

Mission Statement:

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

HELD: Tuesday 11th August, 2009 at 1500
LOCATION: Community Centre, Tangambalanga

ATTENDEES:

<u>Councillors:</u>	<u>Senior Management/Officers</u>
Peter Graham – Mayor	Brendan McGrath – CEO
Bernard Gaffney – Deputy Mayor	Andre M Kompler
Peter Croucher	Mark Crouch
Larry Goldsworthy	Mark Florence
Vic Issell	David Montgomery
Barbara Murdoch	Roberta Baker
Ali Pockley	Frank Bonacci
	Stuart Perry

APOLOGIES: Nil.

Vision statement:

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

1.0 WELCOME

Cr Graham welcomed those in attendance.

2.0 OPENING PRAYER

Cr Murdoch read the Opening Prayer.

3.0 APOLOGIES AND LEAVE OF ABSENCE

Nil

4.0 DECLARATION OF PECUNIARY INTEREST AND CONFLICT OF INTEREST

Nil

5.0 OPEN FORUM

Wyatt Snell (Junior Councillor) provided a further update on raising for funds for the wombat enclosure.

6.0 CONDOLENCES

Cr Issell expressed condolences and sympathies for the family of Hon John Harber Phillips AC.

Moved Cr Issell

Seconded Cr Pockley

That a letter, under the seal of Council, of sympathy be written to the family of Hon John Harber Phillips AC.

CARRIED

7.0 CONFIRMATION OF MINUTES FROM PREVIOUS MEETING - 140709

Moved Cr Croucher

Seconded Cr Pockley

That the Minutes of the Ordinary Council Meeting held 14th July 2009 be adopted.

CARRIED

8.0 BUSINESS ARISING FROM PREVIOUS MINUTES



Nil

9.0 DEPUTATIONS AND PETITIONS

Nil

10.0 SUSTAINABLE COMMUNITIES

10.1 INDIGO PLANNING SCHEME AMENDMENT C44

File No: E1240.44 - Kath Oswald - Assistant Town Planner

For Decision

RECOMMENDATION

That Council resolve to approve the Amendment in order for it to be forwarded to the Minister for Planning to be finalised.

Moved Cr Pockley

Seconded Cr Murdoch

That Council approve the Amendment in order for it to be forwarded to the Minister for Planning to be finalised.

CARRIED

INTRODUCTION

Two requests were received to rezone parcels of land at Back Creek Road, Yackandandah - Crown Allotment 30H, , and adjacent road reserve from Public Use Zone 7 (PUZ7) to Industrial 1 Zone (IN1Z). Buckland Gap Road, Beechworth - Crown Allotment 2056 (formerly Crown Allotment 23A Section A6) from Public Conservation and Resource Zone (PCRZ) to Farming Zone (FZ) currently zoned for public purposes to facilitate sale to adjoining owners. The Department of Sustainability and Environment gave their initial consent to the amendment. The amendment was exhibited in October and November 2008, and no submissions were received. The amendment has been adopted by Council, and certified by the Secretary of the Department of Planning and Community Development.

BACKGROUND

This matter was last reported to Council on April 4, 2009, when Council resolved to adopt the amendment. The first request to rezone Crown Land, which will be referred to as 'Gilbert', involves the former sawmill site on Back Creek Road, Yackandandah. At present, the former sawmill buildings are located partly on a road reserve, and partly on land zoned Public Use Zone (PUZ7) (see Attachment A), which is a public use zone with an unspecified use, defined in the Planning Scheme as 'other public use'. The former sawmill site is presently under lease from DSE, and is being used for the purpose of an art and craft centre by a local sculptor.

This part of the amendment would only involve the rezoning of the land zoned PUZ7 to Industrial 1 Zone (IN1Z), as the road reserve is presently zoned IN1Z. The road reserve will be closed under Section 10, Clause 3 of the Local Government Act to facilitate sale to the present lessee. The existing zoning of the subject site is shown in Figure 1 below, while the proposed new zoning is shown in Figure 2.

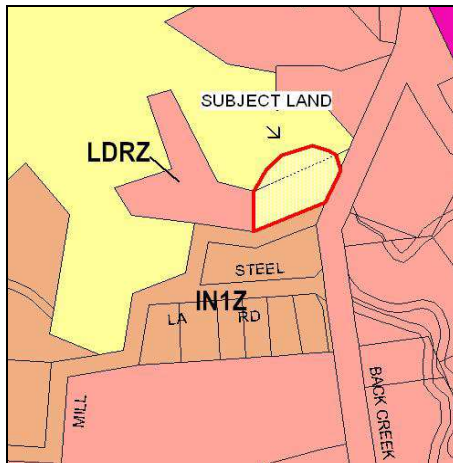


Figure 1: Existing Zoning (Gilbert)

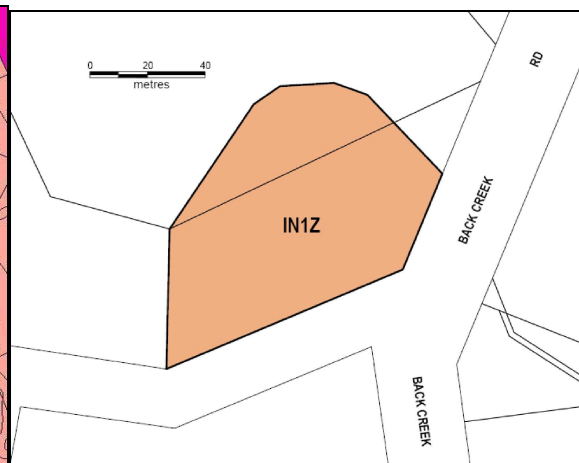


Figure 2: Proposed Zoning (Gilbert)

