



INDIGO SHIRE COUNCIL

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

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

John P Costello
Chief Executive Officer

AGENDA

- 1.0 Welcome - Mayor**
- 2.0 Opening Prayer**
- 3.0 Apologies and Leave of Absence**
- 4.0 Declaration of Pecuniary Interest and Conflict of Interest**
- 5.0 Open Forum**
- 6.0 Condolences**
- 7.0 Confirmation of Minutes**
Council meeting 6 February 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 RUTHERGLEN WINE EXPERIENCE QUARTERLY REPORT TO DECEMBER 2006 (FILE NO: D625/07 – EDTM)

RECOMMENDATION

That Council receive the Indigo Tourism Board Quarterly Report.

SUMMARY

As a requirement of its Instrument of Delegation the Rutherglen Wine Experience (RWE) Board is to provide Council with a quarterly report of its activities. These are attached for Council's information. The RWE is making significant headway in the delivery of the Rutherglen Marketing Plan

Attachment

10.2 INDIGO TOURISM BOARD QUARTERLY REPORT- (FILE NO: D497-05 – EDTM)

RECOMMENDATION

That Council receive the Indigo Tourism Board Quarterly Report.

SUMMARY

As a requirement of its instrument of delegation the Indigo Tourism Board is to provide Council with a quarterly report of its activities. This is attached for council's information.

Attachment

10.3 RUTHERGLEN WINE CENTRE BOARD INSTRUMENT OF DELEGATION – AMENDMENT (FILE NO: D625/07 – EDTM)

RECOMMENDATION

That Council sign and seal an amended Instrument of Delegation for the Rutherglen Wine Centre Board to allow for substitute member to attend and act in the absence of the nominated representative.

SUMMARY

The Rutherglen Wine Centre Board has requested an alteration to its instrument of delegation to allow for substitute representatives to attend in the absence of the nominated representative. This is to allow for meetings to proceed with a quorum in the absence of any nominated representative. Substitute members are currently provided for on the Indigo Tourism Board and this has addressed issues of quorum.

An amended Instrument of Delegation is appended.

10.4 INDIGO TOURISM BOARD MINUTES- (FILE NO: D497-05 – EDTM)

For Information

The minutes of the Indigo Tourism Board February Meeting are attached for information.

Attachment

10.5 EVENT OUTCOMES NED KELLY WEEKEND AND GREAT VICTORIAN BIKE RIDE- (FILE NO: D497-05 – EDTM)

For Information

SUMMARY

The Great Victorian Bike Ride and the Ned Kelly Festival were delivered by the Shire's tourism department in the second half of 2006. Both events delivered significant economic benefits for the region and are a key component of our marketing strategy. The following report outlines the outcomes from both events.

	Great Vic Bike Ride November	Ned Kelly Weekend August
Visitor numbers	4000	4200 (same weekend previous year 1200)
Visitor Spend	\$144,000	\$655,200
Economic Impact	\$230,400	\$1,048,320

Net Cost	\$9000	\$14,490 surplus
In Kind contributions	\$5000 (mostly labour)	\$21,000 (mostly labour)
Media value (\$)	\$125,000 (national news coverage)	\$1.2m. (10 minutes eg Today show, front page the Age, ABC national coverage ABC Statewide Drive, Herald Sun, significant local coverage)
Follow up actions	Follow up campaigns through database	Repeat event on this scale every two years
Strategic Value	Awareness of Murray to Mountains Rail trail. Bicycle tourists high yield. 79% indicated return intentions Many destinations compete for cycle \$. Keeps us top of mind	Ownership of the Premium end of the Ned market. Building brand associations of quality into the Ned Story and the Beechworth story. Has generated significant revenue for Precinct. Positive brand associations for Indigo Shire Council
Problems	Community groups did not get value. Heat lowered spend.	Creates high expectations. Significant out of hours work and pressure on staff
Recommendation	Do again	Do again biannually and smaller event annually

10.6 PROGRESS REPORT – FEBRUARY 2006 (EDTM)**For Information****Project****Actions**

Indigo Tourism Board	The Board is currently commencing its strategic planning phase. The Board is considering its overall role and structure as part of this process and a discussion paper is currently being considered by the Shire's tourism associations. The next general public meeting of the Board will be held on April 2 In Chiltern
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Town Brochures	Yackandandah has been printed. Beechworth final draft is being looked at. Printing will take place in early March. Rutherglen prospectus launched and redesign underway. Chiltern Tourism Association are 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
Destination advertising campaigns	Beechworth, Yackandandah and Rutherglen regional television campaigns have been to air over the key holiday period. These have been funded by the business community and the ITB
Burke Museum	A significant Best Value Review of the Burke Museum is nearing its completion
Murray to the Mountains Rail Trail (Wahgunyah to Rutherglen)	Initial surveying commenced. Public meeting held in Wahgunyah on Wed 21 st to advise of status. Well attended. Construction advisory group established. Application for \$250,000 Federal funding for Riverside loops is being lodged
North East Valleys Food and Wine Group	New admin officer Julia Wilson appointed. Executive Officer position to be advertised. Received \$50,000 from State Government to deliver value chain and research study for the North East Food Cluster. "Successful Women in PR" luncheon held in Melbourne
High Country Touring Route	Brochures and information centre banners complete and distributed. Lobbying for signage underway.
Media and PR	Much media is in the pipeline. Channel 7 "Sunrise", Channel Nine "Wine me and Dine me" have been locked in for March. Significant Articles in the Herald Sun, Gourmet Traveller, Gourmet Traveller Wine will be running soon following media famils in December.
Victoria's Country High	Allocated \$1.9 m in Bushfire recovery funding to deliver a sustainable recovery program. Specific details are yet to be announced by the State Government. This is anticipated this week. Organised major promotional event in Federation Square 'High Country in the High Rise' to be held March 3 rd . Indigo is attending with an historic towns stand.

Visitor Centres	Refer to the Indigo Tourism Board Quarterly report for detail. Beechworth visitation recorded its first monthly falls in some considerable time in Dec and Jan due to Bushfire and drought related impacts. Numbers are back up in Feb
New newsletter	We have developed a new monthly newsletter format that integrates with our website. This is distributed to all tourism operators and businesses on our database as well as media and government
2007 Golden Horseshoes Festival	Over 40 floats for Parade already. Golden Easter egg being made for the event Easter egg hunt. Dorothy the Dinosaur attending. Television, radio and PR campaign underway
Ned Kelly Festival	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 nd year.

11.0 ENVIRONMENT AND DEVELOPMENT

11.1 SECTION 173 AGREEMENTS - (06/200, 06/234, 06/252, 06/302, 07/029) (EDSM)

RECOMMENDATION

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

- A) Powercount Developments P/L**
- B) Tysoma Enterprises**
- C) Proctor**
- D) Andrew**
- E) Shields & Hayes**

INTRODUCTION

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

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

COMMENT

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

BACKGROUND

A) Planning Permit 06/200 relates to a proposed carwash on land located at Diffey Road, Beechworth. The land is covered by the provisions of the Industrial 1 Zone and Schedule 4 of the Development Plan Overlay. The development plan responds to existing drainage patterns of the site and sets aside an area to be protected for this purpose. The Planning Permit was issued on the basis that a Section 173 Agreement was to be entered into with the Responsible Authority to ensure:

- (i) that the development and use of the land is in accordance with the approved Development Plan and in particular that no development, storage of materials, or disposal of wastes (other than as indicated on the approved Development Plan) may occur within the area hatched and marked Drainage without the further written approval of the Responsible Authority;
- (ii) that the existing open drain within the property (area hatched and marked Drainage on the approved Development Plan) is maintained and protected to the satisfaction of the Responsible Authority.

B) Planning Permit 06/234 relates to a 6 lot subdivision of land located at Fortune Street, Rutherglen. The land is covered by the provisions of the Residential 1 Zone and the subdivision proposes lots ranging in size from 501m² to 709m². The Planning Permit was issued on the basis that a Section 173 Agreement was to be entered into with the Responsible Authority to ensure:

- (i) That all dwellings are sited, designed and constructed using the principles of Water Sensitive Urban Design and in particular that:
 - (a) All dwellings must incorporate a minimum 10,000 Litre rain water tank on site. The water tank must be plumbed to the toilets and garden taps as a minimum. Only the overflow from the rainwater tank is to be directly discharged to each lot's stormwater point. All dwellings shall include water saving measures (AAA rated fixtures and a pressure reduction valve).
 - (b) Stormwater is detained on site where practical through use of permeable paving, pebble paving, infiltration trenches, soakwells, lawn, garden areas and swales. The total hard surface site coverage (including outbuildings, swimming pools, tennis courts, driveways and all impermeable surfaces), must not exceed 75%.
 - (c) An Erosion and Sediment Control Plan must be submitted with all Building Permit applications that clearly outlines how the site is to be managed during and after construction.

- (ii) That where incorporated, rear or side of allotment infiltration trenches with overflows to the formal drainage system are maintained so as to ensure design stormwater flows do not impact on downslope properties.

C) Planning Permit 06/252 relates to a proposed dwelling on land located at Indigo Creek Road, Indigo Valley. The land is covered by the provisions of the Farming Zone. The Planning Permit was issued on the basis that the holding comprising 5 allotments was consolidated into a single lot of approximately 120 hectares and that a Section 173 Agreement was to be entered into with the Responsible Authority to ensure:

- (i) That the consolidated land is not able to be subdivided so as to increase the number of lots; and
- (ii) that in the event of a dwelling house being erected on the consolidated lot, that such dwelling cannot be excised from the Lot under the provisions of the Indigo Planning Scheme.

D) Planning Permit 06/302 relates to a proposed 2 Lot subdivision of land located at Gundowring Road, Sandy Creek. The land is covered by the provisions of the Farming Zone and is currently comprised of 4 Lots. The subdivision excises the existing dwellings and associated infrastructure on a lot of approximately 14 ha and creates an unencumbered lot of approximately 82 ha. The Planning Permit was issued on the basis that a Section 173 Agreement was to be entered into with the Responsible Authority to ensure:

- that the land is not able to be further subdivided so as to create any additional lots.

E) Planning Permit 07/029 relates to a proposed 2 Lot subdivision of land located at Sandy Creek Road, Sandy Creek. The land is covered by the provisions of the Farming Zone and is bisected by the Sandy Creek Road. The subdivision excises the existing dwelling on a lot of approximately 5 ha and creates an unencumbered lot of approximately 17 ha. The Planning Permit was issued on the basis that a Section 173 Agreement was to be entered into with the Responsible Authority to ensure:

- (i) that the land is not able to be further subdivided so as to create any additional lots.
- (ii) that proposed lot 2 cannot be used or developed for the purposes of a dwelling.

Attachments

Attachment A:	Locality/Site Plan – PP06/200, Diffey Road, Beechworth
Attachment B:	Locality/Site Plan – PP06/234, Fortune Street, Rutherglen
Attachment C:	Locality/Site Plan – PP06/252, Indigo Creek Road, Indigo Valley
Attachment D:	Locality/Site Plan – PP06/302, Gundowring Road, Sandy Creek
Attachment E:	Locality/Site Plan – PP07/029, Sandy Creek Road, Sandy Creek

**11.2 PLANNING APPLICATION 06-297 - APPLICANT:
ROBINSON (SSP)**

For Decision

SUMMARY

Application No:	PP06-297
Applicant:	Robinson
Subject Land:	91 Buckland Gap Road, Beechworth
Proposal:	Dual occupancy
Recommendation:	Grant permission

RECOMMENDATION

That Council give notice of decision to grant Planning Permit 06-297 subject to the following conditions:

1. PLANS TO BE SUBMITTED

This Permit shall have no force or effect until, two (2) copies of detailed plans properly drawn to scale and showing:

- (i) the location of all building/s and works (including water tanks) proposed to be erected or constructed on the land;**
- (ii) the dimensions and elevations of all building/s proposed to be erected or constructed on the land;**
- (iii) the nature of all external materials and finishes of all such building/s (including the roofing and above ground water tanks);**
- (iv) the location of road access points and driveways; and**
- (v) a plan of landscaping showing a permanent visual screen between the Buckland Gap Road and the dwelling hereby approved.**

are submitted to the Responsible Authority for approval and endorsement by the Shire Planner. When approved such plans shall form part of the permit.

