

***Mission Statement:***

***To support and develop a sustainable, thriving and resilient Community  
through leadership and partnership.***

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**HELD:** Tuesday 8<sup>th</sup> December, 2009 at 1500

**LOCATION:** The Supper Room, Beechworth

**ATTENDEES:**

Councillors:	Senior Management/Officers
Bernard Gaffney – Mayor	Brendan McGrath – CEO
Ali Pockley – Deputy Mayor	Andre M Kompler
Peter Croucher	Mark Crouch
Barbara Murdoch	Mark Florence
Peter Graham	Susan Cheetham
Vic Issell	Jo Riley
Larry Goldsworthy	Robert Uebergang
	Stuart Perry
	Roberta Baker

**APOLOGIES:** Nil.

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***Vision statement:***

***INDIGO – A great place to live, work and visit.***

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**1.0 WELCOME**

Cr Gaffney welcomed those in attendance.

**2.0 OPENING PRAYER**

Cr Pockley read the Opening Prayer.

**3.0 APOLOGIES AND LEAVE OF ABSENCE**

Nil.

**4.0 DECLARATION OF PECUNIARY INTEREST AND CONFLICT OF INTEREST**

Officer – Frank Bonacci (Finance Manager) declared a direct conflict of interest in regard to item 10.3 *Indigo Planning Scheme request for rezoning of 8 Albert Road, Beechworth – Beechworth Gallery* as his property is within the area in question.

**5.0 OPEN FORUM**

Cr Croucher introduced Miss Claire Neal from St Joseph’s Primary School in Beechworth. Claire provided Councillors with an update on her activities as part of Junior Council, particularly with fundraising efforts for the wombat enclosure.

**\* The CEO presented to the meeting questions raised from Keith Buckingham:**

1. Does Council believe it is fair for a developer on one side of a road to incur the full cost of road construction meaning landowners on the other side will pay nothing when they subdivide their land? We are happy to make a generous contribution to the cost of the road but don’t see why we should have to pay for it all.
2. Is there an adopted written Council Policy that apportions the cost of road construction between benefiting landowners and/or Council? If so, can we see it? If not, on what basis are we being asked to incur the full costs of the road?
3. Does Council want to be consistent in its decision making on this issue? If so, why aren’t previous arrangements for cost apportionment being applied to Nashes Road? (such as Meehans Lane, Osbornes Flat).
4. Is Council aware there is legal precedent (VCAT) in Indigo Shire relating to very similar circumstances that goes tot the issue of apportionment costs? (Larkins v Indigo Shire Council) Would Council be prepared to use this judgement in guiding what proportion I should contribute?

***Officer Susan Cheetham (Manager Sustainable Development) provided the following response:***

***The schedule to the Development Plan Overlay requires a number of matters in any development plan. These include important matters to:***

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

***Provide suitable linkages between the site and low density residential and urban areas for road, public, bicycle and pedestrian transport facilities.***

*The schedule is also specific to Nashs Road. The specific provisions were introduced with the amendment that rezones this specific site. The schedule requires (amongst other things) that:*

*A Transport Impact Assessment Report shall be prepared in conjunction with any development plan having regard to Vic Roads Access Management Policies to determine the extent of mitigating works required on declared arterial roads. These works shall be determined in consultation with Vic Roads.*

*The approved Development Plan also carries these requirements.*

*In general terms the matters bearing on validity of conditions on planning permits are:*

**Relevance**

- *A condition must fairly and reasonably relate to the permitted development;*
- *A condition must serve a planning purpose such as achievement of a planning policy set out in the Act or the scheme;*
- *A condition must not be imposed in order to achieve an ulterior or irrelevant planning purpose;*

**Reasonableness**

- *A condition is invalid if it is so unreasonable that no reasonable responsible authority would have imposed it;*
- *Superfluous or unnecessary conditions are potentially unreasonable;*

**Certainty**

- *A condition could be found to be invalid if it is overly vague or uncertain;*
- *The permit must represent the end of the decision-making process - it should not leave open an uncertain future process;*
- *A condition, which, if complied with, would legally transform the use or development applied for, is also invalid.*

*The assessment of this particular permit application gave attention to these matters.*

*In relation to the specific issues raised the following commentary is provided.*

**1. Footpaths**

*Internal footpaths are not necessary, are unsightly and have not been required elsewhere. The objection has previously also been to the effect that footpaths should not be required to link the new development to the existing footpath network.*

*Council's position as reflected in the permit conditions is that the requirement for footpaths has been made by applying current design considerations to the needs created by the subdivision.*

*Separation of pedestrians and vehicles is a fundamental safety provision. Further, consideration must be given to all pedestrian traffic, including mothers with prams and mobility scooters, which necessitates the provision of paved surfaces.*

*It is not unreasonable to expect that a subdivision of this nature would generate this sort of pedestrian traffic.*

*Additionally it is a time where the population is being encouraged to increase its level of activity for both personal health and the environment by reducing the reliance on cars. Adequate provision of footpaths is strongly supported by town planning programmes such as “Active by Design” developed by the Australian Heart Foundation.*

*The entrance to the internal road within the subdivision is 1.6km from the centre of Rutherglen, there are no steep grades, and the distance is not unreasonable for a pedestrian.*

*It is considered that the footpaths required by the permit will provide valuable infrastructure to the residents of the subdivision.*

*Regarding your examples of subdivision construction requirements, most older subdivisions did not have requirements to provide footpaths, but most recent subdivisions do.*

*Some of your examples are incorrect.*

*The planning permit for Vision View Estate has a requirement for a link footpath to Yackandandah. Approved plans for Melville Estate include a footpath to one side of the internal road, and 200m of 2m wide link footpath. There are other examples Mr Buckingham has not included where recent subdivisions have either provided substantial link paths or made substantial contributions in other ways.*

*It is also worth noting that the examples that Mr. Buckingham chooses are generally of smaller developments, where the cost per lot for link paths can be excessive. An issue that would be considered in formulating the conditions of a planning permit.*

## **2. External Roads**

*The requirement applied to the planning permit for construction of Nash’s Road should be reduced and the requirement for upgrading the Hopetoun Road,/Murray Valley Highway intersection should also be reduced.*

*Council’s position as reflected by the permit conditions is that the internal road requires a particular road width based on usage. That road width should then be applied to the external road as the need continues from the internal road to the external road, and on to the point of connection to the sealed road network.*

*Regarding potential development on the western side of the road, that potential has not been included in the assessment of the width of the Nash’s Rd seal for the Buckingham subdivision.*

*The main issue is that the need for the sealing of the road commences with the commencement of the Buckingham subdivision. Council road standards ensure a level of safety for road users. Any reduction of these standards, on the basis that there may eventually be other development that would complete the road, should be done with caution.*

*Vic Roads have required upgrade of the intersection with Murray Valley Highway as part of*

*the planning permit conditions for the subdivision.*

*Your suggestion seems to be that Council impose a special charge scheme on persons other than himself to assist with construction. The primary beneficiary will be you and the upgrade to roads is required for this subdivision.*

*In summary this particular application has had a high level of scrutiny and consideration since the submission of the application in 2008. The permit conditions are in keeping with the Development Plan submitted by yourself, and the conditions are in accord with VCAT decisions on what constitutes a valid planning permit condition.*

*The conditions are considered reasonable and appropriate to the context.*

**\* The CEO informed Council that Robert and Lee Whammond emailed a the following queries to Council:**

We ask the Council to record in its deliberations the following actions where it has not complied with the requirements of Local, State or Federal legislation.

1. To which legislation did Council refer when it chose to disregard S60 and S65 of the P&E Act, Conditions 4, 8, 9 and 10 of PP00-051 and IPS Farming Zone S35.07-1-2-3-4-5-6?
2. To which legislation or authority did Council refer when it chose NOT to use the referral authorities of CFA and DSE, when it became apparent that the condition for Bush Fire Protection, Existing Trees and Location had been contravened?
3. What criteria did Council use to determine that poor outcomes would not be created when it approved a development that contravened permit conditions, Local, State and Federal legislation?

***The CEO advised that a response will be forwarded to Robert and Lee Whammond as soon as practicable.***

**\* Gerald Tyrrell of Rutherglen raised the following questions:**

1. What is the yearly total expenditure spent on salaries of staff in each of the following:- the Rutherglen Museum, the Chiltern Athenaeum, the Stanley Athenaeum and finally the Burke Museum?
2. What is the Indigo Shire Council's break down of rate revenue by rate and paying categories and the number of rate payers per category?

***The CEO advised that a response will be forwarded to Gerald Tyrrell as soon as practicable.***

**\* Ms Gene Horne of Beechworth raised the following questions:**

1. Quote "The reasoning behind the request is purely for financial gain and because there is no strategic justification for rezoning in this instance, it is submitted that the request should not be supported." I found this reference 'for purely financial gain' insulting and ignorant. Any person buying a Commercial Property would naturally expect to make a financial gain, that is how a self employed person pays for their food, rates and hopefully provide for their retirement. We worked seven days a week for eleven years to hopefully make a financial gain. Personal statements such as were made is rude. This is an admission that we have been unfairly subjected to a financial loss, a huge loss at that, with the devaluation of the property. Will Council now right this injustice, for the benefit of the Beechworth community, and set in motion the reversal of this zoning to it's original and rightful Commercial Zoning?
2. You state the planning permit has been issued. It is our understanding that this is still before VCAT with the matter having been referred to the Deputy President. Our neighbour Michael Ward was directed by Council to take the matter to VCAT. The council has paid for his application. He had not been notified by council of this planning permit application. More waste of ratepayers money. A previous planning application for a restaurant had been approved with off site parking. Some years ago we applied to council to sub-divide the property (at 8 Albert Road, Beechworth). Our request was denied on the basis it would destroy the established garden with it's numerous trees. What has changed, that Council now want to allow a substantial part of the garden to be demolished to put 12 car parking spaces on the land? Understandably the neighbours strongly object to this. We support their objection.

***The CEO advised that the neighbours were not notified of this action and that Indigo Shire Council are covering the VCAT application costs only. Indigo Shire Council have been and are continually committed to trying to resolve the issues raised.***

**6.0 CONDOLENCES**

Nil.

**7.0 CONFIRMATION OF MINUTES FROM PREVIOUS MEETING - 101109**

**Moved Cr Murdoch  
Seconded Cr Croucher**

**That the Minutes of the Ordinary Council Meeting held 10<sup>th</sup> November 2009 be adopted.  
UNANIMOUSLY CARRIED**

**8.0 BUSINESS ARISING FROM PREVIOUS MINUTES**

Nil.

**9.0 DEPUTATIONS AND PETITIONS**

Nil.



Site Constraints:	Registered Restrictive Covenant; 0.82ML Catchment Yield. The subject site is undulating land used for grazing. It occupies part of a localised ridge that runs in a north – south direction, parallel with Slaughterhouse Road. The western half of the land drains toward the rear of the adjacent Low Density Residential Zone (LDRZ) properties, while the eastern half drains generally toward Slaughterhouse Road. The Slaughterhouse Road reserve contains a number of remnant native trees as does the north-west corner of the subject site (see Attachment A).
Site History:	Not Applicable
Surrounding Land Use:	Adjacent land to the west is within the LDRZ and is developed at these densities with two residential allotments adjoining the subject land. Land to the north, east and south is within the Farming Zone. Land adjacent to the north is occupied by a winery. Agricultural land to the east and south is undulating and used predominantly for grazing and cropping.
Surrounding Land Zoning:	

PROPOSAL  
ZONING AND PLANNING CONTROLS

Zoning:	Farming Zone
Overlay(s):	ESO3 (Black Dog Creek)
Permit Trigger:	Buildings and works pursuant to Clause 42.01-2 (Environmental Significance Overlay)

PLANNING AND ENVIRONMENT ACT 1987 - SECT 60

Section 60(1) of the Act provides that before deciding on an application, the responsible authority must consider:

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

Section 60(1A) of the Act provides that the responsible authority, if the circumstances appear to so require, may consider:

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

**INDIGO PLANNING SCHEME  
- 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 |
| Economic Development: |                          |
| 17.05                 | Agriculture              |

**LOCAL PLANNING POLICY FRAMEWORK**

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

- |                                |                                 |
|--------------------------------|---------------------------------|
| Municipal Strategic Statement: |                                 |
| 21.01-4                        | Economy                         |
| 21.01-5                        | Environment                     |
| 21.02                          | Key Issues                      |
| 21.03-1                        | Vision & Strategic Framework    |
| 21.03-2                        | Corporate Plan                  |
| 21.04-2-1                      | Agriculture                     |
| Local Planning Policies:       |                                 |
| None Applicable                |                                 |
| 22.03-1                        | Landcare & Catchment Management |
| 22.03-6                        | Dams                            |
| 22.03-11                       | Stormwater Management Policy    |

Particular Provisions:  
None Applicable

**GENERAL PROVISIONS**

65 Decision Guidelines

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

65.01 Approval of an application or plan

Before deciding on an application or approval of a plan, the responsible authority must consider: The matters set out in Section 60 of the Act.

The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.

The purpose of the zone, overlay or other provision.

Any matter required to be considered in the zone, overlay or other provision.

The orderly planning of the area.

The effect on the amenity of the area.

REFERRAL AUTHORITIES

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

- North East CMA
- GMW
- Responses received recommend approval subject to conditions.

PUBLIC NOTICE

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

One objection was received in response.

Issues raised include:

That the siting of the proposed shed would represent an infringement of the Covenant.

Siting of development on the ridgeline will have a detrimental effect on the amenity of the area.

DISCUSSION

The purpose of Clause 42.01 Environmental Significance Overlay is to identify areas where the development of land may be affected by environmental constraints and to ensure that development is compatible with identified environmental values.

Clause 42.01-4 provides that before deciding on an application, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:

The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.

The statement of environmental significance and the environmental objective contained in a schedule to this overlay.

Schedule 3 to the Environmental Significance Overlay applies to the subject land and is the 'trigger' for a Planning Permit being required for the proposed buildings and works. The Statement of Environmental Significance refers to "a number of significant drainage problems" within the North Eastern section of the Ovens River Basin and the Black Dog Creek Waterway Management District.

The Environmental Objective to be achieved within the area covered by Schedule 3 to the Environmental Significance Overlay is:

- To maintain the quality of water within the catchment.
- To prevent buildings and works from impeding the flows of water within the Black Dog Creek catchment and maintain its ability to carry natural flows including floods.
- To provide a framework to assist in decisions regarding drainage works within the catchment.

## ORDINARY COUNCIL MEETING MINUTES

Decision Guidelines specifically relate to the above Objectives and drainage issues and require:

- All applications to comply with the North East Catchment Management Authority Guidelines for Drainage Approval within the Black Dog Creek Improvement District.

Before deciding on an application to develop land, the Responsible Authority must consider:

- Comments of the North East Catchment Management Authority.
- Specified flood level pursuant to the Australian Model Code for Building.
- The need to design and construct buildings in accordance with the "Permissible works and structures" section of the report "Flood plain Management in Victoria" prepared by the Australian water Resources Council.
- The existing drainage pattern of the land and its effectiveness and suitability to cope with any development.
- The need to retain natural vegetation in the vicinity of streams and watercourses.
- The need to minimise the effects of increased run-off, erosion or siltation.
- Comments from the Department of Natural Resources and Environment where any proposed development abuts Crown Land.

The North East Catchment Management Authority does not object to the granting of a permit provided it is subject to the following conditions:

- The storage size [of the dam] must be limited to 0.82ML which is the accessible yield for harvest at the site, as indicated in Goulburn-Murray Water's letter of the 25th June 2008;
- That no earthworks to redirect or alter the existing surface, which would alter drainage on the property, is permitted unless further detail is provided to demonstrate that there are no adverse implications to the adjacent properties and or the responsible road authority for Slaughterhouse Road.

In this instance, earthworks associated with the proposed dam have the greatest relevance to the environmental constraints sought to be addressed by the Environmental Significance Overlay and also have the greatest potential to impact on downstream residential properties.

Clause 22.03-6 Dams applies to the construction of dams and recognises that the construction of dams is a necessary development to support the agricultural and horticultural use of land. The siting, design and construction of dams should be undertaken so as to minimise the impact on sustainable land, water system management and roads.

The Decision guidelines of this policy provide that in considering applications for the construction of dams, Council will take the following matters into account:

- The capacity of the proposed dam should not exceed 50% of the yield available from the catchment area of the site.
- The location of the proposed dam should be suitable to the terrain characteristics of the land.
- Spillways should be designed to cater for a 1 in 100 year rainfall event.
- The capacity of the proposed dam should be adequate to meet the needs of the intended use.

As Council's ability to consider the impacts of the proposed dam and earthworks is limited to consideration of a dam with a capacity of not more than the available catchment yield, it is considered that the primary consideration should relate to the structural stability of the dam and earthworks as well as potential impacts on downstream properties as a result of concentrated or re-directed flows.

Policy at Clause 22.03-6 Dams provides support for Council to require a report from a structural engineer certifying that the dam is structurally adequate and/or verifying that the dam will not pose an unacceptable risk to life or public and private assets. Should a permit issue for a dam not exceeding 0.82ML, it is considered appropriate that this requirement be a condition of approval and that any works necessary to alleviate potential impacts on downstream properties as a result of concentrated or re-directed flows be carried out to the satisfaction of the Responsible Authority.

Having regard to the proposed shed, it is not considered that it will impede the flows of water within the Black Dog Creek catchment or impact on it's ability to carry natural flows including floods. Nor is it considered that it will have a detrimental impact on water quality within the catchment. It is therefore considered that the proposal meets the environmental objectives of the Environmental Significance Overlay.

The objection received relates to a building envelope referred to in the Covenant and the impact that construction of the proposed shed on the local ridgeline will have on the amenity of the area. The building envelope referred to in the Covenant is not a valid consideration for Council as there is no building envelope registered on the Title. In addition to this the drafting of the Covenant is defective in that it does not identify any land that benefits from the Covenant. The effect of this is that in terms of property law, the Covenant cannot be enforced by any person, as there is no person that can be identified as being an owner of land that benefits from the Covenant.

Despite the flaws in the Covenant, Section 62(1)(aa) of the Planning and Environment Act 1987 provides that in deciding to grant a permit, the responsible authority must, if the grant of the permit would authorise anything which would result in a breach of a registered restrictive covenant, include a condition that the permit is not to come into effect until the covenant is removed or varied.

It is acknowledged and agreed that the shed is proposed to be sited in possibly the most prominent location on the subject land. The proposal however meets the setback requirements to be an exempt building under the provisions of the Farming Zone, and State and Local Policy are relatively silent on the proposed development. Clause 65.01 Approval of an application or plan however provides that before deciding on an application or approval of a plan, the responsible authority must consider, as appropriate:

- The orderly planning of the area.
- The effect on the amenity of the area.

These two general planning considerations enable Council to have some limited regard to the impact of the proposed development on the amenity or rural character of the area.

The development is proposed to be located on the localised ridge approximately 17m from the southern boundary of the subject land. This area of the site is the most elevated section of the property that slopes generally downward from the southern boundary toward Slaughterhouse Road to the east as well as the LDRZ land to the west. Given the undulating nature of land in this locality, the relatively modest scale of the development coupled with setbacks of 160m+ from the timbered Slaughterhouse Road reserve and ~170m from the LDRZ land to the west, the purpose of the building (farm shed), and the ability to require additional measures such as vegetated screening to attenuate the visual intrusion of the building on the landscape, the impacts of the proposal on the visual amenity of the area are not considered unacceptable.

## ORDINARY COUNCIL MEETING MINUTES

Provided landscaping occurs at an appropriate density, when coupled with the alignment of the building and relatively modest bulk of the proposal, it is not considered that the development will have an unacceptable impact on the rural landscape.

### CONCLUSION

The proposal meets the setback requirements to be an exempt building and works under the provisions of the Farming Zone, and State and Local Policy are relatively silent on the proposed development. Decision Guidelines at Clause 65 provide limited scope to give broad consideration to the impacts of the development on the amenity of the area and it is considered that despite the prominent siting of the proposed farm shed, ameliorative measures such as requiring vegetated screening will reduce the impact of the development on the rural landscape.

Council's ability to consider the impacts of the proposed dam and earthworks is limited to consideration of a dam with a capacity of not more than 0.82ML or the available catchment yield. Should the applicant construct a dam in excess of 0.82ML, a Planning Permit is not required and the impacts of the dam would need to be assessed and controlled by Licence issued by Goulburn-Murray Water under the Water Act 1989.

A Planning Permit is required in this instance to ensure that the development meets the environmental objectives of the Environmental Significance Overlay. Having regard to the above and advice received from the North East Catchment Management Authority and Goulburn-Murray Water indicates that the objectives of the Environmental Significance Overlay can be met, it is considered that the proposal represents an acceptable outcome under the provisions of the Indigo Planning Scheme.

*Attachments:*

*Attachment A – Locality plan*

*Attachment B – Proposal*

*Attachment C – Copy of the Registered Restrictive Covenant*

*Attachment D – Conditions*

*Attachment to be provided to Councillors separately – Copy of Objection*

**10.2 PLANNING APPLICATION, VALDIS BERZINS LOT 2 ON PLAN OF SUDIVISION  
403188H, 29 LAST STREET BEECHWORTH**

File No: PP07-3996 - Francois Theron - Senior Town Planner

For Decision

**RECOMMENDATION**

That Council approve the application to amend Planning Permit PP073996 and issue a Notice of Decision to Grant an amended Planning Permit for the extension of hours of operation as follows:

- (i) Cordial and spring water manufacturing plant  
Monday to Saturday 8.00am to 5.00pm.  
The manufacturing plant must not operate on Anzac Day, Christmas Day and Easter Friday.
- (II) Display areas and craft studio  
Monday to Saturday 9.00am to 5.00pm  
Sundays 10.am to 4.00pm

and to delete the restaurant from the permit, on Lot 2 Plan Of Subdivision 403188H, 29 Last Street Beechworth.

Moved Cr Goldsworthy  
Seconded Cr Pockley

That Council approve the application to amend Planning Permit PP073996 and issue a Notice of Decision to Grant an amended Planning Permit for the extension of hours of operation as follows:

- (i) Cordial and spring water manufacturing plant  
Monday to Friday 7.00am to 5.00pm.  
Saturday 8.00am – 5.00pm.  
The manufacturing plant must not operate on Anzac Day, Christmas Day and Easter Friday.
- (II) Display areas and craft studio  
Monday to Friday 9.00am to 5.00pm  
Sundays 10.am to 5.00pm

and to delete the restaurant from the permit, on Lot 2 Plan Of Subdivision 403188H, 29 Last Street Beechworth.

LOST

For:	Against:
Cr Gaffney	Cr Graham
Cr Pockley	Cr Croucher
Cr Goldsworthy	Cr Issell
	Cr Murdoch

**Moved Cr Issell  
Seconded Cr Graham**

**That Council approve the application to amend Planning Permit PP073996 and issue a Notice of Decision to Grant an amended Planning Permit for the extension of hours of operation as follows:**

- (i) Cordial and spring water manufacturing plant  
Monday to Saturday 8.00am to 5.00pm.  
The manufacturing plant must not operate on Anzac Day, Christmas Day and Easter Friday.**
- (II) Display areas and craft studio  
Monday to Saturday 9.00am to 5.00pm  
Sundays 10.am to 4.00pm**

**and to delete the restaurant from the permit, on Lot 2 Plan Of Subdivision 403188H, 29 Last Street Beechworth.**

**UNANIMOUSLY CARRIED**

INTRODUCTION

Application No:	PP07-3996
Applicant:	Valdis Berzins
Subject Land:	Lot 2 Plan of Subdivision 403188H, 29 Last Street Beechworth.
Proposal:	To amend Planning Permit PP07-3996 to extend the hours of operation for the cordial and spring water manufacturing plant from Monday to Saturday 9.00am to 5.00pm to Monday to Saturday 7.00am to 4.00pm, and to delete the restaurant from the permit
Date application lodged:	To amend the hours of operation for the cordial and spring water manufacturing plant – 22 January 2008, and to delete the restaurant from the permit 23 June 2009.
Subject site land area:	5605 sq Current use of subject site: The buildings of the original brewery are currently used as a display area. A brick building located towards the western boundary of the subject site is currently used as the cordial and spring water manufacturing plant. The cordial and spring water manufacturing plant operated under the existing use rights provisions of section 63 of the Indigo Planning Scheme.

BACKGROUND

A permit was issued on 29 January 2008 for the land to be developed and to extend the existing buildings on the site and to use the newly created spaces for exhibitions of carriages and for a restaurant and to develop a new building for use of a craft studio, the provision of car parking and the construction of a horse shelter. The permit specified the hours of operation as follows;

- (i) Cordial and spring water manufacturing plant  
Monday to Saturday 9.00am to 5.00pm.  
The manufacturing plant must not operate on Anzac Day, Christmas Day and Easter**

- Friday.
- (ii) Display areas, restaurant and craft studio.  
Monday to Saturday 10.am to 4pm.

The applicant then requested to amend the Planning Permit to change the hours of operation as follows:

- (i) Cordial and spring water manufacturing plant.  
Monday to Saturday 7.00am to 4.00 pm.  
The manufacturing plant must not operate on Anzac Day, Christmas Day and Easter Friday.
- (ii) Display areas, restaurant and craft studios.  
Monday to Saturday 8.00am to 7.00pm

Notice of this application was given to previous objectors. Five objections were received and a focus meeting was held on 11 June 2008. The objectors agreed that a 9am start for the cordial and spring water manufacturing plant is too restrictive and would not be averse to an earlier start. With regards the display areas, restaurant and craft studios the objectors indicated that they will accept the following hours. Monday to Saturday 9.00am to 5.00pm, and on Sundays 10.00am to 4.00pm. The applicant was requested to consider this proposal and report back to Council.

On 23 June 2008 a letter was received from the applicant indicating that he wished to proceed with his application to amend the hours of operation for the cordial and spring water manufacturing plant as requested Monday to Saturday 7am to 4.00pm. With regards to the Display areas, restaurant and craft studio the applicant indicated that he would amend his application to Monday to Saturday 9.00am to 7.00pm, and also that he would agree to an earlier closing time of 6.00pm during winter months.

This proposal varied from what was agreed at the Focus Meeting and therefore the objectors were notified again. Three of the objectors responded back to Council indicating that they will not accept operating hours which differ from what was agreed at the Focus meeting.

At this point in time the process stalled for a few months. On 18 March 2009 a letter was sent to the applicant requesting whether he wished to proceed with the application. The applicant on 23 June 2009 responded to Council indicating that he wished to proceed with his application. It was pointed out to the applicant that he must demonstrate to Council that the cordial and spring water manufacturing plant had been operating in the past from Monday 7.00am to Saturday 5.00pm as he claimed. On 10 September 2009 a letter was received from the applicant indicating that he wished to delete the restaurant from the application, but not change the hours of operation of the cordial and spring water manufacturing plant.