The second request for rezoning of Crown Land, which will be referred to as 'Pund', is located on Buckland Gap Road, Beechworth, and involves a parcel of land known as Crown Allotment 2056, Parish of Beechworth, which has an area of approximately 2.27ha. The land's present Public Conservation and Resource Zone (PCRZ) zoning reflects its position adjacent to the heavily vegetated Beechworth Park (see Attachment B), but the land itself is largely cleared of vegetation. DSE has agreed to sell this parcel of land to an adjoining landowner, conditional on it being rezoned to Farming Zone (FZ). It is also anticipated that this parcel will be required to be consolidated with the purchaser's existing holding, so as not to create an additional small lot in the FZ. Aerial photographs of the subject parcels of land can be found at **Attachment A**.

The existing zoning of the Pund site is shown in Figure 3 below, while the proposed new zoning is shown in Figure 4.

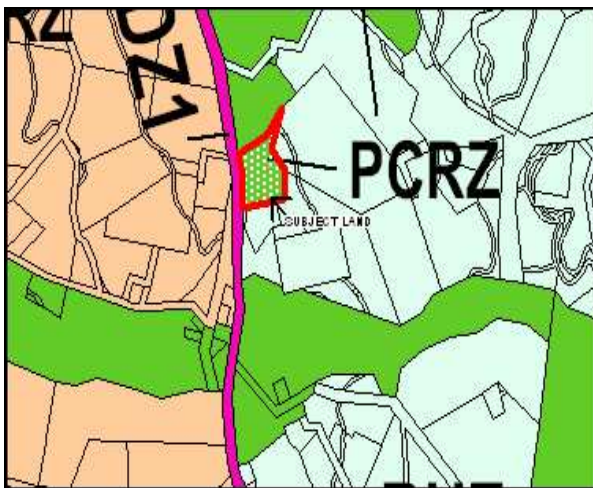


Figure 3: Existing zoning (Pund)

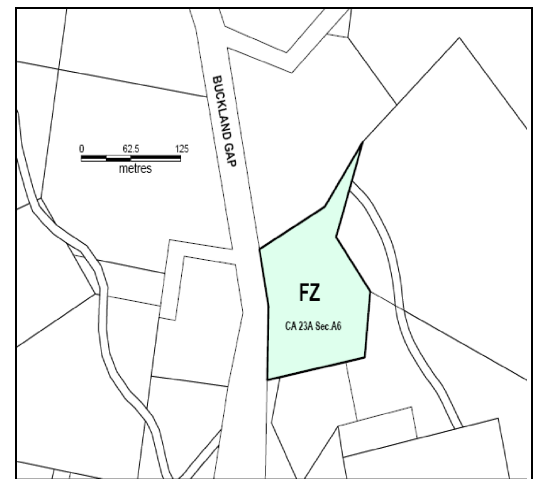


Figure 4: Proposed zoning (Pund)

KEY IMPLICATIONS

There will be no implications for Council as a result of the Amendment

CONCLUSION

As part of Authorisation A001038, Council is authorized by the Department of Planning and Community Development (DPCD) to approve the amendment, once certified by the Secretary of DPCD. Certification was received June 9, 2009.

10.2 PLANNING APPLICATION PP09-0014 BLUEPRINT PLANNING ON BEHALF OF BARNAWARTHA TYRE CENTRE, 51-53 HIGH STREET BARNAWARTHA

File No: PP09-0014 - Francois Theron - Senior Town Planner

For Decision

RECOMMENDATION

That Council refuse Planning Application PP 09-0014 to use Crown Allotment 8 Section 3 Township of Barnawartha, 51-53 High Street Barnawartha, for the purposes of a service industry (tyre services and repair) for the following reasons:

1. The proposal is inconsistent with the State and Local Planning Policy Framework;
2. The proposal is inconsistent with the Municipal Strategic Statement for Barnawartha (Clause 21.04-1-6);
3. The proposal if approved would set an undesirable precedent in the area leading to uncoordinated development in the area; and
4. 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.

OR

ALTERNATE RECOMMENDATION

That a Notice of Decision to Grant a Planning Permit be issued subject to conditions included in the Appendix.

**Moved Cr Goldsworthy
Seconded Cr Gaffney**

That a Notice of Decision to Grant a Planning Permit be issued subject to conditions included in the Appendix titled "Attachment C Conditions in relation to Planning Application PP090014.

Pending deletion of:

- Item 1 – point (vii)**
- Item 3 – point (ii)**
- Item 4, 5, 6, 8, 9, 11 in their entirety**

Pending amendment of:

Item 3 – point 3 to be replaced with:

"The motor repairs tyre centre operations are to be confined to the current shed and driveway, the storage of used tyres is not to exceed 200 tyres on the entirety of premises."

CARRIED

Cr Graham requested that that his motion against this recommendation be recorded.

INTRODUCTION

Application No: PP09-0014
 Applicant: Indigo Shire Council
 Subject Land: Crown Allotment 8 Section 3 Township of Barnawartha, 51-53 High Street, Barnawartha
 Proposal: Retrospective approval for the part use of 51-53 High Street, Barnawartha for the purpose of service industry (tyre services and repairs)
 Current Use: The subject site is used for residential purposes and for the operation of a service industry (tyre service and repairs)
 Date application lodged: 23 January 2009

PROPOSAL

The applicant seeks a retrospective approval for the partial use of 51-55 High Street, Barnawartha for the purpose of a service industry (tyre service and repairs).

