

# INDIGO SHIRE COUNCIL

**MINUTES OF THE ORDINARY MEETING OF THE INDIGO SHIRE COUNCIL HELD IN THE SENIOR CITIZENS ROOMS, CONNESS STREET, CHILTERN ON TUESDAY 2 OCTOBER 2007 COMMENCING AT 7.00 PM.**

## **PRESENT**

### **Councillors**

Councillor P F A Graham, OAM, Mayor  
Councillor A M Banks  
Councillor J M Dale  
Councillor W B Hotson  
Councillor V J Issell  
Councillor B J Murdoch  
Councillor F A Walsh

### **Officers**

Mr John Costello (Chief Executive Officer)  
Mr Clive Walker (Acting Operations Manager)  
Mr David Montgomery (General Manager Corporate & Visitor Services)  
Ms Sally McCarron (Health & Wellbeing Manager)  
Mr Nicholas Moore (Chief Finance Officer)  
Ms Susan Cheetham (Environment & Development Services Manager)  
Mrs Naomi Cox (Executive Assistant/Chief Executive Officer)

## **1.0 WELCOME**

Cr Graham welcomed those in attendance.

## **2.0 OPENING PRAYER**

Cr Banks read the Opening Prayer.

## **3.0 APOLOGIES AND LEAVE OF ABSENCE**

Nil

## **4.0 DECLARATION OF PECUNIARY INTEREST AND**

## **CONFLICT OF INTEREST**

Nil

## **5.0 OPEN FORUM**

Nil

## **6.0 CONDOLENCES**

Nil

## **7.0 CONFIRMATION OF MINUTES**

Moved Cr Dale

Seconded Cr Murdoch

That the Minutes of the Council meeting held 4 September 2007 be adopted.

**CARRIED**

## **8.0 BUSINESS ARISING (PREVIOUS MINUTES)**

Nil

## **9.0 DEPUTATIONS AND PETITIONS**

Nil

## **10.0 ENVIRONMENT AND DEVELOPMENT**

### **10.1 INDIGO PLANNING SCHEME REVIEW 2006/07 (FILE NO: E1240.24 - SSP)**

*Note:* At the meeting on 4 September Council resolved to defer this matter until the October meeting of Council in order that Council could be fully briefed on the implications of the report.

Councillors are referred to that agenda paper for the report and the following Recommendation:

#### **For Decision**

#### **RECOMMENDATION**

1. Council adopt the Indigo Shire Council – Planning Scheme Review 2006/07 document.
2. That the Indigo Shire Council – Planning Scheme Review 2006/07 document be submitted to the Minister for Planning in accordance with Section 12B of the Planning & Environment Act 1987
3. Council resolve to request authorisation to commence with the preparation of Indigo Planning Scheme Amendment C24 from the Minister of Planning, as required by the Planning and Environment Act of 1987.
4. Pending the outcome of the request for authorisation to commence with the preparation of Amendment C24, Council resolve to commence with the preparation and exhibition of Indigo Planning Scheme Amendment C24 which proposes to:
  - introduce a revised Municipal Strategic Statement into the Indigo Planning Scheme;
  - implement action items listed in the Indigo Shire Council – Planning Scheme Review 2006/07 document for immediate action;
  - back-zone land identified by the Indigo Shire Council – Planning Scheme Review 2006/07 document, in Chiltern and Yackandandah, from Low Density Residential Zone to Rural Living Zone, and;
  - correct administrative and mapping errors contained in the Indigo Planning Scheme.

**Moved Cr Hotson**

**Seconded Cr Dale**

**That:**

1. **Council adopt the Indigo Shire Council – Planning Scheme Review 2006/07 document with the following change to Item C.4.1 iii) in that the reference be to business zones on both the east and west side of Beechworth /**

**Chiltern Road and that the map on page 54 be amended accordingly.**

- 2. That the Indigo Shire Council – Planning Scheme Review 2006/07 document be submitted to the Minister for Planning in accordance with Section 12B of the Planning & Environment Act 1987**
- 3. Council resolve to request authorisation to commence with the preparation of Indigo Planning Scheme Amendment C24 from the Minister of Planning, as required by the Planning and Environment Act of 1987.**
- 4. Pending the outcome of the request for authorisation to commence with the preparation of Amendment C24, Council resolve to commence with the preparation and exhibition of Indigo Planning Scheme Amendment C24 which proposes to:**
  - introduce a revised Municipal Strategic Statement into the Indigo Planning Scheme;**
  - implement action items listed in the Indigo Shire Council – Planning Scheme Review 2006/07 document for immediate action;**
  - back-zone land identified by the Indigo Shire Council – Planning Scheme Review 2006/07 document, in Chiltern and Yackandandah, from Low Density Residential Zone to Rural Living Zone, and;**
  - correct administrative and mapping errors contained in the Indigo Planning Scheme.**

**• CARRIED**

**• Crs Graham, Walsh and Murdoch voted in the negative**

## **10.2 INDIGO PLANNING SCHEME AMENDMENT C10 – HERITAGE (FILE NO: E1240-10 - EDSM)**

*Note:* At the meeting on 4 September Council resolved to defer this matter until the October meeting of Council pending the release of a report from heritage Victoria to the Planning Minister regarding heritage matters.

Councillors are referred to that agenda paper for the report and the following Recommendation:

### **RECOMMENDATION**

**It is recommended that:**

- 1. Indigo Planning Scheme Amendment C10 be altered in the following manner:**
  - Tree controls are refined in the schedule to the HO;**
  - Include the shop on the property in HO230 along with the dwelling;**

- Remove HO514 'Warrawee', Kiewa Valley Highway Kergunyah, from the map and schedule to the HO;
  - Remove two properties from the Rutherglen Heritage Precinct HO628;
  - Revise HO628 so that individual items are also covered by the precinct;
2. HO594 (10 Murray St Rutherglen) be retained in the Heritage Overlay;
  3. Indigo Planning Scheme Amendment C10, as detailed in this report, be adopted.
  4. Indigo Planning Scheme Amendment C10 be submitted to the Minister for Planning for approval in accordance with Section 31 of the Planning and Environment Act.

Moved Cr Banks  
Seconded Cr Walsh

That the Recommendation be adopted.

**CARRIED**

### **10.3 PLANNING APPLICATION PP06 -291 – APPLICANT – HOLMES (EDSM)**

#### **For Decision**

#### **SUMMARY**

**Application No:** PP06-291  
**Applicant:** K Holmes  
**Subject Land:** Lot 1 TP588023S, being 113 Main Street, Rutherglen  
**Proposal:** Signage  
**Recommendation:** Refusal

#### **RECOMMENDATION**

That Council Refuse Planning Application PP06-291 for the erection and display of four (4) advertising signs at Lot 1 TP588023S, being 113 Main Street, Rutherglen for following reasons:

1. The proposal is contrary to the Municipal Strategic Statement, LPPF and the Heritage Overlay provisions of the Indigo Planning Scheme.
2. The proposal is inconsistent with the performance measures of the Advertising Sign Policy of the Indigo Planning Scheme.

3. The proposal will have a detrimental impact on the heritage significance of the existing building and locality.

Moved Cr Issell  
Seconded Cr Banks

That Council:

1. Allow the erection of the signage with the exception of the highest sign because the signage is consistent with existing signage in High Street.
2. That a review of Council's Heritage Signage policy be undertaken.

The motion was put and LOST

For: Crs Issell, Banks and Hotson  
Against: Walsh, Dale, Graham and Murdoch

**Moved Cr Dale  
Seconded Cr Murdoch**

**That Council Refuse Planning Application PP06-291 for the erection and display of four (4) advertising signs at Lot 1 TP588023S, being 113 Main Street, Rutherglen for following reasons:**

- 1. The proposal is contrary to the Municipal Strategic Statement, LPPF and the Heritage Overlay provisions of the Indigo Planning Scheme.**
- 2. The proposal is inconsistent with the performance measures of the Advertising Sign Policy of the Indigo Planning Scheme.**
- 3. The proposal will have a detrimental impact on the heritage significance of the existing building and locality.**
- 4. That a review of Council's Heritage Signage policy be undertaken.**

**CARRIED**

**Cr Banks voted in the negative**

### **BACKGROUND**

Date application lodged: 29<sup>th</sup> November 2006 (incomplete as no details of proposal provided and fees not paid)

Purpose: Seek approval to develop the subject site by the erection and display of signage and repainting.

Subject site land area: na

Current use of subject site: na

Site constraints: Building is a significant element in the built fabric of the

Rutherglen township as an early twentieth century shop which is substantially intact. It contributes to the historic character of the street and town generally, which is reflected by a site specific Heritage Overlay listing.

Surrounding land use: Business / commercial

Zoning of surrounding land: Business 1 Zone

Overlay/s: Heritage Overlay (HO158)

### **PROPOSAL**

This application is for the erection and display of signage and repainting of the former Blackies Chemist to incorporate the purported corporate colours and logo of ProCorp Property. There are four signs proposed in total (see attachments) with lettering and colours as per the ProCorp Property letterhead (ie lowercase lettering on a black background), but with the colouring toned down in accordance with the Solver Heritage Colour Range Charts.

### **ZONING AND PLANNING CONTROLS**

Zoning: Business 1 Zone

Overlay/s: Heritage Overlay

Permit Trigger: 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. Clause 15.11 – *Heritage* is deemed to be relevant to this proposal and has been taken into account in the assessment of this application.

The objective of this policy is to assist the conservation of places that have historic, cultural, or social significance, 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.

### **LOCAL PLANNING POLICY FRAMEWORK**

The Local Planning Policy Framework (LPPF) provides relevant discussion in relation to land use and development in the Shire. The MSS recognises that the key issues related to land use planning as identified in consultation with the community, include the statement that tourism development in the Shire is strongly based on heritage, and there is a consequent need for the conservation and enhancement of the Shire's large array of heritage buildings and places.

The vision for Indigo Shire seeks to ensure that the Shire's natural and built assets are protected from inappropriate development that would prejudice the heritage and urban attributes of the Shire.

The vision for the Indigo Shire also recognises that the Shire's cultural heritage is of national significance, which together with the strength of the local communities, provides the base for the maintenance and enhancement of the lifestyle opportunities of the Shire's residents.

Essentially the Indigo Shire vision centres around the main characteristics of the strengthening of the economy by further investment in tourism and the significant tourist product within the Shire which is orientated around the built heritage of all towns.

The long term strategic view for the Shire recognises that the Shire's population and visitors alike will increasingly value the quality of the Shire's built environment and that significant heritage buildings and places will continue to play a key role in the overall presentation, character and appearance of the Indigo Shire.

The vision statement for Indigo is "...to enhance our lifestyle through community and economic development whilst conserving our heritage and natural environment." The Indigo MSS has drawn upon the following principles enshrined within the Corporate Plan:

- Preservation of heritage and historical features of the Shire
- Sustainable economic development through supporting tourism and business opportunities.

In considering the application, Clause *21.04-1-2 Rutherglen* needs to be taken into account. The issues and objectives identified by the MSS at this Clause include the need to conserve and enhance Rutherglen's heritage buildings and places. These objectives are also reiterated in Clause *21.04-2-2 Tourism*.

Clause *21.04-3-2 Heritage* states that 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.

Apart from the cultural and architectural values of this heritage resource, management and presentation of heritage has also expanded the Shire's economic base. The maintenance and enhancement of the heritage values within the central business areas of the townships is vital to the presentation and tourist appeal of the Shire's heritage tourism product.

Clause *22.03-9 Heritage Policy* implements the heritage strategies and objectives found in the SPPF (Clause 15.11) and the MSS which also identifies the need to implement consistent heritage conservation and management approaches across the Shire and to provide certainty and direction in relation to the use and/or redevelopment of heritage places (Clause 21.04-3-2).

The policy (Clause 22.03-9) acknowledges that throughout the Shire are buildings, streetscapes, sites and precincts that represent a significant asset and resource for North East Victoria. 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.

All of the heritage places, if not significant in themselves, combine to produce a distinctive character. They should be preserved because of their intrinsic value and their contribution to urban character. The demolition of heritage places and the development of sites can erase their value forever and alterations can also affect the historical integrity of significant places.

Heritage studies and strategies implemented in Indigo have recognised these assets and have resulted in items, individual places and precincts included in a Heritage Overlay.

This Clause contains the following Objectives:

- 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 or alterations 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, and;

establishes the policy to:

- 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, and;
- Encourage the design, bulk and setback of any new building within a Conservation Area to be responsive to existing heritage assets.

Clause 22.03-10 *Advertising Sign Policy* recognises the 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.

This local policy is to be read in conjunction with Clauses 52.05 & 65 of the Scheme and is designed to complement the heritage controls in this Clause. These controls provide extra protection to the Shire's unique heritage and urban character.

In exercising discretion it is policy to:

- Encourage signs that are effective and legible.
- Encourage signs that are of a size and design which are appropriate to the size and scale of the development.
- Encourage signs to be limited to the minimum number necessary to adequately identify premises.

- Encourage signs that are discreet on heritage buildings and in heritage areas and allow the architectural details of the building to dominate.
- Encourage styles and colours that are appropriate to the design of the building and streetscape.
- Encourage signs on heritage buildings to be placed where they would traditionally have been advertised.
- Not allow the use of neon signs, and other internally illuminated signs, flashing signs and fluorescent and iridescent paints.
- Discourage overly repetitive signage.

The Performance measures of this policy require that the responsible authority consider the following special requirements as appropriate:

- Advertising signage is only to be erected on the property where the advertised activity is to take place.
- Lettering on signs on heritage buildings and in heritage areas is to be in upper case and use colours from the heritage range.
- Signage is not to project beyond the property boundary.
- If new or additional signs are proposed for an existing use or development, consideration will be given to rationalizing all signs on the property, in accordance with this policy.

### **PARTICULAR PROVISIONS**

Clause 52.05 *Advertising Signs* is applicable to the proposal. The purpose of this clause is:

- To allow adequate and effective signs appropriate to each zone.
- To provide for the orderly display of signs.
- To ensure that signs do not cause loss of amenity or adversely affect the natural or built environment or the safety, appearance or efficiency of a road.

### **BACKGROUND**

This particular application was received on the 29<sup>th</sup> November 2006 following a pre-application meeting between the applicant, representatives of ProCorp, Council's Heritage Adviser and Assistant Town Planner. At that meeting, it was advised that the proposed corporate signage would not be supported and various alternative means by which the objectives of the Heritage Overlay and Council's Signage Policy might be met were discussed. At the conclusion of the meeting it was agreed that an application would be made for Planning approval with details of modified signage to meet the concerns raised with the corporate signage.

