



## INDIGO SHIRE COUNCIL

**NOTICE** is hereby given that the Ordinary Meeting of the Indigo Shire Council will be held in the **Senior Citizens Rooms, Conness Street, Chiltern** on **Tuesday 3 April, 2007** commencing at **7 pm**.

A handwritten signature in black ink, appearing to read "John P Costello".

**John P Costello**  
**Chief Executive Officer**

## AGENDA

- 1.0 Welcome - Mayor**
- 2.0 Opening Prayer**
- 3.0 Apologies and Leave of Absence**
- 4.0 Declaration of Pecuniary Interest and Conflict of Interest**
- 5.0 Open Forum**
- 6.0 Condolences**
- 7.0 Confirmation of Minutes**  
Council meeting 6 March 2007
- 8.0 Business Arising (previous Minutes)**

### OUR VISION IS

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

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**9.0 DEPUTATIONS AND PETITIONS**

**10.0 ECONOMIC DEVELOPMENT AND TOURISM**

**10.1 REQUEST FOR FUNDING – MOTOCYCLING “SNOWY MOUNTAINS BOOKLET” (FILE NO: M465-04 – CEO)**

**RECOMMENDATION**

**That Council provide \$500 towards printing of the “Motorcycling – The Snowy Mountains Booklet” as requested by Tumut Shire Council.**

**BACKGROUND**

Tumut Shire Council has advised that in 2002 the Snowy Region Motorcycle Group was formed to address the increasing number of motorcyclists and motorcycle crashes that were touring in the Snowy Mountains region.

This group consists of representatives from the New South Wales and Victorian Police, National Parks and Wildlife Service, Road Traffic Authority, Tourism Snowy Mountains, NSW Motorcycle Council, Motorcyclists and the Road Safety Officer for Tumut, Tumbarumba and Gundagai Councils.

Recently this group received a grant for \$5,500 from the Institute of Public Works and Engineering Australia to develop a Snowy Region Motorcycle Website and to develop a new version of the booklet – Motorcycling the Snowy Mountains.

The grant has been spent on development of the website, development of the booklet and part costs towards printing of the booklet. Unfortunately there is a shortfall of \$5,500 to enable a print run of 20,000 of the booklet.

Tumut Shire Council is asking the eight Councils highlighted in the booklet, Tourism Snowy Mountains and Snowy Valleys Way to each contribute \$550 including GST toward the printing of this booklet. This would enable the booklet to be printed and distributed to each Shire for distribution through their Visitor Information Centres.

Each contributor to the book will receive a full page highlighting the Shire.

**ISSUES**

Council has not been involved in the production of this type of booklet in the past. However, we are a member of the Snowy Valleys Way hence the request to us to participate.

Whilst we have not got a specific budget for this item, I believe we should support it from two perspectives, ie our support to the development of the Snowy Valleys Way

Touring Route and also to recognise the significant number of motor cycling tourists that visit Indigo Shire.

There are a number of motorcycling accidents across the region and Council's small involvement in this motor cycle riding safety campaign may contribute to a higher degree of awareness by motorcyclists of the road and weather conditions and contribute to a lessening in the accident rate.

It would also obviously be good publicity for the Shire from a general tourism perspective.

**FINANCIAL IMPLICATIONS**

There is no specific budget item for this as it is the first request of its kind. However, it can be funded from within our Tourism Marketing budget. For future years it should possibly be earmarked as part of our contribution under the Snowy Valleys Way group.

**10.2 RUTHERGLEN WINE CENTRE BOARD – DEED OF DELEGATION (FILE NO: D625/07 – EDTM)**

**For Information**

Advice has been received from the Winemakers of Rutherglen and the Rutherglen Wine Region Tourism that the alternative representatives to the Rutherglen Wine Centre Board are as follows:

- Rutherglen Wine Region Tourism – Beryl Lloyd
- Winemakers of Rutherglen – Howard Anderson

Delegation to the Rutherglen Wine Centre Board was amended at Council's meeting on 6 March 2007.

**10.3 PROGRESS REPORT – MARCH 2007 (EDTM)**

**For Information**

<b>Project</b>	<b>Actions</b>
<b>Indigo Tourism Board</b>	Board is discussing changes to its role and structure. Industry consultation has been taking place over the last month.  Draft Plan and budget under consideration.  The next general public meeting of the Board will be held on April 2 In Chiltern at 11am
<b>Town Brochures</b>	Beechworth at printers.  Chiltern Tourism Association is developing a new pricing model.  New town maps and regional maps have been developed in a major redevelopment of all our Shire's marketing collateral.
<b>Tastes Of Rutherglen</b>	A very successful event with wineries reporting solid sales. Well conceptualised, marketed and promoted through RWE, WOR and the business community.
<b>Burke Museum</b>	Financial modelling of strategic plan underway.
<b>Murray to the Mountains Rail Trail (Wahgunyah to Rutherglen)</b>	\$250,000 Federal funding application is with Albury Wodonga ACC for consideration.
<b>North East Valleys Food and Wine Group</b>	EO position is currently being advertised.
<b>High Country Touring Route</b>	Brochures and information centre banners complete and distributed. Lobbying for signage underway.
<b>Film Victoria Project</b>	We have been involved in a project with other shires in the North East to promote the region as a movie set destination. This has been funded through Film Victoria. The website is soon to be launched.
<b>Victoria's High</b>	High Country in the High Rise exposed the High

<b>Country</b>	Country Brand to over 20,000 visitors. Indigo attended with an historic towns stand.  Lobbying is continuing to release details of the High Country bushfire funding package.
<b>Tourism Industry Event Melbourne</b>	Indigo was chosen to sponsor the New Tourism Minister, Tim Holding's first Industry briefing to the leading tourism business operators in Victoria and Australia. Rutherglen and Beechworth wines were presented at the event and Indigo received a high profile.
<b>2007 Golden Horseshoes Festival</b>	Over 50 floats already for the GrandParade. Golden Easter egg for the Golden Easter egg hunt has been made. Dorothy the Dinosaur attending. Television, radio and PR campaign underway, Strong enquiries so far. Small, effective and energetic committee.
<b>Ned Kelly Festival</b>	Planning for 2007 Festival well advanced. The festival will be a smaller scale, more intensive event this year and deliver a larger scale event every 2 <sup>nd</sup> year.

## **11.0 ENVIRONMENT AND DEVELOPMENT**

### **11.1 SECTION 173 AGREEMENTS - (07/034) (EDSM)**

#### **For Decision**

#### **INTRODUCTION**

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

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

#### **COMMENT**

In the Agreement referred to, the responsibility of making application on behalf of Council to the Registrar of Titles office for the registration of the Agreement and the

payment of all legal costs is that of the other party entering into the Agreement with Council.

**BACKGROUND**

A) Planning Permit 07/034 relates to an extension of a dwelling located at Ryan Road, Baarmutha. The land is zoned Rural Living Zone and fronts an un-constructed section of Ryan Road. Due to the siting, orientation and layout of the existing dwelling, the proposed extension encroaches to within 9 metres of the Ryan Road road reserve. The Planning Permit was issued on the basis that a Section 173 Agreement was to be entered into with the Responsible Authority to:

- provide for the construction of Ryan Road at no cost to Council, to a sealed standard in accordance with standards established in Councils Road Hierarchy Management Plan or any superseding document should dust become a nuisance to the dwelling.

**RECOMMENDATION**

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

- A) **Ramsdell & Tange**

*Attachments  
Locality/Site Plan – PP07/034, Ryan Road, Baarmutha*

**11.2 PLANNING PERMIT APPLICATIONS 06-181 AND 06-270 -  
APPLICANT: ALLISON (SSP)**

**For Decision**

**SUMMARY**

**Application No:** 06-181  
**Applicant:** H & K Allison  
**Subject Land:** CA 11C, Section 11, Woolshed Road Eldorado  
**Proposal:** Dwelling  
**Recommendation:** Refusal

**Application No:** 06-270  
**Applicant:** H & K Allison  
**Subject Land:** CA 10, 11, 11A and 11B, Section 11, Woolshed Road Eldorado  
**Proposal:** Dwelling

**Recommendation:** Refusal

**RECOMMENDATION**

- A. That Council refuse Planning Application PP 06-181 to use and develop the land for the purposes of a dwelling for the following reasons:**
- 1. The proposal is inconsistent with the intent of Policy 22.01-5 (Dwellings on Existing Small Rural Allotments) of the Indigo Planning Scheme.**
  - 2. The proposal is considered to be inconsistent with Policy 22.02-2 (Land Use, Development and Subdivision in Rural Areas), as it has the effect of creating rural living opportunity in an area not considered suitable or identified for this purpose, changing the rural character of the locality.**
  - 3. The proposal is inconsistent with Clause 35.07 (Farming Zone), as the dwelling has not been shown to be reasonably required for agriculture and is considered likely to lead to a concentration of dwellings in the area, reducing the viability of the area for agriculture.**
  - 4. The proposal is inconsistent with Clause 17.05 (Agriculture) of the Indigo Planning Scheme, as it is considered that the proposal results in de facto rural living in an area not considered suitable or identified for this purpose. The result of which is to increase the value of the land and potentially affecting the continuation of primary production on adjacent land.**
  - 5. The proposal is inconsistent with Clause 15.09, as the potential impact on biodiversity as a result of clearing for fire protection has not been demonstrated.**
  - 6. The proposal is inconsistent with Clause 15.07 and Clause 22.03-2, as the design does not accord with good fire hazard practice.**
- B. That Council refuse Planning Application PP 06-270 to use and develop the land for the purposes of a dwelling for the following reasons:**
- 1. The proposal is inconsistent with the intent of Policy 22.01-5 (Dwellings on Existing Small Rural Allotments) of the Indigo Planning Scheme.**
  - 2. The proposal is considered to be inconsistent with Policy 22.02-2 (Land Use, Development and Subdivision in Rural Areas), as it has the effect of creating rural living opportunity in an area not considered suitable or identified for this purpose, changing the rural character of the locality.**
  - 3. The proposal is inconsistent with Clause 35.07 (Farming Zone), as it the dwelling has not been shown to be reasonably required for agriculture and is considered likely to lead to a concentration of dwellings in the area, reducing the viability of the area for agriculture.**

- 4. The proposal is inconsistent with Clause 17.05 (Agriculture) of the Indigo Planning Scheme, as it is considered that the proposal results in de facto rural living in an area not considered suitable or identified for this purpose. The result of which is to increase the value of the land and potentially affecting the continuation of primary production on adjacent land.**
- 5. The proposal is inconsistent with Clause 15.07 and Clause 22.03-2, as the design does not accord with good fire hazard practice.**

**C. That Council advise the applicant that it supports, in principle, a single dwelling on a consolidated holding of CA 10, 11, 11A, 11B and 11C Section 11.**

**BACKGROUND**

The entire holding of CA 10, 11, 11A, 11B and 11C is 33.71 hectares. The property is primarily located on the northern side of Woolshed Road, on the corner of the Beechworth-Chiltern Road (see **Attachment A** – locality plan). The property rises towards the middle of the CA 11C, then falls away towards Woolshed Road and Reedy Creek across CA 10, 11, 11A and 11B.

The property has an extensive frontage to Woolshed Road, and access is currently gained to the site via existing gates near CA11A from Woolshed Road and CA 10 to the rear of the site. Woolshed Road is unsealed.

The land is currently vacant and there are no buildings located on site. The property is fenced by post and wire fencing. There is native vegetation on the property, however the building envelope and access will not require the removal of native vegetation.

On 5 September 2006 planning application 06-181 was received being for a single dwelling on Crown Allotment 11C Section 11 Parish of Eldorado, Woolshed Rd Beechworth (approximately 55 acres) (refer to **Attachment B**). The covering letter received with the application indicated the applicant also wished to apply for a dwelling on the remaining allotments in the parcel (being CA10, 11, 11A & 11B), along with a re-subdivision of the site, however this was not specified on the form application.

Several telephone conversations were exchanged, during which it became evident it was the applicants' intention to apply for a planning permit for a dwelling on the remainder of the parcel. They were informed on several occasions, including an on-site inspection, that if a permit were to be approved for a dwelling on CA 11C, it would most likely contain a condition requiring consolidation of all five lots in the holding, and further, that an application for a dwelling on CA10, 11, 11A & 11B would in all likelihood not be supported, and the policy reasons for this were provided.

The application for a dwelling on CA11C was forwarded to DSE for comment on the native vegetation removal proposed for the building envelope. DSE did not support the removal of native vegetation due to the fact that the subject land falls within an Endangered Ecological Vegetation Class (Valley Grassy Forest). The applicants have since amended the proposed building envelope to avoid the need for vegetation removal, and the DSE has advised that they do not object to the amended building envelope.

In November 2006 the applicants' submitted a second application, for a dwelling on the

remaining 30 acres comprised of CA10, 11, 11A & 11B (refer to **Attachment C**).

A search of Council records indicate that the following permits have previously been granted in respect of the subject land:

- Planning Permit PP00-040, being for the use and development of CA 10, 11, 11A, 11B and 11C for the purpose of a dwelling, subject to the consolidation of the entire property into a single lot, and the landowner enter in an agreement with Council under Section 173 of the Act which ensures that in the event of a dwelling house being erected on the consolidated lot that such dwelling cannot be excised from the Lot.
- Permit 2726 issued by the United Shire of Beechworth, being for the use of CA 10, 11, 11A, 11B and 11C for the purpose of a dwelling, subject to application being made for the development of the site.

The Section 173 Agreement required by Planning Permit PP00-040 was acted on and registered on title prior to the sale of the land to the current owner. As the S173 Agreement binds any purchasers of the land, it is contended that despite the land not being previously consolidated, it was purchased with the knowledge that only a single dwelling on a consolidated lot would be supported by Council. That is, the S173 Agreement removes any expectation that the land can be used for more than one dwelling, or that Council would support it's fragmentation by approving multiple dwellings.

**PROPOSAL**

The applicant is seeking approval for the use and development of the land for the purposes of two dwellings.

This involves the separation of the total holding of approximately 33 hectares into one application comprising one dwelling on Crown Allotment 11C (approximately 21 hectares), and a second application for one dwelling on Crown Allotments 10, 11, 11A & 11B (approximately 13 hectares) which the applicant proposes to consolidate in support of the application.

In support of the application the applicant's submission argues that the proposal deserves Council's support based on the following grounds:

1. There is interest in the CAs 10, 11, 11A and 11B by a large Rutherglen winery who wish to put in Pino grapes. By allowing the erection of a dwelling on this parcel of land, it would overcome the present vacant status and strengthen the Shire's vision by strengthening the economy by investing in agriculture.
2. The sale of the subject site will allow the applicants to build their house on CA11C a lot sooner.
3. The whole property is not viable for one farmer to farm the entire area as there is no access from CA11C to the remaining titles. The only access is via Woolshed Road, making it a very separate piece of land. The land is divided by a natural bush barrier and would never be seriously farmed unless it had two separate owners to farm it individually.

4. Willing to consolidate the four titles into two titles, being 21 acres and 13 acres.
5. In accordance with Clause 35.07-3, the subdivision is the re-subdivision of existing lots and the number of lots is not increased.
6. In accordance with Clause 22.02-2, the proposal:
  - a. Retains land in larger parcels suitable to the relevant production requirements of the viticulture, horticulture and grazing industries;
  - b. Provides for the subdivision of land into lots of less than 40 hectares where appropriate;
  - c. The lots sizes are necessary for genuine intensive agriculture and/or rural production;
  - d. The lot sizes are compatible with the existing average lot size in the locality;
  - e. The proposal consolidates smaller lots into larger parcels.

**ZONING AND PLANNING CONTROLS**

Zoning: Farming Zone

Overlay/s: None applicable

Permit Trigger: A planning permit is required for the use and development for the purposes of a dwelling under Clause 35.07 (Farming Zone), as the land is less than 40 hectares.

**STATE PLANNING POLICY**

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

**Environment**

- 15.01 Protection of Catchments
- 15.09 Conservation of native flora and fauna
- 15.12 Energy Efficiency

**Economic Development**

- 17.05 Agriculture

**Infrastructure**

- 18.09 Water Supply, Sewerage & Drainage

**Particular uses and development**

- 19.03 Design & Built Form

**LOCAL PLANNING POLICY FRAMEWORK**

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

**Municipal Strategic Statement**

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

**Local Planning Policies**

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

**PARTICULAR PROVISIONS**

None Applicable

**REFERRAL AUTHORITIES**

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

**Assets** – For each application, the following conditions should be applied to any planning permit issued.

**Crossings**

- (i) Any new vehicular access points required and any required existing crossing points not complying with current standards shall be constructed at full cost to the applicant/owner at a location, and to a standard, to the satisfaction of the Responsible Authority. A crossing permit must be obtained from the Responsible Authority and levels fixed.
- (ii) Any other existing accesses, including gateways and/or driveway crossings, must be removed and fenced across to prevent further vehicle access. The road reserve and road formation must be left in a neat and tidy manner.

**Point of Access**

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

**Roadside Management**

All works within the Woolshed Road road reserve will be undertaken in accordance with the requirements of the Indigo Shire Roadside Management Plan.

**Stormwater Drainage**

- (i) The discharge of concentrated storm water drainage into the road drains or culverts will not be permitted.
- (ii) All stormwater emanating from the developments approved by this permit shall be disposed of within the curtilage of the property.

**Road Infrastructure Works**

- (i) The owner of the land shall contribute to road infrastructure works to improve the standard of Woolshed Road in accordance with the requirements of the Indigo Shire Council Policy “Road Construction Requirements in the Rural Zones” (Draft).
- (ii) Works on Woolshed Road shall be focused on safety improvements at sites to be nominated by the Assets Manager up to the value of \$4,500 per potential new dwelling, viz one allotment utilising this road equals \$4,500.

**Health** – For each application, the following conditions should be applied to any planning permit issued. This development proposal may be approved utilising a conventional septic tank system, based on soil percolation test results and knowledge of the area. Effluent trench dimensions shall consist of the following: depth 450mm, width 700mm and length 80m. Alternatively the applicant may utilise a mechanically aerated wastewater treatment system. Appropriate distances from water sources are to be maintained.

**Department of Sustainability and Environment** – In regards to the proposal for a dwelling on CA 11C:

Review of aerial photography shows that the revised building envelope shown on the plans accompanying the Shire letter of 7 February 2007 has been previously cleared and modified.

The additional information does not address the potential for vegetation loss from the installation of services, access, ancillary structures and fire protection measures as requested in the DSE further information request. In order to resolve this matter these aspects of the proposal were discussed with Ms Kate Allison. Ms Allison advised:

- Electricity is the only service to be connected to the dwelling from outside the building envelope. Several suitable alignments exist to enable connect to occur without the need to remove native vegetation.
- Access construction will not require native vegetation removal as there is an existing access off Woolshed Road to the dwelling site that will continue to be used.
- All ancillary structures associated with the dwelling including a proposed shed will be constructed within the revised building envelope.

