan in relation to pathways and fencing are a reasonable response to the proposal given the context of the site. Conditions 13 and 17 are considered to be generally in accordance with the approved development plan, and in the case of Condition 17 provide for an alternate means of accomplishing a variation to the provision of fencing (ie via agreement between landholders).

ATTACHMENTS

- *Approved Development Plan in respect of a 13 Lot subdivision, Elgin Road, Beechworth;*
 - *Planning Permit PP05-321;*
 - *14th August 2006 application to amend Conditions 13 and 17 of the permit;*
 - *Objections to the amendment of Conditions 13 and 17 of the permit;*
- *Correspondence regarding clarification of Council's decision on the amendments sought in letter of 14th August 2006.*

11.2 PLANNING APPLICATION PP06-253 - (IMPERIAL PROPERTY AUSTRALIA PTY LTD (EDSM))

For Decision

SUMMARY

Application No: PP06-253

Applicant: Imperial Property Australia Pty Ltd

Subject Land: Lot 1 TP159491B being Part CA1 Section A Township and Parish of Beechworth, 137 High Street, Beechworth.

Proposal: 19 Lot Subdivision

Recommendation: Approval

RECOMMENDATION

It is recommended that Council approve Planning Permit Application PP06-253 for the 19 lot subdivision of Lot 1 TP159491B being Part Crown Allotment 1 Section A Township and Parish of Beechworth, subject to the following conditions:

1. PLANS TO BE SUBMITTED

- (i) Before a plan of subdivision can be certified, plans prepared by a licensed surveyor to the satisfaction of the Responsible Authority, must be submitted to and approved by the Responsible Authority. The plans must be generally in accordance with the plans submitted with the application, drawn to scale showing all bearings, distances, levels, street names, lot numbers, lot sizes, easements, and building envelopes and restrictions on lots 9 to 14 inclusive in accordance with Condition 1(ii) below.**
- (ii) The plan of subdivision submitted for Certification pursuant to Condition 1(i) must contain a restriction on lots 9, 10, 11, 12, 13, and 14 that prevents any habitable building from being erected within 13m of the rear boundary. One non-habitable building, not exceeding 3.6 metres in height above the mean ground level, with a gross floor area not exceeding 40m² may be erected within the designated area provided it is sited a minimum of 2m outside of the drip-zone of existing trees or the vegetated buffer strip required by Condition 6 below, whichever is the greater.**

2. SECTION 173 AGREEMENT

Prior to the issue of the Statement of Compliance, the landowner must enter into an agreement with the Responsible Authority under Section 173 of the Act, which ensures:

- (i) That all dwellings are sited, designed and constructed using the principles of Water Sensitive Urban Design and in particular that:**

- (a) All dwellings must incorporate a rain water tank on site. The water tank must be plumbed to the toilets and garden taps as a minimum. Only the overflow from the rainwater tank is to be directly discharged to each lot's stormwater point. All dwellings shall include water saving measures (AAA rated fixtures and a pressure reduction valve).
 - (b) Stormwater is detained on site where practical through use of permeable paving, pebble paving, infiltration trenches, soakwells, lawn, garden areas and swales. The total hard surface site coverage (including outbuildings, swimming pools, tennis courts, driveways and all impermeable surfaces), must not exceed 75%.
 - (c) An Erosion and Sediment Control Plan must be submitted with all Building Permit applications that clearly outlines how the site is to be managed during and after construction.
- (ii) That where incorporated, rear or side of allotment infiltration trenches with overflows to the formal drainage system are maintained so as to ensure design stormwater flows do not impact on downslope properties.
 - (iii) That the vegetated buffer strip along the rear of lots 9, 10, 11, 12, 13, and 14 is maintained and protected to provide an effective visual screen between the respective lots and the land adjoining to the east.

3. COVENANTS

Covenants that relate to land use or development must not be included in any contracts of sale or on titles of any lots without the approval of the Responsible Authority, and no variation to the standard requirements of the approved covenants shall be agreed to by the transferor without the prior written consent of the Responsible Authority.

4. WORKS NOT TO COMMENCE

In accordance with Section 17 of the Subdivision Act 1988 any works associated with the subdivision must not commence until:

- (i) The plan of subdivision submitted pursuant to Condition 1 has been Certified; and
- (ii) The engineering plans submitted pursuant to Condition 10 have been approved.

5. PAYMENT IN LIEU OF OPEN SPACE

The applicant or owner must pay to the Council a sum equivalent to five per cent of the site value of lots 1 to 19 excluding lot 7 in the subdivision. This payment must be made before a statement of compliance is issued and may be varied under Section 19 of the Subdivision Act 1988. The site value shall be the site value at the date the plan is submitted for certification.

6. VEGETATED VISUAL SCREEN

Prior to the issue of the Statement of Compliance a minimum 2m wide permanent screen of locally indigenous trees and shrubs must be planted along the rear of lots 9, 10, 11, 12, 13, and 14 to augment existing vegetation and provide an effective visual screen, and must be completed to the satisfaction of the Responsible Authority and then maintained to the satisfaction of the Responsible Authority.

ASSETS AND INFRASTRUCTURE REQUIREMENTS

7. ROAD CONSTRUCTION

(i) High Street to North Boundary of the Development

Prior to the issue of the Statement of Compliance the applicant/owner must construct the proposed roadway within the development to U3 standard as set out in the Indigo Shire Road Hierarchy Management Plan to the approval and satisfaction of the Responsible Authority, and generally as follows:

- 7.5m formation width;
- 6.9m pavement width;
- 6.9m seal width (ITP&S);
- 250mm depth (minimum) pavement subject to subgrade CBR;
- Drainage culverts and headwalls to a 1 in 5 ARI;
- Layback Kerb & Channel;
- 1.5m concrete footpath on the east side of the roadway,

or as otherwise approved.

(ii) Traffic Calming and Pedestrian Link at north boundary of the Development

Prior to the issue of the Statement of Compliance the applicant/owner must construct a narrowed section of roadway between the north boundary of the development and the existing road infrastructure in Wells Street to link the development with Wells Street and to provide a traffic calming device and pedestrian link as well as a thoroughfare for CFA and waste collection trucks. This section of roadway must be constructed in accordance with plans and specifications approved by and to the satisfaction of the Responsible Authority and generally as follows:

- 4.0m road width;
- 150mm (min) reinforced concrete pattern paved surface;
- 100mm (min) subbase pavement bedding;

- Layback Kerb & Channel at both ends,

or as otherwise approved.

(iii) High Street Frontage

Prior to the issue of the Statement of Compliance the applicant/owner must construct High Street in front of the development to U2 standard as set out in the Indigo Shire Road Hierarchy Management Plan, generally from the centreline on the development side only and to the approval and satisfaction of the Responsible Authority, based on the following:

- 9.6m formation width;
- 9.0m sealed pavement width (ITP&S);
- 250mm depth (minimum) pavement subject to subgrade CBR;
- Drainage culverts and headwalls to a 1 in 5 ARI;
- Layback Kerb & Channel;
- 1.5m concrete footpath,

or as otherwise approved.

8. CROSSINGS

Any new vehicular access points required and any required existing crossing points not complying with current standards shall be constructed at full cost to the applicant/owner at a location, and to a standard, to the satisfaction of the Responsible Authority. A crossing permit must be obtained from the Responsible Authority and levels fixed. The road reserve and road formation must be left in a neat and tidy manner.

9. POINT OF ACCESS

The point of access to the site shall be a point that gives practical access to the building location to the satisfaction of the Responsible Authority.

10. PLANS SUBMITTED

- (i) Before any road, pathway or drainage works associated with the subdivision start, detailed construction plans and specifications must be prepared and submitted for approval to the satisfaction of the Responsible Authority. All works constructed or carried out must be in accordance with those plans.**
- (ii) Prior to the Statement of Compliance being issued, as built documents including:**
 - **one (1) electronic copy (Plans: .dwg format, natural scale 1:1, Schedule & Specification: Microsoft Word), and;**

- **one (1) hard copy (Plans: A1, Schedule & Specifications: A4),**

must be supplied to the Responsible Authority.

11. SITE, SOIL AND WATER MANAGEMENT PLAN

Prior to the commencement of any construction activity associated with the subdivision, a Site, Soil and Water Management Plan must be prepared to the satisfaction of the Responsible Authority. The plan must be prepared in accordance with the principles outlined in Urban Stormwater: Best Practice Environmental Management Guidelines (Victorian Stormwater Committee, 1999) and the “Indigo Shire Council Stormwater Management Guidelines.”

The plans must also provide:

- (i) Details as to how adverse effects on the amenity of the area including dust, noise and vibration will be minimised and managed during site works;**
- (ii) Details as to how existing vegetation that is to be retained on the site is to be protected during works.**

12. SEDIMENT POLLUTION CONTROL

Any clearing or construction associated with development must be conducted in accordance with Condition 11 and the sediment control principles as outlined in "Construction Techniques for Sediment Pollution Control" (Environment Protection Authority 1991). Specifically, the applicant must ensure:

- **Grading, excavation and construction must not proceed during periods of heavy rainfall;**
- **Sediment traps must be designed, installed and maintained to maximise the volume of sediment trapped from the site during development and construction, and;**
- **Disturbed areas must be stabilised and revegetated following the completion of works.**

To minimise soil erosion during construction, the landowner and developer must ensure that the following measures are implemented:

- (i) All site works are to be carried out as per the approved Erosion and Sediment Control Plan.**
- (ii) Approved runoff and erosion controls must be installed before clearing of site vegetation, other than the clearing associated with the construction of the controls.**
- (iii) Vegetation is to be cleared from the construction site only, other areas are to remain undisturbed.**

- (iv) All erosion and sediment control measures must be maintained after rainfall. They should be retained until the site has fully revegetated to the satisfaction of the Responsible Authority.
- (v) Areas disturbed by earthworks must be stabilised immediately and revegetated as soon as practicable following the completion of buildings and works to the satisfaction of the Responsible Authority.
- (vi) Where unforeseen circumstances arise during construction, Council may require erosion and sediment control measures/works to be carried out beyond, or instead of, works specified.

13. FEES

Prior to the issue of the Statement of Compliance payment of Plan Checking Fees of 0.75% and Engineering Inspection Fees (generally inspections at hold points, completed stages of construction activities and proof rolling) of 2.5% of the value of road works and drainage must be made to the satisfaction of the Responsible Authority.

14. STORMWATER DRAINAGE

- (i) Prior to the issue of the Statement of Compliance provision of a stormwater drainage discharge point to each allotment must be made including the construction of stormwater reticulation drains to a 1 in 5 Year ARI. Stormwater outfall drains must be constructed as required, designed to a 1 in 10 Year ARI. Drains must be constructed under the supervision of the Responsible Authority and in accordance with plans and specifications approved by the Responsible Authority.
- (ii) Stormwater drainage design must take into account the principles of WSUD and the requirements of the Indigo Shire Council Stormwater Management Plan and the CSIRO publication Urban Stormwater: Best Practice Environmental Guidelines.
- (iii) The development must be designed to ensure that flows downstream of the development are restricted to pre-development levels unless otherwise approved by the relevant drainage authority and there are no detrimental downstream impacts.
- (iv) Point of Discharge - The nominated point of discharge for stormwater emanating from the development is the inlet to the new 900 dia pipe constructed for the Mossgrove Way subdivision on the north side of Elgin Road.
- (v) The developer shall contribute to outfall drainage and head works associated with the development by way of a cash contribution or construction works, based on apportionment for their reasonable share of the cost in accordance with the whole of catchment stormwater drainage strategy commissioned by the Responsible Authority. Stormwater drainage works shall be apportioned at a pro rata rate of \$16,337 per hectare, indexed to the annual CPI each

year from 1st January 2007. In this instance the apportionment is 1.51 Ha @ \$16,337 = \$24,668.87.

15. STREET TREES

- (i) Prior to the issue of the Statement of Compliance the developer must provide street trees at a rate of one tree for each lot created, with two trees provided on each corner allotment. This requirement can be met by planting trees between 1 to 2 metres in height, with a species as listed in Council's Street Tree Plan and in accordance with Council's Street Tree Planting Policy.**
- (ii) The developer must maintain these trees for a period of 12 months from the date of issue of the Statement of Compliance. Any trees that die or are deemed by the Responsible Authority to need replacement, shall be replaced at the developers cost and maintained for an additional 12 month period,**

or, as otherwise approved.

16. SIGNAGE AND LINEMARKING

Prior to the issue of the Statement of Compliance the developer must provide the following road signage and Linemarking:

- (i) At the High Street Intersection:**
 - Wells Street street sign (with approved Shire logo and street numbering);**
 - Give Way sign;**
 - Statcom Linemarking.**
- (ii) At the traffic calming section of road linking the development with the existing Wells Street infrastructure:**
 - "Shared Zone 10km" sign (R4-4A) at each end;**
 - "Raised Pavement "sign (W-Raispav(A)) at each end;**

17. PATHWAYS

Prior to the issue of the Statement of Compliance the applicant/owner must:

- (i) construct a footpath to service the development from High Street to the northern boundary of the development in accordance with plans and specifications approved by Council and in accordance with the Indigo Road Hierarchy Management Plan and generally as follows:**
 - 1.5m width;**
 - 75mm depth concrete;**

- 150mm concrete where there is a nominated vehicle crossing point;
 - 50mm sand bedding.
- (ii) construct a footpath to service the development along the High Street frontage of the development in accordance with plans and specifications approved by the Responsible Authority and in accordance with the Indigo Road Hierarchy Management Plan and generally as follows:
- 1.5m width;
 - 75mm depth concrete;
 - 150mm concrete where there is a nominated vehicle crossing point;
 - 50mm sand bedding.
- (iii) construct a shared footpath/bicycle path in High Street from the east boundary of the development to Balaclava Road in accordance with plans and specifications approved by the Responsible Authority and in accordance with the Indigo Road Hierarchy Management Plan and Council's Bike Path Strategy, and generally as follows:
- 2.0m width;
 - 100mm approved gravel or crushed rock suitable for footpath construction;

or as otherwise approved.

18. UNDERGROUND SERVICES

All reticulated services must be located underground to the satisfaction of the Responsible authority.

19. CFA REQUIREMENTS

The detailed road design submitted pursuant to Condition 10 must demonstrate compliance with the CFA publication "Requirements for Water Supplies and Access for Subdivisions in Residential 1 and 2 and Township Zones".

Prior to the development commencing, amended plans to the satisfaction of the CFA must be submitted for approval by the CFA and 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 must demonstrate compliance with the following conditions:

- (i) Hydrants
- (a) Operable hydrants, above or below ground must be provided to the satisfaction of CFA.

- (b) **The maximum distance between these hydrants and the rear of all building envelopes (or in the absence of building envelopes, the rear of all lots) must be 120m and hydrants must be no more than 200m apart.**
 - (c) **Hydrants must be identified as specified in ‘Identification of Street Hydrants for Firefighting purposes’ available under publications on the Country Fire Authority web site (www.cfa.vic.gov.au).**
- (ii) **Access**
 - (a) **Roads shall be constructed to provide emergency vehicle access to all lots. These roads shall be designed, constructed and maintained for vehicles of at least 15 tonnes and be of all weather construction. A minimum trafficable width of 7.3m shall be provided.**
 - (b) **The vertical and horizontal alignment of the roads shall be designed to accommodate the design vehicle equivalent to the Austroads Design service vehicle – 12.5m radius.**
 - (c) **Provision shall be made at the end of all dead-ends (whether or not created by staged development) for turning this design vehicle to the satisfaction of the Responsible Authority. (A three point turn is acceptable).**
 - (d) **Evidence of compliance with conditions 19(ii)(a), (b) and (c) shall be provided to the CFA prior to Certification of the Subdivision.**
 - (e) **Bridges must be designed in accordance with the Australian Bridge Design Standard AS 5100 – 2004 to carry a rigid truck of at least 15 tonne.**
 - (f) **The average grade of roads must be no more than 1 in 7 (14.4%) (8.1 degrees) with a maximum of no more than 1 in 5 (20%) (11.3 degrees) for no more than 50 metres.**

20. SPI ELECTRICITY PTY LTD REQUIREMENTS

Prior to the issue of the Statement of Compliance the applicant must:

- (i) **Enter into an agreement with SPI Electricity Pty Ltd for the supply of electricity to each lot on the endorsed plan;**
- (ii) **Enter into an agreement with SPI Electricity Pty Ltd for the rearrangement of the existing electricity supply system;**
- (iii) **Enter into an agreement with SPI Electricity Pty Ltd for rearrangement of the points of supply to any existing installations affected by any private electric power line which would cross a boundary created by the subdivision, or by such means as may be agreed by SPI Electricity Pty Ltd;**

- (iv) Provide easements satisfactory to SPI Electricity Pty Ltd, for the purpose of “Power Line” in the favour of “Electricity Corporation” pursuant to Section 88 of the Electricity Industry Act 2000, where easements have not otherwise been provided, for all existing SPI Electricity Pty Ltd electric power lines and for any new power lines required to service the lots on the endorsed plan and/or abutting land;**
- (v) Obtain for the use of SPI Electricity Pty Ltd any other easement required to service the lots;**
- (vi) Adjust the position of any existing SPI Electricity Pty Ltd easement to accord with the position of the electricity line(s) as determined by survey;**
- (vii) Set aside on the plan of subdivision Reserves for the use of SPI Electricity Pty Ltd for electric substations;**
- (viii) Provide survey plans for any electric substations required by SPI Electricity Pty Ltd and for associated power lines and cables and execute leases for a period of 30 years, at a nominal rental with a right to extend the lease for a further 30 years. SPI Electricity Pty Ltd requires that such leases are to be noted on the title by way of a caveat or a notification under Section 88(2) of the Transfer of Land Act prior to the registration of the plan of subdivision;**
- (ix) Provide to SPI Electricity Pty Ltd a copy of the plan of subdivision submitted for certification that shows any amendments that have been required;**
- (x) Agree to provide alternative electricity supply to lot owners and/or each lot until such time as permanent supply is available to the development by SPI Electricity Pty Ltd. Individual generators must be provided at each supply point. The generator for temporary supply must be installed in such a manner as to comply with the Electricity Safety Act 1998;**
- (xi) Ensure that all necessary auditing is completed to the satisfaction of SPI Electricity Pty Ltd to allow the network assets to be safely connected to the distribution network.**

21. NORTH EAST REGION WATER AUTHORITY REQUIREMENTS

Prior to the issue of the Statement of Compliance the owner/applicant must:

- (i) make a payment to the North East Region Water Authority of a contribution of money (Headworks) towards the water supply system supplying the area as determined by North East Water’s policy for development charges;**
- (ii) enter into an agreement with North East Water to construct all necessary works to provide water supply to serve all lots of the proposed subdivision, at the applicant’s cost, and in accordance with the Authority’s specifications and requirements.**
- (iii) make a payment to North East Region Water Authority of a contribution of**

money (Headworks) towards the Authority's sewers and disposal systems serving the area as determined by North East Water's policy for development charges.

- (iv) enter into an agreement with North East Water to construct all necessary works to provide sewerage to serve all lots of the proposed subdivision, at the applicant's cost, and in accordance with the Authority's specifications and requirements.
- (v) provide easements in favour of the North East Region Water Authority over all existing and proposed sewer mains located within the proposed subdivision.
- (vi) ensure that any private water services do not traverse property boundaries and are supplied independently from an approved point of supply.

Prior to the issue of a Statement of Compliance under the Subdivision Act 1988 consent must be obtained from North East Region Water Authority.

22. TELSTRA REQUIREMENTS

Prior to the issue of the Statement of Compliance the applicant/landowner must:

- (i) enter into an agreement with Telstra or other licensed telecommunications carrier for the satisfactory provision of telephone cable reticulation to one (1) metre into each lot created. Refer www.telstrasmartcommunity.com to register your development.
- (ii) pay to Telstra the reasonable cost of any works necessary, as a result of the subdivision, to remove or alter the position of any existing facility on the subdivision, or on any adjacent land or Government Road, pursuant to Clause 53 of Schedule 3 of the Telecommunications Act 1997. Refer Dial Before You Dig process – Ph:1100.
- (iii) Set aside on the plan of subdivision reserve/s satisfactory to Telstra for Telecommunications substation/s as required.

23. EXPIRY DATE

This permit will expire if the Statement of Compliance pursuant to the Subdivision Act 1988 is not issued within two (2) years of the date of this permit. The Responsible Authority may extend the periods referred to if a request is made in writing before the period expires or within three months of the date of expiration.

END CONDITIONS

BACKGROUND

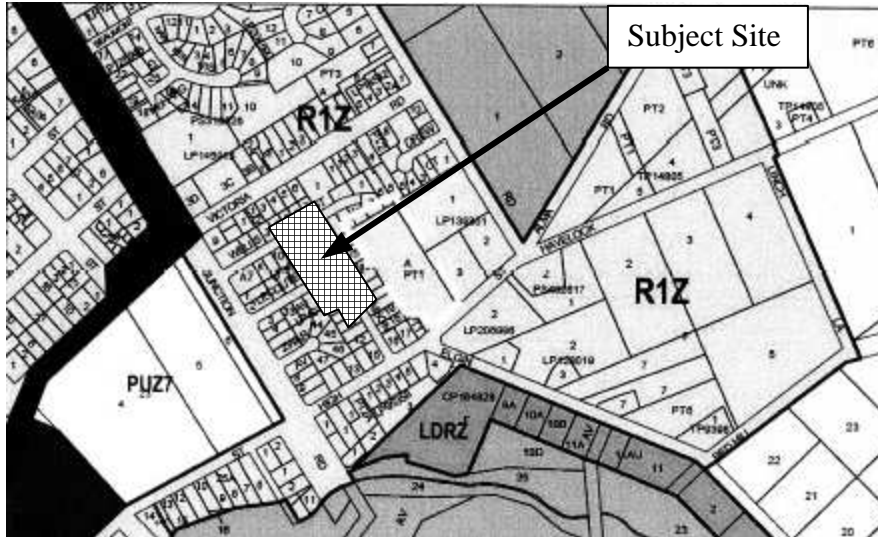
Date application lodged: 16/10/2006

Purpose: Seek approval to subdivide the subject land into 19 lots.

Subject site land area: 1.516 hectares

Site and Context Description:

The subject land is currently vacant Residential 1 Zoned land, located on the eastern fringes of Beechworth. It is a 1.516ha rectangular lot with frontage to High Street to the south as well as frontage to Lot 2 LP141518, a Council owned lot to the north that provides practical access to Wells Street.



The subject land is undulating with numerous rock outcrops and a slight depression through the centre of the lot. Planted native trees and shrubs are concentrated along the eastern and western boundaries.

The land is located on the edge of an established residential area with lots predominantly within the range of 650m² to 750m². The exceptions to this are the lots adjoining the subject land to the east and south. Streets are characterised by a mix of exotic and native vegetation located in both public and private space. A neighbourhood grocery store is located at the intersection of Wells Street and Junction Road. There is currently no formal (constructed) pedestrian link along High Street however Wells Street is serviced by a constructed footpath to the western boundary of the aforementioned Lot 2 LP141518.

PROPOSAL

The proposal is to create a residential subdivision of 19 lots ranging in size from 410m² to 910m², with an average area of approximately 672m² (see attachments). The proposed road alignment, lot sizes and dimensions are a response to the layout of existing development, the topography and tree population on site. The proposal provides for a centrally located spine road to provide frontage to the proposed lots as well as vehicular access to High Street and a pedestrian and service vehicle connection between High Street and Wells Street.

Lots proposed to be smaller than 500m² in area have building envelopes indicating that the lots are able to accommodate a dwelling in accordance with the requirements of the Indigo Planning Scheme. Likewise the lots with a significant tree population have been configured to accommodate building envelopes for the purposes of maximising the

retention of the higher value trees as identified in the tree report accompanying the application.

Existing utilities (telecommunications, electricity, water, sewer and drainage) can be upgraded and extended to service each of the proposed lots. The road to service the subdivision as well as upgrades required to High Street can be constructed to adopted Council standards. The Council owned land adjoining the northern boundary of the subject site would be required to provide a through route for service vehicles and pedestrian linkage to Wells Street. There is an existing reserve in Wells Street currently established as a pocket park within 50m of the northern boundary of the subject site, and the Wells Street footpath also provides convenient access to the neighbourhood grocery store near the intersection of Wells Street and Junction Road.

ZONING AND PLANNING CONTROLS

Zoning: Residential 1 Zone

Overlay/s: None Applicable

Permit Trigger: Clause 32.01-2 of the Residential 1 Zone provides that a permit is required to subdivide land.

STATE PLANNING POLICY

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

Settlement

14.01 Planning for Urban Settlement

Environment

15.01 Protection of Catchments

15.10 Open Space

15.11 Heritage

15.12 Energy Efficiency

Housing

16.01 Residential Development for Single Dwellings

16.05 Affordable Housing

Infrastructure

18.02 Carparking & Public Transport Access

18.03 Bicycle Transport

18.09 Water Supply, Sewerage & Drainage

Particular uses and development

19.01 Subdivision

LOCAL PLANNING POLICY FRAMEWORK

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

Municipal Strategic Statement

Relevant clauses of MSS include:

Settlement & Infrastructure

21.02 Key Issues

21.03-1 Vision & Strategic Framework

21.03-2 Corporate Plan

21.04-1 Settlement & Infrastructure

21.04-1-1 Beechworth

Local Planning Policies

22.01-3 Residential Subdivision & Development

22.03-1 Landcare & Catchment Management

22.03-11 Stormwater Management Policy

PARTICULAR PROVISIONS

52.01 Subdivision

56 Residential Subdivision

REFERRAL AUTHORITIES

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

- NERWA;
- TXU Electricity Ltd;
- Telstra, and;
- CFA.

Advice was also sought from Council's Assets Department and the Heritage Advisor.

Responses received recommend approval subject to conditions.

PUBLIC NOTICE

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

One objection has been received in response (see attachments). The objection primarily relates to the impacts of the proposal on 19 Balaclava Road, which adjoins the subject site to the east. 19 Balaclava Road is an approximately 1 hectare Residential 1 Zoned Lot and is covered by the provisions of Schedule HO429 to the Heritage Overlay under the Indigo Planning Scheme.

The objection contends that any proposed subdivision of the subject land would compromise the outlook, fencing, and native vegetation that form part of the character of the area and requests that the proposal be declined so as to protect the historic integrity of Beechworth.

DISCUSSION

Clause 14.01 of the SPPF requires that in planning for urban growth, planning authorities should encourage consolidation of existing urban areas while respecting neighbourhood character. Planning authorities should encourage higher density and mixed use development near public transport routes.

Clause 14.01 also states that nominated urban conservation areas, historic buildings and precincts should be protected from development which would diminish their environmental conservation or recreation values.

Clause 22.01-3 provides further policy direction for the assessment of residential subdivision. The policy basis provides that new residential subdivision satisfies standards regarding service connections, road construction and development impact. The policy also states that medium density housing in residential areas in towns is required to increase housing choice, provide for different lifestyle needs and better utilise existing infrastructure. It is important that such development is not detrimental to the overall character, presentation and heritage values of the Shire's towns and to the values and amenity of streetscapes.

The entire policy is relevant and selected Objectives and Decision Guidelines are repeated below:

Objectives

- To ensure that all roads that service a residential development are fully constructed and sealed.
- To provide for a variety of lot sizes to meet the requirements of all age groups, different lifestyles and to provide choice, quality of life.
- To accommodate medium density development adjacent to community services and facilities and in proximity to commercial centres.
- To ensure that the design of medium density housing takes into account the scale,

mass, form and height of other residential buildings particularly in the Shire's Heritage towns.

- To ensure that the design of such housing takes into account the streetscapes of the towns and that development is sympathetic to the environs of the site.

Decision Guidelines

Medium Density Development

- The density, number and variety of lots within residential areas should be relevant to the needs of the community.
- Generally lot size within established urban township areas should be typical of existing development.
- Medium density housing and the creation of lot sizes under 400 square metres are to be encouraged within walking distance of business areas and community facilities.
- Design emphasis should be focussed on the relationship of the development to the street scene and to neighbouring buildings and how each new development can contribute to and enhance the amenity of an area.
- Development should be well connected into the neighbourhood with:
 - dwellings facing existing and proposed streets;
 - design and landscaping which relates to the surrounding neighbourhood character;
 - provision of adequate vehicle and pedestrian links.

Clause 56 is a Particular Provision and is standard across Victoria. Recent amendments to this Clause by the State Government further support urban consolidation and encourage higher residential densities. As such Clause 56.03-5 which contains the neighbourhood character objectives does not apply to subdivision proposals in excess of 15 lots.

Clause 56.03-5 states that subdivision should:

- Respect the existing neighbourhood character or achieve a preferred neighbourhood character consistent with any relevant neighbourhood character objective, policy or statement set out in this scheme.
- Respond to and integrate with the surrounding urban environment.
- Protect significant vegetation and site features.

By removing the requirement for subdivisions in excess of 15 lots to meet the neighbourhood character objectives, the State has recognised that the creation of this

number of lots has the ability to create a sense of place and character and is not reliant on the existing character of an area for design cues.

It is appreciated that developing the site at an urban density will change the ambiance of the site, however it is not the role of the planning system to maintain the status quo in terms of the existing levels of amenity rather, the planning system requires an assessment as to whether that change is acceptable within the regulatory framework provided by the Indigo Planning Scheme.

In this instance the application has demonstrated that:

- Each lot is configured to provide a practical space able to accommodate a detached dwelling, outbuildings, driveway and car parking within the confines of its boundaries. Building envelopes have been indicated and can form the basis of restrictions that encourage the siting and basic design of future housing to take into account the streetscape and the environs of the site in accordance with Clause 14.01 and Clause 22.01-3;
- The subdivision represents in-fill development that supports urban consolidation and optimises use of existing community services and facilities;
- The design response deliberately aims at preserving existing vegetation for the purposes of providing amenity and environmental value to the estate as well as minimising the impact on the locality by allowing new development to be integrated within established landscaping;
- Each lot has direct street frontage, achieving natural surveillance of the public realm. The proposed road links High Street with Wells Street, via the Council owned lot to the north, thereby supporting permeability and accessibility objectives and integrating the site with the existing urban fabric.

Having regard to the points raised in the letter of objection, Council's Heritage Adviser has commented that the retention of trees on the site will aid in ameliorating the impacts of future development on the adjoining heritage place. The design and the layout of the subdivision is appropriate in the context of the site and the impact on the significance of the adjacent heritage place can be further ameliorated by placing conditions on a permit for the subdivision addressing the following:

- Building envelopes can be required on title, located towards the front of adjoining lots to allow for a suitable tree planting barrier between the subdivision and the heritage place;
- Provision should be made for an appropriate planting of trees between the lots and the heritage place;
- Building envelopes for sheds should be located at a distance from the rear fences to ensure that the screen trees can remain viable.

When considering the proposed urban density for this site, consideration has been given to using the established urban areas within Beechworth as a guide. Areas such as Beaumont Court, Wells Street, Thomson Street, Fletcher Hill Estate and Zwar Crt are all

located in the same zoning as the subject site, and have been developed at densities with an average lot size ranging from 570m² to 863m². The average lot size proposed for this development is 672m² and it is considered that the proposed density of this development is consistent with and integrates with the established urban layout and density of Beechworth.

When viewed in a broader urban context the proposed subdivision can be seen to meet the requirements of Clause 16.01-1 and 16.05-2 by providing a range of lot sizes, a convenient and safe road network, appropriate pedestrian and cycle paths, and by improving housing affordability by ensuring land supply continues to be sufficient to meet demand and increasing choice in housing type.

In this context the proposal, with lots ranging in size from 410m² to 910m², and an average area of approximately 672m², integrates with and complements the recently approved Krasota Estate which has lot sizes ranging from approximately 754m² to 1170m², and an average of 890m² and the Elgin Road subdivision (Mossgrove Way) with an average lot size of 950m².

The proposal creates 3 lots with adequate frontages to High Street to ensure dwellings are able to address the streetscape and integrate with existing residential development along High Street. The remainder of the lots created are located behind the three lots with frontage to High Street, and address the proposed new road. Future development of these lots will therefore create an urban space, specific to the new road orientation with no detrimental impact on the historic integrity of Beechworth.

The potential impact of the subdivision and subsequent development of the subject site on the adjacent heritage place can be ameliorated by protecting and enhancing the existing vegetated screen along the eastern boundary of the site. The building envelopes submitted with the application can form the basis of restrictions in a similar manner in which restrictions were placed on the Mossgrove Way subdivision to protect significant vegetation.

Residential Subdivision – Clause 56, 16 – 59 Lots (Refer to Clause 56 of the Indigo Planning Scheme for objectives, decision guidelines and a full description of standards).

Title & Objective	Complies / Does Not Comply / Variation Required
Clause 56.01-1 Subdivision site and context description Report, photos, plans and tree assessment form an adequate site and context description	Complies
Clause 56.01-2 Subdivision design response Site responsive design. Integrates with existing development and street network. Supports urban consolidation and efficiently utilises existing infrastructure.	Complies
Clause 56.02-1 Strategic implementation Response to R1Z which implements MSS objectives for Beechworth residential development.	Objectives Complies
	Standards Complies

<p>Clause 56.03-4 Built environment</p> <p>Permeability and accessibility supported by design response. Development of lots fronting High Street are able to address the streetscape and integrate with existing residential development along High Street. Other lots oriented to new road and therefore have little impact on fabric or character of existing residential areas other than to provide for increased permeability and accessibility via the pedestrian network.</p>	Objectives
	Complies
<p>Clause 56.04-1 Lot diversity and distribution</p> <p>When viewed in context of surrounding development and Krasota and Mossgrove Way Estates, the proposal is consistent with and adds to lot diversity in the locality. Distribution in this regard is also acceptable and complies with C22.01-3.</p>	Objectives
	Complies
<p>Clause 56.04-2 Lot area and building envelopes</p> <p>Demonstrated lot area and dimensions adequate to accommodate residential development in accordance with Clause 54.</p>	Objectives
	Complies
<p>Clause 56.04-3 Solar orientation of lots</p> <p>Responsive to site constraints and oriented to maximise access to sunlight.</p>	Objectives
	Complies
<p>Clause 56.04-4 Street orientation</p> <p>All lots have adequate street frontage to depth ratios ensuring passive surveillance of the public space.</p>	Objectives
	Complies
<p>Clause 56.04-5 Common area</p> <p>na</p>	Objectives
	na
<p>Clause 56.05-1 Integrated urban landscape</p> <p>Building envelopes, subdivision layout and lot orientation designed to retain existing vegetation. Council practice to require street trees to be provided at a rate of 1 per allotment frontage. The response lacks detail in this regard however, it is practice to require detail to be submitted with engineering plans as a condition of approval. The design response, providing footpaths and road links are constructed, ensure objectives and standards can be met.</p>	Objectives
	Variation required, can be via condition
<p>Clause 56.05-2 Public open space provision</p> <p>Response lack detail however providing footpaths and road links are constructed the objectives and standards can be met. Established pocket park within 50m of the northern boundary of the site.</p>	Objectives
	Variation required, can be via condition
<p>Clause 56.06-2 Walking and cycling network</p> <p>Response fails to address this however, as with 56.05-1 and 56.05-2 above, if footpath links are constructed, the objectives and standards can be met.</p>	Objectives
	Does not comply. Variation required, can be via condition
<p>Clause 56.06-4 Neighbourhood street network</p> <p>Response lacks detail. As above, objectives and standards can be met by construction of the road and pedestrian network to link with existing infrastructure in Wells Street.</p>	Objectives
	Variation required, can be via condition

	Standards Variation required, can be via condition
Clause 56.06-5 Walking and cycling network detail Response fails to address this however, as above, if footpath links are constructed to link with existing infrastructure in Wells Street, the objectives and standards can be met	Objectives Does not comply. Variation required, can be via condition
	Standards Does not comply. Variation required, can be via condition
Clause 56.06-6 Public transport network detail na. If link to Wells Street constructed, permeability and accessibility provide that public transport can be catered for in the future.	Objectives na
	Standards na
Clause 56.06-7 Neighbourhood street network detail Practice to require detail to be submitted with engineering plans as a condition of approval. To be in accordance with Council's Road Hierarchy Management Plan	Objectives Variation required, can be via condition
	Standards Variation required, can be via condition
Clause 56.06-8 Lot access All lots have access to local road network. Acceptable in this instance to require detail to be submitted with engineering plans as a condition of approval.	Objectives Variation required, can be via condition
	Standards Variation required, can be via condition
Clause 56.07-1 Drinking water supply As per NERWA requirements.	Objectives Complies
	Standards Complies
Clause 56.07-2 Reused and recycled water As per NERWA requirements	Objectives Complies
	Standards Complies
Clause 56.07-3 Waste water management Reticulated system as per NERWA requirements	Objectives Complies
	Standards Complies
Clause 56.07-4 Urban run-off management Acceptable in this instance to require detail to be submitted with engineering plans as a condition of approval. Stormwater drainage design to be in accordance with whole of catchment strategy adopted for Krasota and Mossgrove Way Estates.	Objectives Complies
	Standards Complies
Clause 56.08-1 Site management Acceptable in this instance to require detail to be submitted with engineering plans as a condition of approval. To be in accordance with C22.03-11. Tree protection zones also to be included, as well as details as to how construction works are to be carried out so as not to impact on adjacent properties.	Objectives Complies
	Standards Complies

Clause 56.09-1 Shared trenching To be provided where practicable to authority specifications. Details to be submitted with engineering plans.	Objectives
	Complies
Clause 56.09-2 Electricity, telecommunications and gas As above.	Standards
	Complies
Clause 56.09-3 Fire hydrants To CFA requirements.	Objectives
	Complies
Clause 56.09-4 Public lighting To TXU requirements. To be provided in accordance with Australian Standard.	Standards
	Complies
	Objectives
	Variation required, can be via condition
	Standards
	Variation required, can be via condition

CONCLUSION

Having regard to the above it is considered that provided the proposal incorporates the construction of the link between the internal road and footpath and existing infrastructure in Wells Street, the proposed subdivision is consistent with the Municipal Strategic Statement and relevant Policies. Likewise the proposal meets, or can be made to meet, the objectives of Clause 56.

If restrictions on future development are incorporated in accordance with the Heritage Adviser's comments, it is considered that the impact on the adjacent heritage place can be mitigated and that the proposal produces an acceptable outcome under the provisions of the Residential 1 Zone.

ATTACHMENTS
Plan of proposed subdivision
Letter of Objection

11.3 PLANNING PERMIT 06/280 – BROWN (FILE NO: PP06-280 - SSP)**For Decision****SUMMARY**

Planning Permit: 06/280
 Applicant: C Brown
 Subject Land: PC363768, 46 Pioneer Road, Stanley
 Proposal: Extension to existing dwelling and pergola
 Recommendation: Refusal

RECOMMENDATION

That Council refuse Planning Application PP06/280 to extend the existing dwelling and construct a pergola at PC 363768, 46 Pioneer Road, Stanley for the following reason:

The proposal is contrary to the provisions of Clause 52.17 and Clause 65 of the Indigo Planning Scheme in that the proposed development is located closer than 10 metres from existing native vegetation, which could pose a danger to the proposed development and could potentially lead to the removal/destruction of native vegetation in future.

BACKGROUND

Planning application PP06-280 was lodged on 13 December 2006. The purpose of the application is to seek approval for the construction of a pergola and an extension to the existing dwelling.

The subject site has an area of 5.49 hectares and is located on the outskirts of the township of Stanley. (See **Attachment A: Locality Plan**). Legal access is obtained from Pioneer Road, Stanley.

The site slopes upwards from the north to south. The site was cleared many years ago for the purposes of agricultural production. The site is currently used predominately as an ornamental garden.

The subject site currently consists of a dwelling, two completed outbuildings (sheds) and a third outbuilding (horse shelter) nearing completion. The dwelling and two of the three outbuildings are setback within 10 metres of the southern property boundary while the third outbuilding (horse shelter) is setback 10 metres from this boundary. All of these buildings are clustered together (see **Attachment B: Site Plan**). These buildings are located more than 100 metres from the nearest neighbouring dwelling. Properties surrounding the subject site are rural lifestyle properties/hobby farms.

PROPOSAL

The applicant is seeking approval for an extension to the existing dwelling and a pergola on the subject site. Detail regarding the siting of these proposed buildings can be seen on the site plan attached (**Attachment B**).

The extension to the existing dwelling is to be located on the western side of the existing dwelling and is proposed to include a lounge, bedroom, bathroom and verandah with a total floor area of approximately 105 m². The extension is proposed to be setback 8.02 metres from the southern boundary and 7.55 metres from this boundary fence line (see **Attachment C: Floor & Part Site Plan**). The extension is to have a height no higher than the existing dwelling (see **Attachment D: Elevations**).

The proposed pergola is to be located on the eastern side of the existing dwelling, between the dwelling and an existing shed and is setback 7.065 metres from the southern fence line (see **Attachment C: Floor & Part Site Plan**). The pergola is further proposed to be 2.55 metres high (see **Attachment D: Elevations**).