2. APPROVED USE/DEVELOPMENT

The development hereby approved shall be carried out generally in accordance with the plans endorsed pursuant to Condition 1 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.

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 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. EFFLUENT DISPOSAL

Consent of Council for on-site waste disposal systems shall be obtained for each lot. Such systems shall comprise either:

- (i) an on-site sewerage treatment plant. (Such system shall have an EPA Certificate of Approval issued under Section 53M(7) of the Environment Protection Authority Act); or
- (ii) an approved septic tank system.

Both systems shall comply with the provisions of the Guidelines for Environmental Management - Septic Tanks Code of Practice, Publication 891, Environment Protection Authority (March 2003) and 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.

5. NEW DWELLING

This planning permit approves the construction of a new dwelling only and does not approve the installation of a re-erected dwelling on the land. The installation of a re-erected dwelling shall require the further consent of the Responsible Authority in the form of a new planning permit.

6. LANDSCAPING BEFORE COMMENCEMENT OF USE

Before the use allowed by this permit starts, landscaping works as shown on the endorsed plans must be completed to the satisfaction of the Responsible Authority and then maintained to the satisfaction of the Responsible Authority.

7. VICROADS CONDITIONS

- (i) Only one direct access from the subject land to the Buckland Gap Road will be permitted. This access shall be located at the existing driveway and must provide for vehicles to enter and exist in a forward direction only.
- (ii) The access shall be sealed between the end of the existing concrete driveway and the sealed edge of the Buckland Gap Road, generally in accordance with the VicRoads Rural Driveway (Figure 3.11.2(a) Sheet 2 of 9). A concrete pipe culvert is to be provided under the driveway and driveable culvert endwalls constructed as shown and in accordance with Standard Drawing No. 1991A.
- (iii) The proposed new dwelling shall have a minimum setback of at least 20 metres from the Buckland Gap Road Reserve boundary.

8. STORMWATER DRAINAGE

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

9. SEDIMENT CONTROL

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

10. EXPIRY DATE

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

(i) Plans in accordance with condition 1 are not submitted within two years of the date of this permit

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

(iii) 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 06-297 is for a dual occupancy of 91 Buckland Road, Beechworth.

Planning application 06-224 was lodged on 12 December 2006

The subject site is approximately 9000 m² (6880m² excluding former mining races), and is located to the south of the Beechworth urban area. The property is sloping towards the Buckland Road, and is currently used for the purposes of a dwelling.

The surrounding properties comprise large similarly sized lots, several of which are used for residential purposes while many are vacant (see **Attachment A** – locality plan).

PROPOSAL

The applicant is seeking approval for the use and development of the site for a second dwelling, being a small granny flat style cottage (see **Attachment B** – proposal).

ZONING AND PLANNING CONTROLS

Zoning: Low Density Residential Zone

Overlay/s: DPO3 (Low Density Residential Zone)

Permit Trigger: A permit is required to use and develop land for the purposes of two dwellings 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:

Settlement

14.01 Planning for Urban Settlement

Environment

15.12 Energy Efficiency

Infrastructure

18.01 Declared Highways, railways & Tramways

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

Settlement & Infrastructure

Environment

21.02 Key Issues

21.03-1 Vision & Strategic Framework

21.03-2 Corporate Plan

21.04-1 Settlement & Infrastructure

21.04-1-1 Beechworth

Local Planning Policies

None Applicable

22.01-3 Residential Subdivision & Development

22.03-4 Effluent Disposal & Water Quality

22.03-11 Stormwater Management Policy

PARTICULAR PROVISIONS

52.29 Land adjacent to a Road Zone, Category 1 or a Public Acquisition Overlay for a Category 1 Road

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:

VicRoads – does not object to the issuing of a planning permit for the proposed construction of a second dwelling on the subject land if the planning permit is subject to the following conditions:

- (i) Only one direct access from the subject land to the Buckland Gap Road will be permitted. This access shall be located at the existing driveway and must provide for vehicles to enter and exist in a forward direction only.
- (ii) The access shall be sealed between the end of the existing concrete driveway and the sealed edge of the Buckland Gap Road, generally in accordance with the VicRoads Rural Driveway (Figure 3.11.2(a) Sheet 2 of 9). A concrete pipe culvert is to be provided under the driveway and driveable culvert endwalls constructed as shown and in accordance with Standard Drawing No. 1991A.

- (iii) The proposed new dwelling shall have a minimum setback of at least 20 metres from the Buckland Gap Road Reserve boundary.

Environmental Health – A meeting was conducted between the applicant, his plumber and the Environmental Health Officer. It was agreed that site was capable of on-site effluent disposal.

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.

2 submissions were received in response (see **Attachment C** – submissions).

One submission was made with respect to a water easement running through the property, and concern that the proposal would affect the water easement. In response, the applicant moved the building envelope so as not to affect the water easement. This was discussed with the submitter who expressed satisfaction at this outcome.

A further submission objected to the application on the basis on the poor drainage in the area and the potential impact of the proposed development on drainage in the area. The objector states “We submit that prior to any issue of further permits the drainage and stormwater problem must be remedied. We further submit that strict enforceable conditions must be attached to any permit requiring proper drainage disposal and minimisation of stormwater runoff”. The objector was contacted by the Planning Department in order to arrange for a meeting to discuss this issue, however this did not appear to be favoured by the objector given the long history of this problem and perceived lack of action. This issue was investigated with Council’s Assets Department, who indicated that Council formerly maintained drains in this area, however this responsibility was taken over by VicRoads when Buckland Gap Road became a Category 1 Road. As such, the issues now faced by this objector cannot be remedied by Council with the exception of ensuring that any further development does not exacerbate the problem. Certainly with larger Low Density development on the higher side of the road, it is feasible that all drainage be contained on site which will ensure that the problem in not worsened. However, this objection remains outstanding.

DISCUSSION

The application comprises a dual occupancy development on a lot of approximately 9000m².

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

- Consistent with Clause 15.12 (Energy Efficiency), the proposal will result in more efficient land use, consistent with efficient use of energy and minimise greenhouse gas emissions. The proposal also consolidates urban development.
- Consistent with Clause 18.01 (Declared highways, railways and tramways) as the proposal will achieve visual standards appropriate to the importance of the route with particular reference to landscaping and, where appropriate, the provision of buffer zones.

- Consistent with Clause 18.09 (Water Supply, Sewerage & Drainage) as the proposal will be provided with adequate effluent disposal, and will be required to retain all stormwater and drainage on site, thus not impacting on the urban stormwater drainage system.
- Consistent with Clause 19.05 (Design & Built Form) particularly in terms of the site context, views and vista, and energy and resource efficiency. The position of the second dwelling on the site takes into account the site context, being located upslope of the Buckland Gap Road, and protects the view corridor from the Buckland Gap Road by maintaining an adequate setback from the road.

The application is also considered to be consistent with the requirements of the Local Planning Policy Framework. In terms of Clauses 22.01-3 (Residential subdivision and development), 22.03-4 (Effluent Disposal & Water Quality) and 22.03-11 (Stormwater Management Policy) the proposal will be provided with adequate infrastructure, and conditions will be able to ensure adequate on-site detention of drainage and access to the Buckland Gap Road.

CONCLUSION

The proposed dual occupancy is considered to be consistent with the provisions of the zone, and applicable clauses in relation to residential development. Therefore this application is supported.

Attachments

Attachment A – Locality plan

Attachment B – Proposal

Attachment C - Submissions

11.3 RUTHERGLEN RESIDENTIAL LANDS STUDY (FILE NO: E1240 - 27 - EDSM)

RECOMMENDATION

It is recommended that Council:

- 1. Adopts the Rutherglen Residential Lands Study, dated October 2005, as a suitable comprehensive review of residential land demand and supply in the Rutherglen Township.**
- 2. That the recommendations contained in the Rutherglen Residential Lands Study, dated October 2005, be implemented as required.**

SUMMARY

In May 2004 Council resolved to undertake a comprehensive review of demand for residential land in the Rutherglen township. This comprehensive review was part of the recommendation from the independent panel for the abandoned planning scheme amendment C15 (Nashs Road Rutherglen).

This comprehensive review was completed in October 2005 in the form of the Rutherglen Residential Lands Study (Councillors were provided with copies of this report before the meeting). As a result of the recommendations contained in this report, a request was received to rezone land from Farming Zone (FZ) to Low Density Residential Zone (LDRZ) in Nashs Road Rutherglen.

This proposed Planning Scheme Amendment (C27) has been prepared and exhibited and in November 2006 Council resolved to refer the matter to an Independent Panel appointed by the Minister for Planning in accordance with Section 23 of the Planning & Environment Act 1987.

Council however never formally adopted the Rutherglen Residential Lands Study. As this study forms the basis of the strategic justification for proposed Planning Scheme Amendment C27, it is required that Council formally adopt this study.

BACKGROUND

Indigo Planning Scheme Amendment C15 proposed to rezone land in Nashs Road Rutherglen from Rural Zone to Low Density Residential Zone. The Panel report recommended the abandonment of the proposed amendment. One of the conclusions of this Panel report was that the Panel could not support the amendment because:

“Council has not undertaken the required comprehensive review of residential demand”

In May 2004 Council resolved to abandon Amendment C15 in accordance with Panel recommendations. At this time Council also resolved to undertake a comprehensive review of demand for residential land in the Rutherglen township, as recommended by the Panel.

In May 2005 Council appointed SGS Economics and Planning Pty. Ltd. to undertake the Rutherglen Residential Land Study. This study was to be a comprehensive review of residential demand in Rutherglen as required by the planning scheme and the Panel. This study included:

- An analysis of the physical lots currently available and recent sales trends.
- An economic analysis of the local housing market and a prediction of the amount of new land that might be needed for different housing uses;
- Projected population growth;
- Change in demand for different housing types;
- An analysis of opportunities and constraints of land already zoned Low Density Residential; and
- Landowner interest in developing currently residential zoned land.

The Rutherglen Residential Lands Study was completed in October 2005. Using various models, the study concluded that there is a sufficient supply of Residential zoned land for at least the next ten years. The study also concluded there is only enough Low Density Residential zoned land for approximately the next 6 years, and that approximately 24 hectares of Rural zoned land should be rezoned in the future to accommodate the demonstrated demand for Low Density Residential zoned land.

Shortly after the completion of the Rutherglen Lands Study a request was received for

the rezoning of approximately 20ha of land in Nashs Road Rutherglen for Low Density Residential purposes. The matter was reported to Council on 13 December 2005. This report to Council further mentioned that the Rutherglen Residential Lands Study has been completed and would be reported separately to Council.

In response to the rezoning request, Council resolved to request authority to commence preparation of Amendment C27 from the Minister of Planning and on 26 May 2006 such authorisation was received. Following exhibition of the Amendment a number of objections were received and Council at its meeting of 14 November 2006 resolved to refer the matter to an independent panel appointed by the Minister in accordance with Section 23 of the Planning and Environment Act 1987. This Panel hearing is scheduled to take place on 15 and 16 March 2007.

Council however never formally adopted the Rutherglen Residential Lands Study. Progress made on this study was reported to Council at briefing meetings on 11 October 2005 and 6 December 2005.

KEY FINDINGS AND AMENDMENT C27

The Rutherglen Residential Lands Study was undertaken in 4 Stages. These Stages were:

- **Stage 1 - Supply Analysis**

This stage documented the existing level of residential land supply by type and the capability and suitability of potential new areas for residential development in an environmental context, in an infrastructure servicing context, and in the context of existing landowner's interest or willingness to make their land available for development.