Provided the above matters are addressed by the inclusion of suitable permit conditions DSE has no objection to the issuing of a permit for a single dwelling within the revised

building envelope. As DSE is not a referral authority for the application Indigo Shire are requested to include appropriate conditions within any permit issued to ensure that the commitments given by Ms Allison are reflected in the permit. A possible condition is included herein for consideration:

1. The dwelling construction and the installation of services, access, ancillary structures and fire protection measures associated with the dwelling must be development in a manner that does not require the removal of native vegetation to the satisfaction of the Indigo Shire in consultation with the Department of Sustainability and Environment.

The application for a dwelling on CAs10, 11, 11A and 11B was not referred to DSE, as no vegetation is proposed to be removed.

**PUBLIC NOTICE**

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

**DISCUSSION**

Two applications have been made in respect of the land, being

2. PP06-181 being for one dwelling on CA 11C, and
3. PP06-270 being for one dwelling on CA 10, 11, 11A and 11B, which are proposed to be consolidated.

It is noted that several previous planning permits have been issued for the use of the entire property for one dwelling. This comprises Permit 2726 issued by the United Shire of Beechworth, being for the use of CA 10, 11, 11A, 11B and 11C for the purpose of a dwelling, subject to application being made for the development of the site.

This was followed by planning permit 00-040, which was for one dwelling on the entire property comprising CA 10, 11, 11A, 11B and 11C. It was a condition of this planning permit that the entire property be consolidated into a single lot, and the landowner enter in an agreement with Council under Section 173 of the Act which ensures that in the event of a dwelling house being erected on the consolidated lot that such dwelling cannot be excised from the Lot.

It should be noted that the landowner at the time commenced proceedings to consolidate the lots: a Section 173 Agreement was entered into between Council and the landowner, which prevents excision of a dwelling from the consolidated lot. This agreement was registered against the title, and has been submitted by the current applicants as part of their planning permit. As such, the applicants are aware of the agreement and have been made abundantly aware of the previous planning permits and the requirement for consolidation of the lots.

Given the history of the site and the expectation of use for a single dwelling, Council's planning officers have given their support to the applicants for the use of the property for a single dwelling. However it has also been made clear that this support is subject to consolidation of the property into one lot.

During discussions with the applicants, they have expressed concern that consolidation of the property would prevent sale of the part with a second dwelling. They state that the sale of part of the property with approval for a dwelling will enable the construction of the dwelling on the part of the property that they will retain. The goal of the applicant thus appears to maximise land values by gaining approval for a dwelling. This is clearly at odds with the strategic intent for agricultural land in the Shire and across the state and should not be supported.

As such, Council planning officers provide the following guidance to Council:

1. A single dwelling on the entire property is supported, subject to consolidation of the entire property into one lot as has previously been approved by Council and is reflected in the Section 173 Agreement registered on the title to the subject land. The reason for this support is that there is an expectation of development created by previous planning permits issued for the property.
2. Two dwellings on a 35 hectare property in the Farming Zone is inconsistent with the provisions of the Indigo Planning Scheme. No adequate justification in terms of the decision guidelines of the Indigo Planning Scheme has been provided, and the applicants have made clear that the intent of the second dwelling is to raise capital to fund the applicants relocation to the site.

These conclusions are discussed as follows.

**Why is a planning permit required?**

The subject land is zoned Farming Zone.

Where the land is over 40 hectares in area, the *use* of the land for a dwelling is considered to be ‘as of right’, that is the applicant only needs to show that the site is capable of being developed in terms of suitable access to the site, provision of suitable effluent disposal system, water and electricity (Clause 35.07-2).

Where the land is less than 40 hectares, the Indigo Planning Scheme treats this application differently. The use of the land for a house is no longer considered to be ‘as of right’, and the onus is then on the applicant to prove the need to use the property for a dwelling, as a use which requires a planning permit.

This approach reflects the purpose of the Farming Zone, of which several purposes are particularly relevant to this application, being:

1. To provide for the use of land for agriculture.
2. To ensure that non-agricultural uses, particularly dwellings, do not adversely affect the use of land for agriculture.

**What needs to be considered by the Responsible Authority?**

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

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

Consistent with the requirements of this clause, the proposal would be compatible with the environmental characteristics of the area and existing surrounding agricultural land uses, and appropriate infrastructure can be provided to service the sites, including on-site effluent disposal system.

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

1. Clause 17.05 (Agriculture)
2. Clause 22.01-5 (Dwellings on Existing Small Rural Allotments)
3. Clause 22.02-2 (Land use, development and subdivision in rural areas)
4. Clause 35.07-6 (Farming Zone)
5. Clause 15.07 (Protection from Wildfire) and Clause 22.03-2 (Fire Hazard).

***Clause 17.05 (Agriculture)***

Clause 17.05 requires consideration of several factors for proposals to subdivide or develop agricultural land, comprising:

1. The desirability and impacts of removing the land from primary production, given its agricultural productivity.
2. The impacts of the proposed subdivision or development on the continuation of primary production on adjacent land, with particular regard to land values and to the viability of infrastructure for such production.
3. The compatibility between the proposed or likely development and the existing uses of the surrounding land.
4. Assessment of the land capability.

It is accepted that the land is marginal agricultural land, and probably suitable for unimproved grazing. As such, the removal of land from primary production is not at question. However it does not necessarily follow that this land should therefore be used for a dwelling. The issue therefore is the potential impact on land values.

This issue is well explained in the case of *Widdison v Moorabool Shire Council* [2002] VCAT 1535. In their findings, the Tribunal stated:

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

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

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

As stated above, the approval of a dwelling on a rural allotment certainly has the potential to increase land values as a result of both real and unrealistic perceptions of development potential of adjoining land. This has also been recognised by the applicants, who have stated to the planning officer that they wish to sell the second dwelling in order to fund the construction of the first dwelling on the land. They have recognised that the best possible value for this land will be obtained from converting the use of the land from rough agriculture to residential. This is clearly at odds with the intent of Clause 17.05, which requires consideration of the impact of proposals on land values.

In this respect, although one dwelling on the entire property is supported as there is already an expectation of a dwelling built into the land value, a second dwelling is not and this issue alone justifies the requirement for consolidation of the entire holding and refusal of the second dwelling.

***Clause 22.01-5 (Dwellings on Existing Small Rural Allotments)***

The implementation section of the MSS identified the need to develop a rural dwellings

policy relating to development of existing small allotments which lead to the subsequent introduction of Clause 22.01-5 with Amendment C4. Following is an extract of the report to Council, which addressed the issue of the development of small rural allotments.

*"Having regard to the considerations raised above it is obvious that no one solution will necessarily suit all cases. At one end of the scale for example, are allotments created since 1990 under a former planning scheme for the express purpose of a dwelling house. It is likely, on balance, that such lots could be a strong candidate for a renewed permit under the Indigo Planning Scheme. This would be particularly so if the land has already been sold and there is no practical chance for consolidation with an adjoining rural allotment occurring because of the price paid for the small lot as a house block. In such cases it may be able to be assumed that some informed decision will have been made prior to subdivision that the lot was suitable for such development at that time.*

*Existing Crown Allotments on the other hand would present a different situation. Such lots were created under the old system of title and would not necessarily attract the same expectation for a permit given the restrictive nature of the tenement controls of the former planning schemes. It would be unlikely that such blocks will have been purchased specifically as house lots.*

*In between either example will be a variety of other scenarios (eg lots with 99 year land-use permits issued by the former Beechworth Shire; rural lots on the fringe of urban zones; lots located in areas which clearly have little or no real rural potential; etc.)"*

The clear objective of Clause 22.01-5 is to provide a consistent basis for considering permit applications for the erection of dwellings on existing small rural allotments. That is, essentially rural living allotments in broader acre rural areas, such as isolated crown allotments or separate lots created by subdivision under the former Planning Schemes often times under family excision provisions. It should be noted that the need for such a policy was considered to be especially relevant **if the small lot concerned was no longer owned or held as part of adjacent rural property**. And it is noted that the existence of the policy does not create a right that all existing allotments can be used for the purposes of a dwelling.

The policy basis of Clause 22.01-5 clearly states that different circumstances will surround each case and each application should be assessed individually on its merits. The above report extract from the Council Meeting of the 14<sup>th</sup> September 1999 regarding the development of existing small rural allotments provides further direction for the application and interpretation of this policy. From the above it is clear that the 'different circumstances' referred to relate to the circumstances that created the small lot and its context within the locality, as much as to the physical capability of the lot to accommodate development.

It is contended that Clause 22.01-5 was adopted to provide a consistent basis for considering applications for small rural allotments that had been traditionally isolated from other holdings as well as a limited protection of expected 'rights' or opportunities offered under previous planning schemes in relation to dwellings. In light of the above and in the context of the above report extract from the Council Meeting of the 14<sup>th</sup>

September 1999 regarding the development of existing small rural allotments, it is therefore considered that the subject land would not have been intended to be a candidate for a planning permit for a second dwelling under Clause 22.01-5 of the Indigo Planning Scheme.

Notwithstanding this however, it is acknowledged that Clause 22.01-5 allows an application to be made for the use of any small rural allotment for the purposes of a dwelling provided that it does not prejudice any existing surrounding agricultural activities. It is considered that the current application does not comply with the criteria of Clause 22.01-5, particularly that “*the development should not lead to a concentration of dwellings so as to change the land uses and/or character of the rural locality, unless it can be shown that clustering of dwellings will not limit the productive use and development of adjacent agricultural land*”. The issue of proliferation of dwellings is considered later in this report.

***Clause 22.02-2 (Land use, development and subdivision in rural areas)***

Clause 22.02-2 applies to the use, development and subdivision of land in the Farming Zone. The policy provides some guidance as to the policy intent in relation to the resubdivision of rural properties, stating:

*The Shire’s rural areas also comprise a large number of existing rural lots reflecting historic subdivisions. Many rural properties comprise a multitude of titles. The provision for the re-subdivision of existing properties containing existing lots needs to be managed so that it does not:*

- *impact detrimentally on existing agricultural practices;*
- *create rural living or low density residential areas; or*
- *impose infrastructure, servicing and environmental impacts on an area.*

The policy does provide for subdivisions of less than 40 hectares, however this is to occur generally where the use supports the on going agricultural use of the land. As stated above, the low agricultural value of this land is not questioned. Therefore Council should consider the potential of the proposal to create rural living style development. The Indigo Planning Scheme maps identify the strategic land use of areas according to their zoning, and it should be noted that numerous areas currently exist for rural residential development in the Shire. The Farming Zone designation on the application land signifies the strategic intent for this land, and that Council should be wary of approving applications that create de facto rural living areas. This is contrary to the principles of orderly planning and is inconsistent with Clause 65 of the Indigo Planning Scheme.

***Clause 35.07-6 (Farming Zone)***

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

In relation to the construction of a dwelling, Clause 35.07-6 outlines those decision guidelines that must be considered by the Responsible Authority with specific reference to a dwelling. These comprise:

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

As stated earlier in this report, the approval of one dwelling on the entire property is supported, due to the development expectation that exists following the issue of previous planning permits on the land. As such, the above issues are considered mainly in relation to a second dwelling on the site.

It is considered that a second dwelling on the land does not comply with the decision guidelines of Clause 35.07 in relation to the loss and fragmentation of agricultural land, need for the dwelling for the agricultural activity, and the potential proliferation of dwellings. These issues are addressed below.

### **The need for a dwelling**

Clause 35.07 requires consideration be given as to “*Whether the dwelling is reasonably required for the operation of the agricultural activity conducted on the land*”.

It is noted that the applicant has not provided any justification for a dwelling in terms of the agricultural use of the land for either dwelling. The only information that has been put forward is the following statements:

- There may be an interest in the property from a winery for the purposes of pinot grapes
- Given the exposed granite outcrops on the site, the property is not ideally suitable for agriculture and may be used for grapes or orchards
- The erection of a dwelling on the land its present vacant status would be overcome and the Shire’s vision of strengthening the economy by investing in agricultural or horticulture could be upheld
- An owner living on a property has far greater cultural control over agricultural endeavour than an absent owner

- Property maintenance and vermin control.

The limited agricultural value of the land is noted. However, other than the above general statements, the applicant has not demonstrated a sustainable agricultural enterprise for the site that would justify the need for a dwelling, particularly given the limited agricultural potential of the site. Further, there are numerous examples of vacant rural properties in the shire without resident owners

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

### **Proliferation of dwellings**

Clause 35.07 requires consideration be given to *“The potential for the proposal to lead to a concentration or proliferation of dwellings in the area and the impact of this on the use of the land for agriculture”*, while Clause 22.01-5 states that *“the development should not lead to a concentration of dwellings so as to change the land uses and/or character of the rural locality, unless it can be shown that clustering of dwellings will not limit the productive use and development of adjacent agricultural land”*.

The locality is comprised of numerous small rural allotments of similar or better physical capability, and it is considered that the current application would quite clearly set a precedent that the Responsible Authority would be obliged to follow for all lots of similar, or better physical capability (in terms of accommodating a dwelling) in the locality.

The question arises then as to what sets the subject land apart from other allotments in the locality that may have less constraints to physical development? That is, why would the interpretation and application of the Indigo Planning Scheme so as to approve a dwelling on this allotment not set a precedent for lots of similar, or better physical capability (in terms of accommodating a dwelling) in the locality?

In addition to this, whilst the rural sector may be able to absorb a limited amount of residential/rural living development on isolated small rural allotments without affecting land prices, approval of this application would create an expectation that other lots in the locality could be used in the same manner and inevitably result in land values being inflated above agricultural levels.

As the Responsible Authority must be consistent in its administration of the Indigo Planning Scheme, such a situation has the potential to encourage the fragmentation of rural land and lead to a clustering of residential development in this locality, and the continuing conversion of land to non-rural uses on the same basis as the applicant has put forward in support of the proposal; that the agricultural value of the land is limited or that there may be interest in doing something with the land.

### ***Clause 15.07 (Protection from Wildfire) and Clause 22.03-2 (Fire Hazard)***

A standard requirement for the construction of new dwellings in rural locations is that such development shall be carried out in accordance with the Country Fire Authority's

"Design and Siting Guidelines - Bush Fire Protection for Rural Houses".

This document contains guidelines with regards to choosing a house site, including avoidance of north or north-west facing slopes and location on the slope. It is likely that a building envelope exists on the site which will comply with these requirements, however the identified building envelope in application PP06-181 is not optimum from a fire protection perspective and it is unclear if the identified building envelope will require the removal of particular vegetation in order to protect the building.

The vegetation on the site has been identified as Valley Grassy Forest, which is endangered within the Bioregion. According to 'Victoria's Native Vegetation management – A Framework for Action 2002', clearing is generally not permitted for Valley Grassy Forest EVC. Clause 52.17-7 includes certain exemptions for clearing of native vegetation (other than trees) which may be removed, destroyed or lopped without a permit. For the proposed building on CA11C, this would be between 45 m and a maximum of 80 metres. The potential impact on biodiversity as a result of this application is unacceptable and an alternative position somewhere on the entire property should be identified.

**VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL**

The applicant has expressed an interest in the appeal by Strachan against Indigo Shire Council's refusal of planning permit application PP05-113 (*Strachan v Indigo SC [2006] VCAT 1538*). This application was for the erection of a dwelling in the then Rural Zone on three lots to be consolidated, totalling approximately 7.5 hectares. Council refused this application on the grounds that the proposal was inconsistent with the requirements of the Indigo Planning Scheme. However VCAT set this decision aside and a planning permit was issued.

This case has been reviewed in respect of the current planning permit application, and it is considered that there are sufficient differences between the Strachan and the current application.

Firstly, the Tribunal noted the guidance of Clause 22.01-5, specifically that "...*Different circumstances will surround each case and each application should be assessed individually on its merits*". The application site was noted as being relatively isolated from other holdings in the area, being located in a small wedge area bounded by the Black Dog Creek, Hendersons Road and Chiltern Valley Road.

The Tribunal concluded:

*18 In considering this application I have taken into account the particular characteristics of the land and the immediate surrounding area and have reached the conclusion that a dwelling can be supported on the subject land subject to conditions. In doing so I consider that an appropriate outcome to the support for a dwelling is the consolidation of the three Crown allotments, the resultant size of the land that could accommodate some form of intensive agricultural pursuit, the lack of any impact on surrounding agricultural activities given the separation from such areas by a creek and road and the unlikelihood of the approval of a dwelling on this land resulting in the development of other dwellings in the immediate vicinity.*

It is argued that the Tribunal's finding supports the recommendation on the current planning permit application in the following ways:

1. The Tribunal required consolidation of the entire property as a condition of the planning permit for a single dwelling;
2. The property was assessed on its merits and found to be sufficiently different from surrounding landholdings. It appears that one of the main reasons for this was the isolation of the land, being 'wedged' between roads and Black Dog Creek.
3. As a result of the isolation of the land, the Tribunal concluded that there would be no impact on surrounding land.
4. As a result of the isolation, the Tribunal concluded that it would be unlikely that it would lead to development of other dwellings.

It is argued that the current application site is not isolated from other land, therefore there is most definitely potential for a proliferation of other dwellings in the locality as a result of this application.

It should be noted that the Strachan appeal is one of many appeals that have been considered by VCAT in relation to dwellings in rural areas. And these should also be reviewed with regards to this application.