SITE DESCRIPTION

The subject site is located approximately 300 metres to the east of the commercial centre of Barnawartha along High Street. The subject site is approximately 1.770 square metres in size. The subject site is developed and includes a dwelling located towards the front of the site, on the eastern boundary. The tyre centre operates from a shed located in the north western corner of the site. Along High Street the site slopes down from the eastern to the western boundary. The site also slopes down from the existing house towards High Street and has good views to the south and south west. The rear portion of the site from the house towards the back fence is relatively flat. A number of European deciduous trees are located between the dwelling and the shed. Good access to the subject site is obtained via High Street.

The surrounding area depicts a typical small town residential character with single dwellings varied in style and age on quite large sites.

All available services are connected to the site.

ZONING AND PLANNING CONTROLS

Zoning: Township Zone
 Overlay/s: The south western corner of the subject site is covered by a Land Subject to Inundation Overlay.
 Permit Trigger: Clause 32.05-1 of the Indigo Planning Scheme defines the use as a “service industry” which is included in the definition of “industry” listed as a Section Two use in the Township Zone.

Planning controls in the Indigo Planning Scheme relevant to the assessment of the application are included the State Planning Policy Framework, the Local Policy Planning Framework, the Municipal Strategic Statement and Local Planning Policies.

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

15.04 Air Quality

15.05 Noise Abatement

15.12 Energy efficiency

Economic Development

17.03 Industry

Infrastructure

18.02 Car parking and public transport access to development

18.09 Water supply, sewerage and drainage

LOCAL PLANNING POLICY FRAMEWORK

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

Municipal Strategic Statement

Settlement & Infrastructure

Economy

Environment

21.01-3 Settlement and infrastructure

21.03-1 Vision and strategic framework

21.03-2 Corporate Plan

21.04-1-6 Barnawartha

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

- (1) Before deciding on an application, the responsible authority must consider:
 - (a) the relevant planning scheme; and
 - (b) the objectives of planning in Victoria; and
 - (c) all objections and other submissions which it has received and which have not been withdrawn.
- (1A) Before deciding on an application, the responsible authority, if the circumstances appear to so require, may consider:
 - (a) any significant social and economic effects of the use or development for which the application is made; and
 - (b) any other strategic plan, policy statement, code or guideline which has been adopted by a Minister, government department, public authority or municipal council; and
 - (c) any amendment to the planning scheme which has been adopted by a planning

- authority but not, as at the date on which the application is considered, approved by the Minister or a planning authority; and ...
- (j) any other relevant matter.

These requirements have been addressed through the assessment as set out in this document.

REFERRAL AUTHORITIES

The application was not referred to any referral authority. Consideration was given to services which are currently connected to the site and the scale of the proposed operation.

A relatively small portion of the south western corner of the subject site just off High Street is covered by a Land Subject to Inundation Overlay. The existing shed is located to the rear of the property and is therefore not affected by this overlay. For this reason the application was not referred to North East Catchment Authority.

PUBLIC NOTICE

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

One submission was received as a result of the public notification process. The objection is summarised as follows:

- The proposed development will have a negative impact on the amenity of the surrounding area.
- The approval of a commercial enterprise on the subject site could set a precedent for further commercial development in the area.

A focus meeting was proposed but did not eventuate as the objector advised that she did not believe that it would achieve anything.

Subsequent to the above process, Council received a petition containing approximately 240 signatures. The petition did not specifically relate to the proposed tyre centre but to Council's proposal to modify/change zonings in Barnawartha (Amendment C24). It is suggested that this will restrict commercial activities. Amendment C24 proposes (amongst other matters) to rezone the central commercial area of Barnawartha from Township Zone to Business 1 Zone and the balance of the area zoned Township to Residential 1 zone. A separate report dealing with these issues will be submitted to Council for consideration. It is noted that the Amendment C24 proposal does not mean that a significant number of businesses will not be able to continue to operate. The situation of this site is different to others on High Street in Barnawartha in that the use was established without the necessary approval.

CONSIDERING THE MERITS OF THE APPLICATION

The existing Barnawartha Tyre Centre is currently operated on a small scale and provides a service to the community of Barnawartha. The topography of the subject site is unique in that the site rises quite steeply from High Street towards the middle of the site from where it levels out to form a relative flat area towards the back. As a result of the topography of the site and the relatively large trees located between the house and the shed, the shed is not the dominant structure on the site and becomes less visible from High Street.

Notwithstanding the above the area displays a typical residential character with predominantly

single dwellings located on relatively large lots. The area has an “open feel” to it and residents experience a high degree of amenity due the absence of noise and the spacious character of the area.

The two critical questions that need to be answered in this case are whether the proposed use will negatively impact on the amenity of the area and whether the establishing of a commercial activity on the subject site conforms to the strategic intent of the development of Barnawartha.

The use is currently operated on a small portion of the site that does not negatively impact on the amenity of the neighbourhood and due to the unique features of the site it is out of the public eye. Although this might be the case now, the use could escalate once a permit for the use is approved. The applicant in his submission argued that the amenity of the neighbourhood can be protected by including relevant permit conditions that will protect the amenity of the area. The flaws in this argument are that the location of this use within a residential area is not appropriate and that in reality once a permit is issued and the applicant does not comply with the permit conditions it becomes a very hard and usually drawn out process to ensure compliance.

The counter argument to this would be to direct future commercial development to an area set aside for this purpose and in doing so contribute to the orderly planning of the area. The Township Zone allows for residential development and a range of commercial, industrial and other land uses in small towns and also encourages residential development that respects the neighbourhood character. In summary it can be argued that although the use currently does not have a major impact on the amenity and character of the neighbourhood if it escalates it could have a major impact on the character and amenity.