Following receipt of the application form, Council's Heritage Adviser contacted the

applicant requesting details of the proposal to be submitted to enable assessment of the application. During January 2007, the signage that is subject of this now retrospective application was erected.

The applicant was advised on the 5<sup>th</sup> February 2007 that the works carried out to the façade of the building in the form of painting and signage are in breach of both the Indigo Planning Scheme and the Planning and Environment Act 1987 and it was again requested that detailed plans, in accordance with Clause 22.03-10 of the Indigo Planning Scheme and the pre-application discussions, be submitted for assessment so as to resolve the matter.

Following numerous requests for information, the issue of a Planning Infringement Notice, and meetings with the applicant, details of the proposal were submitted on the 27<sup>th</sup> August 2007 by Andrew P Melville acting on behalf of the applicant. Although application fees have yet to be received, the detail now submitted is considered adequate to enable Council to make a formal decision on the matter.

In assessing the application advice was sought from Council's Heritage Advisor and the Heritage Advisory Committee. Concerns were raised that the proposed signage was not compliant with the above policies and that the style and colours proposed were not sympathetic to either the building or the streetscape. Based on advice from Council's Heritage Advisor the applicant has previously been advised that:

- lower case is not acceptable;
- black as a background colour is not appropriate for the heritage precinct of Rutherglen and would only be acceptable in smaller amounts as an accent colour. As an alternative charcoal/grey may be used, depending on the extent proposed and would be dependant on samples being provided;
- toned down colours could be considered, however it would be necessary to submit a colour chart for reference.

The applicant has refused to amend the corporate signage other than by toning down lettering and logo colours. The sample background colour provided may have a brand name of charcoal, but is essentially black in any normative sense. The applicant is unwilling to alter the illegally erected signage on the basis that it is their corporate image.

Having regard to the corporate image justification for Council to depart from its Heritage and Signage Policies, it is noted that the ProCorp branch located in Albury has an inverted colour scheme (see attachment 2), and it is considered that provided uppercase lettering (toned down as currently proposed) was used, it would represent an acceptable alternative.

Indigo Shire was originally formed in recognition of its nationally significant heritage values. That is, the shire was amalgamated separately from Wodonga and Wangaratta so as to contain the historic townships of Yackandandah, Beechworth, Chiltern and Rutherglen.

The townships of the shire retain a significant proportion of 19th Century and 20th Century buildings. In response to this there are approximately 800 specific items in the

Planning Scheme that require protection under the Heritage Overlays. The major towns, and this includes Rutherglen, rely on their historic character to attract tourists – tourism being the second biggest income earner for the shire. Therefore presentation of each town and the shire in general is crucial to getting tourists to come to the area and stay. One of the Shire's marketing strategies is to develop our own corporate identity and to maintain it. This includes:

- Heritage based colour schemes;
- Appropriate development, and;
- Heritage type signage controls.

The corporate signage policy that the Indigo Shire has developed is integral to its overall marketing of its heritage and economic sustainability. In the past most corporations have recognised this as a valid rationale for compromising their signage to fit in with the Shire's corporate identity. It is anticipated that ProCorp has no desire to compromise the heritage values that make Rutherglen an attractive place to live or to undermine the economic viability of a shire that relies extensively on an income from tourism.

This branding of the Shire's heritage is consistent and is not subject to change, unlike most corporate identities including ProCorp (see attachment 2 for comparison between illegally erected signage at subject site and the Albury ProCorp branch).

### **PUBLIC NOTICE**

Based on the nature of the proposal, the application was not publicly advertised.

### **DISCUSSION**

In considering this proposal, in addition to the above policies the provisions of the Business 1 Zone, Heritage Overlay and advertising signage particular provisions need to be addressed.

As mentioned above under the heading 'site constraints', the building represents a significant element in the built fabric of the Rutherglen township as an early twentieth century shop which is substantially intact. It contributes to the historic character of the street and town generally, which is reflected by a site specific Heritage Overlay listing.

In this instance, existing signage on other buildings is not considered to represent a valid reason for Council to deviate from its Heritage or Signage Policies particularly given that it was likely to have been erected when no planning controls existed to influence the style or design of that signage.

The Performance measures of Clause 22.03-10 *Advertising Sign Policy* are quite clear in the requirement that:

- Lettering on signs on heritage buildings and in heritage areas is to be in upper case and use colours from the heritage range.
- If new or additional signs are proposed for an existing use or development, consideration will be given to rationalizing all signs on the property, in

accordance with this policy.

In addition to the above, it is contended that the illegally erected signage is contrary to the corporate signage policy that the Indigo Shire has developed which is integral to the Shire's overall marketing of its heritage and economic sustainability. Unlike most corporate identities the branding of the Shire's heritage is consistent and is not subject to change as is reflected in the policy content of the Indigo Planning Scheme which seeks to prevent the accumulative erosion of that identity and historical significance by inappropriate development.

One of the main considerations Council needs to take into account is whether the proposed signage will adversely affect the significance, character or appearance of the heritage place.

The unfortunate aspect of this matter is that despite the signage simply replacing existing signs, the signage has been illegally erected in the knowledge that the colour schemes of this corporate signage are unacceptable and completely inappropriate within this important Heritage Overlay area due to their adverse impact on the significance, character and appearance of the heritage place.

The signage that was replaced had a light background that blended with the lighter colour scheme of the building. Replacement of this signage with a black shape in which some lettering is visible at close range, has made the shape and size of the signage more dominant and detracts from the appearance and significance of the building's contribution to the streetscape.

Rutherglen, whilst lacking specific signage controls in the past (prior to 2005), needs to be protected against further inappropriate signage in order to conserve and enhance its heritage significance. Supporting such a proposal would create an unacceptable precedent for similar signage in the future and would make it difficult for Council to actively encourage the rationalisation and replacement of existing inappropriate signage.

As per the Heritage Advisers comments, the background of the new signage is inappropriate, as well as the lower case lettering and style. Since the introduction of the Heritage Precinct Overlay in Rutherglen, Council has been particularly successful in its stringent control of signage (including corporate signage) within the Rutherglen Heritage Conservation Area (as can be witnessed by Council's recent decision in relation to Corporate signage proposed at the NAB in Rutherglen). Approval of the subject application would be seen as undermining this approach and would make future negotiations with sign companies and land owners all the more difficult.

## **CONCLUSION**

It is contended that the proposed signage does not make a positive contribution to the built form or the commercial activities of the area. Nor is it respectful of the existing character and streetscape. The signage is considered overly dominant on the building and will detract from the heritage significance of the building and the character of the Rutherglen Conservation Area.

The signage as proposed is clearly in breach of Council's signage policy at Clause 22.03-10 of the Indigo Planning Scheme which recognises the 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.

This policy is designed to complement the heritage controls of the Indigo Planning Scheme and provide extra protection to the Shire's unique heritage and urban character. The 'blacking out' of patches of the buildings façade will not add colour or vitality to the streetscape and lacks regard to the context of the site or the heritage controls that apply and provide extra protection to the Shire's unique heritage and urban character.

An important problem in this case is that the works have been carried out without permission. While that at least means that the end result of the signs can be seen and that assists in assessing their suitability, Council is once again placed under unwarranted pressure because of the implications of affirming a recommendation for refusal.

This notwithstanding it is strongly contended that the erected signage does not make a positive contribution to the built form or the commercial activities of the area. Nor is it respectful of the existing character and streetscape. The signage is overly dominant on the building and in the area, contributes to visual clutter and detracts from the heritage character of the Rutherglen Conservation Area and in particular the building on which it is erected.

Having regard to the above discussion, the merits of the proposal in this particular location, and detrimental affect on the surrounding heritage area, it is felt that on balance the application should be refused and the applicant notified that an alternate proposal in line with previous Officer recommendations would be supported.

*Attachments*

#### **10.4 SECTION 173 AGREEMENTS - (06/301, 07/3993) (EDSM)**

##### **For Decision**

##### **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) A Shallue**
- B) TL & MC Wallace**

**Moved Cr Dale  
Seconded Cr Walsh**

**That the Recommendation be adopted.**

**CARRIED**

##### **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 06/301 relates to a proposed dwelling on land located at Rhodes Lane, Silver Creek. The land is comprised of 2 lots of approximately 8.3ha in total and is covered by the provisions of the Farming Zone. The application was approved on the basis that the land be consolidated into a single allotment and that a Section 173 Agreement was to be entered into with the Responsible Authority which:

- (i) ensures that the lot created is not able to be further subdivided so as to increase the number of lots;
- (ii) provides for the permanent protection of remnant native vegetation on Crown Allotment 11 Section 12 in the Parish of Beechworth to compensate for the loss of native vegetation as a result of the development and use of the subject land for the purposes of a dwelling. The area to be protected must be managed to ensure pest plant and animals are controlled;
- (iii) ensures that environmental weeds (as per Albury-Wodonga Environmental Weed Handbook and the Indigo Shire Council Weed Identification Guide) are not planted or permitted to grow on the subject land and that any exotic tree and plant species within the subject site are managed to prevent invasion to the adjoining Crown Land, and;
- (iv) provides notification that the subject land adjoins Crown land known as the Beechworth Regional Park and that fire protection works must only be undertaken on freehold land. No additional works will be undertaken or permitted within the Beechworth Regional Park as a result of this development proceeding.

**B)** Planning Permit 07/3993 relates to land located at Kiewa Valley Highway, Kergunyah. The land is approximately 114ha and covered by the provisions of the Farming Zone. The permit allows the subdivision of the land into 2 lots of ~41ha and ~72ha, with proposed lot A containing the existing dwellings (2). The application was approved subject to conditions including that a Section 173 Agreement was to be entered into with the Responsible Authority which:

ensures that the lots created are not able to be further subdivided so as to increase the

number of lots.

*Attachment A: Locality/Site Plan – PP06/301 Rhodes Lane, Silver Creek.  
Attachment B: Locality/Site Plan – PP07/3993 Kiewa Valley Highway, Kergunyah.*

## **10.5 PLANNING APPLICATION PP07-061 (MCQUADE - ASTP)**

### **For Decision**

#### **SUMMARY**

<b>Application No:</b>	PP07-061
<b>Applicant:</b>	McQuade
<b>Subject Land:</b>	Crown Allotments 8A, 8B, 8C, 9, 12, 12B and 12A Section C Parish of Chiltern
<b>Proposal:</b>	Use and develop the subject land for the purposes of two dwellings
<b>Recommendation:</b>	Refusal

#### **RECOMMENDATION**

**That Planning Application PP07-061 to use and develop Crown Allotments 8A, 8B, 8C, 9, 12, 12B and 12A Section C Parish of Chiltern, Cornishtown Road, Chiltern for the purposes of two dwellings be refused because:**

- 1) The application is contrary to the provisions of the Farming Zone and in particular:**
  - the development and use is not associated with any genuine intensive agriculture and/or rural production;**
  - use and development of the subject land as two separate holding is not compatible with the purposes of the Farming Zone and will contribute to an increase in the concentration of dwellings in this locality so as to change the character of the area;**
  - the proposal is inconsistent with the Objectives of Clause 22.02-2 Land use, development and subdivision in rural areas;**
  - the proposal is not necessarily to facilitate the ongoing agricultural use of the land, and;**
- 2) Having regard to the provisions of clause 65.2 of the Indigo Planning Scheme and in particular:**
  - the existing use of the land and possible future development;**
  - the density of the proposed development, and;**

- the area and dimensions of each lot.

**Moved Cr Murdoch  
Seconded Cr Walsh**

**That the Recommendation be adopted.**

**CARRIED**

### **BACKGROUND**

Date application lodged: 20<sup>th</sup> March 2007

Purpose: Seek approval to use and develop the subject site for the purposes of two dwellings.

Subject site land area: ~ 44 hectares

Current use of subject site: Grazing

Site constraints: Moderately undulating with waterway parallel to southern boundary and copses of remnant native vegetation.

Surrounding land use: Grazing

Zoning of surrounding land: Farming Zone and Schedule 3 to the Environmental Significance Overlay

### **PROPOSAL**

This application is to use and develop the subject land for the purposes of two dwellings. It is proposed to consolidate the land into two separate allotments of approximately 27ha and 16ha and gain approval for a dwelling on each lot to facilitate and maximise the returns on the sale of the land by the current owner.

### **ZONING AND PLANNING CONTROLS**

Zoning: Farming Zone

Overlay/s: ESO3 (Black Dog Creek)

Permit Trigger: Use and development under the provisions of the Farming Zone and development under the provisions of the 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, waterways and groundwater
- 15.07 Protection from Wildfire

### **Economic Development**

- 17.05 Agriculture

### **Infrastructure**

- 18.09 Water Supply, Sewerage & Drainage

## **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:

Economy

Environment

- 21.02 Key Issues
- 21.03-1 Vision & Strategic Framework
- 21.03-2 Corporate Plan
- 21.04 Objectives and Strategies
  - 21.04-2-1 Agriculture
  - 21.04-3-1 Natural Resource Management
  - 21.04-3-4 Stormwater Management

### **Local Planning Policies**

- 22.01-2 Rural Dwelling Siting & Design Guidelines
- 22.01-5 Dwellings on Existing Small Rural Allotments
- 22.02-2 Land use, development and subdivision in rural areas
- 22.03-1 Landcare & Catchment Management
  - 22.03-2 Fire Hazard
  - 22.03-4 Effluent Disposal & Water Quality
  - 22.03-11 Stormwater Management Policy

## **PARTICULAR PROVISIONS**

None Applicable

## **REFERRAL AUTHORITIES**

The application was referred to the following referral authorities in accordance with Section 52 of the Planning and Environment Act 1987 and/or advice was sought from the following:

Indigo Shire Council Assets Department

Health (effluent disposal)

North East CMA

No objections were received subject to conditions.

## **PUBLIC NOTICE**

The grant of a permit will not cause material detriment to any person. Therefore no notice of the application was given to other persons.

## **DISCUSSION**

The subject land currently comprises 7 lots described as Crown Allotments 8A, 8B, 8C, 9, 12, 12B and 12A Section C Parish of Chiltern on the Cornishtown Road, Cornishtown (see attachments). The lots range in size from approximately 4.8ha to 8ha making a combined total area of approximately 44ha.

The seven lots form a discrete unit defined by Cornishtown and Curtins Road and Snows Lane that is of a similar size and composition (in terms of the number of Crown Allotments) to other adjoining holdings (see attachments).