The application also includes a report from Open Space Management regarding a specific Blackwood tree on the southern boundary of the site. The subject tree is located within the neighbouring allotment in close proximity to the existing dwelling and proposed extension to this dwelling. The Open Space Management report contains conclusions with regard to construction in proximity to this tree (see **Attachment G**). These include:

- The Blackwood tree would not be adversely affected by the proposed construction;
- The tree is in poor general condition;
- The tree may pose a hazardous liability to the property boundary due to structural failure.

PREVIOUS PERMIT APPLICATION

In April 2006 Council refused a similar permit application for the extension of this dwelling based on the fact that the proposal clearly breached Clause 1a of the VCAT Order in that the extension was proposed to be constructed closer than 7.39 metres from the relevant fence line.

Plans submitted with the current application (see **Attachment C**) show the proposed extension located 7.55 metres from the fenceline and the proposed pergola located 7.065 metres from the southern fence line. The proposal, therefore, meets the relevant setbacks required by Clause 1 of the VCAT Order.

ZONING AND PLANNING CONTROLS

Zoning: Farming Zone (FZ)

Overlay/s: ESO1 (High Quality Agricultural Land)

Permit Trigger: Under Clause 35.07 (Farming Zone) a permit is required to construct or carry out buildings and works associated with a use in Section 2, including an alteration or extension to an existing dwelling with a floor area of more than 50 m².

Under Clause 42.01 (Environmental Significance Overlay) a planning permit is required to construct a building or carry out works.

STATE PLANNING POLICY

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

Environment

15.07 Protection from Wildfire

15.09 Conservation of native flora and fauna

Economic Development

17.05-2 Agriculture

LOCAL PLANNING POLICY FRAMEWORK

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

Municipal Strategic Statement (MSS)

Relevant clauses of the MSS include:

- 21.02 Key Issues
- 21.03-1 Vision and strategic framework
- 21.04-1-8 Stanley
- 21.04-2-1 Agriculture
- 21.04-3-1 Natural resource management

Local Planning Policies

- 22.02-2 Land use, development and subdivision in rural areas
- 22.03-2 Fire hazard

PARTICULAR PROVISIONS

The following particular provisions are deemed to be relevant to this proposal:

- 52.17 Native Vegetation

CLAUSE 65 DECISION GUIDELINES

Clause 65 requires that the responsible authority must decide whether a proposal will produce acceptable outcomes in terms of the decision guidelines of this clause. Decision guideline included under this clause include:

- The matters set out in Section 60 of the Act.
- The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- The purpose of the zone, overlay or other provision.
- Any matter required to be considered in the zone, overlay or other provision.
- The orderly planning of the area.
- The effect on the amenity of the area.
- The proximity of the land to any public land.
- Factors likely to cause or contribute to land degradation, salinity or reduce water quality.
- Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site.
- The extent and character of native vegetation and the likelihood of its destruction.
- Whether native vegetation is to be or can be protected, planted or allowed to regenerate.
- The degree of flood, erosion or fire hazard associated with the location of the land and the use, development or management of the land so as to minimise any such

hazard.

VCAT ORDER

As Council is aware, a Victorian Civil and Administrative Tribunal (VCAT) Order dated 6th December 2005 relates to the subject site. As such any development on this land must meet the requirements of this order.

This Order requires that:

- 1) No further structures within 30 metres of the southern boundary (being the fence line shown on the Eslers survey dated 17 February 2004 (“Eslers Plan”) including but not limited to water tanks, sheds extensions to existing structures, lean-to-attachments or any structure requiring support from any existing structure except:
 - a) **A single storey alteration to existing shed (dwelling) no higher than the existing building from natural ground level but no closer than 7.39 metres to fence line as shown on the Eslers Plan;**
 - b) **A pergola between the shed (dwelling) and the 5-bay shed at a height no greater than 2.7 metres; and**
 - c) **An alteration to horse shed for loose box/wood shed.**
- 2) Any application for any such exempted building or works to be notified to the Whamonds prior the commencement of any such works
- 3) No vegetation to be planted between the southern boundary and the shedding in compliance with Condition 9 of PP00-051
- 4) Any change of use and/or further development or works including any dual occupancy application to be notified to the Whamonds
- 5) Any amendments, including minor amendments, to existing permits on the Site to be notified to the Whamonds
- 6) Within 30 days hereof an agreement under Section 173 of the Planning and Environment Act 1987 (Vic) to be executed by Brown and Council and registered forthwith as resolved by Council as its meeting on 26 April 2000, such agreement to include items 1-5 (inclusive) and 7-10 (inclusive) and 12
- 7) Removal at Browns expense by 30 June 2006 of the recently planted exotic vegetation along the southern boundary except for the conifers located near the boundary east of the water tank
- 8) Within 30 days, at Browns’ expense, Brown will engage APT Trees or another qualified arborist (of certificate 4 level) to the satisfaction of Council and the Whamonds to reassess the tree on the boundary near the garage (PP03-334) and recommend remedial action. At Brown’s expense, Brown, subject to confirmation by the Whamonds, to take all remedial action recommended by the arborist within 21 days of receipt of the arborist’s report. A copy of the arborist’s report to be provided to the Whamonds within 2 days of receipt by Brown and before any remedial work

commences.

- 9) Brown to plant at Brown's expense within 30 days, screening native vegetation to a maximum height to 3 metres and a depth of 5 to 6 metres to supplement the conifers (2.5 metre additional) from water tanks attached to PP02/071 extending to east boundary fence
- 10) Brown to construct at Brown's expense a 2.5 metre high Colorbond steel fence (approximately 'Pale Eucalypt' in colour) on boundary line as shown by fence line on Esler Plan from the Whamonds' western boundary to the eastern-most building or tank. Construction to commence within 30 days of issue of the Whamond's possessory title or otherwise agreed by the Whamonds
- 11) At least 40 native plants of species to the satisfaction of Council must be planted within the Site by Brown before 30 June 2006.

PUBLIC NOTICE

As directed under the VCAT, the adjoining landowners (Mr and Mrs Whamond) were notified of this application. Mr and Mrs Whamond submitted objections to the proposal (see attached submissions – **Attachments E1 and E2**). Issues raised can be summarised as follows:

- Application contains false and misleading information
- No planning permit or building permit has been issued for the existing dwelling
- A Section 173 Agreement required to be entered into by the VCAT Order is still outstanding
- Extension fails to meet the Clause 1 of the VCAT Order
- Extension fails to meet condition 9 and 11 of Planning Permit PP00-051
- Application does not meet CFA requirements for bushfire protection
- Protection of existing trees on adjoining property
- Development should not take place on land affected by Environmental Significance Overlay 1

A planning focus meeting was not held in regards to these issues and it was decided to report the application to Council for decision.

The following comments are offered with regard to the submission received:

- **Application contains false and misleading information**

The applicant indicated on the application form that no encumbrances, such as Section 173 agreements, are identified on the certificate of title. A Section 173 agreement has been entered into between Indigo Shire and the applicant as required by the VCAT Order, but this agreement has not yet been registered on the certificate

of title.

- **No planning permit or building permit has been issued for the existing dwelling**

A planning permit (PP00-051) was issued on 8 March 2000 for the subject land to be used and developed for the purposes of a dwelling. This permit was amended on 8 October 2003 to allow for the existing dwelling.

This dwelling was the subject of VCAT mediation in which the objector was a participant. The VCAT Order (detailed above) was a result of this mediation and was agreed to by all parties involved.

A Building Notice has been issued for the dwelling. This issue has no significant impact on the current application.

- **A Section 173 Agreement required to be entered into by the VCAT Order is still outstanding**

This Section 173 agreement has been entered into, but has not yet been registered on the title.

It should be noted that the agreement has been lodged with the Land Registry, but that it is still unclear if the agreement will be registered on the title. This uncertainty is a result of relevant ongoing County Court proceedings (see **Attachment F**- letter from Land Registry).

This issue does not necessarily affect planning permit application on this allotment, as a condition could be inserted on the planning permit to ensure that such a planning permit did not have any force or effect until the relevant Section 173 agreement was registered on the title of the property.

- **Extension fails to meet the condition 1 of the VCAT Order**

The objectors argue that condition 1 of the VCAT order only allows for an “alteration” to the existing dwelling to be constructed closer than 30 metres from the southern fence line, but that this application includes a major extension as it would double the size of the existing dwelling.

The objectors are suggesting that additions the dwellings equal or greater in size of the existing floor area is not a mere ‘extension’ but amounts to a new proposal and should therefore not be located within 30 metres of the southern fence line (see Clause 1 of the VCAT Order).

Clause 1 of the VCAT Order refers to:

“A single storey alteration to the existing shed (dwelling) no higher than the existing building...”

This implies that such an alteration could include an extension to the existing dwelling. The word ‘alteration’ does further not exclude alterations of a substantial size. The VCAT Order does not specifically limit the size of the alteration and therefore it is considered that this argument is unsubstantiated.

- **Extension fails to meet condition 9 and 11 of Planning Permit PP00-051**

Condition 9 of Planning Permit PP00-051 deals with Bush Fire Protection and is addressed in the next bullet point.

Condition 11 of Permit PP00-051 states:

“The development hereby approved shall not be located within 15 metres of any property boundaries

This permit was amended on 8 October 2003 by endorsing new plans showing the existing dwelling in its current location.

- **Application does not meet CFA requirements for bushfire protection**

The objectors refer to a CFA document entitled “Building in a Wildfire Management Overlay – Applicants kit”. This document clearly states that:

“This guide will help anyone intending to build a dwelling in a Wildfire Management Overlay (WMO) area. These overlays form part of a municipal planning scheme and identify areas the Country Fire Authority considers at particular risk from wildfire due to vegetation, slope and climatic conditions”

The Indigo Planning Scheme does not include a Wildfire Management Overlay at this time. Relevant local policy is however included in the Indigo Planning Scheme (Clause 22.03-2: Fire Hazard).

This local policy requires that consideration be given to the CFA Design and Siting Guidelines: “Bushfire Protection for Rural Houses”, which the objectors refer to. The impact of the siting guidelines is limited in this instance as the siting of the extension is largely determined by the siting of the existing dwelling.

- **Protection of existing trees on adjoining property**

The proposed development is located closer than 10 metres from existing native vegetation and could potentially lead to the removal of this vegetation without the need for a planning permit for such removal.

- **Development should not take place on land affected by Environmental Significance Overlay 1**

The Environmental Significance Overlay and Schedule 1 to this overlay does not exclude development from taking place on land included in this overlay. The decision guidelines for this overlay allows for development to take place but require that it be sited so as to avoid or minimize loss of good quality agricultural land.

In this instance no good quality agricultural land will be lost as the land proposed for development could not currently be used for agricultural purposes due to its size and location between existing structures.

DISCUSSION

It is considered on balance that the proposed development does not meet the requirements of the Indigo Planning Scheme (IPS) and the Planning and Environment Act (P&E Act). The following clauses/sections are of particular relevance:

- **Clause 65 Decision Guidelines**

Decision guideline included under this clause includes:

- *The extent and character of native vegetation and the likelihood of its destruction.*

Clause 21.04-3-1 Natural resource management

The objectives of this Clause include:

- o To promote sustainable management of the natural resource base by:
 - Managing land use and development in water catchments to ensure that quality of the Shire's rivers and watercourses; and
 - Minimising soil erosion and **vegetation loss** through encouragement of Landcare principles within the planning process.

- **Clause 52.17 Native Vegetation**

The purpose of this Clause is to protect and conserve native vegetation to reduce the impact of land and water degradation and provide habitat for plants and animals.

To achieve this a number of objectives are identified and includes:

"To avoid the removal of native vegetation"

Only in cases where the removal of native vegetation is impossible to avoid would removal be considered.

This approach is further confirmed in *Victoria's Native Vegetation Management – A Framework for Action*, which is an incorporated document in the Indigo Planning Scheme and consideration of this document is specifically required by the decision guidelines included under Clause 52.17.

Under decision guidelines, Clause 52.17 also states that before deciding on an application the responsible authority must consider:

"Whether the proposed development can be located and designed to avoid the removal of native vegetation"

Clause 52.17 further provides for the removal of vegetation to take place without a planning permit in a limited number of instances. These exemptions include:

"The removal, destruction or lopping of native vegetation within 10 metres of a building."

The extension to the existing dwelling and pergola are both proposed to be located closer than 10 metres from native vegetation located on the southern boundary of the subject site (see **Attachment C**: Floor & Part Site Plan). Allowing new buildings to be erected within 10 metres of any native vegetation would allow for the removal of this vegetation without any permit being required.

In this case such a removal of vegetation can be avoided by not permitting the proposed development to take place within 10 metres of native vegetation. It is considered that it would be possible to amend the location of the proposed development in such a way that the possible future removal of native vegetation would be avoided.

It should further be considered that the relevant native vegetation impacting on this application is located on a neighbouring property and has been the subject of a dispute between the applicant and relevant neighbours.

Approving development in close proximity to existing trees could also potentially pose a danger to the proposed buildings.

As the proposal is contrary to the provisions of Clause 52.17 and 65 of the Indigo Planning, it is recommended that it be refused.

Attachments
Attachment A : Locality Plan
Attachment B : Site Plan
Attachment C: Floor & Part Site Plan
Attachment D: Elevations
Attachment E1 & E2 : Submissions from Mr and Mrs Whamond
Attachment F: Letter from Land Registry
Attachment G: Extract from Open Space Management report
regarding Blackwood tree

11.4 HERITAGE ADVISORY COMMITTEE – RETIREMENT OF MEMBER (FILE NO: E511-03 - EDSM)

RECOMMENDATION

That Council forward a letter of acknowledgement under seal to Mrs Judy Harrison for her contribution to the Indigo Heritage Advisory Committee.

SUMMARY

Mrs Judy Harrison retired as a member of the Indigo Heritage Advisory Committee at the end of 2006. This report advises Council of this resignation and recommends appropriate acknowledgement of Mrs Harrison's service to the Indigo community.

BACKGROUND

The Indigo Heritage Advisory Committee was formed following creation of Indigo Shire. It followed on from the committee administering the revolving fund for heritage loans for Chiltern, Beechworth and Yackandandah Shires.

Membership of the committee comprises Councillors, community representatives (preferably one from each of the four main towns), the Environment and Development Services Manager, Senior Statutory Planner, a representative of Heritage Victoria, a representative of the National Trust of Australia, and a representatives of the Historic Towns Cultural Precinct.

Mrs Judy Harrison has represented the Rutherglen area since 2001. Judy has contributed to the committee's discussions and decision and has been a strong advocate for the Rutherglen area. Judy did not seek reappointment to the Committee at the end of 2006.

11.5 PLANNING APPLICATION 06-224 - SCOTT (SSP)

For Decision

SUMMARY

Application No:	PP06-224
Applicant:	Scott
Subject Land:	Lot 11, James Court, Rutherglen
Proposal:	2 lot subdivision
Recommendation:	Grant permission

RECOMMENDATION

That Council give notice of decision to grant Planning Permit 06-224 subject to the following conditions:

1. PLANS TO BE SUBMITTED

Before a plan of subdivision can be certified, plans prepared by a licensed surveyor to the satisfaction of the Responsible Authority, must be submitted to and approved by the Responsible Authority. The plans must be generally in accordance with the plans submitted with the application, drawn to scale showing all bearings, distances, levels, street names, lot numbers, lot sizes, and easements.

2. CROSSINGS

Any new vehicular access points required and any required existing crossings points not complying with current standards shall be constructed at full cost to the applicant/owner at a location, and to a standard, to the satisfaction of the Responsible Authority. A crossing permit must be obtained from the Responsible Authority and levels fixed. The point of access to the site shall be a point that gives practical access to the building location to the satisfaction of the Responsible Authority and the road reserve and road formation must be left in a neat and tidy manner.

3. STORMWATER DRAINAGE

Prior to the issue of the Statement of Compliance provision for a stormwater drainage discharge point to each allotment must be made including the construction of stormwater outfall drains as required. Drains to be constructed under the supervision of Council and in accordance with plans and specifications approved by Council.

4. FUTURE WORKS

The owner of the property at the time shall contribute to the cost of street, drainage, footpaths or other works in accordance with Indigo Shire Council Policy for contribution to Special Charge Schemes at the time of the works.

5. WATER SUPPLY

Prior to the issue of the Statement of Compliance a reticulated water supply shall be provided to each lot on the plan of subdivision to the satisfaction of the North East Region Water Authority.

6. RETICULATED SEWERAGE

Prior to the issue of the Statement of Compliance reticulated sewerage shall be provided to each lot on the plan of subdivision to the satisfaction of the North East Region Water Authority.

7. SEDIMENT POLLUTION CONTROL

Any clearing or construction activity associated with the subdivision and development of the land shall be carried out in accordance with EPA Publication 275 "*Construction Techniques for Sediment Pollution Control*".

8. STATUTORY REQUIREMENTS - CLAUSE 66 INDIGO PLANNING SCHEME

- (i) The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities, electricity, gas and telecommunication services to each lot shown on the

endorsed plan in accordance with the authority's requirements and relevant legislation at the time.

- (ii) All existing and proposed easements and sites for existing or required utility services and roads on the land must be set aside in the plan of subdivision submitted for certification in favour of the relevant authority for which the easement or site is to be created.**
- (iii) The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to the relevant authority in accordance with Section 8 of that Act.**

9. EXPIRY DATE

This permit will expire if the Statement of Compliance pursuant to the provisions of the Subdivision Act 1988 is not issued within two (2) years of the date of issue of this permit. The Responsible Authority may extend the period referred to if a request is made in writing before the period expires or within three months of the date of expiration.

BACKGROUND

Planning application 06-224 is for a two-lot subdivision.

Planning application 06-224 was lodged on 18 September 2006. At this time, the purpose of the application was to seek approval to use and develop the subject site for the purposes of two townhouses. However a restrictive covenant on the property prohibited the proposal. This initial application was for two townhouses on one lot (contravening clause (f) below), of which Unit 1 is 109.2 m² (contravening clause (g) below):

- (f) That the transferees will not build, construct or erect or cause to be built, constructed or erected or allowed to remain on the land more than one dwelling (unless such dwelling stands on separate title due to further subdivision of the land)...*
- (g) That such dwelling will have a floor area (excluding verandahs and carports) of not less than 110 square metres unless they stand on certificates of title issued as a result of resubdivision of the land in which case they shall have a floor area of not less than 93 square metres.*

The application was subsequently amended to a two-lot subdivision, which requires a planning permit under the Residential 1 zone. It should be noted that the subsequent development of a dwelling on a lot greater than 300 square metres does not require a planning permit.

The subject site is approximately 1100 m², and is located in within the existing urban area of Rutherglen at James Court. The property is flat and is currently vacant.

The surrounding properties comprise large similarly sized lots, with larger family homes. Several blocks in the Court are currently vacant.

PROPOSAL

The applicant is seeking approval for the subdivision of the property and erection of two dwellings (see **Attachment A**). The proposal would result in two lots of 649m² and

443m².

ZONING AND PLANNING CONTROLS

Zoning: Residential 1 Zone

Overlay/s: None applicable

Permit Trigger: A permit is required to subdivide land under Clause 32.01 (Residential 1 Zone).

No planning permit will be required for the use and development of one dwelling on a lot greater than 300m².

STATE PLANNING POLICY

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

Settlement

14.01 Planning for Urban Settlement

Environment

15.12 Energy Efficiency

Housing

16.01 Residential Development for Single Dwellings

16.02 Medium Density Housing

Infrastructure

18.09 Water Supply, Sewerage & Drainage

Particular uses and development

19.01 Subdivision

LOCAL PLANNING POLICY FRAMEWORK

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

Municipal Strategic Statement

Relevant clauses of MSS include:

Settlement & Infrastructure

21.02 Key Issues

21.03-1 Vision & Strategic Framework

21.03-2 Corporate Plan

21.04-1 Settlement & Infrastructure

21.04-1-2 Rutherglen

Local Planning Policies

22.01-3 Residential Subdivision & Development

22.03-11 Stormwater Management Policy

PARTICULAR PROVISIONS

56 Residential Subdivision

REFERRAL AUTHORITIES

The application was referred to the Assets for advice, which indicated that the application could be approved with standard conditions for crossings, stormwater drainage, contribution to future works, sediment and pollution control.

PUBLIC NOTICE

Notice of the application was given to adjoining owners and occupiers and other relevant persons in accordance with Section 52 (1) of the Planning and Environment Act 1987 on 26 September 2006.

One submission was received in response. This submission was signed by 5 residents of James Court, with two further residents names indicating objection to the proposal but did not sign the letter. The main issues raised in the submission include:

- The James Court subdivision is not yet three years old and a proposal to building units and allow dual occupancy is already being considered.
- The proposed development breaches the covenant on the property.
- The proposal will devalue surrounding properties.

Those clauses of the covenant most applicable to this application include:

- (f) *That the transferees will not build, construct or erect or cause to be built, constructed or erected or allowed to remain on the land more than one dwelling (unless such dwelling stands on separate title due to further subdivision of the land)...*
- (g) *That such dwelling will have a floor area (excluding verandahs and carports) of not less than 110 square metres unless they stand on certificates of title issued as a result of resubdivision of the land in which case they shall have a floor area of not less than 93 square metres.*

The initial application was for two townhouses on one lot (contravening clause (f)), of which Unit 1 is 109.2 m² (contravening clause (g)).

The application was subsequently amended to a subdivision of the lot, following which the proposal for two townhouses would be consistent with the requirements of the restrictive covenant. The application was re-notified once amended on 8 November 2006, and two submissions were received in response. The main issues raised in the submissions include:

- Character of the estate - quality family homes with good resale.
- Safety issues with increased traffic as a result of dual occupancy.
- Restrictive covenant sets a standard for the type and size of dwellings to be constructed. Units do not have the same appeal as one quality built home.
- By signing a covenant at time of purchase, landowners agreed that covenants are important part of protecting property and future developments.

These issues are discussed below.

DISCUSSION

The application comprises a two-lot subdivision, creating two lots of approximately 649m² and 443m².

The application is considered to be consistent with the requirements of the State Planning Policy Framework, as follows:

- Consistent with Clause 15.12 (Energy Efficiency), the proposal will result in more efficient land use, consistent with efficient use of energy and minimise greenhouse gas emissions. The proposal also consolidates urban development.
- In accordance with Clause 16.01 (Residential development for single dwellings), the proposed subdivision will create diversity in lot size, will increase the cost-effectiveness of infrastructure provision and use, and create opportunities for increased residential densities to help consolidate urban areas.
- Consistent with Clause 16.02 (Medium density housing), the proposed subdivision will result in an increase in housing density and improving housing choice, making better use of existing infrastructure.
- Consistent with Clause 19.01 (Subdivision), particularly with regards to the provision of lot sizes to suit a variety of dwelling and household types to meet the needs and aspirations of different groups of people.

The application is also considered to be consistent with the requirements of the Local Planning Policy Framework, particularly Clause 22.01-3 (Residential subdivision and development). The average lot size in James Court is around 1000m², and thus this application is introducing a relative element of medium density development into the street. With regards to medium density development, the policy basis is:

“Medium density housing in residential areas in towns is required to increase housing choice, provide for different lifestyle needs and better utilise existing infrastructure. It is important that such development is not detrimental to the overall character, presentation and heritage values of the Shire’s towns and to the values and amenity of streetscapes.”

The following are the relevant decision guidelines subdivisions creating medium density housing:

- The density, number and variety of lots within residential areas should be relevant to

the needs of the community.

- Generally lot size within established urban township areas should be typical of existing development.
- Medium density housing and the creation of lot sizes under 400 square metres are to encouraged within walking distance of business areas and community facilities.

In terms of Clause 56 (Residential Subdivision), this application being for a two lot subdivision is required to be consistent with Clauses 56.03-5, 56.04-2, 56.04-3, 56.04-5, 56.06-8 to 56.09-2. Clause 56 states that a development must meet all the objectives of the Clause and should meet all the standards. Those objectives and standards that raise issues with regards to this proposal include Clause 56.04-2 (Lot area and building envelope) and 56.03-5 (Neighbourhood character). These are set out in the table below:

Objective	Standard
Objective: To design subdivisions that respond to neighbourhood character	Standard: Respect the existing neighbourhood character or achieve a preferred neighbourhood character consistent with any relevant neighbourhood character objective, policy or statement set out in the scheme
	Standard: Respond to and integrate with the surrounding urban environment
	Standard: Protect significant vegetation and site features
✓ Complies Planning Comment: See discussion below	✓ Complies Planning Comment: See discussion below
Objective: To provide lots with areas and dimensions that enable appropriate siting and construction of dwelling, solar access, private open space, vehicle access and parking, water management, easements and the retention of significant vegetation and site features.	Standard: Lots of between 300 and 500 square metres should contain a building envelope and be able to contain a rectangle measuring 10m x 15m
	Standard: A building envelope may specify or incorporate any relevant siting and design requirements. Any requirement should meet the relevant standards or Clause 54
	Standard: Where a lot with a building envelope adjoins a lot that is not on the same plan of subdivision: <ul style="list-style-type: none"> • The building envelope must meet Standards A10 and A11 of Clause 54 in relation to the adjoining lot, and • The building envelope must not regulate siting matters covered by Standards A12 to A15 of Clause 54 in relation to the adjoining lot.
✓ Complies Planning Comment: The design of the subdivision proposal is considered to be consistent with the objectives in relation to lot area and building envelope.	✓ Complies Planning Comment: The lots are large enough to contain a building envelope 10m x 15m, and appears to comply with the relevant standards of Clause 54 (being for one dwelling on a lot).

Neighbourhood character

General practice notes “Understanding Neighbourhood Character” describes neighbourhood character as:

“...essentially the combination of the public and private realms. Every property, public place or piece of infrastructure makes a contribution, whether great or small. It is the cumulative impact of all these contributions that establishes neighbourhood character. The key to understanding character is being able to describe how the features of an area come together to give that area its own particular character. Breaking up character into discrete features and characteristics misses out on the relationships between these features and characteristics. Understanding how these relationships physically appear on the ground is usually the most important aspect in establishing the character of the area.”

Those features and characteristics that should be considered include but are not limited to:

- The pattern of development of the neighbourhood,
- The built form, scale and character of surrounding development including front fencing,
- Architectural and roof styles, and
- Any other notable features or characteristics of the neighbourhood.

This subdivision proposal must meet the objectives of the residential development provisions. The first objective that must be met is the neighbourhood character objective. The standard for this objective requires the design response to:

- respect the existing neighbourhood character or contribute to a preferred neighbourhood character
- respond to and integrate with the surrounding urban area.

Clause 56.03-5 requires subdivision proposals to respond to neighbourhood character, while relevant standards require the proposal to respect the existing neighbourhood character and respond to and integrate with the surrounding urban environment.

As noted by the general practice notes, respecting character does not mean preventing change. The neighbourhood character standard is not intended to result in the replication of existing building stock or stop change. Neighbourhood character is one of many objectives that must be met. Some areas will see significant changes as a result of new social and economic conditions, changing housing preferences and explicit housing policies. In these areas, it is important that respecting character is not taken too literally, as a new character will emerge in response to these new social and economic conditions. In simple terms, respect for the character of a neighbourhood means that the development should try to ‘fit in’. Depending on the neighbourhood, there are two broad approaches to respecting character:

- respecting the scale and form of surrounding development
- respecting the architectural style of surrounding development.

Determining whether either or both approaches should influence the design response will depend on the features and characteristics identified in the neighbourhood and site

description. Those aspects of neighbourhood character identified by the applicant in the proposal includes: form of surrounding development, design details such as roof form, materials, fencing, landscaping, car parking and private open spaces. As such, the applicant has identified aspects of both the scale and form of surrounding development in addition to architectural style.

It is thus considered that the subdivision of smaller lots in itself does not impact upon the existing neighbourhood character. It has been argued by submitters that smaller lots are inconsistent with the character of the neighbourhood, however it is clear that lot size in itself does not entirely comprise neighbourhood character. As discussed above, it is the future development of the site which will need to respect the scale, form and architectural style of the surrounding development. Where this is achieved, then neighbourhood character will also be achieved.

Further, the creation of smaller lots has some policy basis in terms of Clauses 16.01, 16.02, 19.01 and 22.01-3 as discussed above and therefore the development can be considered to respect preferred character.

Traffic safety

An issue of concern was raised by objectors with regards to traffic safety as a result of increased vehicles associated with the dual occupancy. It should be noted that the approval of a subdivision in this location does not trigger any requirement for improved road infrastructure. Council's Technical Services Branch assessed this issue, who indicated that smaller residences such as proposed tend to generate fewer vehicle movements per day. For example, it is more likely that smaller residences will be occupied by lone person households or couples.

Further, there is adequate space on site for the provision of on-site car parking.

CONCLUSION

The proposed two lot subdivision is considered to be consistent with the provisions of the zone, and applicable clauses in relation to residential subdivision. Therefore there is no reason why this application should be refused.

Attachments
Attachment A – Locality plan
Attachment B – Proposal
Attachment C - Submissions

11.6 SECTION 173 AGREEMENTS - (05/189, 04/206) (EDSM)

RECOMMENDATION

That Council, as the relevant Responsible Authority, resolve to enter into the subject Section 173 Agreements with the following landowners and to sign and seal the appropriate documentation:

- A) Atkinson**
- B) McIntosh**

INTRODUCTION

The following Section 173 Agreements are presented to Council with a recommendation for approval under the seal of Council.

Such agreements, made under Section 173 of the Planning and Environment Act, are legally binding and are registered against the Title of the land. That is, they run with the land so that subsequent owners are also bound to the terms of the agreement. These agreements can be removed from the Title at some later date only with the consent of the Responsible Authority (in this case Council).

COMMENT

In the Agreements referred to, the responsibility of making application on behalf of Council to the Registrar of Titles office for the registration of the Agreement and the payment of all legal costs is that of the other party entering into the Agreement with Council.

BACKGROUND

A) Planning Permit 05/189 relates to the re-subdivision of land located at Bridge Road, Beechworth. The land is zoned Residential 1 Zone and was comprised of 2 lots fronting Spring Street and Bridge Road (see Attachment A). The subdivision alters the dimensions of each lot and provides the lot fronting Bridge Road with frontage to Spring Street. The Planning Permit was issued on the basis that a Section 173 Agreement was to be entered into with the Responsible Authority to:

- provide notification to future landowners of lots 1 and 2 by way of an endorsement on the title, of the need to make a cash contribution to any future Special Charge Scheme to improve specific road infrastructure in Spring Street, Beechworth at the time of the works.

B) Planning Permit 04/206 relates to a 7 lot subdivision of land at Richardsons Race Road, Yackandandah (see Attachment B). The land is zoned Rural Living Zone and is subject to Work Authority 1122 for gravel extraction on Lots 23 and 24. The permit was issued on the basis that prior to the issue of the Statement of Compliance being issued the applicant / landowner must complete all rehabilitation requirements to the gravel extraction quarry on the land as outlined in Works Authority 1122 and obtain written notification from the Department of Minerals and Energy of completion of all of their

requirements for reinstatement.

Due to exceptional climatic conditions and the requirement from the Department of Primary Industries for a 2 year maintenance period for the revegetation plantings, the permit was amended on the 15/01/2007 to allow for the Statement of Compliance to be issued provided that an agreement with Council under Section 173 of the Act is entered into which ensures that:

- (a) development of lots 23 and 24 does not prejudice the rehabilitation of the gravel extraction quarry on the land as outlined in Works Authority 1122, and;
- (b) the owner/occupier of the land will co-operate with and provide free access to ND & KE McIntosh, Council and its agents to enable the completion all rehabilitation works required to be carried out by those parties, pursuant to Works Authority 1122 and to the satisfaction of the Department of Primary Industries.

Attachments

Attachment A: Locality/Site Plan – PP05/189, Bridge Road, Beechworth
Attachment B: Locality/Site Plan – PP04/206, Richardsons Race Road, Yackandandah

11.7 PLANNING APPLICATION 06-219 - SULLIVAN (SSP)

For Decision

SUMMARY

Application No:	PP06-219
Applicant:	Sullivan (Bundalong Caravan Park)
Subject Land:	Crown Allotment 5A Section J, Parish of Brimin (Vol 8535 Fol 875), 44 Old Murray Valley Highway, Brimin
Proposal:	Use and development of land for the purposes of a boat storage shed
Recommendation:	Refusal

RECOMMENDATION

That Council refuse Planning Application PP 06/219 to use and develop the land for the purposes of a boat storage shed for the following reasons:

- 1. The proposal is inconsistent with the decision guidelines of Clause 35.07 (Farming Zone), by virtue it's siting, design and bulk.**
- 2. The proposal is inconsistent with the intent of Clause 17.04 (Tourism) and Clause 22.02-4 (Tourism development) in respect its design and siting and the resultant impact on landscape characteristics of the area.**
- 3. The proposal is contrary to the decision guidelines of Clause 18.01 (Declared**

highways, railways and tramways) in respect of the detriment caused to the Murray Valley Highway in terms of the reduced visual standards and inadequacy of landscaping

BACKGROUND

Planning application 06-219 was lodged on 12 September 2006. The purpose of this application was to seek approval to use and develop the subject site for the purposes of a boat storage shed.

The subject site is approximately 4.3 hectares and is located on the western most part of the shire on the Murray Valley Highway. The property is relatively flat, is largely free of environmental constraints and is currently used for the Bundalong Caravan Park.

There are existing dwellings located on neighbouring properties, however the main land-use on surrounding properties is grazing (see **Attachment A** – locality plan). In terms of the Indigo Planning Scheme, the subject land and surrounding properties are zoned as Farming Zone with an Environmental Significance Overlay 3 – Black Dog Creek.

PROPOSAL

The applicant is seeking approval for the use and development of a boat storage shed on the subject site. The plan attached as **Attachment B** shows the proposed building envelope to be located in the north western corner of the property. The applicant has indicated that a setback of approximately 4.5 metres would be achieved between the boundary of the property and the proposal storage shed. This is inconsistent with those setbacks required by Clause 22.01-2 Rural dwelling siting and design guidelines, and is thus inconsistent with requirements imposed on rural dwellings.

In support of the proposal the applicant argues that the proposal deserves Council's support because:

- A 4 metre setback is consistent with the setback previously granted for a shed on the Old Murray Valley Highway (PP01-250).
- The proposed site makes use of existing roads which cannot be moved, and allows safe vehicle movements in regards to reversing of large car/trailer from caravan sites and especially children.
- The wall height of the shed has been kept to a minimum of 2.7m, and the area to the rear of the shed would be densely planted with screening vegetation.
- Extensive planting along the nature strip between the caravan park and the Murray Valley Highway has already been carried out, helping to screen the caravan park.

ZONING AND PLANNING CONTROLS

Zoning: Farming Zone

Overlay/s: ESO3 (Black Dog Creek)

Permit Trigger: The proposal is defined as 'boat and caravan storage', being 'land use to store boats, caravans or vehicle-towed boat trailers'. Under

Clause 35.07 (Farming Zone), this land use is included in 'store', a Section 2 use that requires a planning permit. Further, the proposed building would be located within 100m of the Murray Valley Highway that triggers the requirement for a planning permit for the development.

STATE PLANNING POLICY

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

Economic Development

17.02 Business

17.04 Tourism

Infrastructure

18.01 Declared Highways, railways & Tramways

LOCAL PLANNING POLICY FRAMEWORK

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

Municipal Strategic Statement

21.01-3 Settlement & Infrastructure

21.01-4 Economy

21.01-5 Environment

21.02 Key Issues

21.03-1 Vision & Strategic Framework

21.03-2 Corporate Plan

21.04-1 Settlement & Infrastructure

Local Planning Policies

22.01-2 Rural Dwelling Siting & Design Guidelines

22.02-2 Land use, development and subdivision in rural areas

22.02-4 Tourism Development

21.04-2-2 Tourism

PARTICULAR PROVISIONS

None Applicable

REFERRAL AUTHORITIES

No referral authorities were consulted on this application.

Schedule 3 to the Environmental Significance Overlay states that before deciding an

application to develop land, the responsible authority must consider the comments of the North East Catchment Management Authority (NECMA). The application was not referred to NECMA given the planning officers' lack of support for the application. If Council does not support the recommendation for refusal, then prior to granting a planning permit, this application should be referred to NECMA under S.55 of the Planning and Environment Act 1987.

PUBLIC NOTICE

In terms of Section 52(1) of the planning and Environment Act, notice of this application was given to all adjacent landowners and occupiers. No submissions were received in response.

DISCUSSION

The subject site is the Bundalong Caravan Park, which is located at the western boundary of the shire on the Murray Valley Highway. It is located near the Ovens River to the south of Lake Mulwala, and the focus of the visitors to the caravan park is water sports provided by the nearby lake and river. The Park comprises approximately 103 caravan and cabin sites.

The current planning permit application is for a boat storage shed, 34.4 metres long, 7.5 metres wide and 2.7 metres high, to be located at the north-west corner of the site, approximately 4.5m from the property boundary and approximately 16m from the sealed surface of the Murray Valley Highway.

The main issue identified with this application is the setback of the proposed shed from the property boundary, and the appearance of the shed once constructed from off the site.

The issue of the appearance and location of the shed has been addressed with the applicant, and various other options investigated. This includes moving the shed to an alternate position on the site, or rationalisation of the several storage sheds which already exist on the Old Murray Valley Highway side of the site. These options have been reviewed and discounted as not feasible by the applicant, and the applicant has requested that in this case a smaller setback to the Murray Valley Highway be considered.

The Indigo Planning Scheme provides some guidance with respect to this application, however it should be noted that there is no prescriptive setback for buildings other than residential buildings in the Indigo Planning Scheme.

Clause 22.01-2 (Rural dwelling siting and design guidelines) of the LPPF contains guidance as to the standards expected of residential buildings in rural areas, which are expected to be compatible with their surroundings, and that the character and visual quality of rural landscapes is not prejudiced by inappropriate development. Specifically, the guidelines require that dwellings should not be located within 15 metres of any property boundary or within 30 metres of any road, or closer than 100m to any waterway (as determined by Goulburn-Murray Water). It is accepted that this policy does not apply to the application site, being for a boat storage shed on a caravan park site. However the objectives of the policy provide some guidance as to what is considered to be acceptable in rural areas, albeit for dwellings.

However, the Indigo Planning Scheme does provide relevant more general policy and decision guidelines in respect of new development in the Farming Zone and rural areas, which are relevant to this application.

Clause 35.07 (Farming zone) includes decision guidelines that must be considered by the responsible authority. In respect of this application, Council is required to consider the following relevant decision guidelines:

- State Planning Policy Framework and the Local Planning Policy Framework (relevant policies are set out above and discussion given below);
- The impact of the siting, design, height, bulk, colours and materials to be used, on the natural environment, major roads, vistas and water features and the measures to be undertaken to minimise any adverse impacts.

It is considered that the proposed boat storage shed is a substantial structure, which will impact on the surrounding area and the Murray Valley Highway by virtue of its:

- Siting, being 4.5 metres from the boundary of the site and approximately 16 metres from the sealed surface of the highway
- Design and bulk. Although the height has been minimised to 2.7m, which is of a domestic scale, the length of the shed 34.4 metres, making it a large and obtrusive structure, which will read as a large industrial type structure in a rural setting. The appearance of the shed will be incongruous to its rural setting, and will also appear large and bulky in comparison to its setting in the caravan park, being located next to a row of small evenly spaced caravans. The caravans have a similar setback from the Murray Valley Highway, however in this case it is not considered reasonable to allow the same setback, given the design and bulk of the building.

The Indigo Planning Scheme provides further guidance which is relevant to this application, with respect to tourist development and development within the vicinity of declared highways.

With regards to tourism, **Clause 17.04 (Tourism)** of the SPPF aims to encourage tourism development, by encouraging the development of a range of well-designed and sited tourist facilities. The clause states that tourist development should be compatible with and build upon the assets and qualities of surrounding urban or rural activities and cultural and natural attractions. This is implemented at the local level by **Clause 22.02-4 (Tourism development)** in the LPPF, which aims to ensure that tourism development is located, designed and sited in a manner that protects and enhances the special environmental and landscape characteristics of the area. In terms of the current proposal, it is policy to ensure that new development does not compromise the landscape and environmental qualities of the surrounding area, or substantially change the natural landform.

Similarly, **Clause 22.02-2 (Land use, development and subdivision in rural areas)** applies to the use, development and subdivision of land in the Farming Zone, thus is directly applicable to the application site. However this policy is largely silent on industrial type buildings as the one proposed, with the exception of one objective of the policy, being to ensure that development takes account of site opportunities and

constraints.