Noise was not specifically mentioned in the objector’s submission as an issue, but a tyre repair service does have the potential to generate noise levels that would not be consistent with level of noise generated normally in a residential area and therefore would have a negative impact on the amenity of the area.

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:

In *McGill v Campaspe SC* [1999] VCAT 1636 (30 September 1999), Member Jennifer A. Moles commented as follows on the issue of amenity in a Township Zone:

I have considered the submissions and evidence and have formed the view that the permit should be refused. I recognise that the Township Zone adopted in this locality is one commonly applied in small country towns where a mix of land uses occur throughout the urban area. I acknowledge also that the zone specifically identifies non-residential uses as appropriate. However, it is also clear that consideration needs to be given to the nature of the particular part of the Township Zone. Further consideration needs to be given to the particular use and development proposed. Thus, the question to be determined is, whether the use is one which is compatible with other uses in the particular area Where it is not, the policies of the scheme encouraging separation of incompatible uses come into play.



40. *In the case of the subject use, I am not persuaded that it could operate without adversely affecting the amenity of surrounding residential properties. Those properties form part of an established residential area: it is an uninterrupted residential area - one adjacent to schools and parkland, incorporating special accommodation for the elderly, and with access to commercial facilities. I believe the proposed use would principally erode the amenity of that area in terms of the noise disturbance to residential properties by trucks moving to and from the subject land, particularly in the early hours of the morning. The objectors' properties would be largely shielded from site noise, it is acknowledged, by the McGill's own house. However, there are other residential properties opposite to the south-west, and no shielding would occur for any property once trucks moved onto the roadway. It is my belief that it would be contrary to orderly planning to introduce such a use offering a serious erosion of the amenity of that established residential area. I also believe that the use would be visually inappropriate one. While views from parkland and residential properties to the east might in time be shielded by vegetation, views into the site at the wide entry gate would inevitably remain.*

41. *I also share Mr Tweedie's safety concerns about the undesirability of locating what is essentially a "transport depot" opposite a school given that there is a gateway to the school on Torney Street. Also, while it was suggested that the trucks would be returning to the depot after school closing times, it was nevertheless Mr McGill's own evidence under cross-examination that the trucks sometimes return earlier. I think to establish potential road hazards by juxtaposing a use which involves the movement of trucks to and from a site and a school for young children would be contrary to orderly planning.*

42. *Further, I am of the view that if approved, the use would establish a poor precedent for other uses which would further erode the amenity of the area.*

CONCLUSION

The Indigo Planning Scheme under Clause 21.04-1-6 (Barnawartha) "Strategies" set out the strategies which Council should implement to ensure that future development of Barnawartha occurs in an orderly way and to further ensure that amenity and character of the township is not compromised due to unplanned decisions.

These strategies, amongst other strategies direct commercial development to areas around the existing commercial uses in the precinct of Havelock and High Street. Service industries are to be directed to the railway station area. The proposed development is not in either of the above mentioned precincts. If Council therefore approved the proposed use in its current location it would act contrary to its strategic intent for the long term development objectives of Barnawartha.

In considering this application on balance, the fact that the current use of the subject site does not

detrimentally impact on the neighbourhood character of the area it has the potential to do so, and the location of the subject site which is removed from the proposed commercial or service industry precinct does not conform to the long term strategic intent for the development of Barnawartha.

In terms of Amendment C24 the subject site is earmarked for future residential development which will prohibit the proposed use of the site for commercial purposes. Amendment C24 further re-emphasises the objectives set out under Clause 21.04-1-6 (Barnawartha) "Strategies", which direct commercial development to areas around the existing commercial uses in the precinct of Havelock and High Street and therefore appropriately proposes to re-zone this area from Township Zone to Business 1 Zone.

The proposal is considered inconsistent with the provisions of the Township Zone, the State Planning Policy Framework (Clause 14.01 Planning for Urban Settlement, Clause 15.05 Noise Abatement and Clause 17 Economic Development) and the Local Planning Policy Framework (Clause 21.04-1-6 Barnawartha)

Allowing a commercial use in a predominantly residential area could negatively impact on the amenities of the environment in terms of the emission of noise, vibrations, smells, dust, traffic generation, visual clutter and setting a precedent for future commercial development in a residential area, which will only add to above mentioned issues.

The location of the proposed use does not conform to the strategic intent as set out in Clause 21.04-1-6 (Barnawartha) and proposed Amendment C24, which recommends commercial development be located around the existing commercial uses in the precinct of Havelock and High Street.

The application is not supported.

In the event that Council resolves not to support its Officers recommendation, a draft list of conditions is attached which Council may elect to use in the event that the application is approved.

10.3 PLANNING APPLICATION, ROSALYN QUINN, LOT 1 TP 800827W, BALD HILL ROAD, BARNAWARTHA

File No: PP09-0015 - Francois Theron - Senior Town Planner

For Decision

RECOMMENDATION

That Council refuse Planning Application PP 09-0015 to use and develop Lot 1 TP 800827W Bald Hill Road, Barnawartha, for the purposes of a dwelling for the following reasons:

- 1. The proposal is inconsistent with the State and Local Planning Policy Frameworks;**
- 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 Rural Zone and will not increase production capacity;**
 - c) The proposal will not necessarily facilitate agricultural use of land;**
- 3. The proposal if approved would set an undesirable precedent in the area leading to the fragmentation of rural land;**
- 4. 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.**

OR

ALTERNATE RECOMMENDATION

That a Notice of Decision to Grant a Planning Permit be issued subject to conditions included in the Appendix.