For instance:

In the case *Marzorini & Ors v Mitchell SC [1999] VCAT 1826 (3 November 1999)* the Tribunal concluded that:

*The Tribunal considers that the proposal would represent a significant change to the rural nature of the area. We believe that the proposal does not accord with the local and State planning policies relating to the loss of agricultural land, and need for the careful planning to avoid ad hoc rural residential subdivision and development in rural areas.*

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

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

*The provisions of the Rural Zone, at Clause 35.01 combined with the objective and implementation actions of Clause 17.05 of the SPPF (relating to Agriculture), impose a requirement not just to protect the State's agricultural base from the loss of high quality productive agricultural land, but also to consider the sustainability of rural activities on all categories of productive farmland.*

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

*In coming to this view the Tribunal observed that while decision making under the Victoria Planning Provisions format planning schemes is to be "heavily influenced" by*

*policy - and that the consistent application of policy over time can avoid the adverse effects of incremental change, through ad hoc decision making (a point noted at Clause 20 of the Planning Scheme) - policy must nevertheless be applied in an intelligent and flexible way having regard to the entire strategic and policy framework affecting the future use of land, while at the same time avoiding unfortunate outcomes in individual cases.*

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

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

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

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

In ***Classic Home Constructions PL v Hobsons Bay CC [2004] VCAT 418 (17 March 2004)*** it is stated:

*The initial concern of the Tribunal is that the assessment and decision by Council in this matter seems to have been undertaken in isolation from important parts of the Hobsons Bay Planning Scheme. When new format planning schemes were introduced into Victoria in the late 1990s, they were intended to usher in a new era of decision making based on compliance with strategic direction rather than just statutory detail. The theory was that every Council would articulate its land use ambitions within its own Municipal Strategic Statement (the MSS) and this would drive decision making. So long as a Council had its strategy right, then decision making should logically follow. The elevation of strategic planning in decision making was explicitly emphasised by the fact that every time an assessment had to be made, the first stated purpose of every zone and every overlay said exactly the same thing:*

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

*The strategic direction in the scheme is therefore the starting point for assessment. ...*

*...Planning decisions often require a balance to be struck between competing strategies. In this instance, the Tribunal feels that the Council has "taken for granted" the degree of compliance with urban consolidation principles, neighbourhood character, heritage assessment, and a willingness to modify the plans and instead has focussed only on aspects of amenity to justify their refusal. That is not to say that these amenity aspects are not important. It is just that the decision is devoid of any attempt at a balancing of issues so as to produce (in the words of Clause 31.01-2 of the scheme) "... acceptable outcomes ..." in terms of the whole of the state and local planning policy framework. In simple terms, the perceived shortfalls in the Good Design Guide technique dealing with amenity have distracted Council from conducting a complete assessment of the application.*

*18 The Tribunal believes that Clause 31.01-2 provides some sort of clue as to how decision making should be structured under new format planning schemes. Clause 31.01-2 was inserted into the Victoria Planning Provisions (VPPs) after the advisory committee report into the original (1996) VPPs, and it was a direct result of the observation that under the new schemes there was a much greater array of Section 2 'discretionary' uses than there had ever been before. Clause 31.01-2 neatly links the strategic and the statutory when it says:*

*Because a use is in Section 2 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 State Planning Policy Framework, the Local Planning Policy Framework, the purposes and decision guidelines of the zone and any of the decision guidelines in clause 65.*

*19 Quite apart from the need to link discretion to the strategy, the Tribunal suggest that the two important words in this Clause are 'acceptable outcomes'. In other words, the assessment and the decision should consider the totality of the scheme and determine whether or not the application would produce an 'acceptable outcome' in terms of the strategic and the statutory provisions. This helps direct the decision maker to the question of balancing all aspects of the scheme rather than selectively focusing on specific provisions one of which may be taken out of context.*

The significance of placing policy in context is further commented on in "The role of strategy in the appeal process' prepared by John Keaney presented at Planet Seminar Program: Preparing submissions to VCAT on 27 March 2001 where it is stated that:

*The first aspect of this is the State Planning Policy Framework (SPPF). In my experience with both Council submissions and officer reports, this is one of the most overlooked parts of the new schemes. As already noted, one only has to look at the first purpose of every zone and every overlay to realise that this simply cannot be overlooked. ... While it is true that some of the SPPF is couched in general terms, it is equally true that there is very clear direction provided by some aspects of it including (for instance) fragmentation of rural land.*

*"The MSS is the 'bigger picture' document telling the reader what Council is hoping to achieve over the next decade or so. Local policies on the other hand are the real decision making tools that should assist Council and the tribunal on a day to day basis. The officer report or the VCAT submission that, for instance, jumps straight to the Local Policies ignores the context within which the policy has been derived and, I suspect*

*leaves the impression that the policy is being used to the exclusion of the rest of the scheme. I feel that the complete strategic journey needs to be explained both in a Council report and in a Tribunal Submission.*

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

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

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

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

## **CONCLUSIONS**

Although compliance can be demonstrated with a number of policies and decision guidelines that relate to the development aspects of the proposal (such as Fire Hazard, Effluent Disposal & Water Quality, Land Care and Catchment Management, Access, Rural Dwelling Siting and Design Guidelines), and despite the attractiveness of subject land for residential purposes due to its locality and nature with respect to servicing and infrastructure, having regard to the provisions of the Indigo Planning Scheme and the circumstances of the case it is concluded that the applications should be refused.

Notwithstanding Council's Policy for dealing with small rural allotments, it is contended that that policy does not support scenarios where decisions made with respect to dwellings on existing small rural allotments have the potential to create defacto Rural Living Zones.

Given the nature of the area it is considered that approval of the proposal would effectively lead to a de-facto rezoning of the land through increased pressure on Council

to approve similar proposals for adjoining holdings based on the very reasons that the applicant has put forward as factors that limit the productivity and rural use of the subject land.

In this instance the problem exists that this and adjoining land can be fragmented and disposed of separately in existing allotments. If this was to occur, there would be substantial pressure for a number of dwellings under Council's Dwellings on Small Rural Allotments Policy.

As the Responsible Authority needs to be consistent in its administration of the Indigo Planning Scheme, and there are no apparent differences between the subject land and other small rural lots in the locality, the area would effectively become a Rural Living Zone. Such a scenario is not supported by local policy, the MSS, the SPPF, the Zone or the decision guidelines of Clause 65. If this had been the intent of the Indigo Planning Scheme, and despite the fact that the application can be considered, it is contended that the Rural Living Zone would have been applied to the locality rather than the Farming Zone.

This land is ideally located in close commuter distance to Beechworth township, and land values for residential development are high. The approval of dwellings in rural areas unrelated to agriculture raises expectations that other owners could obtain permits. The creation of an expectation of development would lead to increased property values and every additional dwelling on rural land makes acquisition of land more difficult for genuine farmers.

Having particular regard to the orderly planning of the area, consistency in interpretation of the planning scheme and considering the effect the proposal will have on adjoining land, it is therefore considered that the proposal should be refused.

It is also recommended that Council advise the applicants that Council supports, in principle, a single dwelling on the entire holding of Crown Allotments 10, 11, 11A, 11B and 11C (ie a consolidated lot of 33.71 hectares), in accordance with previous approvals and the Section 173 Agreement registered on the titles.

*Attachments*

**11.3 PLANNING APPLICATION 06-265 - APPLICANT: MORGAN (SSP)**

**For Decision**

**SUMMARY**

**Application No:** PP06-265  
**Applicant:** Morgan  
**Subject Land:** 161 – 163 High Street, Rutherglen  
**Proposal:** 3 dwellings

**Recommendation:** Grant permission

**RECOMMENDATION**

**That Council give notice of decision to grant Planning Permit 06-265 for removal of ten trees and a three-dwelling development of the site, subject to the following conditions:**

**1. APPROVED USE AND DEVELOPMENT**

**The development hereby approved shall be carried out generally in accordance with the plans endorsed pursuant to this Condition and as amended by the following conditions. The layout of the development shall not be modified or altered without the written consent of the Responsible Authority.**

**2. PLANS REQUIRED**

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

- (i) Landscaping or fencing to be provided to each dwelling so that the verandah or a minimum area of 40m<sup>2</sup> is provided as secluded open space.**
- (ii) A permanent fixed external screen of built to a height of 1.7 metres above floor level or a permanent perforated panel or trellis with a maximum of 25% openings or solid translucent panels be fixed to the top of those parts of the existing fence within a horizontal distance of 9m of any habitable room window, balcony, terrace, deck or patio.**
- (iii) Clearly delineating private and communal space.**

**3. EXTERNAL FABRIC**

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

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

- (a) galvanised or natural colour bonded metal cladding; and/or**
- (b) treated metal cladding painted in muted tones, provided such painting is completed prior to the occupation of any building/s hereby approved,**

**to the satisfaction of the Responsible Authority.**

**4. SPECIAL REQUIREMENTS**

**The development hereby approved shall incorporate the following details:**

- (a) roof pitches shall be a minimum of 25 degrees with 12 degree minimum over verandahs;**
- (b) bricks shall be soft coloured reds with off white colour mortar. Joints shall be cut off flush;**
- (c) colours selected from the traditional heritage colour range**

to the satisfaction of the Responsible Authority.

**5. ROAD CONSTRUCTION**

The applicant shall construct the roadway within the private property to service the proposed dwelling development to an all weather sealed, concrete or paved road surface all in accordance with plans and specifications to be submitted and approved by the Responsible Authority and in accordance with Res Code clause 56.07-4.

**6. CROSSINGS**

- (i) Any new vehicular access points required and any required existing crossing points not complying with current standards shall be constructed at full cost to the applicant/owner at a location, and to a standard, to the satisfaction of the Responsible Authority. A crossing permit must be obtained from the Responsible Authority and levels fixed.
  
- (ii) Any other existing accesses, including gateways and/or driveway crossings, must be removed and fenced across to prevent further vehicle access. The road reserve and road formation must be left in a neat and tidy manner.

**7. POINT OF ACCESS**

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

**8. PLANS SUBMITTED**

- (i) Before any road, pathway or drainage works associated with the subdivision start, detailed construction plans and specifications must be prepared and submitted for approval to the satisfaction of the Responsible Authority. All works constructed or carried out must be in accordance with those plans.
  
- (ii) Prior to the Statement of Compliance being issued, as built documents:
  - (1) electronic copy (Plans: .dwg format, natural scale 1:1, Schedule & Specification: Microsoft Word) and
  - (1) hard copy (Plans: A1, Schedule & Specifications: A4) shall be supplied to Council.

**9. FEES**

Payment of Plan Checking Fees of 0.75% and Engineering Inspection Fees (generally inspections at hold points, completed stages of construction activities and proof rolling) of 2.5% of the value of road works and drainage.

**10. FUTURE WORKS**

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

**11. WATER SUPPLY**

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

**12. RETICULATED SEWERAGE**

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

**13. SEDIMENT POLLUTION CONTROL**

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

**14. STORMWATER DRAINAGE**

Provision of a stormwater drainage discharge point for each dwelling including the construction of stormwater outfall drains as required. Drains to be constructed under the supervision of Council and in accordance with plans and specifications approved by Council.

**15. LANDSCAPING COMPLETION AND MAINTENANCE**

Landscaping works as shown on the endorsed plans must be completed within 6 months of the issue of a Certificate of Occupancy, to the satisfaction of the Responsible Authority and then maintained to the satisfaction of the Responsible Authority.

**16. VISUAL SCREEN**

- (i) A permanent fixed external screen of built to a height of 1.7 metres above floor level or a permanent perforated panel or trellis with a maximum of 25% openings or solid translucent panels be fixed to the top of those parts of the existing fence within a horizontal distance of 9m of any habitable room window, balcony, terrace, deck or patio.
- (ii) Landscaping or fencing is required to be provided to each dwelling so that the verandah or a minimum area of 40m<sup>2</sup> is provided as secluded open space.

**17. EXPIRY**

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

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

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

**BACKGROUND**

Planning application 06-265 is for a three-dwelling development to the rear of the former Rutherglen Courthouse at 161 – 165 High Street. The Courthouse building itself is to remain on the site and possibly be redeveloped at a later time. The applicant has mentioned the possibility of residential development of this building.

Planning application 06-265 was lodged on 9 November 2006. At this time, the purpose of the application was to seek approval to use and develop the subject site for the purposes of four dwellings. The proposal was discussed between the applicants, Council's Heritage Advisor and Planning Officer, particularly regarding the impact of the

development on the former Rutherglen Courthouse building, the future development of the Courthouse and the Density of development. It was agreed that a better outcome for the site would be to decrease the development density of the site. The applicants then proposed to reduce the number of dwellings on the site to three dwellings. Council's Planning Officer and Heritage Advisor expressed in principle support for this level of development of the site.

The application was subsequently amended to a three-dwelling development.

The subject site is 2710 m<sup>2</sup> in area and is located in within the existing urban area of Rutherglen at 161 - 165 Main Street. The property gently slopes to the rear, which is currently vacant.

The surrounding properties comprise large sized residential lots however the Rutherglen public swimming pool is located to the rear of the site (see **Attachment A** – locality plan).

**PROPOSAL**

The applicant is seeking approval for:

- Removal of ten trees from the site; and
- A three-dwelling development of the property (see **Attachment B** - proposal).

The Courthouse building itself is to remain on the site and possibly be redeveloped at a later time. The applicant has mentioned the possibility of residential development of this building.

**ZONING AND PLANNING CONTROLS**

Zoning:	Residential 1 Zone
Overlay/s:	Heritage Overlay (HO130)
Permit Trigger:	A permit is required to construct two or more dwellings on a lot under Clause 32.01 (Residential 1 Zone).
	A permit is required to construct a building under Clause 43.01 (Heritage Overlay).
	A permit is required for the removal of trees under Clause 43.01 (Heritage Overlay).

**STATE PLANNING POLICY**

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

**Settlement**

14.01 Planning for Urban Settlement

**Environment**

- 15.11 Heritage
- 15.12 Energy Efficiency

**Housing**

- 16.02 Medium Density Housing

**Infrastructure**

- 18.09 Water Supply, Sewerage & Drainage

**Particular uses and development**

- 19.04 Design & Built Form

**LOCAL PLANNING POLICY FRAMEWORK**

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

**Municipal Strategic Statement**

- Settlement & Infrastructure
- Environment
  - 21.02 Key Issues
  - 21.03-1 Vision & Strategic Framework
  - 21.03-2 Corporate Plan
  - 21.04-1 Settlement & Infrastructure
    - 21.04-1-2 Rutherglen
    - 21.04-3-2 Heritage

**Local Planning Policies**

- 22.01-3 Residential Subdivision & Development
- 22.03-9 Heritage Policy
- 22.03-11 Stormwater Management Policy

**PARTICULAR PROVISIONS**

- 55 Two or more dwellings on a lot and residential buildings

**REFERRAL AUTHORITIES**

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

**Heritage Advisor** – The revised plans showing three dwellings is a more appropriate response to the heritage overlay and its objectives. The design of the three dwellings is sympathetic and should not detract from the significance of the former courthouse building.

*Note: The comments of the Heritage Advisor with regards to the previous four-dwelling proposal –*

*With regards to the Expressed concern with regards to the proposal for four dwellings on the site, specifically concerning:*

- (i) The impact of the development on the former Rutherglen Courthouse building – the proposed development needs to provide for a suitable setting and curtilage for the Rutherglen Courthouse;*
- (ii) Future development of the Courthouse – it is understood that at some stage, a proposal for residential development of the courthouse building may be made to Council. However no allowance has been made for the requirements of the future residents of this building, such as garage space or private open space. This should be provided to the rear of the Courthouse building.*
- (iii) Density of development – the proposal for four dwellings to the rear of the former courthouse building is considered to be too high, particularly given the concerns raised above. It is suggested that the application be reviewed and the density of the development be reduced.*

*A reduction in the density of development of the site will address these issues.*

**Assets** – No objection to the proposal subject to standard conditions for private roads, crossings, point of access, plans submitted, fees, future works, sediment and pollution control, stormwater drainage.

**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.

Two objections were received in response. These submissions are included at **Attachment C**.

A planning focus meeting was held at the former Rutherglen Council Chambers on 31<sup>st</sup> January 2007 at which time the applicant proposed to reduce the density of development on the site from four dwellings to three dwellings. Following this meeting, a third objection was received against the application. This is also included at **Attachment C**.

Amended plans showing three dwellings, and addressing some of the concerns raised and discussed at the focus meeting were notified to neighbours and objectors inviting comments on 27 February 2007. Three objections were received in relation to the amended plans, which largely reiterated the comments in the first letters. The only additional issues raised:

- An ‘indigenous study’ should have been carried out, and
- Applicants have misrepresented their intentions with regards to the target market for the dwellings.

The issues raised in the objections and the planning response are summarised as follows:

*1. Loss of trees and native animals and birds.*

The applicant has submitted a report from a pest controller that indicates that each of the trees in the yard is to some degree affected by termites, and recommends removal of the trees. Ten trees and shrubs are proposed to be removed. This aspect of the proposal is supported.

It is proposed that landscaping would be required for the new development, which would serve to improve the appearance of the site for residents and improve privacy for residents and adjoining neighbours.

*2. Visual impact of modern dwellings in existing low density and heritage area.*

See Discussion section.

*3. There are no social benefits to the community, as stated in the application.*

The applicant states that ‘the aim of the development is to ensure the flexibility to cater for the wider varying changing needs of individual people. Wheelchair access will be available to all portions of ground floor buildings and surrounds’. Further, the applicant states “the proposed residences will provide a modern, safe and communal environment for future inhabitants. The site is close to the main street of Rutherglen offering convenient pedestrian access, reducing the need for reliance on vehicles. The design philosophy incorporates ‘AS4299 Adaptable Housing’ principals and ‘Seniors Living Guidelines’ to provide a living environment that promotes ‘ageing in place’. The design philosophy will promote a safer, easy to maintain living environment that is generally directed at the retiree sector of the community’.

Certainly the Planning Scheme encourages the provision of a variety of housing styles and options, and as such this aspect of the proposal is supported.

With regards to the amended plans, an objector stated that the applicants have misrepresented their intentions with regards to the target market for the dwellings. However it should be noted that the ultimate market for the dwellings is not a planning matter. The main planning consideration in this regard is that the applicant will be providing housing diversity in Rutherglen, which is supported by the Indigo Planning Scheme.

*4. Detrimental affect on neighbourhood character.*

See Discussion section.

*5. Increased risks to pedestrian and vehicular traffic as a result of increased vehicles at the site.*

See Discussion section.

*6. No proposal for the future of the Courthouse building.*

The Courthouse building itself is to remain on the site and possibly be redeveloped at a later time. The applicant has mentioned the possibility of residential development of this building. This is not considered to be an issue at this stage, as care has been taken to

provide space around the building for requirements such as parking and private open space should a use be found for the building in the future.

*7. The former Courthouse is a commercial building, not previously deemed residential.*

The former Courthouse building is zoned Residential 1, and as such residential use of the building is encouraged by the zone. The site has been zoned Residential 1 since at least 1999.

*8. Impact on amenity from change of use of the site from commercial to residential.*

Given the residential zoning of the site, it is difficult to support an objection that relates to this use. In their submission, the objector specifically refers to such issues as noise and visual amenity as a result of residential development. However, this is a standard aspect of residential living, and redevelopment of the site for this purpose is supported by the Planning Scheme.

*9. Conflict between after hours swimming pool use and future residents.*

The objection raises concerns particularly with regards to early morning and late afternoon/evening swimming session/training at the adjoining swimming pool site. With regards to normal use of the swimming pool, while there may be some annoyance as a result of normal use of the pool, prospective purchasers of dwellings at the courthouse site should be aware of the swimming pool and take this into account in their decision to buy a dwelling in this location.

However, concern was raised at the focus meeting with regards to radio use at the pool for training sessions. In this regard, the Noise Control Guidelines issued by the EPA (Publication TG302/92, July 1992) is clear: with regards to public address systems, there should be noise intrusion of not more than 5dB(A) above background level at any affected residences or other noise sensitive locations (with some allowance for unique or very infrequent activities). It further states that noise from PA systems must not be audible inside a residential dwelling during normal sleeping hours.

It should be noted that these noise disturbance guidelines apply now, and swimming pool users should be ensuring that use of a radio or similar does not exceed these noise limits. It is accepted that the nearest adjoining residences are between 60 – 70m distant from the swimming pool, and that this proposal will introduce a dwelling at approximately 25m from the swimming pool. However there should be no issue with normal use of the pool, only use of amplified equipment. This may reduce or stop the use of radio equipment at the site at early morning or evening training sessions where it cannot comply with the above noise disturbance guidelines and complaints are received from residents. This is considered to be acceptable given the zoning of the land for residential purposes.