### SITE DESCRIPTION

The subject site has an irregular form and has a moderate slope to the rear (northern boundary). A number of buildings exist on the subject site. The old brewery located in the south east corner of the site was the original building constructed on the subject site. Structurally the building is still in a good condition but is in need of some repair work to prevent any further decay. To the rear of the site, behind this building is a part two storey timber and corrugated iron structure, formerly used for the production of soda water. This building is in a poor condition. Towards the western side of the subject site is a later brick and timber building currently used for the production of cordials and spring water. This building is in only fair condition, with many areas requiring repairs to cladding and roofing. A number of large trees exist along the south-eastern boundary as well as along the south-western boundary and in the north-western corner of the

subject site.

The subject site is surrounded by residential type developments and mainly depicts detached dwellings on relatively large lots.

PROPOSAL

To amend Planning Permit PP07-3996 as follows:

- (i) Extend the hours of operation for the cordial and spring water manufacturing plant from Monday to Saturday 9.00am to 5.00pm to Monday to Saturday 7.00am to 4.00pm;
- (ii) Extend the hours of operation for the display areas and craft studio from Monday to Saturday 10.00am to 4.00pm to Monday to Saturday, 9.00.am to 5.00pm; Sundays 10.00am to 4.00pm; and
- (iii) To delete the restaurant from the permit.

ZONING AND PLANNING CONTROLS

Zoning: Residential 1 Zone  
 Permit Trigger: The cordial and spring water manufacturing plant is operated under the existing use right Clause, Clause 63 of the Indigo Planning Scheme.  
 Overlay/s: Heritage Overlay Item HO 061  
 A permit is triggered in this case under the heritage overlay to construct a building or construct or carry out works and to externally alter a building by undertaking structural work to it.

STATE PLANNING POLICY FRAMEWORK

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

Settlement

14.01 Planning for urban settlement

Environment

15.11 Heritage

Economic Development

17.04 Tourism

Infrastructure

18.02 Carparking & Public Transport Access

18.09 Water supply, sewerage and drainage

19.03-2 General implementation

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 (MSS)

The Municipal Strategic Statement is a concise statement of the key strategic planning, land use and development objectives for the municipality and the strategies and actions for achieving these objectives. Relevant clauses of MSS include:

- 20.01 Operation of local Planning Policies
- 20.01-4 Economy
- 21.01-5 Environment
- 21.03 Vision
- 21.04-1 Settlement & Infrastructure
- 21.04-1-1 Beechworth
- 21.04-2-2 Tourism
- 21.04-3-2 Heritage

Local Planning Policies

- 22.02-4 Tourism Development
- 22.03-9 Heritage Policy

Particular Provisions

- 52.06 Car parking

Before making a decision on an application, the Responsible Authority must consider the matters set out in Section 60 of The Planning and Environmental Act (1987). The following matters from Section 60 are relevant to this application and must be considered:

- (1) (a) the relevant planning scheme; and
- (b) the objectives of planning in Victoria; and ....
- (e) any significant effects which the responsible authority considers the use or development may have on the environment or which the responsible authority considers the environment may have on the use or development.

(1A) Before deciding on an application, the responsible authority, if the circumstances appear to so require, may consider:

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

NOTIFICATION

Notice of the application was given to adjoining owners and occupiers in accordance with Section 52 (1) of the Planning and Environment Act 1987. Five objections were received. The submitters objected to the proposal.

The objections are summarised as including:

- Proposed operating hours of the cordial and spring water manufacturing plant.
- Proposed operating hours of the display areas, restaurant and craft studio.

REFERRAL AUTHORITIES

The application for amendment was not referred as the outcome of it would not impact on any of the referral authorities.

### CONSIDERATION OF THE PLANNING MERITS OF THE PROPOSAL

The Murray brewery as the collection of buildings on the subject site is known in the community to have cultural and architectural significance in that the original building on the subject site was built in 1872 and that the site was used since then for the manufacturing of aerated water and cordial. In the mid 1880's a new two storey stone and brick manufactory equipped with a thirteen hogshead plant with a tower about fifty feet high was constructed. Production of beer ceased in 1920 and stout in 1954. The significance of the building is also recognised in the Indigo Shire Heritage Study undertaken in 2002, which is an incorporated document in the Indigo Planning Scheme.

The subject site clearly has a collection of buildings of significance and is thus protected under the Heritage Overlay. The purpose of the Heritage Overlay amongst others is to conserve and enhance heritage places of natural and cultural significance, to conserve and enhance those elements which contribute to the significance of heritage places, to ensure that development does not adversely affect the significance of the heritage place and to conserve specifically identified heritage places by allowing a use that would otherwise be prohibited if this will demonstrably assist with the conservation of the significance of the heritage place. The objectives of the Heritage Overlay do not only provide protection to any place of significance, but also encourage a functional use of a place of significance, which will ultimately ensure the protection, and conservation of such a place.

The State Planning Policy Framework at Clause 15.11 (Heritage) requires responsible authorities to identify, conserve and protect places of natural and cultural value from inappropriate development. The protection of places of significance is important as a means to 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. The Local Planning Policy Framework and the Municipal Strategic Statement both reinforce the above concept for the Indigo Shire's area of jurisdiction.

The issue now at hand is not so much as to whether the collection of buildings on the subject site is of significance but rather whether the proposed extended hours of operation will have a negative impact on the amenity of the surrounding area. The applicant has requested to extend the hours of operation not only for the cordial and spring water manufacturing plant but also for the display areas and craft studio. The subject site is located in a residential area which by its nature experiences a high level of amenity. The nature of the proposed uses varies greatly in that the operation of a museum (display areas) and craft studio will have much less impact on the amenity of the surrounding area in terms of noise, smells, vibration, light spills and fumes, than a cordial and spring water manufacturing plant for that matter.

The applicant wishes to extend the hours of operation for the display areas and craft studio from Mondays to Sundays 10.00am to 4.00pm to Monday to Sunday 8.00am to 7.00pm. Notice had been given to the surrounding property owners of the proposed extended hours of operation. At a subsequent focus meeting the objectors indicated that they would accept the following hours; Monday to Saturdays 9.00am to 5.00pm and Sundays 10.00am to 4.00pm. Considering the sensitivity of the surrounding area this appears to be a good compromise in the sense that the objectors will compromise on amenity during mainly office hours, and allow the applicant two extra trading hours each day during the week.

The applicant wishes also to extend the hours of operation of the cordial and spring water manufacturing plant from Monday to Saturday 9.00am to 5.00pm to Monday to Saturday 7.00am to 4.00pm. The cordial and spring water manufacturing plant has potentially a much greater impact on the amenity of the surrounding area. The proposal for the extension of hours of operations was also notified to surrounding property owners and occupiers. At a subsequent focus meeting the objectors agreed that a 9 am start is too restrictive, but could not agree on an appropriate starting time. The cordial and spring water manufacturing plant operates under the existing use right provision in the Indigo Planning Scheme. Under the existing use rights provision a use can continue to operate in the future as it has been operated in the past. In this case however it is not clear what the hours of operation were. Council has done some investigation and some anecdotal evidence suggests that the factory had been operated between 8.00am and 5.00pm Monday to Friday and during a busy period the factory also operated on Saturdays. In the absence of any other information it therefore appears that the established hours of operation are Monday to Saturday 8.00am to 5.00pm.

The applicant requested a 7am start. In the absence of any information that suggested otherwise, this application represents an intensification of the existing use. Under the provisions of the existing use rights an applicant can make an application to Council amongst others to extend the hours of operation of the existing use, which represents an intensification of the use. As pointed out above the cordial and spring water manufacturing plant is located in a sensitive area (residential) experiencing a high level of amenity. The extension of the hours of operation with one hour in the morning could compromise the amenity of the area. This is a time when residents are getting ready for work and sending kids off to school, which is not only a busy time for families but also a time of family gatherings around the breakfast table. The impact that the cordial and spring water manufacturing plant could have by means of trucks taking deliveries and associated noises could have a negative impact on the amenity of the surrounding area. The objectors in this case are quite reasonable in that they have indicated that a 9.00am start is too restrictive, and are willing to accept an earlier start whereby they do sacrifice a certain level of amenity. In the absence of any information that suggest that the use had been operated earlier than 8.00am in the past it would seem unfair to allow an 7.00am start whereby the amenity of the area would be further compromised.

The applicant has also applied to delete the restaurant from the application. Considering the fact that in terms of the Indigo Planning Scheme a restaurant is a Section 2 use in a Residential 1 Zone mainly due to negative impacts it could have on the amenity of the surrounding area. The removal of the restaurant from the application will therefore have a positive impact on the amenity and can be supported. The removal of the restaurant from the permit will also reduce the number of parking spaces required. The construction of car parking spaces in Last Street as required by Permit Condition 9 (b) (Prior to commencement of use of the on-site restaurant the Last Street car parking bays along the frontage of the property and shown upon the endorsed plans shall be constructed by the applicant to an all weather sealed standard, including line marking and appropriate stone curb edging. Spaces 1-4 or 5 as required upon the endorsed plans shall be converted to a dedicated bus unloading and temporary parking zone) will therefore also be deleted.

### CONCLUSION

The main issues in this case to consider are whether the extended hours of operation will negatively impact on the amenity of the environment and whether operating as such would contribute to the maintenance of a building of heritage significance.

## ORDINARY COUNCIL MEETING MINUTES

The cordial and spring water manufacturing plant has been operated as such for many years and the proposed extended hours of operation is basically in sympathy with the hours under which this use had been operated for many years. The extended hour approved in terms of this permit will not significantly impact on the amenity of the neighbourhood.

It could therefore be argued that the extension of the hours of operation hereby approved and the deletion of the restaurant from the permit will not only contribute to the preservation of buildings of heritage significance, but will also contribute to the profitability of the whole development and not seriously compromise the amenity of the neighbourhood.

It is therefore recommended that Council issue a Notice of Decision to Grant a Planning Permit for the subject site subject to the conditions attached.

*Attachment A - Locality Plan  
Attachment B Proposed Conditions  
Note objections distributed separately to Councillors*

## ORDINARY COUNCIL MEETING MINUTES

Officer Frank Bonacci (Finance Manager) declared a direct conflict of interest as his property is within the area in question and departed the meeting at 3.34pm.

### 10.3 INDIGO PLANNING SCHEME REQUEST FOR REZONING OF 8 ALBERT RD BEECHWORTH – BEECHWORTH GALLERY

File No.: 09/1563 – Susan Cheetham, Manager Sustainable Development

For Decision

#### RECOMMENDATION

That Habitat Planning be advised that Council does not support rezoning of 8 Albert Road, Beechworth from the Residential 1 Zone to a Business Zone.

Moved Cr Issell  
Seconded Cr -

That Habitat Planning be advised that Council does not support rezoning of 8 Albert Road, Beechworth from the Residential 1 Zone to a Business Zone.

**LOST**

Moved Cr -  
Seconded Cr -

That Habitat Planning be advised that Council does support rezoning of 8 Albert Road, Beechworth from the Residential 1 Zone to a Business Zone.

**LAPSED**

Moved Cr Goldsworthy  
Seconded Cr Pockley

That the CEO of the Indigo Shire causes a report to be prepared on the feasibility and impact of rezoning to a mixed use zone all properties in the Beechworth township that are:

- a. Currently operating as commercial businesses and are situated in residential zones; and
- b. Those locations that have been rezoned from historic commercial zone to residential zone since 1998.

**CARRIED**

For:	Against:
Cr Gaffney	Cr Graham
Cr Pockley	
Cr Croucher	
Cr Issell	
Cr Murdoch	

INTRODUCTION

Council has received a request from Habitat Planning to rezone 8 Albert Rd Beechworth from Residential 1 Zone (R1Z) to a commercial land use zoning, which in this instance could be Business 1 Zone (B1Z) (Attachment A). The property was formerly zoned Historic Commercial under the provisions of the Beechworth Planning Scheme, and was zoned R1Z with the introduction of the Indigo Planning Scheme in 1999. The owners of the property, Gerry and Jean Horne, state they were unaware of the intention to change the zoning after the formation of the Indigo Shire in 1994, and that the rezoning has affected their ability to sell the property.

Mr and Mrs Horne, owners of the site have previously requested that the site be rezoned from the Residential 1 Zone to the Historic Commercial Zone. Advice has previously been provided that the existing Residential 1 Zone, combined with the Heritage Overlay over this heritage property allows sufficient flexibility for a wide range of uses to be considered for approval. Advice has also been that the Historic Commercial Zone which existed in the Beechworth Planning Scheme is not a zone included in the current suite of zones available within the Victoria Planning Provisions so a simple “back zoning” is not an option.

This new request for rezoning is considered in this report.

BACKGROUND

The Indigo Shire was proclaimed on 18 December 1994, and work immediately began on creating the Indigo Planning Scheme (IPS). The intent of the IPS was to consolidate the planning schemes of the Beechworth, Rutherglen, Chiltern and Yackandandah Shires, which contained 7 chapters of controls, 79 specific land use controls and 55 different zones. The suite of planning controls introduced with the amalgamation of the shires state wide provided a common approach to planning, simplified the provisions and allowed the development of more performance based controls to improve flexibility in dealing with planning issues.

Each township was scrutinized with regard to the location of its commercial centre, its industrial center, its areas of most growth and constraints to development. The process of developing a single planning scheme was widely publicized and ratepayer input was encouraged at every stage of the process, commencing with the Draft Overview and Issues Paper released for public comment in July 1995. The draft planning scheme documents, including mapping of the proposed zones, were released in November 1995, and again in September 1996, with a series of public meetings and workshops in between. Exhibition of the final IPS version was commenced in June 1997, with extensive media releases and information included in the predecessor to today’s ‘Indigo Informer’, the ‘Indigo Insight’. The Indigo Insight was distributed to ratepayers much like the Indigo Informer is today – with the rate notices.

As with the majority of the new format planning schemes introduced at the time, the proposed IPS went to an Independent Panel for consideration of objections. The Panel hearing was held from 10 to 12 February 1998, and the Panel report was received by Council 6 May 1998. The IPS was granted final approval 22 December 1998, and it came into effect 28 January 1999.

During the four year process of developing the IPS, it was publicised many times in local media and many submissions were received at each stage of the process, indicating that it was widely known about.

The introduction of the IPS affected every piece of land in the Shire, as every lot was being rezoned in some way. Section 19(1) of the Planning & Environment Act states that:

“A planning authority must give notice of its preparation of an amendment to a planning scheme to owners and occupiers of land that it believes may be materially affected by the amendment.”

However, Section 19(2) goes on to say:

“ ...the planning authority is not required to give notice of an amendment if it considers the number of owners and occupiers affected makes it impractical to notify them all about the amendment.”

The notification of the amendment to introduce the IPS was not personally notified to every ratepayer in the Shire, however all attempts were made to reach ratepayers through local media and the Indigo Insight, included with rate notices.

DISCUSSION

Mr and Mrs Horne were given multiple opportunities to be involved in the development of the Indigo Planning Scheme, as was every other ratepayer in the Shire. Examination of the multiple volumes relating to this amendment indicates no discussion or submission about the site at 8 Albert Rd, or about any of the other five properties that had been zoned Historic Commercial under the Beechworth Planning Scheme. The commercial centre in Beechworth was intentionally retained in the Ford/Camp St area in the form of the B1Z.

Of the other five properties that were formerly zoned Historic Commercial, four are presently being used for commercial purposes. They are:

- Murray Breweries, 29 Last St;
- ‘The Old Priory’ Bed & Breakfast, 8 Priory Lane;
- ‘Rose Cottage’ Bed & Breakfast 42 Camp St; and
- Commercial premises, 9 Bridge Rd.

The fifth property, a former hotel on the corner of Loch and Camp Streets, is being used as a dwelling. Of these five properties, two are zoned B1Z, and the remaining three are zoned R1Z. All are covered by the HO. There have been no issues relating to the zoning and permissible uses of any of these properties in the last ten years.

The building at 8 Albert Rd has been used for retail purposes in the recent past, which is largely a prohibited use in the R1Z (except for community market, convenience shop, food and drink premises and plant nursery). The Heritage Overlay (HO) allows consideration of prohibited uses to encourage the adaptive re-use of significant buildings. With the rezoning from Historic Commercial to R1Z, there was essentially no change to the potential uses allowed at 8 Albert Rd. Indeed, the opportunities were increased, as the Historic Commercial zoning prohibited a wide range of uses that could potentially be considered under the HO (See Attachment B).

A planning permit has recently been approved to allow the land to be used for the purposes of a food and drink premises, office, and convenience store. The fact that these uses could be considered and indeed approved demonstrates the flexibility of the present zoning. Mr & Mrs Horne do not anticipate actually carrying out any of these uses – the main objective is to get the best return from the sale.

The argument that Beechworth would lose one of its most historic buildings is not supported, as the present zoning does not result in the building being unable to be used, and the inclusion of the property in the HO actually means that prohibited uses can be considered.

The proposal to change the zoning of the property has no strategic justification, in that there is no discussion in the indigo Planning Scheme of the need to address commercial sites that are zoned R1Z. This has not been raised as an issue in the past, as it is considered that commercial uses are permitted in the R1Z, albeit in a limited range. This is due to the combination of the zone and the HO producing an acceptable outcome with regard to land uses.

The landowners have requested that the Minister for Planning intervene in the matter, and the regional manager for the Hume region Bruce Standish replied on behalf of the Minister (Attachment C). The reply indicates that for the Minister to intervene in the matter, he must be satisfied that the matter is one of state or regional significance. An application must be made to the Minister that addresses all the relevant criteria set out in the practice note 'Ministerial Powers of Intervention in Planning and Heritage Matters'. To date, the landowners have not made any application.

Notwithstanding the lack of strategic justification for the proposed amendment, preliminary discussions have been held with the Department of Planning and Community Development (DPCD) on the possibility of rezoning being supported by that Department. DPCD have given a very initial indication that a request for rezoning of the subject land would be likely to be refused.

Should the request for rezoning be supported by Council, the process could be commenced by the payment of the initial fee for considering the request and taking specified action of \$798. The request would then be forwarded to the Minister for Planning in order to obtain authorisation to commence preparation of the amendment. Should authorisation be granted, the amendment could be prepared and exhibited.

If submissions were received in response to the exhibition, a further fee of \$798 would be required for the consideration of submissions. This may or may not lead to the requirement for an Independent Panel. If it did, the costs of the Panel are borne by the applicant. These costs are generally a minimum of \$3000. After the amendment is ready to be adopted by Council, Payment of a further fee of \$524 would be required, and when the amendment was ready to be sent to the Minister for approval, a final fee of \$798 is payable to DPCD.

#### FINANCIAL IMPLICATIONS

It is normal practice where a planning application is for the benefit of one property only, that the proponent would prepare all required documentation and bear the cost of all statutory fees.

Even in this event there is still a cost to council in terms of staff time in preparation of information to submit to DPCD, in negotiations with all parties including government agencies, DPCD, the proponents consultant and submitters, in preparation for an Independent Panel and in reporting to Council.

#### POLICY IMPLICATIONS

The proposal is not supported by the strategic direction of the Indigo Planning Scheme.

CONCLUSION

The argument that the R1Z and HO are too restrictive does not provide strategic justification for the proposed rezoning. The recent issue of a planning permit is indicative of the flexibility of the present zoning. The reasoning behind the request is purely for financial gain and because there is no strategic justification for rezoning in this instance, it is submitted that the request should not be supported.

*Attachments:*

*Attachment A – Request for rezoning from Habitat Planning*

*Attachment B – C52 Beechworth Planning Scheme 'Historic Commercial' provisions*

*Attachment C – Response from DPCD to landowners' request for Ministerial Intervention*

**10.4 SECTION 173 AGREEMENTS**

**File No: 08/4277, 08/4358, 09/0170 – Susan Cheetham - Manager Sustainable Development**

For Decision

**RECOMMENDATION**

**That Council as the relevant Responsible Authority resolve to enter into the subject Section 173 Agreements with the owners of the following land and to sign and seal the appropriate documentation:**

- A) Crown Allotments 12A, 12B and 12D Section M Parish of Eldorado, Deep Creek Road, Chiltern.**
- B) Lot 2 PS63469, off Beechworth-Wodonga Road, Wooragee.**
- C) Crown Allotment 4 Section G1 Parish of Gooramadda, Mary Street, Gooramadda.**

**Moved Cr Issell  
Seconded Cr Croucher**

**That Council as the relevant Responsible Authority resolve to enter into the subject Section 173 Agreements with the owners of the following land and to sign and seal the appropriate documentation:**

- A) Crown Allotments 12A, 12B and 12D Section M Parish of Eldorado, Deep Creek Road, Chiltern.**
- B) Lot 2 PS63469, off Beechworth-Wodonga Road, Wooragee.**
- C) Crown Allotment 4 Section G1 Parish of Gooramadda, Mary Street, Gooramadda.**

**UNANIMOUSLY 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 1987, 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).

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) Owner: DJ Rowland

Planning Permit 08/4277 relates to a proposed dwelling on a property of 22.2ha within the Farming Zone at Deep Creek Road, Chiltern. The permit was issued on the basis that the owner of the land enter into an Agreement with Council under Section 173 of the Planning and Environment Act 1987 which provides for and requires notification to future owners of the land that:

- 10% of the total cost of the capital works required to establish the calf rearing enterprise must be invested in the land, prior to the construction of the dwelling;
- The Farm Management Plan, as submitted with the application must be executed to the satisfaction of the Responsible Authority.

B) Owner: D P Brough and Bretlive Pty Ltd

Planning Permit 08/4358 relates to a 2 Lot subdivision of land within the Farming Zone off the Beechworth-Wodonga Road, Wooragee. The proposal subdivides a Lot of ~90ha into two lots of ~45ha. The permit was issued on the basis that the owner of the land enters into an Agreement with Council under Section 173 of the Planning and Environment Act 1987 which:

- ensures that the Lots created are not able to be further subdivided so as to increase the number of Lots;
- ensures that any future development of proposed Lot 3 for the purposes of accommodation (including dwelling) is restricted to a point below 550m AHD;
- ensures that any future development of proposed Lot 2 for the purposes of accommodation (including dwelling) is restricted to a point below 510m AHD;
- ensures that any future development for the purposes of accommodation (including dwellings) is located within the building envelopes approved pursuant to Condition 3 of the Permit.

C) Owner: SL Blezard and CS McNamara

Planning Permit 09/0170 relates to a dwelling on an existing 45ha allotment within the Farming Zone Mary Street, Gooramadda. As access to the land is via an unconstructed road Condition 10 of the permit provides two alternate options for the construction of the access to the subject land. Condition 10(i) specifies the minimum standard of construction for a Council maintained road. Should the road be constructed to this standard, on the completion of a twelve month maintenance period, the road and associated drainage will be handed over to Indigo Shire Council and will be maintained by Council from that time.

Condition 10(ii) provides an alternate standard of construction for the road to be considered as a “limited access road” and as such would not be maintained by Council. Maintenance of a “limited access road”, to an all weather standard, would remain the responsibility of the land owner.

Some rural accesses can require extensive road works, the purpose of the single dwelling access is to allow for the construction of a lower cost alternative than required for a new fully maintained Council road. However this allowance is limited to the provision of access to one dwelling and associated farming activities such as grazing or cropping.

## ORDINARY COUNCIL MEETING MINUTES

Should there be an increase of vehicular traffic which is above that normally expected of a single dwelling and associated cropping or grazing activities, either accessing the subject land or accessing further development of other properties accessed by the single dwelling access, then at the direction of the responsible authority the road must be upgraded to a public road standard as set out in the Indigo Shire Road Hierarchy Management Plan, and in accordance with Council's policy at the time.

The Permit was issued on the basis that if a "limited access road" is constructed as an alternative to a Council maintained road, the owner of the land will enter into an agreement with Council under Section 173 of the Planning and Environment Act 1987 before the permit has any force or effect, to provide for the owner of the land:

- To carry out all maintenance works, to an all weather standard, to the limited access road from Gooramadda Road to the subject land, and;
- To make a cash contribution to upgrade the limited access road to the required Council standard, should further development or additional use occur.

### KEY IMPLICATIONS

Not applicable.

### FINANCIAL IMPLICATIONS

Not applicable.

### POLICY IMPLICATIONS

Not applicable.

### CONCLUSION

Not applicable.

*Attachments:*

- Attachment A: Locality/Site Plan – PP08/4277 Deep Creek Road, Chiltern*  
*Attachment B: Locality/Site Plan – PP08/4358 off Beechworth-Wodonga Road, Wooragee*  
*Attachment C: Locality/Site Plan – PP09/0170 Mary Street, Gooramadda.*

**10.5 INDIGO HERITAGE ADVISORY COMMITTEE**

**File No: 09/1792- Susan Cheetham - Manager Sustainable Development**

**For Decision**

**RECOMMENDATION**

**That the Instrument of Delegation authorised by Council on 1 July 2008 be revoked.  
That the attached Instrument of Delegation be adopted signed and sealed.**

**Moved Cr Pockley  
Seconded Cr Murdoch**

**That the Instrument of Delegation authorised by Council on 1 July 2008 be revoked. That the attached Instrument of Delegation be adopted signed and sealed.**

**UNANIMOUSLY CARRIED**

**INTRODUCTION**

It is proposed that the Indigo Heritage Advisory Committee instrument of delegation be amended.

**BACKGROUND**

The Indigo Heritage Advisory Committee has been operating since formation of Indigo Shire. The Committee's functions include administering the low interest heritage loan scheme, annual heritage awards, commenting on planning applications involving heritage matters, managing collections with Indigo and commenting on other heritage matters.

The cultural heritage of the Indigo Shire is one of its economic drivers. The cultural heritage tourism industry is one of the real growth areas in tourism and therefore it is a highly competitive industry. Indigo is fortunate as it is already has a well established brand and is identified as one of the most authentic historic regions.

The built fabric found throughout the shire is unparalleled and it is often convenient to focus purely on this. However, the cultural heritage values of the shire extend beyond the built fabric and include the collections, museums, archival material, cultural events, artefacts etc. The Committee addresses all of the non indigenous cultural heritage values within the shire.

The committee's membership has been quite wide. It comprises 14 voting members and one nonvoting member. Current voting membership is:

- 2 Councillors (plus one sub)
- 4 community representatives – preferably one from each of the four major towns
- 2 general community or special interest representatives
- Manager Sustainable Development (or delegate)
- Manager Tourism (or delegate)
- Senior Town Planner
- Heritage Victoria representative
- National Trust of Australia representative
- Indigo tourism representative

The Heritage Advisor is a nonvoting member.

There has been some difficulty in achieving a quorum at several meetings this year. This is largely due to the regular non attendance of several parties, including the Heritage Victoria representative, Manager Tourism and one general community representative. Removal of voting rights for some positions would assist in dealing with the issue of a quorum.