Moved Cr Gaffney

Seconded Cr Issell

That a Notice of Decision to Grant a Planning Permit be issued subject to conditions included in the Appendix.

Pending:

Item 3 – that the last seven words be deleted “prior to the construction of the dwelling”.

CARRIED

INTRODUCTION

Application No:	PP-090015
Applicant:	Rosalyn Quinn
Subject Land:	Lot 1 TP 800827W Bald Hill Road, Barnawartha
Proposal:	To use and develop a dwelling and associated outbuildings
Date application lodged:	27 January 2009
Subject site land area:	13.79ha
Current use of subject site:	The site is currently used as a grazing paddock

BACKGROUND

Planning Permit 93-004 was issued for the construction of a dwelling on the subject site on 12 February 1993. Condition 8 of that permit states that the permit will expire 2 years from the date of approval. The permit was not acted on and expired on 12 February 1995. On 19 April 1995 the applicant (Mr L Oates) requested an amendment to the permit. A letter dated 4 December 1995 addressed to Mr Oates informed him that the permit had expired on 12 February 1995.

On 19 December 2007 the (current) applicant submitted an application to use and develop a building for a yoga retreat in the form of a single story building to be used by clients for exercise and relaxation. This application was refused by Council and the date of the refusal was 13 May 2008.

SITE DESCRIPTION

The subject site, Lot 1 TP 800827, is located on the corner of Bald Hill Road and Chiltern–Yackandandah Road, Barnawartha South, approximately 4.5 km south east of the township of Barnawartha. The site is 13.79 ha in area and is of a regular rectangular shape. Frontages to Chiltern–Yackandandah Road and Bald Hill Road measure 424m and 268m respectively. The site is currently vacant with significant vegetation limited to several ironbark trees located in the south-eastern corner of the subject site with similar specimens scattered irregularly along the southern and eastern boundaries. Typical vegetation over the balance of the site is short grasses. Topography of the site is flat with a slight fall towards the southeast. Surrounding land uses consist of rural grazing land with farm dwellings and sheds located intermittently. The closest dwelling is located on the adjoining property to the northeast, approximately 350m from the proposed site for development.

PROPOSAL

The proposal is to use and develop a single story dwelling and associated outbuildings.

ZONING AND PLANNING CONTROLS

- Zoning: Farming Zone
- Permit Trigger: Under the provisions of the Farming Zone a dwelling is a Section One use (no permit required) if the site is at least 40 ha. If the site is smaller than 40 ha the dwelling then becomes a Section Two use (planning permit required). In this case the subject site is 13.79ha, thus a planning permit is required.
- Overlay/s: No overlays apply to the subject land.

STATE PLANNING POLICY FRAMEWORK

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

Settlement

- 15.01 Environment
- 15.07 Protection from wildfire
- 15.09 Conservation of native flora and fauna
- 15.12 Energy efficiency
- 17.05 Agriculture

LOCAL PLANNING POLICY FRAMEWORK

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

Municipal Strategic Statement (MSS)

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

- 20.01 Operation of local Planning Policies
- 20.01-4 Economy
- 21.01-5 Environment
- 21.03 Vision

Local Planning Policies

- 22.02-2 Rural dwelling siting and design guidelines.
- 22.02-4 Tourism Development

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

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

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

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

These requirements have been addressed through the assessment set out in this document.

REFERRAL AUTHORITIES

REFERRAL IS NOT REQUIRED TO ANY AUTHORITY IN TERMS OF SECTION 55 OF THE PLANNING AND ENVIRONMENTAL ACT.

PUBLIC NOTICE/ADVERTISING

Section 52 of the Act specifies notice requirements for permit applications. Council gave notice of the application by mail to the owners and the occupiers of adjoining lots. No objections were received.

CONSIDERATION OF THE PLANNING MERITS OF THE PROPOSAL

The question that needs to be answered in this case is whether the proposed dwelling will be in keeping with the character of the surrounding area and whether the proposed use will be prejudicial to agricultural production and/or lead to the fragmentation of agriculture.

Developing a dwelling on the subject site will take a relative small portion of productive agricultural land out of production, which is not detrimental to the potential of the subject site (broadacre cropping and grazing) however, allowing a dwelling on the site will have a negative impact on the surrounding agriculture production capacity in that this will artificially increase the land values of the area beyond that of agricultural land, which will further put upward pressure on subdivision and development on small rural properties.

Attachment C provides a bird's eye view of the subject site in relation to surrounding properties

and specifically the sizes of surrounding properties. Some of the surrounding properties are smaller than 40 hectares, which means that if Council resolves to issue a permit for the subject site it will create a precedent in the area and an expectation to develop a house on these sites.

In this case Council should not just consider the potential for dwellings on the abutting properties, but should also consider the wider area containing lots of less than 40 hectares in size. The approval of one dwelling in the Farming Zone thus does not only have an impact on the immediate area but could have far-reaching effects for the whole area in general and the Farming zone in specific. Specifically Council needs to consider that as this land may be considered similar to much land in the municipality in that it is not of high agricultural value, the approval may be seen as a precedent to be used for HUNDREDS of additional houses in the Farming Zone that are not in accordance with the zone objectives.

In the case *Gippsland Coastal Board versus South Gippsland SC [2008] VCAT 1545 (29 July 2008)* the Tribunal concluded that:

It is not just the subdivision of land or the dispersal of large holdings into separate ownerships that result in the loss or fragmentation of productive agricultural land. When land is converted to rural living it is often likely to be lost to agriculture. As noted, it is common for vacant paddocks to be leased to farmers, which means they are kept in production even though in separate ownership. But construction of a dwelling means there is less likelihood that land not occupied by the curtilage of the dwelling will be separately leased or used for farming, especially when the lots are only 2-4 hectares as found in the Grip Road area.