*10. An 'indigenous study' should have been carried out*

Clause 22.03-7 (Aboriginal Cultural Heritage) states that it is policy that:

- *“Where development is proposed in areas containing known cultural heritage sites or where there is potential for such sites, applicants will be requested to provide a report prepared by a qualified archaeologist demonstrating that the impact on Aboriginal cultural heritage values has been assessed”.*

In the case of the Courthouse building, this is not a site of known Aboriginal cultural

heritage, and the potential is considered to be low. As such, there is no requirement for the preparation of any study of Aboriginal cultural heritage values on the site.

### **DISCUSSION**

The application comprises the removal of ten trees and a three dwelling development to the rear of the former Rutherglen Courthouse. The Courthouse building itself is to remain on the site and possibly be redeveloped at a later time. The applicant has mentioned the possibility of residential development of this building.

The main issues with regards to this proposal include: heritage impact, impact of increased traffic, design and neighbourhood character and potential overlooking from the proposed development.

The application has also been assessed against the requirements of Clause 55 (Two or more dwellings on a lot and residential buildings). With some conditions on any planning permit issued, the application will comply with the requirements of Clause 55. This is outlined below:

<b>Title &amp; Objective</b>	<b>Comments</b>
B1 Neighbourhood Character	✓ Complies
B2 Residential Policy	✓ Complies
B3 Dwelling Diversity	✓ Complies
B4 Infrastructure	✓ Complies
B5 Integration with the Street	- N/A
B6 Street Setback	- N/A
B7 Building Height	✓ Complies
B8 Site Coverage	✓ Complies
B9 Permeability	✓ Complies
B10 Energy Efficiency	✓ Complies
B11 Open Space	- N/A Although the swimming pool is located adjacent to the site, it is not feasible to integrate the development and the pool area due to security of the pool.
B12 Safety	✓ Complies
B13 Landscaping	✓ Complies
B14 Access	✓ Complies
B15 Parking Location	✓ Complies
B16 Parking Provision	✓ Complies
B17 Side and Rear Setbacks	✓ Complies
B18 Walls on Boundaries	- N/A
B19 Daylight to Existing Windows	✓ Complies
B20 North Facing Windows	✓ Complies

B21 Overshadowing Open Space	✓ Complies
B22 Overlooking	<b>* Does not comply</b> Requires permanently fixed external screens to at least 1.7m above floor level and not more than 25% transparent.
B23 Internal Views	✓ Complies
B24 Noise Impacts	✓ Complies
B25 Accessibility	✓ Complies
B26 Dwelling Entry	✓ Complies
B27 Daylight to New Windows	✓ Complies
B28 Private Open Space	<b>* Does not comply</b> Landscaping or fencing required so that verandah or an area of minimum 40m <sup>2</sup> is secluded private space.
B29 Solar Access to Open Space	✓ Complies
B30 Storage	✓ Complies
B31 Design Detail	<b>✓ Complies</b> <b>See later discussion</b>
B32 Front Fences	- N/A
B33 Common Property	<b>* Does not comply</b> Plans required clearly delineating private and communal space
B34 Site Services	✓ Complies

### **Heritage impact**

The main policy guidance in terms of assessing the impact on the heritage significance of the building are Clauses 15.11 (Heritage), 22.03-9 (Heritage Policy) and 43.01 (Heritage Overlay).

Clause 15.11 generally states that planning authorities should identify, conserve and protect places of cultural value from inappropriate development.

Clause 22.03-9 aims to ensure that all new buildings promote high architectural or design standards, which reflect the heritage and cultural significance of the heritage precinct and area. In terms of new buildings, it is policy that:

- New buildings are compatible with the characteristics of the individual building and area and undertaken generally in accordance with any Council prepared guidelines,
- Design, bulk and setback of any new building be responsive to existing heritage assets.

Performance measures applicable to this application outlined by this Clause include:

- New buildings should be sympathetic in bulk, form and external appearance to

adjacent heritage buildings, whilst not reproducing historic detailing,

- Roof pitches shall be a minimum of 25 degrees with 12 degree minimum over verandahs,
- Bricks shall be soft coloured reds with off-white colour mortar, joints shall be cut off flush,
- Windows and doors shall be made of timber to traditional details,
- Colours are to be selected from the traditional heritage colour range, and
- No work will be permitted that will degrade and/or compromise the cultural heritage significance of the conservation precincts.

The proposed dwellings have been designed in accordance with the above and specific advice and requirements of Council's Heritage Advisor. As a result, the Heritage Advisor notes that the design of the three dwellings is sympathetic and should not detract from the significance of the former courthouse building.

An objection against the proposal was with regards to the visual impact of modern dwellings in existing low density and heritage area. However in terms of the heritage significance of the courthouse and surrounding buildings, the visual impact is considered to be minimal and acceptable. The dwellings are located to the rear and downslope of the courthouse building and will not be highly visible from the High Street. The buildings will be visible from the swimming pool and from the rear of the adjoining residences.

### **Impact of increased traffic**

An issue of concern raised by an objection against the proposal is the risk to pedestrian and vehicular traffic as a result of increased vehicles entering and existing the site. The proposal has been assessed against the access and vehicle requirements of Clause 55, particularly Clause 55.03-9 (Access objectives), which contains standards in order to ensure safe, manageable and convenient vehicle access to and from the development. The proposal meets with all the standards of the Clause in terms of the design, location and width of the accessway.

Further, this proposal has been assessed by Council's Technical Services Branch, who have not identified safety of vehicles as an issue. The objector raised the presence of double lines in front of the existing access to the property, however this is not considered to be prohibitive to future development of the site.

### **Design and neighbourhood character**

General practice notes "Understanding Neighbourhood Character" describes neighbourhood character as:

*"...essentially the combination of the public and private realms. Every property, public place or piece of infrastructure makes a contribution, whether great or small. It is the cumulative impact of all these contributions that establishes neighbourhood character.*

*The key to understanding character is being able to describe how the features of an area come together to give that area its own particular character. Breaking up character into discrete features and characteristics misses out on the relationships between these features and characteristics. Understanding how these relationships physically appear on the ground is usually the most important aspect in establishing the character of the area.”*

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

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

This multi-dwelling proposal must meet the objectives of the residential development provisions (Clause 55 of the Indigo Planning Scheme). Clause 55.02-1 requires that the proposal:

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

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

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

Determining whether either or both approaches should influence the design response will depend on the features and characteristics identified in the neighbourhood and site description. Those aspects of neighbourhood character identified by the applicant in the proposal includes: form of surrounding development, and design details such as materials. As such, the applicant has identified aspects of both the scale and form of surrounding development in addition to architectural style.

It is thus considered that the development of a multi-dwelling development in itself does not impact upon the existing neighbourhood character. It has been argued by submitters

that the increased density of development is inconsistent with the character of the neighbourhood, however it is clear that development density in itself does not entirely comprise neighbourhood character. As discussed above, it is the design and 'style' of the dwellings on the site, which will need to respect the scale, form and architectural style of the surrounding development. Where this is achieved, then respect for neighbourhood character will also be achieved.

In this respect, the applicants have amended their plans so that the design and style of the proposed dwellings respects the surrounding development, without replicating or producing mock heritage. This includes materials, colours and general design of the dwellings.

Further, the provision of diversity and housing choice has some policy basis in terms of Clauses 16.02 and 22.01-3 of the Indigo Planning Scheme, and therefore the development can be considered to respect preferred character. As such, it is considered that this aspect of the proposal meets the requirements of these Clauses, and the objectives and standards of Clauses 55.02-1 (Neighbourhood character objectives) and 55.02-2 (residential policy objectives).

### **Overlooking**

Clause 55.04-6 (Overlooking objective) aims to limit views into existing secluded private open space and habitable room windows. The proposed dwellings are located to the rear of the site, and while they will not overlook habitable room windows, there is potential for overlooking of the private open space of adjoining properties, particularly as the fence surrounding the site is presently 1.5 metres high. In order to overcome this issue, it will be a requirement on any planning permit issued that the fence either be built to a height of 1.7 metres above floor level or a permanent perforated panel or trellis with a maximum of 25% openings or solid translucent panels be fixed to the top of those parts of the existing fence within a horizontal distance of 9m of any habitable room window, balcony, terrace, deck or patio. This requirement will satisfy the requirements of Clause 55.04-6.

### **CONCLUSION**

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

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

**11.4 PLANNING APPLICATION 06-304 - APPLICANT:  
BEEMSTER (SSP)**

**For Decision**

**SUMMARY**

**Application No:** PP06-304  
**Applicant:** Beemster  
**Subject Land:** Lot 5 PS401822, Back Creek Road, Yackandandah  
**Proposal:** 3 lot subdivision  
**Recommendation:** Approval subject to conditions

**RECOMMENDATION**

**1. PLANS TO BE SUBMITTED**

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

**2. COVENANTS**

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

**3. WORKS NOT TO COMMENCE**

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

- (i) The plan of subdivision submitted pursuant to Condition 1 has been Certified; and
- (ii) The engineering plans submitted pursuant to Condition 6 have been approved.

**4. SECTION 173 AGREEMENT**

Prior to the plan of subdivision being Certified, the landowner must enter into an agreement with the Responsible Authority under Section 173 of the Act, which:

- (i) ensures that all dwellings are sited, designed and constructed using the principles of Water Sensitive Urban Design and in particular that:
  - (a) All dwellings must incorporate a minimum 22,000L rain water tank on site. The water tank must be plumbed to the toilets and garden taps as a minimum. Only the overflow from the rainwater tank is to be directly discharged to each lot's stormwater point. All dwellings shall include

water saving measures (AAA rated fixtures and a pressure reduction valve).

- (b) Stormwater is detained on site where practical through use of permeable paving, pebble paving, infiltration trenches, soakwells, lawn, garden areas and swales.
- (c) An Erosion and Sediment Control Plan must be submitted with all Building Permit applications that clearly outlines how the site is to be managed during and after construction.
- (d) Ensures that all lots are connected to reticulated sewerage as soon as reticulated services are available near the site, or the Keeble Way subdivision (PP05-056) is constructed.

#### **5. LANDSCAPING**

Before the issue of a Statement of Compliance, plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must show a permanent screen of trees and shrubs planted with appropriate indigenous vegetation, adjacent to the access driveway (to prevent potentially confusing headlight glare from people using this driveway).

The landscaping must be planted in accordance with the endorsed plans to provide an effective visual screen, and must be completed to the satisfaction of the Responsible Authority with 12 months of approval of the landscaping plans, and then maintained to the satisfaction of the Responsible Authority.

#### **6. NORTH EAST WATER CONDITIONS**

- (i) Payment to the North East Region Water Authority of a contribution of money (Headworks) towards the water supply system supplying the area as determined by North East Water's policy for development charges.
- (ii) That the owner/applicant enters into an agreement with North East water to constructs all necessary works to provide water supply to serve all lots of the proposed subdivision, at the applicant's cost, and in accordance with the Authority's specifications and requirements.
- (iii) Ensure that any private water services do not traverse property boundaries and are supplied independently from an approved point of supply.
- (iv) The plan of subdivision submitted for certification must be referred to the Authority in accordance with Section 8 of the Subdivision Act 1988.
- (v) Prior to the issue of a Statement of Compliance under the Subdivision Act 1988 consent must be obtained from North East Region Water Authority.

#### **7. SPI ELECTRICITY PTY LTD CONDITIONS**

- (i) The applicant must enter into an agreement with SPI Electricity Pty Ltd for the extension, upgrading or rearrangement of the electricity supply to lots on the plan of subdivision as required by SPI Electricity Pty Ltd. A payment to cover the cost of such work will be required and easements internal and

external to the subdivision and provision of sites for substations may also be required.

**8. TELSTRA CONDITIONS**

- (i) That the plan of subdivision submitted for certification be referred to Telstra in accordance with Section 8 of the Subdivision Act 1988**
- (ii) That the applicant pay to Telstra the reasonable cost of any works necessary, as a result of the subdivision, to remove, or alter the position of any existing facility on the subdivision, or on any adjacent land or Government Road, pursuant to Clause 53 of Schedule 3 of the Telecommunications Act 1997. Refer – Dial Before You Dig process – Ph. 1100.**

**ASSETS CONDITIONS**

**9. ROAD CONSTRUCTION**

**(i) Back Creek Road**

The applicant shall reconstruct the entry to the existing Right of Way easement off Back Creek Road all in accordance with plans and specifications to be submitted and approved by the Assets Manager and generally as follows:

- 30m x 1.8m wide (min) sealed pavement taper on the north bound shoulder to the driveway/right of way entry;
- 200mm depth (minimum) of Class 2 pavement;
- seal new driveway entrance to the edge of seal on Back Creek Road, overlap existing seal by 300mm.
- drainage culverts and headwalls to a 1 in 5 ARI.
- Or, as otherwise approved.

**(ii) Existing access along Right of Way easement**

The applicant shall construct the roadway within the Right of Way Easement and the proposed Common Property to service Lots 1, 2 & 3 to R4 standard as set out in the Indigo Shire Road Hierarchy Management Plan and to the approval of the Assets Manager all in accordance with plans and specifications to be submitted and approved by the Assets Manager and generally as follows:

- 6.0m formation width;
- 4.8m pavement width;
- 4.5m seal width (ITP&S);
- 200mm depth (minimum) of pavement;
- drainage culverts and headwalls to a 1 in 5 ARI.
- Or, as otherwise approved.

**(iii) Proposed Common Property**

The applicant shall construct the roadway within the Right of Way Easement and the proposed Common Property to service Lots 1, 2 & 3 to R4 standard as set out in the Indigo Shire Road Hierarchy Management Plan and to the approval of the Assets Manager all in accordance with plans and specifications to be submitted and

approved by the Assets Manager and generally as follows:

- 6.0m formation width;
- 4.8m pavement width;
- 4.5m seal width (ITP&S);
- 200mm depth (minimum) of pavement;
- drainage culverts and headwalls to a 1 in 5 ARI.
- Or, as otherwise approved.

**(iv) Driveway - Lot 2**

The applicant shall construct the driveway in Lot 2 to R4 standard as set out in the Indigo Shire Road Hierarchy Management Plan and to the approval of the Assets Manager all in accordance with plans and specifications to be submitted and approved by the Assets Manager and generally as follows:

- 6.0m formation width;
- 4.8m pavement width;
- 4.5m seal width (ITP&S);
- 200mm depth (minimum) of pavement;
- drainage culverts and headwalls to a 1 in 5 ARI.
- Or, as otherwise approved.

**10. POINT OF ACCESS**

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

**11. CROSSINGS**

(i) Any new vehicular access points required and any required existing crossing points not complying with current standards shall be constructed at full cost to the applicant/owner at a location, and to a standard, to the satisfaction of the Responsible Authority.

(ii) A crossing permit must be obtained from the Responsible Authority and levels fixed.

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

**12. PLANS SUBMITTED**

(i) Before any road, pathway or drainage works associated with the subdivision start, detailed construction plans and specifications must be prepared and submitted for approval to the satisfaction of the Responsible Authority. All works constructed or carried out must be in accordance with those plans.

(ii) Prior to the Statement of Compliance being issued, as built documents:

- (1) electronic copy (Plans: .dwg format, natural scale 1:1, Schedule & Specification: Microsoft Word) and

- (1) hard copy (Plans: A1, Schedule & Specifications: A4) shall be supplied to Council.

**13. FEES**

Payment of Plan Checking Fees of 0.75% and Engineering Inspection Fees (generally inspections at hold points, completed stages of construction activities and proof rolling) of 2.5% of the value of road works and drainage.

**14. ROADSIDE MANAGEMENT**

All works within the Back Creek Road road reserve will be undertaken in accordance with the requirements of the Indigo Shire Roadside Management Plan.

**15. SEDIMENT POLLUTION CONTROL**

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

**16. SIGNAGE**

The developer shall supply and install traffic turning/warning signs on Back Creek Road in accordance with plans and specifications submitted to and approved by Council's Assets Manager.

**17. PATHWAY LINK CONTRIBUTION**

The applicant shall construct works to the value of, or contribute to, the construction of a pathway link to the Yackandandah township based on a contribution of \$1,000 per potential new dwelling, viz two new dwellings equals \$2,000.

**18. STORMWATER DRAINAGE**

**(i) Dwellings**

- The discharge of concentrated storm water drainage into the road drains or culverts will not be permitted.
- All stormwater emanating from the developments approved by this permit shall be disposed of within the curtilage of the property.

**(ii) Roadways/Driveways**

- Road design for the Right of Way Easement, Common Property and driveways associated with Lots 1, 2 & 3, shall allow for natural sheet flow of stormwater with one way cross fall where possible.
- The discharge of concentrated storm water drainage into adjoining lots, adjoining properties, common property, right of way easement, road drains or culverts will not be permitted.

**19. WASTE BIN COLLECTION AREA**

The developer shall construct a hard standing waste bin collection area adjacent to Back Creek Road to service a minimum of ten (10) waste bins, in accordance with plans and specifications approved by Council.

**20. ON-SITE EFFLUENT DISPOSAL**

- (i) Prior to the issue of the Statement of Compliance a wastewater disposal management plan must be prepared and submitted for approval to the Responsible Authority. The plan must indicate the areas proposed to be used to contain and treat on site effluent and wastewater as well as details of the proposed management and maintenance of the wastewater treatment and disposal system including a species list of the vegetation that is to be planted to maximise nutrient and moisture uptake.**
- (ii) Consent of Council for on-site waste disposal systems shall be obtained for each lot. Such systems shall comprise a mechanically aerated sewage treatment package plant (such system shall have an EPA Certificate of Approval issued under Section 53M(7) of the Environment Protection Authority Act and shall comply with the provisions of the Guidelines for Environmental Management - Septic Tanks Code of Practice, Publication 891, Environment Protection Authority (March 2003).**
- (iii) The waste disposal system shall be located so as to ensure all effluent and waste water is disposed of and absorbed within the boundaries of the land, to the satisfaction of Council's Environmental Health Officer.**

**21. SEWERAGE**

**A reticulated sewerage supply shall be provided in accordance with plans and specifications approved by, and any requirements of, the North East Region Water Authority as soon as reticulated services are available near the site, or the Keeble Way subdivision (PP05-056) is constructed.**

**22. SEDIMENT POLLUTION CONTROL**

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

**23. CFA CONDITIONS**

- (i) Amended plans required**
  - Before the development commences, amended plans to the satisfaction of CFA must be submitted for approval by CFA and the responsible authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and must demonstrate compliance with the following conditions.**
- (ii) Hydrants**
  - Operable hydrants, above or below ground must be provided to the satisfaction of CFA.**
  - The maximum distance between these hydrants and the rear of all building envelopes (or in the absence of building envelopes, the rear of all lots) must be 120m and hydrants must be no more than 200m apart. This distance must be measured around lot boundaries.**
  - Hydrants must be identified as specified in "Identification of Street Hydrants for Firefighting purposes" available under publications on the Country Fire**

Authority web site ([www.cfa.vic.gov.au](http://www.cfa.vic.gov.au)).