With regards to development near the Murray Valley Highway, **Clause 18.01 (Declared highways, railways and tramways)** of the SPPF aims to integrate land use and transport planning around existing declared highways, and with regards to new development, states that it should be planned or regulated to avoid detriment to, and where possible enhance, the service, safety and amenity desirable for that transport route in the short and long terms. The Clause goes on to state that areas near transport routes should be planned and regulated to achieve visual standards appropriate to the importance of the route with particular reference to landscaping and, where appropriate, the provision of buffer zones amongst other requirements that are not considered relevant to this application. Clause 35.07 (Farming zone) also requires consideration of the impact of the siting, design, height, bulk, colours and materials to be used, on major roads.

As noted above, the proposed boat storage shed is a substantial structure. Although the height has been minimised to 2.7m, which is of a domestic scale, the length of the shed 34.4 metres, making it a large and obtrusive structure. The applicant has proposed a 4.5m setback from the boundary of the property, however the adequacy of this area for screening and landscaping in order to reduce its impact is questioned. Specifically, the types of planting required to screen this area, the density of growth that would be achieved in a space of 4.5m wide and the length of time taken to fully screen the shed to the Highway. Further, the species selected would be important, as the preference would be for native species in this rural area, and whether native species would achieve the growth and form necessary to fully screen a 34.4m long shed. This has not been adequately addressed by the applicant, with the exception of suggesting dense planting of this area, similar to properties elsewhere on the Murray Valley Highway.

CONCLUSION

It is considered that the proposal, by virtue of its siting, design and bulk are inconsistent with the Council's objectives for the appearance and character of rural areas. Further, the mitigation measures proposed to minimise the adverse impacts of the proposal are considered to be inadequate and unlikely to adequately screen the building from the Murray Valley Highway.

The proposal is thus considered to be inconsistent with:

- The decision guidelines of Clause 35.07 (Farming zone) in respect of the impact of the siting, design and bulk of the proposal on the Murray Valley Highway.
- Clauses Clause 17.04 (Tourism) and Clause 22.02-4 (Tourism development) in respect of the design and siting of the proposed tourist facility and its impact on landscape characteristics of the area.
- Clause 18.01 (Declared highways, railways and tramways) in respect of the detriment caused to the Murray Valley Highway in terms of the reduced visual standards and inadequacy of landscaping.

*Attachments
Attachment A – locality plan
Attachment B - proposal*

11.8 PLANNING APPLICATION 07-009 – SAWYER (SSP)

For Decision

SUMMARY

Application No:	PP07-009
Applicant:	EDM (Sawyer)
Subject Land:	Crown Allotment 1, Section D Gooramadda Road, Gooramadda
Proposal:	Dwelling
Recommendation:	Refusal

RECOMMENDATION

It is recommended that Council refuse planning permit application 07-009 to use and develop CA1, Section D Gooramadda Road, Gooramadda for the purposes of a dwelling for the following reasons:

- 1. The proposal is inconsistent with the State and Local Planning Policy Framework;**
- 2. The proposal is inconsistent with the purposes of the Farming Zone (Clause 35.01), and in particular:**
 - a) The proposal will not necessarily provide for the use of the land for agriculture;**
 - b) It has not been demonstrated that a dwelling on the site will not adversely affect the use of the land for agriculture;**
- 3. The proposal is inconsistent with the decision guidelines of the Farming Zone (Clause 35.01);**
- 4. The proposal if approved would set an undesirable precedent in the area leading to an increase in concentration of dwellings in this locality and the fragmentation of rural land;**
- 5. The proposal is contrary to the provisions of Clause 65.01 of the Indigo Planning Scheme and in particular the orderly planning of the area.**

BACKGROUND

Planning permit application 06-177 was lodged on 28 July 2006. This application comprised three main proposals:

- 1. To consolidate and re-subdivide CA's 2, 3, 4 and 19, having a total area of 57.71 hectares into proposed lot 2 containing the Mount Prior winery (31.86 ha) and proposed lot 3, containing some of the vines from the Mount Prior winery (25.76**

- ha). Each of proposed Lots 2 and 3 are proposed to have a dwelling;
2. For two easements, being E1 for a right of way across proposed Lot 3 to the existing Bed and Breakfast, and E2 being for water supply 5m wide across proposed Lot 2; and
 3. For a dwelling on CA 1 (22.32ha).

The first two aspects to this proposal were approved under delegation on 29 November 2006. However, Council's planning officers did not support the third aspect to this proposal, being a dwelling on CA1, and it was proposed to the applicant that the application be split in two, with an approval given to dot points 1 and 2 above, and a report prepared for Council on dot point 3 above. In order to facilitate this, a new application form was requested. Various discussions were held with the applicant regarding the proposed refusal, and a new application form, being for the use and development of CA1 for the purposes of a dwelling was lodged with Council on 15 January 2007. This application was registered and given the number PP07-009.

The subject site is 22.32 hectares and is located at the corner of Gooramadda and Webbs Road, Gooramadda, near the Mount Prior Winery. The property is relatively flat, is largely free of environmental constraints and the applicant states that it is currently used for grazing.

There are existing dwellings located on neighbouring properties, and there is the Mount Prior Winery and a Bed and Breakfast located on the adjoining land, however the main land-use on surrounding properties is grazing.

PROPOSAL

The application site comprises Crown Allotment 1. The applicant is seeking approval for the use and development of a dwelling.

The plan at **Attachment A** shows the proposal for the property, including lot boundaries, dwelling envelopes and easements.

In support of the proposal the applicant's submission (for planning permit application 06-177) argues that the proposal deserves Council's support as:

- The proposal seeks to retain and encourage existing agricultural and tourist based uses.
- The proposal will not prejudice the continued operation of existing agricultural activities on site and nearby or the productive capacity of the land.
- The proposed dwelling will enable a more proactive management of the property from an agricultural and general land management perspective.
- Landscape character will not be compromised by the proposal.
- Good road access is available and the land is already serviced with electricity and telephone services.
- This proposal will not result in a fragmentation of the high quality agricultural land.
- No vegetation is required to be removed as a result of the proposal.
- No restrictive covenants affect the subject land.

The applicant states that the lot is presently used for grazing and the lot size can be expected to facilitate the on-going use of the land for this purpose. The nearest grapevines are located 370m to the east of the nominated building envelope, so the applicant states that there will be no impact on the dwelling as a result of operational activities on the vineyard.

ZONING AND PLANNING CONTROLS

Zoning: Farming Zone

Overlay/s: ESO3 (Black Dog Creek)

Permit Trigger: A planning permit is required for the use and development for the purposes of a dwelling under Clause 35.07 (Farming Zone).

A permit is required for construct a building or construct or carry out works under Clause 42.01 (Environmental Significance Overlay).

STATE PLANNING POLICY

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

Environment

15.01 Protection of Catchments

15.12 Energy Efficiency

Housing

16.03 Rural Living & Rural Residential Development

Economic Development

17.05 Agriculture

Infrastructure

18.09 Water Supply, Sewerage & Drainage

Particular uses and development

19.03 Design & Built Form

LOCAL PLANNING POLICY FRAMEWORK

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

Municipal Strategic Statement

Relevant clauses of MSS include:

- 21.02 Key Issues
- 21.03-1 Vision & Strategic Framework
- 21.04-2-1 Agriculture
- 21.04-2-2 Tourism
- 21.04-3-1 Natural Resource Management

Local Planning Policies

- 22.01-2 Rural Dwelling Siting & Design Guidelines
- 22.02-2 Land use, development and subdivision in rural areas
- 22.02-1 Landcare & Catchment Management
- 22.03-2 Fire Hazard
- 22.03-3 Development adjoining the Murray River, Lake Hume and lake Moodemere
- 22.03-4 Effluent Disposal & Water Quality
- 22.03-8 Floodplain and Rural Drainage Management
- 22.03-11 Stormwater Management Policy

PARTICULAR PROVISIONS

None Applicable

REFERRAL AUTHORITIES

Planning permit application 06-177 was referred to various referral authorities. Those relevant to this application are only the North East Catchment Management Authority. NECMA states that this advice has not changed for planning permit application 07-009.

North East Catchment Management Authority

No objection to the issue of a planning permit, but recommends the following comments be considered in any permit Council proposes to grant:

- No flood related overlays apply to this land
- There are no designated waterways on the lot.

Planning permit application 07-009 was referred to the Environmental Health Officer and the Assets Branch.

Environmental Health Officer

It is considered that this application may be approved. Conventional septic tank systems may be utilised. A septic tank application will be required to be lodged prior to development.

Assets Department

No objection subject to conditions requiring a road levy contribution of \$1,500, access to be gained from Webbs Road, crossing condition, roadside management, standard conditions addressing drainage to be contained within curtilage, sediment and pollution control.

PUBLIC NOTICE

The grant of a permit will not cause material detriment to any person. Inspection of the site indicated that there would be no material detriment to any person, given existing development for rural agricultural enterprise on the site including the Winery and the Bed and Breakfast. Therefore no notice of the application was given to other persons.

DISCUSSION

As outlined above, a planning permit is required for the use and development of a dwelling on the subject site by Clause 35.07 (Farming Zone), and for the construction of a building under Clause 42.01 (Environmental Significance Overlay).

In terms of the suitability of the site for the proposed *development*, Clause 22.01-2 (Rural dwelling siting and design guidelines) requires consideration be given to a range of issues in order to achieve the objectives of the Clause. These comprise:

1. To ensure that dwellings in rural areas are compatible with: the environmental characteristics of the area; and existing and surrounding agricultural land uses.
2. To ensure that appropriate infrastructure is provided.
3. To ensure the character and visual quality of rural landscapes is not prejudiced by inappropriate development.
4. To encourage the identification of site opportunities and constraints so as to maximise development opportunities.

In terms of Clause 22.01-2, the proposal would be compatible with the environmental characteristics of the area and existing surrounding agricultural land uses, and appropriate infrastructure can be provided to service the site, including on-site effluent disposal system.

As such, while the capability of the site to accommodate the development is generally accepted, it is whether it is an acceptable *use* of the site for a dwelling that is at issue. The main policy guidance as to whether this use is acceptable is considered to be:

- Clause 17.05 Agriculture
- Clause 35.07 (Farming Zone).

Clause 17.05 Agriculture (State Planning Policy Framework) states:

“In considering a proposal to subdivide or develop agricultural land, the following factors must be taken into consideration:

- *The desirability and impacts of removing the land from primary production, given its agricultural productivity*
- *The impacts of the proposed development on the continuation of primary production on adjacent land, with particular regard to land values and to the viability of infrastructure for such production*
- *The compatibility between the proposed or likely development and the existing use of*

the surrounding land

- *Assessment of land capability.”*

The key issue in terms of this proposal is the second dot point, and the need to consider the impacts of the development on primary production, particularly in terms of land values. In assessing this issue, the following points are raised:

The applicant indicates that the property is currently used for grazing, which will continue. A more intensive use of the site would probably be viable, however there is no water entitlement to this property and as such alternate agricultural options are limited. In the absence of intensive agriculture, approval of building envelope effectively approves a rural living style development of the land increases land value accordingly. The approval for a dwelling also substantially decreases possibility of any expansion of the adjoining winery. The applicant has stated that the winery and surrounding land including the subject site has been offered for sale for many years, however a buyer has not been forthcoming. While this may reflect the probability that the winery will remain a small operation without need to expand, it may also reflect an unrealistic expectation in terms of the value of the property. Without further information this aspect cannot be assessed.

The value of land for a dwelling is considerably higher than that of farming/grazing land, thus this land with a planning permit for a dwelling would mean that the land would be unlikely to be sought for farming purposes by adjoining properties.

In terms of the development expectations of this property, prior to the Shire amalgamation, the subject site was located within Rutherglen Shire, and planning controls relating to rural land used a mixture of minimum lot sizes (40ha) and tenements provisions to control rural land use and development. Under the Rutherglen Planning Scheme, land in this area was not to be used for a dwelling if less than 40 hectares in area.

The subject land once formed part of a larger tenement comprising CA's 1, 2, 3, 4, 19 and Lots 4 and 5 to the south. The total area of the tenement is approximately 177.88 hectares, and under the provisions of the Rutherglen Planning Scheme, there was a maximum expectation of 4 dwellings on this tenement. To date, the winery and bed and breakfast have been developed on the site, and planning permit application 06-177 has approved two dwellings. Further, Lots 4 and 5 are both over 40 hectares in size, and thus the use of these lots for two further dwellings are considered to be as of right.

Clause 35.07 (Farming Zone) sets out several purposes for the zone, including providing for the use of land for agriculture, to encourage the retention of productive agricultural land, and to ensure that non-agricultural uses, particularly dwellings, do not adversely affect the use of land for agriculture.

Clause 35.07-6 requires that before deciding on an application to use or subdivide land, construct a building or construct or carry out works, in addition to the decision guidelines in Clause 65, the responsible authority must consider a range of decision guidelines. In relation to the construction of a dwelling, the decision guidelines specifically require consideration of:

- *“Whether the dwelling will result in the loss or fragmentation of productive agricultural land.*
- *Whether the dwelling is reasonably required for the operation of the agricultural activity conducted on the land.*
- *Whether the dwelling will be adversely affected by agricultural activities on adjacent and nearby land due to dust, noise, odour, use of chemicals and farm machinery, traffic and hours of operation.*
- *Whether the dwelling will adversely affect the operation and expansion of adjoining and nearby agricultural uses.*
- *The potential for the proposal to lead to a concentration or proliferation of dwellings in the area and the impact of this on the use of the land for agriculture.”*

It is considered that the current application does not comply with the decision guidelines of Clause 35.07 in relation to the need for the dwelling for the proposed agricultural activity, and the potential proliferation of dwellings. These issues are addressed below.

Whether the dwelling will result in the loss or fragmentation of productive agricultural land.

The proposal for a dwelling on CA1 potentially results in loss and fragmentation of agricultural land; as no intensive agricultural use of the site indicated, the block in all probability will be taken up by a person seeking rural living opportunity rather than a serious farmer.

Whether the dwelling is reasonably required for the operation of the agricultural activity conducted on the land.

The applicant has stated in the supporting documentation submitted in respect of planning permit application 06-177 that the proposed dwelling will enable a more proactive management of the property from an agricultural and general land management perspective and that the property will be used for grazing purposes. However, there is no evidence provided as to why this property actually requires a dwelling for the agricultural activity on the land. There are numerous examples of medium sized rural land that are successfully managed without the need for a dwelling on site.

As such, it is considered that the applicant has not satisfactorily addressed this decision criterion, and the need for dwelling in support of the agricultural activity on the site has not been shown.

It is contended therefore, that whilst the use of the land for a more intensive agricultural purpose would be an acceptable outcome under the Farming Zone provisions, the viability of this use has not been adequately demonstrated or that this justifies approval of the use of the land for a dwelling.

Whether the dwelling will adversely affect the operation and expansion of adjoining and nearby agricultural uses.

The applicant states that the property has in the past been used for grazing which is intended to continue. With the exception of the probable increase in land values as a result of this application if approved, it is unclear whether the removal of this land by its sale for a dwelling would have an impact on the operation and expansion of adjoining and nearby agricultural uses.

The potential for the proposal to lead to a concentration or proliferation of dwellings in the area and the impact of this on the use of the land for agriculture.

In the absence of a sustainable agricultural enterprise on this property that requires a dwelling, the Council is in effect being asked to support a rural living style opportunity. The locality is comprised of numerous rural allotments of similar or better physical capability, and it is considered that the current application would quite clearly set a precedent in terms of its application of the Indigo Planning Scheme that the Responsible Authority would be obliged to follow for all lots of similar, or better physical capability (in terms of accommodating a dwelling) in the locality.

As a result, if a planning permit were to be granted, an adjoining landowner could reasonably expect that a planning permit for a dwelling would therefore be granted for other lots in the vicinity where similar site constraints and opportunities exist.

The Indigo Planning Scheme relies on consistency in its interpretation and implementation, and therefore it is considered that approval of this application will likely result in a proliferation of dwellings.

CONCLUSION

In conclusion, the application for the use and development of a dwelling on this site is not supported. The proposal is considered to be inconsistent with the Clause 17.05 (Agriculture) of the State Planning Policy Framework and Clause 35.07 (Farming Zone) of the Local Planning Policy Framework, as it is considered that:

- The proposal will increase the land value of the application site, which will mean that the subject site will be out of reach for genuine farming activities.
- The approval of a dwelling would result in the loss and fragmentation of productive agricultural land.
- A dwelling is not reasonably required for the operation of the agricultural activity conducted on the land.
- The approval of a dwelling would likely lead to a proliferation of dwellings in the area, having a negative impact on the use of the land for agriculture.

*Attachments
Attachment A – Locality plan
Attachment B – site plan*

11.9 PLANNING APPLICATION PP06-188 - MITCHELL (SSP)

For Decision

SUMMARY

Application No:	06-188
Applicant:	Mitchell
Subject Land:	Lot 14 PS343818G, 59 Sheridan Court, Rutherglen
Proposal:	Horse stables
Recommendation:	Grant permission

RECOMMENDATION

It is recommended that Council approve planning permit application 06-188 for the purposes of horse stables subject to the following conditions:

1. PLANS REQUIRED

Within three months of the date of this permit, plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must show:

- (a) The layout of paddocks on the site;**
- (b) Horse training area;**
- (c) Stables;**
- (d) Dwelling;**
- (e) Landscape Plan, which will comprise a permanent screen of trees and shrubs to provide an effective visual screen on the boundary between Lots 14 and 15, a distance of approximately 120m from the rear boundary to front of paddocks on the boundary used for keeping horses. The Plan shall show the location and species to be used (preferably indigenous to the area) and shall be at least three (3) metres wide. When approved this plan shall be endorsed as forming part of this permit.**

2. SATISFACTORY CONTINUATION / DEVELOPMENT

The use and development hereby permitted shall after it is commenced be continued to the satisfaction of the Responsible Authority.

3. MAXIMUM NUMBER OF HORSES

A maximum of two horses shall be kept on the land at any one time.

4. VISUAL SCREEN

- (a) A permanent screen of trees and shrubs must be planted in accordance with the plans endorsed pursuant to Condition 1, to provide an effective visual screen, and must be completed to the satisfaction of the Responsible Authority and then maintained to the satisfaction of the Responsible Authority.**
- (b) Landscaping species must comprise advanced and semi-mature plants and which are quick growing**
- (c) Planting shall occur in the next suitable planting season, or within two years which ever is the earliest.**
- (d) The area set aside for landscaping on the endorsed plans shall be planted and maintained thereafter to the satisfaction of the Responsible Authority.**

5. AMENITY

- (a) The area occupied by the horses is to be kept in a clean and tidy condition. The horses are to be kept in such a manner that such keeping does not affect the amenity of the locality by reason of the emission of noise, odour or the presence of vermin or otherwise.**
- (b) With the exception of declared exceptional circumstances (drought), a minimum 70% grass cover is to be maintained on paddock areas. This does not apply to the training area.**
- (c) Measures are to be taken to ensure that dust does not cause offence to neighbouring residents, particularly during dry or drought periods. The paddock located along the boundary between Lots 14 and 15 is to be kept free of horses, or dust adequately suppressed so as not to cause offence to neighbouring residents, until such time as at least a 70% grass cover has been established.**
- (d) Manure is to be regularly removed from the site so as not to cause offence in terms of odour or insects.**
- (e) All food stored outside the premises of the applicant and intended for consumption by the horses the subject of this permit shall, where practicable, be stored in a vermin and fly proof receptacle.**

6. STORMWATER DRAINAGE

- (a) The landowner must prepare an Erosion and Sediment Control Plan within three months of the date of this permit in accordance with Indigo Council's Stormwater Management Policy to accommodate peak stormwater events and to the satisfaction of the Responsible Authority.**

- (b) All stormwater runoff from the site and buildings shall be discharged to a legal point of discharge to the satisfaction of the Responsible Authority, and in accordance with the Erosion and Sediment Control Plan. Drainage shall be constructed in accordance with plans and specification to be submitted for approval by the Responsible Authority.
- (c) No concentrated stormwater or sediment is to be allowed to flow from the Lot 14 onto any adjoining property.

7. SEDIMENT CONTROL

Any clearing or construction associated with development must be conducted in accordance with sediment control principles as outlined in "*Construction Techniques for Sediment Pollution Control* (Environment Protection Authority 1991).

8. FENCING

- (a) Fencing shall be erected to the satisfaction of the Responsible Authority.
- (b) No electrical fence is to be used on the boundary between Lot 14 with Lot 13 or 15 unless it is offset from the boundary fence 600mm.
- (c) Any electrified fence shall bear a sign in letters not less than 50mm high, clamped to the conductor or fastened to posts at intervals not exceeding 100 metres indicating "ELECTRIC FENCE".

9. OUTDOOR LIGHTING

- (a) All existing outdoor lighting is to be baffled within three months of the date of this permit so that no light spill occurs off the property.
- (b) No outdoor lighting is to be used for the purposes of animal training on the training arena.

10. STABLES NOT TO BE USED FOR A BUSINESS

The stables and ancillary training area approved by this planning permit is not to be used for a business without the further approval of the Responsible Authority.

11. EXPIRY DATE

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

- (i) The use and development is not started within two years of the date of this permit.
- (ii) The use and development is discontinued for a period of two years.

The Responsible Authority may extend the periods referred to if a request is made in writing before the period expires or within three months of the date of expiration.

BACKGROUND

Planning application 06-188 was lodged on 2 October 2006. The purpose of this application was to seek approval to use the subject site for the purposes of keeping three horses. The application was modified on 9 October 2006 for the keeping of two horses.

The subject site is approximately 1.36 hectares and is located at the end of Sheridan Court, Rutherglen, and area of low-density residential development (see **Attachment A** – locality plan). The property is currently used for the purposes of a dwelling and keeping and training of horses.

PROPOSAL

The applicant is seeking approval for the use and development of the subject site for the purposes of keeping two horses. This has been defined as ‘horse stables’, which is an undefined use nested under ‘animal husbandry’. The application also includes stables and the training area construction on the site. A planning permit is required for the use of the land for stables and the use of the training area is ancillary to such use.

ZONING AND PLANNING CONTROLS

Zoning: Low Density Residential Zone (LDRZ)

Overlay/s: None applicable

Permit Trigger: A planning permit is required for the use and development for the purposes of animal husbandry and horse stables.

STATE PLANNING POLICY

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

Environment

15.04 Air Quality

15.05 Noise Abatement

LOCAL PLANNING POLICY FRAMEWORK

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

Municipal Strategic Statement

21.04-1 Settlement & Infrastructure - 21.04-1-2 Rutherglen

Local Planning Policies

22.03-11 Stormwater Management Policy

PARTICULAR PROVISIONS

None Applicable

REFERRAL AUTHORITIES

The application was referred to the Technical Services Department in accordance with the Planning and Environment Act 1987. Responses received recommend approval subject to conditions.

PUBLIC NOTICE

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

Three objections were received in response. The issues raised in the objections concerned the zoning of the site, the proposed development, possible commercial use of site, use of the electric fence, nuisance on neighbours, traffic impacts, and errors in the application.

All three objections were conditionally withdrawn following the planning focus meeting held 9 October 2006, however a planning permit was unable to be issued which addressed these conditional withdrawals. It is considered that at least two objections remain outstanding. The main issues that appear to be unresolved to the objectors' satisfaction comprise:

- The need for a solid fence to be erected between Lot 14 and Lot 15.
- The application made by the applicants "To keep two horses on our property and associated uses", in which the meaning of 'associated uses' is questioned.

These issues are addressed in the discussion section below.

Note: 14 letters of support for the application were handed to Council's Planning Officers at the Focus Meeting held 9 October 2006.

DISCUSSION

There has been some debate with regards to the definition of the proposed land use. When the application for keeping of three horses was initially made, this was defined as a type of 'animal husbandry', which is *'land used to keep, breed, board, or train animals, including birds.'* Further information was sought from the applicant to determine whether it was in fact intensive or extensive animal husbandry occurring on the site. The main difference between these uses is the source of food for the animals, being obtained mainly from grazing on the site (extensive), or imported from outside enclosures (intensive). This was an important distinction, as intensive animal husbandry is a prohibited use in the Low Density Residential Zone.

The application was amended to two horses, and a review of the application indicated that this use could be defined as 'horse stables', which is an undefined use also nested under 'animal husbandry'. This form of animal husbandry is a Section 2 use in the Low

Density Residential Zone, thus requiring a planning permit, while the training area is ancillary to such use. As an undefined use, the ordinary meaning of the term 'horse stables' is used. In this case, the understanding of planning officers is that this term refers to the stabling or keeping of horses.

Three objections were made against the planning permit application. Once the application was amended to two horses, it is the understanding of planning officers that the objections relate to the management of the horses, rather than the keeping of the horses per se.

The issues raised in the objections concerned the suitability of the zoning of the site, the proposed development, possible commercial use of site, use of the electric fence, nuisance on neighbours, traffic impacts, and errors in the application. These objections are included at (see **Attachment B** – objections).

Following discussion of these issues at the planning focus meeting held 9 October 2006, all three objections were conditionally withdrawn. A draft planning permit was prepared and circulated to the objectors which included those concerns raised by the objectors which were considered reasonable and had a nexus to the use and development of the site. It is considered that the draft permit did not address all three of the conditional withdrawals, and as such it is considered that at least two objections remain. The main issues that appear to be unresolved to the objector's satisfaction comprise:

- The need for a solid fence to be erected between Lot 14 and Lot 15.
- Off-set of electric fence between Lot 14 and 15.
- The application made by the applicants "To keep two horses on our property and associated uses", in which the meaning of 'associated uses' is questioned.

Further, serious concerns were expressed regarding drainage from the site and queried the proposed conditions in relation to drainage. However it is considered that Condition 6 proposed above adequately addresses these concerns.

With regards to a solid fence between Lots 14 and 15, this suggestion has been put to the applicant, however was not supported. Further, research into relevant VCAT cases (Lio v Greater Bendigo CC [1999] VCAT 495 (8 April 1999)) indicates that it may be unreasonable to require a fence in this case. A planning permit was issued by Greater Bendigo City Council for horse stables in the Rural Farmlet Zone which required the erection of a fence between a training track, apparently in order to reduce nuisance (dust) impacts on adjoining residents. However this was only required "*...along that portion of the northern boundary which is at a closer distance than six (6) metres to the formed training track*". This condition was appealed and upheld by VCAT.

If this condition were to be directly applied to Lot 14, a fence would not be required given the distance between the training area and the boundary of the property with Lot 15. The area currently generating dust is the paddock closest to the property boundary, however it is considered that removing horses from this area until it is able to regenerate, in conjunction with a landscaped barrier will address this.

The existing fence between Lots 14 and 15 is a wire fence, which is in good repair. The

nexus between the use and development of the property for two horses and the replacement with a solid fence is considered to be questionable. As such, it is recommended that the neighbours separately consider erecting a fence along the boundary of Lots 14 and 15 in accordance with the Fences Act.

With regards to the electric fence, an objection was made with regards to the offset of the fence from the Lot 15, to prevent children being shocked by the fence. An offset of 600mm was proposed by an objection, however information supplied by the applicant indicates that this will require the rebuilding of the entire fence. The maximum offset that can be achieved with the current fence is 300mm. However this is not considered to be safe in a residential area, and therefore if an electrical fence is to be used, then a minimum offset of 600mm is required.

Concern was also raised by the objectors with regards to the application made for the keeping of two horses and 'associated uses', with questions raised as to the meaning of 'associated uses'. This is not considered to be a significant issue, as it is the planning permit that will stipulate the use and development for which permission is given, not a vague description on the planning permit application form. It is part of the planning application assessment that determines those parts of the application considered acceptable and those which are not. The proposed planning permit conditions suggested above clearly refers to the keeping of a maximum of two horse, training area and stables on the site. The impacts of this use and development have been addressed by condition.

CONCLUSION

The keeping of two horses on Lot 14 Sheridan Court, Rutherglen is considered to be acceptable given careful management of the site to prevent nuisance to neighbouring properties. There are outstanding objections to the planning permit application, however these are considered to relate to the management of the horses, not the keeping of the horses per se.

It is considered that the suggested planning permit conditions if implemented are adequate to minimise nuisance to neighbouring properties.

Therefore it is considered that the planning permit should be issued subject to the suggested conditions.

Attachments
Attachment A – Locality plan
Attachment B – Site plan
Attachment C – Submissions

**11.10 PLANNING APPLICATION PP06/229 - SUPERCRITICAL
EXTRACTION NZ & AUSTRALIA (SSP)**

For Decision

SUMMARY

Application No: 06-229

Applicant: Supercritical Extraction NZ & Australia

Subject Land: La Trobe University, Beechworth

Proposal: Extraction of Artemisia for antimalarial research and education purposes [and extraction of other oils for research and development purposes]

Recommendation: Approval

RECOMMENDATION

That Council give notice of decision to grant Planning Permit 06-229 subject to the following conditions:

1. AMENDED PLANS

Before the use hereby permitted commences, plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved the plans shall be endorsed and shall then form part of this permit. The plans must be drawn to scale with dimensions and two copies must be provided. The plans must show:

Details of fencing to be erected on the site, including design and location.

2. LAYOUT NOT ALTERED

The layout as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.

3. SATISFACTORY CONTINUATION OF USE

The use hereby permitted shall after it is commenced be continued to the satisfaction of the Responsible Authority.

4. RESEARCH AND DEVELOPMENT

The activities hereby permitted shall be predominantly (80%) for research and development purposes. The applicant shall make production records available to the Responsible Authority if required.

5. PRE-DEVELOPMENT NOISE LEVELS

The permit shall have no effect until the applicant reports the existing noise levels to the Responsible Authority. These measurements must include average day, evening and night sound levels for weekdays and Saturdays, measured in accordance with EPA Publication 280 (A Guide to the Measurement and Analysis of Noise).

6. POST-DEVELOPMENT NOISE LEVELS

Sound levels emanating from the land must not exceed those required to be met under State Environment Protection Policies Interim Guidelines for Control of Noise from Industry in Country Victoria (EPA 1989).

The applicant must carry out regular noise monitoring in accordance with EPA Publication 280 (A Guide to the Measurement and Analysis of Noise) and report this to the Responsible Authority. Monitoring shall be carried out and a report provided to the Responsible authority within two months of the first operation of machinery on the subject site. Further and ongoing monitoring may be required by the Responsible Authority. This will be carried out by an independent assessor at the expense of the operator of the use hereby approved. Such further monitoring if required shall be at intervals not less than six months apart.

All machinery, plant and equipment shall be baffled to the satisfaction of the Responsible Authority and so as to prevent nuisance or annoyance to persons occupying adjoining or nearby land.

Where noise levels exceed those levels in the State Environment Protection Policies Interim Guidelines for Control of Noise from Industry in Country Victoria (EPA 1989), the applicant shall provide additional sound attenuation to machinery and buildings to the satisfaction of the Responsible Authority.

7. HOURS OF OPERATION FOR MACHINERY

The permitted machinery operation hours shall be limited between Monday to Saturday, 8am to 6pm, without the prior written consent of the Responsible Authority. All doors on the building must be shut when machinery is in operation.

Machinery operating Monday – Friday, 8am – 6pm must comply with State Environment Protection Policies Interim Guidelines for Control of Noise from Industry in Country Victoria (EPA 1989).

Machinery operating Saturday 8am – 6pm must not exceed 5 decibels higher than background noise levels outdoors at any residence.

8. MANUFACTURING

No construction or manufacturing of machinery is to take place on the site.

9. AMENITY

The amenity of the area must not be detrimentally affected by the use or

development through the:

- (i) transport of goods, products, materials, and other items used or produced to and from the land;**
- (ii) appearance of any building, works or materials;**
- (iii) the emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, fuel, wastewater, waste products, grit, oil; and**
- (iv) presence of vermin or otherwise.**

10. OUTDOOR LIGHTING

Outdoor or external lighting, including that of the buildings and car park areas must be baffled and located to the satisfaction of the Responsible Authority and so as to prevent any adverse effect on adjoining or nearby land.

11. DELIVERIES

Deliveries to and from the land (including waste collection) must only take place between 9 a.m. and 3 p.m. on Mondays to Fridays. A maximum of seven vehicles per week are permitted. No servicing or delivery vehicle is to access or leave the site via Dingle Road.

12. SERVICING VEHICLES

Delivery of goods and services to and from the site by truck, shall be limited to rigid trucks with a single or tandem axle in accordance with VicRoads Vehicle Standards Information.

Vehicles larger than this, including but not limited to:

- (i) Articulated vehicles,**
- (ii) Rigid vehicles in the Tri Axle Group or Twin Steer Axle Group, or**
- (iii) Articulated or rigid vehicles towing a trailer,**

are not to be used to service or deliver to or from the site. This does not apply to a passenger vehicle (a car) towing a trailer.

13. MECHANICAL MOVEMENT OF MATERIALS

No mechanical movement of materials or products is to take place on the site or inside the buildings with the exception of that required for loading and unloading of vehicle delivery goods to and from the site.

14. LOADING AND UNLOADING

The loading and unloading of vehicles and delivery of goods to and from the site

shall be effected within the curtilage of the site, and no goods shall be stored or left exposed outside the buildings so as to be visible to the public.

15. ACTIVITIES CONFINED WITHIN BUILDING

The activities hereby permitted shall only take place on the land within and shall be confined to the buildings delineated on the endorsed plans as the Supercritical Fluid Extraction Room and Grinding & Bulk Storage Room.

16. TRADE WASTE

- (i) All discarded material shall be disposed of to trade waste and removed off the premises to the satisfaction of the Responsible Authority.
- (ii) All wastes from the use and development hereby permitted must be removed from the subject site by appropriate means to the satisfaction of the Responsible Authority.
- (iii) All solid wastes from the process must be managed in accordance with EPA Publication 448, Classification of Wastes.

17. RETICULATED SERVICES

The premises shall be connected to a reticulated water supply and sewage to the satisfaction of North East Water Authority.

18. CROSSINGS

Any new vehicular access points required and any required existing crossing points not complying with current standards shall be constructed at full cost to the applicant/owner at a location, and to a standard, to the satisfaction of the Responsible Authority. A crossing permit must be obtained from the Responsible Authority and levels fixed.

Any other existing accesses, including gateways and/or driveway crossings, must be removed and fenced across to prevent further vehicle access. The road reserve and road formation must be left in a neat and tidy manner.

19. CAR PARKING

A minimum of 8 car spaces shall be provided on site.

20. CAR PARKING CONSTRUCTION

Areas set aside for parked vehicles and access lanes as shown on the endorsed plans must be constructed, surfaced, drained and maintained to the satisfaction of the Responsible Authority prior to commencement of the approved use and development. Parking areas and access lanes must be kept available for these purposes at all times.

21. SEDIMENT POLLUTION CONTROL

Any clearing or construction activity associated with the subdivision and development of the land shall be carried out in accordance with EPA Publication 275 “Construction Techniques for Sediment Pollution Control”.

22. DRAINAGE

All stormwater runoff from the site and buildings shall be discharged to a legal point of discharge to the satisfaction of the Responsible Authority. Drainage shall be constructed in accordance with plans and specification to be submitted to for approval by the Responsible Authority.

23. EXPIRY

This permit will expire if the use hereby permitted is not commenced within four years of the date of this permit.

The Responsible Authority may extend the periods referred to if a request is made in writing before the period expires or within three months of the date of expiration.

Note:

North East Water

The owner/applicant will need to contact North East Water’s Plumbing Department regarding Trade waste and associated fees for the site.

BACKGROUND

A report on Planning Permit Application PP06-229 was considered at Council’s special meeting of 19 December 2006. At this meeting, a motion was made that the recommendation (to approve the application subject to conditions) be adopted, which was subsequently lost.

Since this meeting, the submitters to the application have been:

- Informed of the application’s progress;
- Provided with a copy of the Planning Officer’s report to the 19 December meeting of Council; and
- Provided with additional information from the applicant.

Comments were invited from submitters, however no response has been received.

Planning application 06-229 was lodged on 20 September 2006. The purpose of this application was to seek approval to develop the former Boiler House and Briquette Bunker Housing at La Trobe University for extraction of Artemisia for antimalarial research and education purposes (and extraction of other oils for research and development purposes). However it should be noted that information received subsequent to the application being made makes clear that the application is in fact

mainly for commercial purposes.

An inspection of the site, and several further information requests were made of the applicant. For the purposes of the planning permit application, the application was considered to be complete once all information was received on 30 October 2006. A final information request was made of the applicant on 6 December 2006, to which the response at **Attachment C** was received 7 December 2006.

The application was notified to adjoining residents on 31 October 2006 and seven objections were received. A planning focus meeting was held 29 November 2006.

The subject site is located in the former Boiler House and Briquette Bunker Housing at La Trobe University. It is located approximately 200m from Dingle Road to the east.

The site is located in the existing La Trobe campus site, with a low density residential area located to the east of the site (see **Attachment A** – locality plan).

Zoning:

The subject land and La Trobe University site is included in the Public Use Zone 2 (Education). Immediately to the east of the site is the Low Density Residential Zone land around Dingle Road.

A Heritage Overlay applies to part of the La Trobe campus, however the application site is not located within this overlay.

The purpose of the PUZ 2 is:

- To recognise public land use for public utility and community services and facilities
- To provide for associated uses that are consistent with the intent of the public land reservation or purpose.

The Schedule to the PUZ2 Zone of the Indigo Planning Scheme provides for the use and development without a planning permit provided the use or development is *“as identified in accordance with any La Trobe University (Beechworth Campus) Master Plan approved by the responsible authority”*.

In this instance the Master Plan identifies the boiler briquette store buildings as part of the “Education / academic and community programs” area. In this area, no planning permit is required for the following uses:

- Academic, professional development and community programs;
- Administration;
- Educational and professional development support services;
- Residential accommodation;
- Function and catering services;

- Research and development;
- Industry support services;
- Kindergarten and child care services;
- Conferences and seminars; and
- Information services.

However a planning permit is required for other development or use.

Manufacturing and industrial processing are not listed in the indicative primary uses for the site, and as such a planning permit is required for the proposed use and any associated development.

State Planning Policy Framework:

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

14.01 Planning for urban settlement

This clause aims to ensure a sufficient supply of land is available for residential, commercial, industrial, recreational, institutional and other public uses. It also aims to facilitate the orderly development of urban areas.

In this instance, it is noted that land zoned for industrial purposes does exist elsewhere in Beechworth, however the link between the proposed activity and the educational and research and development activities on the La Trobe site are noted.

15.01 Protection of catchments, waterways and groundwater

This clause aims to protect and where possible restore catchments, waterways, water bodies and groundwater. Planning and responsible authorities should ensure that land use activities potentially discharging contaminated runoff or wastes to waterways are sited and managed to minimise such discharges and to protect the quality of surface water and ground water resources.

15.04 Air Quality

This objective of this clause is to assist the protection and improvement of air quality, by ensuring that decisions made by planning and responsible authorities must be consistent with any relevant requirements of the State environment protection policy (The Air Environment) as varied from time to time.

Planning and responsible authorities should ensure that development is not prejudiced and community amenity is not reduced by air emissions by ensuring, wherever possible, that there is suitable separation between potentially amenity reducing and sensitive land uses and developments. Consideration should be given to Recommended Buffer

Distances for Industrial Residual Air Emissions (EPA 1990) to determine the extent of separation (Note: these buffer distances correspond with those distances outlined in Clause 52.10 of the Indigo Planning Scheme).

15.04 Abatement

This objective of this clause is to assist the control of noise effects on sensitive land uses. Planning and responsible authorities should 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.

Decision-making by planning and responsible authorities must be consistent with any relevant aspects of Interim Guidelines for Control of Noise From Industry in Country Victoria (EPA 1989). See discussion of the requirements of these Guidelines later in this report.

15.10 Energy efficiency

Encourages land use and development that is consistent with efficient use of energy and minimisation of greenhouse gas emissions. In this case, the application is supported as it makes use of existing buildings, reducing the need for use of energy and materials in construction of new premises.

17.03 Industry

This objective of this clause is to ensure availability of land for industry and to facilitate the sustainable development and operation of industry and research and development activity.

With regards to industrial use and land, the clause states that adequate separation and buffer areas must be provided between sensitive uses and offensive or dangerous industries and quarries to ensure that residents are not affected by adverse environmental effects, nuisance or exposure to hazards. Planning and responsible authorities must have regard to Recommended Buffer Distances for Industrial Residual Air Emissions (EPA 1990) and promote best practice risk and environmental management. Responsible authorities should ensure that industrial activities requiring substantial threshold distances are located in the core of suitably zoned industrial areas and encourage activities with minimal threshold requirements to locate towards the perimeter of the zone.

18.02 Car parking and public transport access to development

This objective of this clause is to ensure access is provided to developments in accordance with forecast demand taking advantage of all available modes of transport and to minimise impact on existing transport networks and the amenity of surrounding areas.

18.09 Water supply, sewerage and drainage

Planning and responsible authorities should plan for the provision of water supply, sewerage and drainage services that efficiently and effectively meet State and community needs and protect the environment.

Local Planning Policy Framework:

The Municipal Strategic Statement (MSS) provides relevant discussion in relation to land use and development within the Shire.