In addition to this issue of lack of quorum this Committee is somewhat unusual in that Council officer's are voting members whereas it is more usual for officers to be advisory only.

Section 4.1 of the relevant Local Law provides that for meetings of Special Committees and Advisory Committees a quorum is:

- a majority of the number of persons who comprise the committee or such other number as Council specifies when establishing the committee.

The Instrument of Delegation does not specify an alternate to the above requirement for a quorum; therefore the local law requirement applies.

Considering the two issues above and the local law, it is proposed to change the membership of the committee to make some members nonvoting and to expressly change the Committee instrument of delegation in respect of what constitutes a quorum. Note that under the local law a member who is a nonvoting member will still count towards a quorum.

At its October meeting the Committee resolved as follows:

- That this committee recommend to Council that the Instrument of Delegation for this committee be amended as follows:
- The Heritage Victoria member become a nonvoting member;
- The Tourism and Marketing Manager (or delegate) be changed to Manager Tourism (or delegate) and be a nonvoting member;
- The Environment and Development Services Manager (or delegate) be changed to Manager Sustainable Development (or delegate) and be a nonvoting member;
- The Senior Town Planner become a nonvoting member.

The Heritage Victoria representative has been attending around one meeting a year. Given that this can affect the quorum it is thus suggested that this position becomes nonvoting along with officer positions (Given the membership of 15 persons in total a quorum is technically 8 persons if all positions are filled. This year 14 positions were filled, requiring 7 members for a quorum. Sometimes five or six attended.

It is suggested that a specific clause be introduced to the Committee's Instrument of Delegation specifying that a quorum is the majority of members with voting rights.

**KEY IMPLICATIONS**

The changes to the delegations will strengthen the function and capability of the committee to provide consistent advice to Council.

#### FINANCIAL IMPLICATIONS

The Committee has a nominal budget only of \$2,600. This allows for a low cost Indigo Heritage Awards event entailing advertising the awards, awards assessment and presentation of the annual heritage awards. The budget covers very little else.

It is not proposed to change the budget at this time.

#### POLICY IMPLICATIONS

Strategy/goals of the Council Plan that relate to this area are:

Leadership of our people and our community – Create opportunities for the community to participate in Council business and decision making; and

Managing our built environment – Continue to foster a strong culture of support for the historic asset in our communities.

#### CONCLUSION

The committee serves a valuable role in a range of ways including promoting heritage and in advising Council on heritage matters. Adjustments to the Instrument of Delegation will assist the Committee to perform its functions.

*Attachment:  
Proposed Instrument of Delegation – Indigo Heritage Advisory Committee*

*Officer Frank Bonacci (Finance Manager) returned to the meeting at 3.57pm.*

**10.6 BIGGER BEECHWORTH PROJECT FINAL REPORT**

**File No: 09/1230 - David Koren - Recreation & Leisure Coordinator**

**For Decision**

**RECOMMENDATION**

**That Council adopts the Bigger Beechworth Project report.**

**Moved Cr Goldsworthy  
Seconded Cr Murdoch**

**That Council adopts the Bigger Beechworth Project report.**

**UNANIMOUSLY CARRIED**

**INTRODUCTION**

Indigo Shire Council is committed to improving the health and wellbeing of its communities. This is evidenced by specific strategies in the Council Plan 2009 – 2012 and recommendations from the Indigo Shire Recreation Plan around providing access to quality recreational facilities and planning for future recreational needs in the Shire.

Sport and recreational activities play an important role in our community. Local sporting clubs not only provide opportunities to improve physical fitness, but they offer valuable social connection and build community strength. It is a priority of this Council to continue to support local clubs to enable them to continue to provide valuable recreational services to the community.

Informal recreational activities are also very important to Indigo Shire communities. The findings from the community consultation process for the Council Plan and the Recreation Plan showed that the community were strongly in favour of developing more opportunities for informal recreational activity, specifically around walking, cycling and swimming. These three activities were listed as the top three recreational priorities to develop should funds become available.

The Bigger Beechworth Project, incorporating strategic planning documents for golf and tennis in Beechworth, directions for development of the Beechworth swimming pool and the development of a Masterplan for Baarmutha Park, is a key document in assisting Council plan for future recreational needs of the community.

Following an extensive community consultation process throughout April - October 2009, a Final Draft of the report was made available to the community for comment with submissions closing on 13 November 2009.

The Final Bigger Beechworth report has now been completed and is included as an attachment to this report.

BACKGROUND

Council and the community recognised the need to develop a Masterplan for Baarmutha Park in Beechworth to guide the future development of the Park and to assist in sourcing funding for the capital works projects required.

In October 2007 Council submitted an application to DPCD for funding assistance to complete a Masterplan for Baarmutha Park in Beechworth. Council received notification in June 2008 that the submission was successful.

In November 2007 major structural damage to the main pool shell at the Beechworth Swim Centre was discovered resulting in the pool being closed for the 2007/2008 swim season. The issue with the pool and other recreational planning issues in Beechworth resulted in Council making the decision to expand the scope of the Baarmutha Park Masterplan project to include a broader recreational planning project for Beechworth. This new project has been called the "Bigger Beechworth Project" and will incorporate planning to determine the long term direction and future development for:

- Beechworth Golf Club
- Beechworth Swimming Pool
- Beechworth Skate Park
- Hockey facilities for Beechworth
- Beechworth Tennis Complex
- Other sports currently catered for in Beechworth
- Other sports currently not catered for in Beechworth

Consultants were engaged in March 2009 to complete a report based on the expanded Project Brief. Following a comprehensive consultation process and a final exhibition of the Draft Report, appropriate comments were incorporated and the Final Bigger Beechworth report was completed.

KEY IMPLICATIONS

The report has a significant number of recommendations and actions which will require substantial financial resources to implement. Council, the Baarmutha Park Committee of Management and the other relevant organisations will continue discussions to develop a good understanding of the time frames required to achieve these actions.

The key outcomes and recommendations from the Bigger Beechworth Report are:

**Baarmutha Park Masterplan**

The Masterplan consists of a pictorial plan and a detailed Priority Development and Master Plan Detail document. The major recommendations are:

- Implement the findings of the Baarmutha Park Masterplan in line with the availability of funding and resources including:
  - Design and construct new Multipurpose pavilion
  - Further oval and irrigation system development to maximise drought resistance (refer to Beechworth Sportsfield Assessment in Appendices of Final report)
  - Lighting upgrades to netball and oval facilities
  - Cricket practice nets development
  - Carparking, driveways and access developments
  - Park furniture, signage, landscaping
  - Review the Masterplan in no more than five years or earlier if required.

## ORDINARY COUNCIL MEETING MINUTES

- Establish a drought tolerant oval surface and efficient watering practices to utilise water from harvesting system appropriately and then determine if water may be available for further development of the golf course.
- Continue to consult with new users and take advantage of opportunities for shared use of facilities to increase utilisation and income potential.
- Actively consider how the reserve can complement the tourism industry within Beechworth.
- Recognise and value the work undertaken by volunteers.
- Welcome new participants to enable succession planning and reduction of the workload of individuals within the Committee of Management or sporting groups.
- Review the Instrument of Delegation to reflect the new multi-purpose pavilion and increased use of the reserve as required.

### Beechworth Golf Club Strategic Direction 2009 - 2013

The key conclusions and recommendations for the Golf Club are:

- Relocate the clubrooms to the proposed new Baarmutha Park Multipurpose pavilion
- Maintain the 18 hole golf course, consider redesign into the future
- Consider the installation of synthetic greens
- Subject to water availability, irrigate the golf course

### Beechworth Swimming Pool

The Draft report recommends that the Beechworth Swimming Pool remains at its existing site unless a private partnership becomes available. A technical assessment of the pool was undertaken as part of the project. This assessment has recommended upgrades and developments to the pool to ensure it can cater for the future needs of the Beechworth community.

It should be noted that Council received funding to complete major upgrade works to the Beechworth Swimming pool facility including:

- Refurbishment of the change/toilet facilities, including hot water showers
- Upgrades to the pool concourses
- New social space including chairs/tables
- Improved foyer/access area
- Major internal refurbishments to kiosk/office areas

These upgrades have now been completed.

### Beechworth Skate Park

The report recommends that the Beechworth Skate Park is expanded in line with community needs. It should be noted that Council has secured funding for the expansion project which will be completed in the 2009/2010 financial year.

### Beechworth Hockey Field Development

The report recognised the importance of hockey to the Beechworth community and the need for the Club to have appropriate facilities i.e. a hockey field and club facilities.

The report recommended that a "sand filled surface would be the most suitable option due to its initial capital cost, lifecycle length and replacement cost." Lighting to the field was also recommended to ensure maximum usage.

The report also recommended that Council continue to work closely with the Club investigating options for the location of hockey facilities for Beechworth with the Beechworth Secondary

## ORDINARY COUNCIL MEETING MINUTES

College and Baarmutha Park as two of the most viable options.

It should be noted that the Beechworth Hockey Club/Beechworth Secondary College application for funding to develop a synthetic pitch at the College was recently announced unsuccessful. The Club has been encouraged to work with Council in considering future options.

Beechworth Tennis Club Strategic Direction 2009 - 2013

The key conclusions and recommendations for the Tennis Club are:

- The Club to remain at its existing site and develop the facilities to meet future needs
- Finalise legal ownership of the land
- Initiate sale of surplus land to fund future developments

Complete a masterplan for the site to guide future developments including:

- Resurfacing and fencing of four courts as a priority
- New lighting
- New clubhouse facilities
- Resurfacing remaining courts as a long term project

Broader Recreational Issues Affecting Beechworth

The report has made a number of recommendations regarding other recreational issues in Beechworth. These are detailed in the attached Draft report and include recommendations on:

- Walking and cycling
- Lake Sambell
- Beechworth Squash and Fitness Centre
- Mountain Bike Park
- Beechworth Bowls Club
- Stanley Recreation Reserve
- Playgrounds
- Open space planning

### FINANCIAL IMPLICATIONS

The Draft report includes a large number of recommendations which, if implemented, will have financial implications for Council and the community. Many of the recommendations detailed in the Priority Development and Master Plan Detail and the other attachment reports (Golf and Tennis Club development plans, Swimming Pool assessment, sports oval assessment) involve substantial capital works which have been prioritised. It will be Council's role to implement these recommendations, in close liaison with the community, subject to available funds and grant opportunities.

The capital works recommendations from this report will be incorporated into the Shire's recreational capital works program which forms part of the Recreation Plan adopted by Council in March 2008. This recreational capital works listing, which is updated annually, can then be incorporated into Council's Capital Works Program. Where appropriate, Council will pursue external funding options to assist in the completion of specific works.

### POLICY IMPLICATIONS

The development of a Masterplan for Baarmutha Park and the "Bigger Beechworth" report is consistent with the Council Plan Objectives 4.1 – Effective and efficient service delivery and 4.6 – Enhance the health and wellbeing of the community.

### CONCLUSION

The Bigger Beechworth report has been developed as a framework for recreational development in Beechworth. The Draft report went through a thorough community consultation process including a public exhibition in October/November 2009. Constructive feedback was received during the exhibition period which was incorporated into the Final Report. Some of the major items of feedback included:

- The inclusion of comments around the need for future open space planning for Beechworth  
Improved pictorial Masterplan diagram showing access roadways and carparking in line with new pavilion construction
- An additional option for the Beechworth Swimming
- Pool Clarity around the wording of the Baarmutha Park Multipurpose Community Pavilion with less emphasis on the Relief Centre component of the project
- Updated recommendations for the Beechworth Hockey Club, given the recent unsuccessful announcement of funding

The report will guide Council and the community into the future when making decisions on recreational developments for Beechworth.

*Attachment:  
Bigger Beechworth Project Report*

**10.7 INTRODUCTION OF THE WILDFIRE MANAGEMENT OVERLAY INTO THE INDIGO PLANNING SCHEME**

**File No: E1240-51 - Susan Cheetham - Manager Sustainable Development**

For Decision

**RECOMMENDATION**

1. That the Minister for Planning be advised that Council supports his proposal to prepare a Ministerial Amendment to introduce the Wildfire Management Overlay into the Indigo Planning Scheme.
2. That the Country Fire Authority be advised of Council's support for the proposed introduction of the Wildfire Management Overlay.
3. That Council commence investigation of a Development Contribution Plan or S173 Agreements to ensure a levy is imposed to cover the administrative cost of servicing development within a WMO.

**Moved Cr Graham  
Seconded Cr Issell**

1. That the Minister for Planning be advised that Council supports his proposal to prepare a Ministerial Amendment to introduce the Wildfire Management Overlay into the Indigo Planning Scheme.
2. That the Country Fire Authority be advised of Council's support for the proposed introduction of the Wildfire Management Overlay.

**UNANIMOUSLY CARRIED**

**Moved Cr Goldsworthy  
Seconded Cr Pockley**

1. That Council commence investigation of a Development Contribution Plan or S173 Agreements to ensure a levy is imposed to cover the administrative cost of servicing development within a WMO

**UNANIMOUSLY CARRIED**

**INTRODUCTION**

Partly in response to the devastating bushfires earlier this year, the State Government has recently declared that the entire state of Victoria is bushfire prone and the Country Fire Authority (CFA) has requested that the Wildfire Management Overlay be included within the Indigo Planning Scheme.

The introduction of the Wildfire Management Overlay (WMO) refines the state wide declaration to discrete areas identified as having high bushfire hazard; the identification of these areas is generally established in consultation between the CFA, Council and other related organisations. In Indigo, the identified areas are identical with the bushfire prone areas that have been used by the Councils Building Surveyors for some time now.

The Wildfire Management Overlay has not been introduced before for reasons outlined later in this report.

A planning scheme amendment is required to introduce the WMO with, ordinarily, the CFA producing the base mapping and the local council preparing and processing the amendment. In this instance though, the approach proposed was to seek the assistance of the CFA in requesting the Minister for Planning to use the powers vested in the Minister under Sect 8 of the Planning and Environment Act 1987 to prepare the amendment. This approach was being recommended because of the very real need to introduce this risk reduction measure as quickly as possible. It is also being recommended as it is anticipated that the current WMO provisions and practices are likely to be amended and strengthened following the Teague Royal Commission.

The introduction of the WMO also affords the opportunity to revisit Clause 22.03-2 Fire hazard of the Local Planning Policy Framework to improve this policy taking into account the introduction of the WMO.

It is noted that the CFA has offered to perform an audit of properties in bush fire risk areas where a planning permit exists for a dwelling.

This matter was considered by Council at its October 2009 meeting. At that time Council resolved to defer consideration of the Wildfire Management Overlay until its December meeting to allow for input from members of the community.

One written comment only has been provided on this proposal. That has been previously circulated to Councillors and was predicated on the understanding that the CFA did not support a WMO, when in fact the CFA have requested the WMO. A limited number of verbal comments have been received at Community Forums. These comments have been either not supportive of introducing a Wildfire Management Overlay or are neither for nor against the proposal. The one comment that has come through this process is a suggestion that the WMO may change as a result of the Royal Commission findings. That matter is addressed below – it is anticipated that there may be some tightening up of WMO controls and this supports the case to introduce the WMO. It is clear that there has been a lack of understanding amongst some members of the community that the Overlay does not prevent development but sets up a more formal referral process than is currently used where the site is considered to be of high bushfire risk.

Since late September the department of Planning and Community Development has been in contact with Council in regards to the WMO. The Minister for Planning is considering introducing the WMO over the parts of this municipality shown as bushfire prone on the attached map, and likewise introducing the WMO over a number of other Council areas by way of a Ministerial amendment. This amendment would not be subject to notice or have Independent Panel review.

DPCD has now advised that:

“The Minister for Planning, Justin Madden MLC, has initiated a program to streamline the introduction of the Wildfire Management Overlay (WMO) in appropriate areas. I am writing to seek your assistance with implementing this important initiative. The WMO is an important planning tool to help ensure that new development in areas of increased wildfire intensity is designed and sited to protect life and property from the threat of wildfire.

## ORDINARY COUNCIL MEETING MINUTES

The CFA have identified areas in your municipality where the intensity of wildfire would be significant and likely to pose a threat to life and property. After the experiences of this year's devastating bushfires the Minister has agreed to streamline the introduction of the WMO for these areas, including preparing and approving the amendment under section 20(4) of the Planning and Environment Act 1987." (See Appendix C).

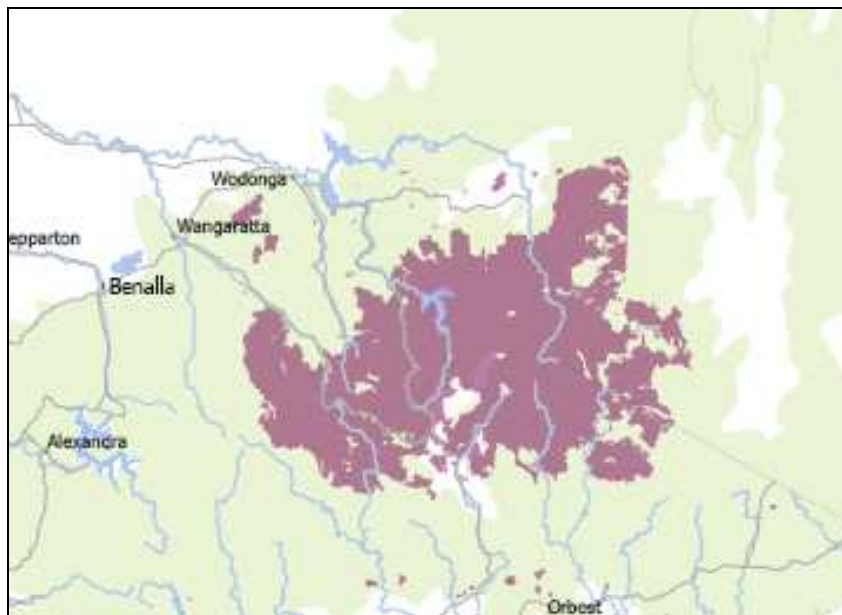
The questions for Council to consider at this time are:

- Does Council support the introduction of the WMO by the Minister for Planning;
- How will Council deal with the compliance impact of introduction of the WMO in terms of ongoing yearly compliance inspections and enforcement action.

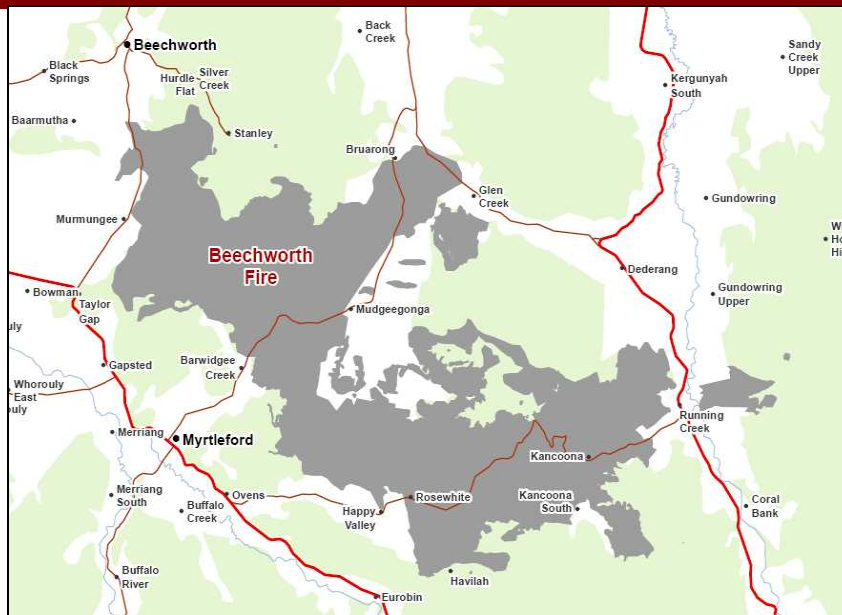
### BACKGROUND

#### BUSHFIRE PRONE AREAS

As can be seen from the plans below of the extent of the 2002-3 fires and the 2009 fires, a considerable portion of the shire is at risk from bushfires.

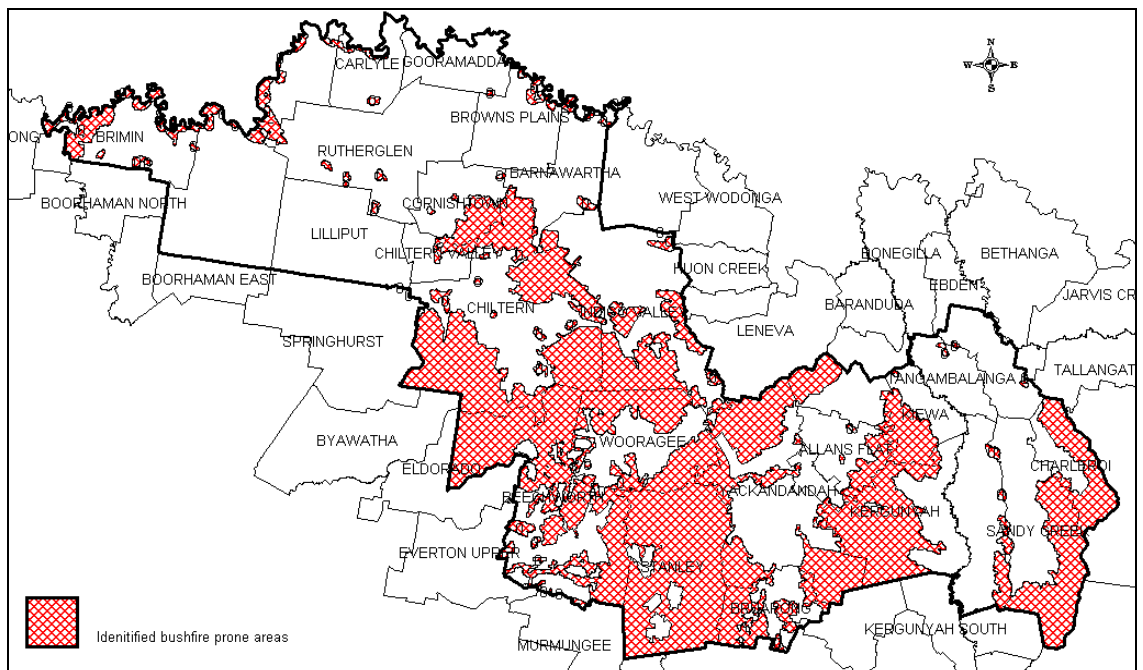


**2002-2003 fires**



2009 fires

The discrete areas identified by the Country Fire Authority as bushfire prone areas are illustrated below.



The CFA is currently undertaking work across Victoria to align the Wildfire Management Overlay and the Bushfire Prone Areas that are illustrated in the plan above. This mapping is based on an assessment of vegetation density, documented fire history and aerial photographs and is ground proofed by CFA officers.

Given the recent fire history it may be that this map needs to be updated by the CFA.

## STATUTORY REQUIREMENTS

Protection from wildfire is facilitated by a hierarchy of statutory requirements:

- Provisions within the State Planning Policy Framework to minimise the risks from wildfire.
- Provisions within the Municipal Strategic Statement and the Local Planning Policy Framework of policies aimed at reducing risk. For example Clause 21.03-2 is promulgated on the basis that in high risk areas, development needs to be sited and designed to minimize risk and that adequate facilities need to exist to counter a fire threat.
- Specific zone provisions requiring access arrangements suitable for use by emergency vehicles and an adequate water supply for domestic use as well as fire fighting.
- Application of the Wildfire Management Overlay within the Planning Scheme.
- New provisions from the Building Commission that all new dwellings be assessed for their Bushfire Attack Level when application is made for a Building Permit.

The requirements specific to the Indigo Planning Scheme are addressed below.

### State Planning Policy Framework

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

Planning policies are directed to land use and development, as circumscribed by the Planning and Environment Act 1987, a primary objective of which is to provide for the fair, orderly, economic and sustainable use and development of land.

Planning, under the Planning and Environment Act 1987, is to encompass and integrate relevant environmental, social and economic factors. It is directed towards the interests of sustainable development for the benefit of present and future generations, on the basis of relevant policy and legislation. It is worth noting that Clause 11.03 of Planning Schemes states that a responsible authority administering a scheme must consider these overarching and interlocking principles as well as relevant specific policies.

Clause '11.03-2 Environment' of all Planning Schemes in Victoria requires that Planning is to contribute to the protection of air, land and water quality and the conservation of natural ecosystems, resources, energy and cultural heritage. In particular, planning should:

- Adopt a best practice environmental management and risk management approach which aims to avoid or minimise environmental degradation and hazards.
- Prevent environmental problems created by siting incompatible land uses close together.
- Help to protect the health of ecological systems and the biodiversity they support (including ecosystems, habitats, species and genetic diversity).

The following Policies are also of particular relevance to the issue at hand:

### Clause '15.07 Protection from wildfire'

The Objective of this policy is to assist the minimisation of risk to life, property, the natural environment and community infrastructure from wildfire. Fire hazards must therefore be considered in planning decisions affecting wildfire risk environments to avoid intensifying the risk through inappropriately located or designed uses or developments.

Clause '15.09 Conservation of native flora and fauna'

The Objective of this clause is to assist the protection and conservation of biodiversity, including native vegetation retention and provision of habitats for native plants and animals and control of pest plants and animals. Planning and responsible authorities should consider the potential impacts of land use and development on the spread of plant and animal pests from areas of known infestation into natural ecosystems. Responsible authorities should ensure that the siting of new buildings and works minimises the removal or fragmentation of native vegetation.

Local Planning Policy Framework

The Municipal Strategic Statement (MSS) is a concise statement of the key strategic planning, land use and development objectives for the municipality and the strategies and actions for achieving the objectives. It furthers the objectives of planning in Victoria to the extent that the State Planning Policy Framework is applicable to the municipality and local issues. It provides the strategic basis for the application of the zones, overlays and particular provisions in the planning scheme and decision making by the responsible authority.

Local Planning Policies are tools used to implement the objectives and strategies of the Municipal Strategic Statement. The following local policies are also of particular relevance:

Clause '22.03-2 Fire hazard'

This policy applies to the whole of Indigo Shire. It should be used for all forms of use and development that may increase the level of fire risk within the Shire including:

- land adjoining national and state parks, forested areas, plantations and urban areas;
- land designated as being within a bush fire prone area; and
- all rural lands.

Fire hazard is an important element in the consideration of proposals for new use and development, particularly in non urban areas. The siting and design of dwellings and other development needs to take into account the prevailing fire hazard conditions. Provision should be made for the prevention of fires and the provision of appropriate water storage.

The Objectives of this policy are:

- To ensure that new land uses and development do not increase the level of fire risk.
- To ensure that new land use and development includes adequate fire protection measures.

It is policy that, in considering relevant applications, Council will take the following matters into account:

- Fire Protection measures
- Buildings and access roads are to be sited and subdivisions designed to minimise the impact of fire and the emergency conditions, associated with fire.