**(iii) Roads**

- A road shall be constructed to provide emergency vehicle access to all lots. The road must be constructed to a standard so that it is accessible in all weather conditions and capable of accommodating a vehicle of 15 tonnes for the trafficable road width.
- The vertical and horizontal alignment of the road shall be designed to accommodate a design vehicle equivalent to the AustRoads Design Service Vehicle – 12.5m radius.
- Provision shall be made within the common property for turning this design vehicle to the satisfaction of the Responsible Authority. (A three point turn is acceptable)
- The road shall have a minimum trafficable width of 6.0m.
- The average grade of roads must be no more than 1 in 7 (14.4%) (8.1 degrees) with a maximum of no more than 1 in 5 (20%) (11.3 degrees) for no more than 50 meters.

**24. WATER**

A reticulated water supply shall be provided in accordance with plans and specifications approved by, and any requirements of, the North East Region Water Authority.

**25. UNDERGROUND SERVICES**

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

**26. EXISTING TREES**

The existing living trees on the site shall be preserved and shall not be destroyed except with the consent of the Responsible Authority, or in accordance with a notice given pursuant to the Forests Act, the Country Fire Authority Act, the Soil Conservation and Land Utilisation Act or the Local Government Act.

**BACKGROUND**

Planning application 06-304 was lodged on 22 December 2006. The purpose of this application is to seek approval to develop the subject site for the purposes of a three-lot subdivision.

The subject site is approximately 1.47 hectares and is located approximately 860metres from the Yackandandah-Dederang Road on Back Creek Road. The property is currently used for one dwelling, with the remainder of the property cleared and vacant.

There are existing dwellings located on neighbouring properties, the main land-use on this and surrounding properties is low density residential development (see **Attachment A** – locality plan).

**PROPOSAL**

The applicant is seeking approval for the development of the site for a three-lot

subdivision (see **Attachment B**). This would result in one lot of 5491m<sup>2</sup> at the front of the site comprising the existing dwelling, and two lots to the rear, being 4178m<sup>2</sup> and 4749m<sup>2</sup> respectively. The applicant also proposes a common property of 240m<sup>2</sup> to provide for access into the three lots.

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

- The land can be adequately serviced with electricity, telephone and reticulated water services.
- Wastewater can be treated and retained on site in accordance with the State Environment Protection Policy and the Septic Tank Code of Practice.
- The proposal will not adversely impact on landscape character.
- This proposal is consistent and compatible with adjoining land uses.
- There are no restrictive covenants affecting the subject land.

**ZONING AND PLANNING CONTROLS**

Zoning: Low Density Residential Zone

Overlay/s: None Applicable

Permit Trigger: A planning permit is required for subdivision of the land under Clause 32.03 (Low Density Residential Zone).

**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**

15.07 Protection from Wildfire

15.12 Energy Efficiency

**Housing**

16.01 Residential Development for Single Dwellings

**Infrastructure**

18.09 Water Supply, Sewerage & Drainage

**Particular uses and development**

19.01 Subdivision

**LOCAL PLANNING POLICY FRAMEWORK**

The Local Planning Policy Framework (LPPF) provides relevant discussion in relation to land use and development in the Shire. The following policies and clauses are deemed to

be relevant to this proposal and have been taken into account in the assessment of this application:

**Municipal Strategic Statement**

Settlement & Infrastructure

Environment

21.02 Key Issues

21.03-1 Vision & Strategic Framework

21.03-2 Corporate Plan

21.04-1 Settlement & Infrastructure

21.04-1-4 Yackandandah

**Local Planning Policies**

22.01-3 Residential Subdivision & Development

22.02-1 Landcare & Catchment Management

22.03-2 Fire Hazard

22.03-4 Effluent Disposal & Water Quality

22.03-11 Stormwater Management Policy

**PARTICULAR PROVISIONS**

52.01 Subdivision

52.02 Easements, Restrictions & Reserves

56 Residential Subdivision

**REFERRAL AUTHORITIES**

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

**North East Region Water Authority** – No objection subject to the following conditions:

- (i) Payment to the North East Region Water Authority of a contribution of money (Headworks) towards the water supply system supplying the area as determined by North East Water's policy for development charges.
- (ii) That the owner/applicant enters into an agreement with North East water to constructs all necessary works to provide water supply to serve all lots of the proposed subdivision, at the applicant's cost, and in accordance with the Authority's specifications and requirements.
- (iii) Ensure that any private water services do not traverse property boundaries and are supplied independently from an approved point of supply.
- (iv) The plan of subdivision submitted for certification must be referred to the Authority in accordance with Section 8 of the Subdivision Act 1988.
- (v) Prior to the issue of a Statement of Compliance under the Subdivision Act 1988 consent must be obtained from North East Region Water Authority.

**SPI Electricity Pty Ltd** – No objection subject to the following condition:

The applicant must enter into an agreement with SPI Electricity Pty Ltd for the extension, upgrading or rearrangement of the electricity supply to lots on the plan of subdivision as required by SPI Electricity Pty Ltd. A payment to cover the cost of such work will be required and easements internal and external to the subdivision and provision of sites for substations may also be required.

**Note:** Because you can have only one supply point into your property you will need to install Group Metering, a Mains control metering structure/pillar to supply multiple unit/s from the existing SPI AusNet supply pit.

It is recommended that, at an early date the applicant commences negotiations with SP AusNet for a supply of electricity in order that supply arrangements can be worked out in detail, so prescribed information can be issued without delay (the release to the municipality enabling a Statement of Compliance with conditions to be issued).

Arrangements for the supply will be subject to obtaining the agreement of other Authorities and any landowners affected by routes of the electric power lines required to supply the lots and for any tree clearing.

Prospective purchasers of lots on this plan should contact SPI Electricity Pty Ltd to determine the availability of a supply of electricity. Financial contributions may be required.

**Telstra** – No objection subject to the following conditions:

- (i) That the plan of subdivision submitted for certification be referred to Telstra in accordance with Section 8 of the Subdivision Act 1988
- (ii) That the applicant pay to Telstra the reasonable cost of any works necessary, as a result of the subdivision, to remove, or alter the position of any existing facility on the subdivision, or on any adjacent land or Government Road, pursuant to Clause 53 of Schedule 3 of the Telecommunications Act 1997. Refer – Dial Before You Dig process – Ph. 1100.

**Assets Engineer** – No objection subject to the conditions with regards to Road Construction, Point of Access, Crossings, Plans Submitted, Fees, Roadside Management, Sediment Pollution Control, Signage, Pathway Link Contribution, Stormwater Drainage and Waste Bin Collection Area.

**Environmental Health** –

It is considered connection of these proposed allotments to reticulated sewerage is the preferred option. The applicant should approach the relevant water authority in order that associated costs may be obtained and provided to this office.

If connection is unrealistic via the road reserve along Back Creek Road, than an alternative may be available by linking with several allotments situated within 200 metres in Keeble Way.

Should these options be considered inappropriate it is recommended mechanically aerated sewage treatment package plants be utilised on each proposed allotment in line with Council's policy for Low Density Rural areas.

**CFA** – No objection subject to the following conditions being attached to any permit, which may be issued and a copy of the permit being forwarded to the CFA.

**1. Amended plans required**

- 1.1 Before the development commences, amended plans to the satisfaction of CFA must be submitted for approval by CFA and the responsible authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and must demonstrate compliance with the following conditions.

**2. Hydrants**

- 2.1 Operable hydrants, above or below ground must be provided to the satisfaction of CFA.
- 2.2 The maximum distance between these hydrants and the rear of all building envelopes (or in the absence of building envelopes, the rear of all lots) must be 120m and hydrants must be no more than 200m apart. This distance must be measured around lot boundaries.
- 2.3 Hydrants must be identified as specified in "Identification of Street Hydrants for Firefighting purposes" available under publications on the Country Fire Authority web site ([www.cfa.vic.gov.au](http://www.cfa.vic.gov.au)).

**3. Roads**

- 3.1 A road shall be constructed to provide emergency vehicle access to all lots. The road must be constructed to a standard so that it is accessible in all weather conditions and capable of accommodating a vehicle of 15 tonnes for the trafficable road width.
- 3.2 The vertical and horizontal alignment of the road shall be designed to accommodate a design vehicle equivalent to the AustRoads Design Service Vehicle – 12.5m radius.
- 3.3 Provision shall be made within the common property for turning this design vehicle to the satisfaction of the Responsible Authority. (A three point turn is acceptable)
- 3.4 The road shall have a minimum trafficable width of 6.0m.
- 3.5 The average grade of roads must be no more than 1 in 7 (14.4%) (8.1 degrees) with a maximum of no more than 1 in 5 (20%) (11.3 degrees) for no more than 50 meters.

**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. 1 objection was received in response (see **Attachment C** – objection).

The issues raised in the objection related to access into the proposed subdivision, which would utilise an existing easement established for access into the existing Lot 5. The specific issues raised in the objection comprise:

- Wish to change right of way existing on the property, as the entrance to the property could be gained directly from Back Creek Road rather than via the right of way.
- Right of way created for 76 Back Creek Road, not for subdivision. Property purchased on this understanding.
- There will be an increase in traffic as a result of the subdivision.
- There will be a detrimental impact and decrease in property value.

A planning focus meeting was held on 1 March 2007 that was attended by the applicants, Council Officers, the Mayor and the objectors, at which time the above issues were discussed.

Two actions came out of the meeting, being:

- An investigation into the zoning of the site – review of zoning maps indicate the site has been zoned Low density Residential Zone since at least 1999; and
- A further inspection of the site be carried out by Council's Assets Manager in order to determine whether any other access to the site is feasible.

Following this inspection, the Assets Manager made the following comments in relation to site access:

- The existing common access to 76 Back Creek Road with 74 Back Creek Road is the only safe location to access the development at 76 Back Creek Road.
- The distance between the edge of seal and the fence line is some 11 metres and this is insufficient room to enable a vehicle to turn and square up correctly to the roadway. For this reason, the common access point for lot 76 and 74 must stay as it is, and that the current driveway off set from Back Creek Road at this point, must remain as it.
- I noted within the Back Creek Road reserve there are significant native grasses and lilies and it would appear that any substantive trees were knocked over in the storms in late 2005.
- A suggestion that the driveway access could be partially relocated to the Back Creek Road reserve is not appropriate for two reasons:
  - Disturbance of the above native vegetation;
  - It would create a road parallel to Back Creek Road and too close to Back Creek Road and would cause a potential safety issue with confusion to drivers on Back Creek Road at night, observing confusing traffic movements;
- The existing common driveway requires upgrading as per the recommendations on the planning response from the Assets Department;
- There is substantial evidence of edge break at the driveway access onto the seal of Back Creek Road. The sealing of the access will also provide significant benefit to the adjoining owners in improving safety as they access onto Back Creek Road; and

- It would be advantageous to revegetate Back Creek Road adjacent to the access driveway with appropriate indigenous vegetation to prevent potentially confusing headlight glare from people using this driveway.

**DISCUSSION**

There are three main issues associated with this proposal, including effluent disposal, site access and the requirements of Clause 56. These issues are addressed as follows:

**1. Effluent Disposal**

As noted above, the Environmental Health Officer states that it is preferable to provide reticulated sewerage to each of the new allotments, however where this is not possible, mechanically aerated sewage treatment package plants could be used.

The feasibility of reticulated sewerage was raised with the applicant, however in response it was stated that:

- The nearest sewer mains are 1km from the site;
- NERWA have indicated that they would not approve a low pressure connection; and
- Council has previously given advice that on-site disposal would be considered on its merits.

With regards to the first two issues, the distance to mains sewer is noted, however the request to consider this option was based on the requirement of the EPA publication No. 746 Land Capability Assessment for Onsite Domestic Wastewater Management. This publication requires an assessment of the feasibility of connection to reticulated sewer as a first step in the preparation of a Land Capability Assessment. Secondly, planning officers were aware of the approved subdivision on Keeble Way (PP05-056), which required connection to reticulate sewerage. The reason for this appears to be the determination of a waterway on the subdivision site, however it means that if this subdivision proceeds, then reticulated sewerage will be brought to within 200 – 300 metres of the current application site.

In conclusion, it is recommended that the site proceed based on on-site effluent disposal, however as soon as reticulated services are available near the site, or the Keeble Way subdivision is constructed, that this site also connects to reticulated sewerage. The reason for this is it is preferable to connect to reticulated sewerage where it is available.

**Site access**

Access into Lot 5 currently uses an existing right of way crossing over the front of the adjoining Lot 4. The creation of a subdivision on Lot 5 does not affect the right of all three lots to utilise this right of way. In this regard the owners of Lot 4 cannot remove or amend the right of way without the consent of the owners of Lot 5.

The owners of Lot 4 have argued that there will be an increase in traffic, which will affect their amenity. It is accepted that there will be an increase in traffic as a result of the subdivision, and any planning permission given shall require an upgrade of the access

to comply with current Council standards. The owners of Lot 4 have also argued that there will be a loss of property value, however this is not a planning consideration.

The possibility of amending the access into the property was investigated on several different occasions, including an inspection by the Assets Manager following the planning focus meeting. He concluded that the existing common access to the properties is the only safe location to access the proposed development. For this reason, the common access point for the two lots must stay as it is, and that the current driveway off set from Back Creek Road at this point, must remain as it.

In conclusion, Council's officers are satisfied with the proposed access into the site, and options to move the access to accommodate the concerns of the adjoining property have been investigated but found to be unsafe.

## **2. Clause 56 – Residential subdivision**

Clause 56 contains objectives and standards to be considered for applications for residential subdivisions. Clause 56 does not apply to land zoned Low Density Residential. However, the decision guidelines to Clause 32.03-3 (Low density Residential Zone) state that before deciding an application, the Responsible Authority must consider the relevant standards of Clauses 56.07-1 to 56.07-4. These clauses refer to integrated water management, comprising: drinking water, reused and recycled water, waste water, and urban run-off management.

In terms of waste water management, this issues has been addressed in above.

With regards to drinking water, NERWA have provided conditions in relation to the supply of reticulated drinking water to each new allotment. In terms of reused and recycled water and urban run-off management, it should be a condition on any planning permit issued that future development of the site should be consistent with the principles of Water Sensitive Urban Design. Consistent with the requirements for the subdivision at Keeble Way, any planning permit should contain the following requirements:

1. All dwellings are sited, designed and constructed using the principles of Water Sensitive Urban Design and in particular that:
  - (e) All dwellings must incorporate a minimum 22,000L rain water tank on site. The water tank must be plumbed to the toilets and garden taps as a minimum. Only the overflow from the rainwater tank is to be directly discharged to each lot's stormwater point. All dwellings shall include water saving measures (AAA rated fixtures and a pressure reduction valve).
  - (f) Stormwater is detained on site where practical through use of permeable paving, pebble paving, infiltration trenches, soakwells, lawn, garden areas and swales.

**CONCLUSION**

In conclusion, the application for three lot subdivision of Lot 5 PS401822, Back Creek Road, Yackandandah is consistent with the requirements of the Indigo Planning Scheme, and should be approved by Council subject to conditions outlined above.

*Attachments*

**11.5 OLD BEECHWORTH GAOL (FILE NO: E900 - EDSM)**

**RECOMMENDATION**

**That Council advise Salmore Developments A P/L that:**

- 1. Council acknowledges the general concept that has been proposed for the former Beechworth Gaol site. This being hotel style accommodation within the existing building fabric inside the main walls, utilisation of the Governor's residence as dwellings, and some form of subdivision and housing on the balance of the site.**
- 2. Council has concerns with the particular proposal that has been put forward and approved under the Heritage Act, 1995. In particular Council is concerned that a whole site proposal has not been put forward at this time and that the reuse and development of parts of the site may be compromised by a subdivision and development which does not address the whole site.**
- 3. Council is committed to working with the owner of the site to achieving the best outcome for reuse and development of the whole of the site.**

**SUMMARY**

The application made on behalf of Salmore Developments A P/L to Heritage Victoria under the Heritage Act, 1995 has been approved and a permit issued for subdivision and associated works and conservation works at the former Gaol site, William Street, Beechworth.

This report addresses Council's position in relation to the proposed subdivision and other works.

**BACKGROUND**

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

Council considered this application at its February 2007 meeting. Council did not raise objection to the concept of the development and reuse of the site that has been proposed

but had concerns which the nature of the application before Heritage Victoria. Council resolved to advise heritage Victoria that it had concerns with the details of the application and recommended that Heritage Victoria refuse that particular application.

Heritage Victoria have now approved the application, subject to 15 conditions. A copy of the permit is attached to this report.

Council's particular concerns were that:

- a. Any application should include details of proposals for the Industries Building and all buildings and areas within the Gaol walls.
- b. There is no current safeguard that overdue repair to the Gaol fabric including the walls will be carried out as part of the proposed subdivision and development.
- c. Plans are required to demonstrate that the root zones and canopies of significant trees will not be adversely affected by proposed development.
- d. Funding proposals should require all owners to provide for the ongoing conservation, repair and maintenance of parts of the significant heritage fabric.

These concerns have been addressed in part by the conditions imposed by Heritage Victoria.

Council has requested that the Heritage application be refused for the following reasons:

- a. The proposal fails to provide a whole of site approach to development and reuse of this significant site and the subdivision and development proposed in the current application may prejudice development and reuse of those parts of the site of primary significance.
- b. The proposal fails to adequately safeguard major issues identified in the Conservation Management Plan of retention of evidence of the quarry, maintenance of views of the walls, and treatment of the interface between Queen Victoria Gardens and the gaol.
- c. Fencing proposed is inappropriate to the interface areas with Queen Victoria Park and Sydney Road. Any fencing in these locations should be substantially transparent and respond to the significant heritage context.
- d. Significant trees are impacted by the proximity of proposed buildings.

These matters have not been addressed by way of conditions by Heritage Victoria .

For the subdivision and development to progress, it will be necessary for a planning application for subdivision to be submitted to and considered by Council. The proponent has been requested to meet with Council prior to lodgement of this application, but has not agreed to this request at this time.

Once a planning application has been submitted it will be considered in accordance with the Planning and Environment Act, 1987. This process includes notification of the application, referral to relevant authorities, consideration of submissions and assessment

of the application against criteria set down in the indigo Planning Scheme and the Planning and Environment Act, 1987. The process of consideration of the planning application may result in amendment to the draft plan of subdivision that has been approved by Heritage Victoria. In the event that the final plan of subdivision is substantially different from the current approved version, then it would be necessary for a new or revised application to be made to heritage Victoria.

**CONSULTATION**

The application approved by Heritage Victoria has been subject to considerable public input. Concern has been expressed by a number of persons in the context of Community Forums, Council meetings, and a public meeting. Continuing concerns have been raised in newspaper, radio and television media.