The subject land is currently vacant and is used for grazing. The general rural character of the area is, at present, one of a broad open sparsely developed landscape that reflects the principal agricultural activity, namely broad acre grazing. The land is slightly undulating sloping generally to the west, contains a watercourse parallel with the southern boundary and is reliant on a few surface dams for water.

In this instance compliance can be demonstrated with a number of policies and decision guidelines that relate to the development aspects of the proposal, and given the locality and nature of the subject land, it appears particularly attractive for conversion to rural living. Unfortunately however, the proposal has not been initiated by a desire to conduct a more intensive form of agriculture on the land that requires multiple dwellings, rather it stems from an intention to dispose of the land at inflated land values.

Notwithstanding Council's Policy for dealing with small rural allotments, it is contended that that policy does not support scenarios where a rural property, irrespective of the quality of the land, is broken up for sale as individual rural living allotments. In this instance consolidation of the subject land into a single lot would result in the use of the land for the purposes of a dwelling being 'as of right'.

In this instance permits had been previously issued under the tenement provisions of the Chiltern Planning Scheme for the use and development of the land for two dwellings as is currently proposed. These permits were not acted on and the land was not disposed of separately at inflated values as a result of these permits. It is contended therefore that they do not have any bearing on the current application, which must necessarily be assessed under the provisions of the current Indigo Planning Scheme.

The intention of Victorian planning legislation is not to ‘warehouse’ planning permits. Permits are issued for a limited time period. “A person who has been granted a permit should recognise that development rights do not necessarily run forever and that circumstances change.” (Using Victoria’s Planning System, Department of Infrastructure, 2002). This is particularly the case when a Planning Scheme is superseded or a Zone is changed.

In this instance it has been stated by the applicant that the proposal involves a consolidation that is likely to secure the agricultural future of the property. It is contended however, that there is no special circumstances warranting the use and development of the land for the purposes of two dwellings which would effectively encourage the fragmentation of the property.

In this instance no suitable rural activity has been identified that requires the support of two dwellings in order that it be carried out (in fact, the agricultural activity is currently carried out without any dwellings). The application if approved, would therefore set a precedent for similar applications of rural holdings comprising numerous titles, and send a clear message that existing holdings can be easily broken up and subsequently developed for housing.

### **VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL**

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

- the appropriateness of dwellings in the context of the Rural Zone (now Farming Zone) as well as State and local policies;
- personal circumstances, and;
- precedent

For instance:

In the case of *P. & B. Carter & Ors v Shire of Kilmore (1992/010190)*, the Tribunal stated that:

*Without a planning permit for a dwelling, it is unlikely that there would be any pressure for these parcels to change hands. There would need to be a very good reason provided to permit a dwelling on any of the existing lots. ... there is no expectation that a dwelling should be permitted on every existing under-sized allotment within a rural area.*

*The provisions of the Rural Zone, at Clause 35.01 combined with the objective and*

*implementation actions of Clause 17.05 of the SPPF (relating to Agriculture), impose a requirement not just to protect the State's agricultural base from the loss of high quality productive agricultural land, but also to consider the sustainability of rural activities on all categories of productive farmland.*

In the case of **SMA Projects v Port Phillip City Council 2 VPR, 270** it is stated:

*In coming to this view the Tribunal observed that while decision making under the Victoria Planning Provisions format planning schemes is to be "heavily influenced" by policy - and that the consistent application of policy over time can avoid the adverse effects of incremental change, through ad hoc decision making (a point noted at Clause 20 of the Planning Scheme) - policy must nevertheless be applied in an intelligent and flexible way having regard to the entire strategic and policy framework affecting the future use of land, while at the same time avoiding unfortunate outcomes in individual cases.*

In the case of **Teac Australia PL v Port Phillip CC [1999] VCAT 1222** the Tribunal commented that:

*when considering a proposal in relation the policy framework set out in the planning scheme the preferred approach is to develop an overall picture of the policy framework and it is not necessarily correct or helpful to adopt a clause by clause analysis of the policy framework. In forming this overall picture the zone purposes, and the state planning policy framework, in particular clause 17.05 Agriculture, are as relevant as the clauses most debated in this application. [(reported in Bristow v Yarra Ranges SC [2004] VCAT 1815 (14 September 2004)]*

In the case of **Sunbury Residents Association Inc. and Ors v Hume City Council and Eddie Hirsch (1999/85151)** the Tribunal said:

*"Although the new scheme provides the discretion of a greater range of land uses to be considered, this does not mean that all of these land uses will result in an acceptable outcome...as set out in Clause 31.01-2...(which) makes it clear that proposals must be considered against the SPPF and LPPF in determining whether or not permission is granted for a use in Section 2. It is also relevant that the decision guidelines for the zone and those set out at Clause 65 require consideration to be given to the SPPF and LPPF,.....Accordingly, whether or not a particular proposal achieves an 'outcome' which is consistent with the planning scheme policies is a major factor to be considered when exercising discretion."*

In the case **Widdison v Moorabool Shire Council [2002] VCAT 1535** the tribunal stated:

*I appreciate that the lots are small and have poor soil quality. This is not a situation where the desirability of removing high quality farmland from primary production is a critical issue. I accept Mr Eskdale's advice that the current use of the land for grazing is not a sustainable rural use. It occurs "as a hobby and to cover the rates". Nevertheless, the absence of an existing sustainable rural use does not by default mean that the development of dwellings is appropriate....*

*45. I can find no strategic support in the Planning Scheme for the proposed*

*dwelling. As highlighted by Mr Fadgyas and Mr Glossop the MSS recognises that fragmentation of rural land can occur where residential development takes place on rural areas with no link to the rural activities of the area and new residents start demanding that rural activities be modified. In particular, Clause 21.09 emphasises that rural residential development needs to occur in a planned and orderly manner. It should be located in rural living zones at the fringe of townships and controlled to avoid the conversion of quality agricultural land to non productive land uses. ...*

*60.... I consider that the proposed dwellings would have an adverse impact on the use of agricultural land in a broader sense. On that matter I accept the submissions of Mr Fadgyas and Mr Glossop that approval of these applications would create a "precedent" or at least raise expectations that other owners could also obtain permits. There are numerous small lots in the vicinity (perhaps hundreds throughout the Shire) that are undeveloped. As noted by Mr Fadgyas the creation of an expectation of development would lead to increase in property values of rural zoned land. This would make it more difficult for existing productive farms to continue in a viable form. In essence, every additional dwelling on rural land makes acquisition more difficult for genuine farmers. Incremental development on small lots would over time also lead to the substantial loss of productive land.*

## **CONCLUSION**

Having regard to the provisions of the Indigo Planning Scheme and the circumstances of the case it is concluded that the application should be refused in its current format.

The Indigo Planning Scheme aims to retain the value of agricultural land. Permitting this proposal will simply facilitate further fragmentation. Despite the proposal to consolidate some of the lots into two larger lots, it is contended that there is no adequate supporting evidence to indicate that the proposal would be better capable of supporting farming enterprises.

It is contended that the property can continue to be farmed in its current manner without the need for an additional two dwellings. It is acknowledged that the Farming Zone, as provided by the VPP's, allows for an application for a dwelling to be lodged on any separate allotment. Any reliance on the fact that there are several disposable parcels already in existence however is irrelevant to the consideration as to whether the current rural activity requires two dwellings. There is no expectation that a dwelling should be permitted on every existing under-sized allotment within a rural area and without a planning permit for a dwelling, it is unlikely that there would be any pressure for these parcels to change hands.

The provisions of the Farming Zone, at Clause 35.07 combined with the objective and implementation actions of Clause 17.05 of the SPPF (relating to Agriculture), impose a requirement not just to protect the State's agricultural base from the loss of high quality productive agricultural land, but also to consider the sustainability of rural activities on all categories of productive farmland.

The recently released VPP Practice Note on the application of the rural zones reinforce the expectation that a non-farming use will only be permitted if it has a functional nexus

with the agricultural use on the land and that decisions will be made in favour of protecting and supporting farming. In this regard the Responsible Authority is clearly required to consider the potential for the use or development to limit the operation and expansion of adjoining and nearby agricultural uses.

When considering proposals for lots that are less than the zone's default size (ie 40ha), a consistent interpretation of the strategic basis of the Planning Scheme is of primary importance. To this end Clause 22.01-5 Dwellings on Small Rural Allotments (which applies to that part of the proposal to use Crown Allotments 8A, 8B and 8C for the purposes of a dwelling) must be interpreted and applied in a consistent manner. It is contended that that policy does not support scenarios where the Indigo Planning Scheme is used as a tool to encourage the fragmentation of a rural property.

In this instance consolidation of the subject land into a single lot would result in the use of the land for the purposes of a dwelling being 'as of right'. It is contended that whilst Council's Small Lot Policy provides some direction in relation to existing small rural allotments that have been traditionally isolated from other holdings as well as some limited protection of expected 'rights' or opportunities that have influenced land sales/purchases under previous planning schemes, it is being used as a speculative tool in this instance.

In this instance the fact that permits had previously issued for the use of the subject land as currently proposed under the Chiltern Planning Scheme is immaterial as: the permits were not acted on; the land was not separately disposed of as a result of the approval given, and; the applications and assessments were apparently based entirely on tenement provisions in place at that time. It is contended therefore that to give any substantial weight to the previously issued permits in the assessment of this proposal would be contrary to the objectives sought to be achieved by the new format planning schemes and the performance based approach to rural planning that underpins the Indigo Planning Scheme.

It is no doubt unfortunate that the Indigo Planning Scheme is somewhat arbitrary by inclusion of a default figure of 40 hectares for the use of land for a dwelling. Whilst both the Chiltern Planning Scheme and the Indigo Planning Scheme have by default, set a density for the development of rural areas, there appears to be no special circumstances warranting the use of the subject land for the purposes of two dwellings (reducing the default density) other than the permits previously issued under the former arbitrary provisions of the Chiltern Planning Scheme.

It follows therefore that should the use of the subject land for the purposes of two dwellings be approved under the provisions of the Indigo Planning Scheme, a clear precedent would be set for other nearby holdings comprising numerous Crown Allotments.

Council has to date sought to implement via its planning scheme, a policy framework which attempts to protect the remaining agricultural land by discouraging its further fragmentation, unless it can be demonstrated that the creation of smaller lots is for an agricultural purpose or it enhances resource management and/or farming practices in the zone. The outcome which will result from the granting of a permit for the use of the subject land for the purposes of two dwellings is that the land ownership pattern of rural land in this locality will be further fragmented in direct conflict with the outcomes sought

to be achieved by the applicable policy framework and zone provisions.

Having particular regard to the orderly planning of the area, consistency in interpretation of the planning scheme and considering the precedent that would be set if this application were approved, it is recommended that the application be refused.

### **ADDITIONAL MATTERS**

Following receipt and review of the application and an inspection of the site, the above conclusions were put to the applicant by letter dated 5<sup>th</sup> April 2007 suggesting that the application be withdrawn. The response received on the 12<sup>th</sup> July 2007 (see attachment 2) rather emotively exaggerates pre-application advice given in relation to the subject land.

In this regard it is contended that advice given was that:

- One dwelling would be ‘as of right’ and it was unlikely that two dwellings would be supported.
- Consolidation of the subject land into a single lot would result in the use of the land for the purposes of a dwelling being ‘as of right’.
- Permits previously issued under the Chiltern Planning Scheme are immaterial as: the permits were not acted on; the land was not separately disposed of as a result of the approval given, and; the applications and assessments were apparently based entirely on tenement provisions in place at that time.
- Should an application be lodged it would necessarily be assessed under the relevant provisions of the current Indigo Planning Scheme.

Unfortunately, as is often the case, the applicant appears to have misconstrued the fact that because an application can be lodged, and the relevant fee paid, that approval will be forthcoming.

In this regard comments are provided below to reflect the advice given.

- *“Our client’s initial enquiries ... did not reveal any indication from Council’s Planning Dept. that support for the proposal would be unlikely.”* (extract from EDM letter)

This is a misrepresentation. Initial advice to Mr McQuade was that support for the proposal would be unlikely, and that if he wished to proceed with two dwellings as opposed to the single dwelling option (which was ‘as of right’) then for an application to stand any chance of approval, it was strongly suggested that professional assistance be sought to aid in preparing the application.

- *“On the contrary that advice received only indicated that the matter would need to be reconsidered and justified under the provisions of the Indigo Planning Scheme”* (extract from EDM letter).

It was made clear that two dwellings would be unlikely to be supported. It appears that Mr McQuade, acting on this advice, approached EDM Group for assistance in preparing

his application.

- *“That following discussions with Mr McQuade, EDM Group made a quite specific inquiry of the Planning Department in relation to the merits of putting together a fresh application.”* (extract from EDM letter)

While the letter suggests that specific enquiries were made to the planning section by EDM, there is no record of enquiries specific to this site other than to obtain copies of the old Chiltern Shire permits. Advice was never that the application would be a fait accompli hence the original suggestion to Mr McQuade that if he wished to pursue the proposal (which was not supported) he would need professional assistance.

Other matters raised in EDM Group’s letter of the 12<sup>th</sup> July 2007 are addressed briefly below.

- Reference to the matter of Strachan v Indigo SC [2006] VCAT is taken out of context. That appeal related to an entirely different circumstance to the current proposal and it is not possible to apply the conclusions reached in relation to that parcel of land to this application.
- As contended in EDM Group’s letter, decision guidelines are decision guidelines. EDM Group’s perception of these is however somewhat different to Council officer’s. Decision guidelines play an important role in a Planning Scheme in that they make it clear to all how an application will be assessed. In order to be consistent, Council cannot simply ignore decision guidelines because an application is inconsistent with them.
- It is acknowledged that the MSS recognises that regional influences on the Shire create a pressure for realising rural lifestyle opportunities as well as the importance of, and the necessity to, support agriculture. In order to achieve a balance between the two, the Rural Living Zone is strategically applied to large areas within the Shire to direct the provision of this form of land use. Clause 22.01-5 was also adopted in recognition of the need for a balanced approach to the provision of rural lifestyle opportunities in broader acre rural areas whilst protecting the Shires agricultural base.

The precedent that would be set for this locality if this application is approved, State policy in respect to the protection of agricultural land, including the impacts of decisions on land values, and the significance of the rural sector for the Shire’s economy tends to outweigh the opportunities for rural living, lifestyle or hobby farms in this instance.