We are not satisfied in any of these cases that the proposed dwellings are reasonably required for the operation of agricultural activity conducted on the land. Indeed, it was admitted by Mr Chisholm that approval of the dwellings would continue a trend of allowing for rural living lots in the area generally. In terms of the potential for the proposals to lead to a concentration or proliferation of dwellings in the area, he considered that "this particular area has probably passed the point of no return in regards to the change from rural to rural living."

The council too was of the view that fundamentally the Grip Road area is a rural residential area and submitted that the subject land is suitable for dwellings having regard to the lot size, rural residential character of the area and proximity to Toora. It suggested that any potential for the proposals to lead to a concentration or proliferation of dwellings in the area "is triggered by the underlying subdivision pattern, disparate ownership and established rural residential character, not the approval of any of these specific proposals per se."

We disagree with this assessment for several reasons. According to information supplied by the council there are 20 dwellings in the area, half along Grip Road, and three other permits for dwellings not yet constructed. If there are over 100 allotments in this immediate area, there is still less than a quarter that have been developed. We consider that the character of the area remains one of open farming land rather than a developed rural residential area. However, approval of an additional 6 dwellings would erode that character and begin to tip the balance. Moreover, if they were approved, it would be difficult to refuse further applications. We therefore consider that there is a strong potential for these proposals to lead to a proliferation of dwellings in the area, which will further detract from the use of land in the area for productive agriculture.

Despite the views or wishes of council and the permit applicants, the Grip Road area is not land zoned for rural living use or identified as suitable for this purpose in any policy or strategy. Quite the reverse. The land is in a Farming Zone. Introduction of the Farming Zone has made it tougher

to obtain permits for dwellings but this is not unintended.

Victoria's agricultural land is a valuable and finite resource that makes a significant contribution to the economy of this State and individual municipalities. Its significance is recognised in clause 17.05 of the SPPF. It needs to be retained. One of the purposes of the Farming Zone is to ensure that non- agricultural uses, particularly dwellings, do not adversely affect the use of land for agriculture. It is not a purpose of the zone to provide for residential use unrelated to agricultural uses, which is a reason why a dwelling on a lot less than 40 hectares requires a permit and must respond to the decision guidelines for dwellings in the zone. Undoubtedly, these stringent requirements may affect the value of land in a Farming Zone. This may have positive benefits for farmers seeking to expand their holdings and improve productivity but negative effects for the owners of small lots. Nevertheless, effect on value is not a reason for granting a permit when the purpose and decision guidelines of the zone are not met.

The applicant argues that the proposed use will not detract from the long-term agricultural capacity of land because the subject site is of medium agricultural productive capacity. It is noted that the applicant has now recognised that the land is classified as low agricultural productive capacity in a recent study. This statement must be evaluated in terms of the purpose of the Farming Zone, which is to protect and promote and also to preserve the rural character of farming areas. The character of the area surrounding the subject site can be described as mainly a rural character with large open tracts of farm land for sheep, cattle and horses. The sizes of the surrounding properties vary from approximately 8 ha to 150 ha and the average lot size of surrounding properties is approximately 30 ha.

The applicant submitted a Farm Management Plan that sets out how she intends to operate the property. The intention is to farm the property on a holistic principle incorporating a permaculture design scheme. An overview of the concept is provided but with very limited detail. The applicant also intends to revegetate approximately 10 hectares of the subject site to take advantage of the CarbonSmart scheme, whereby an income stream will be generated. The applicant also proposes to fatten two cows per year and establish a vegetable garden, orchard and fowl pen.

When considering applications such as this, Council should endeavour to determine whether the proposal is for a genuine agricultural pursuit or whether the submission of a Whole Farm Management Plan is just another strategy whereby the submission of such guarantees the issue of a planning permit for a dwelling on a small rural allotment. In its submission the applicant argues that the subject land is located in an area with an "average" agricultural rating. A report prepared by the Department of Primary Industries in 2002 (Agricultural Capacity for the NECMA) states that the agricultural potential of the area in which the subject site is located is classified as low due to the subject land not having good access to reliable water supplies which makes it difficult to establish improved pastures and reduces the land's agricultural capacity. Moderate grazing is currently the main agricultural activity in the locality.

The above argument is put forward to convince Council that the subject site is of little or no agricultural value and therefore a dwelling could be developed on the site. It is suggested that the logic of this argument is such that it would follow that a dwelling could be developed on any small rural allotment if the applicant can prove that the site is of limited agricultural potential. This would not make any sense, and would lead to an over development and fragmentation of rural areas. Such an outcome is clearly not inline with the objectives of the Farming Zone.

While the subject site is too small to be farmed, the property could be farmed in combination with a larger holding. In its current format the subject site does have some agricultural value, but as

soon as a dwelling is developed on the site the little agricultural value it has will disappear. Farmers will not buy a relatively small parcel of land containing a dwelling, at a highly inflated price, for agricultural purposes.

The above argument is actually contradictory to the Farm Management Plan submitted, which argues that a rural activity can be operated from the subject site which will justify a dwelling on the site. The Farm Management Plan submitted describes the rural enterprises the applicant intends to establish on the subject site. Although it all relates to agriculture the scale of these enterprises are very limited and describe nothing more than a “hobby” farm. The management input relating to the time required establishing and running these activities and the agricultural output this will generate are extremely limited. In terms of the provisions under the farming zone the applicant must demonstrate that the proposed agricultural activity will increase the level of management input to such a degree that a dwelling on the subject site is reasonably required to effectively manage the intended activity. In this instance the applicant has not conclusively demonstrated how the proposed activity will increase the level of management input to what is necessary to justify a dwelling on the site.