GENERAL PROVISIONS

65 Decision Guidelines

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

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

- The matters set out in Section 60 of the Act.
- The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- The purpose of the zone, overlay or other provision.
- Any matter required to be considered in the zone, overlay or other provision.
- The orderly planning of the area.
- The proximity of the land to any public land.
- The extent and character of native vegetation and the likelihood of its destruction.
- Whether native vegetation is to be or can be protected, planted or allowed to regenerate.
- The degree of flood, erosion or fire hazard associated with the location of the land and the use, development or management of the land so as to minimise any such hazard.

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

- The suitability of the land for subdivision.
- The existing use and possible future development of the land and nearby land.
- The subdivision pattern having regard to the physical characteristics of the land including existing vegetation.
- The density of the proposed development.
- The design and siting of buildings having regard to safety and the risk of spread of fire.

DISCUSSION

ASSESSMENT OF FIRE HAZARD – CFA RESPONSE AND CONDITIONS

Clause ‘22.03-2 Fire hazard’ provides the ability for Council to seek advice from the CFA and the Municipal Fire Prevention Committee in relation to Planning Permit Applications for the use or development of land. In a number of instances applications that have clearly displayed a high level of fire hazard have been referred to the CFA for comment and advice as to whether the proposal represents an acceptable outcome in terms of the level of fire hazard or risk. That is, whether or not the proposal should be allowed to proceed based on the level of fire hazard.

The Objectives and Decision Guidelines of Clause ‘22.03-2 Fire hazard’ provide a clear basis for such an assessment. Unfortunately however, the consideration of fire hazard as a determinative factor is generally undermined by the CFA’s blanket application of ‘management measures’ for building in a Wildfire Management Overlay (WMO). Note that the WMO is a management tool that is not intended to be the main determinant as to whether or not development should proceed, but is intended to ensure that development that does occur in areas of high fire intensity has appropriate water supply, access, building siting and design and fuel-reduced areas around buildings.

It is specifically because of this lack of a context specific consideration and the CFA’s reluctance to comment on whether or not a proposal is acceptable, that Indigo Shire has until now resisted the implementation of the Wildfire Management Overlay.

The application of the WMO would make the CFA a statutory referral authority and Council would be bound by its comments which would effectively remove any discretion afforded by performance based policies such as Clause ‘22.03-2 Fire hazard’. Although this exercise of discretion is currently undermined by the CFA’s responses in relation to management rather than land use, such policy theoretically provides the flexibility and support for Council to refuse an

application even in circumstances where the CFA will not object to the proposal. The reality is however, that when such decisions are brought before VCAT, Council's decision would likely be overturned if the relevant fire authority is satisfied that management measures, linked to personal ability or circumstances, are an appropriate method of dealing with questions of land use.

POSSIBLE TEAGUE IMPLICATIONS

The State Government appointed 2009 Victorian Bushfires Royal Commission chaired by the Hon. Bernard Teague AO's, Terms of reference include:

“\*Inquiring into and reporting on - the preparation and planning by governments, emergency services, other entities, the community and households for bushfires in Victoria, including current laws, policies, practices, resources and strategies for the prevention, identification, evaluation, management and communication of bushfire threats and risks; and

Making recommendations ..... including recommendations for governments, emergency services, other entities and the community on - the preparation and planning for bushfire threats and risks, particularly the prevention of loss of life; and - land use planning and management, including urban and regional planning.”

Given the Royal Commission's focus on matters including the basic questions of whether dwellings should be approved in the first instance, not just how to deal with fire risk after the primary decision to approve is made or assumed, it is reasonable to anticipate that the WMO will be subject to sufficient change to enable the primary decision to be addressed in a more meaningful way than at present.

WMO MANAGEMENT REQUIREMENTS

Another issue that arises with the CFA's blanket approach relates to the validity of the management requirements being imposed via conditions of approval. Under the provisions of the WMO the CFA becomes a statutory referral authority under Sect 55 of the Planning and Environment Act and the Council must incorporate conditions verbatim from the referral authority's response.

Clause 3.4.7 of “Using Victoria's Planning System”, Department of Infrastructure, 2002, (Updated 15.11.2007) provides the following relevant discussion and advice in relation to drafting a Permit:

“A permit must be written so that the applicant and anyone else will easily understand it. A permit with many conditions is a complex document and the following points should be considered when preparing it:

- conditions should be in plain English, simply constructed, easily understood and unambiguous
- conditions must fairly and reasonably be related to the proposed use and development
- conditions must fairly and reasonably be related to the basis for which a permit is required under the planning scheme
- conditions must be clear in their intent and in the obligation to the permit holder
- any condition that the planning scheme requires must be included
- where appropriate and to assist with enforcement, conditions should be tied to a specified event rather than providing for open-ended commitments
- conditions should be included only if they are the best way to achieve a particular action or result
- conditions must be enforceable.”

Standard referral responses from the CFA take the following format:

“CFA, acting as a Referral Authority pursuant to Section 55 of the Planning and Environment Act, does not object to the grant of a permit for a dwelling at [address] subject to the following conditions being attached to any permit which may be issued and a copy of the permit being forwarded to CFA:

**1. Water Supply Requirements**

1.1 *A static water supply, such as a tank must be provided.*

1.2 *This static water supply must meet the following requirements:*

1.2.1 *A minimum of 10,000 litres on-site static storage must be provided on the lot and be maintained solely fire fighting.*

1.2.2 *The water supply must be located within 60 metres of the dwelling.*

1.2.3 *Fire brigade vehicles must be able to get to within four metres of the outlet as described in condition No. 1.3.*

1.2.4 *The water supply must be readily identifiable from the building or appropriate signage (see Appendix A: Figure 1) must point to the water supply. All below-ground water pipelines must be installed to the following depths:*

*subject to vehicle traffic – 300 mm*

*under houses or concrete slabs – 75 mm*

*all other locations – 225 mm*

*all fixed above-ground water pipelines and fittings, including water supply, must be constructed of non-corrosive and non-combustible materials or protected from the effects of radiant heat and flame.*

1.3 *If the static water supply is above ground the following additional standards apply:*

1.3.1 *All above-ground static water supplies must be provided with at least one 64 mm 3 thread / 25 mm x 50 mm nominal bore British Standard Pipe (BSP), round male coupling (see Appendix A: Figure 2).*

1.3.2 *All pipe work and valving between the water supply and the outlet must be no less than 50 mm nominal bore.*

1.3.3 *If less than 20 metres from the building, each outlet must face away from the building to allow access during emergencies.*

**2 Access Requirements**

2.1 *Access to the dwelling must be designed to allow emergency vehicle access from [road name]. The minimum design requirements are as follows:*

*2.1.1 curves in must have a minimum radius of ten metres;*

*2.1.2 the average grade must be no more than 1 in 7 (14.4%) (8.1°) with a maximum of no more than 1 in 5 (20%) (11.3°) for no more than 50 metres;*

*2.1.3 dips must have no more than a 1 in 8 (12.5%) (7.1°) entry and exit angle.*

2.2 *If the access from [road name] to the dwellings and water supply, including gates, bridges and culverts, is greater than 30 m long, the driveway:*

*2.2.1 must be designed, constructed and maintained for a load limit of at least 15 tonnes, and*

*2.2.2 be all weather construction; and*

*2.2.3 must provide a minimum trafficable width of four metres, and*

*2.2.4 be clear of encroachments four metres vertically (see Appendix A: Figure 3).*

2.3 *If the access from [road name] to the dwelling is longer than 100 metres, a turning area for fire fighting vehicles close to the dwelling must be provided by either:*

*2.3.1 a turning circle with a minimum radius of ten metres; or*

*2.3.2 by the driveway encircling the dwelling; or*

2.3.3a *“T” head or “Y” head with a minimum formed surface of each leg being eight metres in length measured from the centre point of the head, and*

2.3.4 *four metres trafficable width (see Appendix A: Figure 4).*

2.4 *If the length of the access is greater than 200 metres, passing bays must be provided. Passing bays must be 20 metres long and must be provided every 200 metres, with a trafficable width of 6 metres (see Appendix A: Figure 5).*

3 *Vegetation Management Requirements*

3.1 *The wildfire management plan (dated ..... ) must be endorsed as part of the Permit.*

3.2 *The vegetation management areas as indicated on the wildfire management plan be maintained to the following standard:*

*Inner Zone*

*A distance of ten metres around the proposed dwelling must be maintained to the following requirements during the declared ‘Fire Danger Period’ to the satisfaction of the responsible authority.*

- *Grass must be no more than 100 mm in height.*
- *Leaf litter must be less than 10 mm deep.*
- *There must be no elevated fuel on at least 50% of the Inner zone. On the remaining 50% of the inner zone, the elevated fuel must be at most, sparse, with very little dead material.*
- *Dry shrubs must be isolated in small clumps more than 10 m away from the dwelling.*
- *Trees must not overhang the roofline of the dwelling.*

*Outer Zones*

*Vegetation in outer zones, (30m from the dwelling in the Eastern zone and 90m from the dwelling – up to the property boundary – for the NW zone) as specified in the wildfire development plan must be maintained to the following requirements during the declared ‘Fire Danger Period’ to the satisfaction of the responsible authority.*

- *Grass must be no more than 100 mm in height.*
- *Leaf litter must be less than 20 mm deep.*
- *There must be no elevated fuel on at least 50% of the Outer zone area.*
- *Clumps of dry shrubs must be isolated from one another by at least ten metres.*

Note: Non-flammable features such as tennis courts, swimming pools, dams, patios, driveways, or paths should be incorporated into the wildfire development plan, especially on the north and western sides of the proposed building. Features with high flammability such as coir doormats, firewood stacks should not be located near the dwelling during the fire danger period.

Note for Category of Bushfire Attack

The land is in a bushfire prone area designated under regulation 804 of the Building Regulations 2006. Medium forest, tall forest or shrub and heath is the predominant vegetation within 100 metres of the proposed dwelling which corresponds to a high category of bushfire attack under AS 3959.”

Concerns with Council being required (under Section 62 of the Planning and Environment Act 1987) to impose such Conditions on a Permit are obvious and relate to:

- (i) the lack of specificity of requirements such as access. For example, if an application shows an 80m long access across relatively flat land with no site constraints, why should a Permit include conditions relating to bridge construction, or access ways greater than 100m?

- (ii) Management requirements as currently imposed by the CFA relate to personal ability and are considered unenforceable or impractical to achieve in some instances. In such cases, even where it is not possible to contain the vegetation management areas within a property (ie on land under the control of the permit holder), it appears to be CFA policy not to object to a permit being issued but to modify defendable zones / fuel modified zones by truncating and reducing the area so as to be contained within the subject land and imposing unattainable conditions on an approval.
- (iii) Because Council is the responsible authority under the Planning and Environment Act 1987 it becomes Council's responsibility to check the design and layout plans for compliance as it is councils responsibility to provide on-ground proofing that the condition has been complied with and if not, initiate compliance action. The council currently must also check for compliance with the vegetation management conditions and for this to be effective, it would need to be done on a regular basis. It is also suggested that Council staff do not have expertise to assess all these issues (for example coupling threads for water tanks).

#### RAMIFICATIONS OF A WMO

In addition to the above there are a number of ramifications of the introduction of a WMO that will impact on both applicants and Council.

For an applicant these include:

- potential delays in receiving the planning permit;
- additional cost in preparing plans and written documentation to be in conformity with the CFAs design standards;
- increased frustration and dissatisfaction with Council, and;
- potential difficulties in designing the development to fit on the site in conformity with the CFAs design standards.

For Council, potential ramifications include:

- higher number of permit applications;
- higher administrative loads arising from multiple referrals;
- becoming a mediator between the applicant and the CFA when the inevitable disputes arise;
- dealing with applicant frustration brought on from another agencies requirements;
- lengthier permit processing times;
- dissatisfaction with the CFA when it requires permit conditions yet the councils staff consider the risk is too great and that the application should have been refused;
- much greater compliance checking responsibilities; and following on from that:
- potential liability issues if an unfortunate event occurs and for whatever reasons, the required compliance checks have not been carried out.

Opportunities to overcome some of these potential problems include entering into an agreement with the CFA that standard conditions will be applied to permits for new developments in WMO areas without referring the application to the CFA. This approach tends to highlight the problem with blanket controls and lack of context specific consideration.

BENEFITS OF A WMO

While the disbenefits and concerns have been described the WMO is also potentially a beneficial tool. The WMO can be applied to all land identified as being at risk and is stated as being aimed at:

- identifying areas where the intensity of wildfire is significant and likely to pose a threat to life and property;
- ensuring that development that is likely to increase the number of people in the affected areas does not significantly increase the threat to life and property; and- detailing the minimum fire protection outcomes that will assist to protect life and property from the threat of wildfire.

It is a risk management tool that is not intended to be the main determinant as to whether or not development should proceed, but is intended to ensure that development in areas of high fire intensity has appropriate water supply, access, building siting and design and fuel-reduced areas around buildings.

Introducing the overlay will:

- clarify which applications need to be referred to the CFA;
- provide an efficient, consistent and transparent process for dealing with applications in high risk areas;
- provide clear guidelines for applicants;
- provide consistency with other areas of the state;
- provide consistency with State policy;
- increase fire safety;
- improve applicant education about fire risk;
- prevent inappropriate subdivision in high risk areas;
- enable potential applicants to "self-assess" and thereby consider fire related matters in building design and site layout.

It achieves this by requiring a planning permit to construct a building or construct or carry out works for accommodation (includes all forms of residential accommodation), child care centre, education centre, hospital, industry, place of assembly, retail premises and timber production; a planning permit is also required to subdivide land.

If the buildings and works are consistent with a fire risk management plan that has been prepared to the requirements and satisfaction of the CFA and the satisfaction of the responsible authority, then no permit is required.

A performance based approach is used with applications to demonstrate that specified objectives and outcomes have been considered and incorporated into the proposal; an example of this performance based approach is given below.

OBJECTIVE	OUTCOME
<p>To ensure that water is available to landholders and emergency services to enable life and property to be defended from wildfire.</p>	<p>A reticulated or non-reticulated water supply must provide a water discharge to provide an appropriate level of protection to assets.</p> <p>The water supply must be maintained, accessible and able to be effectively employed for personal and fire brigade use at all times.</p> <p>The water supply must include an outlet and connectors compatible with standard fire brigade equipment.</p>

It is noted that most outcomes are obligatory, i.e. the outcome "must" be achieved, but the objectives of the WMO may compete with other objectives in the Planning Scheme (for example the subject land may also be included with the Significant Landscape Overlay and/or the Environmental Significance Overlay) and the weighting given to the competing objectives must first be decided.

WMO REFERRALS

The WMO/CFA process is time-consuming and in effect redundant because the CFA requires applicants to prepare a Wildfire Development Plan in accordance with the CFA document "Building in a Wildfire Management Overlay - Applicants Kit 2007".

This kit specifies the design, siting and infrastructure standards as well as on-going maintenance obligations. It also provides information and guidance on preparing the Wildfire Development Plan and the applicant is required to sign this kit.

The planning permit conditions now requested by the CFA are reproduced in this kit and this duplication is considered to be in-efficient and cumbersome.

A more refined process could be developed (predicated on an agreement having been reached between the council and the CFA on what conditions are required).

On being approached by an intending developer, the Council would provide the planning permit application forms and other relevant documents and a copy of the CFA's Building in a Wildfire Management Overlay Applicants Kit, as well as CFA contact details as website addresses.

The applicant goes away, contacts and discusses with the CFA how to prepare the Wildfire Development Plan; prepares the plan and has it certified by the CFA and then either makes an application for a planning permit or requests an exemption on the basis that the proposed development is consistent with a Wildfire Development Plan developed with and approved by the CFA.

The council on receipt of the application confirms that a certified Wildfire Development Plan and applicants kit is included with the application and if it does, then the application continues to be processed without the need for formal referral to the CFA.

If a certified Wildfire Development Plan and Applicants Kit is not provided or one is but is either incomplete or not certified then the application would be referred to the CFA.

## ORDINARY COUNCIL MEETING MINUTES

On completion of the assessment and assuming all other planning scheme requirements are satisfied, the permit would be issued.

The fire related conditions placed on the permit would be the simplified conditions that have been developed and agreed by council and the CFA.

This suggested approach is considered to be a more effective approach for the following reasons:

- The applicant is given the required information and is directed to the CFA for advice and assistance in preparing the Wildfire Development Plan.
- The preparation of the Wildfire Development Plan (WDP) is done in conjunction with the CFA.
- The completed WDP is signed off by the experts, i.e. the CFA rather than having to be checked by council staff.
- The planning permit process is streamlined because the required information, i.e. a certified WDP is provided when the application is made.
- The time spent on referring the application to the CFA is saved.
- The planning permit itself is less cumbersome as only two fire related conditions would be required.

The first fire related condition would require that the development conform to the certified WDP.

The second would require an annual declaration that the vegetation management obligations have been satisfied and importantly to the council, this declaration is to be provided to the CFA for checking rather than the council.

### Example condition 1

Development permitted under this permit must be in accordance with the Wildfire Management Plan as presented in the CFA endorsed Building in a Wildfire Management Overlay Applicants Kit 2007 dated dd/mm/yyyy (being the date the WMO Declaration Form was signed).

### Example condition 2

A written statement including dated and annotated photographs demonstrating compliance with the owner's vegetation management responsibilities as specified within the CFA endorsed Wildfire Management Overlay Applicants Kit 2007 dated dd/mm/yyyy is to be submitted annually to the CFA for approval before the commencement of the Declared Fire Danger Period.

As noted above, the second suggested condition is to redirect compliance on vegetation management to the CFA rather than the council thereby removing the council from the responsibility of compliance checking.

If Council endorses the recommendations of the report, negotiations will be initiated with the CFA aimed at achieving agreement to the revised process and the planning permit conditions to be used.

## CHANGES TO LOCAL PLANNING POLICIES

### Cl. 22.03-2 Fire hazard

The primary provisions of this policy are requirements for buildings and works and subdivisions that while not identical, paraphrase the CFA's Building in a Wildfire Management Overlay Applicants Kit 2007.

For consistency, ease of use, confusion and misunderstanding avoidance, the policy could be revisited to replace the fire protection measures and requirements with a suitably worded statement requiring compliance with a signed and endorsed Applicants Kit 2007. For example: The design, siting and development of buildings and works and subdivision of land must be in accordance with a Wildfire Management Plan prepared in accordance with the CFA's Building in a Wildfire Management Overlay Applicants Kit 2007 endorsed by both the landowner/proponent and the CFA.

The introduction and policy basis wording could be strengthened by a discussion about the State Government declaring the entire state as bush fire prone. For example:

- In response to the devastating bushfires in January/February 2009, the State Government declared the entire state of Victoria as bush fire prone. - The State Government also encouraged the introduction of the Wildfire Management Overlay into planning schemes, but this overlay is only applied to private land discretely identified as having a high bushfire risk factor as determined by the Country Fire Authority. Development on land not covered by the Wildfire Management Overlay does not enjoy the same level of protection as development on land that is covered by the Wildfire Management Overlay.
- Indigo Shire Council considers that protection from fire hazard is an important element in the consideration of proposals for new use and development irrespective of whether or not the land is covered by the Wildfire Management Overlay.
- Accordingly, one of the determinants when considering development proposals, including subdivision, that require a planning permit under other planning scheme provisions, will be a bush fire risk assessment.

Attachment B is a draft, revised CI22.03-2 Fire hazard.

REVISIONS TO OTHER LOCAL PLANNING POLICIES

CI. 22.01-1 Rural Living and CI22.01-2 Rural dwelling siting and design guidelines should also be revised to remove provisions that replicate what are already in CI22.02-2 Fire hazard.

CI. 22.01-1 Rural Living:

- Under performance measures - "subdivision/development proposals should provide appropriate facilities for fire fighting in accordance with current CFA Guidelines" should be deleted as it is covered in CI22.03-2 Fire Hazard.

CI. 22.01-2 Rural Dwelling siting and design guidelines:

Under performance measures:

- Each dwelling should have access to a reliable water supply for household and/or domestic uses, fire fighting and stock purposes. Gravity water systems are preferable so as to reduce reliance on a power supply. Council will generally require that water storage tanks.
- Be provided in close proximity to the dwelling holding a minimum of 90,000 litres of water, of which a minimum reserve of 20,000 litres is to be held at all times for fire fighting purposes.
- Be fitted with a gate valve and a 64mm, 3 thread round male coupling to CFA specifications to enable quick connection and full utilization of all water.

These policy provisions could be rationalized by removing reference to fire fighting purposes and the CFA as these are covered in CI. 22.03-2 Fire Hazard.

The refinement of the local planning policies as suggested above is consistent with the State Governments objectives of improving the performance of the local planning policy framework and will contribute to making the Planning Scheme a more effective planning tool by removing duplications and the potential for contradictory policies to exist.

INDEPENDENT REVIEW PROCESS

The usual path for introduction of an amendment includes an independent review by way of Independent Panel appointed by the Minister for Planning (DPCD). In this instance, while the WMO will be introduced without public exhibition, once it is in place, the public will have the opportunity to make a submission if they consider the way the WMO is applied should be changed. The Minister has appointed a Standing Advisory Committee to assess any submissions and to make quick recommendations on a case by case basis about whether a change to the WMO is warranted. There will be no time limit on when a submission can be made, however the ongoing need for the Standing Advisory Committee will be reviewed in December 2010.

A copy of the Standing Advisory Committee Terms of Reference is attached (Appendix C).

CONCLUSIONS

Protection from fire hazard is an important element in the consideration of proposals for new use and development irrespective of whether or not the land is covered by the Wildfire Management Overlay.

Experience over recent years is that the Country Fire Authority rarely exercises its powers as a statutory referral authority under Sect 55 of the Planning and Environment Act to recommend that an application for a planning permit be refused yet there are instances where land use planning staff consider that a proposed development is of high risk and should be refused. Proposed dwellings in heavily forested areas that have limited or poor vehicular access are one example with another being proposed dwellings on small allotments again in heavily forested areas where it is impossible to create effective fire breaks. Rather than recommend refusal, the CFA is more likely to request conditions even though full compliance with the conditions is very difficult if not impossible.

Without pre-empting the findings of the Royal Commission, it is considered appropriate to consider holding discussions with the CFA to begin identifying the set or sets of circumstances that, if they existed, would preclude the granting of a planning permit for new development.

One potential approach is to convene a workshop with attendees including the Councils Fire Prevention Officer, an officer from Councils Sustainable Development Department, the CFA, a representative from each of the five local fire brigades, the Department of Sustainability and Environment, Parks Victoria and Vicroads.

It is evident from the 2009 Bushfires that in the event of climatic conditions as preceded and existed on the day of the 7 February fires, specific location or settlement patterns are largely irrelevant as a means of avoiding 'fire hazard', which gives weight to the CFA's approach to managing surrounding environmental conditions to address a certain 'design event'.

Certainly the 2009 bush fires have shown that even well designed and sited developments can be damaged or destroyed by bush fire and that retreat from a bush fire is too often hampered by such things as poor visibility, fallen trees and other barriers to escape.

## ORDINARY COUNCIL MEETING MINUTES

The introduction of the Wildfire Management Overlay could overcome these deficiencies. This is particularly the case if changes eventuate to the CFA approach and practices post Teague Royal Commission.

Given that the introduction of the WMO is one of those occurrences where the interests of all Victoria surpasses the interests of individual landowners, the Minister for Planning will be requested to prepare the planning scheme amendment and requested to exempt himself from the notification requirements of the Planning and Environment Act 1987.

A principle issue with introduction of a WMO is ensuring that the limitation of the design event is understood and that the management requirements are met and enforced. Given the significant burden on Council as a result of this, consideration should also be given to a Development Contribution Plan or S173 Agreement to ensure a rateable levy was imposed to cover the administrative cost of servicing development within a WMO (ie ongoing yearly compliance inspections and enforcement action).

*Attachments:*

*Attachment A - WMO provisions*

*Attachment B - comparison of existing and draft, revised Cl. 22.03-2 Fire hazard*

*Attachment C - DPCD advise on the Ministerial amendment to introduce the WMO and Panel process*

**10.8 ENVIRONMENT STRATEGY RELEASE**

**File No: 09/608 (E198.1) – Shay Simpson / Helen Jones- NRM Officer / Environmental Projects Officer**

For Decision

**RECOMMENDATION**

1. That Council confirms its commitment to ensuring the environment remains a key focus of Council corporate planning and operations.
2. That Council adopt the Environment Strategy as an important response to environmental management and incorporate the actions and directions throughout Council operations.

**Moved Cr Croucher  
Seconded Cr Goldsworthy**

1. That Council confirms its commitment to ensuring the environment remains a key focus of Council corporate planning and operations.
2. That Council adopt the Environment Strategy as an important response to environmental management and incorporate the actions and directions throughout Council operations.

**UNANIMOUSLY CARRIED**

**INTRODUCTION**

Over the past decade the focus on environmental issues, and how individuals and communities respond, has become an increasingly important topic for discussion and consideration. Individuals and communities have become more aware and educated on existing and emerging environmental issues and the affect of these issues on resources over the immediate, medium, and long term periods. The decreasing availability of water, the impact of greenhouse gas emissions, the need to preserve flora and fauna and to sustain biodiversity, are all central to an expanding view on living in a sustainable manner. Communities across the nation are looking to all levels of government to provide leadership and strategic direction and present well defined plans and actions to ensure that the environment is protected, negative impacts mitigated, and positive and creative initiatives implemented.

Indigo Shire residents and communities have articulated a strong desire for the environment to be a key focus of Council activities. The Community Consultation and Engagement process associated with the development of the Council Plan strongly reflected the prominence that environment has in the lives and thinking of Indigo residents and communities. The Indigo community expects Council to be a leader in ensuring an integrated and well planned approach to the environment, and to work to influence all levels of government in environmental management.

Council has responded to the community interest by adopting the Local Environmental Sustainability Priority Statement in March 2008 and securing funding through the state government Sustainability Accord to develop an Environment Strategy. Integral to the development of the strategy has been the formation of the s86 Indigo Environmental Advisory Committee (IEAC) to provide a key stakeholder voice to strategy development. Council staff, across a range of departments, have also provided valuable contributions to the development of the Strategy. Further feedback has been received via community engagement processes, as well as through presentation and consultation with Indigo Shire Councillors. Collectively, this input has provided development of the final Environment Strategy presented for adoption.

BACKGROUND

The final Indigo Shire Council Environment Strategy has been developed through considerable consultation with staff and the IEAC. The ongoing involvement of the Committee has been integral in establishing the 'Key Strategy Directions' approach and format of the document, and staff have ensured that the relevance and role of local government is maintained. A pre-draft document was presented to Council in August outlining the development process undertaken up to that point. The pre-draft was released internally over a period of 1 month to select staff, the IEAC and Council to allow an opportunity for any concerns regarding the strategy's approach, scope and content to be raised early, well before final development and release of the draft document. Submission from staff and committee members were received from several individuals which contributed to the reworking of the final draft document by a small working group.