Relevant comments within the MSS include the following and were taken into account when assessing the application:

21.02 Key Issues

The key issues related to land use planning as identified in consultation with the community include encouraging land uses which are environmentally and economically sustainable.

21.04-1-1 Beechworth

This clause recognises the national heritage significance of Beechworth township, and identifies a number of issues for its future development. Those relevant to this application include the need to establish a new light industrial area, and the need to promote and facilitate Beechworth as a regional and national educative centre.

21.04-3-1 Natural resource management

This clause recognises the significance of several environmental issues, including degradation of water quality due to poor sewerage and stormwater infrastructure, which is to be addressed by ensuring new development does not increase runoff, soil degradation, salinity levels or effluent release to watercourses.

21.04-3-4 Stormwater management

This clause recognises the increased runoff and pollutant loads due to increased urban development by seeking to improve the quality of surface water and reduce stormwater flows and peak discharges.

22.03-11 Stormwater management policy

Aims to improve the rate of on-site retention and treatment of stormwater in new and existing uses and development, and to improve the quality of stormwater by reducing pollutants entering the stormwater system.

Particular Provisions:

The following particular provisions have been taken into account in the assessment of this planning permit application:

52.06 Car Parking

This Clause states that car parking shall be provided at the rate of 2.9 spaces per 100m² of net floor area for industry uses.

52.10 Uses with Adverse Amenity Potential

The purpose of this Clause is to define those types of industries and warehouses which if not appropriately designed and located may cause offence or unacceptable risk to the neighbourhood. The Clause includes a table with threshold distances, which are the minimum distances from any part of the land of the proposed use or buildings and works to land (not a road) in a residential zone, Business 5 Zone, Capital City Zone or Docklands Zone, land used for a hospital or an education centre or land in a Public Acquisition Overlay to be acquired for a hospital or an education centre.

The proposal does not immediately fall into any of the categories mentioned in the table, but appears to relate to:

Type of Production, Use or Storage	Threshold Distance (metres)
Production of vegetable oils and fats using solvents	300 m
Other food or beverage production	The threshold distance is variable, dependent on the processes to be used and the materials to be processed or stored
Pharmaceutical and veterinary production	1000m
Cosmetics and toilet preparations production	100m

It appears that this Clause may not be relevant, as the use does not fit with those listed. It is noted that this Clause seems to relate to larger scale enterprises than is proposed here

It should be noted that the nearest sensitive land uses include:

- Child care/kindergarten, 140m distant from the buildings, however on the same land
- Dwelling, 185m distance from the buildings, land adjoining the application site

CONSULTATION

Responses of Referral Authorities:

Assets Manager – There has been some concern expressed with regards to servicing of the site via La Trobe campus, concerning the impact of trucks upon the road surface. Council’s Assets department has indicated that servicing via Dingle Road is possible, subject to some road improvements. Given that the internal road at the campus is a private road (with the status of a driveway) the ongoing maintenance of that road will be an issue for the applicant and La Trobe University.

Conditions related to sediment pollution control and stormwater drainage are also required.

EPA – The EPA were not formally notified of the application, but became aware of the application through a resident near the site. They requested a copy of the application on 24 November 2006, but have not given formal correspondence on the application to Council.

Responses to Notification:

11 adjoining property owners and residents were notified of the proposed planning permit application, and seven objections were received in response. These properties comprised all dwellings within 400m of the application site, and included the kinder/child care centre on the La Trobe campus site. These submissions are attached (**Attachment B** – submissions). A planning focus meeting was held with the objectors on 29 November 2006, at which the objections were discussed and various conditions to overcome the issues were suggested.

Those issues raised in the objections related to:

- The level of detail in the application
- Appropriateness of the proposed use
- Potential loss of amenity through air and noise pollution
- Transport and site servicing

These issues are discussed in the Discussion section below.

At the meeting, a number of conditions were suggested to overcome these issues, including but not limited to:

- Unloading and loading vehicles between 9am – 3pm Monday to Friday only
- Operation of machinery between 8am – 6pm Monday to Saturday only
- No light spill from the site
- No odour from the site
- No construction of machinery on the site
- No external storage of materials (other than in the one shipping container shown on the plans)
- Details of fencing to be provided to Council
- All doors must be shut when machinery is in operation
- Servicing vehicles are not to use Dingle Road
- The buildings are to be noise baffled/insulated in order to achieve EPA noise guidelines
- The operation must at all times meet EPA noise guidelines

Following Council's meeting on 19 December 2006, the submitters to the application have have been:

- Informed of the application's progress;
- Provided with a copy of the Planning Officer's report to the 19 December meeting of Council; and
- Provided with additional information from the applicant.

Comments were invited from submitters, however no response has been received.

DISCUSSION

The proposal is for the experimental extraction of oils for various purposes, such as medical research, cosmetics and food purposes. Materials to be process on the site include artemisia (wormwood), kiwi seed, rosehip seed, ginger, sandalwood and grape seed.

There are three main processes occurring on the site, comprising Super Critical fluid extraction, steam distillation, and cold press. Oil is extracted from the raw material via one of these processes. For example, Artemisia is processed by Super Critical fluid extraction, while the sandlewood is processed by steam distillation. Each of the processes on the site, and the raw material involved are detailed in the table below. This also indicates the capacity of each machine per week in terms of material processed.

Supercritical Fluid Extraction	Artemisia (Wormwood) Kiwi seed/ Rosehip seed/ Ginger	4 – 10 tonnes
Steam distillation	Sandalwood	1.5 tonnes
Cold press	Grape seed	20 tonnes

These processes are mainly for research and development purposes. Where the oil extraction is shown to be viable, then it is proposed that the technology, including machinery will be exported to other sites. The machinery is not to be produced on the La Trobe site, but at another site in Beechworth.

The applicant estimates that approximately 30 tonnes of material will be delivered to the site by truck, and processed on the site each week. This will comprise the materials discussed above, and this will be stored in the shipping container and inside the buildings. Following processing, this will yield 1,220 – 2,630 litres of oil and 6 tonnes of distilled wood per week, which will be collected from the site weekly by delivery van.

The processes will also yield at least 6 tonnes of waste material from the Artemisia and fruit seeds processing, which the applicant advises will be removed by JR Richards, however the possibility of using this material for stock feed is being investigated. Prior to collection, waste materials will be stored in fruit bins inside the grinding shed.

Details regarding the processes on the site are detailed in the table below:

		per week			
Artemisia (Wormwood)	Supercritical Fluid Extraction	4 tonnes	40 – 240 l oil	3 tonnes	Anti-malarial
Kiwi seed/ Rosehip seed/ Ginger	Supercritical Fluid Extraction	4 tonnes	40 – 240 l oil	3 tonnes	Cosmetics
Sandalwood	Steam distillation	1.5 tonnes	40 – 150 l oil 6 tonnes distilled wood	0 tonnes	Cosmetics Incense
Grape seed	Cold press	20 tonnes	1,100 – 2,000 l oil	18-19 tonnes	Food Cosmetics
<i>Total</i>		29.5 tonnes	1,220 – 2,630 l oil 6 tonnes distilled wood	6 + tonnes	

The application has been assessed against the relevant policies and clauses of the Indigo Planning Scheme, and the main issues of concern in relation to the application concern the following:

- Appropriateness of the proposed use, including land use conflicts between the proposal and adjoining residences
- Potential loss of amenity to residents through air and noise pollution
- Transport and site servicing

These issues in addition to those others raised in the planning focus meeting are discussed as follows.

Appropriateness of the proposed use

The proposal does not appear to be for a large-scale industrial process, but a small discrete experimental operation. No machinery is to be produced at the site, there are no volatile chemicals or oils are to be stored or used at this site, with the exception of 20 litres of methylated spirits, which will be the only flammable material on site.

In terms of land use conflict, Clause 52.10 provides some guidance as to assessment of applications with adverse amenity potential. The purpose of this Clause is to define those types of industries which if not appropriately designed and located may cause offence or unacceptable risk to the neighbourhood. The Clause includes a table with threshold distances, which are the minimum distances from any part of the land of the proposed use or buildings and works to sensitive land uses, including residential zone and land used for an education centre.

The proposal does not immediately fall into any of the categories mentioned in the table, and it appears that this Clause may not be relevant, as the use does not fit with those listed. It is noted that this Clause seems to relate mainly to large-scale enterprises rather than is proposed here. In respect of certain ‘other’ landuses, the Clause states that the threshold distance is variable, and is dependent upon the processes to be used and the

materials to be processed or stored. This may provide the most appropriate guidance to this application.

From the information provided with the application and at the subsequent planning focus meeting, it appears that the most relevant aspect of the application in terms of this consideration is the noise to be generated.

Air and noise pollution

Concerns with regards to odour and noise have been raised with regards to the proposal, including:

- *Air pollution: contaminants and odours*

The applicant has stated that there will be no air pollution due to odour or dust due to the use of dust suppression devices.

- *Noise: noise levels from total operation, prevailing winds will move noise towards dwellings, noise mitigation measures, frequency, repetition and pitch.*

Expected noise levels from the proposal, noise mitigation measures, and frequency of noise are outlined in the table below (provided by the applicant).

Details of Machine	Supercritical Fluid Extraction Machine	Cold Press	Steam Distillation	Grinding of raw material
Noise generated at source	80 decibels	65 Decibels	40 Decibels	70 Decibels
Predicted Noise Levels outdoors at the nearest residence	10 decibels. This is the highest levels with distance assumed to be 190mtrs. Will be reduced with presence of wind.	10 decibels. This is from manufacturers specifications.	10 Decibels.	10 Decibels
How info derived	This is calculated on historical data when machine was set up in Wellington New Zealand.	From Manufacture of machinery	Measured with sound meter at 1 of manufacturers existing sites in Lismore NSW.	This is calculated on historical data when machine was set up in Wellington New Zealand.
Proposed Noise Mitigation measures	Doors in buildings will be closed & opened only for access. The compressor, which is the main producer of this noise, we have decided to locate in the existing underground cellar, which will kill all the noise produced.	Doors in buildings will be closed & opened only for access. Sound deadening enclosure will be built if needed.	Doors in buildings will be closed & opened only for access. Sound deadening enclosure will be built if needed.	We will build a sound/dust proof room within the brick building operating with its doors shut with doors shut.
Weekly operating times [Note: this is based on discussion at the Planning Focus Meeting]	All day Monday – Saturday	Three days per week	All day Monday – Saturday	Three hours per week

The EPA has produced “*Interim Guidelines for Control of Noise from Industry in Country Victoria*” (N3/89, 18 April 1989). With regards to noise limits, the Guidelines state:

“3. Where background sound levels are very low (ie. less than 25 dB(A) at night or 30 dB(A) during the day or evening period) the minimum limits for noise from industry should be:

<i>Day</i>	<i>Evening</i>	<i>Night</i>
<i>45 dB(A)</i>	<i>37 dB(A)</i>	<i>32 dB(A)</i>

(Measured at residential premises)

4. During construction of an industry the daytime limit shall be raised by 10 dB(A) except where this would result in a limit greater than 68 dB(A). In this case the daytime construction noise limit shall be 68 dB(A). Limits for other time periods shall be the same as those set for the ongoing industrial operation.”

The nearest sensitive land uses include:

- Child care/kindergarten, 140m distant from the buildings, however on the same land
- Dwelling, 185m distance from the buildings, land adjoining the application site.

The applicant has revised the expected noise levels and indicates that the predicted noise levels outdoors at the nearest residence will be 10 decibels. This complies with the above EPA Guidelines. It is recommended that a condition be placed on any planning permit issued, requiring compliance with the above EPA guidelines.

Transport and site servicing

Concern has been raised with respect to servicing the site, particularly with regards to the appropriateness of using Dingle Road. However the applicant has indicated that all servicing vehicles will access the site via La Trobe University and will not use Dingle Road. Council’s Assets Engineers have raised the concern that the internal La Trobe roads may not be of sufficient strength to carry heavy vehicles over time, and if this is the case then the internal roads will need repair, or servicing via Dingle Road may need to be considered. If this is required, then some minor upgrades to Dingle Road may be required.

The applicant has indicated that on a weekly basis the following trucks will service the site:

- Four dual axle trucks (Taylors Transport);
- Three delivery vans (small Mercedes delivery van) (Breens Transport);
- One semi-trailer per month;
- Waste will be collected from the site by JR Richards twice weekly from the site. JR Richards use a dual axle truck which is capable of carrying a load of approximately 12 tonnes.

Given the close proximity of sensitive land uses (residential, education, child care) and the need to control activities on the site to those primarily required for research and development purposes, it is proposed to limit trucks servicing the site to rigid trucks with a single or tandem axle in accordance with VicRoads Vehicle Standards. Vehicles larger than this, including articulated vehicles, rigid vehicles in the Tri Axle Group or Twin Steer Axle Group, or articulated or rigid vehicles towing a trailer are not to be used to service or deliver to or from the site.

With respect to the noise of loading and unloading, a condition restricting delivery times was proposed at the planning focus meeting, with the suggestion that deliveries to and from the land (including waste collection) to take place between 9 a.m. and 3 p.m. on Mondays to Fridays.

Other issues

Other issues raised in objections include:

- The lack of detail provided to residents
- Works commenced on site prior to the application being decided
- Affect on property values

With regards to the first point, it is noted that the level of detail provided to residents was the exact same level of detail provided to Council in the application. As such, Council's planning officers have made several requests for information to the applicant during the assessment of the application. Further, it should be noted that the applicant has several times revised key details of the application which has made assessment by Council officers and the community very difficult.

With regards to the second point, the applicant advises that no works have occurred on site which require a planning permit, ie. machinery has been stored on the site and building restoration works have occurred, but no operation has occurred.

With regards to the last issue, this is not a planning consideration.

CONCLUSION

In conclusion, this application for extraction of Artemisia for antimalarial research and education purposes and extraction of other oils for research and development purposes has merits, however some aspects of the proposal will require careful ongoing monitoring, particularly in regards to noise and site servicing by vehicles. As such, the proposed conditions require compliance with certain standards that should overcome these issues. Therefore, it is recommended that the application be approved subject to the recommended conditions.

ATTACHMENTS

Attach A: Locality Plan and Proposal

Attach B: Objections

Attach C: Further Information Received from Applicant

11.11 HERITAGE VICTORIA PERMIT APPLICATION FOR HM PRISON BEECHWORTH, WILLIAM STREET, BEECHWORTH (E900, EDSM)

RECOMMENDATION

- 1. That Heritage Victoria be advised that Council does not support this Heritage Permit Application and requests that Heritage Victoria refuse the application for the following reasons:**
 - a. The proposal fails to provide a whole of site approach to development and reuse of this significant site and the subdivision and development proposed in the current application may prejudice development and reuse of those parts of the site of primary significance.**
 - b. The proposal fails to adequately safeguard major issues identified in the Conservation Management Plan of retention of evidence of the quarry, maintenance of views of the walls, and treatment of the interface between Queen Victoria Gardens and the gaol.**
 - c. Fencing proposed is inappropriate to the interface areas with Queen Victoria Park and Sydney Road. Any fencing in these locations should be substantially transparent and respond to the significant heritage context.**
 - d. Significant trees are impacted by the proximity of proposed buildings.**
- 2. That Heritage Victoria be advised that Council has concerns including:**
 - a. Any application must include details of proposals for the Industries Building and all buildings and areas within the Gaol walls.**
 - b. There is no current safeguard that overdue repair to the Gaol fabric including the walls will be carried out as part of the proposed subdivision and development.**
 - c. Plans have not been required to demonstrate that the root zones and canopies of significant trees will not be adversely affected by proposed development.**
 - d. Funding proposals should require all owners to provide for the ongoing conservation, repair and maintenance of parts of the significant heritage fabric.**

SUMMARY

Heritage Victoria has received an application for a permit under Part IV of the Heritage Act, 1995. The application is for a 23 lot subdivision of the Gaol site, with the area within the stone walls being retained in a single lot. The application includes construction of roads, fences and landscaping outside the Gaol walls. There are building envelopes proposed over the lots outside the Gaol walls but no firm proposal for redevelopment of the Gaol itself. This application has been referred to Council for

comment.

This report considers the nature of the application and issues with the application as it stands. The concept of subdivision and new dwellings is sound and a good reuse of the site. There are issues with the nature of what is proposed, particularly the piecemeal approach which may prejudice the reuse of the Gaol component of the site.

BACKGROUND

Heritage Victoria has received an application for a 23 lot subdivision and associated construction of roads, fences and landscaping works. No works are proposed to the significant Gaol buildings other than maintenance and conservation works.

Information provided as part of the application is a Conservation Management Plan, an Heritage Impact Statement, the application itself and revised details of the application. Each component is briefly outlined. Extracts from these documents are attached (see **Attachments A, B, and C**)

CONSERVATION MANAGEMENT PLAN

A Conservation Management Plan (CMP) has been prepared by Lovell Chen, Architects and Heritage Consultants. The CMP will be tabled for Councillors information.

The purpose of the CMP is stated as "...to analysis the significance of the Gaol in terms of its fabric and to develop policies to guide its future management and redevelopment" (p1.). The CMP sets out of achieve this aim by addressing the following issues – history of Beechworth, prison development and the site, a physical survey and analysis of the site, assessment of significance, and conservation policy and management plan.

In part the CMP is considered to provide a useful basis for future management and redevelopment of the site. For instance the listing of issues and implications. The three major issues identified are:

- Retention of evidence of the quarry;
- Views of the walls; and
- Interface between Queen Victoria Gardens and the gaol (p109).

Implications can be summarised as:

- Retention and conservation of significant building fabric;
- Adaptation does not result in loss of significance or identity;
- Maintenance of external presentation (iconic status); and
- Short term needs are considered in the light of longer term conservation objectives, the nature of the original fabric and site identity (p110).

The success or otherwise of any development and reuse proposal will very much depend on how these issues and implications are addressed.

Outcomes on the site will also be dependent on the approach that is taken to approvals. The need for a whole site proposal is the single most important most important aspect of the development and reuse of the site. That is a proposal for the whole site is considered

any particular alteration or development is considered in the context of the whole site. The CMP goes part way to a clear statement that the question of any particular alteration needs to be looked at holistically – not by singling out individual elements in the absence of a proposal for the whole site. The CMP states that “The acceptability or otherwise would be dependant upon the quantum and nature of any alterations” (p121).

The lessons learned from redevelopment of Pentridge Prison in Melbourne confirm the impact of failure to require a whole site proposal. Approval of incremental/adhoc proposals at Pentridge have arguably resulted in loss of cultural heritage value.

It is considered that the plan has a number of deficiencies in accuracy of detail, set out of the information and most importantly in the nature of the recommendations and policies. Heritage Victoria has been provided with details of these items. Key issues with the CMP are:

- A view cone has been identified along Sydney Road “to maintain the imposing and dominant presence of the Gaol walls and buildings, particularly when viewed from Ford Street – Sydney Road” (p118). The retention of the garden area along William Street means that the view approaching from the south will be protected. The view from the northern approach is not clearly protected. It is not clear that the view cone considers the contours of the site and sight lines. The view cone will not provide for retention of a significant part of the view along Sydney Road and it is considered that this needs to be revisited to ensure that this significant view of the Gaol when approached from the north is maintained. Concerns with the limited extent of the view cone are increased when the proposal for two storey development along Sydney Road and the proposed provision of a concrete panel 1.8m high fence along the boundary to these houses are considered. The proponent has been requested to provide 3-D models of the proposed development. This would demonstrate the impact of the development on this significant view of the Gaol. The proponent has refused this request.
- The section of the CMP titled Conservation Policy and Management Plan does not provide policy alone but is a combination of policy and suggestions for adaptive reuse. It is not appropriate that these two separate aspects of policy and adaptive re-use be confused in a document that will guide future activities on the site. It has been suggested that potential changes to fabric could be considered in a separate section to policy statements for the ongoing management and redevelopment of the site.

In discussions on this shortcoming Heritage Victoria have advised that it is not intended to request that the Conservation management Plan be revised.

- The CMP does not state clear policy and a rationale for this in all instances. For example it is stated that 2 storey or 7 metres development will be possible. There needs to be some justification for this. It is considered that two storey development will be inappropriate anywhere in proximity to Sydney Road, yet higher development may be possible along High Street.
- It is stated that new buildings “*should generally be recessive, avoid a hard grid*

setout and boundary fencing and so as to fit into the landscape of this area” (page 124). From this statement it appears that 1.8m height concrete panel boundary fencing is not considered appropriate – but this is proposed along boundaries with Queen Victoria Park and to the Sydney Road side of properties.

- It is stated that new building on the concrete slab of the industries building “*would be acceptable provided that the remaining exposed section of the quarry is not encroached upon*”. This is not reflective of earlier comments about the importance of being able to interpret the quarry. It is desirable that new building/s and landscaping will need to be designed to allow views of the quarry face and facilitate interpretation of this activity.

HERITAGE IMPACT STATEMENT

The Heritage Impact Statement (HIS) identifies key elements of the site. It builds on the CMP. There are several major shortcomings with the HIS:

- The section on heritage infrastructure includes the following statement in relation to exteriors of the perimeter of the gaol walls and watchtowers: “*It is in fair to good repair and needs little essential conservation work at present.*” This statement appears to be contradicted by the statement “*the original stronger lime rich pointing is largely missing & many joints in the stonework are completely washed away & require prompt attention.*” (Period Restoration Services, *Former Beechworth Gaol, Beechworth, Vic. maintenance schedule & estimate of ongoing costs*, August 2006).

Inspection of the external walls shows that the wall is no longer in good repair. It appears that repointing of the wall is required in the short term. This is not part of the ongoing maintenance work, but a necessary preliminary matter which has not been addressed.

- The section on non significant areas of the Gaol deals in part with the existing Industries Building. It notes that the building is proposed to be retained. This section fails to address the CMP’s direction that visibility of the walls of the quarry would assist with interpretation of this element.
- It is noted that there is a proposal for a 1.8 metre high masonry fence (interspersed with sections of creeper-covered wire fence) along the west and north boundaries of Lots 1–13. The report only addresses this element of the proposed development in stating that “*new housing allotments are set back from the ‘view cone’ so as not to intrude into the vista.*” This is not the case. A 1.8 metre height element in the locations proposed is inappropriate to the location and context. Such a height of substantially solid fence will block views and will have greater impact given that it is significantly higher than footpath level due to the slope of the land up from Sydney Road.
- It is proposed that signage will be located in a key part of the ‘view cone’. The report fails to address the potential conflict of such a proposal with retaining a clear view of the Gaol wall in this location.

- The section on siting of new building development notes that: *Views from the significant buildings and surrounding curtilage will be improved by the replacement of unsympathetic ad-hoc buildings and hard landscape with visually cohesive masterplanned development and landscaping.* The HIS fails in that it has not considered the impact on the site in exclusion demolition of the Industries Building – a building which is identified as of no significance in the CMP. For the above statement to hold true, it is considered that the Industries Building will need to be removed to allow for the “*visually cohesive masterplanned development and landscaping*” of the site.

APPLICATION AND PLANNING REPORT

The concept of housing in the less significant areas of the site is supported. While supported in principle there are specific concerns with the detail of this proposal. These issues are:

- The failure to address a viable adaptive reuse for the whole site.

This is the principle issue with the application as it stands.

The purpose of sale of the site and the development and reuse of the site is the adaptive reuse of the Gaol itself. While a conceptual plan is included in the information provided it is clearly stated that this is not to be taken as anything but a possibility of a future undisclosed proposal for adaptive reuse of the Gaol. As the proposal stands there is no guarantee that any adaptive reuse of the Gaol will result from the development proposed.

Ignoring the focus of the site is unacceptable. This is particularly so given the significant costs which will be associated with conservation and adaptive reuse work. In discussions with the proponent and Heritage Victoria it has been suggested that provision of a covenant on the Gaol component will ensure that any future owner will carry out necessary work on this element. In the absence of a whole site proposal this is not considered adequate.

- Subdivision of the site in the absence of a whole of site approach could jeopardise the future conservation and management of the Beechworth Gaol. Again a whole of site approach is required.
- Concern at fragmentation of the site at this early stage and the impact that multiple ownerships may have on the cohesive development of the site.
- The quarry is seen of primary significance in the CMP – yet is not adequately addressed in the application. The quarry is largely obscured by the Industries Building. This building has no significance. Inspection of this building shows that its redevelopment for future housing may be more costly than demolition and construction of buildings which do not hinder interpretation on the quarry area. The failure of the application to address this is a significant issue.
- The Industries Building has been suggested as both a future unit development site and as a car park to satisfy requirements of development of the Gaol for a hotel or other purpose. The site is of insufficient area to provide for up to 60 spaces

which may be required for the accommodation component of the Gaol (based on the 65 accommodation units indicated on concept plans provided by the proponent for the Gaol (see **Attachment D**)). Both these suggestions appear to fail to respond to the CMP requirement for retaining evidence of the quarry. These uses may either privatise the quarry area or prevent any visibility of this area in the future.

- The loss of views of the Gaol from parts of Sydney Road:
 - The 'view cone' does not appear to relate to contours of the site. The view from Sydney Road is integral to a quality outcome in adaptive reuse for the site.
 - The location of lots is considered too close to Sydney Road.
 - The location of two storey elements is inappropriate to the north of the ridge line in the area to the north of the Gaol walls.
 - Fencing of 1.8 metres will further restrict views.
- Fencing on the boundary of lots where adjoining a reserve, or road should be transparent to facilitate views into this significant site and passive surveillance of the area. This will assist with integration of the site with these public spaces.
- Trees and canopy spreads indicated on plans submitted suggest that some significant trees will not be protected.
 - A large Eucalypt in the adjacent Queen Victoria Park has a two storey building envelope shown hard against the tree shown on the plan submitted. As the plans fail to show canopy spread it is likely that the canopy will interfere with building envelope and almost certain that the building location will impact on the root zone of this tree. It is noted that the tree is a substantial tree and the impact of the tree will extend a minimum of 10 metres from the tree. Heritage Victoria has previously been requested to require plans to be provided by the proponent which accurately locate building envelopes in relation to trees and canopy spreads. This has not been provided.
 - Lots 5-8 are located in proximity to significant Sequoia trees along the Sydney Road frontage. Further information is required to demonstrate that all buildings on these lots will not impact on the root zones of these significant trees. Again this has not been provided despite a request to Heritage Victoria.
- The failure to provide detail on funding for initial works and ongoing works. The initial application suggests that this may be by way of Body Corporates which tie:
 - Lots 1-19 (the new housing lots) to maintenance, conservation and repair of the significant external heritage elements of the Gaol;
 - Lots 20-22 (Governor's quarters to maintenance of the Governor's and Warder's Quarters; and
 - Lot 23 (Gaol) to responsibility for interior elements of the Gaol.

This would ensure some responsibility from all future owners for parts and fabric of the site.

Further information received from the proponent now proposes the following lots

and responsibilities for areas of common property.

Lot	Common property responsibility			
	Body Corporate No. 1 (road access – Governors Lane and Quarry Hatch Lane)	Body Corporate No. 2 (Gaol and areas around outside of walls)	Body Corporate No. 3 (Industries building site)	Body Corporate No. 4 (Governor’s quarters)
1 – 13 and 18	-	-	-	-
14-17 and 19	✓ Roadway	-	-	-
S2	✓ Roadway	✓ Building and landscaping	-	-
S3 Industries building site	✓ Roadway	-	✓ Landscaping	-
S4 (Lots 20-22) Governor’s quarters	✓ Roadway	-	-	✓ Building and landscaping

This removes obligation for the site from the majority of new housing lots.

- Concern that the Design Committee is proposed to be set up in a way which does not protect the integrity of design and development of the site. There is no guarantee that this committee will act to ensure that design and development proposals integrate with the site and are respectful of the heritage significance of this site.

REQUESTS FOR FURTHER INFORMATION

Following receipt of the original proposal Council requested Heritage Victoria to require the applicant to submit a revised proposal which provides a whole of site approach. Specifically this revised proposal was requested to:

1. Provide for a viable adaptive reuse of the areas within the external Gaol walls.
2. Provides for alternate development on the site of the Industries Building which enables interpretation of the quarry.
3. Specifically provide for essential work required in the short term in both common property areas and individual titles.
4. Provide for the immediate work which is required to protect and improve the health of stressed trees on the site (mulching and watering).

Discussions were subsequently held with Heritage Victoria officers and the proponent. Requests for further information were largely declined by the proponent at this time.

Additional information that has been provided by the proponent is more detailed plans of subdivision including body corporate schedules (see **Attachment E** for part of this information).

CONSULTATION

Council requested Heritage Victoria to give notice of the application in both the Ovens and Murray Advertiser and Border Mail (a Saturday edition) and to notify adjacent land owners and occupiers (including those on opposite sides of roads). Heritage Victoria required newspaper notices and a sign on each of three boundaries of the site. It is understood that notice would close at the end of January 2007.

There has been considerable public interest and concern at the proposed subdivision and development. On 25 January, after advising that I would be available to answer enquiries from two persons on the application, 26 residents attended the Council office to obtain information on the proposal. Views that have been expressed principally include the following:

- Need for a public meeting to discuss the proposal given that the site is of local, state and (arguably) national significance;
- A whole of site approach is not being taken and that subdivision and disposal of lots in the absence of a whole of site proposal may prejudice the reuse of the Gaol itself;
- Deterioration of Gaol into the future;
- Desirability of visitors to be able to walk through parts of the Gaol complex;
- Height of development along High Street;
- Approval of designs for new buildings being by the developer and persons engaged by the developer;
- Materials and colour of new buildings and works;
- Infrastructure issues - water, sewer and drainage issues.

POLICY IMPLICATIONS

The Gaol is both state listed and covered under heritage provisions in the Indigo Planning Scheme. As the site is state listed, Council does not have a statutory role in approving development proposals. This is a matter for Heritage Victoria.

Council will have a role in approving application for future use of the site and will be required to consider any application for subdivision following Heritage Victoria approval of the current application before that authority.

CONCLUSION

The proposal fails in a number of respects as detailed in this report. The greatest

shortcoming is the failure to provide a whole of site proposal. This leaves a question as to the intentions of the proposal – which are not currently directed at reuse of the former Gaol, but at disposal of the less encumbered land component of the site.

ATTACHMENTS

- *Attach A – Extract from Conservation Management Plan*
 - *Attach B – Extract from Heritage Impact Statement*
 - *Attach C – Extract from application to Heritage Victoria*
- *Attach D – Concept proposal for possible reuse of the Gaol (not part of the application with Heritage Victoria)*
 - *Attach E - Plan of proposed subdivision.*

11.12 PLANNING APPLICATION 06-250 - GRAEME CONNELLY (BOXAL PTY LTD) (SSP)

For Decision

SUMMARY

Application No: 06-250

Applicant: Graeme Connelly (Boxal Pty Ltd)

Subject Land: 36 Conness Street, Chiltern.

Proposal: Demolition of shed, removal of four trees and construction of extension to rear and side of existing supermarket building.

Recommendation: Approval

RECOMMENDATION

Planning Application 06-250 be approved and a Notice of Decision to Grant a Permit be issued for Planning Application 06-250, allowing for:

- **the demolition of shed to the rear of the existing supermarket;**
- **removal of four trees;**
- **signage;**
- **construction of an extension to the side and rear of the existing supermarket;**
and
- **construction of a verandah to the front of the extension to the west of the existing supermarket.**

on the subject land, in accordance with the endorsed plans and subject to the following conditions:

1. APPROVED USE/DEVELOPMENT

The development hereby approved shall be carried out generally in accordance with the endorsed plans and as amended by the following conditions.

2. LAYOUT NOT ALTERED

The development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.

3. AMENDED PLANS

Before the use and/or development hereby approved starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and two copies must be provided. The plans must be modified to show:

- (i) A parapet on the rear of the building;
- (ii) Use of galvanised corrugated iron;
- (iii) The final colour scheme and all external materials and finishes;
- (iv) Proposed dimensions, location, materials, design and colour scheme of proposed signage. Such details/plans must comply Clause 22.03-10 (Advertising sign Policy) of the Indigo Planning Scheme.

4. AMENITY

The use hereby permitted, the processes carried on, the materials used or stored, machinery employed or transportation of materials, goods and commodities to and from the premises will not cause injury or prejudicially affect the amenity of the locality by reason of the appearance of such building, works or materials or by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit, oil or the presence of vermin or otherwise.

5. EXTERNAL FABRIC

(i) The external fabric of the building/s hereby approved, (including the roofing) or any above-ground water storage tank constructed or installed on the land must be of non-reflective, neutral “earthy” colours to blend with the landscape and preserve the visual amenity of the area.

(ii) Any metal cladding proposed to be used in the construction of the building/s hereby approved, must be:

(a) galvanised corrugated iron; and/or

(b) treated metal cladding painted in muted tones, provided such painting is completed prior to the occupation of any building/s hereby approved,

to the satisfaction of the Responsible Authority.

6. WATER SUPPLY

A reticulated water supply shall be provided to the requirements of the North East Region Water Authority.

7. RETICULATED SEWERAGE

Reticulated sewerage shall be provided to the requirements of the North East Region Water Authority.

8. NOISE

Sound levels emanating from the land must not exceed those required to be met under State Environment Protection Policies Interim Guidelines for Control of Noise from Industry in Country Victoria (EPA 1989).

All machinery, plant and equipment shall be baffled to the satisfaction of the Responsible Authority and so as to prevent nuisance or annoyance to persons occupying adjoining or nearby land.

Where noise levels exceed those levels in the State Environment Protection Policies Interim Guidelines for Control of Noise from Industry in Country Victoria (EPA 1989), the applicant shall provide additional sound attenuation to the satisfaction of the Responsible Authority.

9. CAR PARKING

The owner/developer shall contribute towards the cost of car parking and access road provision and upgrades by way of making a one off contribution of \$100,000 prior to first occupation of the extension to the supermarket. This figure shall be increased by CPI increases if not paid within one year of the date of this permit.

10. SEDIMENT POLLUTION CONTROL

Any clearing or construction activity associated with the subdivision and development of the land shall be carried out in accordance with EPA Publication 275 "*Construction Techniques for Sediment Pollution Control*".

11. STORMWATER DRAINAGE

Stormwater drainage must be discharged to approved point/s and at flow rates in accordance with plans and specifications approved by the Responsible Authority.

12. TRAFFIC MANAGEMENT PLAN

The owner/developer shall provide a Traffic Management Plan prepared by a suitably qualified traffic engineer which will include details of traffic movements generated as a result of this development and the impacts of those movements. The study shall include, but not be limited to, procedure/s for safely manoeuvring vehicles in to and out of the loading area and defined heavy vehicle access routes.

Plans submitted must be approved by the Responsible Authority. Plans submitted with the application shall be modified as necessary as a result of the traffic management plan report.

13. LOADING AND UNLOADING OF VEHICLES

- (i) All loading and unloading of service and delivery vehicles must be undertaken in the designated loading area.**
- (ii) The Traffic Management Plan shall incorporate devices for isolating the loading area from pedestrians and in particular children during loading and unloading procedures.**
- (iii) At all other times, other than during loading or unloading procedures, the designated area shall be kept completely clear for the movement of pedestrians.**
- (iv) With the exception of 1 bread and dairy vehicle per day, loading/unloading of delivery vehicles shall only be carried out between the hours of 7.00am and 6.00pm Monday to Saturday and 8.00am to 12 Noon Sunday. Trucks waiting outside of these hours to deliver goods shall be parked in a non-residential area.**

14. STORAGE OF MATERIALS

Except during loading and unloading procedures no goods or materials shall be stored or left exposed outside of the Supermarket building so as to be visible to the public from any public road or thoroughfare.

15. SPECIAL REQUIREMENTS

The owner/developer is required to work in close consultation with the Shire's Heritage Advisor to ensure that all buildings and works maintain the cultural heritage significance of this site to the satisfaction of the Responsible Authority. This will ensure that, where possible, remnants of earlier building finishes will remain; and new building materials will compliment the heritage of this site.

16. OUTDOOR LIGHTING

Any outdoor lighting must be designed, baffled and located to the satisfaction of the Responsible Authority to prevent any adverse effect on adjoining land.

17. PUBLIC ADDRESS SYSTEM

No form of public address system shall be installed so as to be audible from outside of the building.

18. TOILETS

Toilets shall be provided for patrons of the development at the rate of 1 male, 1 female and 1 disabled toilet. These toilets must be readily and practically accessible to patrons to the satisfaction of the Responsible Authority.

19. WASTE DISPOSAL

All trade wastes, sewage and sullage waters generated by the development hereby permitted shall be connected to the reticulated sewerage system to the requirements and satisfaction of North East Region Water Authority.

20. COLOURS AND MATERIALS

The final colour scheme and all external finishes are to be submitted and approved by the Responsible Authority prior to commencement of any building work.

21. HOURS OF OPERATION

The permitted trading hours shall be limited to between 8.00 am and 8.00 pm Monday to Sunday. These hours of operation shall not be exceeded without the further written consent of the Responsible Authority.

22. AMENITY

All plant and equipment including air conditioning units must be designed and located so as to minimise visual impacts on streetscapes and adjacent land and adverse impacts on the amenity of the locality. Plant and equipment must be located behind sound reducing structures where necessary to avoid adverse impacts on the amenity of the area including adjoining properties, to the satisfaction of the Responsible Authority.

23. VICROADS CONDITIONS

- (i) Direct vehicular access from the subject land to the Chiltern-Rutherglen Road will not be permitted. Access to the subject land shall be via the local road network.
- (ii) The design and construction of the verandah (including materials, colour scheme, and methods of fixing) shall be to the satisfaction of the Responsible Authority (Indigo Shire Council).
- (iii) The verandah shall not extend over the back of kerb and shall be no closer to the line of back of kerb than the offset of the existing verandah unless otherwise approved in writing by VicRoads' Regional Manager, North Eastern Region.
- (iv) The owner must indemnify VicRoads against any liability, loss, damage or expense arising from the use of the verandah and the road reserve.
- (v) Prior to the commencement of any use or occupation of the road reserve or works associated with the construction of the verandah, the applicant shall:
 - (a) Complete to VicRoads' satisfaction, an 'Agreement to Occupy, Use or Install Infrastructure within, the Road Reserve'.
 - (b) Obtain and maintain public liability insurance cover for at least \$10 million in accordance with the above agreement for the duration of use

and occupation of the road reserve.

- (c) Sign the indemnity statement.**
- (d) Submit an application for consent, in accordance with the Road Management (Works and Infrastructure) Regulations 2004, including payment of the prescribed fee for any proposed installation of any proposed fixed structures within the declared arterial road reserve.**
- (vi) The applicant must ensure that the permitted use and occupation is not detrimental to public amenity or safety, including the safety of road users and pedestrians.**
- (vii) In relation to any business signs and lighting:**
 - (a) Any sign, including appurtenances such as lighting must be erected within the property line and must not obstruct a driver's line of sight at any point of egress**
 - (b) All signs must meet the VicRoads' ten point safety checklist for advertisements and hoardings to ensure that it does not constitute a road safety hazard.**
- (viii) The discharge of concentrated drainage to the arterial road reserve will not be permitted. The drainage shall discharge at a legal point of discharge as determined by the responsible authority (Indigo Shire).**
- (ix) Construction activities within the arterial road reserve shall be performed in accordance with the VicRoads' Standard Specifications for Roadwork. Traffic Management shall be conducted in accordance with a traffic management plan prepared in accordance with the Road Safety Act and Road Management Act Code of Practice for Worksite Safety-Traffic Management.**
- (x) All works associated with the above requirements are to be completed at no cost to VicRoads and the road reserve must be left in a neat and tidy condition.**

24. NECMA CONDITIONS

The earthworks to be undertaken for the carpark should not exceed 300 mm in height above existing natural surface, and should not alter the current drainage characteristics.

25. EXPIRY DATE

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

- (i) The development is not started within two years of the date of this permit.**
- (ii) The development is not completed within two years of the date of commencement.**

The Responsible Authority may extend the periods referred to if a request is made in writing before the period expires or within three months of the date of expiration.

BACKGROUND

A report on Planning Permit Application PP06-250 was considered at Council's special meeting of 19 December 2006. At this meeting, Council resolved the following:

1. That the matter lay on the table.
2. That further consideration be given to the application at an appropriate time as early as possible in the new year.
3. That the scheduled meeting on 21 December 2006 go ahead with notification to as many people as possible and further consultation take place as required in the new year.

Since this meeting, several things have occurred, including:

- A meeting was held with concerned residents regarding the proposal for the car park and access way improvements (planning permit application 06-294) on 21 December 2006;
- A formal response on the application was received from VicRoads; and
- A planning focus meeting was held to discuss the extension to the Chiltern IGA supermarket on 17 January 2007.

Details with regards to these occurrences are included in this report.

Planning application PP06-250 was lodged on 18 October 2006. A site inspection was conducted, and a further information request was made on 7 November 2006 in order to complete the application. This further information was received 24 November 2006, and as a result the application was considered complete as of this date.

The purpose of the application is to seek approval for the demolition of some of the existing buildings on the subject site and the construction of a new extension to the rear and side of the existing supermarket building.