It is contended that the lack of a Rural Living Zone in this area intentionally gives primacy to agriculture as the preferred land use. Decisions made with respect to dwellings on existing small rural allotments, should therefore err on the side of caution and should reflect the underlying purpose of the Zone which is to:

- Implement the SPPF and LPPF including the MSS and local planning policy, and;
- Provide for the sustainable use of land for Extensive animal husbandry

and Crop raising,

not encourage the fragmentation of land used for this purpose to lifestyle lots because there is a demand for it.

## **10.6 BUILDING STATISTICS – AUGUST 2007 (EDSM)**

### **For Information**

<b><u>Property Locality</u></b>	<b><u>Description</u></b>	<b><u>Project Value</u></b>	<b><u>Approval Date</u></b>
Beechworth	Extension	\$2,500	01/08/07
Brewa	Alteration	\$4,500	03/08/07
Barrowatha	Renovating	\$186,800	08/08/07
Blackandandah	New Building	\$9,100	08/08/07
Butterglenn	Renovating	\$229,200	09/08/07
Blackandandah	New Building	\$72,000	09/08/07
Esbornes Flat	New Building	\$15,000	10/08/07
Don	New Building	\$12,000	15/08/07
Butterglenn	New Building	\$8,500	15/08/07

ewa	ew Building	\$130,0	16/08/0
ackandandah	xtension	\$2,0	17/08/0
utherglen	ew Building	\$11,1	20/08/0
anley	ew Building	\$9,8	20/08/0
arnawartha	xtension	\$9,0	22/08/0
utherglen	ew Building	\$16,6	22/08/0
ewa	e-stump	\$6,9	23/08/0
ewa	xtension	\$9,0	23/08/0
utherglen	emove Buildin	\$1,5	23/08/0
ahgunyah	ew Building	\$99,0	27/08/0
ackandandah	ew Building	\$66,5	28/08/0
ackandandah	welling	\$145,6	28/08/0
ackandandah	ew Building	\$5,0	28/08/0
hiltern	ew Building	\$320,0	29/08/0

Leechworth	dwelling	\$369,000	30/08/07
Langambalanga	New Building	\$250,000	30/08/07
<b>Total</b>		<b>\$2,310,400</b>	

## 10.7 PLANNING STATISTICS – AUGUST 2007 (EDSM)

### For Information

File No.	Locality	Proposed Use	Cost	Decision
P074008	Poramadda	Construct temporary low level ford access	2,000	Approved
P074012	Leechworth	Alterations, and additions	80,000	Approved
P074013	Turnawartha	Construct a bridge across Itbox Creek	90,000	Approved
P074090	Blackandandah	Boundary Re-alignment	10,000	Approved
P074094	Wetherglen	Signage	10,000	Refused
P074134	Blackandandah	Lot Subdivision	10,000	Approved
P073998	Wetherglen	Lot Subdivision	10,000	Approved
P074017	Towns Plains	Extend restaurant	38,000	Approved
P074020	Wetherglen	Garport	4,800	Approved
P074040	Manley	Arm Shed	28,000	Approved
P074041	Wetherglen	Stabilize bank erosion at Town's Lagoon	1,500	Approved

P074043	eechworth	terations, repairs and ditions	70,00	pprove
P074047	eechworth	gnage for shop		pprove
P074049	utherglen	ay shed	20,5	pprove
P074050	utherglen	ay shed for cattle dder	16,9	pprove
P074053	hiltern	emolish Barn and place with garage	6,2	pprove
P074058	eechworth	dditional ensuite throom	9,5	pprove
P074073	eechworth	op	34	pprove
<b>TOTAL</b>			<b>68,3</b>	

**10.8 ENVIRONMENT AND DEVELOPMENT SERVICES  
PROJECTS – OCTOBER 2007 – PROGRESS REPORT  
(EDSM)**

**For Information**

Projects underway are show in the following table.

<b>Project</b>	<b>Current actions</b>
<b>Amendment C10 – Heritage Overlay</b>	<ul style="list-style-type: none"> <li>• Independent Panel report has been received. Advice on report recommendations sent to all objectors and a press release provided to media outlets.</li> <li>• A report on the amendment is included in this agenda.</li> </ul>
<b>Amendment C21 - Kiewa-Tangambalanga</b>	<ul style="list-style-type: none"> <li>• Structure Plan adopted by Council in May 2006.</li> <li>• Authorisation received was conditional and a protracted negotiation took place before DSE allowed exhibition to commence.</li> <li>• Exhibition period for the amendment closed 2 July 2007. Issues raised include Aboriginal heritage. This matter is still under investigation by the proponents of the amendment.</li> </ul>
<b>Municipal Strategic Statement and Indigo Planning Scheme – major review</b>	<ul style="list-style-type: none"> <li>• First round of public consultation meetings held August - September 2006. Second round held March 2007.</li> <li>• Consultation with government agencies and neighbouring municipalities undertaken.</li> <li>• Rural planning issues workshops held November 2006 and March 2007.</li> <li>• Public comments received on draft review report.</li> <li>• A report on the review is included in this agenda.</li> </ul>
<b>Indigo Planning Scheme - environmental overlay</b>	<p>Ecology Partners P/L appointed to undertake a project to identify biodiversity priority areas within the municipality for further investigation and possible furthers controls in the planning scheme.</p> <p>Draft report being revised by consultant to incorporate steering committee responses. Report was due to be presented to Council during July, but is still awaiting finalisation by consultants.</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>
<p><b>VCAT Appeals</b></p>	<ul style="list-style-type: none"> <li>• PP05-321 Appeal by Barden Consulting against refusal of Council to amend the Development Plan and against refusal by Council to amend conditions of the planning permit for subdivision, Elgin Road, Beechworth. Hearing held 27 June 2007 in Beechworth. VCAT decision received. Decision is to uphold Development Plan and planning permit as approved by Council.</li> <li>• PP06-063 appeal by George Fendyk against conditions of a planning permit for a 2 lot subdivision. Issue is around the loss of car parking area behind Tanswell's hotel in Beechworth. Hearing held 27 June 2007 in Beechworth. VCAT decision has removed two conditions from the permit and still requires construction of car parking area on the hotel lot.</li> <li>• PP06-242 Appeal by AR Bennett against refusal by Council to approve a balcony addition to a shop, Ford Street, Beechworth. Hearing adjourned at request of appellant.</li> <li>• PP06-280 Appeal by C Brown against refusal by Council to approve an extension to a dwelling, Pioneer Road, Stanley. Hearing date was 19 September 2007. Awaiting VCAT decision.</li> <li>• PP06-247 Appeal by C Rebbechi against refusal by Council to approve a dwelling, Lake Moodemere Road, Norong. Hearing date was 20 September. The solicitor acting for owners was not ready to proceed on that date – hearing adjourned.</li> <li>• PP06-294 Appeal by I and L Berryman against Council's Notice of Decision to Grant a Planning Permit for demolition of four buildings, removal of five trees, construction of a car park and construction of access laneways, Greens Lane, Chiltern. Negotiations underway with appellant and DSE. Hearing set down for 20 September and was adjourned while negotiations proceed.</li> </ul>
<p><b>Statutory planning services</b></p>	<p>Senior (Statutory) Town Planner has been appointed and will commence mid October. Continuing pressure on existing staff and impact on service delivery in this area.</p>

<b>Building Services</b>	One vacancy has been unfilled for some months – placing an additional burden on staff. This position has now been filled and an additional Building Inspector appointed. Commencement has been delayed – expected commencement is the end of October.
--------------------------	---

## **11.0 CIVIL OPERATIONS**

### **11.1 OPERATIONS DEPARTMENT – PROGRESS REPORT – SEPTEMBER 2007 (AOM)**

#### **For information**

<b>Project</b>	<b>Description of Works</b>
<b>GENERAL MAINTENANCE</b>	
Road Maintenance & Parks and Gardens	Maintenance crews have been busy undertaking edge and shoulder repair and cleaning drains. Parks and Gardens staff has been kept busy with mowing and weed control
<b>COUNCIL PROJECTS</b>	
Restoring Community War Memorials	Tangambalanga; Yackandandah; Rutherglen Works are now ordered and progressing.
<b>EXTERNAL PRIVATE WORKS</b>	
<b>Works- General</b> Gundowring Road Dairy Road Funding	Construction of improvements to Gundowring Road under the Dairy Road Funding Program. (\$375,000) Works are nearing 95% completion. Works will be completed shortly.
Deep Creek Road Bridge	Works outstanding are handrails and sealing of road approaches. The bridge is now open to traffic again.
Cleaning of Council Buildings	Tenders will be considered at this meeting. The new contract is to commence 1 <sup>st</sup> November.
<b>Buller Gas</b>	Predicted good continuing sales.  Frank Burfitt will be finishing his duties with Buller Gas on 27 <sup>th</sup> September. Frank has set up systems and processes which has significantly increased the profitability of Buller Gas and must be commended on his efforts.

<p><b>Waste Management</b></p>	<p>Falls Creek Waste</p> <p>Season coming to a close, bigger than average. Summer contract commences 1<sup>st</sup> October.</p> <p>East Gippsland Waste</p> <p>We have been requested to tender for a new transfer station at Waire. Contract progressing well.</p> <p>Drum<i>MUSTER</i></p> <p>Collection scheduled for October, date to be finalised. Survey schedules distributed.</p>
<p><b>Animal Control &amp; Local Laws</b></p>	<p><b>Works</b> (in hours and out of hours) The Enforcement Services Coordinator will be visiting businesses in Shire personally to explain the changes in the Trading Places document, and to inform owners that all items on the pavement are to be moved away from against building façades.</p> <p>Local Law number 1 has now been formally adopted and was advertised in the Border Mail on Saturday, 22<sup>nd</sup> September.</p> <p>Animal Control continues to be busy with abandoned/found animals and some wandering stock.</p>
<p><b><u>POOLS</u></b></p>	
<p>Indigo</p>	<p>Pools are still closed but we have started the recruiting process for staffing including a mail out to last season's staff and an advert in the Border Mail. Interviews will follow shortly. In the meantime, Peter Carter has re-joined the Pool staff from Road Maintenance. Indigo Pools open on 24<sup>th</sup> November.</p>
<p><b>Summer</b></p>	<p>Wodonga Pool opens at 1<sup>st</sup> October. Staff have largely been recruited and the pool is well underway for the opening.</p>

<b>Emergency Management</b>	A Draft Flood Plan for the municipality has been forwarded to various organisations for their comment. The Municipal Emergency Management Planning Committee has recommended that this Plan should also be advertised for public comment which will commence during October. A report will then be circulated to Council around November.
<b>ENVIRONMENT</b>	
Community Water Grants – round 2	Appropriate community centres to be fitted with rainwater tanks still be investigated – Rutherglen Senior Citizens Centre, Osborne’s Flat Hall and Chiltern Memorial Hall being closely looked at.
Community Water Grants – round 3	Two project proposals submitted were submitted for Round 3 and notification of success is estimated to take 3 months, around October.
Greenhouse Action Plan	Following information presented at the Council briefing meeting on 24th July, recommendations for reduction targets for Milestone 2 are contained in September’s Council report. Milestone 3 will involve organisation and facilitation of a workshop to present information to staff and to determine appropriate actions within Council to achieve target.
North East Greenhouse Alliance	<p>Alternate Fuels</p> <ul style="list-style-type: none"> <li>○ Tender being developed for the supply of bio-fuels to participating Councils</li> </ul> <p>Kicking Goals for the Environment</p> <ul style="list-style-type: none"> <li>○ Water &amp; energy audits have been carried out at each of participating clubs – new technologies being installed</li> </ul> <p>Adaptation</p> <ul style="list-style-type: none"> <li>○ Scoping information for stage 2 being drafted – looking at how NEGHA can support sectors through adapting to Climate Change better</li> </ul> <p>Plant Savers</p> <ul style="list-style-type: none"> <li>○ Sustainable schools project – focus is on getting Semester 1 schools to apply for their \$2000 funding for retrofits and Semester 2 schools are getting started on their energy audits</li> </ul> <p>Sustainable Lighting</p> <ul style="list-style-type: none"> <li>○ NEGHA representatives recently visited Melbourne to look at residential energy use reduction programs and new t5 streetlights that will soon be added to the load table</li> </ul> <p>Membership</p> <ul style="list-style-type: none"> <li>○ A membership review sub-committee has</li> </ul>

	<ul style="list-style-type: none"> <li>○ been established &amp; has recommended an investigation into the Alliance vision (which has previously focused on DSE funding objectives), membership model and new members to ensure that group will be sustainable in absence of DSE funding</li> </ul>
Chiltern Green Corp project	Application for Chiltern team has been successful. Proposed start date is October 10 <sup>th</sup> , however, paperwork has yet to be signed by Indigo and CGVT.
Work for the Dole Team	A new team is scheduled to carry on maintenance works at Lake Sambell.
Lake Sambell	Committee's Deed of Delegation still under review.
Indigenous Resource Area at Lake Sambell	Steering group meeting yet to be held to determine next project priority.
Isaac Park	<ul style="list-style-type: none"> <li>○ Mulched material spread on-site</li> <li>○ Monitoring of site to ensure weeds controlled</li> </ul>
Regional Stormwater Education Officer	<ul style="list-style-type: none"> <li>○ Builders workshop scheduled for early September to promote stormwater best practice on building sites</li> <li>○ Development of signage for Isaac Park and Havelock Rd sites</li> <li>○ Compilation of 2006-07 water use data</li> </ul>
Community woodlot program	Landmates gang from Beechworth Correctional centre cut over 35m <sup>3</sup> of excess timber from Chiltern roadsides and transported to Chiltern community woodlot during early August.
Roadside Management Plan	"Roadside Partnership Project" expressions of interest period has closed. Ecologist appointed for first section of project, which is for initial visits to participating landholders. Next priority is to assess all applications and notify successful participants by 24 <sup>th</sup> September.
Roadside weed initiative	<ul style="list-style-type: none"> <li>○ Applications closed – 20 applications received</li> <li>○ Applications to be assessed by 14<sup>th</sup> September</li> </ul>
Eco-Awareness Group	<p>Ongoing implementation of Action Plan – last group meeting highlighted issues of:</p> <ul style="list-style-type: none"> <li>○ Constant running of hot water boilers in kitchens;</li> <li>○ Automated timing of reverse cycle air conditioners;</li> <li>○ Results of Waterwise audit;</li> <li>○ Catering practices; &amp;</li> <li>○ Training in use of 'green cost codes'</li> </ul>
Community awareness	<p>Whole environment section of website currently being updated.</p> <p>Next media releases to focus on weed control, in particular Chilean Needle Grass.</p>
Upper Sandy Creek School	<ul style="list-style-type: none"> <li>○ All site preparation complete</li> </ul>

revegetation project	<ul style="list-style-type: none"> <li>○ Planting of over storey with school to occur Friday 24<sup>th</sup> August.</li> </ul>
Sustainable water use plan	<ul style="list-style-type: none"> <li>○ Priority actions identified in plan are the basis of a Community Water Grants proposal;</li> <li>○ Water consumption data for 2006-07 to be collected and analysed</li> </ul>
Code of Forest Practice	New <i>Code of Practice for Timber Production</i> recently released. Main changes from the old <i>Code</i> is the specification of ‘mandatory’ practices as opposed to ‘recommended’ practices. A report regarding these changes is being prepared for submission to Council.