- **Stage 2 - Demand Analysis**

Stage 2 assessed the potential future demand for residential land in Rutherglen both in aggregate terms and in terms of different types of residential development, based on qualitative and quantitative analysis.

- **Stage 3 - Opportunities and Constraints**

This stage reconciled the supply, demand and potential area analysis in order to generate an assessment of the likely supply and take up of residential lots over the short, medium and long term. This enabled conclusions to be drawn as to whether there will be an oversupply or undersupply of residential land under different scenarios, with reference to particular residential land types.

- **Stage 4 – Conclusions and Recommendations**

Stage 4 involved the development of conclusions and recommendations on the need for additions to the residential land supply, the preferred areas for residential development and the timing of the release of these areas.

Rutherglen Residential Lands Study report summarizes its recommendations as follows:

“1. No need has been demonstrated for additions to the supply of R1Z land in the foreseeable future. It is recommended that Council does not rezone land in Rutherglen to R1Z in the next five years, unless an extraordinary uplift in demand occurs, at

which stage the analysis undertaken in this report would need to be revisited.

2. *Some need has been demonstrated for additional LDRZ zoned land in Rutherglen. This equates to an undersupply of around 24 ha of LDRZ land. **It is recommended that Council adds to the supply of LDRZ land by rezoning around 24 ha of land to LDRZ in the next 1 to 2 years.***
3. *Should the LDRZ rezoning take place, **it is recommended that a location to the North East of the town is selected**, dependent on Council direction and landowner interest. This area should be selected in a location which:*
 - *Is close to existing towns and urban centres, but not in areas that would be required for fully serviced urban development;*
 - *Could be supplied with electricity and water and good quality road access;*
 - *Would not encroach on high quality productive agricultural land;*
 - *Would not adversely impact on waterways or other natural resources; and*
 - *Would not increase the supply of rural residential land to more than that required to meet a 10 year demand for rural residential lots.*
4. *Council is required to ensure a ten year supply of residential land exists. It is therefore recommended that Council develop and regularly update a database of existing vacant land supply in both RIZ and LDRZ zones, to facilitate monitoring of the land supply and provide a strategic basis for future rezoning to meet the ten year supply requirement as appropriate.*
5. *It is recommended that Council plan for any future RIZ expansion to occur, in the first instance, within the existing township. Once the land supply within the township is exhausted, future RIZ development should be located to the North West of the township ...”*

In accordance to recommendation 2 and 3 above Planning Scheme Amendment C27 proposes to rezone approximately 20ha of land in Nashs Road Rutherglen from Farming Zone to Low Density Residential Zone. The Rutherglen Residential Lands Study is essential aspect of this proposed amendment.

11.4 PLANNING APPLICATION 06-247 - REBBECHI (SSP)

For Decision

SUMMARY

Application No: 06-247
Applicant: C & C Rebbechi
Subject Land: Lot 1 TP 137029, Moodemere Road, Norong
Proposal: Dwelling in association with vineyard
Recommendation: Refusal

RECOMMENDATION

It is recommended that planning permit application 06-247 to use and develop Lot 1, TP 137029X, Moodemere Road, Norong for the purposes of a dwelling be refused for the following reasons:

- 1. The proposal is inconsistent with the State and Local Planning Policy Framework;**
- 2. The proposal is inconsistent with the purposes of the Rural Zone (Clause 35.01), and in particular:**
 - a. The development and use is not associated with any genuine intensive agriculture and/or rural production;**
 - b. The development of the subject land is not compatible with the purpose of the Farming Zone and will contribute to an increase in the concentration of dwellings in this locality;**
 - c. The proposal will not necessarily facilitate agricultural use of land;**
 - d. It cannot be demonstrated that the proposal is not solely for the purposes of providing for a future dwelling for rural living purposes only;**
- 3. The proposal is not consistent with the intent of Clause 22.01-5 (Dwelling on existing small rural allotments);**
- 4. The proposal if approved would set an undesirable precedent in the area leading to an increase in concentration of dwellings in this locality and the fragmentation of rural land;**
- 5. The proposal is inconsistent with Clause 15.06 (Soil contamination) as insufficient information has been provided on which to assess the potential adverse effects on the proposed future land use;**
- 6. The proposal is contrary to the provisions of Clause 65.01 of the Indigo Planning Scheme and in particular the orderly planning of the area.**

BACKGROUND

Planning application 06-247 was lodged on 12 October 2006. The purpose of this application is to seek approval to use and develop the subject site for the purposes of a dwelling in association with a vineyard.

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

- Application PP05-303 for a dwelling was made in November 2005. This application was refused for a number of reasons, including inconsistency with the State and Local Planning Policy Framework, the purposes of the Rural Zone (Clause 35.01), and the intent of Clause 22.01-5 (Dwelling on existing small rural allotments). Further, it was considered that the proposal would set an undesirable precedent in the area leading to an increase in concentration of dwellings in this locality and the fragmentation of rural land.
- Application P239 for a 53-lot caravan park was made in 1991. Issues regarding effluent disposal, pollution and site stability (from former use of the land as a poultry farm), were raised, and further information requested of the applicant. The further information was not received and the application subsequently refused on this basis,
- Application 251 for water ski accessories distribution, manufacture wet suits and caretaker's flat was refused in 1987 on the basis that further information was required pending consideration of requests to ban power boats and skiing on the lake.

The subject site is 1.64 hectares in size and is located on the eastern side of Lake Road, on the corner of Moodemere Road, Norong (see **Attachment A** – locality plan). The property is predominantly flat being on the edge of the riverine plain which is elevated at this point from the adjacent Murray flood plain. The subject site adjoins Crown Land on its northern boundary with the shoreline of Lake Moodemere being setback a distance of approximately 65 metres.

The property has a frontage of approximately 150 metres to Lake Road which is the principle public access to Lake Moodemere, and a frontage of approximately 100 metres to Moodemere Road. Access to the site is currently achieved via gates that are located on Lake Road, adjacent to the neighbouring dwelling. Lake Road is of sealed construction.

The land is currently vacant. There are no buildings located on site. A large, concrete water tank has been used in the past to store water for the site. The property is fenced on all sides by post and wire fencing.

The site is bordered to the south by mature native vegetation along the Moodemere Road frontage and along the northern boundary. In addition a number of scattered remanent native trees are located within the property.

Despite land ownership patterns in the area being fragmented, with several of the larger holdings consisting of multiple titles, the predominant land use in the locality is extensive grazing interspersed with irrigated vineyards. The property adjacent to the west has approval for use as an intensive rabbit farm while the lot excised from the north-west corner of the subject land contains a dwelling and is limited by its size to residential use.

PROPOSAL

The applicant is seeking approval for the use and development of the subject site for the purposes of a dwelling in association with a vineyard.

It is proposed to construct a single storey reproduction period dwelling on the subject site. The dwelling will consist of four bedrooms, a study, formal dining and living areas and two bathrooms. This dwelling is proposed to be setback a minimum 100m from the shoreline of the lake and 40m further south than the adjoining dwelling.

The property has a 6 Megalitre water entitlement. Electricity and telephone services are available, with a power pole transformer already located close to the property.

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

1. The proposal provides a solution that is responsive to land capability and will not jeopardise the rural productive capacity or the environment values of the area.
2. The outcome represents integrated land management sustaining a balance with residential occupation.
3. The residential use provides opportunity to establish a rural activity that will realise a much higher productive output than the current low order rural use.
4. The proposal takes advantage of existing infrastructure, in the form of telecommunication, power, water supply and road links. It also takes advantage of the synergies that come from the well-established wine industry that dominates the Rutherglen region.
5. The proposal will consolidate two existing titles into one further supporting one of the objectives of Local Policy 22.02-2.
6. The business plan demonstrates the viability of establishing the vineyard, provided the residential component is able to be adjunct to it. Without the residence the project cannot proceed.
7. The application assessed against the intent of the Farming Zone in context with the Local Planning Policy Framework, is compliant. It supports the local agricultural sector and must be considered worthy of Council's full support.

ZONING AND PLANNING CONTROLS

Zoning: Farming Zone

Overlay/s: ESO2 (Lake Moodemere)

Permit Trigger: A planning permit is required for the use and development for the purposes of a dwelling under Clause 35.07 (Farming Zone). A planning permit is not required for the use of the land for agriculture.

A permit is required to construct a building under Clause 42.01

(Environmental Significance Overlay).

STATE PLANNING POLICY

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

Environment

- 15.01 Protection of Catchments
- 15.12 Energy Efficiency

Housing

- 16.03 Rural Living & Rural Residential Development

Economic Development

- 17.05 Agriculture

Infrastructure

- 18.09 Water Supply, Sewerage & Drainage

Particular uses and development

- 19.04 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

Relevant clauses of MSS include:

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

Local Planning Policies

- 22.01-2 Rural Dwelling Siting & Design Guidelines
- 22.01-5 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
- 22.03-3 Development adjoining the Murray River, Lake Hume and Lake Moodemere
- 22.03-4 Effluent Disposal & Water Quality
- 22.03-8 Floodplain and Rural Drainage Management

22.03-11 Stormwater Management Policy

PARTICULAR PROVISIONS

None Applicable

REFERRAL AUTHORITIES

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 – No objection to the issuing of a planning permit subject to inclusion of the following conditions:

1. 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.

2. Crossings

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

3. Roadside Management

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

4. Stormwater Drainage

- 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.

5. Road Infrastructure Works

- The owner of the land shall contribute to road infrastructure works to improve the standard of Lake Road in accordance with the requirements of the Indigo Shire Council Policy “Road Construction Requirements in the Rural Zones” (Draft).

- Works on Lake 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 these roads equals \$4,500.

Health - If this proposal is to be approved it is considered that in line with the recommendations of the land capability information provided a disposal area of at least 400 square metres shall be provided for septic waste disposal. All appropriate distances from water sources are to be maintained.

Note: Effluent used for irrigating vines should be treated to comply with Guidelines for Environmental Management: Use of Reclaimed Water (EPA Victoria, Publication 464.2, June 2003)

There is some discrepancy between the site plan submitted with the application and the Site Investigation Plan that forms part of the Land Capability Assessment, which also refers to a need to have site contamination testing carried out. Council's Environmental Health Officer has advised however, that despite the soil percolation rates indicating that the site is not capable of effluent disposal by absorption, it is considered the site is capable of on-site treatment and disposal of effluent via alternate means. If the application is to be approved, issues regarding site contamination can be addressed by making the approval subject to an environmental audit being carried out.

DSE – No objection to the issuing of a planning permit subject to inclusion of the following condition:

1. All ground disturbing works associated with the development and use of the residence and vineyard must be setback a minimum distance of 10 metres from the canopies of all trees shown on plan S3270, Version 3, dated 20 November 2006 unless written permission is obtained from the Indigo Shire in consultation with DSE prior to commencing works.

North East CMA – Had determined that flood levels for the 1% AEP probability (100 year ARI) have been declared for this area under the Water Act 1989. The Authority does not object to the granting of a permit subject to the following condition:

1. The finished floor level of the proposed dwelling is to be constructed a minimum of 300 millimeters about the 1% flood level of 133.1 metres AHD; i.e. at least 133.4 metres AHD.

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. No submissions were received in response.

Public notice was previously given for planning permit application PP05-303, in response to which one objection was made. This applicant raised a number of issues with regards to the proposal, including the impact on land prices as a result of the proposed dwelling, and the desire to similarly apply for a planning permit for a dwelling for land adjoining the subject site.

DISCUSSION

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

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

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

The proposal would be compatible with the environmental characteristics of the area and existing surrounding agricultural land uses, and appropriate infrastructure can be provided to service the site, including on-site effluent disposal system. However, the development of a dwelling would be subject to the preparation of an environmental audit and issue of a Certificate or Statement of Environmental Audit which must be issued before sensitive use or buildings and works associated with sensitive uses can commence.