The subject site is located within Conness Street commercial precinct in Chiltern (refer to attached locality plan/site plan – **Attachment A**). The subject land currently contains the existing supermarket building, which provides approximately 220m² of retail floor space, and 177m² of storage area directly to the rear of the supermarket. The land to the western side of the supermarket is currently vacant, while Martin Lane lies to the east. The site is further surrounded by commercial and residential land uses.

The proposal is to develop a new supermarket, which would provide for a total of approximately 605m² of gross floor area. In order for this development to take place the applicant is also applying to demolish the rear shed which currently acts as the storage area.

Notice of this application for a planning permit was given on 18 November 2006 and a

number of objections were received in response.

PROPOSAL

The applicant is seeking approval for:

- The demolition of the rear shed;
- Removal of 4 trees;
- Signage; and
- Construction of an extension to the existing supermarket building (including verandah in the road reserve).

A car park and vehicle access ways will be required to service the car park, and this forms part of Planning Permit application 06-294 which will be reported separately to Council.

The proposal is shown at **Attachment B**.

ZONING AND PLANNING CONTROLS

The subject site is covered by the Business 1 Zone, Heritage Overlay (HO 93 – Heritage Precinct) and Land Subject to Inundation Overlay under the provisions of the Indigo Planning Scheme. The Particular Provisions contained in Clause 52.06 (Carparking) and Clause 52.07 (Loading and Unloading of vehicles) also applies to this application.

Under **Clause 34.01 (Business 1 Zone)**, a supermarket is included within the definition of a ‘shop’, which is a Section 1 use. However, a planning permit is required to construct a building or construct or carry out works.

The purpose of the Business 1 Zone is to:

- To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- To encourage the intensive development of business centres for retailing and other complementary commercial, entertainment and community uses.

The decision guidelines of the Business 1 Zone require the Responsible Authority to consider, as appropriate:

- The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- The movement of pedestrians and cyclists, and vehicles providing for supplies, waste removal, emergency services and public transport.
- The provision of car parking.

- The interface with adjoining zones, especially the relationship with residential areas.
- The streetscape, including the conservation of buildings, the design of verandahs, access from the street front, protecting active frontages to pedestrian areas, the treatment of the fronts and backs of buildings and their appurtenances, illumination of buildings or their immediate spaces and the landscaping of land adjoining a road.
- The storage of rubbish and materials for recycling.
- Defining the responsibility for the maintenance of buildings, landscaping and paved areas.
- The availability of and connection to services.
- The design of buildings to provide for solar access.
- The objectives, standards and decision guidelines of Clause 54 and Clause 55. This does not apply to a development of four or more storeys, excluding a basement.

Under **Clause 43.01 (Heritage Overlay)** a planning permit is required for the construction of buildings, to carry out works, the demolition of a building, to construct or display a sign and to externally alter a building by structural work, rendering, sandblasting or in any other way.

The purpose of the Heritage Overlay is:

- To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- To conserve and enhance heritage places of natural or cultural significance.
- 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.
- To conserve specifically identified heritage places by allowing a use that would otherwise be prohibited if this will demonstrably assist with the conservation of the significance of the heritage place.

Before deciding upon this application, the Heritage Overlay requires the Responsible Authority to consider the following relevant decision guidelines:

- The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- The significance of the heritage place and whether the proposal will adversely affect the natural or cultural significance of the place.

- Any applicable heritage study and any applicable conservation policy.
- Whether the location, bulk, form or appearance of the proposed building will adversely affect the significance of the heritage place.
- Whether the location, bulk, form and appearance of the proposed building is in keeping with the character and appearance of adjacent buildings and the heritage place.
- Whether the demolition, removal or external alteration will adversely affect the significance of the heritage place.
- Whether the proposed works will adversely affect the significance, character or appearance of the heritage place.
- Whether the proposed sign will adversely affect the significance, character or appearance of the heritage place.
- Whether the pruning, lopping or development will adversely affect the health, appearance or significance of the tree.

Under **Clause 44.04 (Land Subject to Inundation Overlay)**, a planning permit is required to construct a building or to construct or carry out works, including a fence and road works. There is no exemption for the supermarket building, car park or road works currently being proposed for the rear of the Chiltern Supermarket.

Before deciding upon this application, the **Land Subject to Inundation** Overlay requires the Responsible Authority to consider the following relevant decision guidelines:

- The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- Any local floodplain development plan.
- Any comments from the relevant floodplain management authority.
- The existing use and development of the land.
- Whether the proposed use or development could be located on flood-free land or land with a lesser flood hazard outside this overlay.
- The susceptibility of the development to flooding and flood damage.
- The potential flood risk to life, health and safety associated with the development. Flood risk factors to consider include:
 - The frequency, duration, extent, depth and velocity of flooding of the site and accessway.
 - The flood warning time available.
 - The danger to the occupants of the development, other floodplain

residents and emergency personnel if the site or accessway is flooded.

- The effect of the development on redirecting or obstructing floodwater, stormwater or drainage water and the effect of the development on reducing flood storage and increasing flood levels and flow velocities.
- The effect of the development on environmental values such as natural habitat, stream stability, erosion, water quality and sites of scientific significance.

The provisions of **Clause 52.06 (Carparking)** aim to ensure that car parking facilities are provided as required by various uses. It should be noted that car spaces, access lanes, driveways and associated works and landscaping must be provided before the use commences or any new building is occupied. Generally, 8 car parking spaces are required for each 100m² of net floor area.

The purpose of **Clause 52.07 (Loading and Unloading of Vehicles)** is to set aside land for loading and unloading commercial vehicles to prevent loss of amenity and adverse effect on traffic flow and road safety. According to this clause no building or works may be constructed for the manufacture, servicing, storage or sale of goods or materials unless:

- Space is provided on the land for loading and unloading vehicles as specified.
- The driveway to the loading bay is at least 3.6 metres wide. If a driveway changes direction or intersects another driveway, the internal radius at the change of direction or intersection must be at least 6 metres.
- The road that provides access to the loading bay is at least 3.6 metres wide.

The clause further provides that a permit may be granted to reduce or waive these requirements.

STATE PLANNING POLICY FRAMEWORK

The State Planning Policy Framework seeks to ensure that the objectives of in Victoria are met and encouraged through land use and development. The following policies are deemed to be relevant to this proposal and need to be taken into account when addressing this application.

Clause 15.05 Noise Abatement

The objective of this Clause is to assist the control of noise effects on sensitive land uses. It places an obligation on Planning and responsible authorities to 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. Specific reference is made to Interim Guidelines for Control of Noise From Industry in Country Victoria (EPA 1989). The level of noise emanating from the proposed new supermarket will be restricted to an acceptable level by means of a planning permit condition.

Clause 15.11 Heritage

The application site is covered by the Heritage Overlay (HO 93 – Heritage Precinct). The objective of Clause 15.11 (Heritage) is to assist in the conservation of places that have natural, environmental, aesthetic, historic, cultural, scientific or social significance or other special value important for scientific and research purposes, as a means of understanding our past, as well as maintaining and enhancing Victoria's image and making a contribution to the economic and cultural growth of the State.

This Clause places an obligation on planning and responsible authorities to identify, conserve and protect places of natural or cultural value from inappropriate development.

Clause 17.01 Activity Centres

The objective of this Clause is to encourage the concentration of major retail, commercial, administrative, entertainment and cultural developments into activity centres (including strip shopping centres), which provide a variety of land uses and are highly accessible to the community. The application supports this Clause by providing improved shopping facilities within the existing commercial precinct of Chiltern.

Clause 17.02 Business

The objective of this clause is to encourage developments which meet community's needs for retail, entertainment, office and other commercial services and provide net community benefit in relation to accessibility, efficient infrastructure use and the aggregation and sustainability of commercial facilities. The application supports this Clause by providing improved shopping facilities within the existing commercial precinct of Chiltern.

Clause 19.03 Design and Built Form

The objective of this Clause is to achieve high quality urban design and architecture that:

- Reflects the particular characteristics, aspirations and cultural identity of the community.
- Enhances liveability, diversity, amenity and safety of the public realm.
- Promotes attractiveness of towns and cities within the broader strategic contexts.

For non-residential development proposals, planning and responsible authorities must have regard to the following relevant design principles:

- Development must take into account the natural, cultural and strategic context of its location.
- The public realm, which includes main pedestrian spaces, streets, squares, parks and walkways, should be protected and enhanced.
- New development should create urban environments that enhance personal safety and property security and where people feel safe to live, work and move in at any time.

- Landmarks, views and vistas should be protected and enhanced or, where appropriate, created by new additions to the built environment.
- Design of the relationship between buildings and footpaths and other pedestrian spaces, including the arrangement of adjoining activities, entrances, windows, and architectural decoration, should enhance the visual and social experience of the observer.
- New development should respect, but not simply copy, historic precedents and create a worthy legacy for future generations.
- New development should aspire to the high standards in architecture and urban design.

LOCAL PLANNING POLICY FRAMEWORK

The Municipal Strategic Statement (MSS) provides relevant discussion in relation to land use and development within the Shire.

Relevant comments within the MSS include the following:

Clause 21.04-1-3: Chiltern

Objectives of this clause include:

- To promote and support a compact urban form, which fully utilises existing and peripheral vacant residential areas.
- To conserve and enhance heritage buildings and places.

Clause 21.04-3-2 Heritage

Objectives of this Clause are:

- To conserve and enhance heritage buildings, places, significant landscapes and Koori sites.
- To develop and implement consistent heritage conservation and management approaches across the Shire.
- To provide certainty and direction for the continued use and/or redevelopment of heritage buildings.

In considering the subject Planning Application, the following local policies need to be taken into consideration:

Clause 22.03-5 Classified National Trust landscapes

This policy applies to all National Trust of Australia (Victoria) classified landscapes within Indigo Shire. The objectives of this policy include:

- To protect the visual quality and significance of the prominent hills, slopes and

extensive open areas within National Trust classified landscapes.

- To protect classified landscapes from insensitive design and development.
- To maintain and protect the diversity of classified landscapes.
- To protect classified landscapes from visual intrusion and inappropriate development.
- To maintain passive recreational use of classified landscapes for the enjoyment of all visitors.

Considering the above and the proposed development, it is considered that the proposal responds appropriately to the aspects which have contributed to this listing. By protecting and conserving the existing general store and locating the bulk of the proposed development to the rear of this building, the proposed development will have little impact on the streetscape. The development of the proposed supermarket in the core of the town will contribute to the maintenance of the compactness of the township with very few negative impacts on the character and scale of the main street.

Clause 22.03-9 Heritage Policy

This policy applies to heritage places in a Heritage Overlay.

The objective of this policy is to maintain the cultural heritage significance of all identified places and precincts within the Indigo Shire and to foster correct practices in accordance with the criteria as described by ICOMOS Australia and the Burra Charter.

The relevant objectives of this policy are:

- To recognise, conserve and enhance places and streetscapes in Indigo identified as having architectural, cultural or heritage significance as described in the Indigo Shire Heritage Study (2002).
- To retain heritage assets for the enjoyment and experience of residents, visitors and future generations of the municipality.
- To ensure that any additions, alterations and replacement buildings are sympathetic to the heritage place and its surrounds.
- To promote high architectural or design standards in all new buildings and works which reflect the heritage and cultural significance to the precinct and area.
- To ensure that new land uses and developments are sympathetic with the appearance and character of heritage places.

Key policy discretion applicable to this application includes:

- Encourage new buildings and works that are compatible with the characteristics of the individual building and area, and undertaken generally in accordance with any Council prepared guidelines.

- Encourage the design, bulk and setback of any new building within a Conservation Area to be responsive to existing heritage assets.
- Discourage the demolition, removal or re-location of any integral building/s unless it can be demonstrated that:
 - all viable options for the conservation of a building have been explored;
 - the building has structural defects incurred due to natural occurrences that cannot economically be remedied;
 - if part of a heritage place is proposed to be demolished, removal of that part will not affect the significance of the place; and
 - where appropriate, replacement buildings or works have been approved and the owner or developer has given an undertaking to complete the redevelopment works.
- Refer permit applications for heritage places, where professional advice is required, to the Indigo Shire Heritage Advisor.

Under the heading of *Performance measures* the policy further states that the responsible authority should consider the following relevant special requirements:

- New infill buildings in heritage places should be sympathetic in bulk, form and external appearance to adjacent heritage buildings, whilst not reproducing historic detailing;
- Commercial buildings should have timber Victorian shopfronts with post supported verandahs;
- Roof pitches shall be a minimum of 25 degrees with 12 degree minimum over verandahs;
- Verandah posts, beams, fascias and barge boards are to be timber;
- Bricks shall be soft coloured reds with off white colour mortar. Joints shall be cut off flush;
- Windows and doors shall be made of timber to traditional details;
- Colours are to be selected from the traditional heritage colour range;
- Unless it can be demonstrated as inappropriate, all building works shall observe correct practices in accordance with the guidelines as described by ICOMOS Australia and the Burra Charter; and

Clause 22.03-10 Advertising Sign Policy

The Shire comprises a number of townships of outstanding heritage and urban character, especially Beechworth, Chiltern, Rutherglen and Yackandandah. As such there is a need to appropriately control advertising signs to ensure that they are compatible with the

character of the area in which they are located and the building or site on which they are to be displayed, to avoid creation of visual disorder and clutter.

REFERRAL AUTHORITIES

North East Catchment Management Authority: The application was referred to NECMA as a Section 55 Referral Authority due to the Land Subject to Inundation Overlay. NECMA has responded as follows:

“Flood levels for the 1% AEP probability (100 year ARI) have not been designated or declared for this area under the *Water Act 1989*. The Authority’s best estimate of the 1% flood level for the location described above is 204 metres AHD which was obtained from Chiltern Flood Study (Draft Report 2006).

Consequently the Authority advises that in the event of a 100 year ARI flood it is likely that part of the carpark location would be subject to inundation from the adjacent Black Dog Creek Tributary. Please note that the location of the supermarket is now shown to be outside the Land Subject to Inundation area. A future planning scheme amendment following the formal acceptance of the flood study report will be required to reflect these changes.

In the light of the above information and pursuant to *Section 56* of the *Planning and Environment Act 1987*, the Authority **does not object** to the granting of a permit **subject to the following condition:**

1. The earthworks to be undertaken for the carpark should not exceed 300 mm in height above existing natural surface, and should not alter the current drainage characteristics.

It is recommended that Council should consider the erection of a permanent warning notice on the site stating that part of the carpark may be liable to flash flooding.

In accordance with *Section 66* of the *Planning and Environment Act 1987*, please provide a copy of the outcome of this proposal to the Authority for our records.

It is noted that the conditions proposed by NECMA relate to the car park construction”.

VicRoads: The application was referred to VicRoads as a Section 55 Referral Authority due to the construction of a verandah in a Category 1 road reserve. VicRoad has no objection to the application subject to the following conditions:

- “(i) Direct vehicular access from the subject land to the Chiltern-Rutherglen Road will not be permitted. Access to the subject land shall be via the local road network
- (ii) The design and construction of the verandah (including materials, colour scheme, and methods of fixing) shall be to the satisfaction of the Responsible Authority (Indigo Shire Council).

- (iii) The verandah shall not extend over the back of kerb and shall be no closer to the line of back of kerb than the offset of the existing verandah unless otherwise approved in writing by VicRoads' Regional Manager, North Eastern Region.
- (iv) The owner must indemnify VicRoads against any liability, loss, damage or expense arising from the use of the verandah and the road reserve.
- (v) Prior to the commencement of any use or occupation of the road reserve or works associated with the construction of the verandah, the applicant shall:
 - a. Complete to VicRoads' satisfaction, an 'Agreement to Occupy, Use or Install Infrastructure within, the Road Reserve'.
 - b. Obtain and maintain public liability insurance cover for at least \$10 million in accordance with the above agreement for the duration of use and occupation of the road reserve.
 - c. Sign the indemnity statement.
 - d. Submit an application for consent, in accordance with the Road Management (Works and Infrastructure) Regulations 2004, including payment of the prescribed fee for any proposed installation of any proposed fixed structures within the declared arterial road reserve.
- (vi) The applicant must ensure that the permitted use and occupation is not detrimental to public amenity or safety, including the safety of road users and pedestrians.
- (vii) In relation to any business signs and lighting:
 - a. Any sign, including appurtenances such as lighting must be erected within the property line and must not obstruct a driver's line of sight at any point of egress
 - b. All signs must meet the VicRoads' ten point safety checklist for advertisements and hoardings to ensure that it does not constitute a road safety hazard.
- (viii) The discharge of concentrated drainage to the arterial road reserve will not be permitted. The drainage shall discharge at a legal point of discharge as determined by the responsible authority (Indigo Shire).
- (ix) Construction activities within the arterial road reserve shall be performed in accordance with the VicRoads' Standard Specifications for Roadwork. Traffic Management shall be conducted in accordance with a traffic management plan prepared in accordance with the Road Safety Act and Road Management Act Code of Practice for Worksite Safety-Traffic Management.

- (x) All works associated with the above requirements are to be completed at no cost to VicRoads and the road reserve must be left in a neat and tidy condition”.

Council’s Heritage Advisor: Council’s Heritage Advisor provided the following comments in relation to the proposal:

“The proposed design of the supermarket meets the objectives of the heritage overlay and is well supported by the community. While the pitch of the roof to the rear of the supermarket is not appropriate any other roof line would be impractical. The options are to accept the pitch as belonging to a large industrial shed, or, to ask the owners to construct a parapet from corrugated iron - this might also provide a means for appropriate heritage signage to the rear and this would have the added effect of maintaining some form of commercial lane life as would have existed during the 19th century.

Materials - there is a concern with the type of 'metal cladding' that might be chosen. The east elevation says on the actual elevation that selected metal roofing and cladding will be used - then a note to the side says that galvanised horizontal metal wall cladding. This needs to be clarified with only galvanised corrugated iron products being used unless otherwise approved.

It is noted on the plan that it is proposed to used zincalume box guttering. If this is used in conjunction with galvanised iron these two metals can be non compatible. It is recommended that the designer speak to a roof plumber and work out these details and submit them to council.

The colours chosen appear to appropriate but it would be safer to have a colour chip on file as these names do not relate to any objective measure.

There is no mention of signage but it would be good if colour chips for the external scheme and signage colours could be included in the application”.

Council’s Assets Department: Council’s Assets Manager advised the application can be approved subject to conditions relating to: contribution towards car parking and access road provision, sediment and pollution control, stormwater drainage, preparation of a traffic management plan, loading and unloading of vehicles and storage of materials.

PUBLIC NOTICE

In terms of Section 52(1) of the *Planning and Environment Act*, notice of this application was given to relevant landowners and occupiers on 24 November 2006 by:

- Letter to surrounding owners and residents;
- Advertisement in the Border Morning Mail;
- Press release to the Border Morning Mail; and
- Advertisement in The Grapevine.

In response, a total of four objections against the proposed development were received.

Copies of these submissions are included at **Attachment C**. In general submissions are not against the development of a supermarket in principle but rather against certain aspects of this particular development proposal.

Issues raised in these submissions can be summarised as follows:

Truck deliveries to the site:

- Proposed route for deliveries to the supermarket (Rohner, Martin and Greens Lane);
- Disruption as a result of early morning deliveries (5am start);
- Use of Martin's Lane for deliveries will cause disruption to the community, as the frequency of deliveries has been understated;
- Potential danger of servicing trucks backing into Martin Lane;
- 'Policing' of truck movements.

Surrounding Lanes

- Increased traffic in Martin Lane, which is a one way street;
- Impact on pedestrians who currently use Martin Lane;
- Who will pay for upgrade of Martin Lane?
- Opposition to the need to surrounding owners to contribute to the costs of required Lane upgrades.

Car Park

- Will car park be large enough to cope with anticipated growth?

Consultation on Application

- Lack of consultation with adjoining owners on the application and potential costs.

A meeting was held with concerned residents regarding the proposal for the car park and access way improvements (planning permit application 06-294) on 21 December 2006. Following this meeting, one of the objections against the planning permit application 06-250 was withdrawn and placed against PP06-294 instead.

A planning focus meeting was held to discuss the extension to the Chiltern IGA supermarket on 17 January 2007. Following this meeting, two of the objections against the planning permit application 06-250 were withdrawn and placed against PP06-294 instead. However, one withdrawal was conditional on Greens Lane not being developed as the access for deliveries to the supermarket. As this option is still under consideration, it is considered that this objection still stands.

In summary, two objections have been unconditionally withdrawn, one objection has been conditionally withdrawn and one objection is still outstanding.

It should be noted that the objectors made clear at both meetings that their objections concerned the car park and accessways, and no objection was made to the extension of the supermarket as such.

These issues raised in the objection are addressed in the Discussion below.

DISCUSSION

It is considered on balance that the proposal meets the requirements on the Indigo Planning Scheme. This decision is made having regard to all factors and in particular the traffic issues related to servicing of the site. The following aspects have particular relevance to this application:

Heritage

The application comprises the extension of the existing supermarket building to the side and rear within a small discrete conservation area. The proposal also involves the demolition of a shed/storage area to the rear of the site.

The proposed development will have heritage conservation and management implications as it includes the demolition of buildings covered by the Heritage Overlay and the construction of a new building.

The guidance in relation to heritage conservation in the Indigo Planning Scheme comprises: Clause 15.11 (Heritage), Clause 21.04-3-2 (Heritage), Clause 22.03-9 (Heritage Policy) and Clause 43.01: Heritage Overlay. These policies are based on a presumption that responsible authorities identify, conserve and protect places of cultural value from inappropriate development.

Demolition of Buildings

In the case of the shed/storage area to the rear of the existing supermarket, it is not described by the Indigo Shire Heritage Study 1998, however it is covered by the general Heritage Overlay.

In relation to applications involving demolition of heritage buildings, Policy 22.03-9 (Heritage) specifically states that it is policy to

“Discourage the demolition, removal or re-location of any integral building/s unless it can be demonstrated that:

- All viable options for the conservation of a building have been explored;*
- The building has structural defects incurred due to natural occurrences that cannot be economically be remedied;*
- If part of a heritage place is proposed to be demolished, removal of that part will not affect the significance of the place; and*
- Where appropriate, replacement buildings or works have been approved and the owner or developer has given an undertaking to complete the redevelopment works.”*

An inspection of the shed indicates that it does not have any intrinsic heritage significance and there is no objection to its removal.

Appropriateness of New Building

With regards to the new building, Clause 22.03-9 (Heritage Policy) encourages:

- New buildings and works that are compatible with the characteristics of the individual building and area, and undertaken generally in accordance with any Council prepared guidelines.
- The design, bulk and setback of any new building within a Conservation Area to be responsive to existing heritage assets.
- New infill buildings in heritage places should be sympathetic in bulk, form and external appearance to adjacent heritage buildings, whilst not reproducing historic detailing.

In relation to the proposed supermarket building, Council's Heritage Advisor raises some concerns in relation to the roof pitch, materials, colours and signage.

Roof pitch - The roof pitch to the rear of the supermarket is not considered appropriate, however any other roof line would be impractical. The options are to accept the pitch as belonging to a large industrial shed, or, to ask the owners to construct a parapet from corrugated iron - this might also provide a means for appropriate heritage signage to the rear and this would have the added effect of maintaining some form of commercial lane life as would have existed during the 19th century.

It is considered that the proposal in relation to a parapet design, while posing additional cost on the applicant, is more appropriate to the location of the building in a conservation area. In addition, this elevation will be the main elevation presented to shoppers or pedestrians approaching from the rear of the site and the carpark. As such, the proposal for a parapet is supported and should be a condition on any planning permit issued.

Materials – Galvanised corrugated iron products are to be used unless otherwise approved. Further details with regards to the proposed zincalume box guttering to be provided to Council. Both of these issues should be conditioned on any planning permit issued.

Colours – The colours appear to appropriate, but a final colour scheme is to be provided to Council for approval prior to construction. This requirement should be conditioned on any planning permit issued.

Signage - There is no mention of signage but it would be good if colour chips for the external scheme and signage colours could be included in the application. Further Council approval will be required for signage, and the applicant has been made aware of this issue.

In support of the proposed building, it is considered that:

- The development will not take place in an exposed main street location, and all new building elements will be well setback from Conness Street;
- The height of the new building will be at the same height as the existing supermarket;

- The building is designed not to be dominating in the Townscape;
- The design has recognised the need to complement the heritage significance of the surrounding area and it is considered that this development will make an appropriate contribution to the Chiltern streetscape;
- The new supermarket building will be beneficial to the township and will make a significant contribution to the sustainable vitality of the Chiltern town centre;
- The application will result in the ongoing conservation and re-use of the existing supermarket building; and
- From the above it is considered that the supermarket extension will make a positive contribution to the township as a whole and will be consistent with the overall heritage conservation principles set out in this policy.

Carparking

Clause 52.06-1 requires that a use does not commence until the required number of car parking spaces have been provided on the land.

The closest use in the car parking table at Clause 52.06-5 appears to be 'shop', for which 8 car spaces are required for each 100m² of net floor area. This requirement is not applicable to the existing supermarket building. The new building floor area of 385m² will require the provision of 31 car spaces.

It is possible to provide a car parking credit for the storage shed to be demolished, which is based on the car parking demand deemed to have been provided in association with a use which existed before the change of parking requirement. The storage shed does not clearly fall into a defined use at Clause 52.06-5, however if a credit is calculated based on their occupation for retail purposes, there is a requirement for 14 spaces. Thus with the application of a car parking credit, 17 spaces are required to be provided for the development.

Council has purchased the block of land directly behind the supermarket for the purposes of constructing a car park. As per Council's policy and as has occurred with the Rutherglen IGA expansion, the applicant will be required to contribute a one-off cash contribution towards to cost of constructing this car park. The access roadways to the car parking area are currently unsealed and the supermarket development will increase traffic volumes on these roads. The contribution towards car parking and access roadways upgrade has been calculated at \$100,000.

There has been some objection to surrounding land owners contributing to the costs of the required upgrade, however there may be some contribution sought from these owners who will gain direct benefit from the proposals as a result of improved access into their properties.

Planning permit application 06-294 is currently assessing the issue of the carpark and required upgrades to the access laneways.

Loading and unloading of vehicles

Clause 52.07 of the Indigo planning Scheme requires provision to be made for adequate loading and unloading facilities for commercial vehicles to prevent loss of amenity and adverse effects on traffic flow and road safety.

Currently larger delivery vehicles that service the supermarket reverse across Conness Street into Martin Lane to deliver into the side of the building. This situation creates safety issues and inconvenience for vehicles and pedestrians in Conness Street. The proposal is now that vehicles will approach the supermarket from Rohner Street to the south, turn south into Martin Lane and reverse north up Martin Lane to the side of the supermarket where loading and unloading will occur. A layout of the proposed car park and loading areas is included in **Attachment B**.

The development allows for trucks that currently reverse across Conness Street to cease using this arrangement. This is considered a significant improvement from the existing situation and should considerably improve safety as a result.

The proposed loading facilities are considered to be appropriate for this type of development. The applicant/developer will be required to put procedures in place to ensure the safe manoeuvring of vehicles in to and out of the proposed loading area.

It is proposed that the supermarket will receive the following deliveries:

- One semi-trailer, three days per week (Monday, Wednesday and Friday) between 8am and 9am;
- Bread and dairy vans between 5am and 7am.

One of the objections against the application made reference to the disruption as a result of early morning deliveries (5am start). Delivery times to other supermarkets, including Yackandandah, Beechworth and Rutherglen have been restricted to between the hours of 7.00am and 6.00pm Monday to Saturday and 8.00am to 12 Noon Sunday which appears to be reasonable in this case. Further, there was also concern with the safety and disruption to pedestrians.

As with the Yackandandah supermarket extension, it is proposed that the applicant prepare a traffic management plan, which will include details of traffic movements generated as a result of this development and the impacts of those movements. The study will include procedure/s for safely manoeuvring vehicles in to and out of the loading area and defined heavy vehicle access routes.

Consultation on Application

The Planning and Environment Act requires that notice be given to the owners and occupiers of allotments or lots adjoining the land to which the application applies (unless the responsible authority is satisfied that the grant of the permit would not cause material detriment to any person), and any other persons to whom the application may cause material detriment.

Notice may be given in any or all of the following ways: by placing a sign on the land concerned; by publishing a notice in newspapers generally circulating in the area in which the land is situated; by giving the notice personally or sending it by post; or in any other way that the responsible authority considers appropriate.

In terms of the current application, notice of the application was given to all landowners and occupiers in the area surrounding the application site (32 properties). Site notices were also erected to the rear of the site in the car park area, and on the front window of the supermarket building. Proposed plans and supporting information were on display at the Chiltern Council offices.

Notices indicated that a minimum period of 21 days was allowed for comment on the application.

A meeting was held with concerned residents regarding the proposal for the car park and access way improvements (planning permit application 06-294) on 21 December 2006, and a planning focus meeting was held to discuss the extension to the Chiltern IGA supermarket on 17 January 2007.

General provisions (Clause 65-Decision Guidelines)

The Responsible Authority must consider, as appropriate, the decision guidelines contained in Clause 65.01 of the Indigo Planning Scheme. In this regard the following comments are provided:

- *Orderly planning of the area* – the proposal is for the redevelopment of a key retail anchor business in Chiltern and will have numerous economic benefits for the community of Chiltern. The proposed design of the development should ensure an appropriate development outcome for the subject land and surrounding area. The proposal represents an opportunity for more efficient use of land in the retail core of the township that is capable of being serviced to an appropriate standard. The proposal further provides an opportunity to implement the State Planning Policy Framework policy of facilitating the concentration of major retail where it is highly accessible to the community.
- *Amenity of the area* – The proposal will have a minimal effect on the amenity of the area. The proposed development will be consistent with the general character of the area.
- *Stormwater* – The site offers adequate opportunity to provide for stormwater drainage consistent with Council policy guidelines.

CONCLUSIONS

The development of the proposed supermarket on the subject land is both being opposed and supported by community members. The main point of concern is the car park and delivery to the site.

Any planning permit issued will include conditions as required by VicRoads, and the inclusion of conditions that specifically address: amenity of the operation of the supermarket; noise; amended plans addressing those concerns raised by the Heritage

Advisor; car parking contribution of \$100,000, preparation of a traffic management plan, and standard conditions such as loading and unloading of vehicles, storage of materials and hours of operation.

Attachments
Attach A - Locality Plan /Site Plan
Attach B - Plans of Proposed Development
Attach C - Submissions

11.13 INDIGO'S ECO AWARENESS ACTION PLAN (FILE NO: E767-02 - NRMO)

RECOMMENDATION

That Council adopts the Action Plan of the *Eco Awareness Group*, with this document to be revised annually.

SUMMARY

Indigo Shire has a number of responsibilities under its commitments to the ECO-Buy and WasteWise programs. Positive enactment of the responsibilities under both programs include the formation of a working group and development of an action plan. Development of *Indigo's Eco Awareness Group* and the associated Action Plan embody these responsibilities.

BACKGROUND

In June 2005 Indigo Shire Council resigned a 3-year Memorandum of Understanding with ECO-Buy. This commits Council to the implementation of a green purchasing program that includes:

- Developing, adopting and implementing a green purchasing policy
- Establishing an ECO-Buy Action Group
- Developing and implementing an Action Plan
- Establishing a tracking system to monitor purchasing of green products
- Provide a written report to ECO-Buy every twelve months

Indigo Shire is also due to renew its certification to the WasteWise program, which occurs every two years. This requires:

- Reassessment of waste streams and costs within the organisation to identify opportunities and priorities
- Reporting on results – what was achieved from the last action plan and were targets reached
- Integration of previous results into a new action plan for the following 2 years.

To streamline and implement these commitments, a working group was formed in May 2006. Going by the name of *Eco Awareness*, the group developed a “Terms of Reference” in order to focus the actions and role of the group. The group has recently had their third meeting wherein a draft of the Action Plan was reviewed. This plan

outlines actions, targets, responsibilities and timeframes for 2007.

CONSULTATION

This plan proposes a number of new, common-sense actions in order to achieve the objectives of both programs. In addition, the Plan combines actions outlined in previous ECO-Buy and WasteWise plans. This plan has been reviewed primarily by the *Eco Awareness* working group, with feedback and additions incorporated into the final draft.

POLICY IMPLICATIONS

There are no new implications for Council policy. This Action Plan just clearly articulates who, what and when will assist in the implementation of the ECO-Buy and WasteWise objectives across Council.

FINANCIAL & RESOURCE IMPLICATIONS

The resource implications of this Action Plan will be in the form of staff time. For each working group participant, this will be minimal, with three meetings a year and only minor follow up time needed in between. There are other implications in the form of additional costs for some 'green' purchasing options, however this is unable to be quantified.

CONCLUSION

There are potentially many positive benefits to Council to successfully implement the objectives of the ECO-Buy and WasteWise programs. The Action Plan pending formal adoption is a strategic outline of this can be achieved in the medium term.

Attachment

11.14 DRAFT DOMESTIC WASTEWATER MANAGEMENT PLAN
(FILE NO: W107 - EHO)

RECOMMENDATION

That Council:

- 1. Adopt the amended plan**
- 2. Request North East Water to take action to ensure all residents living in declared sewerage districts within our Shire connect to the sewer as a matter of urgency**
- 3. Make representations to North East Water and the State Government to make Stanley a priority town for a wastewater treatment system.**
- 4. Make representations to North East Water and the State Government to provide reticulated sewerage to the low density residential zone in Kiewa**
- 5. Request funding from the State Government to implement the plan**

6. Undertake preliminary activities as proposed under the Action Plan**7. Defer consideration of the implementation of the balance of the plan until the 08/09 financial year****SUMMARY**

The exhibition and community consultation of Council's endorsed Draft Domestic Wastewater Management Plan (DWMP) has now occurred. Comments on the plan have been received and the plan has been amended. This report provides information on the consultation process, feedback received and proposed action.

BACKGROUND

Council's Draft DWMP was developed following funding from the State Government in 05/06 under the "Our Water our Future" action plan and the Country Towns Sewerage Supply Program. Indigo Shire Council with eight other Councils in the region engaged management consultants "Infocus" to address the issue on a regional and local level. The plan was developed and covered issues from the domestic wastewater profile, values, threats and risk assessment, management strategies and actions. In August last year the Draft document was endorsed by Council and placed on public exhibition and a community consultation process was initiated.

COMMUNITY CONSULTATION

In accordance with Council's Community Engagement Plan 2006 the Draft DWMP was placed on Councils website, copies were made available in all Shire offices, a press release was provided to local papers and a total of six public meetings and one plumbers meeting were held throughout the Shire.

In order to advertise the meetings a flyer was developed and around 2000 distributed by Australia Post to rural post office boxes, counters and roadside delivery points across the Shire. An advertisement was also placed in the Ovens and Murray Advertiser and Border Mail and flyers were put up in various key locations around the Shire utilising community notice boards. A total of six public meetings were held in Chiltern, Rutherglen, Beechworth, Yackandandah, Stanley and Tangambalanga to provide an overview of the plan, gauge public interest and invite feedback on the Draft Plan. Two of these meetings were held in conjunction with the Community Forums in Beechworth and Yackandandah. In addition another meeting was also held for plumbers that work in the Shire to highlight the implications of the plan and to invite their feedback also.

A total of 193 persons attended the six public meetings and 8 plumbers attended the plumbers meeting. Councillors were also well represented at the majority of the public meetings. A survey was developed to aid the process of gauging public interest and views on the Draft Plan and was distributed at the public meetings for comment. Of the returned surveys the majority of comments related naturally to the funding and resource implications of the plan.

The most frequently received comments included the following:

- Not an issue on our property as we are on acreage

- Bad time to hit those on rural properties with extra costs
- State government should pay for implementation
- Should have self monitoring as we maintain our own system
- Fees should be covered by our rates
- What about Grey-water reuse
- Some educational information would be helpful
- Annual inspection is not required

The results of the survey completed at the public meetings are presented in the following table.

Do you know where your septic system is located	Yes 107	No 0			
Do you have access to the system for maintenance purposes	Yes 107	No 0			
When was the tank last pumped out	Last 3 years 35	3-5 years 28	+ 5 years 19	Don't know 19	
Should Council have a monitoring program	Yes 54	No 36			
What are they prepared to pay	Nothing 73	\$50 18	\$75 1	\$100 1	Whatever 2
Information required	Maintenance 53	Other 24			

Comment on Survey Results

It should be noted that not all questions were answered by all respondents. From the total 107 survey responses all advised that they knew where their system was located and that their tanks were easily accessible for maintenance purposes. About a third of respondents

indicated that they had their system pumped out within the last three years. Around 20% however could not advise when it was last pumped out and 50% had it pumped out over three years ago. Interestingly 60% of those that responded to the question thought that Council should have a monitoring program in place however when it came to paying for the service 77% thought that they should pay nothing. Around 20% thought that a \$50 fee was acceptable however most of these respondents also included limitations and conditions on the cost of the service. As to information requirements the majority of those that responded 66% wanted general information on septic tank maintenance. The remaining 34% was interested in information on specific issues including effluent lines etc.

At the meeting held for plumbers they endorsed the need for the plan however stressed the difficulty of implementing it across the Shire given the huge challenges in locating all the systems and ensuring they all comply. Some suggested that Council would need a twenty-year plan in order to address the issue properly. Certain specific suggestions were also made regarding educational requirements for system owners.

COMMENTS FROM OTHER AUTHORITIES

The EPA provided comments on Local Council DWMPs and Indigos' plan specifically. These comments can be found in the attachments to this report.

ADDRESSING COMMENTS FROM AUTHORITIES

The plan has been amended to reflect the suggested changes to the Draft document. This includes a more detailed analysis of each township area in relation to septic systems. This amended plan is presented for consideration by Council.

POLICY IMPLICATIONS

The Draft Plan has been developed, exhibited, amended and is now under consideration for adoption.

FINANCIAL & RESOURCE IMPLICATIONS

Funding will be required for the plan to be implemented. Currently there are no existing resources to accommodate the actions required under the plan. This has been highlighted at each of the public meetings and has drawn the greatest response. New resources required to implement the plan include additional staff, vehicle, computer and other equipment, educational materials, etc.

Estimated Costs

Domestic Wastewater Project Officer	\$45,000 + on costs (29%)	\$60,000
Administrative project support		\$20,000
Vehicle		\$20,000
Computer, mobile phone and other equipment		\$10,000
Educational resource materials		\$10,000

The total cost for the monitoring and compliance program as part of the plans implementation would be a minimum of around \$120,000 per annum. Some options based on full cost recovery with regards to funding include the following:

- (a) Imposing a service charge under the Local Government Act on owners of domestic wastewater systems in the Shire
- (b) Imposing a charge on each ratepayer throughout the Shire
- (c) Requesting funding from State Government to implement the plan

Discussion

Option (a) would necessitate a fee of around \$50 per year for a minimum of seven to ten years to fund the plans implementation, which would include the employment of an officer and administrative support. Over a five-year period the cost would increase. This costing is based on everyone with such a system being charged the same amount each year. There is no reduction for pensioner discounts and this does not take into account any non-payment of the fee. Of course there could be variations to this method of charging. The level of fees could be set according to risk. Where a higher risk has been identified which would necessitate a greater number of inspections the cost would increase accordingly. Conversely with a lower risk a lower fee could be payable. Whilst this method has merit consideration needs to be given to the fact that with such variation the income to support the program is largely unknown and therefore the budget is very difficult to set.

Option (b) would involve the levying of a fee on every rateable property in Indigo Shire. With around three times the number of ratepayers the cost would be reduced to around \$20 per year. However there will be the negative impact of getting those residents who are already paying for a sewerage service to fund the program for the DWMP. This is not the recommended option

Option (c) has been proposed and endorsed at the public meetings. As the requirement to develop the plan was driven by the State Government with no provision made by them for its implementation it seems fair to request the State Government pay for its implementation. It is suggested that Council initiate this request via the Municipal Association of Victoria (MAV).

CONCLUSION

A great deal of work has been done on the development, communication and consultation of the draft document. Amendments have been made following the consultation process and the document is now ready to be adopted.

In relation to declared sewerage districts North East Water have advised there is a total of 53 properties in Barnawartha and Tangambalanga that have yet to connect to the sewerage scheme. The voluntary five year connection period has now expired and although North East Water have advised that they intend on following up such connections in the near future it is recommended that representations are made by Council to have such connections completed as a matter of urgency.

It has been shown and is clear that Stanley requires priority town status. It is located in a designated water supply catchment, is adjacent to a waterway and with 80% of the septic systems installed prior to 1980 there is a high risk to the sensitive environment. There are also limitations to development in the area due to the lack of a reticulated water or sewerage scheme.

With regards to cost there has been some discussion and debate raised at the public meetings on the effects of such an added financial burden on those in rural communities at the present time due to the drought conditions. It is agreed that we must do all we can to support those that are suffering during this difficult period and added fees and charges from the implementation of this plan may not be appropriate at this time. As stated there was a strong feeling at the public meetings and many suggested that as it was the State Government that wanted this plan they should also fund its implementation.