**NOTE: BULLER GAS CONTRACT**

**Moved Cr Hotson  
Seconded Cr Issell**

**That a letter of appreciation under Council seal be forwarded to Frank Burfitt recognising his efforts in setting up systems and processes for the Buller Gas contract which significantly increased the profitability of this contract.**

**CARRIED**

**12.0 ASSETS AND INFRASTRUCTURE**

**12.1 RENUMBERING OF THORSEN LANE, YACKANDANDAH  
(FILE NO: S290/050 – AM)**

**For Decision**

**RECOMMENDATION**

**That Council approve the proposal to renumber Thorsen Lane Yackandandah and rename a short section of Thorsen Lane to Station Lane.**

**Moved Cr Dale  
Seconded Cr Issell**

**That the Recommendation be adopted.**

**CARRIED**

**BACKGROUND**

The current numbering of properties in Thorsen Lane, Yackandandah does not follow current numbering standards and is in a fairly ad-hoc manner. This poses a problem for emergency services vehicles, which require quick and easy access in case of emergencies. The current numbering is also making it very difficult to allocate new numbers when required.

The main issues of concern are:

- Thorsen Lane is split with the urban and rural numbering boundary, giving both rural road numbers and urban numbers in the one street. The current numbering does not follow in sequence.
- The current zero point for addressing is at the Station Lane end of Thorsen Lane, rather than the Wellsford Street end.
- Thorsen Lane is a public access roadway but is gated up near the Station Lane end (outside what is currently 14 Thorsen Lane). This is a concern for emergency vehicle access (ambulance), and public roadways cannot be gated.

### **CONSULTATION**

Residents in Thorsen Lane Yackandandah (13 properties) were sent a letter highlighting the numbering issues and asking for their feedback. Upon receiving residents' feedback and suggestions, a second letter was sent highlighting the proposals made, and inviting all Thorsen Lane residents to a public meeting. At the public meeting the following proposals were agreed upon:

- Residents in favour of urban numbering.
- Residents happy to commence numbering from the Wellsford St end (i.e. have the zero point at the Wellsford St end)
- Residents in favour of the gate to remain, to limit the amount of through traffic. The gate will be for emergency vehicle access only.
- Residents in favour of renaming the short section of Thorsen Lane at the Station Lane end east of the gate, to Station Lane. This in effect would extend Station Lane to the gate/vehicle turning area (The extent of the seal). Thorsen Lane will also terminate at the gate.

### **POLICY IMPLICATIONS**

Nil

### **FINANCIAL & RESOURCE IMPLICATIONS**

Additional signage will be required on the gate in Thorsen Lane and adjacent to the Lethlean's property (620 metres along Thorsen Lane from the Wellsford St end), indicating emergency vehicle access only.

## **12.2 YACKANDANDAH MUSEUM REBUILDING (FILE NO: Q07/08 - AM)**

*Note: This item was deferred to the Council meeting on 30 October 2007.*

### **BACKGROUND**

The Yackandandah Museum suffered severe fire damage as consequential damage from the destruction of an adjoining building in December 2006.

Council's insurers have assessed damage and authorised expenditure on building works to the value of \$296,000. Council and the Committee of Management have prepared a specification for works and called for tenders. Some fourteen sets of tender documents were distributed, however at the time of closing, only two tenders were submitted.

Tenders were received from:

1. Palhares Constructions;
2. Barton Street Developments Pty. Ltd.

The tender assessment panel is unable to meet until 26<sup>th</sup> September, 2007 and accordingly no formal report and tender assessment will be circulated to Councillors prior to the meeting.

## **12.3 CLEANING OF COUNCIL OFFICES AND BUILDINGS (FILE NO: Q07/02 - AM)**

*Note: This item was referred to Confidential Item 20.*

### **BACKGROUND**

Council's current cleaning contract finishes at the end of October, 2007. Tenders have closed for the works and at the time of tender closing, four conforming tenders had been received. The scope of works includes the cleaning of all public toilets, office buildings, Heritage Precinct Areas, libraries and various other buildings. Contract works include cleaning of all entrances and walkways, floor coverings, toilets, bins and spouting and also stipulates the frequency of cleaning.

The contract documents allow for a three year contract term with the possibility of a two year extension. The calling of tenders and overall contract management was undertaken by the Operations Department with individual departments responsible for supervising the contractor and monitoring works within their own areas.

The tender assessment panel is currently considering tenders and will provide a report prior to or at the Council meeting.

## **12.4 CAPITAL WORKS – PROGRESS REPORT – OCTOBER 2007** **(AM)**

### **For Information**

<b>Project</b>	<b>Actions</b>
<b>Subdivisional works by developers</b>	<ul style="list-style-type: none"> <li>• Lawranna Estate-30 lots (off Fighting Gully Rd) 30% complete. Contractors on site. Significant improvements to Fighting Gully Rd to be undertaken in conjunction with subdivisional works.</li> <li>• Bells Flat Rd wetlands- 90% complete. Only plantings to be completed.</li> <li>• Sheehan Dve Fletcher Hill Stage 2 Beechworth 10 residential lots- 80% complete. Works on hold due to weather.</li> <li>• Yackandandah Heights residential subdivision (off Racecourse Rd)- Stage 2 works 30% complete</li> </ul>
<b>Rural Road Development Contributions</b>	Works on Malakoff Rd extension complete
<b>Plant</b>	<ul style="list-style-type: none"> <li>• National Plant Hire plant maintenance agreement extension currently being discussed and negotiated.</li> <li>• Replacement 5 tone excavator, Komatsu selected.</li> <li>• Surplus 3 tonne truck sold</li> </ul>
<b>Rutherglen Wine Bottle</b>	North West Water assessing options to make safe
<b>Wooragee Hall</b>	Works complete. Committee has moved back in to the hall. Grand opening soon.
<b>Chiltern Floodplain Study</b>	Application for Natural Disaster Relief Funding unsuccessful. Works to be completed to the value of the available council budget of \$100,000.
<b>Havelock Road area stormwater re-use</b>	Detail designs complete. Land purchase being negotiated Permits from DSE & NECMA received, GMW progressing. Part outfall pipe constructed. Stage 1 of 81 lot subdivision design progressing.
<b>Ready/Soles Street drainage</b>	Tomkinson Engineers has completed draft designs. A report will be presented to Council. Costs of Stage 1 construction incorporated in 07/08 Capital Budget.
<b>Playgrounds upgrade</b>	Planning for Isaacs Park and Martin Park underway.
<b>Chiltern Commercial Area</b>	Detail design to commence immediately final access

<b>Parking</b>	alignment negotiated. Funding of \$200,000 applied for.
<b>Local Infrastructure Works Program (Drought Funding)</b>	\$300,000 received from State Government. Beechworth Shire Hall internal painting to commence. Yackandandah mobile library parking area commenced. Martin park lights ordered including one solar light. All other projects underway.
<b>Rutherglen Heavy Vehicle Deviation.</b>	Community discussion ongoing. Considerable community concern on the southern shortlisted route. Joint VicRoads funding of detailed study applied for.
<b>Browns Plains Community Meeting Room</b>	Funding received for works in conjunction with CFA shed. Tenders called.
<b>Tangambalanga Football club rooms</b>	Discussions underway with potential funding bodies.
<b>Yackandandah Supermarket Carparking</b>	Designs being finalised for carpark modifications, additional sealed carparking in Hammond St and necessary seal widening works for truck access. Draft plans to be placed on public display.

## **13.0 HEALTH AND WELLBEING**

### **13.1 COUNCIL'S 2007/2008 COMMUNITY GRANTS – (FILE NO: M272.13B - HWBM)**

#### **For Decision**

#### **RECOMMENDATION**

**That:**

**Council adopt the recommendations of the Indigo Shire Community Advisory Committee regarding the Community Grants/Loans Program for 2007/2008 totalling \$29,944.00 as tabled below:**

<b>Applicant</b>	<b>Project</b>	<b>Grant recommended</b>
<b>Beechworth Exercise &amp; Activity Training Group</b>	<b>Purchase of exercise equipment – dumb-bells, rowing machine</b>	<b>\$650.00</b>

Beechworth Toy Library	urchase of equipment - office inter	\$399.00
Chiltern Bowling Club Inc	stallation of shade structures	\$2,880.00
Chiltern & District Communi Emergency Response Tea (CERT)	urchase of equipment – lockable abinet	\$349.00
Chiltern & District Pre-Scho Centre Inc	rection of a 3m x 3m lourbond storage shed	\$780.00
Gundowring North Tennis Club	reconstruct concrete path from try to club house and to toilets	\$1,500.00
Kiewa Fire Brigade	urchase of data projector and reen	\$1,674.00
Osbornes Flat Community Centre	onstruction of tennis court ncing	\$4,000.00
Rutherglen District Guides	isplay cabinets	\$240.00
Rutherglen Kindergarten Inc	epplace electric oven in kitchen	\$729.00
Stanley Soldiers Memorial Hall Stanley Athenaeum Committee Management	stallation of ceiling insulation r Athenaeum	\$585.00
Wahgunyah School of Ar Committee	urchase of new chairs for Hall	\$2,750.00
Willows Recreation & Campi Reserve	rection of a BBQ shade ructure	\$2,000.00
Wooragee Community Cent Committee of Management	urchase of new chairs for Hall	\$2,500.00

<b>Yackandandah Bowling Club</b>	<b>iden access pathway and install mp to clubroom</b>	<b>\$2,640.00</b>
<b>Yackandandah Golf Club Inc</b>	<b>stallation of new carpet and o for clubrooms</b>	<b>\$1,847.00</b>
<b>Yackandandah Pistol Club Inc</b>	<b>onstruction of accessible thways</b>	<b>\$625.00</b>
<b>Yackandandah Playgroup</b>	<b>urchase of play and musical quipment</b>	<b>\$600.00</b>
<b>ARTS AND CULTURE GRANTS</b>		
<b>Chiltern Athenaeum Tru Museum</b>	<b>stallation of additional Pioneer emorial wall plaques</b>	<b>\$500.00</b>
<b>Chiltern Singers</b>	<b>urchase of music sheets and usic stands</b>	<b>\$700.00</b>
<b>Kergunyah Hall Committee Management</b>	<b>reening of 3 family film events the Hall</b>	<b>\$1,000.00</b>
<b>Yackandandah &amp; Distr Historical Society</b>	<b>ranscribing and documentation oral history tapes</b>	<b>\$996.00</b>
<b>TOTAL - PART A</b>		<b>\$29,944.00</b>
<b>YOUTH INITIATIVES GRANTS</b>		
<b>TOTAL - PART C</b>		<b>\$0.00</b>
<b>TOTAL GRANTS</b>		<b>\$29,944.00</b>

**Moved Cr Issell  
Seconded Cr Dale**

**That the Recommendation be adopted.**

**CARRIED**

### **SUMMARY**

This report details the funds recommended for allocation under Council's 2007/2008 Community Grants/Loans Program.

### **BACKGROUND**

As part of the 2007/2008 Budget process, Council has allocated the following funds for community groups and committees:

- |  |                        |
|--|------------------------|
| 1. Council's Community Grants – General and Arts and Cultural (Part A) | \$30,000               |
| 2. Council's Community Grants – Youth Initiatives (Part C)             | <u>\$ 2,500</u>        |
| <b>Total Available:</b>  | <b><u>\$32,500</u></b> |
| 3. Asset Management Grants (Part B)                                    | \$109,500              |

Council made the decision some years ago that there will be no application process for the Asset Management Grants (Part B). Community groups and Committees are provided with an annual contribution based on a set of criteria developed by Council.

Council has delegated the assessment of the applications for Part A and Part C to the Indigo Shire Community Advisory Committee (ISCAC). This Committee assesses all applications based on the appropriate criteria and then recommends to Council how the funds should be distributed.

Applications for the 2007/2008 Program closed on 24 August 2007 and deliberations were completed by ISCAC at its meeting on the 11<sup>th</sup> September 2007.

### **ISSUES**

Council received fifty-one (51) applications under the Program requesting a total of \$164,312.01 in funding. There were, however, several large applications which inflated the total amount requested. In general, the majority of applications requested funding in the range of \$1,000 to \$5,000. It was noted by the Committee that the scope of funding requests from community groups ie the project cost and the grant requested has been steadily growing in recent years, indicating the increasing number of smaller projects in the community that need funding assistance.

There was only one application received under the Youth Initiative category. ISCAC has recommended that Council officers contact the applicant to initiate discussions on how the proposal, which the Committee believe has many benefits for the community, can be developed from a Rutherglen based project into a Shire-wide project.

Of the other fifty (50) applications received under Part A, several were referred to more appropriate funding sources such as other areas within Council and state and federal government programs.

All unsuccessful applicants will receive notification in writing detailing why they were unsuccessful and an offer of future advice and assistance, such as referral to other more appropriate funding programs to progress their particular project.

**POLICY IMPLICATIONS**

The funding Program is guided by Council’s Community Grants/Loans Program Guidelines which states:

“Council acknowledges and accepts the need to provide financial assistance to groups and organisations either locally based or those meeting a demonstrated need within the Shire where alternative grants/loans aid is either limited or not available and a clearly defined objective can be targeted.”