As such, while the capability of the site to accommodate the development may be acceptable provided contamination can be overcome, it is whether it is an acceptable *use* of the site for a dwelling that is at issue. The main policy guidance as to whether this use is acceptable is considered to be Clause 22.01-5 (Dwellings on existing small rural allotments) and Clause 35.07 (Farming Zone).

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 (Dwellings on existing small rural allotments)** 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. 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. 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 14th 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.

Prior to the Shire amalgamation, the subject site was located within Rutherglen Shire, and planning controls relating to rural land used a mixture of minimum lot sizes (40ha) and tenements provisions to control rural land use and development.

The subject land once formed part of a larger tenement that was developed to its full potential under the Rutherglen Planning Scheme by the dwelling excised from the north-west corner of the subject land. Consequently the subject land, created under the tenement controls of the former Rutherglen Planning Scheme, would not have been able to be used or developed for the purposes of a dwelling at the time it was purchased.

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 14th 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 dwelling under 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”*. This issue is addressed under the heading ‘The need for a dwelling’ below.

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

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

1. *“Whether the dwelling will result in the loss or fragmentation of productive agricultural land.*
2. *Whether the dwelling is reasonably required for the operation of the agricultural activity conducted on the land.*
3. *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.*
4. *Whether the dwelling will adversely affect the operation and expansion of adjoining and nearby agricultural uses.*
5. *The potential for the proposal to lead to a concentration or proliferation of dwellings in the area and the impact of this on the use of the land for agriculture.”*

It is considered that the current application does not comply with the decision guidelines of Clause 35.07 in relation to the need for the dwelling for the proposed agricultural activity (dot point 2), and the potential proliferation of dwellings (dot point 5). 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”*.

In this case, the proposal is for a very small vineyard, planted with muscat and muscadelle varieties. The applicant states that a manager’s residence is required primarily in order to respond quickly to frost:

“The vineyard will be fitted with a frost detection system and the manager would be required to at very short notice be in the vineyard implementing frost mitigation practices in the early hours of the morning. Given the rural location obtaining a

dwelling nearby that was suitable for the Manager Residence would prove quite difficult. Rutherglen is some 8km away and is entirely unsuitable for an onsite manager residence. It is common practice within the wine industry for manager residence onsite and this is pivotal to our plans of developing a small high yielding vineyard”.

In response, two issues are noted:

1. There are examples of vineyards without resident managers; and
2. A manager who is resident in Rutherglen or nearby the site in an established dwelling will be at most 10 minutes drive from the site.

As such it is contended that it has not been demonstrated that a dwelling is required to use the subject land for this purpose and that if a dwelling was approved it would limit the area available for agricultural use.

The applicant has calculated that the area available for the vineyard is 1.3 - 1.41 hectares, excluding the dwelling envelope, driveway, mature trees and headlands for turning vehicles at the end of the vines. From this area, the applicant expects to produce 32 tonnes once in full production (approximately year 6 after establishment), which is predicted to sell for \$1800 per tonne, generating an income to the vineyard of \$31,250 p.a. from year 6 onwards.

There are several issues associated with these figures which suggest that a vineyard on such a small area of land will not be a sustainable agricultural enterprise:

The figures presented by the applicant appear to represent an absolute maximum in terms of production and income. It does not allow for the inevitable downturns in the industry. For example, an article from the Border Morning Mail dated 22 March 2006 has been included as part of the application, which indicates growers could expect to receive between \$1000 - \$2000 per tonne for muscat. The applicant's estimate of \$1800 is therefore at the higher end of this range and is perhaps optimistic to expect to receive every year. The article also states that “...yields in the King Valley...were down by as much as 40 per cent with some crops yielding less than 5 tonnes a hectare”. Again, this suggests that an expectation of a constant 24 tonnes per hectare from the application site may be overly optimistic and may represent an extremely good crop rather than the norm.

Planning officers have attempted to carry out research into grape yields and returns, and data accumulated to date suggests that a vineyard of 1.3 – 1.4 hectares in size is probably not viable given that yields and return are not adequate from a vineyard of this size to support a viable agricultural enterprise with associated dwelling. The applicant has presented a detailed profit and loss statement for the proposal, and was asked to provide some supporting independent evidence showing average production tonnes per acre for muscat and muscadelle grapes, and average price per tonne. However the applicant was unable to provide this information, and indicated that the information presented in the application was from professional experience and is correct.

Further, research into the costs of establishing a vineyard operation indicates that some of the start-up costs have not been factored into the applicant's figures. This includes:

- 1) Purchase of the land, and ongoing interest costs;
- 2) Construction and maintenance of the dwelling; construction of the driveway, and ongoing interest costs;
- 3) Site preparation, vineyard layout, planting (including purchase of vines), purchase of trellising materials and trellis construction.

However it is noted that the applicant has included bank fees and charges of \$9600, which may account some of the costs of points 1 and 2 above.

Further, it is noted that the application does not make any provision for construction of sheds etc as would be required for vineyard operations, such as storage of machinery, materials or produce. There also appears to be no space allowed for these facilities without further reducing the area available for vines. It is assumed that some sort of shedding will be required for the operation of the vineyard and these facilities will require a planning permit.

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

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”*.

In the absence of a sustainable agricultural enterprise requiring the erection of a dwelling, consideration must also be given to the potential proliferation of dwellings. 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 small allotments in the locality that may actually be larger than the subject land and 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?

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. Indeed, there appears to be an expectation regardless of the history of refused applications on this land, that a dwelling will be approved, as the subject site is for sale at a price well in excess of its agricultural land value.

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.

Clause 17.05-2 Agriculture of the SPPF states that in considering a proposal to develop agricultural land, the following factors must be taken into consideration:

- The impacts of the proposed development on the continuation of primary production on adjacent land, with particular regard to land values and to the viability of infrastructure for such production
- The compatibility between the proposed or likely development and the existing use of the surrounding land

Clause 17.05 also states that where inappropriate subdivisions exist on productive agricultural land, priority should be given by planning authorities to their re-structure. On balance, it is therefore considered that the proposed use of the land does not support the Objective of Clause 17.05 of the SPPF which is to ensure that the State's agricultural base is protected from the unplanned loss of productive agricultural land due to permanent changes of land use and to enable protection of productive farmland which is of strategic significance in the local or regional context.

The MSS recognises that regional influences on the Shire create a pressure for realising rural lifestyle opportunities as well as the importance of, and the necessity to, support agriculture. In order to achieve a balance between the two, the Rural Living Zone is strategically applied to large areas within the Shire to direct the provision of this form of land use. Clause 22.01-5 was also adopted in recognition of the need for a balanced approach to the provision of rural lifestyle opportunities in broader acre rural areas whilst protecting the Shires agricultural base.

Due to the precedent that would be set for this locality if the application were to be approved, State policy in respect to the protection of agricultural land, including the impacts of decisions on land values, as well as the significance of the rural sector for the Shire's economy tends to outweigh the opportunities for rural living in this instance. It is contended that the lack of a Rural Living Zone in the Rutherglen area intentionally gives primacy to agriculture as the preferred land use outside of residential areas. Decisions made with respect to dwellings on existing small rural allotments, therefore need to be managed so as not to create defacto Rural Living Zones. Where there is the potential for this to occur, decisions should err on the side of caution and should reflect the underlying purpose of the Zone which is to:

- Implement the SPPF and LPPF including the MSS and local planning policy, and;
- Provide for the sustainable use of land for Extensive animal husbandry and Crop raising, not convert land used for this purpose to non-rural or residential uses because the land unit is unviable.

As can be seen from the attachments, the locality is comprised of a number of small crown allotments and should this application be approved it would clearly send an undesirable message out into the community encouraging rural fragmentation, further increasing land prices and precluding farming in the area. The resultant increases in density would also compromise the rural setting of the locality and the approach to Lake Moodemere. The implications of approving this proposal are therefore clearly contrary to the SPPF and MSS which are both aimed at protecting farming land.

Whilst the MSS also recognises the importance of rural living to the Shire, it requires this form of land use to be provided so as not to prejudice the agricultural base of the Shire. As the proposal has the potential to impact on this, the conversion of the land to a residential use is not considered to be an acceptable outcome in this instance.

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

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

- the appropriateness of dwellings in the context of the Rural Zone as well as State and local policies;
- the appropriateness of using the provisions of the Rural Zone to create de-facto Rural Living areas, and;
- the need to consider the strategic intent of the Planning Scheme as a whole rather than focussing on individual policies.

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 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, LandCare and Catchment Management, Access, Rural Dwelling Siting and Design Guidelines), and despite the attractiveness of subject land for residential purposes, having regard to the provisions of the Indigo Planning Scheme and the circumstances of the case it is concluded that the application should be refused.

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.

This land is ideally located in close commuter distance to Rutherglen township, and land values are high. In this instance, the need for the dwelling has not been shown, and the viability of the land use is questioned. Thus the approval of this dwelling 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.

FINANCIAL & RESOURCE IMPLICATIONS

Nil

*Attachments
Attachment A - Site & Location plan
Attachment B - Proposal*

11.5 BUILDING STATISTICS – JANUARY 2007 (EDSM)

For Information

Kiewa	Extension	\$11,500	
Wahgunyah	New Building	\$9,000	30/11/06
Wahgunyah	New Building	\$211,594	03/01/07
Yackandandah	New Building	\$283,000	03/01/07
Yackandandah	Re-stump	\$8,600	04/01/07
Rutherglen	Alteration	\$300,000	08/01/07
Yackandandah	New Building	\$3,500	08/01/07
Beechworth	Demolition	\$5,000	08/01/07
Wahgunyah	New Building	\$254,476	10/01/07
Kergunyah	Swimming Pool	\$23,990	11/01/07
Rutherglen	Extension	\$4,000	11/01/07
Yackandandah	Swimming Pool	\$4,250	12/01/07
Yackandandah	Demolition & Extension	\$22,134	12/01/07
Barnawartha North	Extension	\$9,800	12/01/07
Yackandandah	Swimming Pool	\$9,000	12/01/07
Upper Sandy Creek	Re-stump	\$8,200	12/01/07
Barnawartha	Extension	\$9,000	16/01/07
Kiewa	New Building	\$108,475	16/01/07
Yackandandah	New Building	\$25,000	16/01/07
Browns Plains	New Building	\$11,200	17/01/07
Beechworth	New Building	\$3,500	18/01/07
Rutherglen	Extension	\$13,640	18/01/07
Rutherglen	New Building	\$157,780	23/01/07
Beechworth	Extension	\$4,700	24/01/07
Chiltern	Extension	\$11,900	24/01/07

Chiltern	Extension	\$11,000	24/01/07
Chiltern	Extension	\$6,900	25/01/07
Tangambalanga	New Building	\$4,950	25/01/07
Rutherglen	New Building	\$19,000	26/01/07
Wahgunyah	New Building	\$100,000	01/02/07
Total		\$1,655,089	

11.6 PLANNING STATISTICS – JANUARY 2007 (EDSM)

For Information

File Number	Locality	Purpose	Cost	Decision	Decision Date
06138	Leechworth	Lot - Subdivision	\$0.	Approved	3/01/2007
06156	Rutherglen	Lot Subdivision	\$0.	Approved	3/01/2007
06214	Over Creek	Order Business	\$20,000.	Approved	3/01/2007
06231	Leechworth	zoning	\$366,000.	Repealed	3/01/2007
06244	Manley	boundary re-ignment	\$350,000.	Approved	5/01/2007
06247	Prong	native vegetation removal	\$200,000.	Withdrawn	3/01/2007
06252	Indigo Valley	zoning	\$220,000.	Approved	9/01/2007
06258	Leechworth	lot subdivision	\$0.	Approved	3/01/2007
06266	Wahgunyah	special occupancy (huts)	\$290,000.	Approved	8/01/2007