The draft Environment Strategy was received by Council at the October Council meeting and released for public comment for a three week period. A total of seven submissions on the draft were received. A summary of this feedback is provided below:

1. Submission 1
  - More diagrams needed – this comment was later retracted
2. Submission 2
  - Recommended statement of need for substantial review in 2011 due to rapidly changing government policy
  - Highlighted that document very council-centric and should be more shire-centric – implementing this change would require reworking of the document and could have been realistically been considered during the pre-draft but not draft stage – it is envisaged that this could be considered by the Environmental Advisory Committee during the document's first review
  - Comments on terminology – these were adopted
  - recommended greater expansion on the section relating to firewood – this was adopted
3. Submission 3
  - Comment on personal communication reference – not adopted as can't change source of information
  - Comments on grammar and photo references – these were adopted
4. Submission 4
  - Comment on grammar - adopted
5. Submission 5
  - Expand on consideration of the eco tourism and cycling actions
  - Knowledge of funding sources – incorporated into existing actions within strategy
6. Submission 6

- 7.
  - Affirmation of wording in Acknowledgement to Country Submission 7
  - Question regarding reference to the three catchments in the north east – terminology used in draft confirmed as correct
  - Recommendation to include specific reference likely changes in temperate – not included as this information further explained within the Greenhouse Action Plan.

KEY IMPLICATIONS

There are a number of key implications for Council within the Environment Strategy, such as its positioning in reference to other Council plans. The development of the Strategy is strongly linked to objectives in the existing Council plan, other Council documents, and various external agencies in order to provide a strategic context to realise outcomes across the Shire. In addition, the Strategy allows for a consolidation of Indigo’s commitment to improving environmental performance and working towards achieving healthy and sustainable communities.

The Environment Strategy has four Key Strategic Directions each with their associated driver:

Using Resources Efficiently	↔	Reduce what we take
Protecting and Enhancing Natural and Municipal Assets	↔	Protect what we have
Regulating for Liveability	↔	Grow sustainably
Supporting and Resourcing the Community	↔	Share what we learn

FINANCIAL IMPLICATIONS

The Strategy presents a range of actions within four Key Strategy Directions which link to recommendations highlighted in existing Council documents as well as identifying further opportunities for improved environmental response and management. Accordingly, some actions are already funded internally either directly through the Conservation and Environment budget or through other departments. Many actions, however, are without funding and it is anticipated that requests for specific actions will be requested from Council and will need to be considered against other Council priorities. At a minimum, the existing financial commitment already shown by Council towards environmental projects will be expected to be ongoing. It is also anticipated that funding for specific projects will be sought via external means.

POLICY IMPLICATIONS

The Environment Strategy addresses Council Plan objective “4.3 Protect and enhance the Shire’s natural environment” and objective “4.7 Recognise and plan for the effects of changing environmental conditions”. The main policy implication of the draft Environment Strategy is how it gives reference to the whole of Council, as well as the importance of building strong working relationships with the community and other agencies. Environmental issues need to be considered in all aspects of Council business, which will require a continued shift in the culture of the organisation and commitment from management to initiate commitment at all levels of staff.

### CONCLUSION

The Environment Strategy strongly reflects the community's and Council's commitment to the environment and is a significant step to a well defined and integrated approach to environmental management. Development of the Environment Strategy has enlisted contributions across a range of stakeholders including staff, Council and the IEAC. This has enabled issues to be categorised into a framework of four key strategy directions according to its relevance to Council's roles and responsibilities and acknowledging community expectations. Environmental actions have been sourced from existing priorities listed within Council documents and opportunities identified within the IEAC. The next step is to formally adopt the Environment Strategy and for staff to ensure that work priorities reflect priorities listed in these.

*Attachment:  
Environment Strategy*

**10.9 INDIGO SHIRE HEATWAVE PLAN**

**File No: 09/852 - Sally McCarron - Manager Community Planning**

For Decision

**RECOMMENDATION**

**That Council adopt the Indigo Shire Council Heatwave Plan.**

**Moved Cr Croucher  
Seconded Cr Pockley**

**That Council adopt the Indigo Shire Council Heatwave Plan for the Summer period and review the Heatwave Plan in Autumn 2010.**

**UNANIMOUSLY CARRIED**

*Cr Goldsworthy departed the meeting at 4.19pm and returned at 4.21pm.*

**INTRODUCTION**

This report presents the final draft of the Heatwave Plan and requests that Council adopt the Plan.

**BACKGROUND**

The Department of Health (Human Services) supported 11 pilot projects for the development of Heatwave Strategies by local governments in 2008. Following the completion of these pilot projects the Department developed a resource guide "Heatwave Planning Guide: Development of Heatwave Plans for Local Councils in Victoria".

Early in 2009, following the January Heatwave and Black Saturday it was determined that all Victorian Local Governments should develop a Heatwave Plan. Funding was provided to assist in the development of the plans.

The purpose of a Heatwave Plan is to support the community to prepare for, respond to and recover from heatwave conditions.

Preparation of the Plan was supported by input from various stakeholders including:

- Beechworth Health Service
- Indigo North Health
- Gateway Community Health
- Yackandandah Bush Nursing Hospital
- Kindergartens located within the Indigo Shire
- Indigo Health Consortium
- Upper Hume Primary Care Partnership
- Council's Aged Services staff
- Council's After School Program staff

## ORDINARY COUNCIL MEETING MINUTES

The Heatwave Plan is primarily an operational document for use by Council staff in supporting community members and agencies to be prepared for heatwave conditions. To this end circulation to the community seeking comment is not required.

### KEY IMPLICATIONS

The Plan:

Identifies vulnerable population groups within the community and the risks they face during heatwaves. The key at risk groups include the young, elderly, farmers and tourists.

Develops partnerships with key local organisations to better coordinate responses to heatwaves.

Outlines strategies and actions to implement in the event of a heatwave. These actions do not just occur during a heatwave; rather they occur during the year to ensure that the community is well prepared.

The Plan outlines 3 stages:

<b>Stage One</b> <b>Pre summer preparation</b> <b>April 1 to November 30</b>	<ul style="list-style-type: none"> <li>Implement Heatwave Awareness Campaign (April to Nov)</li> <li>Identify vulnerable groups and update community registers</li> <li>Identify cool areas</li> <li>Engage key stakeholders</li> </ul>
<b>Stage Two</b> <b>During summer prevention</b> <b>December 1 to March 31</b>	<ul style="list-style-type: none"> <li>Implement Heatwave Awareness Campaign (Dec to March)</li> <li>Advise key stakeholders of roles and responsibilities</li> <li>Organise cool areas for possible use</li> <li>Monitor Bureau Of Meteorology thresholds for Indigo Shire</li> </ul>
<b>Stage Three</b> <b>Heatwave response</b> <b>Trigger: DHS heat alert</b>	<ul style="list-style-type: none"> <li>Alert key stakeholders to enact specific actions</li> <li>Advertise cool areas</li> <li>Inform Emergency Management Team</li> <li>Monitor Bureau Of Meteorology reports</li> </ul>

The specific actions that key stakeholders will be requested to enact in stage 3 include

- Enacting their phone trees;
- Prioritising tasks especially for those involving physical exertion;
- Assessing risk for clients and staff;
- Rescheduling staff work times and hours;
- Providing additional fluids and cool places to rest for clients and staff;
- Modifying client programs;
- Transporting clients in cooler parts of the day; and
- Altering children's outdoor activities and play times.

In the North East a heatwave will be declared when the mean temperature is 30°C or above but, only when the maximum forecast temperature is 40°C and above.

## ORDINARY COUNCIL MEETING MINUTES

The Department of Health will issue a heatwave alert based on information from the Bureau of Meteorology.

It is proposed that the Heatwave Plan will be appended to the Municipal Emergency Management Plan. A copy of the Plan will be forwarded to members of the Municipal Emergency Management Committee for discussion at the next meeting.

### FINANCIAL IMPLICATIONS

There are no specific financial implications associated with the implementation of the Heatwave Plan, however there may be some resourcing issues. Staff may need to be deployed to open and operate Cooling Centres, if these are Council owned facilities. Also outdoor staff and Home Care staff may need to alter schedules to ensure that work is not being undertaken in the hottest parts of the day.

### POLICY IMPLICATIONS

The development of the Heatwave Plan is consistent with objective 4.2 of the Council Plan “provide a safe environment for our community” and specifically addresses the action of developing a Heatwave Plan.

The Plan will only be enacted when directed by the Department of Health.

### CONCLUSION

The development of the Heatwave Plan increases both Council’s and the community’s capacity to respond to heatwaves and manage a heatwave emergency more effectively. It also encourages businesses to factor heatwaves into their business continuity planning.

*Attachment:  
Indigo Shire Council Heatwave Plan*

## 10.10 INDIGO INFLUENZA PANDEMIC PLAN

File No: 09/854 - Sally McCarron - Manager Community Planning

For Decision

### RECOMMENDATION

That Council adopt the Indigo Shire Council Influenza Pandemic Plan.

Moved Cr Issell  
Seconded Cr Pockley

That Council adopt the Indigo Shire Council Influenza Pandemic Plan for the Summer period and review the plan as soon as possible.

**UNANIMOUSLY CARRIED**

*Cr Murdoch departed the meeting at 4.26pm and returned at 4.28pm.*

### INTRODUCTION

This report presents the final draft of the Influenza Pandemics Plan and requests that Council adopt the Plan.

### BACKGROUND

The Commonwealth and State Governments have been considering issues associated with the possible outbreak of a pandemic influenza since approximately 2006. In April 2007 the Victorian State Government released the Victorian Human Influenza Pandemic Plan. This was followed in July 2007 by the release of the Council of Australian Governments National Action Plan for Human Influenza Pandemic.

The Victorian Department of Human Services (now Department of Health) has been supporting and assisting local governments to develop local Plans. Part of this support has been the development of a template to provide a guide for the development of local Plans.

During the development of these local Plans we experienced the outbreak of H1N1 Swine Flu Virus in 2009. These outbreaks, whilst reasonably mild, provided a clear indication for the need for a Plan, and the consideration of a range of factors in the development of such a Plan.

Development of the Plan involved consultation with and feedback from a range of stakeholders. These include neighbouring municipalities, local health services, Department of Health (formerly Department of Human Services) and relevant Council staff.

The Influenza Pandemic Plan is primarily an operational document for use by Council staff in the event of a pandemic influenza alert. To this end circulation to the community seeking comment is not required.

## ORDINARY COUNCIL MEETING MINUTES

### KEY IMPLICATIONS

Whilst the Department of Health has overall responsibility at a State level for any outbreaks of disease, including pandemics it is important that Council recognises the level of risk to both the organisation and to the community.

The Plan identifies and addresses key organisational business continuity issues, particularly in the event of significant staff shortages in key business areas. It also identifies key risks when working with the community, many of whom may be infected, and how to address these risks.

The table below identifies the essential business functions of Council that must continue during a pandemic.

BUSINESS UNIT	OPERATIONAL ELEMENT/ FUNCTION	CRITICAL SUPPORT SYSTEMS/ GROUPS	HOW CRITICAL SUPPORT SYSTEMS WILL BE MAINTAINED
<b>Information technology</b>	<ul style="list-style-type: none"> <li>IT infrastructure (i.e. servers, network, PC's, phone systems, applications and data)</li> </ul>	<ul style="list-style-type: none"> <li>IT services and support</li> </ul>	<ul style="list-style-type: none"> <li>Municipal Emergency Management Plan</li> <li>Business Continuity Plan</li> </ul>
<b>Waste management</b>	<ul style="list-style-type: none"> <li>Removal of infectious disease materials</li> <li>Refuse collection</li> </ul>	<ul style="list-style-type: none"> <li>Cleanaway and Waste Staff</li> </ul>	<ul style="list-style-type: none"> <li>Municipal Emergency Management Plan</li> <li>Business Continuity Plan</li> </ul>
<b>Maternal and child health services</b>	<ul style="list-style-type: none"> <li>Support for children with disability</li> </ul>	<ul style="list-style-type: none"> <li>MCH Staff</li> </ul>	<ul style="list-style-type: none"> <li>Municipal Emergency Management Plan</li> <li>Business Continuity Plan</li> </ul>
<b>Aged services: Home and Community Care (HACC)/ Home Support</b>	<ul style="list-style-type: none"> <li>Maintain care for elderly who have no other means of support</li> <li>Meals on Wheels</li> </ul>	<ul style="list-style-type: none"> <li>Aged Care Staff</li> <li>BHS – Meals</li> <li>INH – Meals</li> <li>YBNH – Meals</li> <li>Grey Army – Property Maintenance</li> <li>Volunteers</li> </ul>	<ul style="list-style-type: none"> <li>Municipal Emergency Management Plan</li> <li>Business Continuity Plan</li> </ul>
<b>Essential traffic management services</b>	<ul style="list-style-type: none"> <li>Traffic co-ordination</li> <li>Barricades/Cordon's where required</li> </ul>	<ul style="list-style-type: none"> <li>Local laws staff</li> </ul>	<ul style="list-style-type: none"> <li>Municipal Emergency Management Plan</li> <li>Business Continuity Plan</li> </ul>
<b>Legislative functions (e.g. environmental health services)</b>	<ul style="list-style-type: none"> <li>Environmental Health services</li> </ul>	<ul style="list-style-type: none"> <li>All areas of Council</li> </ul>	<ul style="list-style-type: none"> <li>Municipal Emergency Management Plan</li> <li>Business Continuity Plan</li> </ul>
<b>Emergency management functions</b>	<ul style="list-style-type: none"> <li>Responds to declared emergencies</li> </ul>	<ul style="list-style-type: none"> <li>Emergency Management Team</li> </ul>	<ul style="list-style-type: none"> <li>Municipal Emergency Management Plan</li> <li>Business Continuity Plan</li> </ul>
<b>Communications</b>	<ul style="list-style-type: none"> <li>Communicates clear messages to residents</li> </ul>	<ul style="list-style-type: none"> <li>Communications</li> </ul>	<ul style="list-style-type: none"> <li>Municipal Emergency Management Plan</li> <li>Business Continuity Plan</li> </ul>

## ORDINARY COUNCIL MEETING MINUTES

It is also proposed that the Plan will be appended to the Municipal Emergency Management Plan (MEMP). A copy of the Plan will be forwarded to the members of the Municipal Emergency Management Planning Committee for discussion at the next meeting. Inclusion in the MEMP will also assist in the ongoing review of the Pandemic Plan.

### FINANCIAL IMPLICATIONS

There no significant financial implications associated with the development of the Plan. Council has incurred small levels of expenditure to date (approximately \$1000) to purchase items such as anti bacterial wipes, antiseptic hand wash and protective clothing. Such expenditure can again be anticipated in the event of another outbreak.

The key issue for Council in a pandemic is potential staff shortages. Modelling suggests that the attack rate for people is approximately 40%. Staff will be required to be redeployed to key operational areas with some activities being shut down. Opportunities for working from home need to be considered.

### POLICY IMPLICATIONS

The development of the Influenza Pandemic Plan is consistent with objective 4.2 of the Council Plan “provide a safe environment for our community” and specifically addresses the action of developing a Pandemic Plan.

The Plan will only be enacted when directed by the Department of Health.

### CONCLUSION

The development of an Influenza Pandemic Plan enables Councils to be well placed to deal at the local level with any outbreak of Pandemic Influenza.

*Attachment:  
Indigo Shire Council Influenza Pandemic Plan*



10.11 BUILDING STATISTICS – NOVEMBER 2009

File No.: Glen Colwell, Municipal Building Surveyor

INDIGO SHIRE SURVEYOR			
Yackandandah	New Building	\$9,1	02/11/09
Rutherglen	New Building	\$8,5	05/11/09
Norong	Welling	\$150,0	06/11/09
Lilliput	New Building	\$9,9	09/11/09
Beechworth	Welling	\$89,2	10/11/09
Yackandandah	Extension	\$11,0	10/11/09
Rutherglen	Welling	\$10,0	11/11/09
Barnawartha	Extension	\$22,9	12/11/09
Yackandandah	Extension	\$149,2	16/11/09
Allans Flat	Extension	\$5,0	16/11/09
Beechworth	Extension	\$5,0	16/11/09
Sandy Creek	New Building	\$3,5	16/11/09
Chiltern	New Building	\$28,5	16/11/09
Beechworth	Welling	\$320,0	16/11/09

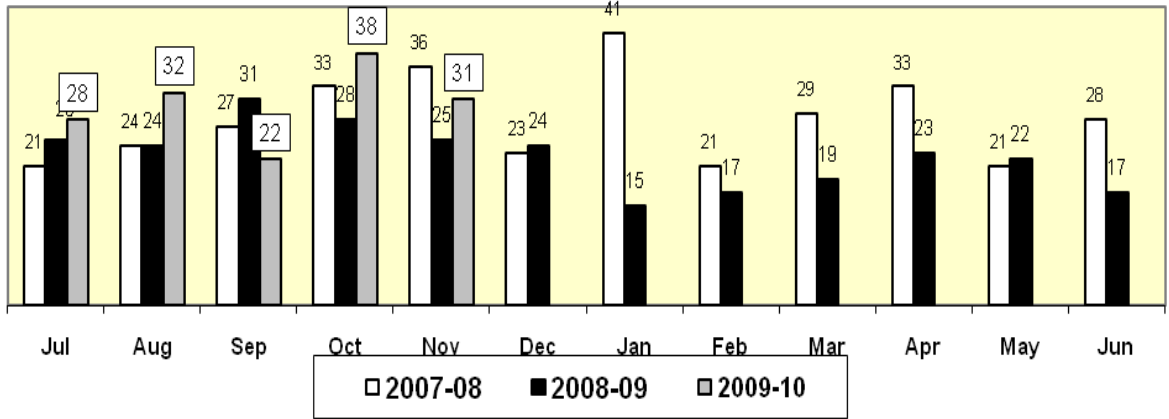
**ORDINARY COUNCIL MEETING MINUTES**

Kiewa	New Building	\$33,3	16/11/09
Yackandandah	Retaining Wall	\$20,1	16/11/09
Tangambalanga	Tension	\$7,5	16/11/09
Osbornes Flat	New Building	\$4,1	16/11/09
Rutherglen	New Building	\$13,4	17/11/09
Yackandandah	Wellington	\$221,4	18/11/09
Yackandandah	Tension	\$83,0	18/11/09
Allans Flat	Wellington	\$50,0	18/11/09
Yackandandah	Wellington	\$336,0	20/11/09
Wahgunyah	Wellington	\$248,0	24/11/09
Rutherglen	New Building	\$4,1	25/11/09
Yackandandah	Tension	\$10,0	25/11/09
Wahgunyah	Swimming Pool	\$23,6	27/11/09
Osbornes Flat	Tension	\$7,5	30/11/09
<b>Sub-total</b>	<b>\$1,884,3</b>		

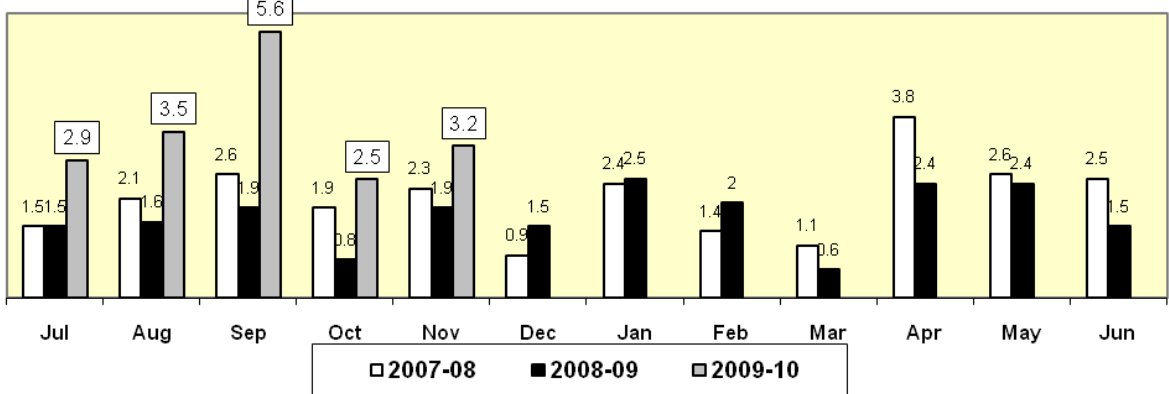
**ORDINARY COUNCIL MEETING MINUTES**

<b>External Surveyor</b>			
Stanley	velling	\$183,0	28/10/09
Yackandandah	velling	\$203,9	30/10/09
Rutherglen	imming Pool	\$36,8	03/11/09
Beechworth	velling	\$400,0	05/11/09
Beechworth	velling	\$235,2	06/11/09
Wahgunyah	velling	\$50,0	13/11/09
Chiltern	velling	\$240,3	23/11/09
Chiltern	imming Pool	\$30,1	23/11/09
<b>Sub-total</b>	<b>\$1,379,4</b>		
<b>Total All Permits</b>	<b><u>\$3,263,784</u></b>		

**Building Permits Issued (excluding those by Private Certifiers)**



**Value of Construction Works - all Building Permits**



**10.12 SUSTAINABLE COMMUNITIES WORK IN PROGRESS AND PROJECTS NOVEMBER 2009**

**Mark Florence – General Manager Sustainable Communities**

**For Information**

INTRODUCTION

Projects underway are shown in the following table.

PROJECT	CURRENT ACTIONS
<b>ENVIRONMENTAL HEALTH SERVICES</b>	
Public Health & Wellbeing Act 2008	Changes to the Food Act come into effect on January 2010. The Environmental Health team are currently updating forms and certificates and other standard documents and attending workshops and seminars designed to make the transition to the new Act a seamless one. The most notable change to the previous Act is the ability for Environmental Health Officers to issue On-the-Spot Infringement Notices for non-compliant premises.
<b>BUILDING SERVICES</b>	
Local Laws Activity	The Enforcement Unit has been very busy with the follow up Fire Inspections and issuing of Fire Hazard Prevention Notices in accordance with the CFA Act of 1958.

**10.13 SUSTAINABLE COMMUNITIES (COMMUNITY PLANNING) PROGRESS REPORT - NOVEMBER 2009**

**For Information**

PROJECT	ACTION/PROGRESS																								
Swimming Pool Operations	<p>Indigo Shire swimming pools (Beechworth, Chiltern, Yackandandah, Rutherglen and Tangambalanga) successfully opened to the public on Saturday 21st November. The adverse weather conditions on the opening weekend resulted in low attendances at all pools.</p> <p>Following the slow start in October, the Wodonga Olympic Swimming Pool recorded high attendances during the hotter weather in November.</p>																								
"Indigo Summer Shorts"	<p>Indigo Shire Council received one-off funding from Film Victoria to present a series of three outdoor cinema events featuring the work of local film-makers. The program will comprise a 20 minute collection of locally produced short films, followed by a recently released Australian Feature.</p> <p>The events will be held on the following dates:</p> <p>Program 1:</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 80%;">Friday December 11, 2009</td> <td style="text-align: right;">8.00pm (dusk)</td> </tr> <tr> <td>Lakeside Music Bowl, Chiltern</td> <td></td> </tr> <tr> <td>Saturday, December 12, 2009</td> <td style="text-align: right;">8.00pm</td> </tr> <tr> <td>Kiewa Memorial Reserve</td> <td></td> </tr> </table> <p>Screening of 20 minute collection of locally produced short films followed by the screening of "Charlie and Boots"</p> <p>Program 2:</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 80%;">Friday January 8, 2010</td> <td style="text-align: right;">8.00pm</td> </tr> <tr> <td>Lakeside Music Bowl, Chiltern</td> <td></td> </tr> <tr> <td>Saturday January 9, 2010</td> <td style="text-align: right;">8.00pm</td> </tr> <tr> <td>Kiewa Memorial Reserve</td> <td></td> </tr> </table> <p>Screening of 20 minute collection of locally produced short films followed by the screening of "Mao's Last Dancer"</p> <p>Program 3:</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 80%;">Friday February 12, 2010</td> <td style="text-align: right;">8.00pm</td> </tr> <tr> <td>Lakeside Music Bowl, Chiltern</td> <td></td> </tr> <tr> <td>Saturday February 13, 2010</td> <td style="text-align: right;">8.00pm</td> </tr> <tr> <td>Kiewa Memorial Reserve</td> <td></td> </tr> </table>	Friday December 11, 2009	8.00pm (dusk)	Lakeside Music Bowl, Chiltern		Saturday, December 12, 2009	8.00pm	Kiewa Memorial Reserve		Friday January 8, 2010	8.00pm	Lakeside Music Bowl, Chiltern		Saturday January 9, 2010	8.00pm	Kiewa Memorial Reserve		Friday February 12, 2010	8.00pm	Lakeside Music Bowl, Chiltern		Saturday February 13, 2010	8.00pm	Kiewa Memorial Reserve	
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Kiewa Memorial Reserve																									

## ORDINARY COUNCIL MEETING MINUTES

	<p>Screening of 20 minute collection of locally produced short films followed by the screening of “Mary and Max”.</p>
<p>Australian Centre for Moving Images (ACMI) In The Regions</p>	<p>Indigo Shire Council recently received confirmation of funding for “ACMI in the Regions”. Dates for the event in Indigo Shire are yet to be confirmed but will take place in early to mid 2010.</p> <p>The ACMI team will come to three towns in the Indigo Shire to interview, film, edit and subsequently screen unique and high quality mini-documentaries that celebrate local stories and capture oral history. Three mini-documentaries are to be made in each town.</p> <p>These collaborative workshops can involve a large number of local residents and have a great impact on small regional towns.</p>
<p>Bushfire Recovery Update</p>	<p>Community Planning staff have been working with the communities of Bruarong and Stanley to scope out projects for potential funding via the Victorian Bushfire Appeal Fund. These projects have been previously identified by the community at various meetings held following Black Saturday. These projects include:</p> <ul style="list-style-type: none"> <li>• Additional upgrade to Bruarong Hall</li> <li>• Community noticeboard in Stanley</li> <li>• Community newsletter for Stanley</li> <li>• Community events in Bruarong.</li> </ul> <p>Indigo Shire was notionally allocated funds in the State plan for bushfire preparedness. A scoping brief, together with those mentioned above, have now been forwarded to the Victorian Bushfire Reconstruction and Recovery Authority (VBRRA).</p> <p>Work is also continuing with the two communities on the Bushfire memorial project. Meetings were held on 25 November (Bruarong) and 30 November (Stanley)</p> <p>The Chief Executive Officer of VBRRA, Ben Hubbard, will be visiting Indigo Shire on 2 December. He will be meeting with Council’s CEO and key staff before meeting with members of the Bruarong community. A community reception will be held for all bushfire affected people in Alpine and Indigo that evening in Rosewhite.</p> <p>The Chair of VBRRA, Christine Nixon, met with Indigo Shire residents impacted by the fires on Friday 27 November. The informal meeting was held in Stanley.</p>

## ORDINARY COUNCIL MEETING MINUTES

<p>Planning for the Forthcoming Fire Season</p>	<p>The CFA and local brigades continue to develop Township Protection Plans for four communities. The aim is for these to be completed by December.</p> <p>A list of suggested sites for Neighbourhood Safer Places has been provided to the CFA regional office for assessment. In order for a site to be designated a Neighbourhood Safer Place it must be assessed as meeting the criteria. Once the assessment has been completed Council must formally adopt the sites and the Neighbourhood Safer Place Plan prior to any sites being activated. It is important to note that Neighbourhood Safer Places are places of last resort and will not have any specific facilities.</p> <p>Relief centres will be opened if an emergency event occurs. This is done in consultation with the Police and personnel within the Municipal Emergency Co ordination Centre. The decision as to which centre will be opened in an emergency is based on a number of factors:</p> <ul style="list-style-type: none"> <li>• Where the event is</li> <li>• The information that is available at the time in relation to the event</li> <li>• Which centre minimises the potential risk to people relocating from their homes.</li> </ul>
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**10.14 SUSTAINABLE DEVELOPMENT WORK IN PROGRESS AND PROJECTS DECEMBER 2009**

**File No.: Susan Cheetham – Manager Sustainable Development**

**For Information**

INTRODUCTION

Projects underway are shown in the following table.