**FINANCIAL IMPLICATIONS**

The following table details the applications for funding and the allocations recommended:

<b>PART A</b>	<b>No of App’s</b>	<b>No Funded</b>	<b>Amount Requested \$</b>	<b>Amount Funded \$</b>	<b>Referred to other Funding Sources</b>
General Community Grants	42	18	\$147,626.00	\$26,750	8
Arts & Culture	8	4	\$14,186.00	\$3,194.00	0
<b>Sub Totals</b>	<b>50</b>	<b>22</b>	<b>\$161,812.01</b>	<b>\$29,944.00</b>	<b>8</b>
<b>PART C</b>	<b>No of App’s</b>	<b>No Funded</b>	<b>Amount Requested \$</b>	<b>Amount Funded \$</b>	<b>Referred to other Funding Sources</b>
Community Organisations Youth Initiatives	1	0	\$2500.00	\$0.00	1
<b>TOTALS</b>	<b>51</b>	<b>22</b>	<b>\$164,312.01</b>	<b>\$29,944.00</b>	<b>9</b>

<b>PART B</b>	<b>No Funded</b>	<b>Amount Funded \$</b>
Asset Management Grants for Committees managing community facilities	70	\$109,500.00

## **13.2 HEALTH & WELL BEING PROJECTS – PROGRESS REPORT – OCTOBER 2007 (HWBM)**

### **For Information**

#### **PROJECT ACTION/ PROGRESS**

<b>2007 Seniors Festival</b>	The 2007 Seniors Festival is to be held from 7 to 14 October 2007. Council has prepared a Program of Events for Indigo Shire which has now been distributed to relevant groups and organisations and is available at all Council Service Centres. The Opening Luncheon will be held in Tangambalanga on Wednesday 10 <sup>th</sup> October. The luncheon is fully booked.
<b>Yackandandah Sports Park Masterplan</b>	The Draft Yackandandah Sports Park Masterplan is now on public exhibition. Comments and submissions from the community will be received until 5.00 pm on 17 October 2007. All submissions will be assessed by the Steering Committee prior to the Final Plan being presented to Council.
<b>Indigo Shire Recreation Plan</b>	The Draft Recreation Plan is now on public exhibition. Comments and submissions from the community will be received until 5.00 pm on 17 October 2007. All submissions will be assessed by the Steering Committee prior to the Final Plan being presented to Council.
<b>2007 Tidy Towns State Awards</b>	The State Awards for Tidy Towns 2007 will be held in Benalla on Saturday 6 <sup>th</sup> October. Projects from Beechworth, Chiltern and Rutherglen are in the running to win Category Awards with Beechworth in the running to win the State Tidy Town Award.
<b>The Gorgeous Girls Program</b>	The Gorgeous Girls Program was conducted at the Beechworth Youth Centre on 6 September. Three workshops were held throughout the day which gave young girls strategies on how to cope with body image and self-esteem issues. Twenty-two Year 10 girls from Beechworth High attended the day. The feedback was very positive. The Youth Development Officer has been asked to plan and co-facilitate the workshop for next year in Beechworth.

<b>Freeza Event in Chiltern</b>	A FReeZA event is being planned as part of the Chiltern Ironbark Festival on 21 <sup>st</sup> October. The Youth component of the day will be held at the Music Bowl with Comedian John Walker as the MC and local bands playing.
<b>School Holiday Program for Young People</b>	A School Holiday Program has been developed for the September October school holidays and will be conducted from both the Rutherglen and Beechworth Youth Centres.

## **14.0 CORPORATE AND VISITOR SERVICES**

### **14.1 INTRODUCTION OF COMPULSORY MICROCHIPPING OF PETS – STATUS UPDATE (FILE NO: E200 - GMCVS)**

#### **For Information**

#### **SUMMARY**

In accordance with changes to State Government legislation, From May 1<sup>st</sup> 2007, all animals being registered for the first time with a local Council must be microchipped. Since the introduction of the new legislation, our Customer Service Officers at each service centre have been advising people who are registering an animal for the first time that their pet must be microchipped.

In some cases the animal will be registered and the owner told that the animal must be microchipped within a defined period. The registration paperwork is then copied and sent to the Enforcement Unit and followed up with the owner to ensure compliance.

#### **CONSULTATION**

Response has been sought from our Customer Services Officers as to any feedback they have received from the community with regards the changes.

Community response has been mostly positive and compliant with only approximately 5 individuals advising that they would not be registering their animal because of the changes and several more questioning why there is a need to have two systems linking pet to owner (ie. registration and microchipping).

**14.2 CORPORATE SERVICES PROJECTS – PROGRESS REPORT – OCTOBER 2007 (GMCVS)**

**Project**

**Actions**

<p><b>Enterprise Agreement</b></p>	<p>On 5 September a letter was received from the Australian Services Union (ASU) seeking to justify its claim for a 4% increase in each of the 3 years of the Enterprise Agreement – that is, an aggregate 12% increase as opposed to the 10% which Council has offered - and for Long Service Leave to be available to staff after 7 years' service, on a pro rata basis, rather than after 10 years as currently applies. The Chief Executive Officer replied to this letter on 13 September, detailing how Council's surveys of current and projected wage rates in neighbouring shires had convinced it that its offer was a fair one and would not disadvantage its staff by comparison with other Councils' employees in the North-East region. The letter also detailed how the ASU's Organiser, when shown the evidence of the surveys, had agreed in principle with Council's offer, only for him to be replaced by someone with no appreciation of the negotiations that had taken place over the previous six months and with an agenda to pursue a 'one size fits all' wage deal that disregards past negotiations, Council's ability to pay and what constitutes a fair wage in the area. The proposal to improve the existing Long Service Leave provisions was rejected until and unless the Local Government (Long Service Leave) Regulations were amended as a statewide resolution to change the current conditions.</p> <p>On 20 September Council received notice that the ASU had applied to the Australian Industrial Relations Commission (AIRC) for a secret ballot of its members to be conducted, a necessary precursor to industrial action being taken. A hearing of the AIRC took place on 21 September at which, upon advice from its employer body, VECCI, Council was not represented. At that meeting the AIRC ordered that a ballot of ASU members be conducted, the result of which will be known on 16 October. Should the ASU members vote in favour of industrial action, the forms of action they will then be able to take will include stop work meetings of four hours' duration; bans on the emptying of Parks and Gardens litter bins and on gutter and street cleaning; a ban on overtime and the working of time in lieu in place of overtime; and a ban on the production of Council reports or other internal correspondence.</p> <p>Council management will continue to negotiate the Agreement and hopes that possible bans will not proceed as part of those negotiations.</p>
------------------------------------	---

## TOURISM AND MARKETING

### 14.3 INDIGO TOURISM BOARD FESTIVALS & EVENTS SPONSORSHIP PROGRAM (FILE NO: D497.3-02 – TMM)

#### RECOMMENDATION

Council adopt the recommendation of the Indigo Tourism Board regarding the ITB Festival & Events Sponsorship totalling \$10,170 as follows:

<b>Festival/event</b>
<b>Tour de Rutherglen</b>
<b>Rutherglen Winery Walkabout</b>
<b>Young Bloods and Bloody Legends Weekend</b>
<b>Rutherglen Art Exhibition</b>
<b>Tastes of Rutherglen</b>
<b>Chiltern Pro Rodeo</b>
<b>Chiltern Literary Heritage Day</b>
<b>Chiltern Ironbark Festival</b>
<b>Chiltern Garage Sale</b>
<b>Chiltern Visual Art Exhibition</b>
<b>Yackandandah Folk Festival</b>
<b>Spring Migration Festival</b>
<b>A Taste of Yackandandah Spring Fair</b>
<b>Beechworth Celtic Festival</b>
<b>Beechworth Harvest Celebration</b>
<b>Beechworth Spring Garden Tour</b>
<b>TOTAL</b>

Moved Cr Walsh  
Seconded Cr Hotson

**That the Recommendation be adopted.**

**CARRIED**

#### SUMMARY

The ITB met on September 10 to consider applications under the ITB Festivals & Events Sponsorship Program. It recommended 16 festivals and events receive financial sponsorship to a total of \$10,170.

#### BACKGROUND

Sixteen applications were received for the Indigo Shire Festivals & Events Sponsorship Program (plus one late application rejected by the ITB as it missed the deadline).

In 2007/08 the ITB Festivals & Events Sponsorship Program has a budget of \$11,000. A total of \$14,127 was requested from applicants. Several applications requested funding

above the specified Category A and B amounts of \$900 and \$400 respectively, however the Board has recommended sponsorship be given only to the Category A and B amounts, totalling \$10,170.

It is proposed the remaining \$830 be used toward funding an attracting sponsorship workshop for festival and event organisers to assist them in attracting sponsorship from non-Council sources.

The ITB has flagged this is the last year it intends to run the Festivals & Events Sponsorship Program in its present form. The Board believes it should encourage festivals and events to be self-funded and is looking toward the possibility of providing larger amounts of seeding funds to fewer up-and-coming events.

The ITB will report to Council with a new funding proposal in the next few months.

#### **14.4 TOURISM & MARKETING - PROGRESS REPORT – OCTOBER 2007 (TMM)**

##### **For Information**

**Project                      Actions**

<b>Burke Museum</b>	<p>The Burke Museum draft strategic plan has been updated incorporating new initiatives and prioritising actions. Work is underway on changing the layout of the Museum’s workspaces to increase efficiency and cover for decreased staffing levels.</p> <p>Planning is underway for the re-accreditation process of the Museum with a timeline of actions and documentation to be updated. The accreditation will take place in the second half of 2008.</p>
<b>Herald Sun Tour</b>	<p>The Tour will have an overnight stay in Beechworth on Wednesday October 17. A working group has been formed with representation from the Chamber and cycling community. School groups from Beechworth and surrounding towns will attend the arrival of the tour, along with the wider community. Activities planned include live entertainment, an artist creating an ice sculpture of a rail trail scene, Wangaratta Police Bike Patrol, free bike engraving service, Beechworth Health Service sausage sizzle, cycle simulator and giveaways. There will also be a cycle display at the Burke Museum.</p> <p>To capitalise on publicity opportunities there will be a Rail Trail Challenge, with up and coming local cyclist Matt Clark racing up the rail trail against the Herald Sun Tour cyclists arriving in Beechworth via Wangaratta Road.</p>

<b>Snowy Valleys Way</b>	<p>Snowy Valleys Way gave a presentation to Council on 21 August. Council heard the financial commitment expected from Indigo Shire this financial year is \$15,000 to support the ongoing marketing program. There is currently an allowance of \$2,000 in Council's budget for 07/08 for this activity. The Snowy Valleys Way Committee will meet in November to finalise the second stage of the project and firmly set financial requirements.</p> <p>Snowy Valleys Way signage is proposed to be erected at the entrances to Beechworth and Yackandandah, with approval currently being sought from VicRoads.</p>
<b>Beechworth Official Visitor's Guide</b>	<p>The Beechworth Official Visitor's Guide will need to be reprinted within the next six months and additional sponsorship is being sought to offset the cost. Several local operators have taken advertising space in the reprint, however a major back page sponsor is still being sought.</p>
<b>Beechworth Advertising Campaign</b>	<p>Late last year the Shire partnered with the Beechworth Chamber of Commerce to produce a Beechworth television advertising campaign. The campaign was to last a year, however when tourism numbers dropped in December/January due to the bushfires the advertising was stepped up. Due to budget limitations the funds for the campaign were quickly exhausted.</p> <p>An allocation from Tourism Victoria's Bushfire Recovery fund has enabled this campaign to be picked up again and will be matched \$ for \$ by the Chamber of Commerce. The campaign was reinstated in early September.</p>
<b>Media visits</b>	<p>We have recently hosted several visiting journalists to the Shire. Andrew Bain from The Age produced a double page spread in The Age's Saturday travel section on Beechworth, published on September 15.</p> <p>Beechworth also featured heavily in an article in the conference industry magazine Quorum published in August. Herald Sun travel editor Kathleen Cuthbertson recently visited and rode the Rail Trail as part of a Herald Sun Tour pre publicity feature. This is expected to appear in the next few weeks.</p> <p>Sheridan Rogers from the Sunday Herald Sun also visited with a focus on food and wine. This article is also expected to appear in the next few weeks.</p> <p>The Wagga Wagga Daily Advertiser ran a feature on Yackandandah after being hosted by the Yackandandah &amp; District Tourism Association.</p> <p>Several more media visits are planned over the next few weeks including a journalist from the Adelaide Advertiser</p>

	focussing on the rail trail and Ned Kelly experiences.
--	--

## **15.0 FINANCE**

### **15.1 AUGUST 2007 FINANCE REPORT – (FILE NO: M064 – CFO)**

#### **For Information**

#### **BACKGROUND**

Attached are the financial reports to August 2007 and shows a comparison between the YTD actual position and the YTD budgeted position for the period.

#### **SUMMARY**

##### **Profit and Loss Statement (A.1)**

##### **YTD Actual v YTD Budget**

Council is reporting a YTD surplus of \$7.2 million against a YTD budgeted surplus of \$7.4 million. This represents an unfavourable variance of \$230,000 or 3%.

The underlying surplus which excludes capital income and focuses on operating expenditure and operating income shows a surplus of \$7.12 million against a budgeted surplus of \$6.78 million or a favourable variance of 5% or \$343,000.

##### **Departmental Profit & Loss Statement (A.2) pg 3**

##### **YTD Actual v YTD Budget**

The operating revenue and expenditure report by department shows a favourable variance of \$390,447 or 5.8%. All departments are showing favourable variance against budget with the exception of the Assets and Infrastructure department which is due to higher depreciation charges of \$45,000 as compared to the YTD budget. Further information in relation to variances is detailed in the report.

##### **Balance Sheet (B) pg 4**

##### **YTD Actual v Last year YTD Actual**

Council balance sheet reflects a strong position with cash and investments on hand of \$2.63 million. This compares favourably to August 06 when Council held \$1.65 million of cash and investments. Council's net current asset (working capital position) at the end of August is \$8.94 million which compares favourably to the same period last financial year of \$7.95 million.

##### **Cash Flow Statement (C) pg 5**

Council has collected 8% (\$705,000) of its total rates to be collected in the 2007/08 year income of \$8.45 million to the end of August 2007. This compares to 5% of total rates and charges collected for the same time last financial year.

### **Capital Works**

Expenditure for the month of August was \$274,735 compared to budgeted expenditure of \$642,643. Expenditure for the 2 months to August is \$629,000 compared to budgeted expenditure of \$1.29 million.

The majority of expenditure incurred in the current year relates to the completion of a number of uncompleted projects from the 2006/07 year, including the Rutherglen Memorial Hall (\$245,729), the Wooragee Hall (\$55,134), and other projects not completed at 30 June 2007. The capital works program is currently being programmed with little work commencing in relation to the 2007/08 budget. As in prior years a number of projects from the 2006/07 year that were not completed will be incorporated into the revised capital works budget.