While the proposal might have some agricultural benefits, increased agricultural activity as a result of the implementation of the Farm Management Plan will in essence equate to a hobby farm, which is not compliant with the surrounding broadacre agricultural uses. A hobby farm cannot be classified as a rural use per se. In general most hobby farms are developed in the Rural Living Zone, which has a stronger connection with a residential use than a rural use.

It is important that a balanced outcome be achieved, which will allow for development in the Farming Zone with the main focus being to promote and preserve agricultural productivity. Promotion and preservation of current agricultural production and promotion of new development that will contribute to agricultural production is the focus of the zone.

The State Government in collaboration with Council has thus “drawn a line” in its strategic planning of Indigo Shire. The line has the dual purpose of containing rural-residential development with little or no association with agriculture, and preventing “township sprawl”. The subject site is in the Farming Zone, not a more mainstream residential zone.

This line is not absolute but reflects the hardening of attitudes to rural dwellings in the strategic planning, in both state and Council over the last five or six years.

In summary an applicant now has to justify why a dwelling is reasonably required on a property less than 40 hectares to facilitate agricultural production on the property and to demonstrate that the management input in the agricultural enterprise justifies a dwelling on the property.

VCAT in the case *Sherritt v Baw Baw SC [2006] VCAT 2358* (21 November 2006) in relation to a dwelling on a lot of 17.94ha in the Farming Zone, amongst others comment as follows:

21 The introduction of residential uses into rural areas constitutes one of the uses which does have the potential to conflict with and adversely affect the agricultural productivity of the locality. The erection of a dwelling on a lot of less than 40 ha also has the potential to lead to the conversion of the land upon which the dwelling is erected to a residential rather than rural use. It is for this reason that the provisions of the Farming Zone place a requirement on an applicant to demonstrate that a dwelling on a lot less than 40 ha in area is reasonably required for the

operation of the agricultural activity conducted on the land.

22 *Having regard to the provisions of the Farming Zone it is not sufficient for an applicant to rely on a submission that even with a dwelling on it, the land could be used for agricultural purposes. This falls well short of the planning scheme requirement that an applicant demonstrate that the dwelling is reasonably required for the operation of the agricultural activity conducted on the land.*

The Municipal Strategic Statement at Clause 21.04 (Economy) and the Local Planning Policy at Clause 22.01-5 (Dwellings on existing small rural allotments) and the Farming Zone at Clause 35.07 reiterate the importance of agriculture in Indigo Shire and in the State of Victoria amongst others that the strengthening of Indigo Shire's economy will be facilitated by a strategy of reinforcing the importance of agriculture to the region and allowing new industries and existing primary industries to diversify and expand in appropriate ways.

The Municipal Strategic Statement goes on at Clause 21.04 (Environment) and the Local Planning Policies at Clause 22.01-2 and also Clause 22.01-5 to emphasise the importance of Indigo Shire's landscapes. The quality of the landscape setting of Indigo Shire is also a great natural and community resource. The cultural value of the landscape within a number of areas of the Shire is high, evidenced by the classification applied to large areas of the Shire by the National Trust (Victoria) and its attractiveness as a residential and tourist environment. In particular the protection of the visual quality and significance of the prominent hills, slopes and extensive open landscapes is a key goal of the Shire.

Agriculture in Indigo Shire is thus important from an economic perspective in that it comprises a major component of economic activity in the Shire and should therefore be protected. Protecting agriculture will not only maintain and increase agricultural production, but will also facilitate protection of the Shire's rural landscapes for which Indigo Shire is renowned and contribute to the tourist potential of the Shire, another major form of income for the Shire.

The MSS recognises that regional influences on Indigo 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. C22.01-5 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 Indigo Shire's 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 Indigo Shire's economy tends to outweigh the opportunities for rural living in this instance. 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.

In 1999, in its Final Report New Format Planning Schemes, Panels Victoria said:

The solution to the broad problem of the loss of productive agricultural land is to limit, where possible, the proliferation of residential use within agricultural areas, and to state clearly within the MSS the priorities the Council sees as applying in different areas. In this respect, it needs to be remembered that the objectives of the Rural Zone make no mention of residential use. It is the purpose of the Rural Living Zone to only provide for residential use within a rural environment. ... The Rural Zone should be used where the primary purpose is for extensive animal husbandry and crop raising (ie farming). ...

Council's vision for the future of the subject area is as a productive, broadacre farming area. The attributes of this area that have lead to this vision are areas of productive agricultural land and important rural landscapes. Council wishes to see this area continued to be used for stock raising (including sheep, cattle and horses) and intensive and extensive cropping as cropping and grazing contributes to the economy and character of Indigo Shire. Council believes this area should continue to be an area whose primary use is sustainable and productive agriculture. Uses that in any way prejudice either agricultural activity in the area or agricultural landscapes are not supported.

The proposal is contrary to Council's vision for this area. The proposal will not only change the character of the area by allowing a dwelling on the property, but it will also change the type of agricultural pursuit from broadacre farming to small hobby farm type of agricultural pursuits which is contrary to the vision for this area.

It is of note that Council and VCAT have supported some dwellings in the Farming Zone where specific circumstances applied that do not apply in this instance. For instance the applicant purchased the land after enquiring as to the likelihood of a dwelling being approved and purchased the land in the full knowledge that this was not supported by Council's planning scheme.