06267	ackandand	ed	\$11,500.	pprove	1/01/2007
06269	echworth	ot subdivision	\$0.	pprove	6/01/2007
06278	ahgunyah	r park	\$10,000.	pprove	9/01/2007
06279	ackandand	umber milling a owroom/retail tlet		pprove	/01/2007
06281	atherglen	erandah	\$13,640.	pprove	8/01/2007
06285	ackandand	welling	\$200,000.	pprove	/01/2007
06300	iltern	achinery Shed	\$4,900.	pprove	/01/2007
06305	atherglen	ctory/warehou storage sheds	\$100,000.	pprove	0/01/2007
07001	bornes fla	welling tension	\$40,000.	pprove	/01/2007
07003	atherglen	gnage	\$7,000.	pprove	9/01/2007
07004	ackandand	emolish menities Block	\$4,500.	ithdra	6/01/2007
07005	iltern	welling	\$180,000.	pprove	6/01/2007

07006	Wilton	Boundary Re- gnment	\$0.	approve	6/01/200 7
Total			,017,540.		

**11.7 ENVIRONMENT AND DEVELOPMENT SERVICES
PROJECTS – MARCH 2007**

For Information

Projects underway are shown in the following table:

Project	Current actions
Amendment C10 – Heritage Overlay	On 6/2/2007 Council resolved to request the Minister for Planning to appoint an Independent Panel.
Amendment C21 - Kiewa-Tangambalanga	Request for authorisation to prepare the amendment made to DSE. Conditional authorisation received. Details to be approved by DSE prior to exhibition of the amendment.
Amendment C27 – Low Density Residential rezoning. Nashes Road, Rutherglen	Council has requested that an Independent Panel be appointed to hear submissions on the amendment. Hearing scheduled for 15 and 16 March 2007.
Municipal Strategic Statement and Indigo Planning Scheme – major review	<ul style="list-style-type: none"> ○ First round of public consultation meetings held August - September 2006. ○ Consultation with government agencies and neighbouring municipalities undertaken. ○ Rural planning issues workshop held November 2006. ○ Draft issues paper considered by the Focus Group. ○ Second round of community meetings due in March. These are being advertised and the discussion paper being made available.
Indigo Planning Scheme - environmental overlay	Ecology Partners P/L appointed to undertake a project to identify biodiversity priority areas within the municipality for further investigation and overlay controls in the planning scheme. Report due February.

	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.
VCAT Appeals	<ul style="list-style-type: none"> ○ PP06-222 Appeal by Smithwick against conditions of the planning permit for a 4 lot subdivision. Issues successfully negotiated. Appeal withdrawn. ○ PP06-253 Appeal by Imperial Properties P/L against failure to grant a permit for a 19 lot subdivision, High Street, Beechworth. Mediation held in Melbourne on 12 February 2007. Council has resolved to approve the application and issue a Notice of Decision to Grant a Permit, subject to conditions. No outcome at mediation, and discussions continuing with the appellant.
Community Water Grants – round 1	<p>Projects to demonstrate water efficiency, water recycling or improvements in ground or surface water health. Both proposals approved.</p> <ul style="list-style-type: none"> ○ Replacement of old-style cisterns with dual flush cisterns in public amenity blocks throughout the shire – project completed – media release to be done; and ○ Removal of willows and revegetation of areas in Isaacs Park, Yackandandah – Isaacs Park Gully Rehabilitation Plan adopted. Willow removal completed, material to be mulched on site. Hydro-mulching to occur on banks and wetland plantings to begin mid March 2007.
Community Water Grants – round 2	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.
Greenhouse Action Plan	Officer has started data collection for inventory. Key staff and 4 Councillors attended introductory workshop in Wangaratta in February. This workshop was held in conjunction with other participatory Councils.
North East Greenhouse Alliance	<ul style="list-style-type: none"> ○ Key Council staff investigating feasibility of trialling biodiesel. ○ Alternate fuels workshop to be held in April. ○ Regional climate change workshop being organised for 21 March 2007. This workshop will present some of the findings of the climate adaptation report which is being prepared. ○ Public lighting audit due to commence during the next month.
Yackandandah Green Corp	Project commenced 15 November with 9 participants. Progress to date is:

project	<ul style="list-style-type: none"> ○ Woody weed control and preparation of gully floor for planting at Isaacs Park; ○ Woody weed control at former Yackandandah landfill site; ○ Fence construction at Lake Sambell; ○ Water quality monitoring – Yackandandah Creek; ○ Landscape plan for Hopetoun Road, Rutherglen playground finalised and works commenced; ○ Landscape plan for Morley Drive, Wahgunyah commenced; and ○ Construction of holding bay at Yackandandah depot for wetland plants.
Work for the Dole Team	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. This was commenced by previous Green Corp team.
Indigenous Resource Area at Lake Sambell	Earthworks commenced.
Regional Stormwater Education Officer	Undertaking media for Indigo’s Community Water Grants projects. Also organising workshops for builders. These workshops will promote stormwater best practice on building sites.
Community woodlot program	No new timber has been received in woodlots.
Roadside Management Plan	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.
Weeds on private land initiative	<ul style="list-style-type: none"> ○ Distribution of revised weeds brochure has commenced. Weeds brochure will be sent to residents with May rates notice. ○ 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. ○ Environmark installation for Serrated Tussock due to occur in March 2007.
Roadside weed initiative	Assessments of results to be carried out first half of 2007.
Ecobuy	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.

Community awareness	<ul style="list-style-type: none"> ○ Preparation underway for National Tree Day (31 July); and ○ Discussions underway with NECMA re a joint project during arbour week (May).
Upper Sandy Creek School revegetation project	Project is fencing of waterway. Separate funding applications for labour and material both successful. Discussions with school and committee of management have commenced.

12.0 CIVIL OPERATIONS

12.1 CARPARK BARNAWARTHA PRIMARY SCHOOL (FILE NO: T480.12 - AOM)

RECOMMENDATION

That the Council authorise the Acting Manager Operations to prepare a special charge scheme in accordance with the Local Government Act 1989 for the construction of the Barnawartha Primary School Car Park, and that the Education Department be advised in writing when Plans, Specifications, Estimate of costs and scheme apportionment have been finalised to Councils' satisfaction.

SUMMARY

Council has been requested by the Barnawartha Primary School to improve parking at the school, to both enhance the road access and safety for students attending the school. Plans have been prepared of the works proposed, and have been provided to the school community for comment. The School have advised Council in writing that they are happy with the works suggested.

BACKGROUND

Council has received requests over the years involving parking and potential safety issues from the school community.

Council is also aware that the cost of the works is to be recovered from abutting owners, the Education Department, in this instance. The amount to be recovered would be in accordance with Councils' Cost Recovery policy and as determined by Council.

Section 163 – 166 of the Local Government Act 1989, allows Council to declare a Special Charge for any purpose where there is, or will be a special benefit to persons required to pay the special charge. Council has constructed works of this nature in the past with the only contributor being the Education Department

A special charge can be declared on the basis of any criteria specified by Council. These may include frontage, percentage of benefit, percentage of use, valuation, land area, etc. In this case the declaration of a special charge will be based on a combination of lineal metre frontage, degree of benefit (Ratio) and the rate of cost of construction.

A special charge may be declared for the purpose of:

1. Defraying any expenses; or
2. Repayment (with interest) any advance, debt of loan, in relation to the purpose of that special charge.

CONSULTATION

Council's Policy:

Council's Road and Footpath Contributory Scheme Policy sets out the Stage 1 process which occurs before any of the "statutory" formal consultation requirements commence, and as prescribed in the Local Government Act 1989.

Council's policy commences with an invitation by letter to all potential affected owners to attend an information meeting where a Consultative Panel is formed.

The Consultative Panel role is to identify issues and investigate different proposals and select the most favourable.

Concept plans are then prepared, advertised displayed with the view to inviting comments.

A final proposal is then adopted by the Consultative Panel, following which a report is prepared and considered by Council.

Council's resolution to proceed or discontinue with the proposal then feeds into and commences the statutory consultation requirements as set out in the Local Government Act 1989.

Actual Consultation Process

Consultation to date has been with the school community via the school Principal. If Council approves that this project proceed then consultation with the Education Department will be via formal notice, who have a special Department that consider these types of works and pay for the works as an ex gratia payment, and as described below.

3 parking layout alternatives were provided to the school community for comment, with a letter received from the School Principal indicating that the parents priority is Alternative 1, then alternative 3, then alternative 2 as indicated on the plan attached.

POLICY IMPLICATIONS

This proposal has not been carried out in accordance with Council's Works at Owners Cost policy, apart from the above consultation, as the scheme will only involve one adjacent property owner – The Education Department.

The scheme will be undertaken in accordance with the Local Government Act 1989.

- Step 1 – Preparation of Plans to allow residents (the school community) to understand proposed works (Completed)
- Step 2 – Public Consultation (Not applicable in this instance)
- Step 3 – Council considers Proposed Scheme by Notice of Motion (This Step)
- Step 4 – Preparation of Scheme
- Step 5 – Public Notice (to Education Department)
- Step 6 – Receive written Submissions from Education Department
- Step 7 – Council Review Proposed Scheme in line with submission
- Step 8 - Special Charge – First Notice

- Step 9 – Administrative Appeals Tribunal Review (If required)
- Step 10 - County Court Appeal (If required)
- Step 11 – Special Charge – Second Notice
- Step 12 – Tenders for Works
- Step 13 – Construction
- Step 14 – Scheme Review on Completion – Notify Education Department of actual costs.

FINANCIAL & RESOURCE IMPLICATIONS

The detailed estimate of the cost of the works and the amount recommended to be recovered from contributing owner(s) will be determined in the formal preparation of the scheme

Council's proportion would be provided for in the budget when the scheme has been finally approved and adopted by Council.

**12.2 OSBORNE FLAT PRIMARY SCHOOL – KERB & CHANNEL
– CAR PARKING SCHEME (FILE NO: T480.15 - AOM)**

RECOMMENDATION

That the Council authorise the Acting Manager Operations to prepare a special charge scheme in accordance with the Local Government Act 1989 for the construction of the Osborne Flat Primary School Car Park, and that the Education Department be advised in writing when Plans, Specifications, Estimate of costs and scheme apportionment have been finalised to Councils' satisfaction.

SUMMARY

Council has been requested by the Osborne Flat Primary School to improve drainage and parking at the school, to both enhance the road access and safety for students attending the school. Plans have been prepared of the works proposed, and have been provided to the school community for comment. The School have advised Council in writing that they are happy with the works suggested.

BACKGROUND

The forward works program has identified the need to construct kerb & channel and associated underground drainage and bituminous seal the car park at the Osborne Flat Primary School

Council has received complaints over the years involving drainage/flooding, dust & mud and potential safety issues from the school community.

Council is also aware that the cost of the works is to be recovered from abutting owners, the Education Department, in this instance. The amount to be recovered would be in accordance with Councils' Cost Recovery policy and as determined by Council.

Section 163 – 166 of the Local Government Act 1989, allows Council to declare a Special Charge for any purpose where there is, or will be a special benefit to persons required to pay the special charge. Council has constructed works of this nature in the

past with the only contributor being the Education Department

A special charge can be declared on the basis of any criteria specified by Council. These may include frontage, percentage of benefit, percentage of use, valuation, land area, etc. In this case the declaration of a special charge will be based on a combination of lineal metre frontage, degree of benefit (Ratio) and the rate of cost of construction.

A special charge may be declared for the purpose of:

3. Defraying any expenses; or
4. Repayment (with interest) any advance, debt of loan, in relation to the purpose of that special charge.

CONSULTATION

Council's Policy:

Council's Road and Footpath Contributory Scheme Policy sets out the Stage 1 process which occurs before any of the "statutory" formal consultation requirements commence, and as prescribed in the Local Government Act 1989.

Council's policy commences with an invitation by letter to all potential affected owners to attend an information meeting where a Consultative Panel is formed.

The Consultative Panel role is to identify issues and investigate different proposals and select the most favourable.

Concept plans are then prepared, advertised displayed with the view to inviting comments.