*Attachments*

## **16.0 GOVERNANCE**

### **16.1 FRIENDSHIP AGREEMENT – ATAURO ISLAND (FILE NO: M005 – CEO)**

#### **For Decision**

#### **RECOMMENDATION**

**That the Friendship Agreement letter forwarded from Ruben Joao Braz de Carvalho, Dili District Administrator and Bonifacio Soares, Atauro Sub District Administrator be formally received by Council and that Council acknowledge that this exchange of letters between Indigo Shire Council and Atauro Sub District and Dili District Administration formally cements the Friendship Agreement and relationship between Indigo Shire Council and Atauro Island.**

**Moved Cr Walsh  
Seconded Cr Issell**

**That the Recommendation be adopted.**

**CARRIED**

#### **BACKGROUND**

Council has been working with a number of people over the past three years in forming a Friendship Agreement with Atauro Island in East Timor.

A number of Indigo Shire residents have travelled to Atauro Island and this has been instrumental in forming this basic Friendship Agreement.

## **ISSUES**

Now that Council has formally entered into this Agreement, Council and the wider community need to consider and formalise the ways in which Indigo Shire and the broader community will be involved.

To date our Junior Council has been sponsoring a pre school on Atauro Island. Other individuals such as Dr Wendy Connor have been to Atauro Island of their own accord and have provided their personal expertise. Funds have also been raised for a malnutrition program via film screenings across the Shire.

The question for Council is to now activate more formal approaches. Other Councils such as Wangaratta and Mansfield have organised a delegation to go to their Friendship Partner in East Timor. Council should therefore consider whether a formal delegation needs to be organised.

I would suggest that this is the case and that Council should be represented by Councillor Frances Walsh as she has been instrumental in implementing this Friendship proposal. It is suggested that Cr Walsh would be joined by other community members who might wish to attend.

Normally in these circumstances Council contributes some funding towards the trip but the majority of costs are borne by the participants.

## **COMMUNITY CONSULTATION**

Council should also call together the informal working party that Council has utilised in the past to acquaint everyone with the current situation and to provide further information to Council and the community on activities that can take place.

Council should also give appropriate publicity to the formalisation of the Friendship Agreement and seek the wider community involvement.

## **FINANCIAL IMPLICATIONS**

Council does have a budget item of \$2,600 which mainly covers the administration of this Friendship Agreement. There is a small amount of \$500 earmarked for sponsorship and donations.

## **16.2 CEO ANNUAL LEAVE (FILE NO: M998 - CEO)**

### **For Decision**

### **RECOMMENDATION**

**That David Montgomery be appointed as Acting Chief Executive Officer for the period Monday 22 October until Friday 2 November 2007 due to the absence of the Chief Executive Officer on annual leave.**

**Moved Cr Dale  
Seconded Cr Hotson**

**That the Recommendation be adopted.**

**CARRIED**

### **BACKGROUND**

The Chief Executive Officer has advised that he intends to take annual leave from Monday 22 October until Friday 2 November 2007.

It is necessary for Council to appoint an Acting Chief Executive Officer for this period and it would be appropriate that Mr David Montgomery, General Manager Corporate & Visitor Services be appointed to that acting position.

## **16.3 DROUGHT / WATER ISSUES (FILE NO: D100.4 – CEO)**

### **For Decision**

### **RECOMMENDATION**

- 1. That Council note the public information provided by the Federal and State Governments in providing assistance to farming families and rural communities as a result of the seriousness of the drought situation.**
- 2. That Council continue to monitor the local situation and be involved in drought assistance activities where possible.**
- 3. That Council call for a direct briefing by State Government and / or instrumentalities including the Department of Sustainability and Environment, Goulburn Murray Water etc to explain the current philosophy and implementation plans for the State Government's *Our Water our Future* initiative so that Council is better informed and able to make a definitive decision on support or otherwise to these initiatives. The briefing should include an overall briefing to North East Councils as well as specific detailed briefings for each municipality on potential issues and opportunities for that municipality.**

**Moved Cr Dale  
Seconded Cr Murdoch**

**That the Recommendation be adopted.**

**CARRIED**

### **BACKGROUND**

The State and Federal Governments have, in recent months, announced a range of initiatives and support as a result of the continuing drought situation.

These initiatives include support from the Federal Government in extension of exceptional circumstances conditions and support, grants to farming families and small business, schools and communities affected by the drought. The Federal Government has announced over \$1B worth of assistance in recent weeks.

In relation to this type of assistance, Council is working with various agencies and authorities to ensure farmers in our region are aware of the assistance that they can receive and that they do apply for it.

The State Government has not been announcing grants and subsidies but as most would be aware, in recent months, have been announcing long term strategic plans to improve the irrigation system and to provide greater water security for Melbourne via a desalination plant to be constructed near Wonthaggi and construction of pipelines to supply water to major urban centres such as Melbourne, Bendigo and Ballarat.

Some of these initiatives are already underway, but the major one which is of concern to North East Victoria is the modernisation of the irrigation system and transfer of water out of the Goulburn Murray Catchment to Melbourne via the Sugarloaf Inter-connector pipeline.

Councillors have been acquainted with all these initiatives and strategies, but have not formed any definitive opinion on the issues other than to continue to support Indigo Shire community in the drought situation.

We have received a letter from Murrindindi Shire Council asking for support and financial contribution towards the preparation of a Communication Strategy that includes:-

- a) writing to the Municipal Association of Victoria (MAV) requesting that it advocates with the Government the concerns and issues of the Sugarloaf Pipeline;
- b) writing to the MAV requesting it advocate to the Premier and appropriate Ministers regarding the lack of consultation over the Pipeline and that Local Government should be involved in any proposed projects that affect their municipality;
- c) a letter be drafted for co-signing by Councils affected by the Sugarloaf Pipeline Project for distribution to municipalities in Victoria requesting their support for the control of planning to be left in Council hands and that an independent Environmental Affects Statement be completed and that the removal of 75 gegalitres of water from the Goulburn River is bad water policy.

Bass Coast Shire Council has written expressing its concerns about the proposed

desalination plant at Wonthaggi (within Bass Coast Shire) and suggesting that the State Government's water plan has not been properly researched.

It advises that it has supported the National Party motion requesting an inquiry into the relative merits of supplementing Melbourne water supplies from "external sources" such as the desalination plant and pipeline proposals.

The National Party has been successful in having Parliament agree to an inquiry into the future of Melbourne water supply system.

## **ISSUES**

Everybody is starting to recognise the enormity of the current drought situation. People were very pleased after reasonable rains earlier in the year, crops were sewn and farm dams were full and things looked very optimistic. However, the follow up rains did not occur to supplement the crops, generally replenish groundwater systems and provide continued relief.

In our area and very importantly for the rest of our state, New South Wales and further down to Adelaide, there was no major rainfall over prolonged periods in the catchment areas for the major storages. Whilst this does not directly affect Indigo Shire to a large extent, those downstream relying on irrigation and the Murray River system, have the lowest water allocations ever experienced.

In Indigo Shire we have pockets where things don't appear to be so bad but other pockets where there are worrying times.

We all need to be concerned about the overall State and Federal Government water policies and strategies, even though they may not directly affect water supply within our municipality.

Certainly, the massive expenditure proposed by the Federal and State Governments on drought support and future water strategies has to be funded from the public purse to a large extent and indirectly this affects all taxpayers and water users.

In prior discussions on the issues mentioned in this report, Council has discussed the lack of initial information and has had difficulty in analysing the affects for Indigo Shire. Much of this is looking at the detail of the strategies and not at the overall philosophy.

The main issue for Indigo Shire is the general philosophy of whether water should be removed from one catchment and artificially taken into another catchment. I obviously refer to the State Government plans for the pipelines taking water from the Eildon Goulburn River system into Melbourne via the Sugarloaf Pipeline and from the Murray and Goulburn systems, again, interconnecting with the Sugarloaf proposal and other pipelines to Bendigo and possibly Ballarat.

The State Government has explained the modernisation of the Goulburn Murray Irrigation System and outlined how it would only be taking savings from that system into other catchments. However, the main issue is that if there are savings to be made, that those savings would be better off being utilised in the catchment in which they occur and providing security of supply in that catchment, rather than being transferred elsewhere.

There is much conjecture that Melbourne's water supply can be reduced or contained by further water savings, collection of stormwater and reuse of treated wastewater or small locally based desalination plants. The National Party inquiry is supposing to look at these types of issues. Unfortunately the answers to that will take some time and in the meantime the State Government is pushing ahead with its strategies in transferring water.

I do not believe that anyone should be arguing about the proposed modernisation of the irrigation system as it is long overdue. This is the reflection of poor asset management and not keeping up with technology with appropriate investment over countless years. Many irrigation farmers and the water authorities have attempted to do this but have not had the massive infrastructure funding that is now available under the current State Government proposals.

The major issue for Indigo Shire is to provide leadership in the current drought situation and support the community wherever possible. This will include direct support within the Shire but also involvement in lobbying activities on behalf of our community.

In relation to strategic water planning the Council needs to fully understand what these plans are, the philosophies behind them and any ultimate affects (both positive or negative) that will come to our Shire and region.

I believe that Council should work with other municipalities in the North East in attempting to have a much better understanding of the issues and benefits and then form very strong opinions that can assist future advocacy. I don't believe all our opinions in the North East will be the same because of the different affects in different areas. However, it is Council's duty to work with its community and other Councils in forming the best opinion possible and then supporting the implementation of plans that really achieve something for our community.

### **CONSULTATION**

To achieve the above I believe that a water summit should be called for North East Councils where the State Government and various water authorities / instrumentalities can advise us collectively of proposals, strategies and implementation plans and the benefits of what is proposed. If some overall opinion can be formed, well and good.

The second stage is that the same authorities should be advising each municipality of the particular issues within their municipality and again, the issues and opportunities that exist.

I would suggest that this meeting be best called through the North East Local Government Forum and be done as a matter of urgency.

### **FINANCIAL IMPLICATIONS**

If there is a cost in running the forum all Councils in the North East should be requested to contribute to it.

If the forum agrees to other ideas such as the Murrindindi Shire ideas then appropriate investigation and advocacy should be developed. Again, this needs to be done in a short timeframe.

The overall costs of Council's involvement in drought mitigation and support for the community is unknown. We do not have any contingency amount in our current budget but need to be ready to develop an avenue of appropriate funds by reducing other projects and seeking external assistance from the State or Federal Government. One such level of assistance might be to have a Community Development / Drought Officer employed for a short time.

Funds for other activities relating to water strategy also need to be derived in some manner as again, there is no allowance in the budget for these activities.

## **16.4 RUTHERGLEN HEAVY VEHICLE DEVIATION ROUTE – LEGAL ADVICE (FILE NO: T360.1-02 – CEO)**

### **For Information**

### **BACKGROUND**

As part of the follow up from Council noting the report of the Focus Group on the Rutherglen Heavy Vehicle Deviation route, letters were sent to a number of landowners whose properties were in the general vicinity of routes highlighted in the Focus Group's report.

A number of those owners have contacted Council advising that they believe the fact that they have received a letter would mean that their properties would now have an encumbrance on the title and they would also find them difficult to sell.

At the public meeting on Monday 3 September I advised that I would seek legal advice regarding this issue.

### **ISSUES**

McSwineys Barristers and Solicitors have advised:

“Firstly, in our opinion, the letter (that Council has sent) would not be an encumbrance on title as it has been held by the Supreme Court of Victoria on at least 2 other occasions that contingent or statutory liabilities are not an encumbrance and we believe that the letter setting out various options and possibilities would similarly be interpreted.

Secondly, it would be our opinion that a prudent purchaser would include a copy of the letter and report in the vendor's statement that is required to form part of the contract in accordance with Section 32 of the *Sale of Land Act*.”

McSwineys then go on to provide some explanation as to why they believe the above actions are relevant.

My understanding of past situations and now this legal advice, is that I fully agree with McSwineys' interpretation with the general thrust of it being that one needs to err on the side of caution in dealing with sale of land.

McSwineys also address the issue of compensation and state “we do not believe that the letter would trigger any entitlement to compensation. The right of compensation is normally based only on a rezoning of land as public purpose under the *Planning & Environment Act 1987* or alternatively after a notice of intention to compulsorily acquire the land under the *Land Acquisition and Compensation Act 1986* is served. Neither of these actions would be necessary unless land was actually to be acquired”.

I will write to the people we have sent letters to and any other enquiries providing a copy of McSwineys’ advice.

**16.5 GOVERNANCE – WORK IN PROGRESS – OCTOBER 2007 (CEO)**

**For Information**

<b>Project</b>	<b>Actions</b>
<b>Councillors Training</b>	None attended in the past month.
<b>MAV Annual Conference</b>	Crs Graham & Dale are booked to attend this conference in early November. The recent MAV Board meeting held in Beechworth has been hailed as a great success by the Board and regional council representatives.
<b>The Council Plan</b>	Departmental Plans being revised in line with the newly adopted budget.
<b>The Council Budget</b>	Chief Finance Officer has completed budget establishment, Forecasts and reporting systems. SMG now reviewing budget v actuals on a monthly basis.
<b>Community Forums</b>	A Forum was held at Rutherglen on 25th September. The next Community Forum will be at Beechworth on 23 <sup>rd</sup> October.
<b>Media &amp; Communications</b>	Excellent media coverage continues with numerous stories covering activities across the Shire.
<b>CEO Recruitment Process</b>	FM Consulting has been appointed. Applications have closed and first round screening interviews will commence this week.
<b>Operations Manager</b>	Short listed applicants been listed for interviews by McArthur Management. I then hope to advertise the remaining vacant positions in this Department straight after that process is completed.
<b>Municipal Offices Project</b>	A special edition of the Indigo Informer and survey forms were posted to all ratepayers but were delayed because of problems with the printing and distribution contractor. Closing date was extended to by one week to the 28 <sup>th</sup> of September. The surveys are being independently assessed and reported on. A short list of people willing to be involved in a Focus group is also being prepared but will not be available for consideration at this Council meeting because of the delays.

<b>Drought Issues</b>	The CEO & Cr Dale discussed drought issues at the recent NELGN meeting in Wangaratta. The CEO has also been advocating for increased consideration of drought issues at the Small Towns Steering Committee. Regional representations seem to be having an effect on State and Federal Government decision makers.
<b>Web Site Redevelopment</b>	Council staff are working on further layout improvements to the web site.
<b>Murray to the Mountains Rail Trail</b>	All funding agreements have been completed and VicTrack are preparing the final version of the lease after discussions with them last week.