The current drought has been recognised by State government by way of the exceptional circumstances declaration of the shire. Council's current year budget has been impacted by additional expenditure related to the drought. It is suggested that it is unreasonable to increase financial demands which implementation of the DWMP would require while the drought expenditure is still impacting on the shire and avenues other than rate based options have not been explored for funding of implementation. It is recommended that options for State government funding be explored and that implementation be deferred for at least one year.

Whilst funding is required to implement the plan certain preliminary activities can be completed initially by Council. These are highlighted in the attached management action plan and specifically relate to addressing our own septic systems before the plan is implemented.

ATTACHMENTS

- A. *Draft Indigo Domestic Wastewater Management Plan*
- B. *Regional Domestic Wastewater Management Plan*
- C. *Indigo Domestic Wastewater Management Action Plan*
- D. *Other authorities comments*

**11.15 INDIGO PLANNING SCHEME AMENDMENT C10 –
HERITAGE (FILE NO: E1240-10 - EDSM)**

RECOMMENDATION

- 1. That the Minister for Planning be requested to appoint an Independent Panel pursuant to Section 23 of the Planning and Environment Act, 1987.**
- 2. That vegetation controls not be included in respect of items except where expressly noted as contributing to the significance of the item.**
- 3. That Local Planning Policies 22.03-09 & 22.03-10 be altered in the manner suggested in the attached document.**
- 4. That planning applications triggered exclusively by the Heritage Overlay with a**

value equal to or less than \$10,000 receive a 50% discount on the statutory planning permit application fee.

SUMMARY

The public consultation phase of Amendment C10 has been finalised, including a series of community meetings and re-visitation of all items proposed to be included in the amendment. There are a number of properties that have requested to be removed from the heritage overlay (HO), but upon inspection to re-assess their significance have been considered suitable to remain in the HO. Because of this, it will be recommended that Council resolve to refer the matter to a panel for a detailed and independent assessment of the relevant issues.

Secondly, a number of errors and omissions in the schedule to the HO have come to light during the exhibition of the amendment, and it is proposed to correct these. These include mapping errors and incorrect notation in the schedule, most notably the inclusion of vegetation controls for the majority of properties in the HO.

Thirdly, Council's Heritage Adviser has recommended that the Heritage local planning policy contained in the Indigo Planning Scheme be made more specific in relation to building materials, and that a reference to a previous heritage study for Beechworth by Tibbits *et al* is to be included in the Heritage policy.

Finally, one of the main points of contention regarding the implementation of the HO is the requirement to pay for a planning permit. It is proposed to provide a subsidy that will benefit the majority of applicants applying for a planning permit triggered by the HO.

BACKGROUND

In 1996, following formation of the Indigo Shire Council, the need for a shire-wide heritage study was recognised. Council advertised for tenders (see **Attachment A** – Indigo Heritage Study brief) in December 1997, and in February 1998 appointed Peter Freeman & Co, Conservation Architects & Planners from Canberra, to commence documentation of significant items from across the Shire. This included items identified in previous heritage studies by the four former shires of Beechworth, Chiltern, Rutherglen, and Yackandandah. It also included items nominated by the public and local historians. Under the direction of the Indigo Shire Heritage Identification Study Steering Committee, Stage 1 of the Heritage Study was concluded in 1998.

In May 1998, the panel appointed to assess the issues associated with the commencement of the Indigo Planning Scheme recommended that the outcomes of the Indigo Shire Heritage Study be incorporated into the planning scheme in the form of a separate local planning policy, and revisions to the heritage overlay and schedule.

Stage 2 of the Heritage study was commenced, to build on the findings of Stage 1 and make decisions about which items should be added to the Heritage Overlay of the Indigo Planning Scheme. This stage of the study also reported to the Indigo Shire Heritage Identification Study Steering Committee. From approximately 1200 items that were investigated in stage 1, approximately 600 individual items and 13 new precincts were selected to be included in the Heritage Overlay. These were to be added to the 217 items and 3 precincts that already existed.

Stage 2 of the Heritage Study was concluded in 2002, but due to a lack of resources and delays in mapping nominated items, public notification of the amendment did not commence until August 2005. Interim heritage controls (Amendment C28) were applied by the Minister for Planning on 2 August 2005. Interim controls are routinely applied in the case of a heritage amendment, to prevent a rash of demolition by those who do not wish to retain heritage items.

This amendment was last reported to Council at its meeting of 14 November 2006. At this meeting it was resolved to delay final consideration of the amendment to allow all issues to be fully addressed.

CONSULTATION

Stage 1 of the Heritage Study was advertised in local press in May of 1998. Flyers were also delivered to each household detailing what was proposed in the Heritage Study and calling for nominations of items and places. Stage 1 of the Heritage study was officially launched on 22 September 1998 at the Beechworth offices of the Shire, and the Heritage Study was available at all offices of the Shire from 28 September 1998.

While stage 2 of the Heritage Study was completed in 2002, mapping was not completed until early 2005.

Public notification of Amendment C10 commenced on 11 August 2005, when notification documentation was sent to every property owner affected by the new provisions. This documentation consisted of the statutory requirements giving details of the amendment, along with a 'frequently asked questions' sheet and the inventory sheet for the relevant heritage item or precinct.

In response to this initial consultation, 96 written submissions were received, 84 of which were requests for removal of a property from the HO, or objections to the way the amendment and heritage study had been carried out. Twelve submissions were advising of incorrect mailing addresses, mapping or information on inventory sheets.

Because of the volume of submissions and telephone calls being received regarding the amendment, the closing date for submissions was extended to mid November. By this time it became apparent that there was a great deal of community concern regarding the amendment.

As was reported to Council on 13 December 2005, there were a number of issues common to many submissions, and as such a series of community meetings was organised to try and address these issues and correct any misinformation associated with the amendment.

Six community meetings were held between the 8th and the 30th of March 2006 at Yackandandah, Beechworth, Tangambalanga, Rutherglen, Chiltern and Wahgunyah. In total, 86 members of the public attended these meetings.

In total, 130 written submissions were received regarding Amendment C10. Of these, 95 were objections, and 35 were submissions relating to information or mapping errors, or letters of support.

Extensive consultation with affected landowners has been undertaken to this point in an attempt to resolve as many issues as possible. Following the initial exhibition of the amendment in August 2005 and public meetings in March 2006, landowners were invited to make further submissions, and meet with the Heritage Adviser. The Environmental & Developmental Services Manager and the Heritage Adviser have conducted a large number of meetings with objectors, both on-site and in the various Council offices. In addition to this, the schedule of items proposed to be included on the Heritage Overlay has been comprehensively reviewed, firstly by re-visiting each item to ensure its location and description are accurate, and secondly, by an expert panel, to ensure it satisfies criteria for cultural heritage significance.

The panel comprised Council's Heritage Adviser, the Environment and Development Services Manager, and four other persons experienced in heritage matters. The panel's brief was to assess each item's cultural heritage significance and therefore merit for inclusion in the HO based on the following criteria:

- The statement of significance;
- Whether the item was of individual or contributory significance;
- Whether the item was isolated or in a group of like items;
- Whether the item is a good example of its type, i.e. comparison within the category of listing;
- What state the item is in, whether ruinous, collapsed or demolished, or if has approval for demolition as part of a planning permit.

As a result of the process of consultation, re-visitation and investigation of each item in the schedule to the HO, it is proposed to remove 88, or 15% of the items from the schedule.

A comparison of proportions of site type by classification was performed, on the items originally listed on the Heritage Study as well as the items included as part of Amendment C10 (see table below).

Site Type	Heritage Study		Amendment C10 (original)		Amendment C10 (reviewed)	
	No.	%	No.	%	No.	%
House(urban)	360	31.5	207	35.1	177	35.2
House (rural)	123	10.8	102	17.2	91	18.1
Agriculture	70	6.2	48	8.1	38	7.6
Mining	71	6.2	53	8.9	48	9.5
Commercial	158	13.8	19	3.2	18	3.6
Community/Recreation	39	3.4	18	3.1	14	2.8
Industry	7	0.6	2	0.3	2	0.4
Winery	29	2.5	21	3.5	17	3.4
Memorial/Monument	38	3.3	27	4.6	24	4.7
Miscellaneous	71	6.2	24	4.1	18	3.6
Infrastructure	38	3.3	24	4.1	20	4
Religion	55	4.8	24	4.1	19	3.7
Government	67	5.9	18	3.1	16	3.2
Aboriginal	3	0.3	2	0.3	0	0
Precinct/Area	14	1.2	2	0.3	1	0.2
Total	1143*	100	591	100	503	100

* Note: The total number of items in the Heritage Study includes items that already exist in the HO, along with items included in precincts.

DISCUSSION OF COMMON ISSUES

A range of issues were raised in the public consultation process, and these are discussed below. These were also discussed at length at each of the public meetings.

RE-INSPECTION

The majority of written submissions requested a property be removed from the HO. This prompted the re-visitation of these and the majority of other items proposed to be included in the HO, to re-assess their significance given the length of time that has passed since the original study was conducted. This review of all items in the schedule to the HO also ascertained if each was mapped correctly, as there have been some instances where an item was mapped incorrectly.

The results of these inspections are in the attached Table (see **Attachment B** - Heritage Overlay items, submissions and review outcomes). This table includes further written submissions that were received after the community meetings. The Heritage Adviser supports the initial recommendation in the majority of cases, and no further comment is offered. The following summarises the recommendations of this table:

- 1) **88** items are to be removed from the Heritage Overlay-
 - a) **34** of these are items that were requested to be removed. These have been re-assessed by the Heritage Adviser who is in agreement with the request for removal;
 - b) **48** of these are items that have received no submission but the Heritage Adviser is of the opinion they should not remain in the HO;
 - c) **6** of these are items that have collapsed, or been demolished/removed with Planning approval.
- 2) **50** items that received submissions to be removed are to stay on the HO;
- 3) **26** items need to be mapped correctly;
- 4) **10** items are to have the extent of the listing altered; and
- 5) There are no changes to **456** items.

While it is easy to get caught up in the objections and the justification for the process, what is clear is that out of 655 notifications to landowners that were sent out, 130 written submissions were received. 35 of these were letters of support, and notifications of mapping or inventory sheet errors. 95 submissions were objections to a property's inclusion in the HO, or to the HO in general - this represents approximately 15% of those contacted, indicating 85% of landowners contacted either support the Heritage Overlay being placed over their property, or are not concerned over the matter.

PROCESS

There was a widespread opinion that the heritage study and amendment were carried out inappropriately. Many complaints centred on that fact that landowners were not all consulted personally by the consultants, or that no permission was granted to enter some properties. The original brief for the heritage study (see **Attachment A**) was silent on the finer points of methods to be used to obtain information and images for the study.

The identification of items to be included in stage 1 of the Heritage Study took place over two months from mid-March to mid-May 1998. Because of this relatively tight time frame, and pressure to stay within dictated time limits, consultants would have had little time to leave calling cards and re-visit a location, or indeed to make appointments with each individual property owner. As such, the resultant reliance on sources other than the landowner and the taking of photographs without specific permission occurred. As has been stated in community meetings regarding this amendment, while this may be **legal**, it was not necessarily the **right** thing to do in this situation.

Under the provisions of the Planning & Environment Act 1987, an authorised officer of the responsible authority is able to enter a property at any reasonable time to carry out an inspection for the purpose of administering that Act. The Act also states that the consent of the occupier must be sought prior to entering the land. In this instance a consultant firm was employed by Council to gather information for the heritage study. Because of privacy legislation that prevented Council allowing them to use personal information, the

only method they had at their disposal was to knock on the door, for which they had to enter the property. If they had been refused entry or asked to leave, they would have. In this instance where information was obviously obtained from the owner, permission must have been given to enter the property.

PERSONAL INFORMATION

A number of objections to the amendment were objecting to the use of information about their property being used in public documents (the Heritage Study and the Indigo Planning Scheme). The information that has been included in stage 2 of the Heritage Study is not, for the main part, personal information as defined by the Privacy Act. There have been instances where the present owner is identified, and these inventory sheets will be amended to remove these references. Similarly, the information contained in the Indigo Planning Scheme is not personal information that identifies an individual.

NOTIFICATION

A number of objections indicated they were not personally notified about the amendment or the Heritage Study. Due to the size and scale of Amendment C10 and because of the length of time it took to get from commencing the study to advertising the amendment (approximately 9 years), a number of residents had no recollection that a heritage study had been carried out. As such, they were unaware there was any sort of proposal to introduce the HO, until they received the amendment documentation.

The first time owners and occupiers were notified of the Heritage Study, it was a general notification informing of the commencement of the study in 1998. Stage 1 of the study was placed on public exhibition in September of 1999, and Stage 2 was completed in 2002, however was not publicly exhibited. It took from that time until September 2005 to compile the list of recommended properties and commence notification of Amendment C10. Since the notification of Amendment C10 there have been numerous press releases in the general press, along with the Indigo Informer as to the progress of the amendment and the associated public consultation.

Preparation of the amendment has been in Council's Community Directions Plan for the last five years, and several reports regarding its progress have been tabled at Council meetings, all of which are publicly available.

With the benefit of hindsight, some sort of public consultation prior to the amendment being commenced would have been beneficial from a public relations point of view, however at the time it was considered more important to get the statutory side of the amendment commenced without further delay.

BASIS FOR INCLUSION

Some submitters have questioned why their property was included in the HO.

Assessments of cultural heritage significance are based upon the conservation principles, guidelines and techniques as defined in the *The Australia ICMOS Charter for places of cultural significance*, 1999 (The Burra Charter). The Burra Charter defines and comments on cultural significance:

“Cultural significance means aesthetic, historic, scientific, social or spiritual value for past, present or future generations. Cultural significance is embodied in the place itself, its fabric, setting, use, associations, meanings, records, related places and related objects. Places may have a range of values for different individuals or groups.” (The Australia ICMOS Charter for places of cultural significance, 1999, Article 1.2, p2)

Items are proposed to be included in the HO for many reasons, including cultural, historical and architectural significance. What may seem ‘insignificant’ for one reason is actually significant for another.

The Victorian State Heritage Assessment Criteria for significance used in the Heritage Study have been adopted by the Australian Heritage Commission (now the Australian Heritage Council) and the Victorian Heritage Council (Heritage Victoria). The purpose of the criteria is to provide a framework to assess aesthetic, historic, scientific, social and other values and to ensure a consistent approach to the assessment of cultural significance. Criteria are as follows.

- Criterion A

The historical importance, association with or relationship to Victoria’s history of the place or object.

- Criterion B

The importance of a place or object in demonstrating rarity or uniqueness.

- Criterion C

The place or object’s potential to educate, illustrate or provide further scientific investigation in relation to Victoria’s cultural heritage.

- Criterion D

The importance of a place or object in exhibiting the principal characteristics or the representative nature of a place or object as part of a class or type of places or objects.

- Criterion E

The importance of the place or object in exhibiting good design or aesthetic characteristics and/or in exhibiting a richness, diversity or unusual integration of features.

- Criterion F

The importance of the place or object in demonstrating or being associated with scientific or technical innovations or achievements.

- Criterion G

The importance of the place or object in demonstrating social or cultural

associations.

- Criterion H

Any other matter which the Council considers relevant to the determination of cultural heritage significance.

VEGETATION CONTROLS

A number of submissions argue that vegetation is not relevant to the heritage significance of the place.

The majority of new items to be included in the HO currently have vegetation controls under interim amendment C28. The intent of these controls is to preserve vegetation intrinsic to the cultural heritage significance of a place, whether it is a dwelling or other building, garden or landscape.

Often the vegetation associated with the item is not part of that significance. In these cases it is proposed to delete vegetation controls from the HO.

Where tree controls are to be retained the controls are intended to encourage discussion with the Heritage Adviser as to what are contributory trees and landscaping.

ACCURACY OF INFORMATION

A number of errors in the inventory sheets and the HO have been noted.

All efforts were made to provide accurate information in a timely manner in regards to the provision of amendment documentation for the heritage provisions. A number of errors were picked up in the schedule to the HO, and these were corrected as soon as possible.

CHANGE IN PROPERTY VALUES

Concern has been expressed both that property values will be reduced as a result of the HO and conversely that property values will increase with resultant higher rates.

In 2001 Heritage Victoria conducted a study on the impact of heritage listing and property valuations in Victoria. A copy of this study is attached to this report (see **Attachment C - Heritage Victoria, *Heritage listing and property valuations in Victoria*, March 2001**). The study concluded that there are a number of factors that affect property values, of which heritage controls are one influence. Other contributory factors include:

- Macro-economic factors – interest rates, availability of credit, taxation policy;
- Micro-economic and location factors – location, proximity to transport and schools, topographical factors, planning requirements, Council policies; and
- Socio-economic and lifestyle factors – push for urban consolidation, reduction in household size, housing preferences.

It found that generally heritage controls do not significantly affect residential property

values. It is more difficult to determine the impact on other property values, including commercial property values. The study was lacking in consideration of impact of heritage controls on farming properties.

Beechworth and Yackandandah could be considered to determine the impact of heritage controls in the local situation. These towns have had heritage controls for some years. Certainly property values have increased, but it is not possible to readily determine that heritage listing has been the reason for the increase as the increase is across the board. While it is likely that heritage controls have added to this increase in value a more detailed study would be required to isolate this one factor from the other contributing factors.

It is considered that no generalisation is possible as to whether property values will increase or decrease as a result of heritage listing.

INSURANCE

Another issue that emerged as a result of the community meetings was confusion regarding the attitude of home insurance providers. Several people had reported that their insurance premiums would rise as a consequence of being included in the HO, while others indicated their insurer would no longer insure them. The Heritage Adviser Deborah Kemp has received communication from Heritage Victoria, which indicates that major insurers have no problem with the HO and will insure regardless of the HO. This information differs to reports from landowners.

Given the difference in responses, planning staff undertook an informal survey of nine major home insurers in the area by telephone to ascertain their attitude towards local government heritage listing (as opposed to state or national listing), and whether any special conditions were imposed. Following is a brief summary of responses received:

- **Western OBE**

Advised they do not insure heritage listed properties, whether local or state listing. Indicated they would be reluctant to insure old buildings at all.

- **ANZ**

For both old properties and heritage listed properties, approval is required from a senior manager, who requires a valuation from a licensed valuer and approval from an underwriter. Special conditions may be applied.

- **Commonwealth Bank**

Homes over 100 years old require 'indemnity insurance', whether or not they have a heritage listing. Homes less than 100 years require a building inspection report or photos stating the condition of the building. Insurance is dependant on the age and condition of the building.

- **Australian Unity**

If a building inspection report conducted by a registered building surveyor states the property is in good condition (plumbing, wiring etc.), heritage listing has no effect. If the building is old and in disrepair, the premium increases.

- **GIO**

Both owners who apply for insurance on old buildings and owners who apply for insurance on heritage listed buildings are routinely asked if they have applied to Council to demolish the building, as well as whether or not they have had a builder estimate the rebuilding cost. The building must have a valuation, and it must be insured to that value. The building must be in good condition again regardless of age and listing.

- **Hume Building Society**

Applications to insure an old building and heritage listed buildings are handled on a case-by-case basis. Age, construction and type and availability of materials used in the building are all considered.

- **Allianz**

Will not insure homes with a heritage listing, whether state or local. Will not insure old buildings. They will only insure very general cases, in both cars and houses.

- **RACV**

Buildings with a heritage listing are assessed using the standard acceptance criteria, including whether or not the building is in sound condition and whether it has had a valuation. As the value increases, the premium increases.

- **AAMI**

Will insure buildings regardless of state or local heritage listing, but will not insure National trust listed buildings. There are no special conditions imposed on heritage-listed properties.

From the above, it appears that most major insurers assess old buildings on their condition, rather than whether or not they have a heritage listing. The majority of insurers surveyed also indicated there were no special conditions or extra premiums associated with a building with a heritage listing.

The perception of increased premiums associated with a heritage building perhaps results from the requirement a lot of insurers have for a valuation to be carried out prior to insuring. This prevents under-insuring and therefore reduced premiums.

It is clear that some insurers will not insure buildings with a heritage listing, even a local government listing, but the majority will. The key issue appears to be the condition of the building.

FEE SUBSIDY

One of the main objections to being included in the HO has been the extra cost associated with the need to obtain a planning permit. As was reported to Council in January of last year, there is currently a 50% subsidy on the planning application fee for developments less than \$10,000. A number of suggestions have been put forward to ease the extra financial burden imposed on those landowners with property in the HO. The scenarios are based on the current percentages of applications in various categories and assume the previous approximately 35 'heritage' applications year are increased proportionately in

accordance with proportion increase in properties covered by the HO. The percentages in different cost categories are 68% being for development of less than \$10,000, 17% being for development of \$10,000 to \$49,999, and 15% being for development of \$50,000 to \$250,000 value:

- Scenario A: the 50% subsidy could be extended to all applications triggered exclusively by the HO.
- Scenario B: the application fee for developments \$10,000 or less is 100% subsidised, and no subsidy applies to HO-only applications greater than \$10,000.
- Scenario C: retain the status quo and only apply the 50% subsidy to applications less than \$10,000.

Table 1 below sets out the dollar values of applying the various scenarios detailed above, assuming Amendment C10 is introduced.

Scenario	Possible income from 'Heritage Applications' affected by this scenario (approx.)	Number of applications pa. affected by scenario	Cost of subsidy to Council (approx.)	Average benefit to applicants receiving reduction	Income Council still receives
Full fees	\$10,860	58	-	-	\$10,860
A	\$10,860	58	\$5,430	\$93 average but most received \$47 benefit	\$5,430
B	\$3,760	40	\$3,760	Full cost \$94	\$7,100
C	\$3,760	40	\$1,880	\$47	\$8980

It is worth bearing in mind that because of the increase in numbers of properties included in the HO (270%), there will be an increase in the number of HO-only applications being received. As such, there will be an increase in revenue from planning applications regardless of whether any of the above scenarios are employed.

The advantage of the last two scenario's is that as the majority of planning applications triggered exclusively by the HO are less than \$10,000, it will benefit more applicants.

PRODUCTIVITY COMMISSION REPORT INTO THE CONSERVATION OF AUSTRALIA'S HISTORIC HERITAGE PLACES

The final report of the Australian Productivity Commission. Conservation of Australia's Historic Heritage Places, April 2006, has been received. This report addressed costs of

heritage controls and makes a number of recommendations.

The key recommendations are outlined below (note: these recommendations are listed in chapter order):

3. Overview of historic heritage conservation in Australia

RECOMMENDATION 3.1

All levels of government should put in place measures for collecting, maintaining and disseminating relevant data series on the conservation of Australia's historic heritage places.

7. Assessing governments' involvement — conservation of privately- owned heritage places

RECOMMENDATION 7.1

The Australian Government should remove all historic heritage places from the Register of National Estate and transfer the information to a national heritage database. The database would need to be regularly updated and maintained, including the deletion of inappropriate entries.

RECOMMENDATION 7.2

State and Territory governments should remove any references to the Register of the National Estate from their planning and heritage legislation and regulations, after ensuring that any places that meet the criteria have been recorded on the appropriate (State or local) heritage registers.

RECOMMENDATION 7.3

Those State and Territory governments that have specific legislation governing the operations of the National Trust should repeal such legislation.

8. Management of government-owned heritage places

RECOMMENDATION 8.1

The Australian, State and Territory governments should ensure that their agencies are issued with heritage asset management guidelines as part of an integrated asset management framework. Such guidelines could also be adapted for use by local governments.

RECOMMENDATION 8.2

The Australian Government should implement reporting systems that require, as appropriate, the assigned heritage responsibilities to non-heritage agencies to be recognised as community service obligations and be funded separately; and that the heritage related expenditures and achievements associated with the conservation activities for historic heritage places to be reported publicly.

RECOMMENDATION 8.3

State, Territory and local governments should:

- produce adequate conservation management plans for all government-owned statutory-listed properties;
- appropriately recognise assigned heritage responsibilities to non-heritage agencies as community service obligations and fund them separately; and
- implement reporting systems that require government agencies and local governments with responsibility for historic heritage places to document and publicly report on the heritage-related expenditures and achievements associated with their conservation.

9. Getting incentives right for privately-owned heritage places

RECOMMENDATION 9.1

Australian, State and Territory governments should enable non-government owners to appeal the statutory listing of their property on the additional basis that it imposes 'unreasonable costs'. This appeal should be available for non-government owners of all newly listed properties. In addition, it should also be available for those owners of properties that were acquired before the property was statutorily listed. The following factors establish a prima facie case of unreasonable costs:

- the zoning of the land permits higher value land use than that allowed under heritage restrictions; or
- *maintenance, repair or restoration costs required to continue a property's heritage significance impose an unjustifiable hardship on the owner.

10. Implementing change for privately-owned places

RECOMMENDATION 10.1

In relation to State, Territory and local listing, State and Territory governments should:

- mandate that statements of significance be prepared at the time that a statutory listing decision is being considered and that these statements should be prepared by the listing authority;
- *require that listing authorities directly notify owners of any intention to add their place to the statutory list;
- *require that listing authorities make available a preliminary statement of significance to the owner and the public prior to public consultation;
- *require that listing authorities follow timely public consultation procedures following a decision to consider a place for statutory listing;
- require that listing authorities, when proceeding with a listing, provide a comprehensive final statement of significance to the owner of the property and ensure that listing authorities have the authority to negotiate and enter into heritage conservation agreements.

11. Improving the operation and management of heritage zones

RECOMMENDATION 11.1

State governments should ensure that all local planning instruments include the following information for each heritage zone or area:

- *statement of significance applying to the whole area;
- *outline of what type of use and development is permitted;
- *outline of what type of use and development is prohibited; and
- *development standards (or codes) that trigger automatic approval upon proposed developments meeting them.

RECOMMENDATION 11.2

Upon adoption of recommendation 11.1, State and Territory governments should remove the requirement for a Heritage Impact Statement for properties not individually listed within a heritage zone.

RECOMMENDATION 11.3

State governments should ensure that State planning policies do not contain local heritage exceptions which could be used to undermine the objectives of the State planning policy.

RECOMMENDATION 11.4

State Heritage Acts should not contain powers to proclaim heritage zones or areas. Heritage zones and areas should only be imposed under the State's planning laws and regulations.

RECOMMENDATION 11.5

State and Territory governments should modify their planning legislation and regulations to remove any requirement to take heritage considerations into account in relation to any individual property not already listed as locally significant, other than those requirements relating to heritage zones.

The report has been presented to the Federal Government. That government has not adopted the report, nor have state governments formally considered it. The report's findings may be implemented in part, whole (or not implemented) by various governments in the future. At this time the report has no standing in terms of Victorian legislation and practises.

The main implications of the recommendations in this report for the Indigo Shire appear to be that in the future a heritage listing may be able to be challenged in the basis of 'unreasonable costs'. That is, if a Heritage listing prevents development that would otherwise be permissible in the zone, this could be considered an 'unreasonable cost'. Given that the government has not considered the report's findings it is not considered reasonable to revisit each submission on the basis of this issue. It is to be hoped that if the government does follow the course suggested in the Productivity Commission's report that funding for heritage would also be provided to facilitate individual agreements with owners of properties who would otherwise argue an 'unreasonable costs' case for no listing.

HERITAGE POLICY

When the Indigo Planning Scheme was introduced in 1999, heritage was identified as an issue in the MSS (Clause 21.04-3-2) and there was an HO but this was not supported by a separate heritage policy. At that time 218 items were included in the HO.

Amendments relating to heritage provisions have been:

- Amendment C4 (part 2) – 21/9/2000 – Introduced a new local policy relating to

Aboriginal heritage;

- Amendment C5 (part 2) – 15/3/2001 - corrected typographical errors in the schedule to the HO;
- Amendment VC13 – 27/9/2001 – Included rainwater tanks as exempt buildings and works in the HO;
- Amendment C23 – 8/1/2004 – Implemented Section 48 of the Heritage Act, 1995 to ensure that places in the planning scheme are consistently identified with places in the Victorian Heritage Register; and
- Amendment C28 – 25/8/2005 – Applied the HO to other heritage places located throughout the shire by amending planning scheme maps and the Schedule to the HO, replaced Clause 21.04-3-2 with a new Clause 21.04-3-2 and inserted new Clauses (now) 22.03-9 Heritage Policy and 22.03-10 Advertising sign Policy.

The provisions introduced in Amendment C28 have been reviewed by Heritage Victoria and Council's Heritage Adviser in consultation with the Environment and Development Services Manager. As a result of these discussions it is proposed to amend parts of Clause 22.03-9. The changes proposed are shown in **Attachment D**. These are:

- Reintroduce reference to the Tibbits, G., Trethowan, B., Harmer, P., and Vines, E., *Beechworth – Historical reconstruction*. University of Melbourne, National Estate Project 228, 1976. This was referenced in earlier policies but lost in the 1999 Indigo scheme.
- Include the National Trust of Australia (Victoria) Technical Bulletin No. 1 *Exterior paint colours applicable to the period 1850-1900* as a reference document.
- Replacing the term 'Conservation Area' with the term 'Heritage Area'. The reason for this is that in Victoria the term Conservation Area is generally associated with heritage controls before the introduction of the Victoria Planning Provisions. The use of this term was discontinued because of confusion with the conservation of natural resources.
- Clarifying wording in the descriptions and statements of significance for each heritage area.
- Removing heritage areas for Elizabeth Street, Wahgunyah and Stanley. In the case of Elizabeth Street, the area was considered to be marginal in meeting the requirements for listing as an heritage area. The Stanley area is covered by inclusion of the significant items.

CONCLUSION

In accordance with Clause 23(1) of the Act, after considering a submission that requests a change to the amendment, the planning authority may

- (a) Change the amendment in the manner requested;

- (b) Refer the submission to a Panel; or
- (c) Abandon the amendment or part of the amendment.

As there are a number of submissions that request a change to the amendment, i.e. removal of an item from the HO, and given the strategic justification for the amendment it is considered that the most appropriate course of action would be for Council to refer the matter to a panel for a detailed and independent assessment of the relevant issues.

ATTACHMENTS

- A. Heritage Study Brief;*
- B. Table – Heritage Overlay items, submissions and review outcomes;*
- C. Heritage Victoria, Heritage listing and property valuations in Victoria, March 2001;*
- D. Clause 22.03-10 from the Indigo Planning Scheme.*

11.16 PLANNING APPLICATION 06/293 - NANKERVIS (FILE NO: PP06293 - SSP)

For Decision

SUMMARY

Application No:	PP06/293
Applicant:	Nankervis
Subject Land:	830 Beechworth-Wodonga Road, Wooragee
Proposal:	Addition to existing dwelling “to introduce additional accommodation within the existing roof space”
Recommendation:	Approval

RECOMMENDATION

It is recommended that Council approve planning permit application 06-293 for the purposes of the construction of four dormer windows and replacement of the roof material subject to the following conditions:

1. APPROVED DEVELOPMENT

The layout of the site, dimensions and elevations of the proposed building/s and works as shown on the plans endorsed pursuant to Condition 1 shall not be modified or altered without the written consent of the Responsible Authority.

2. EXTENSION

The external fabric of the proposed extension hereby approved shall be, as near as practically possible, the same appearance as the main building including selection of building materials, colour scheme, roof pitch, and doors and windows to the satisfaction of the Responsible Authority’s Heritage Advisor.

Specific requirements include:

- (a) **All external materials must be of non-reflective, neutral “earthy” colours to**

- blend with the landscape and preserve the visual amenity of the area,**
- (b) **Any metal cladding proposed to be used in the construction of the building/s hereby approved, must be: (i) galvanised or natural colour bonded metal cladding; and/or (ii) treated metal cladding painted in muted tones, provided such painting is completed prior to the occupation of any building/s hereby approved,**
- to the satisfaction of the Responsible Authority.**

3. TIME FOR STARTING AND COMPLETION

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

- (i) **The development is not started within two years of the date of this permit.**
- (ii) **The development is not completed within two years of the date of commencement**

The Responsible Authority may extend the periods referred to if a request is made in writing before the period expires or within three months of the date of expiration.

BACKGROUND

Planning Application PP06/242 was lodged on 5 December 2006. The purpose of this application is to seek approval for an addition to the existing dwelling by constructing an additional floor within the existing roof space, four dormer windows in the roof and replacement of the roof with Colorbond.

The dwelling is located on the Beechworth-Wooragee Road between Reids Way and Wooragee (see **Attachment A** - locality plan).

The subject site is a significant heritage item, and has been identified by the Indigo Shire Heritage Study 1998 and is covered by Heritage Overlay HO768. It is described as “...a collection of granite and timber buildings, including a granite farmhouse with addition, and timber and granite sheds. The farmhouse building is a gable roofed building with a symmetrical façade and a verandah to the front elevation. There is a freestanding gable roofed granite building to one side”.

The historical background to the building is also described by the Study, which is of interest. It is described as follows:

The Wooragee run, also know as Bowman’s Heifer run, was formed by Dr William Bowman some time before 1840. The ownership for the next few years is doubtful, but by 1848 it was held by David Reid and totalled 40,960 acres. Ownership was later transferred to AC Anderson and in 1854 Dr Gemmell, of Wangaratta, was in possession. Later owners included J Lowrie, Sloane & Co, Dr Grainger Muir Brough and then William and Thomas Dickson, who held it in 1879. Wattle Grove occupies part of the original Wooragee run and is presently owned by the Nankervis family.

Pre-application discussions have been held with the applicant. These have been with Council’s Heritage Advisor and jointly with the Heritage Advisor and Environment and Development Services Manger.

PROPOSAL

It is proposed to construct:

- An additional floor within the existing roof space;
- Four dormer windows in the roof; and
- Replace the roof with ‘Slate Grey’ colorbond to match existing verandahs and south-west section of the roof (see **Attachment B** – Proposal).

The applicant has provided a Heritage Impact Statement in support of the application. Extracts from this document have been previously provided to Councillors during a site inspection of the application site on 23 January 2007. In addition the applicant’s consultant has provided a further submission in support of the proposal, which was also previously provided to Councillors on 23 January 2007.

The Heritage Impact Statement and further submission suggest:

- That the Indigo Heritage Study inventory sheet related to Wattle Grove be amended – to correct the date of construction, history of development of the site, and statement of significance - this is being changed and further detail is being added based on the research provided in the Heritage Impact Statement;
- That the proposed development “*is acceptable on cultural heritage grounds as the external changes are sympathetic to the style and period of construction of the original farmhouse (1865-1866), the setting of the farmhouse is not appreciably altered by the introduction of these dormer windows, and the proposed changes can be seen as part of a series of alteration and additions which have been made to the original building fabric over a period of more than a century...*”

ZONING AND PLANNING CONTROLS

Zoning: Farming Zone

Overlay/s: Heritage Overlay (HO768)

Permit Trigger: External alterations to an item under the Heritage Overlay

STATE PLANNING POLICY

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

Environment

15.11 Heritage

LOCAL PLANNING POLICY FRAMEWORK

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

Municipal Strategic Statement

Relevant clauses of MSS include:

Settlement & Infrastructure

21.02 Key Issues

21.03-1 Vision & Strategic Framework

21.03-2 Corporate Plan

21.04-1 Settlement & Infrastructure

21.04-3-2 Heritage

Local Planning Policies

22.01-2 Rural Dwelling Siting & Design Guidelines

22.03-9 Heritage Policy

PARTICULAR PROVISIONS

None Applicable

REFERRAL AUTHORITIES

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

Heritage Advisor – The comments of the Heritage Advisor are as follows:

The proposed alterations to the 19th century stone cottage at Wooragee are not appropriate.

The earliest European structures were found on squatting runs and these were crude and primitive. The discovery of gold did little to change the nature of local structures and most were variations of the timber slab hut. Timber and in particular slab construction was chosen because it was relatively easy to work and therefore cheap to construct. Moreover splitting timber was readily available. Stone construction relied on a skilled labourer and the cost of labour was prohibitive on the goldfields.

The construction of stone dwellings marks an economic change that occurred during the 1860s and 1870s and this can be directly attributed to changes in the Land Acts of the 1860s. Once land was available as freehold, settlers were more likely to construct dwellings that were relatively more sophisticated and this included constructing dwellings from stone.

Wattle Grove is a distinctive example of vernacular architecture from this early period and is strongly reminiscent of British vernacular architecture. The finely proportioned symmetrical façade has a central door and this is flanked by single windows. The use of a gable roof instead of a hip reflects the necessity for simple construction techniques that were typical of this period.

The applicant is proposing to add four dormer windows. Unfortunately because of the constraints of space in the roof, the applicant is forced to make these dormers larger than would have been typical and has created a disproportionate additional that does much to destroy the innate proportions and characteristics of

this building. As the applicant has other options on this site – it would be regrettable to destroy one of the finer early buildings associated with the development and settlement of the area. The design of the cottage at Wooragee is not common and alterations suggested by the applicant will alter the intrinsic characteristics that render it one of the finer vernacular farm buildings in the north-east of Victoria. It is strongly recommended that the applicant consider the range of options that are available and ones that will not compromise the values of this building.

PUBLIC NOTICE

No notice of the application was given to other persons.

DISCUSSION

The subject site is a significant heritage item, and has been identified by the Indigo Shire Heritage Study 1998 and is covered by Heritage Overlay HO768. It is described as “...a collection of granite and timber buildings, including a granite farmhouse with addition, and timber and granite sheds. The farmhouse building is a gable roofed building with a symmetrical façade and a verandah to the front elevation. There is a freestanding gable roofed granite building to one side”.

The historical background to the building is also described by the Study, which is of interest. It is described as follows:

“The Wooragee run, also know as Bowman’s Heifer run, was formed by Dr William Bowman some time before 1840. The ownership for the next few years is doubtful, but by 1848 it was held by David Reid and totalled 40,960 acres. Ownership was later transferred to AC Anderson and in 1854 Dr Gemmell, of Wangaratta, was in possession. Later owners included J Lowrie, Sloane & Co, Dr Grainger Muir Brough and then William and Thomas Dickson, who held it in 1879. Wattle Grove occupies part of the original Wooragee run and is presently owned by the Nankervis family”.

The statement of significance in relation to this item in the Indigo Heritage Study states:

Wattle Grove is of historical significance as one of Wooragee’s earliest farm residences, constructed in 1856 on Woorajay Station. The residence has been sympathetically extended. The place is further significant for its association with the Graham family, early settlers in the Wooragee area and later noted wine producers at Rutherglen.

The Study states that the item is of local significance, in accordance with Criteria A & D, being:

- Criteria A – The historical important, association with or relationship to Victoria’s history of the place or object
- Criteria D – The importance of a place or object in exhibiting the principal characteristics or the representative nature of a place or object as part of a class or type of places or objects.

The Heritage Advisor’s assessment of the application refers to its significance, noting that stone construction buildings relied on a skilled labourer and the cost of labour was

prohibitive on the goldfields, thus the construction of stone dwellings marks an economic change that occurred during the 1860s and 1870s, which led to the construction of dwellings that were relatively more sophisticated and this included constructing dwellings from stone.

With specific regards to the subject site, the Heritage Advisor notes that this is one of the finer early buildings associated with the development and settlement of the area. The design of the cottage is not common and it is one of the finer vernacular farm buildings in the north-east of Victoria. She goes on to state that Wattle Grove is a distinctive example of vernacular architecture from this early period and is strongly reminiscent of British vernacular architecture. The finely proportioned symmetrical façade has a central door and this is flanked by single windows. The use of a gable roof instead of a hip reflects the necessity for simple construction techniques that were typical of this period.

It is noted that the applicant has prepared a Heritage Impact Statement, extracts of which have been previously circulated to Councillors. Pertinent points to note are amendments required to the Indigo Heritage inventory sheet in terms of the correct the date of construction, history of development of the site, and statement of significance. These details are currently being changed and further detail is being added based on the research provided in the Heritage Impact Statement. Further, the Heritage Impact Statement concludes that the proposed development *“is acceptable on cultural heritage grounds as the external changes are sympathetic to the style and period of construction of the original farmhouse (1865-1866), the setting of the farmhouse is not appreciably altered by the introduction of these dormer windows, and the proposed changes can be seen as part of a series of alteration and additions which have been made to the original building fabric over a period of more than a century...”*

The proposed alterations to the dwelling comprise the following:

- (i) Internal staircase from the ground floor to the attic roof space.
- (ii) Conversion of the attic roof space to bedrooms 4 and 5, and landing area.
- (iii) Construction of dormer windows to the north-west and south-east elevations. These are described as timber casement windows with square edge weatherboard cladding.
- (iv) Replacement of the roof with ‘Slate Grey’ colourbond to match existing verandahs and south-west section of roof.

A planning permit is required for items (iii) and (iv) above, as it comprises external alterations to an item under the Heritage Overlay (HO768).