PROJECT	CURRENT ACTIONS
<b>STATUTORY PLANNING</b>	
VCAT Appeals	<p>PP084449 Appeal by I Jack to amend and delete some of the conditions included in a permit issued by Council for use of a Winery, olive processing (rural industry) , and re-subdivision of the land into 6 lots containing building envelopes.</p> <p>PP084376 Appeal by I Jack to review Council’s Decision to refuse to issue a permit for use of a winery, 6 accommodation units, use of olive processing (rural industry), use of produce sales, seven dwelling envelopes and the re-subdivision of land into 9 lots and the creation of common property. Both matters went to mediation 3 December in Melbourne. Report pending.</p>
Chiltern Quarry	Council has received an application for the relocation of the Chiltern Quarry to Skeleton Hill. Public notification period has commenced and comments will be received until mid-January 2009.
<b>NATURAL RESOURCE MANAGEMENT</b>	
North East Greenhouse Alliance	<ul style="list-style-type: none"> <li>• Developing application for Climate Change research grant to investigate capacity for emergency management</li> <li>• NEGHA mission, strategic objectives, new geographic coverage, core sectors and framework developed – executive committee to decide on final structure</li> <li>• Committee has revolving representative on SEED Advisory Group (Schools Environmental Education Directory)</li> <li>• Alliance welcomed new member Wodonga TAFE – supporting funded project to develop ‘Regional Centre for Sustainable Skill to be built within Wodonga CBD next to Council office</li> </ul>

**ORDINARY COUNCIL MEETING MINUTES**

*Cr Murdoch declared a direct conflict of interest as she is a member on the Board of North East Water and departed the meeting at 4.43pm.*

Sustainable Water Use Plan	Funding received from RDV to support the Rutherglen Water Re-use Scheme.
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*Cr Murdoch returned to the meeting at 4.45pm.*

Greenhouse Action Plan	Indigo trialling engagement of external scorekeeping service "Planet Footprint" to update and continually monitor emissions data.
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**11.0 MAJOR PROJECTS & PROGRAMS**

**11.1 ROAD NAMING**

**File No: 09/1390 – Mark Greene – Civil Works Officer**

For Decision

**RECOMMENDATION**

**That Council adopt this report, and commence the formal road naming process by advertising the selected names for public comment.**

**Moved Cr Goldsworthy  
Seconded Cr Graham**

**That Council adopt the Naming of Unnamed Roads report, and commence the formal road naming process by advertising the selected names for public comment, noting the following query confirmations on the appended table:**

- Query 14 – Grimmond Lane**
- Query 15 – Poyntz Track**
- Query 16 – Forbes Lane**
- Query 17 – Smith Lane**

**UNANIMOUSLY CARRIED**

**INTRODUCTION**

From time to time un-named roads are identified throughout the municipality that are required to be named. It is Council responsibility to name these roads in accordance with our Local Law No. 1, Council’s Naming of Local Roads Policy and the Guidelines for Geographic Names Victoria.

**BACKGROUND**

A number of roads have been identified as requiring names and are detailed in the attachments to this report.

Consultation has been undertaken with various residents and community groups to select some alternative names for each of the roads. In each of the cases, names that have been selected have some historic reference to individuals or families that resided in the area.

Attached to this report is a table and maps showing the location of the unnamed roads, the district location, the proposed name of the road, the names of persons consulted, and a brief explanation of the origin of the name chosen.

Council’s Road Naming Policy adopted by Council in October 2002 and the “Guidelines for Geographic Names Victoria” were used as reference documents when determining the suitability for names chosen.

## ORDINARY COUNCIL MEETING MINUTES

In the majority of cases contact was made with a long term resident of the area, or local Historical Society, to determine an appropriate name for the road. This was generally based on historical ownership of land adjoining, or in close proximity, of the road to be named. Reference was also made to the parish plan relevant to the area that shows the names of the original settlers of the land in the area of the un-named road. In some instances names chosen are names that have been used locally but not necessarily known to the wider community.

Every effort was made so as not to choose names that already exist on roads in other parts of the Shire to save confusion that may develop as a result of duplicated names. Also, naming roads after living persons was avoided where possible. However some instances did arise where names chosen do reflect living family names in that locality but these roads were generally not located near the residence of that family.

In most instances the chosen name is followed by the description Lane rather than Road. Most of the un-named roads are on relatively low standard of construction roads and justify the term Lane rather than Road.

Council should now consider this report and make any amendments or suggestions to names prior to advertising the selected names for public comment. At the completion of the advertising stage the report will be presented to Council for formal adoption of the chosen names.

Where more than one name appears in the proposed name column Council is requested to choose one of these names to be advertised.

### KEY IMPLICATIONS

Naming of these roads will allow for better identification of properties and locating by emergency services.

On completion of the naming process the adopted names will be forwarded to the Registrar of Geographic Names for inclusion on its data base.

### FINANCIAL IMPLICATIONS

Some costs will be incurred in placing new signs and altering signs, and also in the consultative advertising process. This will be covered by the existing budget.

### POLICY IMPLICATIONS

This road naming process is undertaken in accordance with Council's Naming of Local Roads Policy.

### CONCLUSION

To facilitate the naming process Council is requested to select a preferred name from each of the options mentioned so that this name can then be advertised for public comment.

*Attachments:*

*A. Table of suggested*

*B. Submissions*

*C. Location maps*

**11.2 TENDERS – YACKANDANDAH HALL UPGRADE-CONSTRUCTION & ASSOCIATED WORKS, PROJECT NO. 748**

**File No: Q09/2491 - Robert Uebergang - Assets Manager**

For Decision

**RECOMMENDATION**

That Council:

1. **Accept the Tender from Premier Building & Construction Pty Ltd for the construction of the Yackandandah Hall Upgrade and associated works in the amount of \$1,046,550 excluding GST.**
2. **Authorise the CEO to sign and Seal Contract documents in relation to the works, Contract Q09/2491, in accordance with recommendation 1 above.**

**Moved Cr Pockley  
Seconded Cr Murdoch**

1. **Accept the Tender from Premier Building & Construction Pty Ltd for the construction of the Yackandandah Hall Upgrade and associated works in the amount of \$1,046,550 excluding GST.**
2. **Authorise the CEO to sign and Seal Contract documents in relation to the works, Contract Q09/2491, in accordance with recommendation 1 above.**

**UNANIMOUSLY CARRIED**

**INTRODUCTION**

Tenders were called for the construction of the Yackandandah Hall upgrade and associated works on the 23 October 2009. The works are to be completed with funding from the Community Infrastructure Program grant received in 2009.

This report provides an overview of the project’s background and the tender process for construction contract works.

**BACKGROUND**

The Yackandandah Hall is located in High Street Yackandandah. A concept for upgrading the Hall formed part of a Regional and Local Community Infrastructure Program (or ‘RLCIP’) strategic projects (now known as Community Infrastructure Program or ‘CIP’) submission in 2009. The concept included upgraded access and amenity, main hall area equivalent to the existing hall and supper room overflow area, new store rooms and refurbishment of the front High Street facing rooms.

Further to Council being successful in receiving a grant for the projects forming part of this strategic RLCIP submission, tenders were advertised for the design, consultancy and contract administration of these projects. Simpson Architects were subsequently engaged for the Yackandandah Hall upgrade works on 31 July 2009.

## ORDINARY COUNCIL MEETING MINUTES

Further to consultancy with the Committee of Management, Simpson Architects presented final concept drawings for the facility at a public meeting on 27 August 2009. The public meeting provided some good feedback with the main issues raised being toilet facilities (some) being on a different level, a slightly smaller main Hall area than originally proposed and no room for future expansion. The concept drawings were subsequently revised to address these issues and re-presented to the Committee of Management, user groups and others at a meeting on 3 September 2009. The revised drawings met with general acceptance from those present.

The proposed Yackandandah Hall works are aimed at providing a facility to meet the wide variety of local community needs and user group requirements. The proposed project consists of a new structure to the south of the existing front three historical rooms with the refurbishment of these rooms. The new structure will include a store room, increased stage area, new toilets and foyer, new Hall area and re-orientation of the facility to enable the possibility of future expansion onto the current Council office site.

Final tender design documentation was prepared by Simpson Architects and distributed to 6 tenderers selected from the Expression of Interest process on 23 October 2009. A total of four tenders were received at the close of tenders on 23 November 2009 for the construction of this project. The lowest priced tenderer was Premier Building & Construction Pty Ltd.

### KEY IMPLICATIONS

Tenders were called in accordance with Council's Tendering Policy.

The selected tenderer has undertaken similar projects in terms of construction, OH&S risk and has completed projects of similar scope.

There are no indicated legislative, regulatory or environmental implications that will result from the scoped project being completed.

### FINANCIAL IMPLICATIONS

The overall contract pricing for the tendered works falls within Council's capital works budget for this project.

### POLICY IMPLICATIONS

This project is part of Council's adopted 2009-10 Capital Works program and is being largely funded from the Federal Government's Community Infrastructure Program strategic grant funding.

The project is a result of extensive planning for this facility over 2008 with a concentrated consultation phase over five weeks further to Architect engagement at the end of July 2009.

### CONCLUSION

The construction of the Yackandandah Hall upgrade and associated works will provide for the renewal of the current facility with current building access and amenity issues being addressed. The new Hall configuration will allow the possibility of expansion in the future onto the current offices site. After an Expression of Interest and Tender process the recommended contractor for the construction works is Premier Building & Construction Pty Ltd.

*Attachment:  
Confidential*

**11.3 MAJOR PROGRAMS & PROJECTS DEPARTMENT – PROGRESS REPORT – TO NOVEMBER 2009**

**File No.: Andre Kompler – General Manager Special Projects & Programs**

**For Information**

*Cr Issell departed the meeting at 4.52pm and returned at 4.53pm.*

<b>CAPITAL WORKS</b>		
<b>No.</b>	<b>Project</b>	<b>Description</b>
<b>ASSETS CAPITAL WORKS</b>		
	RUTHERGLEN WINE BOTTLE	Public meeting held. Outcome and way forward being oversighted by Sustainable Communities division.
611	CHILTERN FLOODPLAIN WORKS	Design scheduled for December 09 – construction Feb 10 onwards.
667	CHILTERN COMMERCIAL AREA PARKING	Works commenced 27 October on laneway and carparking. Design Status for Conness St Streetscape to be confirmed. Either way, streetscape works expected to start Feb 2010.
543	TANGAMBALANGA MULTI-PURPOSE ACTIVITY CENTRE	Construction commenced, Concrete Slab in place, Steel Framing underway.
723	TANGAMBALANGA INDUSTRIAL ESTATE	Land purchase legal agreements lodged with solicitors. Design approved pending minor amendments. Planning permit issued.
524	YACKANDANDAH DEPOT INDUSTRIAL ESTATE AND STEEL RD INDUSTRIAL AREA	Design approved pending minor amendments. Planning permit issued.
689	WAHGUNYAH DRAINAGE IMPROVEMENTS	Rear easement drain Dennison and Foord Street to be cleared by jet truck by end Nov. Blanche and McDonnell streets – to look at design in early 2010 to deal with low drainage point in subsequent future years' capital works consideration.
638	WAHGUNYAH FORESHORE MASTERPLAN	Awaiting CSC comment on scoping. Thereafter consultant will be sought for the study.
695	OSBORNE'S FLAT HALL UPGRADE	Contractor appointed. Works to commence 1 Feb 10 (12 wk program). Contractor obtaining building permits

## ORDINARY COUNCIL MEETING MINUTES

629	BAARMUTHA PARK MULTI-PURPOSE FACILITY	Stage 1 detailed design completed with tender period scheduled 23 November - 22 December 2009. Planned to award Stage 1 contract works at January/ February 2010 Council meeting. Stage 2 detailed design scheduled for completion 22 February 2010.
632	LAKE SAMBELL PATHWAY AND INFRASTRUCURE	Amenities block at Sandy Beach and path to the eastern side of Lake Sambell scoped. Preliminary investigation on walking path alignment with specialist contractor completed. Specification for walking path presently being prepared.
<b>OPERATIONS CAPITAL WORKS</b>		
660	ELGIN RD & HIGH ST RECONSTRUCTION	Concept plans completed. Design is expected to be completed during December 2009
122	MELLISH STREET RECONSTRUCTION	The last of the pavement is currently being placed. The project will be complete after sealing expected by early December, subject to favourable weather.
124	SPRING STREET CONSTRUCTION	Project complete except for minor clean up.
340	RUTHERGLEN TO WAHGUNYAH RAIL TRAIL AND WAHGUNYAH-MOODEMERE WALKING TRAILS	Main sealing works complete. Some final patching to be completed w/e 27 Nov. Fencing contractor to install last remaining handrails w/e 27 Nov. Some final safety works Progress reports to both funding bodies now required to obtain grant progress payments.
316	KIEWA BONEGILLA ROAD	Cattle underpass started and the balance of works continuing. Target finish Christmas 09.
172	OSBORNES FLAT BRIDGE WIDENING	Contractor has completed bridge piling, bank rock revetment and is currently working on crossheads & wing walls. The balance of bridge works (ie I- girders, bearings deck and rails) expected for completion early Jan 2010. Council has started some adjacent road widening work.
552	PLANT	January 10 – Tender is being advertised 28 Nov for the purchase of a new grader.
<b>OPERATIONS MAINTENANCE WORKS</b>		
	PARKS AND GARDENS	Pruning and spraying complete. However a higher allowance for dead wood removal and

## ORDINARY COUNCIL MEETING MINUTES

		water may be needed into the future.
	INDIGO WASTE MANAGEMENT	Hard waste at Kiewa completed (70 m3). Such to continue at Beechworth, Yackandandah, Chiltern & Rutherglen over 28 & 29 November.
	FIRE PREVENTION	Another round of Roadside slashing in townships may be needed with the recent and forecasted rains. Such to be managed on an as needs basis.
<b>EXTERNAL PRIVATE CONTRACTS</b>		
	BULLER GAS	A quiet period since October. Some construction on the mountain and routine maintenance work for us. We are using the time to conduct checks on some of our systems i.e. gas deliveries, emergency response etc. Elgas is also costing some maintenance to the tank farm.
	EAST GIPPSLAND WASTE	The annual contract performance review with East Gippsland Shire Council was held on 1 October 2009 and a very positive report was received from EGSC.

**12.0 CORPORATE SERVICES**

**12.1 COUNCILLORS SUPPORT AND EXPENSES POLICY**

**File No: 09/738 - Mark Crouch - General Manager Corporate Services**

**For Decision**

**RECOMMENDATION**

**That the Councillors Support and Expenses Policy, as appended, be adopted by Council pursuant to Section 75B of the Local Government Act 1989.**

**Moved Cr Graham  
Seconded Cr Goldsworthy**

**That this item be deferred to the February 2010 meeting of Council.**

**UNANIMOUSLY CARRIED**

**INTRODUCTION**

Pursuant to the Local Government Act 1989, Council is required to adopt and maintain a Councillor Reimbursement policy.

A draft of this policy was considered at an earlier briefing session and has now come before Council for formal consideration and adoption. A number of changes have been made to the earlier draft to strengthen the proposed policy.

**BACKGROUND**

The requirement for such a policy is detailed in the Local Government Act 1989. It is a mandated requirement that provides the framework and basis for support provided to Councillors. The policy structure will vary from Council to Council. The policy must be available for inspection at the Council offices.

**KEY IMPLICATIONS**

Extract of Local Government Act 1989 (LGA89):

75 Reimbursement of expenses of Councillors

A Council must reimburse a Councillor for expenses if the Councillor:

- applies in writing to the Council for reimbursement of expenses; and
- establishes in the application to Council that the expenses were reasonable bona fide Councillor out-of-pocket expenses incurred while performing duties as a Councillor.

(2) In this section, duties as a Councillor means duties performed by a Councillor that are necessary or appropriate for the purposes of achieving the objectives of a Council having regard to any relevant Act, regulations, Ministerial guidelines or Council policies.

## ORDINARY COUNCIL MEETING MINUTES

### 75A Reimbursement of expenses of members of council committees

A Council may reimburse members of council committees for necessary out-of-pocket expenses incurred while performing duties as a committee member.

### 75B Councillor Reimbursement policy

A Council must adopt and maintain a policy in relation to the reimbursement of expenses for Councillors and members of Council committees.

(2) A policy adopted by Council under this section must be consistent with:  
the prescribed types of Councillor out-of-pocket expenses that must be reimbursed if the expenses are reasonable and bona fide; and  
the prescribed procedures to be followed by Councils in relation to the reimbursement of out-of-pocket expenses.

(3) A Council must keep a copy of the policy adopted and maintained under this section available for inspection at the office of the Council.

### 75C Resources and facilities for Councillors

A Council must make available for the Mayor and the Councillors the minimum resources and facilities prescribed for the purposes of this section.

### FINANCIAL IMPLICATIONS

Council makes budgetary provision for the support and expenses of Councillors whilst undertaking duties as a Local Government Councillor.

The Councillors support and expenses are contained in the Mayor and Councillors business unit of the Council Budget 2009/2010 with a cost centre total of \$237550 for 2009/2010.

### POLICY IMPLICATIONS

This report is in relation to the making of policy as required by section 75B of the LGA89.

The Council Plan set the objective of ensuring Councillors and staff are aware of and adhere to policy and regulatory frameworks of the Council and relevant State Legislation.

### CONCLUSION

Not applicable.

*Attachment:  
Draft Indigo Shire Council Councillors Support and Expenses Policy*

**12.2 VICTORIAN AUDITOR GENERAL'S REPORT ON LOCAL GOVERNMENT: RESULTS OF THE 2008-09 AUDITS**

File No: 09/632 - Frank Bonacci - Finance Manager

For Decision

**RECOMMENDATION**

That the report be noted and that:

- Council maintains focus for the remainder of 2009/10 on the delivery of the capital works program to improve the Investment Gap ratio.
- Actively work with lobby groups to provide greater levels of certainty, control and continuity of government grant funding for Small Shires.
- Continue to closely monitor and manage expenditure when preparing long term financial plans and future Budgets.

**Moved Cr Issell  
Seconded Cr Pockley**

That the report be noted and that:

- Council maintains focus for the remainder of 2009/10 on the delivery of the capital works program to improve the Investment Gap ratio.
- Actively work with lobby groups to provide greater levels of certainty, control and continuity of government grant funding for Small Shires.
- Continue to closely monitor and manage expenditure when preparing long term financial plans and future Budgets
- Continue to closely monitor and manage expenditure on an ongoing basis.

**UNANIMOUSLY CARRIED**

**INTRODUCTION**

Council has recently received the Victorian Auditor-General's Office (VAGO) report on Local Government: Results of the 2008-09 Audits. This Council report gives Councillors an outline of the VAGO report including specific comments relating to Indigo Shire Council. Of the five key indicators used by VAGO to assess financial sustainability, Indigo Shire is clearly in the Low Risk category for four of those indicators (Underlying Result; Liquidity; Indebtedness; and Self Financing) and in the medium risk category for one indicator (Investment Gap).

The report also shows positive trend movement for Indigo Shire in all five indicators over the last three years.

## BACKGROUND

Following the annual audit process for public sector entities, VAGO prepares a series of reports on the financial results of each public sector for tabling in Parliament. The report on Local Government provides an overview of the combined the results of the recent audits, the quality of financial reporting, the effectiveness of internal controls and an analysis of the financial sustainability of Local Government overall, within each of the five category of Local Government (Inner Metro, Outer Metro, Regional City, Large Shire and Small Shire) as well as for each Council within those five categorises.

Items relating specifically to Indigo Shire's financial reporting and internal controls for 2008/09 was detailed in VAGO's interim and final Management Letters presented to Council at the October 2009 ordinary meeting.

Regarding Financial sustainability, Indigo Shire Council is classified as a Small Shire along with 21 other (mainly rural) Councils. For the 2008/09 financial year, of the 22 Small Shire's, four were considered to be at medium risk of financial sustainability, 17 considered at low risk with one Council excluded from this years report due to late reporting caused by the impact of the bushfires. This compares with three councils considered to be at medium risk of financial sustainability and 17 at low risk the previous year.

Indigo Shire Council is amongst those shires considered at low risk across both years.

State wide, financial sustainability analysis showed improvements across all councils in 2008/09 with no council receiving a high-risk rating and councils with medium risk ratings reducing from 15 to eight. The combined state results show improvements in all five indicators with focus continuing to be on improving investment and renewal gap.

Within the Small Shires category, the VAGO report recognises that this category has less flexibility than other councils to raise revenue over which we can make autonomous spending decisions as well as relying more heavily on government grants (over which we have little control in the level received each year). Any sustained decrease to grants received can impact directly on the sustainability of shires within this category.

The report also recognises the constraints over the ability of Small Shires to increase rate revenue due to factors such as relatively low income levels of ratepayers, continuing drought conditions, bushfires and in some cases, declining populations and shrinking rate bases. Due to the combined reliance on grants and limitations on the ability to increase rate revenue, the report warns that it is critically important for small shires to tightly control and monitor expenditure to maintain financial sustainability.

The detailed VAGO report is over 100 pages long, so in the interests of not cluttering the Council meeting agenda with an excessively large appendix as well as being environmentally responsible, the detailed VAGO report in PDF format will be emailed directly to all Councillors prior to the December Ordinary Council meeting. Members of the public who wish to view the detailed VAGO report can download it directly from the VAGO website by using the following URL [http://www.audit.vic.gov.au/reports\\_publications/reports\\_by\\_year/2009-10/20091111\\_lgrfa.aspx](http://www.audit.vic.gov.au/reports_publications/reports_by_year/2009-10/20091111_lgrfa.aspx)

KEY IMPLICATIONS

**Risk Management:**

When preparing the long term financial strategy and future Budgets, Council should be mindful of the VAGO warning that small shires should exercise tight control over expenditure.

Additionally, continued focus on higher completion and delivery rates of the capital works program should be maintained in order to move Indigo Shire's Investment Gap ratio from the medium to the low risk category for this indicator.

**Environmental:**

Council should continue to activity work with Municipal Association of Victoria and other lobby groups whose objective it is to provide greater levels of certainty, control and continuity of government grant funding for Small Shires to minimise the potential impact of any possible future decrease grant levels.

FINANCIAL IMPLICATIONS

As outlined above, the VAGO Report provides detailed analysis of the financial sustainability of all 79 Victorian Local Government Council's. These results are then more specifically divided into five categories - inner metropolitan Councils, outer metropolitan Councils, regional city Councils, large Shire Councils, and small Shire Councils. Indigo Shire Council is one of 22 Councils in the Small Shire Councils category.

Along with 16 other Councils in the Small Shire category, Indigo Shire has been given a Low risk overall sustainability rating. Of the five indicators used, Indigo Shire was rated Low risk in four indicators and a medium risk in the fifth.

Specific results for Indigo Shire for each of these five indicators over the last three years are detailed below:

- Underlying result ratio – A positive results here indicates a surplus and the larger the percentage, the stronger the result. A negative result indicates a deficit. Operating deficits cannot be sustained in the long term.

Risk rating for this ratio is measured as: -10% or less is high risk; -10% to 0 is moderate risk and greater than 0% is low risk.

State wide the 2008/09 Underlying result ratio has had a 100% improvement versus the prior year which can be attributed to the Victorian Grants Commission (VGC) paying 25% of the 2009/10 funding allocation to all Victorian Councils in June 2009. Indigo Shire also received just over \$2M of funding relating to 2009/10 projects and activities in June 2009 which coupled with the 2009/10 related VGC funds received in June 2009 has artificially distorted this ratio to show a 200% improvement versus the prior year.

2006/07	2007/08	2008/09	Trend
5.67%	5.95%	17.98%	Continuously Improving

- Liquidity – Results greater than one for this ratio indicate there is more cash and/or current assets than there are short term liabilities. It indicates the ability to meet debts over the next 12 months.

Risk rating for this ratio is measured as: equal to or less than 1.0 are high risk, 1.0 – 1.5 are moderate risk and greater than 1.5 are low risk.

## ORDINARY COUNCIL MEETING MINUTES

While Indigo Shire's ratio of 2.43 is a strong result, it is again distorted by the high influx of cash received in June 2009 from VGC and 2009/10 project and activity related grant funds.

2006/07	2007/08	2008/09	Trend
1.49	1.81	2.43	Continuously Improving

- Self financing ratio – measures the ability of Council to finance replacement of assets from its operations. The higher the percentage, the more effectively this can be done.

Risk rating for this ratio is measured as: Less than 10% are high risk, 10-20% are moderate risk and greater than 20% are low risk.

Indigo's ratio of 40.4% indicates a very strong capability to fund the replacement of our existing assets.

2006/07	2007/08	2008/09	Trend
24.4%	24.88%	40.40%	Continuously Improving

- Indebtedness – Compares long term borrowings to own source revenue. It provides a measure to determine whether Councils may have excessive levels of debt.

Risk rating for this ratio is measured as: greater than 60% are high risk, 40-60% moderate risk and less than 40% low risk.

Indigo's ratio of 14.32% and the downward trend over the last three years reflects Council's focus to reduce long term debt levels. It indicates that Indigo Shire has very low debt levels relative to its ability to service that debt.

2006/07	2007/08	2008/09	Trend
25.5%	19.42%	14.32%	Continuously Improving

- Investment gap ratio – Compares the rate of spending on infrastructure with infrastructure depreciation. This is a long term indicator as capital expenditure can be deferred in the short term if there are insufficient funds available from operations and borrowing is not an option.