## **17.0 NOTICE OF MOTION**

## **18.0 COMMITTEE AND DELEGATES REPORTS**

### **18.1 SEPTEMBER DIARY - CR P GRAHAM**

<b>Date</b>	<b>Time</b>	<b>Function</b>
1 Sept	10.30 am	BNC Community Event, Queen Vic Gardens, Beechworth
	112 noon	Visit New Crystal Spring Art Gallery, Beechworth
3	1.30 pm	Rutherglen Historical Society Tour of Rutherglen Hall
	7.00 pm	Public Meeting, Rutherglen Heavy Vehicle Deviation Bypass
4	9.30 am	Admin NevRWaste Wangaratta
	11.30 am	Weekly meeting with CEO, Beechworth
	12.30 pm	Meeting with Derek Isles, Beechworth
	3.30 pm	Meeting of Councillors, Chiltern
	4.00 pm	Council Briefing Meeting, Chiltern
	7.00 pm	Council Meeting, Chiltern
5	10.00 am	Rutherglen Primary School, Book week
	7.30 pm	Official Opening "SalesForceAustralia" Conference, Beechworth
6	9.30 am	Meeting with ratepayer at Rural Transaction Centre
	10.30 am	Visit by Keith Payne VC, Rutherglen Memorial Gardens
	2.00 pm	Meeting with MAV Board, Beechworth
	6.30 pm	MAV Board North East Region Dinner - Beechworth
7	9.30 am	Murray Darling Basin Commission Meeting, Cobram
8	6.30 pm	60 <sup>th</sup> Anniversary Dinner Region 24 VRFB, Albury
10	7.00 pm	Chiltern Progress Association AGM, Chiltern
11	9.00 am	Admin, NevRWaste Wangaratta
	11.30 am	Weekly Meeting with CEO
	5.00 pm	Australian Citizenship Ceremony, Chiltern
17	9.00 am	Board Meeting, Rutherglen Wine Experience
	1.30 am	Indigo Disability Advisory Committee meeting, Yackandandah
18	11.30 am	Weekly Meeting with CEO, Beechworth
	4.00 pm	Council Briefing Meeting, Yackandandah

19	10.30 am	MAV Waste Forum Meeting, Melbourne
20	1.00 pm	Road Safety North East Meeting, Wangaratta
21	10.30 am	Admin, NevRWaste Wangaratta
	12.30 pm	Official Opening State Office Accommodation, Wangaratta
23	12.30 pm	Indigo Golf Challenge, Rutherglen
25	11.00 am	MRDB Launch, Corowa South Primary School
	4.00 pm	Council Briefing Meeting, Rutherglen
	7.00 pm	Community Forum, Rutherglen
26	10.00 am	Rutherglen Information Centre 10 Years Accreditation Morning Tea
	1.00 pm	MAV Information session Victorian Police Consultations, Wangaratta
28	4.00 pm	Meeting with Consultant/CEO Recruitment, Chiltern

Cr Peter Graham OAM  
2 October 2007

## **18.2 MAV WASTE REFERENCE GROUP (FILE NO: M506-12 - CR P GRAHAM)**

### **For information**

The third meeting of this group was held at the offices of the MAV on Wednesday 19 September 2007, when several topics were discussed:

1. EPR (Extended Producer Responsibility). This goes beyond Container Deposit Legislation i.e. 5 cents per can etc as in SA, and asks each manufacturer to be responsible for their product from production to disposal (beyond selling to a user).

A proposal to hold a forum to discuss pros and cons on CDL was scheduled for 18 October 2007 but has been postponed to a date yet to be set.

The committee believes it is the manufacturer's problem to ensure the product, as well as the packaging being disposed of in the correct fashion when its useful life has ended.

2. AWT (Alternative Waste Technology). There are a variety of high tech methods being used or under consideration to dispose of waste material. Many technologies are on the market or in the design phase and the committee is keen to be briefed on these AWTs and proposed a tour of operating facilities in NSW and SA.

Both these suggestions/recommendations will be put to the MAV for consideration.

At the final meeting scheduled for this year in December a further item is to be considered on TZW (Towards Zero Waste) and the problems and strategies to be identified and recommended to the MAV for its consideration.

### **18.3 ROADS SAFE NORTH EAST COMMUNITY ROAD SAFETY COUNCIL INC (ROADSAFE NE VIC) AGM (FILE NO: T403 CR P GRAHAM)**

#### **For information**

The 17<sup>th</sup> Annual General Meeting of the above group was held in Wangaratta on 20 September, 2007.

The previous Executive Committee of Chairman Graham CORR, Deputy Chairperson Rob ALLEN and Public Officer Michael WALSH were all returned unopposed.

The financial situation of the group is good with funding carried over from last year to complete a delayed program on Daytime Running Lights being accepted by VicRoads and all other programs continuing into this year.

The group is to investigate the change over of the group owned speed trailer for a model similar to those operated by VicRoads.

The AGM was addressed by Ms Samantha Cockfield, Manager Road Safety TAC who identified the range of road safety information/programs being conducted by TAC and in conjunction with VicRoads and the RACV.

### **18.4 SEPTEMBER DIARY - CR WALSH**

<b>Date</b>	<b>Time</b>	<b>Function</b>
4 Sept	4.00 pm	Council Briefing Meeting, Chiltern
	7.00 pm	Council Meeting, Chiltern
6	6.00 pm	MAV Board Dinner, Beechworth
8		Drawing of Raffle, Rutherglen High School, Noumea trip
10		Indigo Tourism Board Meeting, Beechworth
11	10.00 am	Junior Council Meeting, Yackandandah
		Landscape Design Meeting, Yackandandah
14		Rutherglen High School Fashion Parade
15		Meals on Wheels, Rutherglen
18		Rutherglen Primary School Water Meeting
	4.00 pm	Council Briefing Meeting, Yackandandah
20		Sustainability Meeting, Shepparton
		Chiltern Primary School Concert
23		Indigo Golf Challenge, Rutherglen
25		Upper Murray Regional Library Meeting AGM, Wodonga
	4.00 pm	Council Briefing Meeting, Rutherglen
	7.00 pm	Community Forum, Rutherglen
28		Meeting with Consultant/CEO Recruitment, Chiltern

Cr Frances Walsh  
2 October 2007

## **18.6. SEPTEMBER DIARY - CR V ISSELL**

<b>Date</b>	<b>Time</b>	<b>Function</b>
1 Sept	2.00pm	Opening of Dayspring Gallery, Beechworth
3	7.00pm	Public Meeting, Traffic Deviation, Rutherglen
4	8.00am	Murray Arts meeting, Albury
	4.00pm	Council Briefing, Chiltern
	7.00pm	Council Meeting, Chiltern
6	7.00pm	Municipal Association of Victoria dinner, Beechworth
7	10.00am	Councillor Duty, Beechworth
11	5.00pm	Citizenship Ceremony, Chiltern
	6.30pm	Community Services Advisory Committee, Chiltern
13	8.00am	Murray Arts meeting, Albury
	3.30pm	VLGA Remuneration committee teleconference
14	10.00am	Councillor Duty, Beechworth
16 - 18	Full days	Renewable Energy & Regional Australia Conference, Bendigo
25	4.00pm	Council Briefing, Rutherglen
	7.00pm	Community Forum, Rutherglen
26	1.00pm	Police/MAV meeting, Wangaratta
28	10.00am	Councillor Duty, Beechworth
	4.00pm	Council governance meeting, Chiltern
29	10.00am	Murray Arts Board meeting, Wodonga

Cr V Issell  
2 October 2007

## **18.7 SEPTEMBER DIARY - CR HOTSON**

<b>Date</b>	<b>Time</b>	<b>Function</b>
3 Sept	7.00 pm	Public Meeting Heavy Vehicle Deviation Rutherglen
4	3.30 pm	Meeting of Councillors, Chiltern
	4.30 pm	Council Briefing Meeting, Chiltern
	7.00 pm	Council Meeting, Chiltern
6	6.30 pm	MAV Board Regional Dinner, Beechworth
8	6.30 pm	60 <sup>th</sup> Anniversary Dinner Vic RFB, Albury
10	2.00 pm	Indigo Tourism Board Meeting, Beechworth
11	5.30 pm	Rural Land Study Reference Group Meeting, Yackandandah
13	5.30 pm	Rural Business Networking Meeting, DPI, Rutherglen
17	7.30 pm	Chiltern Tourism Association Meeting, Chiltern
18	4.00 pm	Council Briefing Meeting, Yackandandah
20	7.00 pm	Chiltern Primary School Production, Chiltern
25	4.00 pm	Council Briefing Meeting, Rutherglen
	7.00 pm	Community Forum, Rutherglen
27	1.00 pm	Chiltern Tourism Association Business Plan Meeting
28	4.00 pm	Meeting with Consultant CEO Recruitment

Cr Bill Hotson  
2 October 2007

### **18.8    SEPTEMBER DIARY - CR MURDOCH**

<b>Date</b>	<b>Time</b>	<b>Function</b>
3 Sept	6.00pm	Heavy Vehicle Deviation Public Meeting, Rutherglen
4	4.00pm	Council Briefing, Chiltern
	7.00pm	Council Meeting, Chiltern
6	6.30pm	MAV Dinner, Beechworth
10	10.00am	Meeting RWE Rutherglen re: Arts Shed
	2.00pm	ITB Meeting Beechworth
	7.00pm	Chiltern Progress Association AGM Chiltern
11	5.30pm	Rural Landscapes Meeting Yackandandah
18	4.00pm	Council Briefing, Yackandandah
20	7.00pm	Chiltern Primary School Concert, Chiltern
25	4.00pm	Council Briefing, Rutherglen
	7.00pm	Community Forum Rutherglen
26	5.00pm	Audit Committee meeting Yackandandah
28	11.00	ALGWA - Benalla
	4.00 pm	Meeting with Consultant/CEO Recruitment, Chiltern

Cr Barbara Murdoch  
2 October 2007

### **18.9    SEPTEMBER DIARY - CR BANKS**

<b>Date</b>	<b>Time</b>	<b>Function</b>
4 Sept	4.00 pm	Council Briefing Meeting, Chiltern
	7.00 pm	Council Meeting, Chiltern
6	6.30 pm	MAV Board Dinner, Beechworth
13	5.30 pm	MEMC Meeting, Rutherglen
17	5.00 pm	Meeting with Fiona Larkin, Beechworth Chamber of Commerce
	7.30 pm	Baarmutha Park CoM Meeting
18	4.00 pm	Council Briefing Meeting, Yackandandah
25	4.00 pm	Council Briefing Meeting, Rutherglen
	7.00 pm	Community Forum, Rutherglen
27	4.00 pm	Murray to Mountains Rail Trail Committee Meeting, Myrtleford
28	4.00 pm	Meeting with Consultant/CEO Recruitment, Chiltern

Cr Andrew Banks  
2 October 2007

## **18.10 SEPTEMBER DIARY - CR DALE**

<b>Date</b>	<b>Time</b>	<b>Function</b>
6 Sept	2.00 pm	MAV Board Meeting with NE Councils, Beechworth
	6.30 pm	MAV Board Dinner, Beechworth
7	9.15 am	MAV Board Meeting, Beechworth
10	7.00 pm	Yackandandah/Kiewa/Tangambalanga CAC Meeting, Yackandandah
11	5.00 pm	Citizenship Ceremony, Chiltern
	6.30 pm	ISCSAC and Community Grants assessment, Chiltern
13	5.00 pm	North East Local Government Network meeting, Wangaratta
18	4.00 pm	Council Briefing Meeting, Yackandandah
21	11.30 am	CEO Farewell Planning Group Meeting, Beechworth
23	11.45 am	O&M Grand Final luncheon and game, Lavington
25	4.00 pm	Council Briefing Meeting, Rutherglen
	7.00 pm	Community Forum, Rutherglen
28	10.00 am	ALGWA Vic Branch NE Group meeting, Benalla
	4.00 pm	Meeting with Consultant re CEO Recruitment, Chiltern

Cr Jenny Dale  
2 October 2007

## **19.0 GENERAL BUSINESS**

### *19.1 Boom Gates – Barnawartha*

Cr Graham was advised by VicTrack that the works at the Barnawartha boom gates were 30% complete and would be finished in November.

### *19.2 Hume Building Society Annual Report*

Tabled

### *19.3 Border Mail article – Indigo Shire*

Cr Issell made comment on the article of Lifespan of Indigo men in the Border Mail on 1 October.

### *19.4 Heritage Signage*

Cr Banks queried what action will be taken on investigating signage across the Shire. The Environment & Development Services Manager advised it was difficult to investigate because of lack of staff resources.

## **SUSPENSION OF STANDING ORDERS – 9.50 PM**

Moved Cr Dale  
Seconded Cr Murdoch

That Council resolves to go into Committee to consider a confidential item relating to a contract.

**CARRIED**

## **RESUMPTION OF STANDING ORDERS – 10.00 PM**

Moved Cr Dale  
Seconded Cr Banks

That Standing Orders be resumed.

**CARRIED**

## **20.0 CONFIDENTIAL**

**PURSUANT TO SECTION 77(2)(c) OF THE LOCAL GOVERNMENT ACT 1989  
I HEREBY DESIGNATE THE ATTACHED INFORMATION AS  
CONFIDENTIAL AS IT RELATES TO TENDERS.**



**John P Costello**  
**CHIEF EXECUTIVE OFFICER**  
**02/10/07**

## **20.1 CLEANING OF COUNCIL BUILDINGS, TOILET BLOCKS & BBQ'S (FILE NO: Q007/02 - AOM)**

### **For Decision**

### **RECOMMENDATION**

**That Council:**

- 1. Accept the tender of Wayne Cleaning Services, for a contract period of three plus two years at a contract value of \$135,716.62 per year, commencing 1<sup>st</sup> November 2007, Contract Q07/02.**
- 2. Advise unsuccessful tenders and thank them for their interest in these works,**

especially the service provided by D&K Cleaning for the last 5 years.

3. Sign and seal contract documents with Wayne Cleaning Services for Contract Q07/02 Cleaning of Council Buildings, Toilet Blocks and BBQ's

**Moved Cr Hotson  
Seconded Cr Issell**

**That the Recommendation be adopted.**

**CARRIED**

There being no further business the meeting was declared closed at 10.00 pm.

.....  
Cr Peter Graham – Mayor

30/10/07