A final proposal is then adopted by the Consultative Panel, following which a report is prepared and considered by Council.

Council's resolution to proceed or discontinue with the proposal then feeds into and commences the statutory consultation requirements as set out in the Local Government Act 1989.

Actual Consultation Process

Consultation to date has been with the school community via the school Principal. If Council approves that this project proceed then consultation with the Education Department will be via formal notice, who have a special Department that consider these types of works and pay for the works as an ex gratia payment, and as described below.

POLICY IMPLICATIONS

The scheme will be undertaken in accordance with the Local Government Act 1989.

Step 1 – Preparation of Plans to allow residents (the school community) to understand proposed works (Completed)

Step 2 – Public Consultation (Not applicable in this instance)

	<p>access. The thinning out of Lake Sambell trees is due to start at the end of this month. After-hours call outs have been restricted to a small number of fallen trees across roads.</p>
	<p>Parks and Gardens – Council has obtained an exemption for watering from NERWA for the Town Hall Gardens, and trees there will continue to be watered on a regular basis to try and ensure their survival over these drought months. Signage has been ordered to be installed in the Gardens to notify ratepayers of this. Bunya trees in the Gardens have also been barricaded off, some six weeks earlier than normal, and updated notices warning of the dangers of falling fruit will be installed. Rutherglen Parks and Gardens staff have been busy tree pruning and carrying out spraying on roadside verges, when conditions allow.</p> <p>Water restrictions are currently: Barnawartha – Stage 1 Beechworth Stage 2 Chiltern – Stage 2 Rutherglen/Wahgunyah – Stage 1 Kiewa/Tangam – Stage 1 Yackandandah – Stage 3</p>
<p>Council Projects</p>	
<p>Racecourse Road Bridge Widening</p>	<p>Bridge approach guard rail has been installed. All works now completed.</p>
<p>Drought Relief Bores and</p>	<p>I am hopeful that by the time Councillors read</p>

<p>Standpipes</p>	<p>this section, Racecourse Road, Chiltern will be completed. Mark Greene has been successful in negotiating two additional tanks and one larger tank for the Chiltern bore, Indigo Valley Fire station and Sandy Creek respectively. There is a 6 weeks delay in delivery of tanks.</p> <p>The bore at the Sandy Creek Reserve has been drilled but due to the waiting time on Water Tanks the bore will not be commissioned for 5-6weeks (Mid to late March).</p> <p>The portable Standpipe at Rutherglen has been completed and residents now have access, we will be running a booking type system, residents will need to contact the Office for a booking place and time. Media release has been arranged</p> <p>Allan's Flat waterhole. The portable standpipe has been ordered and should be available for use by Mid March. Power and pump have been arranged and will be in place within this time frame.</p>
<p>Horseshoe Quarry</p>	<p>Blasting has been completed and crushing commenced.</p>
<p>Gundowring Road Dairy Road Funding</p>	<p>Construction of improvements to Gundowring Road under the Dairy Road Funding Program. (\$375,000) will commence in the week of the 5th March</p>
<p>Street & Park Furniture</p>	<p>The majority of Councils street and park furniture, including bus shelters etc has been repainted. Works were able to be carried out using both Council allocated funds and Drought Relief grant funding.</p>
<p>External Private Works</p>	
<p>Works- General</p>	<p>The upgrade of a section of Indigo Creek Road has been completed.</p> <p>Other small projects include kerb and channel works in Stanley for VicRoads (\$8000), Lake Sambell Indigenous area development (\$17,000).</p>
<p>Buller Gas</p>	<p>LPGas prices are expected to be stable to the end of June.</p> <p>Construction work has been slow due to the fire activity on the mountain but is now continuing. Succession planning for essential staff availability is progressing.</p>
<p>Waste Management</p>	

	<p>The bushfires in the East Gippsland area have now settled down and we have claimed \$29,000 for extra works completed during December 06 and January 07. We have advertised and interviewed for a new Part time truck driver as a replacement for a recent resignation. We hope to appoint by Monday 26/2/07.</p> <p>The tender for the Rehabilitation of the Yackandandah Landfill has been awarded to McPherson's of Myrtleford who hope to commence site works on the 6th of March.</p>
Animal Control & Local Laws	<p>Works (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. The unit is about to start audits ensuring that shop owners that have signage or goods on Councils footpaths have the right permit.</p>
Fire Prevention	<p>Letters have gone out to local CFA Brigades reminding them of the Council contribution of Fire Prevention funds and the need for them to forward invoice for reimbursement.</p>
<u>Pools</u>	
Indigo	<p>Patronage has dropped off rapidly, this is due to school holidays finishing. Water quality had been an issue with the dead and dying grass being deposited in to the pool by swimmers and the wind. The pool season will be extended by up to four weeks depending on patronage and weather conditions.</p>
Summer	<p>Carnivals at the Wodonga Pool have been a huge success; Kiosk sales were very high for this period. Water quality has not been an issue at this pool, due to the high water turnover through the gravity filtration system</p>

13.0 ASSETS AND INFRASTRUCTURE

13.1 RURAL ROAD NAMING (FILE NO: T305.004 – 02 – ETO - ASSETS)

RECOMMENDATION

That Council adopt this report and recommends the road name “Yackandandah Road” in accordance with VicRoads’ guidelines and advise residents of the reasons for the decision.

BACKGROUND

One remaining link of arterial road requires renaming, the Yackandandah Wodonga Road (from Yackandandah to the Beechworth Wodonga Road). The suggested name of “Yackandandah / Beechworth Road” as put forward by Council and “Beechworth Road” as suggested by residents has been rejected by VicRoads. This is because the names are not in accordance with VicRoads naming conventions.

The previous report has been attached below.

RURAL ROAD NAMING

SUMMARY

This report recommends that Council, in conjunction with VicRoads consider the renaming of the currently know Yackandandah Wodonga Road that runs between Yackandandah and the Beechworth Wodonga Road.

BACKGROUND

VicRoads proposed to rename some of the arterial roads in Indigo Shire Council to facilitate the Rural Road Numbering system. The only outstanding arterial road that requires renaming is the Yackandandah Wodonga Road (from Yackandandah to the Beechworth Wodonga Road) or as it is locally know the "Beechworth Road". This stretch of road shares the same name as the stretch of Arterial road that runs between Yackandandah and the Kiewa Valley Highway, creating some confusion and a duplication of addresses. VicRoads is the ultimate naming authority for this roadway as they do all maintenance.

The recommendation from VicRoads is to rename it the "Yackandandah Road". Council was asked by VicRoads to seek comment on the proposed road name. A letter was sent to all residents with addresses on the stretch of affected road, giving them an opportunity to comment on the proposed name (attached).

ISSUES

16 letters were initially sent out inviting comment. Council received 7 letters back objecting to the proposed road name of "Yackandandah Road".

6 Residents were in favour of the Road being named the "Beechworth Road" and 1 Resident was in favour of the road being named "Commissioners Creek Road". 9 Residents did not reply.

The proposed name of "Beechworth Road" put forward by several residents is problematic, as the road terminates at a T intersection with the Beechworth Wodonga road, which is 17km away from the township of Beechworth. While local residents may use the roadway to travel to Beechworth, the roads purpose is a link between the township of Yackandandah and the Beechworth Wodonga road.

Another issue is that the name "Beechworth Road" is used by local residents in other localities, such as in the locality of Stanley. Having several locally known "Beechworth Roads" within Indigo Shire should be avoided.

Council will now pass on the comments it received from the residents on the proposed road name, and has been asked by VicRoads what its

position is on what the road should be named.

FINANCIAL AND RESOURCE IMPLICATIONS

The formal road naming procedure will be carried out by VicRoads. Once a new road name has been adopted, Council will inform residents of the new road name and their new address.

CONSULTATIVE PROCEDURES

Resident were informed of a proposed name change for the Yackandandah Wodonga Road, and were given 30 days to comment as per the naming process under the Local Government Act 1989/Geographic Place Names Act 1998.

RECOMMENDATION

That Council adopt this report and recommends the road name “ Yackandandah Road “ To VicRoads and advise residents of the reasons for the decision.

**Moved Cr Dale
Seconded Cr Issell**

That the recommendation be adopted.

AMENDMENT

**Moved Cr Hotson
Seconded Cr Dale**

That Council adopts this report and recommends the road name “Yackandandah/Beechworth Road” to VicRoads and advises residents of the reasons for the decision.

The AMENDMENT was CARRIED and became the MOTION, was PUT by the Chairman and declared CARRIED.

Note: Cr Issell voted in the negative.

**13.2 CAPITAL WORKS – PROGRESS REPORT – MARCH 2007
(AM)**

For Information

Project	Actions
Subdivisional works by developers	<ul style="list-style-type: none"> • Alluvial St Rutherglen 14 lots- 90% complete. • Mossgrove Way Beechworth 13 lots- 70% complete. • Lawranna Estate Stage 1 (off Fighting Gully Rd)5 Rural Res lots- 50% complete. • Nickless St Chiltern 3 lots- 90% complete. • Bowling Green Lane Rutherglen 2 lots-commenced. • Bells Flat Rd wetlands- commenced.
Chiltern Hall Carparking	Works 90%. Linemarking to follow.
Rural Road Development Contributions	<ul style="list-style-type: none"> • Upgrade works underway on Malakoff Rd, Beechworth.
Plant	<ul style="list-style-type: none"> • National Plant Hire plant maintenance agreement now working well with responsive service and excellent monthly reporting. • Scania garbage truck has had major repairs undertaken which will see it through to the end of the Falls Creek contract. • A ten year forward plant replacement program has been completed.
Rutherglen Heavy Vehicle Deviation	Third meeting of Focus Group held February 2007. Further detail discussion of options with elimination of several unsuitable routes Next meeting 15 th March 2007.
Rutherglen Hall	Tender accepted from Smith Alltimber Constructions. Works progressing well, but with significant problems with upper room sub-floor.
Wooragee Hall	Grant funding approved. Quotations accepted. Additional funding via the Regional Partnerships Programme has been applied for with an announcement expected in March.

Chiltern Floodplain Study	Application for Natural Disaster Relief Funding submitted. Final report and recommendations to be presented to Council.
Havelock Road area stormwater re-use	Draft detail designs complete. Land purchase being negotiated. Discussions finalised with Baarmutha Park Committee. Permits from DSE & GMW & NECMA underway.
Wahgunyah Hall	Works 90 % complete. Works coming in under budget, additional works being scoped with Committee.
Ready/Soles Street drainage	Tomkinson Engineers has completed draft designs. Awaiting final designs and costings.
Playgrounds upgrade	Rutherglen Hopetoun Rd equipment being carried out by Green Corps.
Steel Rd Yackandandah Industrial Area	Designs complete.
Chiltern Commercial Area Parking	Consultants Eslers have completed surveys. John Piper Traffic have completed Traffic Impact Assessment jointly for supermarket proprietors and Council. Focus meeting for carpark and access routes to be held shortly.
Local Infrastructure Works Program (Drought Funding)	\$300,000 received from State Government. Stanley Reserve trees clearance complete. Chiltern Hall Landscaping near complete. Other works being scoped.

13.3 PURCHASE OF REPLACEMENT GRADER (AM)

SUMMARY

One of Council's three graders lease period ends on the 24 May 2007. This report outlines alternatives for replacement of the grader.

RECOMMENDATION

That Council 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

Council currently operates three graders, a reduction from the four graders operated at

the start of the financial year. Recent work patterns have identified that with a return to Council generally undertaking its own construction works then these three graders will be fully used to the optimum 1200 hours per year. If this pattern continues Council requires three modern graders changed over on an eight to ten year rotation.

Over the last 7 years or so Council has leased its graders as this method was attractive in clearly identify operating costs and consolidating all ownership costs under one monthly payment. The recent introduction of a Plant Maintenance agreement with National Hire and the potential to use some of Council's unused borrowing potential now makes it advantageous to consider purchase and ownership of some if not all of our grader fleet.