Given the ongoing concern by members of the public it is appropriate for Council to express a clear position on the proposed reuse, subdivision, and development.

**CONCLUSIONS**

The former Beechworth Gaol is an important site. It has local, state, and national significance. Given the approval by Heritage Victoria of a permit under the Heritage Act, 1995, it is desirable to flag that Council will work with the owner of the site to achieve the optimum outcome for the site.

*Attachment  
Heritage Act, 1995 permit.*

**11.6 BUILDING STATISTICS –FEBRUARY 2007 (EDSM)**

**For Information**

Beechworth	Remove Building	2,2	
ahgunyah	ew Building	403,0	
ahgunyah	ew Building	182,0	
Beechworth	Swimming Pool	25,4	1/01/20

ackandandah	ew Building	150,0	1/02/200
hiltern	ew Building	147,9	2/02/200
ackandandah	ew Building	11,5	2/02/200
sbornes Flat	teration	98,0	5/02/200
ahgunyah	ew Building	339,1	5/02/200
ngambalanga	ew Building	90,0	5/02/200
sbornes Flat	xtension	12,0	6/02/200
ngambalanga	e-erect Building	35,4	7/02/200
arnawartha North	imming Pool	4,9	8/02/200
ackandandah	ew Building	220,0	8/02/200
anley	her	5,0	4/02/200
lans Flat	emolition	1,5	4/02/200
arnawartha	emolition	42,1	0/02/200
itherglen	ew Building	254,5	0/02/200

Wilton	New Building	11,8	1/02/200
Beechworth	Remove Building	1,5	1/02/200
Sandy Creek	Swimming Pool	20,0	2/02/200
Wooragee	Extension	25,0	3/02/200
Sandy Creek	New Building	10,0	7/02/200
Yackandandah	Swimming Pool	28,5	8/02/200
Rutherglen	Swimming Pool	20,2	8/02/200
<b>Total</b>		<b>2,154,9</b>	

**11.7 PLANNING STATISTICS – FEBRUARY 2007 (EDSM)**

**For Information**

File No.	Locality	Purpose	Cost	Decision	Decision Date
06219	Brimin	Boat Storage Facilities	\$21,360	Approved	9/02/2007
06234	Rutherglen	6 - lot Subdivision	\$125,000	Approved	8/02/2007
06248	Beechworth	Dwelling	\$0	Withdrawn	22/02/2007
06275	Yackandandah	Dwelling and shed	\$300,000	Approved	16/02/2007
06280	Stanley	Dwelling Extension	\$40,000	Refused	6/02/2007
06293	Wooragee	Extend dwelling	\$60,000	Approved	8/02/2007
06302	Sandy Creek	2 lot subdivision	\$0	Approved	14/02/2007
07009	Gooramadda	Dwelling	\$0	Refused	8/02/2007
07016	Rutherglen	Machinery & truck storage shed with office plus additional shed	\$100,000	Approved	2/02/2007
07017	Stanley	Extension of Existing Workshops	\$12,000	Approved	14/02/2007
07018	Wahgunyah	Dwelling	\$350,000	Approved	15/02/2007
07019	Rutherglen	Extend existing Shed	\$5,600	Approved	14/02/2007
07021	Beechworth	Extension to dwelling	\$25,000	Approved	23/02/2007

07022	Yackandandah	Creation of Right of Way Easement	\$0	Approved	16/02/2007
07022	Beechworth	Shed	\$0	Approved	16/02/2007
07026	Wahgunyah	Construct shade structure, replace cyclone fence with pool fence	\$5,000	Approved	12/02/2007
07029	Sandy Creek	2 lot subdivision	\$0	Approved	19/02/2007
07030	Yackandandah	Certificate of Compliance - Dwelling	\$180,000	Issued	19/02/2007
07031	Wahgunyah	Pergola	\$9,250	Approved	23/02/2007
07033	Yackandandah	Dwelling	\$280,000	Approved	19/02/2007
07034	Beechworth	Extension to dwelling	\$74,000	Approved	16/02/2007
07036	Yackandandah	Certificate of Compliance - Garage	\$11,600	Approved	23/02/2007
07037	Rutherglen	Dwelling	\$400,000	Approved	20/02/2007
07039	Chiltern	Shed	\$0	Approved	20/02/2007
<b>Total</b>			<b>\$1,976,310</b>		

## **11.8 ENVIRONMENT AND DEVELOPMENT SERVICES PROJECTS – APRIL 2007 (EDSM)**

### **For Information**

Projects underway are show in the following table.

<b>Project</b>	<b>Current actions</b>
<b>Amendment C10 – Heritage Overlay</b>	On 6/2/2007 Council resolved to request the Minister for Planning to appoint an Independent Panel. Directions Hearing set for 2 April and Independent Panel hearing 15 – 18 May 2007.
<b>Amendment C21 - Kiewa-Tangambalanga</b>	<ul style="list-style-type: none"> <li>○ Structure Plan adopted by Council in May 2006.</li> <li>○ Request for authorisation to prepare the amendment made to DSE. Conditional authorisation received. After protracted negotiations DSE have now agreed to form of proposed amendment and required additional documentation to be prepared. This still underway. Exhibition will follow.</li> </ul>
<b>Amendment C27 – Low Density Residential rezoning. Nashes Road, Rutherglen</b>	Independent Panel hearing 15 and 16 March 2007 at Rutherglen. Panel to make a direction for additional information from the proponent. Panel report expected mid April.
<b>Municipal Strategic Statement and Indigo Planning Scheme – major</b>	<ul style="list-style-type: none"> <li>○ First round of public consultation meetings held August - September 2006. Second round held March 2007.</li> </ul>

<p><b>review</b></p>	<ul style="list-style-type: none"> <li>○ Consultation with government agencies and neighbouring municipalities undertaken.</li> <li>○ Rural planning issues workshops held November 2006 and March 2007.</li> <li>○ Draft issues paper now to be reviewed.</li> </ul>
<p><b>Indigo Planning Scheme - environmental overlay</b></p>	<p>Ecology Partners P/L appointed to undertake a project to identify biodiversity priority areas within the municipality for further investigation and overlay controls in the planning scheme. Stakeholders to review draft report early April.</p> <p>NECMA has advised that second and third stage funding will be approved for this project over the next two years. This has been awarded through the Regional Catchment Investment Process.</p>
<p><b>VCAT Appeals</b></p>	<ul style="list-style-type: none"> <li>○ PP05-321 Appeal by Barden Consulting against refusal of Council to amend the Development Plan and against refusal by Council to amend conditions of the planning permit for subdivision, Elgin Road, Beechworth. Date yet to be set.</li> <li>○ PP06-222 appeal by I. Smithwick against conditions of a planning permit for a 4 lot subdivision. Appeal withdrawn following negotiation between Council and appellant to modify conditions.</li> <li>○ PP06-253 Appeal by Imperial Properties against failure to grant a planning permit. Negotiated outcome generally in accord with Council conditions.</li> <li>○ PP06-242 Appeal by AR Bennett against refusal by Council to approve a balcony addition to a shop, Ford Street, Beechworth. Notice of appeal being given (March 2007).</li> <li>○ PP06-280 Appeal by C Brown against refusal by Council to approve an extension to a dwelling, Pioneer Road, Stanley. Date yet to be set.</li> </ul>
<p><b>Community Water Grants – round 1</b></p>	<p>Projects to demonstrate water efficiency, water recycling or improvements in ground or surface water health. Both proposals approved.</p> <ul style="list-style-type: none"> <li>○ Replacement of old-style cisterns with dual flush cisterns in public amenity blocks throughout the shire – project completed – media release to be</li> </ul>

	<ul style="list-style-type: none"> <li>○ done; and</li> <li>○ Removal of willows and revegetation of areas in Isaacs Park, Yackandandah – Isaacs Park Gully Rehabilitation Plan adopted. Willow removal completed, material mulched and rock-drop structures installed. Hydro-mulching to occur on banks and wetland plantings to begin mid March 2007.</li> </ul>
<b>Community Water Grants – round 2</b>	Application successful for \$20,000 grant to retrofit Community Centres / Senior Citizens facilities with water saving devices and rainwater tanks. Investigation to be carried out on most appropriate centres.
<b>Greenhouse Action Plan</b>	Data collection underway. On schedule.
<b>North East Greenhouse Alliance</b>	<ul style="list-style-type: none"> <li>○ Co-ordinator – Jen Allen is on extended leave. She has been replaced with Michelle Wilkinson.</li> <li>○ Key Council staff investigating feasibility of trialling biodiesel.</li> <li>○ Alternate fuels workshop to be held in April.</li> <li>○ Regional climate change workshop held 21 March 2007. This workshop presented some of the findings of the climate adaptation report, which is being prepared.</li> <li>○ Public lighting audit due to commence during the next month.</li> <li>○ Sustainable schools project – pilot schools engaged. St Mary’s, Rutherglen participating. Second school to be confirmed.</li> </ul>
<b>Yackandandah Green Corp project</b>	<p>Project commenced 15 November with 9 participants. Progress to date is:</p> <ul style="list-style-type: none"> <li>○ Woody weed control and preparation of gully floor for planting at Isaacs Park;</li> <li>○ Woody weed control at former Yackandandah landfill site;</li> <li>○ Fence construction at Lake Sambell;</li> <li>○ Water quality monitoring – Yackandandah Creek;</li> <li>○ Landscape plan for Hopetoun Road, Rutherglen playground finalised and works completed;</li> <li>○ Landscape plan for Morley Drive, Wahgunyah commenced;</li> <li>○ Construction of holding bay at Yackandandah depot for wetland plants; and</li> <li>○ Assisted with setup for Yackandandah Folk Festival.</li> </ul>
<b>Work for the Dole Team</b>	Increase from one day to two days per week as from February. Works will focus on extending maintenance and extension of walking track at Lake Sambell. The previous Green Corp team commenced this.
<b>Indigenous Resource Area at</b>	<ul style="list-style-type: none"> <li>○ Earthworks finished;</li> </ul>

<b>Lake Sambell</b>	<ul style="list-style-type: none"> <li>○ Seeding of area with an appropriate grass species to be undertaken.</li> </ul>
<b>Regional Stormwater Education Officer</b>	<ul style="list-style-type: none"> <li>○ Media for Indigo's Community Water Grants projects finalised;</li> <li>○ Development of a litter grant application;</li> <li>○ Organising workshops for builders. These workshops will promote stormwater best practice on building sites;</li> <li>○ Further development of Local Law for stormwater.</li> </ul>
<b>Community woodlot program</b>	No new timber has been received in woodlots.
<b>Roadside Management Plan</b>	Council has considered an update of achievements under the existing plan. Council to consider review of the plan, Code of Practice – Works, and Conservation Values Map in the next financial year.
<b>Weeds on private land initiative</b>	<ul style="list-style-type: none"> <li>○ Distribution of revised weeds brochure has commenced. Weeds brochure will be sent to residents with May rates notice.</li> <li>○ Mapping of weeds on Council rural properties and Council managed Crown Land reserves completed. This mapping will be used to prioritise future spraying programs in terms of both priority weeds and priority sites. This document is dynamic – it will be updated regularly and will be provided as a layer on the GIS system.</li> <li>○ Environmark installation for Serrated Tussock due to occur in March 2007.</li> </ul>
<b>Roadside weed initiative</b>	Assessments of results to be carried out first half of 2007.
<b>Ecobuy</b>	Action plan adopted by Council in February 2007. Immediate actions focusing on purchasing policy, green cost codes and their use by staff, and generally increasing staff awareness.
<b>Community awareness</b>	<ul style="list-style-type: none"> <li>○ Preparation underway for National Tree Day (31 July); and</li> <li>○ Joint application with NECMA for a joint project during arbour week (May). Project location is Rutherglen.</li> </ul>
<b>Upper Sandy Creek School revegetation project</b>	Project is fencing of waterway. Separate funding applications for labour and material both successful. Waiting for quotes for fencing.
<b>Sustainable water use plan</b>	A number of priority projects identified and key funding sources have been investigated.

**12.0 CIVIL OPERATIONS**

**12.1 OPERATIONS DEPARTMENT – PROGRESS REPORT – MARCH 2007 (OM)**

**For information**

**Project Description of Works**

<b>General Maintenance</b>	
Road Maintenance & Parks and Gardens	Preparation for annual gravel resheeting works is being programmed. Lake Sambell maintenance works – removal of dead and dangerous trees has been completed to available budget.
<b>Council Projects</b>	
Drought Relief Bores and Standpipes	Racecourse Road, Chiltern has been completed.
Annual Bituminous road Sealing	The Contractor, Crameri, has commenced work in the Beechworth area.
Horseshoe Quarry	Blasting has been completed and crushing commenced.
<b>Gundowring Road Dairy Road Funding</b>	Construction of improvements to Gundowring Road under the Dairy Road Funding Program. (\$375,000) Works have commenced
<b>External Private Works</b>	
Works- General	Refer Gundowring Road works
<b>Buller Gas</b>	LPGas prices are expected to be stable to the end of June. Construction work has been slow due to the fire activity on the mountain but is now continuing.
<b>Waste Management</b>	
	The Rehabilitation of the Yackandandah Landfill has commenced site works.
<b>Animal Control &amp; Local Laws</b>	<b>Works</b> (in hours and out of hours) Livestock wandering on roads and trespassing continue to be an issue, this month. Stock

	owners are still struggling to keep fodder up to their animals. Recent rains might improve the current situation.
<b><u>Fire Prevention</u></b>	Letters have gone out to local CFA Brigades reminding them of the Council contrition for Fire Prevention funds and the need for them to forward invoice for reimbursement.
<b><u>Pools</u></b>	
Indigo	Pools have closed for the season
<b>Summer</b>	Wodonga Pool has closed for the season

## **12.2 TENDERS FOR PURCHASE OF MOTOR GRADER (FILE NO: Q06/13 - AOM)**

### **For Decision**

### **RECOMMENDATION**

#### **That Council**

- 1. Accept the decision to purchase a new *Caterpillar 12H Motor Grader* from *William Adams Pty Ltd, Wodonga*, at a price of \$376,585 (incl. GST \$33,400 & Stamp Duty \$9,185) as selected by the assembled evaluation committee.**
- 2. Sign and seal contract documentation.**

The confidential tender evaluation report is to be submitted at the Council Meeting.

### **SUMMARY**

One of Council's three graders lease period ends on the 24 May 2007. The report to be presented outlines the evaluation committees method of considering the alternatives submitted during the recent tender.

Council approval was obtained at the February meeting to purchase a new grader to the value of \$350,000 to be funded by borrowings of \$275,000 and \$75,000 from the Plant Replacement Reserve.

### **BACKGROUND**

The tender was advertised in the Border Mail and The Age publications on both Saturday the 10<sup>th</sup> and 17<sup>th</sup> of March 2007. As a result tender documents were issued to five Companies.

The tender assessment panel consisted of Clive Walker, John Fleming and Dan Wilkinson and they utilised the following key selection criteria when evaluating the tenders received.

- Comparative Purchase Price
- Expected re-sale value at end of service
- Scheduled Servicing Costs
- Fuel Running Costs
- Spare Parts Availability
- Supplier Equipment Pedigree
- Suitability For Proposed Use
- Engine EPA rating
- New Equipment Availability
- Operator Preference Considerations

A total of four tenderers returned offers prior to the official close, details of which are included below.

- William Adams Pty Ltd, Wodonga.
- CJD Equipment Pty Ltd, Lavington.
- Komatsu Australia Pty Ltd, Wodonga.
- Hitachi (John Deere) Construction Machinery Pty Ltd, Lavington.

The tender evaluation panel decided to accept the tender from William Adams Pty Ltd for a Caterpillar 12H Motor Grader, which, although not the lowest option tendered it was consider the one best suited for councils requirements. High market pedigree, excellent proven re-sale values, good operating costs and service capabilities were key factors highlighted by the evaluation committee.

**CONSULTATION**

No consultation required

**POLICY IMPLICATIONS**

Tenders documents were sent when requested to a total of five interested parties in accordance with Councils purchasing policy.

**FINANCIAL & RESOURCE IMPLICATIONS**

The borrowings required are within Council's overall strategy and do not impact on borrowing for future years capital works program.

**13.0 ASSETS AND INFRASTRUCTURE****14.0 HEALTH AND WELLBEING****14.1 HEALTH & WELL BEING PROJECTS – PROGRESS REPORT – APRIL 2007****PROJECT ACTION/ PROGRESS**

<b>Indigo Shire Municipal Recreation Plan</b>	A Recreation Plan Issues Paper and a summary of the Residents Survey are currently being compiled by the consultants. These documents will be used in a series of public meetings to provide the consultants with feedback to develop the first Draft of the Plan. It is anticipated that this Draft will be completed by late April with an aim of having a final document completed by May 2007.
<b>Yackandandah Sports Park Masterplan</b>	Consultation with user groups and the community is continuing in the development of the Masterplan for Yackandandah Sports Park. It is anticipated that the first Draft will be completed in late April 2007.
<b>2007 Sustainable Communities Tidy Towns</b>	Nominations for the 2007 Sustainable Communities Tidy Towns closed on Monday 26th March 2007. Council has submitted three nominations on behalf of the Beechworth, Chiltern and Rutherglen communities. Full submissions are due by the 20 <sup>th</sup> April with judging to take place throughout May and early June.
<b>Mental Health First Aid Courses</b>	<p>Three Mental Health First Aid Courses will be conducted across the Shire in the coming months. The Upper Hume Primary Care Partnership has received funding from DHS to provide them.</p> <p>They will be offered at no cost to participants. Each course consists of four three hour sessions.</p> <p>Mental Health First Aid training provides community members with a basic understanding in alerting them to the signs that a client, friend, neighbour, or family member may not be coping with a stressful event.</p> <p>Courses will be conducted in Yackandandah 28 and 29 March and 4 and 5 April, Kergunyah 2, 3, 9 and 10 May and in Chiltern 30 and 31 May and 6 and 7 June. Bookings are essential.</p>

<p><b>Drought Recovery Grants</b></p>	<p>A total of 16 grants have been allocated to community groups across the Shire to conduct a variety of community activities to assist people respond to and recover from the impacts of the drought. Activities have been scheduled throughout the year from March until December. Activities include community barbecues, a community dance, a community dinner, community barbecue and tree planting, end of harvest get together and a Drought &amp; Sustainability Fair.</p>
<p><b>Walking School Bus</b></p>	<p>The Walking School Bus was launched in Rutherglen on Thursday 22 March 2007. Eighteen children from the two Primary Schools participated. Initially the Bus will operate one morning per week with the aim to increase this as more volunteers are registered. Three bus routes have been developed with all three meeting at the Interchange (at the Post Office) where children transfer from one bus to another depending on which School they attend. The Border Mail and Corowa Free Press were in attendance.</p> <p>Work is continuing on the development of the Beechworth Walking School Bus.</p>
<p><b>Business &amp; Community Support Initiatives</b></p>	<p>Council has received funding from Regional Development Victoria to conduct a number of business and community support initiatives. These include:</p> <ul style="list-style-type: none"> <li>• Linking Heritage to Business and Economic Development Forums. These will be conducted as four business breakfasts - Yackandandah 11 April, Beechworth 18 April, Chiltern 20 April and Rutherglen 26 April.</li> <li>• Caravan Park Promotion and Media Training Program - held on 21 March 2007.</li> <li>• Business Revitalisation Community Barbecues to be held in Chiltern 12 April, Tangambalanga 19 April, Beechworth 26 April and Wahgunyah first week of May. The Wahgunyah barbecue will also act as the opening of the refurbished hall.</li> </ul> <p>Council has been successful in engaging Mr Tom Potter, founder of Eagle Boys Pizza, to be guest speaker at the Beechworth event, to be held at LaTrobe Beechworth. This has been a joint initiative between Council's Tourism and Economic Development Unit and the Health &amp; Well Being Unit.</p>
<p><b>Mobile Library Site</b></p>	<p>The Mobile Library is currently located at YCDCo. Community members have expressed concerns that the current location is difficult to access. Under the Local Infrastructure Works Program funds have been allocated to relocate the site to the Courthouse. Following an onsite meeting with council</p>

	<p>officers and the mobile library staff it has been determined that this location is not suitable as it is not possible to pick up a satellite signal. This is critical to the operation of the service as it allows for public internet access as well as providing a direct link back to the library's computer system in Wodonga. A number of other potential sites have also proved to be unsuitable for this reason. Further work will be undertaken to determine whether another suitable site can be identified or if a landline can be utilised. We shall continue to keep the community informed.</p>
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**15.0 CORPORATE SERVICES**

**15.1 BEECHWORTH MEMORIAL HALL COMMITTEE OF MANAGEMENT – ELECTION OF NEW COMMITTEE FILE NO. C220.02 CSM**

**RECOMMENDATION**

**That the attached Deed of Delegation to the Beechworth Memorial Hall Committee of Management be signed and sealed.**

**SUMMARY**

A new Committee has been elected to manage the day to day operations of the Beechworth Memorial Hall.