Risk rating for this ratio is measured as: equal to or less than 1 are high risk, between 1 and 1.5 are moderate risk and greater than 1.5 are low risk.

Indigo's score of 1.16 indicates we have a moderate risk rating for this indicator. While this is the only financial sustainability ratio where Indigo Shire does not achieve a low risk rating, it needs to be understood that the ratio is based on actual spend on capital infrastructure and the poorer than desired result is more reflective of our poor levels of capital expenditure delivery over the last few years rather than commitment to allocate of funds towards capital works. If Indigo Shire had achieved 65% of the 2008/09 Budgeted Capital works program, this ratio would also have been in the low risk range.

2006/07	2007/08	2008/09	Trend
1.29	0.89	1.16	Flat

### POLICY IMPLICATIONS

The recommendations within this report support the progress of strategic objective 2 – Managing Our Built Environment and 3.1 – Optimise Our Financial Sustainability as documented in the Indigo Shire Council Plan 2009 – 2012.

### CONCLUSION

While a few indicators have been artificially distorted and appear better than they should due to an influx of grant funding in June 2009, the VAGO Report shows that overall Indigo Shire is in a sound, financially sustainable position.

The single indicator (Investment gap ratio) that was not in the low risk range can be addressed by maintaining the current management focus and strategies to improve the delivery levels of the Capital Works program.

To secure long term financial sustainability, Council should continue to activity work with lobby groups whose objectives are to provide greater levels of certainly, control and continuity of government grant funding for Small Shires.

In the meantime, Council should exercise tight control over expenditure when preparing long term financial plans and future Budgets in the event that the current levels of Government grants dry up.

### 12.3 BURKE MUSEUM – FUTURE AND WAY FORWARD

File No: 09/1799 – Mark Crouch – General Manager Corporate Services

For Decision

#### RECOMMENDATION

Having regard to:

1. 'A review of the Robert O'Hara Burke Museum' (May 2009 prepared by Geoff Speirs Museum and Editing, Greg Wallace DNC Services and Harry Needham Consulting Services). Referred to here as the Speirs Report.
2. Geoff Speirs briefing presentation to Councillors July 7 2009
3. Council briefing September 22 2009 and Council report October 13 2009
4. Draft Guidelines for Community Museums with Management and Curatorial Responsibilities of Indigenous Australian Collections (prepared by Amanda Jean for Heritage Victoria and Aboriginal Affairs Victoria) June 2009.
5. *Significance Assessment Burke Museum Collections Beechworth* (by Historica Cultural Heritage projects for Heritage Victoria) October 2009.
6. The Speirs report having been made widely available for public submission and input.
7. The public meeting held in Beechworth November 4 2009.
8. The various individual and group submissions and inputs made to Council in relation to the Speirs Report and as provided to Councillors

That Council:

1. **Reaffirm its support for the Burke Museum and the cultural and heritage significance the Burke Museum brings to Beechworth and the Indigo Shire as a whole.**
2. **Support the formation of an overarching advisory committee to advise Council on the future directions and policy for a combined Burke Museum and Beechworth Historical Precinct.**
3. **Adopt and sign and seal the Instrument of Delegation for a Burke Museum and Beechworth Historical Precinct Advisory Committee pursuant to Section 86 of the Local Government Act 1989.**
4. **Seek expressions of interest from suitably qualified and / or experienced people for the advisory committee pursuant to Section 86 of the Local Government Act 1989.**
5. **Investigate the potential for the development of an Archive and Heritage Centre in conjunction with the Burke Museum, to expand on the existing Public Records Office (PROV) capacity within the museum's operations, as well as the public display of the substantial indigenous collection held by the Burke Museum.**
6. **Instruct the Chief Executive Officer to prepare an appropriate staffing structure for a combined Museum and Historical Precinct operation together with estimated costs of implementing same for detailed consideration by Council in the framing of the Council Budget 2010/11.**

**Moved Cr Issell  
Seconded Cr Goldsworthy**

1. Reaffirm its support for the Burke Museum and the cultural and heritage significance the Burke Museum brings to Beechworth and the Indigo Shire as a whole.
2. Support the formation of an overarching advisory committee to advise Council on the future directions and policy for a combined Burke Museum and Beechworth Historical Precinct.
3. Adopt and sign and seal the Instrument of Delegation for a Burke Museum and Beechworth Historical Precinct Advisory Committee pursuant to Section 86 of the Local Government Act 1989.
4. Seek expressions of interest from suitably qualified and / or experienced people for the advisory committee pursuant to Section 86 of the Local Government Act 1989.
5. Investigate the potential for the development of an Archive and Heritage Centre in conjunction with the Burke Museum, to expand on the existing Public Records Office (PROV) capacity within the museum's operations, as well as the public display of the substantial indigenous collection held by the Burke Museum.
6. Instruct the Chief Executive Officer to prepare an appropriate staffing structure for a combined Museum and Historical Precinct operation together with estimated costs of implementing same for detailed consideration by Council in the framing of the Council Budget 2010/11.
7. Receive a recommendation at its February 2010 meeting re the employment options of a Manager.
8. That recommendation 8.2 that relates to signage be acted on sooner rather than later and is appropriate with the desired outcome of highlighting the museums presence in Beechworth

**UNANIMOUSLY CARRIED**

**Moved Cr Graham  
Seconded Cr Murdoch**

**That Cr Pockley and Cr Issell as sub be nominated as members of Burke Museum Advisory Committee.**

**UNANIMOUSLY CARRIED**

**INTRODUCTION**

This report brings to Council a range of matters that are a result of various initiatives over the past 12 months in relation to the current and future operations of the Burke Museum Beechworth.

The Burke Museum (BM) has been a Beechworth institution for over 140 years. To this day this museum remains significant from a local, regional and national perspective.

The facility is not being operated to its capacity and the time has come for a serious review of its operation and where Council sees this museum positioned in the future.

## ORDINARY COUNCIL MEETING MINUTES

A number of recent external reports have been commissioned on aspects of the Burke Museum, the most recent being the Speirs report titled 'A Review of the Robert O'Hara Burke Museum'.

This Council report will make reference to various aspects within the Speirs and other reports, but will not provide a detailed analysis of all matters raised in the various reports. These reports have been made available to Councillors. This report will seek to draw out and discuss aspects of the report's recommendations and provide an opportunity for debate and analysis of the various issues involved.

### BACKGROUND

Council engaged Speirs to undertake the following work:

- Project Brief - Goals and Objectives of the Museum Review
- The invitation for expressions of interest circulated in June 2008 called for a review of the operation of Beechworth's Robert O'Hara Burke Museum including a review of the services provided, the organisational structure and staffing requirements, the vision and working action plans, and the fees and charges. The project needed to take into account Indigo Shire Council's financial limitations, responsibility as custodians of the collection, relationship with the wider community and priority for quality heritage tourism experiences.

The objectives of the project were identified as follows:

- List the services of the Burke Museum, recommending those that are essential, those that are desirable but not essential, and those that are not desirable.

Within Council's financial limitations, propose an organisational structure to best provide the services and, where possible, the desirable services. The organisational structure should include where the Museum should sit within Council's structure, and detail positions required with skill sets and a recommendation of how many hours each position would be required per week.

- Make a recommendation on operating days and hours.
- Review the currency and appropriateness of the Burke Museum's vision and mission.
- Review the currency and appropriateness Burke Museum action plans.
- Review the Museum's fees and charges.

The Speirs report was released to Council in May/June 2009 with Speirs providing Council with a detailed briefing to his report on July 7 2009.

The report was further considered at a Council briefing on September 22 2009, with Council considering the report formally at its October 13 2009 Council meeting.

Council resolved at the October 13 2009 Council meeting to:

Receive and note the report 'A Review of the Robert O'Hara Burke Museum' version 1.3 May 4 2009.

- Place the Burke Museum consultants' report on public exhibition for a further period to November 13 2009.
- Consider any feedback and comments and report recommendations at the December 8 2009 Council meeting.

The Speirs report has been made available extensively within and outside the municipality, with a community meeting on the report and the Burke Museum held on November 4 2009. A copy of the community meeting notes has been incorporated into material contained on disc and provided to all Councillors. The comments and inputs made at this community meeting have also been forwarded to meeting attendees and all Councillors.

## ORDINARY COUNCIL MEETING MINUTES

A wide level of community and professional interest has been generated on the Burke Museum and the various reports. Within the supporting material provided to all Councillors was a summary of the various submissions received by Council following the Council request for community inputs. A number of common themes come through in the various submissions. The need for appropriately qualified staff, the educational role the museum must play, the need to better market the museum and the importance of the museum to the social and historic fabric of the region, are some of the inputs made to Council. I refer Councillors to the entire summary and the copies of the various submissions that have been provided as part of this report.

In addition to the Speirs report, Heritage Victoria (HV) and Aboriginal Affairs jointly commissioned a report titled *Significance Assessment Project*. This report was prepared by Historica Cultural Heritage projects. This is also incorporated on the material provided to all Councillors.

A further draft report on guidelines for community museums with management and curatorial responsibilities of indigenous Australian Collections has also been prepared for HV, but has not been released at this time.

In addition to the various reports, internal examination of various operational matters associated with the Museum reveals various issues that Council will be required to consider. The facility is suffering from lack of space to support the various public roles provided by the museum. Storage, archival and public records storage and access are sub standard or under stress. A capable but small staffing complement is struggling to ensure the museum accreditation requirements and a standard of operation that is expected in 2009. Council has recently acted upon a Work safe penalty notice to address some poor storage and other operational matters. These matters need to be addressed with some level of future planning and service provision capacity. The Work Safe Improvement Notices issued on Council have resulted in sections of the museums storage being closed to staff and the public. The storage area involved has been deemed unsafe with Council little alternative but to close off this section as an operational area within the museum. Council staff is investigating the remodelling of the store area involved and costing what structures and equipment will be required to restore the area as a suitable operational area within the museum.

Another important matter that needs to be considered is the indigenous collection maintained by the Museum. The indigenous collection provides the museum significant opportunities for the Museum, and some vigorous consideration of these opportunities must form part of Council deliberations. A well-managed Indigenous collection has the capacity to be a real draw-card for the Burke Museum and should be seriously factored into any future planning. A poorly maintained and showcased indigenous collection will reflect poorly on the museum and may have unforeseen repercussions in the future.

### KEY IMPLICATIONS

One of the key findings and recommendations from the Speirs report is the establishment of a Burke Museum Advisory Committee. Council does not have all the necessary skills to operate a museum. The formation of a strong and representative advisory committee can provide to Council advice in relation to the policy and upper level inputs to aid the museum's development. There are wide and varied skills within the community that can be better harnessed to provide this expertise. As stated in the Speirs report – this is not the role of the Friends of the Burke Museum group. The formation of a Council Section 86 Advisory committee is seen as a priority.

With regard to the recommendation that the Burke falls within the operating domain of Sustainable Communities, the real priority is to ensure the future of the museum is placed on a sound foundation. This can take place under either portfolio and is best left as an operational consideration.

## ORDINARY COUNCIL MEETING MINUTES

There is a major need and priority to integrate the operations of the Beechworth Historic Precinct and the Burke Museum. It is not a matter of which operation is integrated with the other but more a matter of being able to integrate the rich history of both facilities to ensure a strong cultural and tourism drawcard to Beechworth. There are close synergies in the operation of both facilities and there are major advantages in the joint operations of both facilities. There are both staff and operational synergies to be achieved in the joint operations of both facilities, with staffing resources and management efficiencies to be gained by combining operations as one operating unit.

One question that needs to be asked is whether one Section 86 Committee should cover the operations of both the Precinct and the Burke Museum. Is the operation of the Burke Museum and the Historical Precinct area best managed by one Committee? Should a Museum Manager be responsible for the Museum aspects of the Burke Museum, precinct, and providing assistance and advice to outlying museums / athenaeums? A solid argument can be mounted that given the scale of our operations and the cost of a qualified museum manager, there would be a need to ensure the resource was utilised as widely as possible.

A well appointed advisory committee will have the necessary skills to advise Council on the policy direction for a combined Burke Museum and Historic Precinct, as well as provide valuable support to the operations of other museums / athenaeums operating in Indigo Shire.

The experience, enthusiasm and inputs from the existing Friends of the Burke Museum group needs to be better recognised and utilised. The consultant details the role of this group and the non operational nature of their work. The group has much to give the museum going forward, and Council needs to consider the group within the context of an advisory committee formation and membership.

If Council was to establish an appropriate advisory committee, the various other recommendations by Speirs would be considered by this advisory committee with recommendations coming before Council for consideration. Speirs' recommendations in relation to organisation, planning and planning processes, information collection, standards and benchmarks, collection management, interpretation and learning, marketing and promotion and access to museum services would all come under consideration by the committee and advice provided to Council.

In relation to Public Records Office Victoria (PROV), the Burke currently holds various public records in its capacity as a Place of Deposit (POD). Not all public records are stored in Melbourne. PROV stores records that are to be kept permanently in special repositories at the Victorian Archives Centre in North Melbourne (main repository), at Ballarat and at Geelong.

In addition to its core collection, which consists of records deemed significant for the State of Victoria as a whole, PROV helps to manage a network of smaller regional collections that are of local significance that would not normally be kept permanently at PROV.

Through its certification process, PROV has appointed many local archives across Victoria as Places of Deposit (PODs). PODs are community facilities that meet the storage standards required by PROV to preserve records of significance to local communities.

## ORDINARY COUNCIL MEETING MINUTES

Indigo Shire and the Burke Museum have a great opportunity to create stronger links and partnerships with PROV to expand the PROV work the museum currently does. There may be scope to expand the current POD capacity and take on a more regional role in relation to public records repository. There are examples of PROV working in partnership with local bodies to expand capacity, and this has much potential for Indigo Shire.

In relation to the substantial indigenous collection held by the Burke Museum, there is also much opportunity. A number of the recommendations within the Significance Assessment report prepared for Heritage Victoria explore the potential the indigenous collection has to the Burke. There are capital and recurrent funding opportunities pertaining to indigenous affairs, and this may be fertile ground for any advisory committee to examine in some depth.

The potential redevelopment of Council offices in Beechworth, along with the potential for PROV capacity growth, and the contemporary and sensitive display of the Burke Museum Indigenous collection, may provide opportunities for Indigo Shire in the future positioning of the Burke Museum. Indigo Shire may see the current position it finds itself as the catalyst for the future development of a much expanded regional facility being the Burke Museum and Heritage Precinct. This form of development would provide Council the opportunity to showcase and market a significant museum and heritage facility as an integral part of the civic and heritage precinct and day to day operations in Indigo Shire.

### FINANCIAL IMPLICATIONS

The Council budget 2009/10 details a net cost of approx \$102,000pa to operate the Burke Museum. This is comprised of recurrent expenditures of \$156,000 and revenues of \$54,000. This current model has major weaknesses, with the Burke Museum struggling to achieve its objectives and maintain its accreditation.

This Council report has not considered a number of staffing and other matters detailed in the Speirs' report. These will be a priority for any advisory committee once established, with recommendations to come before Council for detailed consideration. It is recommended that initial staff structure work be undertaken by Council, together with associated estimate of recurrent costs going forward, and for this staffing structure material to be considered by Council as part of the lead into the Council budget 2010/11.

On the basis that a Museums' Manager is engaged, it would be anticipated that this position and related costs would cost in the vicinity of \$100,000pa ongoing. To this would be added potential expenditure to initiate and implement various recommendations made to Council, which are yet to be costed.

If Council were to consider the future of the Burke on a more expanded scale, a complete business case would need to be prepared based on a vast number of variables. This would include the potential scenario of capturing an expanded Burke Museum operation into redeveloped Council office accommodation. This would necessitate Council taking a more active position of forging relationships and partnerships with a number of stakeholders, including Government, to provide Council with the necessary capital backing to bring any such proposal to reality.

### POLICY IMPLICATIONS

The implementation of this report is consistent with the Council Plan Objective to "Encourage community participation in a range of diverse arts and cultural experiences."

## ORDINARY COUNCIL MEETING MINUTES

There is little doubt that the Burke Museum has and continues to play a vital part of the cultural and historical vibrancy and diversity within the Indigo Shire.

### CONCLUSION

Council has been provided valuable input on various issues confronting the Burke Museum. A number of reports have provided reasoned recommendations. An interested and vibrant community have provided Council with a host of inputs and options.

Council has an opportunity to have this facility restored to its earlier glories, but in a more contemporary and enlightened style. This will involve Council having a longer term vision for the facility and being prepared to take on and invest in partnerships to make this happen.

Any move forward with the Burke Museum is going to come at a significant cost compared to the level of expenditures currently incurred at the museum. Any expanded proposal will entail carefully crafted concepts and vision and associated business case justification.

*Attachment:  
Refer previously forwarded material on CD.*

## 12.4 INDIGO SHIRE TOURISM ADVISORY COMMITTEE INSTRUMENT OF DELEGATION

File No: 09/445 - Stuart Perry - Manager Tourism

For Decision

### RECOMMENDATION

That the revised instrument of delegation for the Indigo Tourism Advisory Committee, as appended and amended in accordance with the resolution of council November 10 2009, be adopted and signed and sealed by Council.

Moved Cr Croucher  
Seconded Cr Graham

That the revised instrument of delegation for the Indigo Tourism Advisory Committee, as appended and amended in accordance with the resolution of council November 10 2009, be adopted and signed and sealed by Council.

**UNANIMOUSLY CARRIED**

*Cr Pockley departed the meeting at 5.21pm and returned at 5.24pm.*

### INTRODUCTION

At the Council meeting of November 10 2009, the Indigo Shire Council resolved to amend the Instrument of Delegation to alter membership of the committee to comprise a representative from each of the four towns' tourist associations plus two councillors. Three Skill-based members with no voting rights would also be included. There would no longer be a representative from the Winemakers of Rutherglen specifically identified in the Instrument of delegation.

### BACKGROUND

The council considered that there was an imbalance with more committee members with voting rights representing one town over the others three towns. The council desired balance between the voting members of the committee however council also recognised an identified need for input from the skill-based representatives. It was also considered that any input from the winemakers could come through the skill-based representatives.

### KEY IMPLICATIONS

Not applicable.

### FINANCIAL IMPLICATIONS

Not applicable.

### POLICY IMPLICATIONS

Not applicable.

**ORDINARY COUNCIL MEETING MINUTES**CONCLUSION

Council has resolved to reduce the number of members with voting rights on the Indigo Tourism Advisory Committee to one representative from each of the towns' tourism associations – Chiltern Tourism, Yackandandah Tourism, Rutherglen Wine Region Tourism and Beechworth Chamber of Commerce – and two councillors. There will be three skill-based representatives who are 'ex-officio' with no voting rights.

*Attachment:  
Revised Draft Instrument of Delegation Indigo Tourism Advisory Committee.*

**12.5 INSTRUMENT OF DELEGATION - RUTHERGLEN GOLD BATTERY**

**File No: 09/447 - Stuart Perry - Manager Tourism**

For Decision

**RECOMMENDATION**

**That the revised Instrument of Delegation for the Rutherglen Gold Battery, as appended, be adopted, signed and sealed.**

**Moved Cr Goldsworthy  
Seconded Cr Croucher**

**That the revised Instrument of Delegation for the Rutherglen Gold Battery, as appended, be adopted, signed and sealed.**

**UNANIMOUSLY CARRIED**

**INTRODUCTION**

The Council Section 86 committee responsible for the Rutherglen Wine Battery has been inactive for a number of years. At the November 10 2009 meeting of the Indigo Shire Council, Council resolved to amend the membership of the committee. It was further agreed that the Instrument of Delegation be reviewed in light of the period of inactivity and the intended use as a tourist attraction.

**BACKGROUND**

The 'battery committee' were originally established to maintain the battery with the intention of operating the battery as a going concern. Since that time and with the renewed interest in the battery as a tourist attraction it is proposed that the battery be refurbished, and in consultation with Heritage Victoria and the Indigo Shire Council Heritage Advisor, the building be modified to allow visitors to view the battery both as a static display and in an operational mode.

**KEY IMPLICATIONS**

**Risk Management:** The Section 86 committee needs to investigate whether the battery operation should pass to a commercial operator or an operator working in conjunction with a local incorporated society.

**Legislative:** Nil

**Regulatory:** All regulatory requirements will have to be met before the battery can be operated in proximity to visitors/tourists.

**Environmental:** Part of the investigation into the recommissioning of the battery will be environmental impacts and the ability to meet EPA regulations.

FINANCIAL IMPLICATIONS

Any development of the battery will be carried out subject to a full investigation into the cost of the refurbishment, identifying sources of funding and applications for grants being approved. Once refurbished, the operation of the battery will need to be funded by external grants and donations, entry fees paid by visitors and a contribution from small scale miners/prospectors who will pay for their ore to be crushed. An annual budget will be developed by the committee and submitted to council as per the Instrument of delegation.

POLICY IMPLICATIONS

Not applicable.

CONCLUSION

The Instrument of Delegation for the Rutherglen Gold Battery section 86 committee has been modified to reflect the new purpose of the committee – i.e. to refurbish and reopen the battery as a working facility primarily as a visitor attraction. It has also been modified to allow for a councillor to be appointed to the committee.

The Instrument of Delegation has been amended to remove any reference to financial reporting and removed the power to enter into contracts.

*Attachment:  
Rutherglen Gold Battery Instrument of Delegation.*

**12.6 LOCAL LAW 2 - ENVIRONMENTAL**

**File No: 09/929 - Jo Riley - Manager Governance & Risk**

**For Decision**

**RECOMMENDATION**

**That Council formally consider Local Law 2 Environmental as attached taking into consideration Cr Goldsworthy's comments also attached**

**Moved Cr Graham  
Seconded Cr Goldsworthy**

**That this item be deferred to the Briefing Meeting being held in Yackandandah on 15<sup>th</sup> December 2009 to commence at 4pm.**

**UNANIMOUSLY CARRIED**

*Cr Issell departed the meeting at 6.07pm and returned at 6.09pm.*

**INTRODUCTION**

Council at its November Ordinary Meeting unanimously decided to defer this item to the December Ordinary Meeting of Council.

**BACKGROUND**

This Local Law also incorporates No. 6 Consumption of Alcohol - Sunset Date 7 April, 2009 and No. 5 Glass Container Free Zones - Sunset Date 4 June 2006

A notice was placed in the newspaper on 10 December, 2008 advising the public that "the local law was on public exhibition with the submission period due to close on Friday, December 12. However, due to the high level of stakeholder interest in the proposed changes concerning the use of audible bird scaring devices the submission period will be extended until after a stakeholder meeting is held in February next year".

Further Notices were placed in the Border Mail, Ovens & Murray and Corowa Free Press in early February, 2009 announcing a Stakeholder Meeting to be held on Tuesday, 17th February, 2009 to discuss the proposed changes to Council's Environmental Local Law.

Several submissions were received and are now attached for your information as follows:

Date:	Submission received by:
21 November 2008	Boyd Collins, HiCountry Fruits Pty Ltd
24 November	Bill Hotson
25 November	Dennis & Cristin Dunster
26 November	Anthony Allen, Secretary, Victorian Cherry Association
5 December	B.J. Honey
9 February 2009	Simon Ramsay, President, Victorian Farmers Federation
13 February	Eric Crutchfield

## ORDINARY COUNCIL MEETING MINUTES

25 February	David & Helen McIntyre
27 February	Dennis & Cristin Dunster
28 February	Barry Morey, President, Beechworth Vignerons Association
6 March	Mark Walpole
14 June	B & J Morey, Sorrenberg Vineyard
19 June	Bill Hotson
26 June	Keith & Don Nightingdale, Nightingdale Bros, Alpine Apples

Legal advice has been sought from Russell Kennedy and comments/amendments have been received and circulated to the Senior Management Group for comment. Submissions have been considered in accordance with the act and the various amendments made as determined by Council.

Formal adoption of this Local Law is now required by Council.

### KEY IMPLICATIONS

Regulatory:

The current regulatory implications are that Council's Enforcement staff and the local Police are currently not able to issue Infringement Notices under either of these Local Laws.

### FINANCIAL IMPLICATIONS

Minimal.

### POLICY IMPLICATIONS

Not applicable.

### CONCLUSION

Not applicable.

*Attachment:  
DRAFT Local Law 2 - Environmental*

**12.7 COUNCIL ADVISORY AND COMMITTEES OF MANAGEMENT REPORT**

**File No: 09/1177 - Jo Riley - Manager Governance & Risk**

**For Information**

INTRODUCTION

Commencing February 2010 the monthly Ordinary Council Meeting Agenda will have a standing item titled, "Council Advisory and Committees of Management Report", this item will list the various Committees who have held a meeting throughout the month and present the Minutes of those Committee meetings

BACKGROUND

Council currently has the following Advisory Committees which will be providing minutes for ratification on an ongoing basis.

COMMITTEE	MEETING FREQUENCY
Audit Committee	Quarterly
Indigo Heritage Advisory Committee	Monthly
Indigo Shire Community Advisory Committee	Annually
Indigo Shire Disability Advisory Committee	Monthly
Indigo Tourism Advisory Committee	Bi Monthly
Indigo Shire Arts & Culture Advisory Committee	3 <sup>rd</sup> Monday (every 2 <sup>nd</sup> month)
I86 Youth Action Committee	Monthly
Indigo Shire Council Finance Committee	Monthly

KEY IMPLICATIONS

Not applicable.

FINANCIAL IMPLICATIONS

Not applicable.

POLICY IMPLICATIONS

Not applicable.

CONCLUSION

Not applicable.

**12.8 FINANCE REPORT FOR QUARTER ENDING 31ST OCTOBER 2009****File No.: 09/646 - Frank Bonacci - Finance Manager****For Information**

The accompanying attachments to this finance report provide YTD comparisons versus the latest forecast updates provided by department managers at the September quarterly review. The September review delivered a forecast year end saving of \$431k versus the full year Budget and the October results are showing additional \$71k favourability during the month of October. Whether this October favourability is a true additional saving or not will not be fully understood until the December quarter end forecast review is performed in January 2010.

The bulk of this October favourability comes from within the Operations and Planning & Natural Resource departments and to a lesser degree, Assets & Infrastructure. These were in turn offset by unfavourable variances within Community Planning (due to an administrative error which was corrected in November) and Human Resources due to higher levels of training than expected during October. Detailed explanations of YTD variances greater than (+ / -) \$10k are provided in the Exception report accompanying this October financial report.

Cash and investments held by Council as at the end of October are still strong with \$6.6million being held at 31<sup>st</sup> October 2009. While the continued focus on capital works delivery will draw down upon these cash holding during the course of the year, the 2<sup>nd</sup> rate instalment due at the end of November should assist in maintaining a similar level of cash holding at the end of November.

The Capital works program is continuing to show positive progress on delivery of works with \$2.86 million having been spent in the four months to the end of October 2009.