In terms of the dormer windows, the dormers have been modified in response to concerns raised by the Heritage Advisor. Originally, the dormer windows were larger than would have been typical, due to the constraints of space in the roof. This would have created a disproportionate addition that would have destroyed the innate proportions and characteristics of this building. The dormer windows have subsequently been reduced in size, and although not an original feature of this house, it is considered that they are acceptable where clearly defined as new work.

A number of policies and clauses are relevant against which this proposal has been assessed.

Clause 43.01 (Heritage Overlay), requires Council to consider as appropriate various decision guidelines and those relevant to this application include:

1. The significance of the heritage place and whether the proposal will adversely affect the natural and cultural significance of the place;
2. Any applicable heritage study and any applicable conservation policy; and
3. Whether the external alteration will adversely affect the significance of the heritage place.

It is considered that the dormer windows as originally proposed would fail Clause 43.01, due to the adverse affect on the cultural significance of the place, and the external alteration would adversely affect the significance of the heritage place. However the amendments to the size of the dormers is considered to overcome this concern.

Clause 22.03-9 (Heritage Policy) applies to heritage places in a Heritage Overlay, and as such applies to the application site. The objective of the Policy is to maintain the cultural heritage significance of all identified places and precincts within the Indigo Shire and to foster correct practices in accordance with the criteria as described by ICOMOS Australia and the Burra Charter.

As noted by **Clause 21.04-3-2 (Heritage)**, protecting cultural and natural heritage assets is important in maintaining the municipality's character and sense of place. The conservation and management of significant heritage assets in Indigo assists in understanding the past, enriches the present and is of value to future generations. Clause 21.04-3-2 requires that all planning permit applications for heritage properties assessed having regard to Heritage Policy (Clause 22.03-9), and to be used to manage new development (including additions and alterations and demolition of all or part of a heritage place).

Specific objectives of the Heritage Policy relevant to this application include the following:

- To recognise, conserve and enhance places and streetscapes in Indigo identified as having architectural, cultural or heritage significance as described in the Indigo Shire Heritage Study (2002).
- To retain heritage assets for the enjoyment and experience of residents, visitors and future generations of the municipality.
- To ensure that any additions, alterations and replacement buildings are sympathetic to the heritage place and its surrounds.

The Policy states that the value of the collection of heritage items within the Indigo Shire lays in its intactness, in that the development of the Shire socially and economically through time can be seen through these items.

Of relevance to the current planning permit application is the policy statement to encourage the removal of inappropriate buildings, alterations and additions and other elements that detract from the significance of a heritage place.

Further, the Policy states that the responsible authority considers certain special requirements as appropriate. Those particularly appropriate to this planning permit application comprise the following:

1. Windows and doors shall be made of timber to traditional details;
2. Unless it can be demonstrated as inappropriate, all building works shall observe correct practices in accordance with the guidelines as described by ICOMOS Australia and the Burra Charter; and
3. No work will be permitted that will degrade and/or compromise the cultural heritage significance of the conservation precincts.

Of particular interest to this application is the special requirement of the Heritage Policy that buildings and works shall observe correct practices in accordance with the guidelines as described by ICOMOS Australia and the Burra Charter (unless it can be demonstrated as inappropriate). The Burra Charter is discussed below:

Burra Charter

The following is an extract from the Heritage Advisor's Handbook on the Burra Charter (see www.heritage.gov.au).

The Burra Charter is the widely accepted reference document for heritage conservation standards in Australia. It evolved from the Venice Charter of 1966 produced by a UN based organisation, ICOMOS (the International Council on Monuments and Sites). The Burra Charter relates specifically to conditions and practice in Australia and provides a practical and useful conservation philosophy to guide the management of historic places and areas.

An understanding of the Burra Charter helps with the care of places of cultural significance. Using the framework of the Burra Charter, more informed decisions about the management of the place can be made, as it provides a framework and guidelines for sensible decision making which will help to retain the heritage value of any place.

The Burra Charter defines the basic principles and procedures to be followed in the conservation of heritage places. These principles and procedures can be applied to any heritage item. The basic principles are:

- There are places worth keeping because they enrich our lives – by helping us understand the past; by contributing to the richness of the present environment; and because we expect them to be of value to future generations.
- The cultural significance of a place is embodied in its physical material (fabric), its setting and its contents; in its use; in the associated documents; and in its meaning to people through their use and associations with the place.
- The cultural significance of a place, and other issues affecting its future, are best

understood by a methodical process of collecting and analysing information before making decisions.

- The safeguarding of existing records, and keeping accurate records about decisions and changes to the place, helps in its care, management and interpretation.

As stated above, one of the objectives of the Indigo Heritage Policy (Clause 22.03-9) is to foster correct practices in accordance with the criteria as described by ICOMOS Australia and the Burra Charter.

In terms of cultural significance, the Burra Charter defines this as meaning aesthetic, historic, scientific, social or spiritual value for past, present or future generations, while conservation is defined as all the processes of looking after a place to as to retain its cultural significance. The Burra Charter clearly prescribes a cautious approach, stating that conservation “...requires a cautious approach of changing as much as necessary but as little as possible” and that “Changes to a place should not distort the physical or other evidence it provides, nor be based on conjecture”.

In terms of the planning permit application, the Burra Charter defines the proposal as ‘adaptation’, which is the modification to a place to suit the existing use or a proposed use. In terms of adaptation and new work, the Burra Charter states:

- Adaptation is acceptable only where the adaptation has minimal impact on the cultural significance of the place.
- Adaptation should involve minimal change to significant fabric, achieved only after considering alternatives.
- New work such as additions to the place may be acceptable where it does not distort or obscure the cultural significance of the place, or detract from its interpretation and appreciation.
- New work should be readily identifiable as such.

The planning permit application for dormer windows is not considered to comply with these aspects of the Burra Charter as alternatives for obtaining additional living areas have not been considered by the applicants (inconsistent with Article 21 of the Burr Charter).

There may be other options available for achieving more living area, and these have been previously discussed with the applicant. This includes sympathetically extending the building at ground level, and it is considered that the objectives in terms of living space could be achieved whilst not compromising the significance of the building. These have not been addressed in the application.

During a site inspection conduction on 23 January 2007, this issue was raised with the applicant, who verbally stated that an extension at ground floor is not supported due to a) cost of the development, b) aspect and ventilation as the extension would be to the south side of the dwelling, c) drainage and d) functionality of the house layout. However on balance, the dormer windows although not ideal, are considered be acceptable. Therefore, the lack of adequate consideration of alternatives is not considered to be

adequate grounds on which to refuse this aspect of the application.

The applicant has also applied for the replacement of the existing galvanised iron roof with 'Slate Grey' Colorbond to match existing verandahs and south-west section of roof. It is noted that the verandahs and south-west section of the roof were re-roofed prior to the introduction of the Heritage Overlay on this property, and as such no planning permit was required or given for this previous work to the house. Given this history of replacement of the roof materials, it is considered that replacement of the remaining galvanised iron roof is acceptable. However if an application had been made for replacement of the roof material without the existing presence of Colorbond, this aspect of the proposal would not have been supported due to its impact on the heritage significance of the house.

CONCLUSIONS

Although the proposed dormers windows are not considered to be ideal, they are considered to be acceptable, and on balance it is considered that the planning permit application for the construction of four dormer windows and replacement of the roof material should be approved subject to conditions.

ATTACHMENTS

Attach A – Locality plan

Attach B – Proposal

11.17 NORTH EAST GREENHOUSE ALLIANCE – PROGRESS REPORT (FILE NO: E352-03 - EDSM)

For Information

SUMMARY

The North East Greenhouse Alliance is continuing to improve awareness of greenhouse issues and progress greenhouse projects. A summary of the Alliance's actions is attached.

BACKGROUND

Council has joined with:

- City of Wodonga;
- City of Wangaratta;
- Moira Shire;
- Towong Shire;
- Alpine Shire;
- Benalla Rural City; and
- North East Catchment Management Authority

in the North East Greenhouse Alliance.

A number of other organisations are now partnering with the Alliance. La Trobe

University is one of these. The Alpine Valleys Agribusiness Forum has joined the Alternate Fuels Working group. The Ovens LandCare Network is involved in the Farm Energy Efficient workshops. The Ovens & Murray Football league are also partnering with NEGHA to deliver an energy efficiency program in the sporting facilities of their clubs.

The December progress report is attached.

11.18 ENVIRONMENT AND DEVELOPMENT SERVICES PROJECTS – FEBRUARY 2007

For Information

Projects underway are shown in the following table.

Project	Current actions
Amendment C10 – Heritage Overlay	Report in this agenda.
Amendment C21 - Kiewa-Tangambalanga	<ul style="list-style-type: none"> ○ Structure Plan adopted by Council in May. ○ Request for authorisation to prepare the amendment made to DSE. Conditional authorisation received. Details to be approved by DSE prior to exhibition of the amendment. This information provided to DSE. DSE still have not approved details to enable commencement of exhibition period.
Amendment C27 – Low Density Residential rezoning. Nashes Road, Rutherglen	Council has requested that an Independent Panel be appointed to hear submissions on the amendment. Awaiting advice re this from panels Victoria. Directions hearing set down for 31 January 2007.
Municipal Strategic Statement and Indigo Planning Scheme – major review	<ul style="list-style-type: none"> ○ First round of public consultation meetings held August - September 2006. ○ Consultation with government agencies and neighbouring municipalities undertaken. ○ Rural planning issues workshop held 10 November and followed up with workshop involving Focus Group members. ○ Draft issues paper considered by the Focus Group. ○ Second round of community meetings due in February/March.

Indigo Planning Scheme - environmental overlay	<p>Ecology Partners P/L appointed to undertake a project to identify biodiversity priority areas within the municipality for further investigation and overlay controls in the planning scheme. Report due February.</p> <p>NECMA has advised that second and third stage funding will be approved for this project over the next two years. This has been awarded through the Regional Catchment Investment Process.</p>
VCAT Appeals	<p>PP02-325 Appeal by L Cipolato against Notice of Decision to Grant an amended Planning Permit for subdivision, Buckland Road, Beechworth - Two applications with VCAT – both listed for mediation 18 December 2006.</p>
Municipal Wastewater Management Plan	<p>Draft Domestic Wastewater Management Plan adopted by Council for consultation purposes. Public consultation commenced September, consultation meetings completed November 2006. These public meetings plus a meeting with plumbers. Plan to be reported to Council.</p>
Community Water Grants – round 1	<p>Projects to demonstrate water efficiency, water recycling or improvements in ground or surface water health. Both proposals approved.</p> <ul style="list-style-type: none"> ○ Replacement of old-style cisterns with dual flush cisterns in public amenity blocks throughout the shire – project on target. Second quarter reporting completed; and ○ Removal of willows and revegetation of areas in Isaacs Park, Yackandandah – Isaacs Park Gully Rehabilitation Plan adopted. Willow removal to commence 29 January 2007. Willow material will be mulched on site. Wetland plants ordered.
Community Water Grants – round 2	<p>Application successful for \$20,000 grant to retrofit Community Centres / Senior Citizens facilities with water saving devices and rainwater tanks. Investigation to be carried out on most appropriate centres.</p> <p>Application by Kiewa Early Childcare centre (which had Council support) was unsuccessful.</p>
Greenhouse Action Plan	<ul style="list-style-type: none"> ○ Grant from Australian Greenhouse Office to undertake inventory of greenhouse emissions (benchmark) for ISC. Project officer engaged to undertake this work in conjunction with Benalla Rural City and Rural City of Wangaratta. Andrea Cook appointed to this position. Andrea commenced 22 January 2007. Andrea has local knowledge and an extensive background in data management and local government experience.

	<ul style="list-style-type: none"> ○ Intended to schedule a workshop in February to introduce relevant staff and Councillors to the project and clarify requirements and communication necessary to ensure the success of this program. This will be a combined session with other Councils sharing employment of this officer.
North East Greenhouse Alliance	See report in this agenda.
Yackandandah Green Corp project	<p>Project commenced 15 November with 9 participants. Progress to date is:</p> <ul style="list-style-type: none"> ○ Woody weed control in Isaacs Park; ○ Fence construction at Lake Sambell; ○ Water quality monitoring – Yackandandah Creek; ○ Development of landscape plans for two playgrounds at Hopetoun, Rutherglen and Morley Drive, Wahgunyah; and ○ Construction of holding bay at Yackandandah depot for wetland plants.
Work for the Dole Team	<p>Current work:</p> <ul style="list-style-type: none"> ○ General maintenance of previous Green Corp team work at Lake Sambell – hand weeding and plant watering.
Indigenous Resource Area at Lake Sambell	<ul style="list-style-type: none"> ○ Awaiting earthworks late January before proceeding with further plantings and interpretive signage. ○ Koori prison crew yet to begin work in the area – they have again expressed interest in this site.
Regional Stormwater Education Officer	Draft local law for stormwater has been prepared. Consultation with Council’s different departments/officers being conducted late January.
Community woodlot program	No new timber has been received in woodlots.
Roadside Management Plan	<ul style="list-style-type: none"> ○ Three waterings of four roadside sites of vegetation planted in last season have occurred to attempt to improve low survival rate due to drought. ○ Review of plan due February/March 2007.
Weeds on private land initiative	<ul style="list-style-type: none"> ○ Distribution of revised weeds brochure has commenced ○ Mapping of weeds on Council rural properties and Council managed Crown Land reserves completed. This mapping will be used to prioritise future spraying programs in terms of both priority weeds and priority sites. This document is dynamic – it will be updated regularly and will be provided as a layer on the GIS system. ○ Sites identified for Environmark installation for Serrated Tussock .
Roadside weed initiative	<ul style="list-style-type: none"> ○ 28 participants involved in weed spraying. ○ Assessments of results to be carried out first half of 2007.

Ecobuy	Annual report submitted to Ecobuy. Nest Eco awareness group meeting (internal staff) has confirmed action plan. See report in this agenda.
Community awareness Upper Sandy Creek School revegetation project	Project is fencing of waterway. Separate funding applications for labour and material both successful. Discussions with school and committee of management to occur at end of January. Currently investigating employment through VFF for labour component.

11.19 PLANNING PERMIT STATISTICS - DECEMBER 2006 (EDSM)

For Information

File Number	Locality	Purpose	Cost	Decision	Decision Date
06137	Beechworth	Development Plan (4 lot subdivision)	\$0.00	Approved	22/12/2006
06168	Beechworth	Multiple dwellings (3)	\$300,000.00	Refused	5/12/2006
06194	Yackandandah	Supermarket	\$2,260,000.00	Approved	14/12/2006
06242	Beechworth	Verandah/Balcony	\$20,000.00	Refused	19/12/2006
06255	Yackandandah	Certificate of compliance - Dwelling	\$164,658.00	Issued	6/12/2006
06259	Stanley	Extend dwelling	\$150,000.00	Approved	20/12/2006
06264	Beechworth	Signage	\$400.00	Approved	7/12/2006
06271	Yackandandah	Second dwelling	\$150,000.00	Approved	21/12/2006
06272	Beechworth	Shed	\$15,000.00	Approved	5/12/2006
06273	Rutherglen	Tree Removal	\$1,000.00	approved	13/12/2006
06276	Yackandandah	Remove two trees and replant with offset plants	\$3,000.00	Approved	13/12/2006
06282	Yackandandah	Dwelling Extension	\$10,000.00	Approved	8/12/2006
06283	Yackandandah	Pergola for Beer Garden	\$9,675.00	Approved	8/12/2006
06286	Yackandandah	Shed	\$8,000.00	Approved	7/12/2006
06289	Osbornes Flat	Dwelling Extension	\$98,000.00	Approved	4/12/2006
06290	Chiltern	Swimming Pool	\$22,730.00	Approved	4/12/2006
06292	Chiltern	Dwelling	\$270,000.00	Approved	12/12/2006
06295	Chiltern	Extend shed	\$8,500.00	Approved	12/12/2006
06296	Rutherglen	Tree Removal	\$1,000.00	Approved	20/12/2006
06299	Yackandandah	2 display-purpose-only swimming pools	\$9,000.00	Approved	22/12/2006
			\$3,500,963.00		

11.20 BUILDING PERMIT STATISTICS - DECEMBER 2006

(EDSM)

For Information

See attachments (Item 11.20)

12.0 CIVIL OPERATIONS

12.1 SPRING STREET UPGRADE (FILE NO: T480.08-02 – ACTING OM)

RECOMMENDATION

- 1. That Council, having considered the details of this report and the preliminary consultation process for the construction of Spring Street, Beechworth, considers that the most appropriate construction standard is for a bitumen sealed road with kerb and channel.**
- 2. That Council seeks a further report with costings and apportionment for the construction of Spring Street, Beechworth to a standard including sealed pavement and kerb and channel with the view to resolving its intention to declare a Special Charge in accordance with the Local Government Act 1989, to meet the construction costs.**

SUMMARY

The Spring Street upgrade has been identified by Council as a high priority project and an excellent opportunity to apply Council's recently adopted Road and Footpath Contributory Scheme Policy.

This report outlines the background to the project, the public consultation process and the outcomes and recommendations from the representative Consultative Committee.

The report recommends that Council proceed to provide public notice of its intention to declare a Special Charge Scheme in accordance with the Local Government Act 1989.

BACKGROUND

Council considered a report in February 2006 on a list of road upgrade projects to be constructed under the Local Government Act 1989 Special Charge Schemes and the procedures for consultation and contributions outlined in Council's Road and Footpath Contributory Scheme Policy. Council resolved to commence a new program commencing with the upgrade of Spring Street, Beechworth.

Spring Street is an unsealed road approximately 220 metres long and was chosen because it continued to be the subject of local resident concerns on the issue of dust and level of maintenance and secondly, its residents were familiar with the adoption of Council's new policy on Road and Footpath Contributory Schemes. Indeed it was the abandonment of the former Spring Street Special Charge that directly led to the Council decision to prepare and adopt a new policy. The preparation of the policy involved extensive public

surveys and input which continued to be the subject of interest among the Spring Street community

A residents' information meeting was held on the 20 July 2006 at which the rationale for selecting the Spring Street project and the preliminary consultation process as outlined in Council's new policy were presented.

The Consultative Committee

The formation of a Consultative Committee was put to and supported at the meeting with six residents agreeing to be elected. The following timetable was also presented to the meeting:

July 2006	Initial community meeting
July 2006	Formation of a Consultative Committee as defined in Council policy.
August/September 2006	Consultative Committee meets to identify issues, investigate different possibilities and selects the most favorable option
October 2006	Concept plans prepared and displayed. Invitation to comment from property owners
November 2006	Final proposal adopted by Consultative Committee

The Consultative Committee met on 6 occasions. Council was represented by the Operations Manager

- 3 August
- 17 August
- 24 August
- 21 September
- 5 October
- 27 November

At the request of the committee, an additional information evening was held 19 October 2006

It should be noted that the consultative committee undertook its own meeting and "straw poll" in late July 2006 and brought this information to the first meeting (The result of the poll indicated that 18 out of 20 surveyed property owners wanted some form of sealed road.)

Many matters were considered by the consultative committee during the meeting phase including:

- Road Management Act 2004 and Council’s RM plan
- Hierarchy of Roads
- Subdivisional Road Design Standards
- Stormwater Drainage
 - Capacity of drains
 - Water Sensitive Urban Design
- Maintenance issue and implications
- Service vehicle and garbage truck manoeuvrability
- Local Govt Act 1989 – Ministerial Guidelines
- Apportionment

The committee sought approximate costings on 3 options being

A. Bitumen Strip with unsealed shoulders.

According to the committee this was the preference of the majority of owners. The proposal would include a 6.2 m bitumen pavement with unsealed gravel shoulders. It would take advantage of as much of the existing unsealed pavement as possible. The drainage would consist of grass swales with gentle batters that could be easily maintained. There would be some form of Water Sensitive Urban Design (WSUD) treatment applied to the drainage system. The swales would have anti-erosion matting placed in the inverts with the vehicular crossings being rural culvert standard, reusing where possible the existing pipe culverts. Special attention would be paid to the turning circles at both ends of the streets.

B. Bitumen strip & Concrete edge strip.

This was the same as option "A" but also added the concrete edge strip which would protect the integrity of the edge of the sealed pavement (This tends to be a major maintenance issue for these types of roads).

C. Bitumen with full Kerb and Channel

The option as per the original design was also considered. This naturally became a more ‘attractive’ option with the 50% contribution by Council. Discussions with the Civil Engineering consultant on re-designing to accommodate as much of the existing pavement as possible have been held. This would ensure that costs are minimised.

Option	Description	Total Cost	per 20m frontage
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A	Bitumen Strip	\$ 125,000	\$2067
B	Bitumen & Concrete Shoulders	\$ 160,000	\$2646
C	Bitumen with full Kerb and Channel	\$ 180,000	\$2977

As noted earlier in the report, the committee requested that an additional information evening be held 19 October 2006 to present the 3 construction types to the property owners and to gauge their preference.

The options were extended to 4 to include “leaving as is”.

Spring Street Survey

The poll was undertaken by the Consultative Committee. It involved a mail out to 25 property owners.

The 25 of the 25 responded. The “votes” were opened and counted on 9 November by 4 members of the committee:

Rick McDonald

Peter Rucin

John Alcorn

Donna Jack

Option1	To leave Street as is:	9
Option 2	Bitumen Strip:	3
Option 3	Bitumen & Concrete Shoulders	4
Option 4	Full kerb and guttering:	9

Comments received as part of the survey were:

- Prefer leave as is, will accept;
- Why not just put in speed humps and roadside plantings as they have in a Tasmanian shire);
- (Option2): Only if costs are fairly close to estimates.

The Consultative Committee met for a final time on 27th November 2006 and discussed the results of the survey. Although having differing preferences, the committee agreed

that in the interest of all property owners, Option 2 would provide the most palatable (or less contentious) proposal for Council.

DISCUSSION

Council has undertaken an extensive consultation process consistent with its policy on Road and Footpath Contributory Schemes. Unfortunately such a process does not guarantee a unanimous outcome which is the case for Spring Street.

It is quite clear that whichever option Council chooses to adopt for Spring Street there will not be consensus

In reaching a decision Council needs to consider the following matters:

- Ministerial guidelines prepared in 2004 for Special Charge Schemes clearly demonstrate that close to a 100% contribution from the property owners could be applied to the Spring Street project.
- By Council contributing 50 % towards the cost of the scheme it should feel at ease in reaching a decision that will not have 100% local community support and agreement. A 50 % contribution is generous and this together with the extensive consultation process that has been undertaken, should provide Council with confidence about an outcome should the scheme be referred to VCAT.
- Council only requires a majority of support from property owners if their contributions equal or exceed two thirds. (66.7%)
- Options 1, 2 and 3 will bring with it additional maintenance.
- The 50% contribution from Council has made the kerb & channel option more attractive to some property owners.
- The difference between Option 3 and 4 (for an average 20m wide property) is approximately \$ 330.
- Future (subdivisional) development applied to Spring Street would require kerb & channel standard construction. Should Option 2 or 3 be adopted, future upgrade to kerb and channel is possible but would be a “messy and costly” process. Isolated sections of kerb & channel would not function effectively.

The survey also indicates that the local community is divided in its preference. However one could draw from the survey that of those that want some form of road construction:

- 56 % prefer a full kerb & channel standard
- 81% prefer a higher standard than the strip of bitumen with shoulders

It is for this reason together with the matters for consideration listed above that it is recommended that Council chose as its preferred option No 4 full kerb & channel.

CONSULTATION

Council's Road and Footpath Contributory Scheme Policy sets out clearly the Stage 1 process which occurs before any of the "statutory" formal consultation requirements commence as prescribed in the Local Government Act 1989.

Council's policy commenced with an invitation by letter to all potential affected owners to attend an information meeting where a Consultative Panel is formed.

The Consultative Panel role was to identify issues and investigate different proposals and select the most favourable.

Concept plans had not been prepared, advertised or displayed at that stage although the consultative committee were presented with cross sections of road construction types.

The Consultative Panel met with residents and also undertook a poll to gauge the preference among property owners.

If Council proceeds (as recommended) with a Special Charge those contributing property owners will have further opportunity to make submissions in accordance with the Local Government Act 1989.

POLICY IMPLICATIONS

Council's Road and Footpath Contributory Scheme Policy sets out clearly the Stage 1 process which occurs before any of the "statutory" formal consultation requirements commence as prescribed in the Local Government Act 1989.

FINANCIAL & RESOURCE IMPLICATIONS

Council contribution towards the scheme (full kerb and channel) is approximately \$95,000.

CONCLUSION

The process has followed Council's policy for consultation. A consultative committee was formed and has considered a number of options. A survey of the local property owners has not been able to come up with an agreed option. The consultative committee is also split in its personal preference. Although it has recommended Option 2 (sealed road with unsealed shoulders) as the most appealing option, there is no guarantee of consensus. It is for this reason that officers recommend that Council proceed with a Special Charge Scheme for a full construction with kerb and channel.

**12.2 WINDHAM ROAD, YACKANDANDAH - ROAD CLOSURE
WILLIAM STREET TO YACKANDANDAH CREEK (FILE
NO: S290/056 - OM)**

RECOMMENDATION

- 1. That Council, having considered submissions on the closure of Windham Road, Yackandandah, between William Street and Yackandandah Creek, advises the Department Of Sustainability and Environment that it wishes to proceed with the closure of this section of road subject to the drafting and inclusion of a clause in the Caravan Park lease allowing access through the caravan park to the rear of the property at 16 William Street.**
- 2. That Council requests DSE to proceed with title survey so that the statutory procedures for road closure in accordance with Schedule 10 of the Local Government Act 1989 can proceed.**

SUMMARY

Following a report to Council's November 2006 meeting on the closure of a section of the unused Windham Road road reserve, Yackandandah, Council notified affected landowners.

This report outlines submission received and recommends that Council proceeds with closure and advises the DSE of its intent.

BACKGROUND

Council considered a report at it 14 November 2006 on the closure of Windham Street Yackandandah between William Street and Yackandandah Creek. Council resolved to confirm its intention to proceed with the closure subject to the formal statutory consultation procedures.

Council was advised in the report that the Caravan Park at Yackandandah has historically been sited on the Windham Road road reserve and that a long term lease with the past and current tenants has been drawn up and entered into on the understanding that the caravan park was indeed sited within the existing reserve.

The Department of Sustainability and Environment (DSE) has issued a temporary licence for the occupation of part of the road reserve and has been further advised by Council the road is not required for future traffic. The DSE has requested Council to seek formal closure of this section of road.

In conformance with the Local Government Act 1989, Council formally wrote to all potential affected residents, and placed a notification of intent by advertisement in the Border Mail. Local Emergency Services were also notified.

SUBMISSIONS

Two written submissions were received (No submissions had been received from Emergency Services at the time of writing the report).

1. Carol Shannon, 16 William Street, Yackandandah

Ms Shannon is the owner and occupier of the adjacent property and currently has access to the rear of her property via the Caravan Park. (This was an original agreement in writing from the Yackandandah Park Committee of Management and lately through an informal “verbal agreement”)

Ms Shannon’s concerns are;

- The need to be able to retain access to the rear of her property. via the caravan park
- The assurance that the distance from future Caravan Park building/structures or activities would be controlled

Officer Comment:

The issue of property access through the caravan park is not considered an unreasonable request. The current arrangement has been in place for a number of years and appears to work effectively. The type and frequency of traffic is not anticipated to change. However, it is recommended that this concern be addressed through the addition of an appropriate clause in the caravan park lease which should also take into consideration the protection of both parties in the event of any change in ownership to both the adjacent property and the caravan park (lease or sale). Council should seek legal advice on the wording.

With regards to future activities (building and others) this would be subject to appropriate planning controls and would require notification and consultation with adjoining landowners

2. Wayne Maybury, PO Box 116, Yackandandah

The submission expressed interest in acquiring the road reserve on the eastern side of the Yackandandah Creek should this be considered by Council in future.

Officer Comment:

The section of the road reserve to which the submission refers is not part of this exercise and would (if required) in the future be considered separately by Council and the DSE and would be subject to a similar process of community consultation and notification.

Next Steps

Following advice from Council of its intent to proceed with the closure, the DSE will arrange to have a formal title survey of the road reserve after which it will be brought back to Council for ratification and Government Gazettal.

CONSULTATION

In conformance with the Local Government Act 1989, Council formally wrote to all potential affected residents, and placed a notification of intent to close the road to the

Yackandandah community by advertisement in local papers.

The consultation also included advising emergency services of the proposal.

POLICY IMPLICATIONS

Under Schedule 10 of the Local Government Act 1989, Council has power to close the road after forming the view that the land Lot 1 of PS 507320G, is not reasonably required as a road.

FINANCIAL & RESOURCE IMPLICATIONS

Title survey costs will be borne by the DSE. There will be advertising costs to Council.

12.3 TENDERS – REPLACEMENT OF TIMBER BRIDGE DEEP CREEK ROAD BRIDGE OVER BLACK DOG CREEK, CHILTERN (FILE NO: Q06/01 - OM)

RECOMMENDATION

That Council:

- 1. Accept the tender of Nelmac P/L for a contract value of \$196,450, plus GST for the Deep Creek Road Bridge over Black Dog Creek - Contract Q06/01.**
- 2. Sign and seal Contract documents in relation to the works, Contract Q06/01.**

SUMMARY

Tenders were called for the replacement of the timber bridge over the Black Dog Creek on Deep Creek Road, Chiltern.

This report provides an overview of the tender process and evaluation.

BACKGROUND

Racecourse Road bridge works include the design and construction of a new bridge generally requiring the driving of piles, placement of beams and a new concrete deck, replacement of guardrails and associated works.

Council received two tenders for the works.

The works form part of Council's 2006/2007 Capital Works Program and is fully funded through the Federal Government's Roads to Recovery Grants program for Local Roads.

CONSULTATION

This project was identified in Council's Capital Works Program and, as part of the budget process, was placed on public exhibition for community comment. During construction part of Deep Creek Road will be closed to traffic and detoured either via Martins Lane or School Road.

POLICY IMPLICATIONS

Tenders were called in accordance with Councils Tendering Policy.

The assessment of the tender did not however include the interview of the tenderers. The evaluation panel is familiar with capability of the 2 tenderers both having completed similar contracts / works for Council previously. Both tenderers are considered comparable in experience, quality and ability to carry out the works. Price therefore becomes the varying factor.

FINANCIAL & RESOURCE IMPLICATIONS

The estimated cost of the total works is \$230,000.00, with the bridge component

estimated at \$200,000.00. The lowest tender is \$196,450.00. (Excluding GST)

The works are funded through Council's 2006/07 Capital Works Program using the Federal Government's Roads to Recovery Grants.

TENDERS RECEIVED

Two tenders were received as detailed on the attached confidential Tender Assessment sheet. (Invitations to tender were sent to 9 prospective tenderers). Nelmac P/L has tendered the most competitive price \$196,450.00 (plus GST).

12.4 TENDERS – CAPPING & REHABILITATION WORKS OF YACKANDANDAH LANDFILL, STEEL RD. YACKANDANDAH (FILE NO: Q06/12 - AOM)

RECOMMENDATION

That Council, award the tender for the Capping and Rehabilitation Works for the Yackandandah landfill based on the tender assessment to be provided prior to the meeting.

SUMMARY

Tenders were called for the Capping & Rehabilitation of the former Yackandandah Landfill site in Steel Rd., Yackandandah.

This report provides an overview of the tender process and evaluation which is continuing and will be provided in detail to Councillors to enable them to consider the Officers final recommendation.

BACKGROUND

The former Yackandandah Landfill site was closed as a landfill approximately 8-9 years ago and converted to a temporary Transfer Station. In January 2005 the Transfer Station at this site was permanently closed.

In December 2002 Council, through NevRwaste, called for tenders for the Preparation of Approved Landfill Rehabilitation Plans for the former Beechworth, Chiltern, Rutherglen and Yackandandah landfill sites. Plans for this rehabilitation were subsequently prepared for the Yackandandah site.

On 24th January 2005, following a concern raised by a resident, Council was issued with a Clean Up Notice issued by the EPA. Council completed the works as required by that notice. On 1st April 2005 Council was then served with a Draft Pollution Abatement Notice (PAN) for our review and comments. Following comments provided by Council a PAN was then served on Council on 9th February 2006. This notice required Council, among other things, to rehabilitate the site and place an impervious capping over the waste footprint.

In 2006 Council applied to Sustainability Victoria, through their Sustainability Fund for funds to assist in the rehabilitation of the former Yackandandah Landfill site. On 4th

August 2006 Council received advice from the Minister for Environment that our application was successful and that funds of \$230,000 would be made available to assist in the rehabilitation of the site.

In December 2005 NevRwaste advertised a contract for the Risk Assessment of Selected Landfill Sites in the Northeast Waste Management Region which involved a total of 35 landfill sites. From this contract and subsequent report the former Yackandandah Landfill site was rated at No. 1 as the most at risk site.

On 6th January 2007 Council advertised for tenders for the Capping and Rehabilitation Works of the Yackandandah landfill. This includes the placement of a Geosynthetic Clay Liner over the site with a covering of clay followed by a covering of topsoil/mulch mix.

Planting with native shrubs and grasses will be subject to a separate arrangement.

Council received six tenders for the works

CONSULTATION

This project was identified in Council's Capital Works Program and, as part of the budget process, was placed on public exhibition for community comment.

POLICY IMPLICATIONS

Tenders were called in accordance with Council's Tendering Policy.

The assessment of the tender did not include the interview of the tenderers. The evaluation panel is familiar with the capability of 5 of the 6 tenderers with some having completed works for Council previously. All tenderers are considered comparable in experience, quality and ability to carry out the works. Price therefore becomes the varying factor.

FINANCIAL & RESOURCE IMPLICATIONS

The Estimated cost of the total works is \$320,000.00. The Lowest tender is \$117,780, (excluding GST). This does not include the cost of materials supplied by Council of \$107,118.00,

The works are to be funded as follows

Council's 2006/07 Capital Works Program	\$34,000
Transfer Station Reserve	\$161,500
Sustainability Victoria grant of	<u>\$230,000.</u>
Total	\$425,500

TENDERS RECEIVED

Six tenders were received as detailed on the confidential Tender Assessment sheet. (Invitations to tender were sent to 15 prospective tenderers). McPhersons Earthmoving Contractors P/L has tendered the most competitive price \$117,780.00 (plus GST).

**12.5 OPERATIONS DEPARTMENT – PROGRESS REPORT –
JANUARY 2007 (AOM)**

For information

Project	Description of Works
General Maintenance Road Maintenance & Parks and Gardens	<p>A very quiet Christmas with few call outs. The Maintenance team has utilised a boat in cleaning up debris in Lake Sambell – various items of rubbish including 44 gallon drums have been removed from the Lake. Minor work at the boat ramp has also been carried out. The water level in Lake Sambell is dropping and an irrigation headwall has been installed on Spring Creek (as directed by Goulburn Murray Water) to monitor flows into the Lake (Nil at present).</p> <p>Rutherglen Road Maintenance crew has been working on road side table drains, particularly along Chiltern Valley Road.</p> <p>Parks and Gardens – Council is leading by example and now shutting off sprinkler systems in Beechworth with the exception of the front of Cultural Precinct and Town Hall Gardens only being watered. Mulching along Queen Victoria Park's trees together with drilling of irrigation holes has recently been carried out to aid the struggling trees. Junction Road Primary School trees have also had same treatment. Fountains had been turned off before Christmas.</p> <p>Significant trees have been fertilised, including in High Street Yackandandah the tree that was significantly burnt by the recent building fire.</p> <p>Rutherglen Town Teams have been busy pruning trees and mending sprinkler systems. Watering restrictions are still only Stage 1 in Rutherglen. Barnawartha and Chiltern will have their watering systems curtailed shortly, with Beechworth going to stage 2 soon.</p>

Council Projects	
Spring Street upgrade	<p>The consultative committee formed in July 2006, met for the final time in November to consider the feedback from all property owners following a mail out in early November on costing of 3 options.</p> <p>A report will be presented to this meeting.</p>
Racecourse Road Bridge Widening	<p>The contract has been completed. Bridge approach guard rail has been ordered and should be installed by mid February. Some minor tidying up still to do, including the provision of guideposts.</p>
Drought Relief Bores and Standpipes	<p>Works on the bore in Racecourse Road, Chiltern are progressing slowly. Power supply requirements with SPI Ausnet have been concluded.</p> <p>The proposed bore at the Sandy Creek Reserve has not yet commenced due to the unavailability of the drilling contractor. It is hoped that this will commence by the end of January.</p> <p>Funding has been approved through Goulburn Murray Water for the construction of a portable standpipe for the Rutherglen area and the permanent standpipe for the Allan's Flat waterhole. The portable standpipe has been ordered and should be available for use by the end of January.</p> <p>Negotiations are still underway with SP Ausnet regarding the provision of power and quotes are being sought for the installation of the pump and motor for the Allan's Flat project.</p>
Horseshoe Quarry	<p>Tenders have been let under delegation for the crushing of road pavement material. 5 tenders were received, the successful tenderer being TS Carson & Sons Corowa for a contract value of \$182,000. Specific details of the evaluation have been supplied to Councillors.</p>
Gundowring Road Dairy Road Funding	<p>Council has been awarded a Victorian Government grant of \$187,500 towards a \$375,000.00 project to upgrade various sections along Gundowring Road under the Dairy Road Funding Program. The works will include intersection improvements, curve</p>

	<p>widening and pavement strengthening to bring the road to a standard suitable for use by B-Double dairy trucks.</p> <p>The formal agreement between council and the Government will be presented to Council in the new year for sealing and signature.</p> <p>Works will be carried out by Council's External Works Team, and must be completed by 30th June.</p> <p>A media release has been issued by Council.</p>
Yackandandah Caravan Park Footpath	<p>Construction works have been completed.</p>
External Private Works	
Works	<p>The construction unit recently completed works for the Department Of Infrastructure (\$200k) at the Rutherglen Secondary College and Primary Schools. A VicRoads project involving pavement, drainage and kerb and channel works on Isaacs Avenue opposite the Yackandandah Bush Nursing Hospital is 90% complete. The upgrade of a section of Indigo Creek Road has commenced, funded both by Roads to Recovery and Biodiesel funding.</p> <p>Other small projects include kerb and channel works in Stanley for VicRoads.</p>
Buller Gas	<p>The snow season ended on 30 Sept with the lowest gas consumption on our records. Profit margins have been maintained.</p> <p>LPGas prices have peaked and are expected to drop with oil prices.</p> <p>Construction work has started and the poor season does not seem to have deterred some ambitious developments.</p> <p>Latrobe University will close its campus on Dec 31st 2006</p>
Waste Management	
	<p>East Gippsland Transfer Station Contract</p> <p>The bushfires in the East Gippsland area have had an impact on the contract with the Great Alpine Rd. closed at Bruthen therefore restricting access to Swifts Creek and Omeo Transfer Stations. These sites were able to be serviced with our truck based in Orbost. The Transfer Stations were opened for additional hours, under the direction of the East</p>

	<p>Gippsland Shire Council, to receive green waste at no charge for a period of approximately 3 weeks. This resulted in up to 10 times the normal volume of green waste being deposited at some of the sites during this time.</p> <p>Domestic Green waste services numbers have now reached 700. This number triggers a reduction in collection cost by Cleanaway in accordance with the contract.</p> <p>The tender for the Rehabilitation of the Yackandandah Landfill has been advertised and closed on 25th January 2007. It is hoped that the successful tenderer will be appointed in early February with work to commence soon after.</p>
<p>Animal Control & Local Laws</p>	<p>Works (in hours and out of hours) Parking compliance in Beechworth has improved for the last period, drivers are adhering to signage within the CBD, therefore less infringement notices are being issues.</p> <p>With the dry conditions a greater number of grazing permits have been issued. Some councils have waived all fees for such permits but this has caused some problems in the enforcement and management of the graziers and safety to the travelling public.</p>
<p><u>Fire Prevention</u></p>	<p>Approximately 140 Fire Prevention Notices were issued to property owners to clean up fire hazards on their property. A number of Fire Prevention Infringement Notices have been issued to property owners who have failed to comply with the Fire Prevention Notice and arrangements have been made to have these properties cleared.</p>
<p><u>Pools</u></p>	
<p>Indigo</p>	<p>The five Indigo pools have experienced some lengthy periods of high patronage, which has increased the pool staffing levels and has also made water quality management an issue. Over all, the public is more than pleased with the Indigo Shire pool and staff and no letters of complaint have been received thus far.</p>
<p>Summer</p>	<p>The Wodonga pool is continuing to have a large season, patronage is strong, and the waterslide has run every day of the season due to a high demand. Water quality has not been</p>

	an issue due to the large turn over filtration systems.
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13.0 ASSETS AND INFRASTRUCTURE

13.1 CAPITAL WORKS – PROGRESS REPORT – FEBRUARY 2007 (AM)

For Information

Project	Actions
Subdivisional works by developers	<ul style="list-style-type: none"> • Alluvial St Rutherglen 14 lots- 80% complete • Racecourse Road, Yackandandah – Stage 1, 15 Lots. Works complete. • Mossgrove Way Beechworth 13 lots- 50% complete. • Lawranna Estate Stage 1 (off Fighting Gully Rd)5 Rural Res lots- 20% complete • Nickless St Chiltern 3 lots- 80% complete • Bowling Green Lane Rutherglen 2 lots- commenced • Bells Flat Rd wetlands- commenced
Chiltern Hall Carparking	Works 90% complete with sealing to be done this week. Linemarking to follow.
Rural Road Development Contributions	Upgrade works underway on Malakoff Rd, Beechworth
Plant	<ul style="list-style-type: none"> • National Plant Hire plant maintenance agreement now working well with responsive service and excellent monthly reporting. • Scania garbage truck has major repairs being undertaken which will see it through to the end of the Falls Creek contract. • Six monthly plant review complete, identifies the need to rationalise some plant and upgrade others.
Rutherglen Heavy Vehicle Deviation	Second meeting of Focus Group held January. Further detail discussion of options with elimination of several unsuitable routes Next meeting February 22 nd .
Rutherglen Hall	Tender accepted from Smith Alltimber Constructions, works commenced 22 January.
Wooragee Hall	Grant funding approved. Quotations being prepared. Additional funding via the Regional Partnerships

	Programme has been applied for which will extend the scope of works with no additional cost to Council.
Chiltern Floodplain Study	Public presentation complete and submissions closed. One submission received. Application for Natural Disaster Relief Funding being prepared. Detailed report to March meeting.
Havelock Road area stormwater re-use	Draft detail designs complete. Land purchase being negotiated. Discussions underway with Baarmutha Park Committee. Permits from DSE & GMW & NECMA underway.
Wahgunyah Hall	Works 60 % complete. Works coming in under budget, additional works being scoped with Committee.
Ready/Soles Street drainage	Tomkinson Engineers has completed draft designs. There has been a further application for residential development within this catchment.
Playgrounds upgrade	Rutherglen Hopetoun Rd equipment installed and in use. Landscaping to complete when weather permits. Wahgunyah Heights Morley Drive equipment installed and in use. Minor works to complete. Landscaping to complete when weather permits
Steel Rd Yackandandah Industrial Area	Designs draft complete.
Chiltern Commercial Area Parking	Consultants Eslers have completed surveys. John Piper Traffic engaged to undertake traffic Impact Assessment jointly for supermarket proprietors and Council. Due early February in time for Planning Focus meeting for carpark and access routes.
Diffey Rd Industrial area development	Detail estimates completed, cost to develop Stage 1 lots \$1.1m. Arranging discussions with State and Federal grant funding bodies.