One of Councils current Graders comes out of lease in May 2007. A new 8 year lease quote has been provided by Leaseplan with total repayments of \$404,832 with a residual value of \$100,000 at the end of the lease. This type of lease is a form of financing that will impact on Council's borrowing levels.

The alternative is for Council to borrow the funds at a rate of approximately 7% with total repayments of \$447,000 with no residual as Council will own the plant outright

The other problem Council currently has is the lack of flexibility with its grader fleet (3 graders) in that remaining graders are also leased. If for instance private works or Council construction works diminished Council would have a problem in that it would be committed to funding 3 graders for the entire life of the item which would be costly. By owning at least one grader it gives Council the flexibility to be able to sell one grader if the work is not available.

Council's annual borrowings for 2006/07 as highlighted in the annual budget was \$200,000 made up of the following

Gray Lane Bruarong Bridge	\$85,000
Sydney Rd Underground Drain	\$15,000
Chiltern Floodway Improvements	\$60,000
Kiewa Tangambalanga Pride of Place	\$40,000
Total	\$200,000

Council was unsuccessful in obtaining funding for the Kiewa Tangambalanga Pride of Place Project due to grant funds being diverted to drought projects and a saving of \$18,636 was made on the Gray Lane Bridge. This means that Council will only be required to borrow \$141,364 this financial year.

The additional borrowings of \$275,000 required for the grader would bring total borrowings up to approximately \$416,000 which is contained within Councils overall borrowing strategy of borrowing between \$300,000 and \$400,000 a year.

The next grader is due for replacement in June 2008. Usage patterns will be monitored and options presented to Council in January 2008 for its replacement. Future replacement of owned graders will be fully financed from the Plant Replacement Reserve as this fund is generated over the eight year holding period of the grader. The Plant Replacement Reserve does not contain sufficient funds at present to fund the full purchase of a grader as well all of the necessary plant replacement requirements. This grader and possibly

part funding of the grader coming up in June 2008 are the only items that cannot be replaced from the Plant Replacement Reserve.

POLICY IMPLICATIONS

Tenders for the new grader would be called in accordance with Council's 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 programs.

14.0 HEALTH AND WELLBEING

14.1 REQUEST FOR LOAN – CONSTRUCTION OF A NEW NETBALL COURT AT COULSTON PARK, TANGAMBALANGA (FILE NO C252, C897.2 - HWBM)

RECOMMENDATION

That Council advise the Kiewa Sandy Creek Netball Club Inc. that it is prepared to provide a loan of \$10,000 at a nominal interest rate for the Club to construct a new netball court at Coulston Park, Tangambalanga provided that the Netball Club can provide appropriate security to Council for the repayment of this loan.

BACKGROUND

The Kiewa Sandy Creek Netball Club is aiming to construct a new netball court on an unused portion of Coulston Park, Tangambalanga to the north west of the main oval. The proposal has the full support of the Coulston Park Committee of Management which includes representation from the netball, football, tennis and bowls clubs.

The estimated cost of the project is \$40,000. It is intended that Council, on behalf of the Club, will apply for a \$20,000 grant through the 2006/2007 Country Football & Netball Grants Program, with the Club contributing \$10,000 from its financial reserves. The Club is hopeful that the balance of \$10,000 required will be made available through a Council loan. The proposal also has the full support of Netball Victoria.

The Netball Club request is for an interest free loan of \$10,000 which would be repayable by instalments of approximately \$2,000 on the first of July on each of the next five years (2007 - 2011).

The Netball Club currently share a hard court with the Tangambalanga Tennis Club. Following an inspection by Netball Victoria last year, the court was deemed unplayable for netball due to:

- the lack of the appropriate run-off distance of 3.05m around the court,

- major cracking and damage in the netball court area from the tennis posts,
- trip hazards along the longitudinal and latitudinal expansion joints in the concrete surface,
- trip hazards at the northern end of the court,
- lifting of the plexipave surface due to water seeping up through the concrete base

The cost of addressing these issues and spatial constraints with the existing court site have made the option of relocating the most preferred option by the netball club and all other users.

ISSUES

Council has assisted clubs in the past through the grants process with interest free loans. These have usually been kept at around \$3,000.

Council at its meeting on 6 February 2007 approved a similar request by Rutherglen Golf Club for \$9000.

The Kiewa Sandy Creek Netball Club has a strong documented history of raising substantial funds for projects and have indicated that the repayment rate of approximately \$2,000 per annum is well within their means. Over the past few years, the Club has contributed \$4,000 to changeroom upgrades, \$3,500 for a courtside shelter and have purchased \$4,780 towards uniforms and have still managed to retain over \$10,000 in reserves.

The question for Council is whether Council would provide an interest free loan or require the Club to pay interest at a nominal rate (eg 3%) or at Council's current borrowing rate (approximately 6%) or at overdraft interest rates (currently 13%) as Council would be providing these funds out of overdraft facilities. It is suggested that the Council would provide a loan of \$10,000 at Council's current borrowing rate (6%) provided that appropriate security is provided to guarantee repayment.

COUNCIL POLICY

The only Council policy applicable to this is that the Council does provide the community grants scheme as well as past occurrences of providing loans for sporting organisations.

FINANCIAL IMPLICATIONS

Council obviously has not budgeted for providing this loan to the Club and it would therefore impact on Council's current bank balance. However, Council normally assists various sporting organisations through its budget processes.

14.2 HEALTH & WELL BEING PROJECTS – PROGRESS REPORT – MARCH 2007

PROJECT	ACTION/ PROGRESS
Drought Recovery Grants	<p>A small grant program has been established to provide assistance to community groups and organisations to conduct social activities that can have a positive impact on the social and emotional wellbeing of our local communities.</p> <p>Grants are capped at \$300 per application. Applications close on 13 March 2007 and will be assessed by a working group of the Indigo Shire Drought Strategy Committee on 15 March 2007.</p> <p>The assessment of the grants will give consideration to ensuring a spread of activities across the shire over an extended period of time.</p>
Indigo Shire Municipal Recreation Plan	<p>The community consultation component of the Recreation Plan has continued throughout January and February. As a result, an Issues Paper and a summary of the Residents Survey will be compiled in early March for feedback from Council and the community. It is anticipated that the first Draft of the Plan will be completed by late March.</p>
Country Football & Netball Program	<p>Following the successful funding announcements through the Country Football & Netball Program late last year, the following projects will be commenced throughout March and April this year:</p> <ul style="list-style-type: none"> • Rutherglen netball court lighting installation • Rutherglen netball court upgrade and resurfacing • Wahgunyah netball court reconstruction • Chiltern netball court reconstruction and installation of irrigation • Butson Park clubroom upgrades <p>It is anticipated, dependant on weather conditions, that all the netball court projects will be completed in time for the commencement of the 2007 netball season in April.</p>
Baarmutha Park	<p>Baarmutha Park Netball courts did not receive funding for renewal. However, repairs will be carried out to ensure they are safe for play in 2007.</p>

Yackandandah Sports Park Masterplan	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 April 2007.
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15.0 CORPORATE SERVICES

15.1 INSTRUMENT OF DELEGATION – SUSAN ROSEMARY CHEETHAM – MANAGER ENVIRONMENT AND DEVELOPMENT SERVICES (FILE NO: M250 - CSM)

RECOMMENDATION

That:

- 1. Council appoint Susan Rosemary Cheetham as an authorised officer pursuant to Section 224 of the Local Government Act 1989.**
- 2. The instrument of Appointment and Certificate of Appointment be signed by the Chief Executive Officer under delegated power.**
- 3. The Instrument of Delegation be signed and sealed by Council.**

SUMMARY

This report recommends that Council authorise Susan Cheetham as an Authorised Officer of Council under Section 224 of the Local Government Act 1989.

BACKGROUND

It is necessary to authorise Susan Cheetham pursuant to Section 224 of the Local Government Act so that she may enforce matters in various Acts, Regulations and Local Laws in her role as Environment and Development Services Manager.

Attachment

15.2 INSTRUMENT OF DELEGATION – CLIVE JOHN WALKER – OPERATIONS MANAGER (ACTING) (FILE NO: M250 - CSM)

RECOMMENDATION

That:

- 1. Council appoint Clive John Walker as an authorised officer pursuant to Section 224 of the Local Government Act 1989.**

- 2. The instrument of Appointment and Certificate of Appointment be signed by the Chief Executive Officer under delegated power.**

- 3. The Instrument of Delegation be signed and sealed by Council.**

SUMMARY

This report recommends that Council authorise Clive Walker as an Authorised Officer of Council under Section 224 of the Local Government Act 1989.

BACKGROUND

It is necessary to authorise Clive Walker pursuant to Section 224 of the Local Government Act so that he may enforce matters in various Acts, Regulations and Local Laws in his role as Operations Manager (Acting). It is also recommended that he be given authority pursuant to the Planning and Environment Act and associated regulations, so that he may deputise for Susan Cheetham for periods when she is on leave.

Attachment

15.3 INSTRUMENT OF DELEGATION – PHILLIP PRIOR – ASSETS MANAGER (FILE NO: M250 - CSM)

RECOMMENDATION

That:

- 1. Council appoint Phillip Prior as an authorised officer pursuant to Section 224 of the Local Government Act 1989.**

- 2. The instrument of Appointment and Certificate of Appointment be signed by the Chief Executive Officer under delegated power.**

- 3. The Instrument of Delegation be signed and sealed by Council.**

SUMMARY

This report recommends that Council authorise Phillip Prior as an Authorised Officer of Council under Section 224 of the Local Government Act 1989.

Local Law No 5	working through the document with a view to presenting a report to the April meeting of Council
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16.0 FINANCE

16.1 JANUARY 2007 FINANCE REPORT – (FILE NO: M064 – CFO)

For Information

BACKGROUND

Attached are the financial reports from 1 July 06 – 31 January 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.

SUMMARY

Profit and Loss Statement (A.1)

YTD Actual v YTD Budget

Council is reporting a surplus of \$2.7 million against a budgeted surplus of \$2.3 million. This represents a favourable variance of \$426,000 or 18%.

Departmental Profit & Loss Statement (A.2)

YTD Actual v YTD Budget

The operating revenue and expenditure report by department shows a favourable variance of \$625,254 or 40%. The majority of this variance \$283K is in the Assets department due to a high level of developer contributions being received (\$185K) for a number of new subdivisions. There is also higher than expected internal plant hire income of \$68K, which is offset by higher plant hire expenses in the Civil Operations department. The favourable variance of \$102,977 shown in the Environment and Development unit relates to the timing of expenditure and receipt of income only.

The Tourism and Economic Development Department continues to perform poorly in relation to budget with an unfavourable expenditure variance of \$50,620 to the end of January 2007. Income levels are down by \$22,480.

The Council Plan	The revision of the Plan and any additions to actions and projects will be provided to Councillors in April.
The Council Budget	Actions have commenced for preparation of the 2007/08 Budget. Suggestions for capital Works List are being received and will be reported to Council in April.
Communications Plan	The “Community Engagement Policy” and Implementation Manual were adopted at the November meeting and is now being utilised.
Community Forums	A Forum was held at Beechworth on 27 th February. The next forum is at Tangambalanga on 27 th of March at the Community Centre.
Media & Communications Officer	Excellent media coverage has occurred on many issues including a humorous story on Prime TV on the Bunya Nuts.
Management Structure	Council has considered a draft of improvements to Council’s management structure as a lead up to budget preparation and required staffing.
Operations Manager	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.
Municipal Offices Project	This project is proceeding well with a first report expected to Council in early April on various options and other issues.
Web Site Redevelopment	The updated Web site is about to go live. We expect some minor initial problems, which always occur with this type of technology.
Murray to the Mountains Rail Trail	A meeting was held last week to inform supporters of the Wahgunyah – Rutherglen section of progress to date. A small construction advisory Ctee has been formed to assist with the design.
Baarmutha Park Master planning	A concept plan has been completed to aid further discussions in regard to the BLTC relocating to BP. This needs to be discussed with the Golf Club in the first instance.
Rural Councils Victoria	The CEO has attended two meetings of the Steering Ctee. Progress has been made on identifying the projects that the Ctee will concentrate on.