**BACKGROUND**

A public meeting shared by the mayor was held on the 6 December 2006 and a newly elected committee has been established to manage the hall. The chairman of the committee is Terry Walsh and the Secretary is John Harvey.

The committee was initially established in 1997 and over the years has carried out a sterling job in managing and improving the hall for the benefit of the community. This new committee will provide a seamless continuation of the management of the facility.

**Committee of Management**

**BEECHWORTH MEMORIAL HALL**

In exercise of the power conferred by Section 86 (3) of the *Local Government Act 1989* (“The Act”) the Indigo Shire Council (“the Council”) delegates to the Committee of Management referred to as Beechworth Memorial Hall Committee of Management Committee (“The Committee”) established by resolution of Council passed on 2 December 1997, the powers duties and functions set out in the attached Schedule and declares that:

- 1 This Instrument of Delegation replaces that Instrument of Delegation issued on 14<sup>th</sup> September 2004 AND
- 2 The delegation:
  - i Comes into force immediately the Common Seal of the Council is affixed to the Instrument of Delegation;
  - ii Remains in force until Council decides to revoke or vary it;
  - iii Is subject to any conditions or limitations set out in the Schedule;
  - iv Is to be exercised in accordance with the guidelines or policies which the Council may from time to time adopt.

The Common Seal of the Indigo Shire Council

was affixed in the presence of:

..... Mayor

..... Councillor

..... Chief Executive Officer

3<sup>rd</sup> April 2007 ..... Date

**SCHEDULE**

**BEECHWORTH MEMORIAL HALL**

**Committee of Management**

The powers, duties and functions relating to the operation of the Beechworth Memorial Hall Committee of Management shall be set out here under:

**1 Establishment**

- 1.1 This Special Committee to be known as the Beechworth Memorial Hall Committee of Management (the Committee) was established by resolution of Council on 2 July 1996.

**2 Objectives**

- 2.1 The committee shall manage the Beechworth Memorial Hall, Supper Room and Kitchen for and on behalf of the Council for the benefit of the Beechworth Community.
- 2.2 The Committee will ensure the premises comply with current health and safety regulations.
- 2.3 The Committee will be responsible for the routine maintenance of the building and contents and all financial obligations thereto.
- 2.4 The Committee will be responsible for maintaining appropriate accounting procedures and policies and reports to Council in a manner determined by the Council from time to time.

**3 Composition of the Committee**

- 3.1 The Committee shall comprise:
- ◆ Eight (8) members of the community of Beechworth elected from the public.

**4 Appointment of the Committee**

A quorum of the Committee shall comprise four (4) members.

- 4.1 The Committee will elect its Chairperson and office bearers.
- 4.2 The term of the Committee shall be 3 years and will expire on 31st March 2010

- 4.3 In the event of a casual vacancy occurring during the Committee's term of office, it shall be filled by determination of Council upon the recommendation of the Committee.

**5 Meetings**

- 5.1 Meetings of the committee shall be held at regular intervals and a time or place determined by the Committee.
- 5.2 Conduct of meetings shall be governed by Indigo Shire Council Meeting Procedure Local Law.
- 5.3 Notwithstanding item 5.1, the Committee shall hold an Annual General Meeting to consider and adopt the Annual Report and financial statements for the year. The Annual General Meeting must be held by 31 October each year.
- 5.4 In accordance with the Local Government Act of 1989, the Committee meetings must be opened to the public except in circumstances where meetings are closed to the public to discuss any of the following items:
- a Personal matters;
  - b Industrial matters;
  - c Contractual matters;
  - d Proposed developments;
  - e Legal advice;
  - f Matters affecting the security of Council property;
  - g Any other matters which the Committee considers would prejudice the Committee, Council or any person
- 5.5 If the Committee resolves to close the meeting to members of the public the reason must be recorded in the minutes of the meetings.

**6 Business Plan**

- 6.1 The Committee shall submit to the Council on an annual basis a Business Plan in March of each year stating the goals and objectives of the Committee, costed strategies for achieving those objectives, and detailing the projected income and expenditure for the subsequent financial year.
- 6.2 The Business Plan must include projected financial operating statements and a schedule of maintenance requirements for the four-(4) subsequent financial years.

6.3 The Business Plan may be:

- ◆ Adopted by Council; or
- ◆ Returned to the Committee for variation.

6.4 The Council at its sole discretion may reject the Business Plan. In such circumstances written details must be provided to the Committee outlining the reasons for rejection.

## **7 Finance**

7.1 The Committee shall undertake an annual review of deposits and fees and recommend to the Council a fee structure for adoption in March each year.

7.2 The funds of the Committee shall be lodged in a bank or other financial institution.

7.3 The Committee shall submit to the Council by 31 October each year an audited financial statement.

7.4 The Committee shall be responsible for the maintenance of proper accounting records and ensure that all funds are correctly accounted for and appropriate receipts are issued.

7.5 All accounts in excess of \$100.00 must be paid by cheque and all cheques must be signed by authorised persons.

7.6 The books and records of the Committee shall be kept in accordance with generally accepted accounting procedures and balanced as at 30 June each year.

7.7 The Committee shall apply income generated to meet the objectives of this Delegation.

## **8 Insurance**

8.1 The Committee shall be insured under the Public Liability Insurance Policy of the Council.

8.2 The Committee shall maintain and regularly review a detailed inventory of the contents of the buildings for insurance purposes.

## **9 General Accessibility**

9.1 The Committee must ensure that services and facilities provided in accordance with this delegation are available to all, irrespective of municipal boundaries and commercial association.



**10 Restricted Powers**

10.1 Pursuant to the provisions of Section 86 (4) of the Local Government Act (1989), the Council is prohibited from delegating the following powers and accordingly the Committee is prohibited from undertaking the following:

- a This power of delegation;
- b The power to declare a rate or charge;
- c Power to borrow money;
- d Power to enter into contracts exceeding any amount previously determined by Council;
- e Power to incur any expenditure exceeding the amount previously determined by Council;
- f Any prescribed power.

For the purposes of this provision, the Council has determined that:

- 1 The Committee shall not enter into contracts exceeding \$5,000.00 per annum, except where such contracts have been submitted as part of the Annual Business Plan of the Committee and have previously been approved by Council. The Committee may apply for approval by Council to enter into contracts not included in the Annual Business Plan.
- 2 The Committee shall not incur expenditure for individual transactions exceeding an amount of \$2,500.00 except where such expenditure has been included in the Business Plan of the Committee and has previously been approved by the Council.

**11 Consultative Procedures**

11.1 Consultative arrangements between Council and the Committee shall be established upon the request of either party should amendments be required to this Instrument of Delegation and the powers, duties and functions set out in this schedule.

**12 Reporting**

12.1 The Committee shall report to the Council in the form prescribed by the Council on a quarterly basis or otherwise as directed.

12.2 The Committee shall be required to furnish the Council with a copy of a report detailing financial outcomes as at 30 June each year by 31 October each year.

**15.2 CORPORATE SERVICES PROJECTS – PROGRESS  
REPORT – APRIL 2007 (CSM)**

**For Information**

**Project**

**Actions**

<b>CMP Audit</b>	<p>CMP (Civic Mutual Plus) is the mutual insurance fund which has been established by the MAV and Jardine Lloyd Thompson to manage Public Liability and Professional Indemnity Insurance for Local Government in Victoria.</p> <p>To ensure all Councils have adequate policies and procedures to obviate risk, a searching audit is carried out across the organisation.</p> <p>The audit took place on 14 February, 2007 and the initial rating score is pleasing. We have come from 66% last year to 80% this year. With the provision of further information we can also raise the score slightly.</p> <p>The final report has not yet been received.</p>
<b>Enterprise Agreement</b>	<p>Negotiations are currently underway for a new agreement commencing 1 July 2007.</p>
<b>JMAPP Audit</b>	<p>JMAPP is the mutual insurance fund, which has been established by the MAV and Jardine Lloyd Thompson to manage Asset &amp; Fidelity Insurance for Local Government in Victoria.</p> <p>Council's building assets and contents as well as community facilities are insured through the fund. To ensure all Councils have adequate risk and OH &amp; S mechanisms in place, an external audit is carried out across the organisations and the respective community assets.</p> <p>The audit this financial year took place on 22 February, 2007.</p> <p>The audit response has not yet been received.</p>
<b>Local Law No 1 Local Law No 5</b>	<p>Legal opinion on the drafts of the Local Laws No 1 and 5 has been obtained from Maddocks. The Enforcement Unit is currently working through the document with a view to presenting a report to a future meeting of Council.</p>

**16.0 FINANCE**

**16.1 2008 STAGE 1 SHIRE REVALUATION – LG VALUATION SERVICES (FILE NO: M960-02)**

**RECOMMENDATION**

**That the Statutory Declaration of Mr Peter Frederick Hann in returning valuation by 31 March 2008 be noted.**

**BACKGROUND**

Under Section 13DH(3) of the Valuation of Land Act 1960 Council must record the Declaration by the Valuer to make and return the general revaluation and supplementary valuation for the Indigo Shire Council.

A Statutory Declaration by Mr Peter Frederick Hann, of LG Valuation Services, 43 Albion Street, Kyabram was signed on 14 March 2007 as follows:

- “1. That, I am a Fellow of the Australian Property Institute
2. That, I hold the qualifications and experience specified by the Minister in accordance with Section 13DA(1A) of the Valuation of Land Act 1960
3. That, the valuations and return to be made by me for the Indigo Shire Council on or before 31<sup>st</sup> March 2008 will be impartial and true to the best of my judgement and will be made by me personally or under my immediate personal supervision.”

**16.2 FEBRUARY 2007 FINANCE REPORT – (FILE NO: M064 – CFO)**

**For Information**

**BACKGROUND**

Attached are the financial reports from 1 July 06 – 28 February 2007 which shows a comparison between the YTD actual position and the YTD budgeted position for the period.

Also presented is the forecast position to 30 June 2007 which incorporates new capital works, uncompleted capital works from 2005/06, and revised income and expenditure projections as presented at the January meeting. The forecast will be further revised as at 31 March and will be presented to Council at the May meeting.

**SUMMARY**

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

**YTD Actual v YTD Budget**

Council is reporting a YTD surplus of \$2.87 million against a YTD budgeted surplus of \$2.0 million. This represents a favourable variance of \$802,000 or 18%. Major variances are detailed on page 2.

**Departmental Profit & Loss Statement (A.2)**

**YTD Actual v YTD Budget**

The operating revenue and expenditure report by department shows a favourable variance of \$587,000 or 51%. All departments are reporting favourable variances against budget with the exception of the Tourism and Economic Development Department where there have been significant unbudgeted expenditure. Details in relation to major variances are shown on page 3 of the attachments.

**ISSUES**

- The Tourism and Economic Development Department is reporting an unfavourable variance of \$87,300 or 16% to the end of February 2007. The forecast position to 30 June 2007 for the Tourism department assumes that Council will recoup approximately \$68,000 on unbudgeted marketing and advertising expenses incurred in 2005/06. In addition, Council has incurred further expenditure of \$35,000 over and above the annual budget for this activity in the current year. Council is yet to recoup these outlays. Based on current performance it is expected that Council will need to fund significant additional expenditure over and above the budget allocation. Results of the review of the forecast will be presented as part of the March quarterly review.
- Restoration works in relation to the November 2005 floods are nearing completion. To date Council have spent approximately \$28,000 over its budgeted allocation of \$873,000 on these works. It is expected that a further \$10,000 will be incurred. Council will be required to notify Treasury seeking additional funding for this natural disaster. (Council will recall that approximately \$200,000 was requested and approved over and above the original allocation for the Dec 05 storm)
- Profit from Wodonga Pool is expected to be reduced due to wage overruns. A small profit is still expected but this will be down by approximately \$20,000 on budget. Income levels are slightly above budget expectations. The revised profit will be factored into the March review.

**Balance Sheet (B)**

**YTD Actual v Last year YTD Actual**

Council balance sheet reflects a strong position record with a record level of cash and investments on hand of \$4.1 million. This is due to a large amount of capital works outstanding yet to be completed.

Property plant and equipment, borrowings and provisions are at higher levels than the original budget due to the revaluation of Councils infrastructure assets at 30 June 06, recognition of finance leases, and recognition of a provision for the Yackandandah landfill rehabilitation. The Yackandandah landfill rehabilitation is expected to be completed in the next month.

**Cash Flow Statement (C)**

Council has collected 70% (\$5.5m) of its total rate income of \$7.85 million to the end of February 2007.

The forecast cash position at 30 June 07 is a reduction in cash from \$2.2 mill to \$1.4 mill primarily due to the utilisation of Councils reserve cash for the completion of the capital works program.

**Capital Works Report (D)**

The detailed capital works expenditure report has been provided (pg 7 – 9). Due to uncompleted projects from 2005/06 and additional projects announced this financial year the program has increased from \$4.6 million to \$7.2 million. It is unlikely that all projects highlighted in the capital works program will be completed by 30 June 07. Any uncompleted projects at 30 June will be carried forward into the 2007/08 program.

*Attachments*

**17.0 GOVERNANCE**

**17.1 BAARMUTHA PARK – MOTOR HOME PARKING AND BLACKWATER DUMP (FILE NO: C250-05 - CEO)**

**For Decision**

**RECOMMENDATION**

- 1. That Council support in principal, the proposal to construct a dedicated motor home area at the Lake Sambell Caravan park including the installation of a black water dump point, with a view of providing appropriate facilities for the**

**growing number of motor home visitors.**

- 2. That Council Officers discuss this proposal with the managers of the Rutherglen Caravan Park to ascertain the feasibility of having a similar facility at Rutherglen.**

### **SUMMARY**

This report advises Council of proposals to install a “Blackwater Dump” at Lake Sambell Caravan Park with a view to providing better facilities for the motor home enthusiasts and thus attract them to stay in Beechworth.

### **BACKGROUND**

Some twelve months ago Mr Graham Jackson (Committee Member – Baarmutha Park Management Committee - BPMC) suggested to the Management Committee that the Committee should consider having Baarmutha Park as a location for overnight stays for motor homes (these being large bus type converted or purpose built motor homes and 5<sup>th</sup> wheelers excluding the normal car / caravan type combination).

Graham came across this idea because of his own involvement in owning a 5<sup>th</sup> wheeler and participating in the Campervan & Motor home Club of Australia Limited. He had also observed a number of these motor homes utilising Baarmutha Park for overnight stays and using the public facilities there including toilets and water.

He suggested that as these vehicles are currently using Baarmutha Park, it might be better to establish it as a stopover point with the appropriate blackwater dump equipment as they might currently be dumping into the public toilets which is not a healthy situation. He also suggested that a blackwater dump of this nature in Beechworth would encourage the tourist coach business that have overnight stays in the town as buses have a requirement to dump each 24 hours from their onboard toilets.

He further thought a small charge of \$5 per vehicle would encourage the use of the area and these vehicles would therefore not be parking in other public recreation areas, roadside stops etc. A small amount of income would also be beneficial to the Baarmutha Park Management Committee.

The Campervan & Motorhome Club of Australia Limited that Graham is associated with have a system of providing the blackwater dump equipment to Councils at no cost. The cost is for Council to install it and then supervise the usage.

The BPMC thought that this was a good idea and wished to include it in its masterplan proposals.

### **ISSUES**

With the first issue of who would supervise and collect money from the users, the Committee decided to approach the Visitor Information Centre to see if that could be the payment point. It was not envisaged there would any further supervision of the site on a

daily basis.

When the Visitor Information issue was raised with Seane Pieper he suggested that the matter should be discussed with the Caravan Park operators to ascertain what they currently did with these types of vehicles, and whether this proposal would be duplicating what they already did.

The issue was raised with Council's Planning Department and it was suggested that the use of the Park for that purpose would require a planning permit. This would need to be advertised and go through the normal planning process. The Committee was therefore to apply for a planning permit.

Nothing happened about the planning permit application or discussion with the Caravan park owners. This came to a head on Thursday 22 February when a meeting was organised between the Lake Sambell Caravan Park and Spring Creek Caravan Park operators, representatives of BPMC and Council.

The Spring Creek operators advised that they did have a small number of these vehicles utilise the Park but the majority would drive past and park at other places such as the Stanley Recreation Reserve, roadside stops, etc. When one of these vehicles did use the Park they were inclined to dump their blackwater in the toilet cistern and fill up with up to 500 litres of water all for the standard overnight stay cost. In many instances they were seen to be of more nuisance value than anything.

The operator of the Lake Sambell Caravan Park advised that he would welcome these vehicles and would be prepared to look at installing a blackwater dump site. They would need to look at the charging regime and would probably be located in the area overlooking the Lake which is seen as an unpowered and overflow area of the Caravan Park.

Graham Jackson pointed out from his experience that these vehicle owners were only inclined to pay approximately \$5 per vehicle per night as they were fully self contained. That is why they steered clear of the normal caravan park because of the much higher charges.