14.0 HEALTH AND WELLBEING

14.1 CHILTERN BARNAWARTHA COMMUNITY ADVISORY COMMITTEE – PROPOSED NAME CHANGE – (FILE NO: C061.1 - HWBM)

RECOMMENDATION

That:

- The Chiltern Barnawartha Community Advisory Committee be renamed to the Chiltern Barnawartha Indigo Valley Community Advisory Committee.**

2. The revised Instrument of Delegation for the Chiltern Barnawartha Indigo Valley Community Advisory Committee be adopted.

SUMMARY

This report details a recommendation from the Chiltern Barnawartha Community Advisory Committee to amend its name to the Chiltern Barnawartha Indigo Valley Community Advisory Committee.

BACKGROUND

Following the community consultation process for the *Chiltern Barnawartha - Our Future* project, comments were made from the community that the Chiltern Barnawartha Community Advisory Committee (CBCAC) should be renamed to include the Indigo Valley. The Indigo Valley community felt that it would make it more inclusive and encourage Indigo Valley people to get involved.

The proposal was discussed at the November meeting of the CBCAC which resulted in the following recommendation:

“That the Chiltern Barnawartha Community Advisory Committee be renamed to the Chiltern Barnawartha Indigo Valley Community Advisory Committee”

ISSUES

The operation of the Committee won't be affected by the name change.

The Committee discussed the option of holding one or two meetings a year at the Middle Indigo Primary School and agreed that it would be appropriate.

An amendment to the Instrument of Delegation for the CBCAC will be required to reflect the proposed name change.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

Attachment

INSTRUMENT OF DELEGATION

Special Committee

CHILTERN/BARNAWARTHA/INDIGO VALLEY

District Community Advisory Committee

In exercise of the power conferred by Section 86(3) of the *Local Government Act 1989* ("The Act"), the Indigo Shire Council ("Council") delegates to the Special Committee referred to as Chiltern/Barnawartha/Indigo Valley Community Advisory Committee ("the District Committee") established by resolution of Council passed on 6 September 1999, the powers, duties and functions set out in the attached Schedule and declares that:

- 1 This Instrument of Delegation is authorised by a Resolution of Council passed on 6 February 2007.

- 2 The delegation:
 - 2.1 Comes into force immediately the common seal of Council is affixed to this Instrument of Delegation;
 - 2.2 Remains in force until Council resolves to vary or revoke it;
 - 2.3 Is subject to any conditions and limitations set out in the Schedule; and
 - 2.4 Must be exercised in accordance with any guidelines or policies which Council from time to time adopts.

THE COMMON SEAL of the **INDIGO**)
SHIRE COUNCIL was hereunto affixed to)
this Instrument of Delegation in the)
presence of:)

Mayor

Councillor

Chief Executive Officer

SCHEDULE

**CHILTERN/BARNAWARTHA/INDIGO VALLEY
DISTRICT COMMUNITY ADVISORY COMMITTEE**

The responsibilities relating to the operation of the Chiltern/Barnawartha/Indigo Valley District Community Advisory Committee shall be set out as hereunder.

1 Establishment

- 1.1 This Advisory Committee to be known as the Chiltern/Barnawartha/Indigo Valley District Community Advisory Committee (the District Committee) was established by resolution of Council on 14 September 1999.

2 Objectives and Functions

- 2.1 The District Committee is responsible for providing advice to the Indigo Shire Community Advisory Committee (the Committee) on community issues referred to it by the Committee and the community.
- 2.2 The District Committee is responsible for keeping the Committee informed of important issues raised by the District Advisory Committee.
- 2.3 The District Committee will liaise with the district communities to ensure open communications and information exchange is maintained with the Committee.
- 2.4 The District Committee will be responsible for making recommendations to the Committee regarding the planning and allocation of resources.

3 Composition of the District Committee

- 3.1 The District Committee shall comprise:
- Community representatives from a wide range of organisations and interests and individual community members

4 Appointment of the Committee

- 4.1 The District Committee will have an appointed Council representative who will act as Secretary.
- 4.2 The District Community Advisory Committees will elect at least 2 representatives to the Indigo Shire Community Advisory Committee at the October meeting each year. Only 2 representatives of each District Committee will have voting rights.
- 4.3 The District Committee shall elect a Chairperson.

5 *Meetings*

- 5.1 Meetings of the District Committee shall be held at regular intervals, generally monthly, at a time or place determined by the District Committee.
- 5.2 Conduct of meetings shall be governed by the Indigo Shire Council Meeting Procedure Local Law.
- 5.3 In accordance with the Local Government Act of 1989 the District Committee meetings must be opened to the public except in circumstances where meetings are closed to the public to discuss any of the following items:
 - a Personal matters
 - b The personal hardship of a resident or ratepayer
 - c Industrial matters
 - d Contractual matters
 - e Proposed developments
 - f Legal advice
 - g Matters effecting the security of Council property
 - h Any other matters which the Council or District Committee considers would prejudice the Council or any person
 - i A resolution to close the meeting to members of the public.
- 5.4 If the District Committee resolves to close the meeting to members of the public the reason must be recorded in the minutes of the meeting.
- 5.5 The District Committee must ensure decisions are made having regard to the pecuniary interest provisions in section 78 and 79 of the Local Government Act 1989.

6 Insurance and Risk Management

- 6.1 Council shall maintain Public liability insurance for the members of the District Committee.

7 Reporting

- 7.1 The District Committee shall report to the Committee and/or Council after

each meeting.

7.2 The Council Officer shall act as Secretary to the District Committee.

8 Termination

8.1 The District Committee may be terminated at will by the Council or its delegated officer.

9 Restricted Powers

9.1 Pursuant to the provisions of Section 86(4) of the Act, the Council is prohibited from delegating the following powers and accordingly the District Committee is prohibited from undertaking the following:

- a This power of delegation
- b Declaration of a rate or charge
- c Power to borrow money
- d Power to enter into contracts exceeding any amount previously determined by Council
- e Power to incur any expenditure exceeding the amount previously determined by Council.
- f Any prescribed power

For the purpose of this provision the Council has determined that:

- i The District Committee shall not enter into contracts.
- ii The District Committee shall not incur expenditure for individual transactions except where such expenditure has been included in the budget for the District Committee and has been approved by the Council.

14.2 REQUEST FOR INTEREST FREE LOAN - UPGRADE RUTHERGLEN GOLF CLUB CLUBHOUSE (FILE NO C935.2 - CEO)

RECOMMENDATION

That Council advise the Rutherglen Golf Club that it is prepared to provide a loan of \$9,000 at a nominal interest rate for the Club to upgrade the Rutherglen Golf Club Clubhouse provided that the Golf Club can provide appropriate security to Council for the repayment of this loan.

BACKGROUND

The Rutherglen Golf Club is aiming to upgrade its Clubhouse by adding a veranda to the southern end. The addition incorporates the new space and vista into the clubrooms providing the clubrooms providing a much better experience for users. A current barbecue area will also be roofed as it is presently exposed to the elements.

The Executive Committee of the Club has agreed to the building of the veranda at its meeting on 11 December 2006. The Rutherglen Park Committee of Management has also passed a motion to allow the veranda to be built on to the clubhouse.

The estimated cost is \$11,150 with the Club having immediate funds of \$2,150. In addition they will be providing approximately \$1,500 worth of in kind labour.

The Golf Club request is for an interest free loan of \$9,000 which would be repayable by instalments of \$2,250 on the first of July on each of the next four years (2007 - 2010). The Golf Club is not the sole user of the facility but it is used extensively for golf. Other users include the Rutherglen and District Slimmers Inc, Rutherglen Parks Committee, Country Fair Committee and various functions. These are important facilities for recreational and social use in Rutherglen.

The Club is very important to all users of Rutherglen Park because it maintains the entire park area from the gate on High Street through to Ready Street and Murray Street.

ISSUES

The Club applied for a Community Grant in 2006/07 but was not successful. At that time it did not apply for a Community Loan as part of that Grant/Loan process.

Council has assisted clubs in the past through that grants process with interest free loans. These have usually been kept at around \$3,000.

Unfortunately in the past Council has had problems with repayments of these loans by clubs.

Council lent the Beechworth Bowls Club \$80,000 at current interest rates (then about 5.8%) with an appropriate security/mortgage (to ensure that payments would be made). Council is aware that the Beechworth Bowls Club has fully repaid its commitment and this is a good example of Council assistance to community organisations.

The question for Council is whether Council would provide an interest free loan or require the Club to pay interest at a nominal rate (eg 3%) or at Council's current borrowing rate (approximately 6%) or at overdraft interest rates (currently 13%) as Council would be providing these funds out of overdraft facilities. My suggestion is that the Council would provide a loan of \$9,000 at Council's current borrowing rate (6%) provided that appropriate security is provided to guarantee repayment.

COUNCIL POLICY

The only Council policy applicable to this is that the Council does provide the community grants scheme as well as past occurrences of providing loans for sporting organisations.

FINANCIAL IMPLICATIONS

Council obviously has not budgeted for providing this loan to the Club and it would therefore impact on Council's current bank balance. However, Council normally assists various sporting organisations through its budget processes.

14.3 HEALTH & WELL BEING PROJECTS – PROGRESS REPORT – February 2007

PROJECT ACTION/ PROGRESS

New Regional Director - Department of Human Services	The Department of Human Services has announced the appointment of the new Hume Regional Director replacing Dr Tom Keating. Ms Angela Connors will commence in the role on 12 February 2007 and will be based in the Wangaratta Office.
Indigo Health Consortium	<p>The Department of Human Services has provided funding for a Health Services Co-ordinator - Planning and Development for a three year period. The position consists of two components - 0.5 EFT to identify, develop and implement opportunities to improve delivery of and access to services in Chiltern and Barnawartha and 0.5 EFT to undertake similar responsibilities across Indigo Shire as well as to facilitate the establishment and operations of the Indigo Health Consortium. Chiltern & District Health Service will be the employing body.</p> <p>The Indigo Health Consortium is being developed between Indigo Shire Council, Beechworth Health Service, Glenview Community Care, Chiltern & District Health Service, Yackandandah Bush Nursing Hospital and the Department of Human Services. A Memorandum of Understanding is currently being developed. Interviews for the Health Services Co-ordinator are scheduled for early February 2007.</p> <p>This initiative provides an exciting opportunity for services and the community in Indigo Shire.</p>

<p>Arts Strategic Plan</p>	<p>Work on the Arts Strategic Plan is progressing well. Following the initial round of community consultation a draft Plan has been developed.</p> <p>Four community workshops have been/will be conducted in early February to enable the community to discuss the draft Plan and provide further input. Workshops were held in Rutherglen on 1 February and Yackandandah on 5 February. Further workshops are scheduled for Chiltern on 7 February at 7:30pm and Beechworth on 8 February at 7:00pm</p> <p>The Draft Strategic Plan is also available on Council's website.</p>
<p>Rural Access</p>	<p>A successful forum was held in Yackandandah on 28 November 2006 for users of motorised scooters. The Forum presented information on safe scooter use, road safety issues, scooters and the law as well as identifying some specific issues in Yackandandah. Information and feedback gained from the Forum will be used to assist Council Staff in planning future works and programs.</p>
<p>Indigo Shire Municipal Recreation Plan</p>	<p>Community consultation for the Recreation Plan will continue into February with the consultants conducting telephone interviews with sporting clubs and committees. The information from these interviews and the results from over 600 resident surveys received will be compiled to prepare an Issues Paper which also includes data from site inspections and the literature and data review.</p> <p>It is anticipated that a Draft Recreation Plan will be completed by February with the final Plan to be completed by the end of March.</p>
<p>Country Football & Netball Program</p>	<p>In late December 2006, the Minister for Sport, Recreation and Youth Affairs announced the following successful submissions through the 2006/2007 Country Football & Netball Program:</p> <ul style="list-style-type: none"> • \$60,000 towards the Wahgunyah and Rutherglen netball court upgrades; • \$50,000 towards the Chiltern netball court upgrade and irrigation for the football/cricket oval; • \$11,000 towards upgrades at the Butson Park pavilion; • \$18,000 towards the installation of lighting for the Rutherglen netball court

15.0 CORPORATE SERVICES

15.1 LAND PURCHASE FOR EXTENSION OF OFF STREET PARKING IN CHILTERN (FILE NO: D670 – 02 CSM)

RECOMMENDATION

That the Transfer of Land pursuant to Section 45 of the Transfer of Land Act 1958 for the purchase of the following land:

Volume 10621 Folio 017

Volume 0627 Folio 202

Volume 8776 Folio 591

Volume 2588 Folio 566

and in consideration of the sum of \$75,000, the transferor being Bruce Charles Cook;

be signed and sealed by Council.

SUMMARY

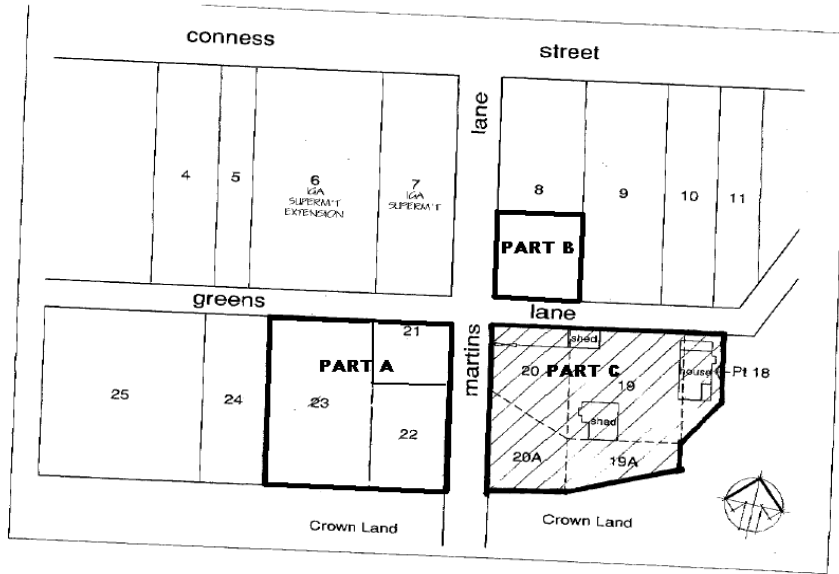
At Council's meeting on the 5 December 2006, the Chief Executive Officer was authorised to negotiate with the owner of Crown Allotments 18, 19, 19A, 20 and 20A and to purchase this land on Council's behalf.

The CEO was successful in purchasing the block of land for \$75,000.

BACKGROUND

To facilitate the \$2.5 million extension of the Chiltern IGA supermarket, Council has now purchased three parcels of land adjacent to the business at the corner of Greens and Martins Lanes.

See plan below (the land just purchased is denoted as PART C).



16.0 FINANCE

16.1 DECEMBER 2006 FINANCE REPORT AND FORECAST TO 30 JUNE 2007 - (FILE NO: M064 – CFO)

For Information

BACKGROUND

Attached are the financial reports from 1 July 06 – 31 December 2006 which shows a comparison between the YTD actual position and the YTD budgeted position for the first half of the financial year.

Also presented is the forecast position to 30 June 2007 which incorporates new capital works, uncompleted capital works from 2005/06 now being completed or commencing, and revised income and expenditure projections for all areas as a result of revisions to income and/or expenditure due to changing circumstances, or over expenditure.

ISSUES

Capital Works Program

A number of new capital works projects have been announced this financial year and a number of projects carried over from the 2005/06 year are now incorporated into the Council's 2006/07 forecast. As a result, Council's capital works program for the current year is forecast at \$7.2 million as opposed to \$4.7 million as identified in the annual budget. Expenditure to date is approximately \$2.2 million. On a net basis (including income) this has resulted in an increase of \$321,000. This increase was expected due to a number of grants received in advance in the 2005/06 year.

Some of the new projects announced this financial year include \$300,000 under the Local Infrastructure Works Program for drought recovery, \$159,000 under Country Football Netball Grants, and \$200,000 for Bus Parking Upgrades. Additional roads works of \$430,000 have also been included following a decision to spend the remaining supplementary Roads to Recovery funds this financial year.

Other projects that were included in the 2005/06 budget but were not completed, and are now in the current year, include the Rutherglen Memorial Hall Upgrade \$775,000, Wooragee Hall Kitchen and Toilet Upgrade \$117,500, Tangambalanga Multi Purpose Centre \$128,822 and the Baarmutha Park Sports Oval upgrade \$68,627.

A detailed listing of the entire capital works program has been listed in the attachments at D2 pg 12.

The difficulty Council will face will be the completion of this work in the coming 6 months with a number of projects still awaiting grant notification and finalisation. In addition, Council has recently submitted a draft capital works program for the next financial year which is currently out for public comment.

SUMMARY

Profit and Loss Statement (A.1)

YTD Actual v YTD Budget

Council is reporting a surplus of \$3.5 million against a budgeted surplus of \$3.4 million. This represents a favourable variance of \$127,000 or 4%.

Forecast to 30 June 2007

The forecast result to 30 June shows a surplus of \$1.7 million as opposed to the \$599,000 surplus identified in the annual budget. The increased surplus is due to expected additional capital grant funds of \$1 million as a result of new projects announced this financial year, and grants expected for carry forward projects.

The underlying operating result (which excludes capital funding) has deteriorated by \$113,000 due primarily to a reduction of private works income (\$80,000) and a decision to enter into a gravel crushing contract at the Everton quarry (approx \$185K). Full recovery of funds outlaid for gravel crushing will not be recovered until approximately 12 months from February 2007. Full details on forecast variances are detailed in A2.1

Departmental Profit & Loss Statement (A.2)

YTD Actual v YTD Budget

The operating revenue and expenditure report shows a favourable variance of \$339,000 or 12%.

There are currently expenditure overruns in the Civil Operations department and the Tourism and Economic Development Department. Income levels are down by 16% in the Tourism department which relate primarily to the Burke Museum. All other departments are reporting favourable variances.

Forecast to 30 June 2007

The forecast to 30 June 2007 results in an unfavourable variance of \$144,099. These changes are summarised in A2.1

Balance Sheet (B)**YTD Actual v Last year YTD Actual**

Council balance sheet reflects a strong position with \$3.2 million of cash and investments on hand. \$194,000 remains outstanding in relation to the additional claim for storm damage in Dec 05. Council received notification from Treasury in Dec 06 that the additional expenditure was approved with payment from Vic Roads expected by the end of this week.

Property plant and equipment, borrowings and provisions are at higher levels than the original budget due to the revaluation of Councils infrastructure assets at 30 June 06, recognition of finance leases, and recognition of a provision for the Yackandandah landfill rehabilitation.

Forecast to 30 June 2007

The main movements in Council's balance sheet will be a reduction of \$510,000 in provision as Council completes the landfill rehabilitation at Yackandandah, and an increase in property plant and equipment to \$140.4 million resulting from the increased program following the revaluation in 2005/06. Council's cash position will also reduce to \$1.4 million as a result of the reduction in cash reserves.

Cash Flow Statement (C)

Council has collected 58% (\$4.51m) of its total rate income of \$7.85 million to the end of December 2006.

The forecast cash position at 30 June 07 is a reduction in cash from \$2.2 mill to \$1.4 mill primarily due to the utilisation of Councils reserve cash for the capital works program.

Capital Works Report (D)

Refer to issues above.

Statement of Reserves (E)

I have included the statement of reserves which summarises the movement in both statutory and discretionary reserves from 1 July 2006 to 30 June 2007. This is important as all reserves must be cash funded. Councils level of cash on hand should be sufficient at all times to cover all reserves plus funds for operating. Council operates with a small

amount of unrestricted cash as cash surpluses are not being generated through the annual budget setting processes. Councils' unrestricted cash at 30 June 2007 is expected to be \$77,000.

There will be a significant reduction in cash reserves held this year as Council attempts to fund projects in its capital works program and complete its road to recovery program

Attachments

17.0 GOVERNANCE

17.1 KERFERD ORATIONS - GEORGE BRISCOE KERFERD MEDALLION - (FILE NO E536.1 - CEO)

RECOMMENDATION

That:

Council submit a project through its budget processes for the establishment of a George Briscoe Kerferd Oration Honour Board.

BACKGROUND

Joan Simms, on behalf of the Kerferd Oration Committee has written that the Committee is now well advanced with plans for Orations in 2007 and 2008.

They have recently discussed the need for a permanent thank you to the eminent people that we are attracting to deliver this annual oration.

It is suggested that a George Briscoe Kerferd medallion be struck, which would be engraved and presented to past orators, if they are able to attend, at the fifth Kerferd Oration on 29 July 2007.

ISSUES

The Kerferd Orations have been very successful since inception and have been successful in promoting social justice in rural areas and engaging residents in Beechworth and surrounding areas in topical issues affecting the future of our community.

The idea of a medallion is an excellent idea of recognising the orator but I do suggest there is a better alternative.

The issue with a medallion that we have provided to the orator is probably the last acknowledgement that they would receive for their participation. The suggested alternative is to commission an "Honour Board" which may be able to be on display at the LaTrobe University George Briscoe Kerferd Conference Centre where the orations take place. It would contain a listing of all orators over the years that it is held. This would be a permanent public display with the aim of creating a continued interest in the

oration.

The cost of the dye for a medallion is around \$1,200 with each medallion costing around \$10.50 plus engraving. The committee suggests Council consider a grant (or allocation) of \$1,500 for this purpose.

Whilst quotations have not been received for an honour board, it is thought that it would be around the same cost.

COUNCIL POLICY

There is no Council policy on this proposal and it would be seen as an addition to the current Council budget allocation made to support the Kerferd Orations.

FINANCIAL IMPLICATIONS

Council's current budget allocation for the Kerferd Oration is a net \$1,856 but over runs in last year's costs paid in 2006/07 now only leaves a balance of \$400. The budget will need to be increased by up to \$3,000 as sponsorship is doubtful at this stage.

A \$1,500 allocation would be a once off which would need to be considered for the 1007-2008 budget.

17.2 PROGRESS REPORT – JANUARY 2007 (CEO)

For Information

Project

Actions

Councillors Training	There has been no additional training by Councillors in the past month.
The Council Plan	The progress report to 30 th December was circulated to Councillors and discussed on 30 th January.
The Council Budget	The Council Budget was adopted on 25 July 2006 and actions are now being implemented. 3rd instalment rate notices have been issued along with the Indigo Informer. Council CFO is preparing a 6 monthly review of the budget outlining all variations.
Communications Plan	The "Community Engagement Policy" and Implementation Manual was adopted at the November meeting and is now being utilised.
Community Forums	Forums were held at Yackandandah on 23 rd January at Yackandandah and 30 th January at Rutherglen. The next forum is at Beechworth on 27 th of February at the Shire Hall.
Media & Communications Officer	Kate Biglin has commenced in this role and is already contributing at a high level.
Operations Manager	Following David Runnalls resignation I advise that I have appointed Clive Walker as the Acting Operations Manager for an interim period. This

	<p>appointment is a temporary appointment and therefore does not have to be advertised under the Local Government Act provisions for the appointment of a "Senior Officer". The appointment can be further clarified or advertised after I have completed an organisational structure review that is currently underway.</p>
Municipal Offices Project	<p>As per the 2006/07 budget I have instigated a study into the Council's future Council meeting rooms and office accommodation requirements. The first phase is to identify current facilities and their constraints and short term internal requirements. The second phase is to predict scenarios for future requirements and then to analyse various options including a single main location or continued split locations. The second phase will also study the broader community economic considerations of various locations. Targeted completion date of the study is end of April.</p>
Web Site Redevelopment	<p>This project is progressing well with new format and content now being finally tested before going live. Thanks to all staff for their efforts and to the community guinea pigs who have helped test the site. No doubt there will be some teething problems but we hope these will be minimal.</p>
Beechworth Lawn Tennis Club	<p>The CEO and Assets Manager attended a meeting with the Baarmutha Park Mgt Ctee and the Beechworth Golf Club to further ascertain the pros and cons of including the new tennis courts at the park as well as the effects of the proposed raw water storage proposal on golf club facilities. The Golf Club is continuing to look at its options for future development of the golf course and the necessity to redesign the course layout. It obviously does not want to be disadvantaged in accommodating other activities or facilities.</p>
Rural Councils Victoria	<p>The CEO has been nominated to the steering committee of the Rural Councils Victoria representing the North East area. Councillor Rob Gersch of Hindmarsh Shire has been elected as chair and the next meeting will be held in the coming weeks.</p>
Bush fires	<p>Wangaratta City and Alpine Shires have thanked Indigo Shire for assistance provided in the recent bush fires.</p>

18.0 NOTICE OF MOTION

19.0 COMMITTEE AND DELEGATES REPORTS**19.1 DECEMBER 06 - JANUARY 07 DIARY - CR P GRAHAM**

Date	Time	Function
4 Dec 06	9.30 am	Launch Walking School Bus, Rutherglen Primary
	1.00 pm	On site meeting Christine Brown, Stanley
5	10.00 am	Weekly Meeting with CEO, Beechworth
	3.00 pm	International Volunteers Day Thanks You, Chiltern
	5.00 pm	Councillors Meeting, Chiltern
	6.00 pm	Statutory Meeting, Chiltern
	7.00 pm	Council meeting, Chiltern
6	3.00 pm	Launch Walking School Bus, St Mary's Rutherglen
7	9.00 am	NevRWaste Wangaratta
	12 noon	Kerferd Oration Meeting, La Trobe Beechworth
	3.00 pm	International Volunteers Day Thank You, Yackandandah
	7.30 pm	Rutherglen Heavy Vehicle Traffic Focus Group
8	9.00 am	Launch Walking School Bush Program, St Joseph's Beechworth
	6.00 pm	Shire Christmas Party, Yackandandah
	8.30 pm	Christmas Carols, Rutherglen
9	7.00 pm	Rutherglen Senior Citizens Christmas Dinner
11	10.00 am	Weekly meeting with CEO, Beechworth
14	5.45 pm	Meeting with Cr dale, Yackandandah
	6.30 pm	Meeting with Kiewa Valley School Committee, Yackandandah
15	9.00 am	Australia Day awards Meeting, Beechworth
16	11.00 am	Rutherglen Historical Society Draw Raffle, Rutherglen
18	2.00 pm	Green Corps Launch, Yackandandah
	3.30 pm	RWE Meeting
19	11.00 am	Weekly meeting with CEO, Beechworth
	12.30 pm	Special Council Meeting, Beechworth
	1.30 pm	Council Briefing Meeting, Beechworth
	6.30 pm	Wahgunyah Primary School Presentation
	7.30 pm	Winemakers of Rutherglen Annual Dinner, Rutherglen
21	12 noon	Road Safe Committee Meeting, Wangaratta
	5.30 pm	Community Meeting re Green Lane, Chiltern
22	9.00 am	Meeting with Cr Dale re Yackandandah Shop/Museum Fire
	11.00 am	Beechworth office
3 Jan 07	9.30 am	Henry Handle Literary Day (brief visit), Chiltern
8	2.00 pm	Beechworth office
9	1.00 pm	Beechworth Health Service Accreditation Waste Wise
	3.00 pm	NevRWaste, Wangaratta
11	7.30 pm	Rutherglen Heavy Vehicle Traffic Focus Group
12	9.00 am	Association Waste Wise management Groups, Melbourne
15	8.30 am	RWE Board Meeting, Rutherglen
	1.30 pm	NevRWaste, Wangaratta

20	2.00 pm	Opening St John's Masonic Lodge Display, Burke Museum
	6.00 pm	Opera in the Alps, Beechworth
22	2.00 pm	Pre Australia Day Presentations, Beechworth
23	9.00 am	NevRWaste, Wangaratta
	11.00 am	Weekly Meeting with CEO, Beechworth and Admin
	3.00 pm	Wooragee site inspection
	4.00 pm	Council Briefing Meeting, Yackandandah
	7.00 pm	Community Forum, Yackandandah
24	5.30 pm	MSS Review, Yackandandah
25	3.00 pm	Beechworth office, Australia Day materials
	5.00 pm	RWE Meeting, Rutherglen
26	Full Day	Australia Day Celebrations Rutherglen, Chiltern, Kiewa, Yackandandah and Barnawartha
27	2.30 pm	St John's Masonic Lodge Street Parade, Beechworth
	6.30 pm	St John's Masonic Lodge 150 th Anniversary Dinner
28	10.30 am	Federation Parade, Corowa
29	6.00 pm	Joint Councils meeting, Albury City Council
30	10.30 am	Citizenship Ceremony, Beechworth
	11.00 am	Weekly Meeting with CEO and admin, Beechworth
	3.00 pm	Meeting of Councillors, RTC Rutherglen
	4.00 pm	Briefing Meeting, Rutherglen
	7.00 pm	Community Forum, Rutherglen

Cr Peter Graham OAM
6 February 2007

19.2 DEC 06 - JAN 07 DIARY - CR V ISSELL

Date	Time	Function
1.12.06– 5.12.06		On leave
7.12.06	5.30pm	International Volunteers Day, Beechworth
8.12.06	9.00am	Launch Walking Bus Program, Beechworth
8.12.06	10.00am	Councillor Duty, Beechworth
8.12.06	1.30pm	Presentation Day, Beechworth Secondary College
15.12.06	10.00am	Councillor Duty, Beechworth
19.12.06	12.30pm	Council Meeting, Beechworth
19.12.06	2.00pm	Special Council Meeting, Beechworth
19.12.06	4.00pm	Briefing Meeting, Beechworth
19.12.06	7.30pm	Presentation, Stanley Primary School
20.12.06	2.30pm	Presentation, Beechworth Primary School
20.12.06	5.30pm	Presentation, Wooragee Primary School
22.12.06– 14.1.07		On Leave
15.1.07	7.30pm	Baarmutha Park AGM, Beechworth
16.1.07	4.00pm	Special Council Meeting, CEO Appraisal, Beechworth
17.1.07	5.30pm	Planning Application Focus Meeting, Chiltern

18.1.07	5.30pm	Planning Application Focus Meeting, Rutherglen
18.1.07	7.30pm	MSS Meeting, Farmers Perspective, Chiltern
19.1.07	10.00am	Councillor Duty, Beechworth
19.1.07	11.00am	National Trust Award Presentation , Beechworth
19.1.07	6.00pm	Launch Art & Craft Exhibition, Stanley
20.1.07	8.00pm	Opera in the Alps, Beechworth
23.1.07	3.30pm	On site meeting, Wooragee
23.1.07	4.30pm	Briefing Meeting, Yackandandah
23.1.07	7.00pm	Community Forum, Yackandandah
24.1.07	12.30pm	Leadership Project meeting
24.1.07	5.30pm	MSS Focus Group Meeting, Yackandandah
25.1.07	2.00pm	VLGA Rights & Remuneration Committee, Melbourne
26.1.07	8.00am	Australia Day Celebrations, Beechworth
29.1.07	6.00pm	Joint Councils Meeting, Albury
30.1.07	4.00pm	Briefing Council Plan, Rutherglen
30.1.07	7.00pm	Community Forum, Rutherglen

Cr V Issell
6 February 2007

19.3 DECEMBER 2006 - JANUARY 2007 DIARY - CR WALSH

Date	Time	Function
1 Dec	6.30 pm	Junior Council Pool Party, Rutherglen
2		Murray Brass Christmas Party, Rutherglen
4		Arts Music in the Park, Rutherglen
5		Launch Walking School Bus Program Rutherglen Primary
6	4.00 pm	Council Briefing Meeting, Chiltern
	6.00 pm	Statutory Meeting, Chiltern
	7.00 pm	Ordinary Meeting of Council, Chiltern
7	7.00 pm	Heavy Vehicle Traffic Bypass meeting, Rutherglen
11		Indigo Tourism Board Meeting, Beechworth
13		Indigo Heritage Committee Meeting, Rutherglen
15		Middle Indigo Primary School Christmas Break Up
19	7.30 pm	Rutherglen High School Presentation
22 Jan	2.00 pm	Pre Australia Day Awards Presentation, Beechworth
23	4.00 pm	Council Briefing Meeting, Yackandandah
	7.00 pm	Community Forum, Yackandandah
24		Indigo Leadership Group breakfast meeting, Rutherglen
		Indigo Leadership Group lunch meeting, Wodonga
	5.30 pm	MSS Review, Yackandandah
26	7.45 am	Australia Day celebrations, Rutherglen
30	3.00 pm	Meeting of Councillors, Rutherglen
	4.00 pm	Council Briefing Meeting, Rutherglen
	7.00 pm	Community Forum, Rutherglen

Cr Frances Walsh
6 February, 2007

19.4 DECEMBER 2006 - JANUARY 2007 DIARY - CR MURDOCH

Date	Time	Function
4 Dec	9 am - 3 pm	Outlook Training, Albury
	6.30 pm	VFF Meeting and BBQ, Barnawartha
5	6.00 pm	Statutory Meeting, Chiltern
8		Chiltern & Barnawartha Primary Schools presentations
16 Jan	5.00 pm	Council Briefing Meeting, Chiltern
17	5.30 pm	Planning Focus Group Meeting, Chiltern
18	7.30 pm	MSS Meeting, Chiltern
23	3.30 pm	Inspection Wooragee and Briefing Meeting, Yackandandah
	7.00 pm	Community Forum, Yackandandah
24	12 noon	Youth Leadership Meeting
26	10.30 am	Australia Day Celebrations, Chiltern
30	3.00 pm	Meeting of Councillors, Rutherglen
	4.00 pm	Council Briefing Meeting, Rutherglen
	7.00 pm	Community Forum, Rutherglen

Cr Barbara Murdoch
6 February 2007

19.5 DECEMBER 2006 - JANUARY 2007 DIARY - CR DALE

Date	Time	Function
6 Dec	9.00 am	VicRoads Advisory Board, Kew
	7.30 pm	Beechworth Memorial Hall Committee AGM, Beechworth
8	6.00 pm	Indigo Shire Staff Christmas Party, Yackandandah
	7.30 pm	Christmas Carols, Yackandandah
9	6.30 pm	Rutherglen Seniors Christmas Party
11	5.30 pm	LaTrobe Council Meeting, Bundoora
12	4.30 pm	Meeting with ratepayers re footpath access, Yackandandah
	7.00 pm	Kiewa Valley Primary School Presentations
15	6.30 pm	Yackandandah Primary School Presentations
17	7.00 pm	Carols by candle light, Kiewa/Tangambalanga
18	7.30 pm	Upper Sandy Creek Primary School Presentations
19	12.30 pm	Special Meeting of Council, Beechworth
	1.15 pm	Council Briefing Meeting, Beechworth
	7.00 pm	Osbornes Flat Primary School Presentations
20	5.30 pm	Wooragee Primary School Presentations
13 Jan	10.30 am	On site meeting, planning matter, Woolshed Falls
16	4.00 pm	CEO Performance Review, Beechworth
18	7.30 pm	Rural zoning/MSS VFF meeting, Chiltern
20	11.00 am	ALGWA State meeting/Women's framework workshop, Broadford
	6.30 pm	Opera in the Alps, Beechworth
23	10.00 am	Meeting with Pro Vice Chancellor Wodonga Campus,

		Wodonga
	4.00 pm	Council Briefing Meeting, Yackandandah
	7.00 pm	Community Forum, Yackandandah
24	5.30 pm	MSS Review, Yackandandah
26	8.00 am	Australia Day breakfast, Beechworth
	12 noon	Australia Day lunch, Kiewa/Tangambalanga
	5.00 pm	Australia Day bbq, Yackandandah
30	3.00 pm	Meeting of Councillors, RTC
	4.00 pm	Council Briefing meeting, Rutherglen
	7.00 pm	Community Forum, Rutherglen

Cr Jenny Dale
6 February, 2007

19.6 DECEMBER 2006 - JANUARY 2007 DIARY - CR HOTSON

Date	Time	Function
5 Dec	4.00 pm	Council Briefing Meeting, Chiltern
	6.00 pm	Statutory Meeting, Chiltern
	7.00 pm	Council Meeting, Chiltern
13	5.00 pm	Heritage Advisory Committee Meeting, Yackandandah
19	12.30 pm	Special Council Meeting, Beechworth
	1.15 pm	Council Briefing Meeting, Beechworth
16 Jan	4.00 pm	CEO Review, Beechworth
17	5.30 pm	Planning Focus Meeting re Supermarket, Chiltern
18	7.30 pm	Rural Planning Meeting, Chiltern Bowls Club
19	11.00 am	National Trust Heritage Awards, Beechworth Court House
23	3.30 pm	Site meeting Wooragee re Heritage issue
	4.00 pm	Council Briefing Meeting, Yackandandah
24	5.30 pm	MSS Planning Focus Meeting, Yackandandah
26	7.30 am	Australia Day breakfast, Rutherglen
	10.00 am	Australia Day morning tea, Chiltern
	7.30 pm	Australia Day celebrations, Barnawartha
29	11.00 am	MAV Drought Task Force Meeting, Melbourne
30	3.00 pm	Meeting of Councillors, Rutherglen
	4.00 pm	Council Briefing Meeting, Rutherglen
	7.00 pm	Community Forum, Rutherglen

Cr Bill Hotson
6 February 2007

**19.7 MAV DROUGHT TASKFORCE COMMITTEE MEETING,
MONDAY 29 JANUARY 2007 (FILE NO: D100.4 - CR
HOTSON)**

For Information

The primary purpose of the meeting was to review the needs of communities across the state with the view to providing advice to the Government Drought Committee how a policy or implementation of actions can be improved.

Each committee member was asked for a brief report on the state of the drought and the major issues effecting their region.

Some of the issues are as follows :-

- Lack of trained Centrelink personnel to process applications. This can effect rate subsidies and access to payments as needed. An assurance was given that the effective date relates to when the applicant registers for assistance, not when the application is processed
- While financial support is necessary there is also a significant need for personal support and counselling
- The politics of water is a huge issue being compounded by the drought. It is clear that there must be a major review of water policies across all areas. Changes will have sufficient impacts on communities and municipalities in wealth distribution
- Back to school support and impact on young people with farmers not having the money for kids sport, excursions, etc
- The impact on small business in country towns is substantial leading to job losses
- It was proposed that the \$300,000 grant for infrastructure this year to all shires, should be continued for several years plus a bit more R2 funding would be a good way for the State and federal governments to assist municipalities and to prevent the impact of another 6% or 7% rate rise in June that will further effect our communities
- Some of the \$300,000 for municipalities could be allocated through local plans and working bees. Another way of drawing people together, eg painting fences, etc
- Recovery will need to continue well after the drought breaks. Most industries will have poor net returns for another 12 months at least.

20.0 GENERAL BUSINESS

21.0 CONFIDENTIAL