18.0 NOTICE OF MOTION

19.0 COMMITTEE AND DELEGATES REPORTS**19.1 FEBRUARY DIARY - CR P GRAHAM**

Date	Time	Function
5 Feb	1.00 pm	AGM Rutherglen Historical Society
	5.30 pm	Volunteers thank you barbecue, Wahgunyah Progress Asscn
6	9.00 am	Meet with CEO re Minister Brumby visit
	1.45 pm	Meet with Minister Brumby, Wangaratta
	3.00 pm	Council Briefing Meeting, Chiltern
	7.00 pm	Ordinary Meeting of Council, Chiltern
8	9.00 am	AGM NevRWaste, Wangaratta
	7.00 pm	Rutherglen Wine Region Tourism dinner, Rutherglen
9	1.00 pm	ICLEI Workshop, Wangaratta
12	9.00 am	RWE Board Meeting
	1.30 pm	Beechworth Office
	4.00 pm	Debrief meeting, Australia Day Rutherglen
14	5.00 pm	Councillors meeting at Yackandandah
	5.30 pm	Customer Service Training for Councillors, Yackandandah
15	10.30 am	CWA North East Group Conference, Beechworth
	12.30 pm	North East Road Safe Committee, Wangaratta
	5.30 pm	Politicians footrace, Festival of Sport, Wodonga
16	11.00 am	Presentation Gooramadda CFA
	12.30 pm	NevRWaste, Wangaratta
	7.00 pm	Rutherglen RSL 90 th Anniversary
	10.00 am	Re-opening Yackandandah Butchery
17	5.30 pm	Vietnam Veterans' dinner, Beechworth
	9.30 am	Meeting with ratepayer, Rutherglen RTC
19	10.30 am	Meeting at RWE re visitor services
	12 noon	Beechworth Office
	1.30 pm	Disability Advisory Committee Meeting, Chiltern
	4.30 pm	Meeting with Lake Sambell CoM, Beechworth
	6.00 pm	Rutherglen-Wahgunyah CAC, Rutherglen
	9.00 am	Administration NevRWaste, Wangaratta
	11.30 am	Meeting with CEO, Beechworth
20	1.30 pm	Beechworth Office
	4.00 pm	Council Briefing Meeting, Yackandandah
	7.30 pm	Heavy Vehicle Traffic Deviation Meeting, Rutherglen
22	9.00 am	Book presentation, Beechworth Primary School
	7.00 pm	Planning focus meeting, Yackandandah
27	11.30 am	Meeting with CEO, Beechworth
	12 noon	Meeting with Broadband/Telstra, Beechworth
	4.00 pm	Council Briefing Meeting, Beechworth
	7.00 pm	Community Forum, Beechworth
28	3.00 pm	Waste Wise presentation, St Mary's Rutherglen

Cr Peter Graham OAM

6 March 2007

19.2 FEBRUARY DIARY - CR BANKS

Date	Time	Function
5 Feb	11.00 am	Attend Sullivans re planning application
6	4.00 pm	Council Briefing meeting, Chiltern
	7.00 pm	Ordinary meeting of Council, Chiltern
8	6.30 pm	Beechworth RSL AGM
14	5.00 pm	Meeting of Councillors, Yackandandah
	5.30 pm	Customer Service Training, Yackandandah
19	7.30 pm	Baarmutha Park CoM Meeting
20	4.00 pm	Council Briefing Meeting, Yackandandah
	7.30 pm	Rural Planning Meeting, Chiltern Bowls Club
21	7.30 pm	Beechworth Chamber of Commerce meeting
22	4.00 pm	Caravan park operators meeting re blackwater pump at Baarmutha
27	4.00 pm	Site inspection Allison planning application, Woolshed
	4.30 pm	Council Briefing Meeting, Beechworth
	7.00 pm	Community Forum, Beechworth
28	6.30 pm	Rutherglen Rotary, small town revitalisation

Cr Andrew Banks

6 March 2007

19.3 FEBRUARY DIARY - CR WALSH

Date	Time	Function
1	7.30 pm	Corowa Rutherglen Community Health Support Group, Corowa
5	1.30 pm	Rutherglen Historical Society AGM
6	4.00 pm	Council Briefing Meeting, Chiltern
	7.00 pm	Ordinary Meeting of Council. Chiltern
12	7.00 pm	Yackandandah/Kiewa/Tangambalanga CAC, Tangambalanga
19	1.00 pm	Climate Change Protection Workshop, Wangaratta
14	5.00 pm	Meeting of Councillors, Wangaratta
	5.30 pm	Customer Service Training, Wangaratta
15	7.30 pm	Opening Wahgunyah Rowing Club marquee (Shire sponsor)
16	6.30 pm	Rutherglen RSL 90 th Anniversary Dinner
17		Guest reader, Summer of Reading, Rutherglen Library
19	5.30 pm	Rutherglen/Wahgunyah CAC, Rutherglen
20	4.00 pm	Council Briefing Meeting, Yackandandah
27	10.30 am	Upper Murray Regional Library Meeting, Wodonga
	4.00 pm	Council Briefing Meeting, Beechworth
	7.00 pm	Community Forum, Beechworth
28		Meeting with district farmers, Rutherglen Seniors Rooms

Cr Frances Walsh

6 March 2006

19.4 EAST TIMOR FRIENDSHIP AGREEMENT (FILE NO: M005 - CR WALSH)

For Information

Dr Wendy Connor has forwarded on this letter of introduction from the Friendship Committee on Atauro Island, sent to her as that was the only address the committee had. The email had taken quite some time to reach Dr Connor and would have been quite hard work for the committee to put together.

The Committee sends what I would call progress report on its activities to date.

“Hi... Dr Wendy nice to meet you again. How is your family, I hope they all fine at this time.

We were very happy that you visited us in Atauro last month. Since that time we have been making an explanation to the community of Atauro Island by leaders about the Committee and about the relationship between Atauro and Indigo. In our mission since you left we have tried hard to do as well as possible. And then we would like to explain about the activities which are running at present. We would like to inform you what we the committee is doing now:

- Data collection from each village (statistics)
- Introduction to leaders about the friendship
- Socialization of this committee through the leaders to the community in each village

- **English course for the public**

For English course we are going to start in January 2007. Initially we are going to start in two villages - Vila and Biqueli Villages.

Materials needed for English Courses

No	Item	Unit	Total
1.	White Board	2	2
2.	White Board Markers	8 boxes	2
3.	Papers	8 ream	8
4.	Pens	4 boxes	4

- **Health (Malnutrition)**

For malnutrition we have discussed this matter with clinic administrator Mr. Lucas. He said that we have no real information about children’s malnutrition in Atauro, because we did not had a real survey about that.

We (Committee) suggest that we need to work together to make a survey about children’s malnutrition.

Children Information Form – Total Number in Each Village

No	Villages	Ages and Sex																							
		0		1		2		3		4		5		6		7		8		9		10		Total	
		F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M
1	Vila	3	5	10	4	2	5	4	5	1	3	2	4	1	4	1	1	3	3	1	-	3	1	31	35
66																									
2	Beloi	11	14	25	8	23	14	14	20	19	13	32	18	19	14	12	14	11	14	13	18	13	23	193	168
361																									
3	Bikeli	28																							

• **Education (Schools friendship)**

We need discuss this matter together about how to help student to make friendship by letter and sustainable.

• **School**

For schools we are still in the process of making a survey about the condition of school buildings and the need for books and equipment.

Atauro Island - General Information

Atauro Island is 150 sq km. The distance from Atauro to Dili is 30 km which is travelled by boat. There is a larger ferry once a week. Atauro Island has 5 villages and 19 Sub Villages. Atauro Island has two distinct seasons a dry season and rainy season. Rainy season goes for a maximum 4 months and dry season for 8 months. For more information about the total population please see the form under below.

No	Village	Resources	Nos. of house-holds	Sex		Total
				Male	Female	
1	Maquili Has 4 Sub-Village	<ul style="list-style-type: none"> • Calehura spring (water) • Eblia spring • Tulai spring • 1 kindergarten • 1 primary school • 2 churches (Catholic and Protestant) • hot spring • sacred mountain (Manucoco) • traditional culture • traditional crafts • traditional houses • village office • 1 market place 	389	996	995	1991

2	Macadade has 4 sub villages	<ul style="list-style-type: none"> 1 kindergarten 1 community school 2 primary schools • 7 springs • water fall • 6 church buildings • 1 market place • 2 clinics • forests • village office • traditional culture • traditional houses • tourist cabin Ilitimur 	400	944	1041	1985
3	Beloi has 4 sub villages	<ul style="list-style-type: none"> • 3 primary schools • 1 anchorage / jetty • 1 clinic • traditional culture • 1 kindergarten • 6 church buildings (protestant) • village office • 1 tourist accommodation • 1 market place • tourism potential –beach and reef • tourist cabins Adara 	317	669	679	1348
No	Village	Resources	Nos. of house- holds	Sex		Total
				Male	Female	
4	Biqueli has 4 sub villages	<ul style="list-style-type: none"> • 7 church buildings • (protestant) • 3 kindergartens • 3 primary schools • tourism potential – beach and reef • 2 hot springs • 1 clinic • 1 Local NGO Fundacao Siao • village office • traditional culture 	515	1115	1059	2174
5	Vila Maumeta has 3 sub villages	<ul style="list-style-type: none"> • 1 clinic (central clinic) • 1 primary school • village office • traditional culture • Sub-District Office • Sub-District warehouse • Government residence 	262	716	668	1384

		<ul style="list-style-type: none"> • Sub-District meeting room • Power – electricity generator • NGO Roman Luan • Library • 2 churches Protestant and Catholic • 1 small hotel • 1 police station • Old Indonesian police station • 1 market place • 1 Eco-village • 1 junior secondary school • 1 senior secondary school • teachers house 				
Total :			1883	4440	4442	8882

Atauro & Indigo Friendship Commission

Rua : Vila – Maumeta

Email: Fransiosoares@yahoo.com

The presence of Mr. Abel Gutres Consulate of Timor Leste to Australia, and Dr Wendy Connor from Indigo Shire (Australia) on 1st October 2006 in Atauro Sub-District has produced a great motivation to establish a committee that’s called “INDIGO AND ATAURO FRIENDSHIP COMMISSION”.

This Committee was established through the following process:

1. The members represent each village
2. The leadership positions were selected through Curriculum Vitae (CV)
3. Interviews were conducted in English

The interviews were conducted by Dr Wendy Connor (Australia) and Antonio an Atauro citizen. After the interviews the results were given and witnessed by head of Atauro Sub-District Administrator, Mr. Bonifacio Soares. The position are as below

1. Osaias Soares (Director)
2. Herculano Granadeiro (Deputy Director)
3. Antonio Ximenes (Administrator)
4. Meriam Soares (Accounting 1)
5. Amelia (Accounting 2)
6. Pedro Ximenes (Field Staff)
7. Joao Cireneu (Field Staff)
8. Thomas Soares (Field Staff)

At the end of the interviews and announcement of positions the Sub-District Administrator of Atauro legalized and gave his support to this Committee to run and

develop various plans for serving the community.

Even though this committee has various plans to serve the community the committee faces a lot of problems everyday such as lack of facilities and office equipment that can facilitate the committee's work.

As soon as the Committee was formed the Sub-District Administrator of Atauro provided us with an unused building which has a small room, with size 2.50 x 3 m in the centre of Vila to use as our office.

We look forward to developing our friendship and working together. Thank you for this opportunity to work together for the Atauro community.

Yours sincerely,
Osaias Soares"

20.0 GENERAL BUSINESS

21.0 CONFIDENTIAL