Based on the above it seemed to be a reasonable solution to have the general parking area location and blackwater dump at Baarmutha Park and only charge the \$5 per night. This would possibly draw in a number of people who illegally park these vehicles in other locations around the town. It would also attract the Associations who book in bulk and in advance and who may have a group of up to 15 vans attending at any one time for a one to three night stay.

The provision of water to these vehicles remained an issue but perhaps that could be provided by an additional charge for those wishing to fill their water tanks, but this would need to be handled by the BPMC, as it would be too costly for Council employees to be going to the site on an ad hoc basis to undertake this service.

The BPMC and the two Caravan Park operators agreed to consider what was said at the meeting on the 22nd and advise Council officers of their thoughts by Friday 23 March in order that a formal report can come to Council at its meeting on 3 April.

**CONSULTATION**

As advised above the parties were to respond to the CEO by Friday 23<sup>rd</sup> March as to their intentions. The Spring Creek Caravan Park proprietor has advised nothing further.

A further meeting was held with the manager of the Lake Sambell Park who embraced the idea and advised he would prepare plans and a planning permit application to construct a mobile home area at the Park. He also suggested a very feasible charging regime based on the individual requirements of the visitor.

At their meeting on Monday 19<sup>th</sup> March, the Baarmutha Park Management Committee discussed the outcomes of the meetings and agreed that they would not pursue the idea of having the motor home park at their location. They fully supported the alternative location at Lake Sambell Caravan Park.

The Managers will now apply for a planning permit to proceed with the proposal.

It is also suggested that Council Officers liaise with the Rutherglen Caravan Park managers to ascertain the feasibility of constructing similar facilities at Rutherglen.

**FINANCIAL IMPLICATIONS**

There are no direct financial issues for Council. Council's current policy on income generated from the Lake Sambell caravan Park is to return that income into further improvements at the park. The manager will complete all aspects of the project and liaise with Council officers as to the required construction standards and costs.

**17.2 GOVERNANCE – WORK IN PROGRESS – MARCH 2007  
(CEO)**

**For Information**

<b>Project</b>	<b>Actions</b>
<b>Councillors Training</b>	The MAV's 2007 training calendar has been issued. Councillors should register their interest with Diane Thomas.
<b>The Council Plan</b>	The revision of the Plan and any additions to actions and projects will be provided to Councillors in April.
<b>The Council Budget</b>	Actions have commenced for preparation of the 2007/08 Budget. Suggestions for capital Works List have closed and will be reported to Council in late April.
<b>Community Forums</b>	A Forum was held at Tangambalanga on 27 <sup>th</sup> of March. The next forum is at Chiltern at the Senior Citizens Rooms on 24/04/2007.
<b>Media &amp; Communications Officer</b>	Excellent media coverage continues with numerous stories covering activities across the Shire.

<b>Operations Manager</b>	Clive Walker has settled into the position very well but is under considerable pressure, as we have not yet attracted a suitable replacement to fill his former role. Two casual appointments have been made as we seek a permanent replacement.
<b>Municipal Offices Project</b>	This project is proceeding well with a briefing scheduled to be made to Councillors on Tuesday 17 <sup>th</sup> April on various options and other issues.
<b>Web Site Redevelopment</b>	The updated Web site has now gone live. As expected, there have been some minor initial problems, which always occur with this type of technology. However, we have received several return emails from users expressing their support for the new layout and information provided. The challenge to Council staff is to keep it updated.
<b>Murray to the Mountains Rail Trail</b>	Design and costing of the project continues. The application to Regional Partnerships for a \$250,000 grant for the interconnecting tracks has been finalised.
<b>Baarmutha Park Master planning</b>	A concept plan was presented to the Committee to aid further discussions in regard to the BLTC relocating to BP. An invitation has been issued to the Tennis Club to discuss these ideas and to be involved in the master-planning processes.
<b>Rural Councils Victoria</b>	The CEO has attended two meetings of the Steering Ctee. Progress has been made on identifying the projects that the Ctee will concentrate on. The Rural Councils Victoria Forum will meet on 13 <sup>th</sup> April with attendance by the Mayor and CEO.

## **18.0 NOTICE OF MOTION**

## **19.0 COMMITTEE AND DELEGATES REPORTS**

### **19.1 MARCH DIARY - CR P GRAHAM**

<b>Date</b>	<b>Time</b>	<b>Function</b>
1 March	2.00 pm	Meeting with Peter Challis WAW re Kerferd Sponsorship
	4.30 pm	Planning Focus Meeting, Yackandandah
5	1.00 pm	Rutherglen Historical Society, AGM
	7.00 pm	MSS Planning Meeting, Tangambalanga
6	9.30 am	NevRWaste, Wangaratta

	11.30 am	Weekly meeting with CEO, Beechworth
	3.30 pm	Councillors Meeting, Chiltern
	4.30 pm	Council Briefing Meeting, Chiltern
	7.00 pm	Council Meeting, Chiltern
7	7.00 pm	Planning Focus Meeting, Barnawartha
8	5.00 pm	North East Local Government Network, Wangaratta
9	6.30 pm	Official Opening 14 <sup>th</sup> Rutherglen Art Exhibition
11	11.30 am	Unveiling Vietnam Veteran's Plaque, Rutherglen
	6.00 pm	Pro Rodeo, Chiltern
12	7.00 pm	MSS Meeting, Tangambalanga
13	10.00 am	NevRWaste, Wangaratta
	11.30 am	Weekly meeting with CEO, Beechworth
	3.00 pm	Council Briefing Meeting, Chiltern Health Service
14	10.30 am	Meeting with CEO, Beechworth
	5.00 pm	Yackandandah Historical Society Public Meeting
	7.00 pm	MSS Public Meeting, Chiltern
15	7.30 pm	Rutherglen Deviation Traffic Group Meeting
16	11.00 am	MAV Strategic Planning Regional Meeting, Benalla
	1.30 pm	Litter Strategy Meeting, Benalla
	7.00 pm	VFF/LandCare Annual Dinner, Rutherglen
17	11.30 am	Rutherglen Apex Shave for a Cure
	1.00 pm	Yackandandah Folk Festival
	3.00 pm	Meet with P Bridge at Yackandandah Office
19	1.30 pm	Disability Advisory Committee Meeting, Rutherglen
	5.30 pm	Rutherglen-Wahgunyah CAC Meeting, Rutherglen
	7.00 pm	MSS Public Meeting, Beechworth
20	Full Morning	Compassionate Friends Employers Awards, Melbourne
	4.00 pm	Council Briefing meeting, Yackandandah
21	6.00 pm	Dinner/Forum with Minister for Local Government, Melbourne
22	8.30 am	Forum with Minister for Local Government, Melbourne
	1.00 pm	CEO Performance Assessment Workshop, Melbourne
23	9.45 am	Rural Planning Issues Public Meeting, Tangambalanga
	7.00 pm	Yackandandah Netball Club Debutante Ball
25	10.00 am	Legacy Golf Day, Rutherglen
26	9.00 am	NevRWaste, Wangaratta
	7.00 pm	MSS Public Meeting, Yackandandah
27	11.30 am	Weekly meeting with CEO, Beechworth
	4.00 pm	Council Briefing Meeting, Tangambalanga
	7.00 pm	Community Forum, Tangambalanga
28	10.30 am	Lake Moodemere Committee of Management Presentation, Rutherglen
	7.00 pm	MSS Public Meeting, Wahgunyah
29	10.00 am	MAV Waste reference Group Meeting, Melbourne
30	9.30 am	Kerferd Oration Committee Meeting, La Trobe
	4.00 pm	Hume Business Enterprise Scheme Graduation Ceremony, Albury

Cr Peter Graham OAM  
3 April 2007

**19.2 MARCH DIARY - CR BANKS**

<b>Date</b>	<b>Time</b>	<b>Function</b>
6 March	4.00 pm	Council Briefing Meeting, Chiltern
	7.00 pm	Council Meeting, Chiltern
13	4.30 pm	Council Briefing Meeting, Yackandandah
15	7.30 pm	Biodiesel Advisory Group Meeting, Yackandandah
19	7.00 pm	MSS Round 2 Public Meeting, Beechworth
20	1.30 pm	Meeting with Bill Tilley, member for Benambra and Matthew Guy, Shadow Minister for Planning re Old Beechworth Gaol
	4.00 pm	Council Briefing Meeting, Yackandandah
21	7.30 pm	Beechworth Chamber of Commerce Meeting
22	9.00 am	Preserving Rural Landscapes Group, Yackandandah
	3.00 pm	Murray to Mountains Rail Trail Meeting, Wangaratta
23	9.00 am	Rural Planning Issues Public Meeting, Tangambalanga
27	4.00 pm	Council Briefing Meeting, Tangambalanga
	7.00 pm	Community Forum, Tangambalanga
29	5.30 pm	Municipal Emergency Management Meeting, Chiltern

Cr Andrew Banks  
3 April 2007

**19.3 MARCH DIARY - CR DALE**

<b>Date</b>	<b>Time</b>	<b>Function</b>
2 March	9.30 am	MAV Board Meeting, Melbourne
4	9.45 am	Official opening Spirit of Progress Bridge, Wodonga
5	5.30 pm	La Trobe Council Meeting, Bundoora
6	4.00 pm	Council Briefing Meeting, Chiltern
	7.00 pm	Ordinary Meeting of Council, Chiltern
8	11.30 am	International Women's Day Victorian Honour Roll of Women, Melbourne
	3.30 pm	Meeting with the Hon Richard Wynne, Minister for Local Government, Melbourne
13	3.00 pm	Council Briefing Meeting, Yackandandah
14	5.30 pm	Yackandandah Historical Society Meeting
16	11.00 am	MAV North East Regional Meeting, Benalla
	6.00 pm	Yackandandah Folk Festival Parade
18	Full Day	Yackandandah Folk Festival
20		Briefing Meeting, Murray Darling Association
	4.00 pm	Council Briefing Meeting, Yackandandah
26	7.30 pm	Chiltern Guides Annual General Meeting and Dinner
27	4.00 pm	Council Briefing Meeting, Tangambalanga
	7.00 pm	Community Forum, Tangambalanga
29	12.15 pm	La Trobe Advisory Board Meeting, Wodonga
30	10.00 am	North East ALGWA Sub Branch meeting, Beneaal

Cr Jenny Dale

3 April 2007

**19.4 MARCH DIARY - CR HOTSON**

<b>Date</b>	<b>Time</b>	<b>Function</b>
5 March	9.00 am	Indigo Tourism Board Meeting, Yackandandah
	6.00 pm	VFF Delegation, Chiltern
	8.00 pm	Rutherglen VFF, MSS Meeting, Rutherglen
6	3.00 pm	Meeting of Councillors, Chiltern
	4.00 pm	Council Briefing Meeting, Chiltern
	7.00 pm	Council Meeting, Chiltern
9	6.30 pm	Rutherglen Arts Exhibition
11	6.00 pm	Pro Rodeo, Chiltern
13	3.00 pm	Council Briefing Meeting, Chiltern
	5.30 pm	Lakeside Music Bowl Committee, Chiltern
14	5.30 pm	Planning Focus Meeting, Chiltern Supermarket, Chiltern
	7.00 pm	MSS Review, Chiltern
15	11.00 am	ISC Drought Meeting, Yackandandah
	7.00 pm	Albury-Wodonga Continuing Education Centre AGM, Albury
19	7.30 pm	Municipal Fire Prevention Committee, Yackandandah
20	4.00 pm	Council Briefing Meeting, Yackandandah
22	12 noon	VLGA CEO Performance Appraisal Workshop, Melbourne
23	Full Day	Rural Issues Planning Day, Tangambalanga
26	7.00 pm	MSS Meeting, Yackandandah
27	4.00 pm	Council Briefing Meeting, Tangambalanga
	7.00 pm	Community Forum, Tangambalanga
28	8.00 pm	Municipal Fire Prevention Committee Meeting, Rutherglen

Cr Bill Hotson

3 April, 2007

**19.5 MARCH DIARY - CR V ISSELL**

<b>Date</b>	<b>Time</b>	<b>Function</b>
2 March	10.00am	Councillor duty, Beechworth
6	4.00pm	Briefing meeting, Chiltern
6	7.00pm	Monthly Council meeting, Chiltern
9	10.00am	'French Accent' Pottery Exhibition opening, Beechworth
13	3.00pm	Briefing meeting, Chiltern
16	11.00am	MAV Regional meeting, Benalla
19	7.00pm	MSS meeting, Beechworth
20	4.00pm	Briefing meeting, Yackandandah
21	8.30am	Climate Change workshop, Wodonga
23	4.30pm	Councillor duty
24	3.30pm	Councillor duty
27	4.00pm	Briefing meeting, Tangambalanga
27	7.00pm	Community Forum, Tangambalanga

Cr V Issell  
3 April 2007

**19.6 MARCH DIARY - CR MURDOCH**

<b>Date</b>	<b>Time</b>	<b>Function</b>
6 March	4:00pm	Council Briefing Meeting, Chiltern
	7:00pm	Council Meeting, Chiltern
7	7:00pm	MSS Meeting, Barnawartha
8	7:30am	Women's day Breakfast, Rutherglen
13	3:00pm	Council Briefing Meeting, Chiltern
	5:30pm	Lakeside/Martin Park Advisory Committee Meeting
14	8:30am	RWE Board Meeting, Rutherglen
	5:30pm	Chiltern Cark Park Focus Meeting, Chiltern
	7:00pm	MSS Meeting, Chiltern
19	4:30pm	Meeting with Ratepayer
20	4:30pm	Briefing Meeting Yackandandah
21	8:30am	NEGH Climate Change Meeting, Wodonga
	7:30pm	Chair AGM Chiltern Park Committee
22	12:30pm	CEO Performance Appraisal Workshop, Carlton
23	9:30am	MSS Meeting, Tangambalanga
26	7:00pm	MSS Meeting, Yackandandah
27	4:00pm	Council Briefing Meeting, Tangambalanga
	7:00pm	Community Forum Tangambalanga

Cr Barbara Murdoch  
3 April 2007

**19.7 MARCH DIARY - CR WALSH**

<b>Date</b>	<b>Time</b>	<b>Function</b>
1 March	7.30 pm	Corowa-Rutherglen Medical Support Group
3	7.00 pm	North Boorhaman drought film evening
5	9.00 am	Indigo Tourism Board Meeting, Yackandandah
		Resilient Rutherglen, Glenview
6	4.00 pm	Council Briefing Meeting, Chiltern
	7.00 pm	Council Meeting, Chiltern
7		Sustainability Forum, Wodonga
8	7.30 am	International Women's Day Breakfast, Rutherglen
	7.00 pm	International Women's Day Dinner
13	Full morning	Junior Council Meeting, Chiltern
	4.00 pm	Council Briefing Meeting, Rutherglen
	5.30 pm	Lakeside Music Bowl Committee Meeting, Chiltern
16	7.30 pm	Rutherglen RSL Ball Sub Committee Meeting
19	Full day	Junior Councillors to Youth leadership Forum, Melbourne
20	9.00 am	Speak to students on 'Life in Local Government', Wodonga
	1.30 pm	Meeting with Bill Tilley, Member for Benambra and Matthew Guy, Shadow Minister for Planning re Old Beechworth Gaol

21	4.00 pm	Council Briefing Meeting, Yackandandah MSS Planning Meeting, Rutherglen SES Bowls Night
22	5.30 pm	Indigo Heritage Advisory Committee Meeting, Chiltern
23	Full Day	Rural Planning Issues, Tangambalanga
27	4.00 pm	Council Briefing Meeting, Tangambalanga
	7.00 pm	Community Forum, Tangambalanga
28		Meeting re Planning Scheme, Wahgunyah
30	7.30 am	Farmers Breakfast with ABC, Rutherglen

Cr Frances Walsh  
3 April 2007

**19.8 YOUNG LEADERS FORUM (FILE NO: M005 - CR WALSH)**

**For Information**

This year we had 19 Junior Councillors from around the Shire, one teacher from Osborne's Flat, Vic Citroen, Rosemary Hince a volunteer driver for the junior council and myself.

It was the usual "crack of dawn" start but unfortunately everyone was so excited that nobody slept, not even the driver.

The conference start had moved back 15 minutes but due to traffic we were still a few minutes late.

Our speakers were of the usual high standard and the children bonded with all in a different way.

**Madeline West** an actress who starred in Neighbours for several years was adamant that things will go wrong, and it is the way you handle these events that form your life. Madeline has spent some time on the street and talked of the importance of having a support team to work with at all times. She also stressed the message that it is not smart to move out of home when things go wrong. I was amused at her comment that it is the parent's job to make life difficult for you, that's what they are there for, and the way you handle that is what sets your course for your life. A very different way to see parents I thought. At the top of her acting career Madeline was hit in the head by a bus, literally. This was where her next life statement came from that if things happen to you - learn from them. Her message was that "Success requires hard work" and "Your dreams get you out of bed in the morning".

**Katrina Webb** is a Para-Olympian with very mild cerebral palsy.

Her cerebral palsy is so mild that you would think there was nothing wrong with her. She spoke of the importance of loving your uniqueness, to set goal and dream big. She had spent most of her early life as an elite sport person playing netball in the top leagues. A knee injury at the Institute of Sport saw her meet by accident with the coach of the

Para Olympian team who suggested that she could compete in the Paralympics. This was a life changing moment for Katrina as she had never considered herself to be disabled. All she knew was that her right side got tired before her left side and she couldn't curl the toes on her right foot. Once she made the decision to enter in the games as a Para Olympian there was no looking back. She achieved medals in the last three Olympics and was the flag bearer at the Sydney Olympics.

To paraphrase her focus on leadership was to

- Do your best
- Be strong
- Have a passion for life
- Care for others.

Our final speaker was **Rex Pemberton** the youngest Australian to climb Mount Everest.

His main message was the need to plan and to prepare for an expedition of this type. He began climbing with his father and brother when he was 16. The work necessary to put a climber on the mountain I found interesting. The first hurdle is the \$100,000 sponsorship to get started. Once he arrived on the mountain it took him three and a half months for his body to adjust to the rarefied air of the mountain. I have spent some time in Tibet when I was travelling and even there you have a feeling of altitude sickness and headaches. I can only imagine what it would be like on the top of the world.

He has a website that he uses in his presentation and one particular photo caused amusement to the children. He is wearing the most sophisticated equipment, he is on top of Mount Everest and he has a runny nose and it is frozen!! Not a good look.

The children were enthusiastic about the day and even though it is a long hard day I think it is worth it. The children realised that they were the only ones there out of school uniform and who were not a school. We will make references to the speakers throughout the year and keep the messages alive.

One of the warm up speakers, **Lisa McInnis Smith**, who was speaking when we arrived, had a message that the word LEAD means:

- L      FOR LOVE
- E      FOR ENCOURAGE
- A      IS TO ASK QUESTIONS
- D      IS DARE TO TRY

This is a message for all leaders both young and old.

## **20.0    GENERAL BUSINESS**