*Attachments:**Department by Business Unit Report for October 2009**Profit and Loss Report to October 2009**October 2009 Exception Report**Cash & Investment Report as at 31 October 2009**Capital Works Monitor as at 31 October 2009*

**13.0 GOVERNANCE**

Nil to report.

## 14.0 NOTICES OF MOTION

### 14.1 NOTICE OF MOTION: CR L GOLDSWORTHY

TAKE NOTICE that at a meeting of Council to be held on 8/12/2009 I intend to move the following motion:

That the decision numbered 14.1 that relates to Shire Office Accommodation and carried by the Indigo Shire Council on 10/11/2009 at the ordinary meeting be rescinded.

Explanatory comment (if required):

The motion that was passed at the November meeting stated:

“That Council Investigate the provisioning and cost of the Shire’s Office Accommodation over three sites being the present sites at Yackandandah and Beechworth and a third site at the Old Chiltern Offices and that advice on all options be provided to Council and take into account the long term growth predictions, the cost and the provision of equitable service.”

The motion as it stands is non specific in relation to what options that the council is to investigate for the Office Accommodation.

Is the Chiltern facility to house one staff member, five, an entire department or all of councils operations?

Are the consultants to look at housing staff across all three sites, without looking at the option of housing the departments at one or two sites, like the option of just Chiltern and Beechworth or perhaps the option of just at Chiltern?

Does the part about the ‘long term growth predictions’ relate to population, rate revenue or future staff?

“The cost and the provision of equitable service” So what does this mean? Are the consultants to figure out what an equitable service is first, like is it equitable to the entire shire, just rate payers or the shire itself and then how is that measured?

The original motion that was passed at the September meeting had five sections:

“That based on all previous information and considerations Council determines to:  
Officers investigate the cost and feasibility of catering for all current and future staff by extending the existing Beechworth and Yackandandah office sites; and

Officers report on results of these investigations back to Council for consideration, then seek further public input; and

Officers continue to investigate the practicality of customer service “kiosks” in smaller communities that are not in close proximity to Council offices and report this back to Council for consideration; and

**ORDINARY COUNCIL MEETING MINUTES**

Ensure the costs of works above can be accommodated in the long term financial plan being developed, and

The cost of these investigations be quoted and returned to Council for approval.”

Do provisions 2 to 5 still stand?

To include Chiltern in the creation of suitable designs for office accommodation it will significantly increase the cost of consultant's fees, something for which the shire has been highly criticized for, over recent years in relation to this project. There was originally \$20,000 allocated in the budget for this project and to dramatically increase the scope with a lack of specific requirements is going to be very costly. Following the logic that 2 sites were quoted at \$20,000 the inclusion of a third site is likely to be in the ball park of around \$30,000, if we're lucky.

It has recently been discussed that the cost of the Telstra lines between Beechworth and Yackandandah alone will be in the vicinity of \$90,000 annually, in the short to medium term, to duplicate this with another town compounds the inefficiencies. Just this expense alone is equivalent to a more than one percent rate increase.

Ultimately, to what ends does this motion hope to achieve? The splitting of staff or departments across the shire is not going to make the service offered by the Indigo Shire better. It is highly likely that it will be directly opposite. The ability to walk into a neighbouring office to speak to a colleague in a different department to discuss a matter will be greatly reduced. The siloing of departments and staff will be the likely result with few volunteering to assist outside their specific field of operation. The integrated planning group was established because it was recognised that there was a lack of internal communication in this area and that was just between Beechworth and Yackandandah let alone a third site.

The population of Chiltern is around 1,100 people, if you were going to have the office accommodation split over three sites why wouldn't you look at including the second largest town in the Shire, namely Rutherglen? There are more than 2,500 residents in Rutherglen and 800 in Wahgunyah; it is highly unlikely that Chiltern will ever exceed Rutherglen in size.

Will the addition of say, the Major Projects and Programs Department in Chiltern increase the level of service offered locally or across the shire? Is it an expectation that our engineers will be answering a customer service desk?

So if the splitting of office accommodation is not going to increase service then why do it? Is it to support the local economy? If your answer to this is yes, I would question what businesses will actually benefit? How many pies and pasties do you think the staff will eat? If a local business needs the Indigo Shire to move into town to survive they are already in trouble and the custom of the shire and it's staff won't save them. Is it really being financially responsible to prop up a few local businesses of a small town at a major cost to the rate payers of the entire shire? It would be cheaper to give every business in Chiltern a zero rates notice than to move there, with the inefficiencies that would be created.

This issue needs to stop being treated as a political football. I implore all councillors to speak with senior management and other staff to fully understand the implications of working across multiple sites and what it will mean to them and the service they can provide to the community.

## ORDINARY COUNCIL MEETING MINUTES

The decision that was made in November to broadly increase the scope of the project will be costly to implement even without taking the next step of doing something with the information provided. I ask those that voted for this motion, reconsider your decision and vote for what is best for the Indigo Shire as a whole.

.....  
Cr Larry Goldsworthy

...../...../.....

**OFFICERS COMMENTS:**

The Consultants have been requested to provide a quote in regard to the resolution made at the November Meeting of Council.

We hope to provide this quote to you at the December Meeting of Council.

**Moved Cr Goldsworthy  
Seconded Cr Issell**

**That the decision numbered 14.1 that relates to Shire Office Accommodation and carried by the Indigo Shire Council on 10/11/2009 at the ordinary meeting be rescinded.**

**LOST**

<b>For:</b>	<b>Against:</b>
Cr Goldsworthy	Cr Graham
Cr Croucher	Cr Pockley
Cr Issell	Cr Gaffney
	Cr Murdoch

**14.2 NOTICE OF MOTION: CR L GOLDSWORTHY**

**TAKE NOTICE** that at a meeting of Council to be held on 8/12/2009 I intend to move the following motion:

That in respect to Local Law 2, Section 14.1, on page 8 that the letter and words 'n incinerator or' is deleted so that the sentence reads;

“A person must not, without a permit, light, allow to be lit or remain alight, any fire in the open air other than in a barbecue.”

That in respect to Section 14.2, page8 that the words “other than on the following days and during the following hours” and all of the rest that section, down to and including Section 14.5.10. on page 9 are deleted.

**Explanatory comment (if required):**

The practical effect of agreeing with these alterations is that the use of incinerators in the Indigo Shire will be prohibited. I believe this stance is justified on a number of fronts:

The Indigo Shire tries to promote it self as environmentally conscious;

- We are members of the North East Greenhouse Alliance;
- We have two representatives on the MAV Environmental Advisory Group;
- We have our own Environmental Advisory Committee.

The Council Plan, Part 2.4 states one of our objectives is to ‘Ensure waste management systems are ecologically and financially sustainable.’

The use of incinerators is primarily to dispose of flammable waste, namely plant material and cardboard. The Indigo Shire provides a very effective method of disposal of these items via curb side collection of recyclables and green waste.

If you have every had an incinerator lit in a neighbouring property with the wind blowing your way it is not a pleasant experience. They are frequently very smoky and smell. Often people place plastic and polystyrene in amongst the fire and if you have clothes on the line, they can need re washing.

The use of incinerators should be discouraged in our townships and environmentally sustainable ways of disposing of waste encouraged.

.....  
**Cr Larry Goldsworthy**

...../...../.....

**Moved Cr Goldsworthy  
Seconded Cr Pockley**

That in respect to Local Law 2, Section 14.1, on page 8 that the letter and words 'n incinerator or' is deleted so that the sentence reads;

“A person must not, without a permit, light, allow to be lit or remain alight, any fire in the open air other than in a barbecue.”

That in respect to Section 14.2, page8 that the words “other than on the following days and during the following hours” and all of the rest that section, down to and including Section 14.5.10. on page 9 are deleted.

**LOST**

For:	Against:

**14.3 NOTICE OF MOTION: CR L GOLDSWORTHY**

**TAKE NOTICE** that at a meeting of Council to be held on 8/12/2009 I intend to move the following motion:

That Local Law 2, Section 27.1.3. page 17 that relates to the keeping of poultry be altered so that the number '(20)' is deleted and replaced with the word and number 'ten (10)'

**Explanatory comment (if required):**

The subsection reads that poultry must be housed in a structure that is at least 20 metres from any road to which the land has a frontage. This has the practical effect of making it an offence to have a chook shed and birds closer than 20 metres to the front of a property. To this I would submit that a considerable number of properties in the townships through out the Indigo Shire area do not actually extend 20 metres back from the front border of their land. If they do then there would be very little land that would be left to house poultry. As it currently stands there would be a number of people who keep poultry that are in contravention of this local law.

The alteration proposed would allow property owners more flexibility in where they can place a chook shed on their own properties. The number of poultry allowed on a property is already limited to 12 and rosters are not permitted. So the reduction by 10 metres will have little effect on the amenity of the neighbouring properties.

The keeping of poultry should be encouraged as it is a sustainable way of converting food scraps into eggs and the keeping of pets has a well recognised therapeutic effect.

.....  
**Cr Larry Goldsworthy**

...../...../.....

#### 14.4 NOTICE OF MOTION: CR L GOLDSWORTHY

**TAKE NOTICE that at a meeting of Council to be held on 8/12/2009 I intend to move the following motion:**

That in relation to Local Law 2, Section 20, Audible bird scaring devices, should be deleted in its entirety.

**Explanatory comment (if required):**

This section deals with the use of gas guns, electronic bird scarers and other similar devices. Primarily the reason why I believe this section should be removed from the Local Law is because the responsibility to undertake oversight and enforcement for this type of behaviour is that of the Victorian State Government agency, The Environmental Protection Authority (EPA). It is not an area that Local Government is required to enact a Local Law on or accept responsibility for enforcement. Once the Shire chooses to make a law in relation to it, there is a reasonable community expectation that the shire will enforce its own laws. So why go there in the first place? We don't have the expertise in this field. We don't have the human resources to enforce the law without detriment to the other responsibilities of the by laws officer. We certainly don't have the very expensive equipment to test for possible infringements against the law.

We should leave this behaviour to be regulated by the experts that have an Act of Parliament to back their actions. They are well equipped, specialized in the field and are highly trained to deal with these types of issues. Let's leave it to the EPA.

The EPA have issued Noise Control Guidelines as recently as October 2008, that relate to a number of areas where noise is an issue, some of these relate directly to activities in the Indigo Shire and others do not. The only item that has been cherry picked from the guidelines is the one on Scareguns. In addition to the guidelines provided a number of other conditions have been included that place further restrictions on the ability of orchardists to ply their trade. The restrictions caused by this section make it near on impossible for an orchardist to protect their crop. Let's help these hard working people out and stop interfering in their lives unnecessarily. Give them back the right to farm without undue interference from Local Government.

To pick out orchardists for special attention when these guidelines deal with a vast array of behaviour is unfair and unjustified. What next, the regulation of their hail guns or let's introduce a local law that prevents the mulesing of sheep.

This issue has drawn a number of submissions and a well attended passionate debate at the public meeting, the vast majority of which are against this local law.

As a council I ask you to consider the depth of feelings on this issue, the submissions that have been made, the role that the council should play in this area and potential repercussions of making an ill-considered choice. Let the EPA deal with it.

.....  
**Cr Larry Goldsworthy**

...../...../.....

## ORDINARY COUNCIL MEETING MINUTES

*The Mayor declared the meeting closed at 6.40pm and remaining items be deferred to the Briefing Meeting to be held in Yackandandah on 15<sup>th</sup> December 2009 commencing at 4pm.*

### 15.0 COMMITTEE AND DELEGATES REPORTS – OCTOBER 2009

#### 15.1 CR PETER GRAHAM OAM MAYOR

File No: M220

##### For Information

Date	Time	Function /Event
2 November	9am	Meeting with CEO, Beechworth
	11am	Meeting with Katrina Witherow Dalcha, Beechworth
4	7.30am	Buy Local Breakfast, Chiltern
	2pm	Farewell Afternoon Tea Brian & Jeanette Jasper, Rutherglen
	6pm	Burke Museum Forum, Beechworth
5	7.30am	Buy Local Breakfast, Rutherglen
	9.15am	Making Decisions in Complex Times Workshop, Wangaratta
	5pm	NELGN Meeting, Wangaratta
6	5pm	Glenview Fete, Rutherglen
	6.30pm	Beechworth Celtic Festival, Beechworth
7	10am	Browns Plains CFA Station Community BBQ
9	9am	Meeting with CEO, Beechworth
	7pm	VBRRRA Meeting, Bruarong
10	2pm	Launch Accessible Bus Service, Beechworth
	2pm	Briefing, Council Meeting & Community Forum, Yackandandah
11	10.30am	Remembrance Day Service, Beechworth
		Ned Kelly Beechworth Re-enactment Meeting
	12.30pm	Team Building Forum, Yackandandah
	7pm	VBRRRA Meeting, Stanley
12	9.30am	General Meeting of Never Waste, Rutherglen
13	All Day	Meeting with Murray Darling Association Representatives
15	5pm	Community BBQ Martins Park, Chiltern
16-20	All Day	Regional Waste Management Group Meeting, Melbourne
21	2pm	Victorian Bushfire & Recovery Reception, Melbourne
23-25	All Day	Regional Waste Management Group Meeting, Melbourne
25	5.30pm	ACSUM Meeting, Albury
	7pm	Draft Land Use Strategy Meeting, Rutherglen
26	7.15am	Impact of Drought Albury/Wodonga Region Breakfast, Albury
	11am	Aboriginal Art, Yackandandah
	12.30pm	NEVRWaste Function, Myrtleford
	5pm	Welcome to Christine Nixon, Stanley Recreation Reserve
29	10.30am	Wahgunyah to Rutherglen Rail Trail Community Event, Rutherglen

**15.2 CR BERNARD GAFFNEY**

**For Information**

<b>Date</b>	<b>Time</b>	<b>Function /Event</b>
4 November	6pm	Burke Museum Meeting, Beechworth
5	12.30pm	Rostrum
6	9am	Re-enactment Group Meeting, Beechworth
7	10am	Celtic Festival, Beechworth
	7pm	Celtic Festival, Beechworth
8	10am	Celtic Festival, Beechworth
10	2pm	Briefing, Council Meeting & Community Forum, Yackandandah
11	10am	Ned Kelly Media Event, Beechworth
	10.45am	RSL Memorial Ceremony, Beechworth
	1.30pm	Governance Presentation, Yackandandah
	7.30pm	Stanley Ditch/Wetlands AGM
13	6.30pm	Wooragee Landcare AGM, Wooragee
15	11am	Chiltern Town Garage Sale, Chiltern
16	4pm	Audit Committee Meeting, Beechworth
17	4pm	Briefing Meeting, Wooragee
	7pm	Community Forum
18-23	All Day	Sick Leave
24	12.30pm	Winemakers Board Meeting, Rutherglen
	2pm	Meeting with L & R Whamond
	4pm	Skeleton Hill, Chiltern
25	5.30pm	ACSUM Meeting, Albury
27	7pm	Wooragee NHW Christmas Party
29	12pm	Michelle Carey Family Day
30	4pm	View Planning Application, Rutherglen
		Pre Statutory Meeting, Rutherglen

**15.3 CR PETER CROUCHER**

**For Information**

Date	Time	Function /Event
4 November	6pm	Burke Museum Forum, Beechworth
5	9.15am	Making Decisions in Complex Times Workshop, Wangaratta
	2pm	Hume Weir Management Committee Meeting, Albury
	4.30pm	Coulston Park Meeting with Shire, Tangambalanga
6	11am	Tour of Businesses, Rutherglen
	4pm	Atauro Island Friendship Meeting
10	12.30pm	Meeting with David Koren, Yackandandah
	2pm	Council Meeting, Yackandandah
	7pm	Community Forum, Yackandandah
11	10am	Launch of Ned Kelly Weekend 2010, Beechworth
	11am	Remembrance Service, Beechworth
	1.30pm	Building High Performance Workshop, Yackandandah
13	6.30pm	Landcare AGM, Wooragee
16	12pm	Uniting Care Christmas Appeal, Wodonga
	7pm	Lions Club Youth of the Year, Tangambalanga
17	1.30pm	Meeting with CEO, Beechworth
	2.30pm	Site of Wombat Enclosure Visit
	4pm	Briefing Meeting, Wooragee
	7pm	Community Forum, Wooragee
19	10am	Junior Council Meeting, Tangambalanga
	3pm	IHAC Meeting, Chiltern
	6pm	Beechworth Health Services Meeting, Beechworth
23	11am	ITAC, Rutherglen
	2pm	Rutherglen Primary School, Rutherglen
24	12.30pm	Rutherglen Wine Board Meeting, Yackandandah
	4pm	Site Visit Skeleton Hill, Chiltern
25	5.30pm	ACSUM Meeting, Albury
26	10am	St Josephs Beechworth Primary School, Beechworth
	11am	Economic Development & Strategy Meeting, Beechworth
27	9am	Aboriginal Art Display, Yackandandah
30		Pre Statutory Meeting, Rutherglen
	7pm	Community Consultation re: Rural Land Use Strategy, Rutherglen

**For Information**

**Junior Council**

For their second last meeting Junior Council met at Kiewa Valley Primary School and were entertained by local author Ian Trevaskis. Ian spoke about his love of writing and the procedures needed to be followed to have his work published. After a series of questions the children enjoyed a tub of Gundowring ice cream, a product of the local area.

**15.4 CR LARRY GOLDSWORTHY**

**For Information**

<b>Date</b>	<b>Time</b>	<b>Function /Event</b>
23 November	6pm	Meeting with Constituent, Beechworth
23	7pm	Meeting with Constituent, Beechworth
24	4pm	Inspection of the Chiltern Quarry
25	10.45am	Meeting with Mark Florence, Beechworth
26	11am	Economic Development Action Plan Review, Beechworth
29	12pm	Community Fundraiser, Beechworth
30	3.30pm	Meeting with Constituent, Rutherglen
	4pm	Site Inspection, Rutherglen
	5pm	Pre Statutory Meeting, Rutherglen

**15.5 CR VIC ISSELL**

**For Information**

<b>Date</b>	<b>Time</b>	<b>Function /Event</b>
2	4.30pm	Meeting with Constituent, Beechworth
4	6pm	Burke Museum Community Forum, Beechworth
6	11am	Street Walk, Rutherglen
7	6pm	Celtic Dinner, Celtic Festival, Beechworth
8	11am	Fresh and Unframed Exhibition, Yackandandah
		Celtic Festival, Beechworth
9	9.30am	North East Landcare Forum, Beechworth
10	3pm	Council Meeting, Yackandandah
	7pm	Community Forum, Yackandandah
13	3pm	Murray Arts Board Meeting, Wodonga
17	4pm	Council Briefing, Wooragee
19	6pm	Beechworth Health Service AGM, Beechworth
20	8am	Rail Trail Community Advisory Group, Milawa
23	6pm	Meeting with Constituents, Beechworth
24	4pm	Council Briefing onsite, Skeleton Hill, Chiltern
28	6.30pm	NEMA Dinner, Wangaratta
29	10.30am	Launch of Rail Trail, Rutherglen
	12pm	Meeting with Constituent, Rutherglen

**15.6 CR BARBARA MURDOCH**

**For Information**

<b>Date</b>	<b>Time</b>	<b>Function/Event</b>
4 November	7.30am	Shop Local Breakfast, Chiltern
	6pm	Burke Museum Forum, Beechworth
5	7.30am	Shop Local Breakfast, Rutherglen
	12pm	MAV Environment Advisory Committee, Melbourne
6	5pm	Glenview Fete, Rutherglen
8		Billy Cart Races, Yackandandah
		Fresh and Unframed, Yackandandah
9	10am	Anglicare Meeting, Chiltern
10	2pm	Briefing Meeting, Yackandandah
	3pm	Council Meeting, Yackandandah
	7pm	Community Forum, Yackandandah
11	11am	Remembrance Day Ceremony, Rutherglen
	2pm	Building High Performance Workshop, Yackandandah
13	2.30pm	MDA Meeting, Beechworth
	6.30pm	Wooragee Landcare AGM, Watchbox Winery
16	4pm	Audit Committee Meeting, Beechworth
	7pm	Indigo North Health AGM, Rutherglen
17	1pm	Early Child Development Meeting, Wangaratta
	4pm	Council Briefing Meeting, Wooragee
	7pm	Community Forum, Wooragee
18	10am	ALGWA Meeting , Benalla
19	11am	Tidy Towns Judging, Wooragee and Beechworth
	3pm	Finance Committee Meeting, Beechworth
	6pm	Civic Reception Tidy Towns, Beechworth
20	5pm	Waddington's Fair, Kergunyah
24	4pm	Tour Holchim's Quarry, Chiltern
25	5.30pm	Ascum Meeting, Albury
26	11am	Economic Development Action Plan Review, Beechworth
27	2pm	Constituent Meeting, Rutherglen
29	10.30am	Opening Rutherglen- Wahgunyah Railtrail, Rutherglen
30	4pm	Site Inspection, Rutherglen
	7pm	Rural Land Use Meeting, Tangambalanga

**15.7 CR POCKLEY**

**For Information**

<b>Date</b>	<b>Time</b>	<b>Function /Event</b>
4 November	6pm	NERWA Yack Community meeting
5	12pm	MAV Environment Advisory Group meeting, Melbourne
6	11am	Councillor walkabout – Rutherglen High Street
7	6pm	Fresh & Unframed Art Exhibition – official opening
10	2pm 3pm 7pm	Council Briefing Council Meeting, Yackandandah Community Forum, Yackandandah
11	9.30am 2.30pm 5.30pm	Developing Women’s Businesses – graduation, Beechworth Philip Shannahan – Council Governance, Yackandandah Planning Focus Meeting, Beechworth
13	4.30pm	Celebration Yackandandah’s Local Economy
16	7pm	Rutherglen Wine Bottle Community Forum
17	4pm 7pm	Council Briefing, Wooragee Community Forum, Wooragee
19	1 am 3pm	Junior Council, Kiewa Valley Primary School Heritage Advisory Committee meeting, Chiltern
23	7pm	Beechworth Neighbourhood Centre – committee of management meeting
24	pm	Chiltern Quarry/Skeleton Hill site visit
25	5.30pm	ACSUM, Albury City Council
29	10.30am	Rutherglen-Wahgunyah Bike Trail – official opening
30	4pm 5pm 7pm	Planning site visit, Rutherglen Councillor discussion, Rutherglen Rural Land Use Strategy, community discussion, Tangambalanga

**16.0 GENERAL BUSINESS**

**16.1 MAV PROCUREMENT TC4322 TELECOMMUNICATIONS TENDER**

**File No.: Frank Bonacci - Finance Manager**

For Decision

**RECOMMENDATION**

**That in accordance with the Minister's approval of MAV Procurement's Local Government Collaborative Telecommunications Service, the Council enter into a service contact with Telstra Corporation Limited to enable the purchase of telecommunications services from 31 January 2010.**

**Moved Cr Goldsworthy  
Seconded Cr Pockley**

**That in accordance with the Minister's approval of MAV Procurement's Local Government Collaborative Telecommunications Service, the Council enter into a service contact with Telstra Corporation Limited to enable the purchase of telecommunications services from 31 January 2010.**

**LOST**

**PURPOSE**

The purpose of this report is to seek Council's approval enter into an agreement to enable the purchase of telecommunications services from MAV Procurement's Telecommunications contract with Telstra.

Council staff have been advised today 8<sup>th</sup> December 2009) that Formal Council approval is required before 31 January 2010, in accordance with the Section 186 Local Government Act exemption granted by Minister Wynne on 4 December 2009. As there is no Council meeting scheduled for January, this late report and recommendation is submitted as a late item to the Indigo Shire December Council meeting.

The TC4322 contract provides an opportunity for Council to benefit from this collaborative purchasing initiative. If the council does not resolve to be part of this contract by 31 January 2010 there will be no other opportunity to do so within the four years of the arrangement.

The contract provides benefits in terms of cost and service breadth. The service contract with Telstra will commence on the expiration of the current telecommunications contract with Telstra which expires at some date in the future

**BACKGROUND**

MAV Procurement undertook a public tender for the supply of telecommunication services (fixed voice, mobile telephony, data and video conferencing) as agents for a group of 40 councils and one regional library corporation in June 2009.

Each of the 40 councils signed an Agency Agreement authorizing MAV Procurement to act as their agent for this tender in accordance with s186 of the *Local Government Act*.

## ORDINARY COUNCIL MEETING MINUTES

The evaluation panel (with representation from Whittlesea City Council, Yarra City Council, Moyne Shire Council and Wellington Shire Council) recommended Telstra as the sole supplier for fixed voice, mobile voice and data. Telstra and South Western Allied Health Services are the suppliers for video conferencing services.

Telstra has provided a guarantee that it will match prices in the State Government Telecommunications Purchasing and Management Strategy (TPAMS) agreement for mobile and data that local government can currently access.

The TPAMS agreement is likely to be reviewed in September 2010 and if Telstra is re-appointed, any price reductions will be passed onto the TC4322 Telecommunications contract. If Telstra is not re-appointed as a provider to the TPAMS contract, they will honour the pricing in place at the time the State Government agreement concludes.

### MAV PROCUREMENT CONTRACT WITH TELSTRA

MAV Procurement entered into a Standing Offer Deed with Telstra on 1 December 2009 for a period of four years - an initial three year term plus a one year option.

Councils and regional libraries will be able to enter into a three year fixed-term customer contract with Telstra on guaranteed terms and conditions at any time within the first two years of the Standing Offer Deed, so up to 30 November 2011.

Following the completion of the public tender process, but before the execution of the Standing Offer Deed between MAV Procurement and Telstra, an additional 18 councils advised the MAV that they wished to purchase telecommunications services under the MAV arrangement.

As these 18 councils had not appointed MAV Procurement as their agent, they are not able to purchase telecommunications services under the MAV Procurement arrangement unless the Minister for Local Government grants approval under section 186(5)(c).

The MAV wrote to Minister Wynne on 21 October 2009 seeking an exemption to enable the additional councils the opportunity to purchase from the contract.

The Minister has granted approval for an exemption for the 18 councils, plus any subsequent councils that wish to access the contract. This exemption is subject to the Council passing a resolution by 31 January 2010 to enter into a service agreement with Telstra at the earliest opportunity.

### FINANCIAL IMPLICATIONS:

Indigo Shire's project annual expenditure on telecommunications services is \$110k

While specific financial savings from the contract to Council are at this stage unknown, the potential financial benefits, the scope of services offered, the administrative benefits of dealing with only one provider and most importantly it negates the need for Council to go to tender for these services.

*Attachment::*

*Email from MAV Procurement dated 8 December advising Council must pass resolution by 31 January 2010*

**17.0 CONFIDENTIAL**

Nil to report.

**Meeting Concluded: 6.40pm**

**Next Meeting: 9<sup>th</sup> February 2010**

**- Senior Citizens Hall, Chiltern**