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 *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 focused only on aspects of amenity to justify their refusal. That is not to say that these amenity aspects are not important. It is just that the decision is devoid of any attempt at a balancing of issues so as to produce (in the words of Clause 31.01-2 of the scheme) "... acceptable outcomes ..." in terms of the whole of the state and local planning policy framework. In simple terms, the perceived shortfalls in the Good Design Guide technique dealing with amenity have distracted Council from conducting a complete assessment of the application.

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

Because a use is in Section 2 does not imply that a permit should or will be granted. The

responsible authority must decide whether the proposal will produce acceptable outcomes in terms of the State Planning Policy Framework, the Local Planning Policy Framework, the purposes and decision guidelines of the zone and any of the decision guidelines in clause 65.

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

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

- *The first aspect of this is the State Planning Policy Framework (SPPF). In my experience with both Council submissions and officer reports, this is one of the most overlooked parts of the new schemes. As already noted, one only has to look at the first purpose of every zone and every overlay to realise that this simply cannot be overlooked. ...While it is true that some of the SPPF is couched in general terms, it is equally true that there is very clear direction provided by some aspects of it including (for instance) fragmentation of rural land.*
- *"The MSS is the 'bigger picture' document telling the reader what Council is hoping to achieve over the next decade or so. Local policies on the other hand are the real decision making tools that should assist Council and the tribunal on a day to day basis. The officer report or the VCAT submission that, for instance, jumps straight to the Local Policies ignores the context within which the policy has been derived and, I suspect leaves the impression that the policy is being used to the exclusion of the rest of the scheme. I feel that the complete strategic journey needs to be explained both in a Council report and in a Tribunal Submission.*

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

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

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



productive land uses. ...

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

CONCLUSION

Although compliance can be demonstrated with a number of policies and decision guidelines that relate to the development aspects of the proposal, and despite the attractiveness of subject land for residential purposes due to its locality, having regard to the provisions of the Indigo Planning Scheme and the circumstances, on balance the application is not supported.

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 de-facto Rural Living Zones and artificially increase land values which will price the genuine farmer out of the market. The result of this is that surrounding properties will most probably be purchased by prospective residential developers.

Given the nature of the area it is considered that approval of the proposal would effectively lead to a de-facto rezoning of the land through increased pressure on Council to approve similar proposals for adjoining holdings based on the very reasons that the applicant has put forward as factors that limit the productivity and rural use of the subject land.

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

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

Approval of the application could be a precedent for further dwellings which do not accord with Council's policy.

This land is ideally located in close commuter distance to Barnawartha and Wodonga where land values are high. The approval of dwellings in rural areas unrelated to agriculture raises expectations that other owners could obtain permits. The creation of an expectation of

development would lead to increased property values and every additional dwelling on rural land makes acquisition of land more difficult for genuine farmers.

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

10.4 INDIGO PLANNING SCHEME AMENDMENT C21

File No: E1240.21 - Kath Oswald - Assistant Town Planner

For Decision

RECOMMENDATION

That Council:

Resolve to adopt Amendment C21 with the changes as suggested by the Independent Panel in relation to recommendations 2, 3, 4, 6, and 8, and with changes as recommended in this report in relation to recommendations 1, 5, 7, and 9 of the Independent Panel report; After considering Independent Panel Recommendation 7, resolve not to include additional land to the west of the Kiewa Valley Highway in the Rural Living Zone; and Forward the Amendment to the Minister for Planning for approval.

Moved Cr Croucher

Seconded Cr Murdoch

That Council resolve to adopt Amendment C21 with the changes as suggested by the Independent Panel in relation to recommendations 2, 3, 4, 6, and 8, and with changes as recommended in this report in relation to recommendations 1, 5, 7, and 9 of the Independent Panel report; After considering Independent Panel Recommendation 7, resolve not to include additional land to the west of the Kiewa Valley Highway in the Rural Living Zone; and Forward the Amendment to the Minister for Planning for approval.

CARRIED

INTRODUCTION

Councillor's attention is drawn to previous reports dated 10 February 2009 and 28 July 2009. These reports detailed the recent progress of this Amendment, including the issues reported to the Independent Panel and the recommendations of the Panel. The purpose of this report is to examine the recommendations of the Panel in greater detail, to confirm the final details of the Amendment, and to resolve that the Amendment be forwarded to the Minister for Planning for final approval. The final Amendment documents are attached as Appendix A. (bold)

BACKGROUND

Council adopted the Kiewa-Tangambalanga Structure Plan in May 2006. This Structure Plan proposes that large parcels of land be rezoned from Farming Zone to Residential 1 Zone (R1Z), Low Density Residential Zone (LDRZ) and Rural Living Zone (RLZ), in the Tangambalanga area. It further proposes amendments to the zoning of land around Kiewa. After adoption of the structure plan the process of rezoning the identified land was initiated.

Amendment C21 was advertised from 4 May 2007 to 2 July 2007. In response, a total of 7 objections, 2 letters of support and 1 query were received. One of the objections received was subsequently withdrawn. These submissions have previously been supplied to Councillors. In light of the submissions, it was recommended that part of the amendment be abandoned, that some changes be made to the amendment and that the remaining parts be referred to an independent Panel for consideration.

Council agreed with these recommendations at its meeting of 10 February 2009, and the Independent Panel hearing was held on the 1st and 2nd of June at Yackandandah. The Panel report was received on June 25 and has since been distributed to Councillors, proponents and submitters.

DISCUSSION

The following section will examine each of the recommendations of the Panel in detail, including the recommendation to Council and the way the Amendment will be altered as a result.

Panel Recommendation 1:

Update the Municipal Strategic Statement Clause 21.04-1-7 generally along the lines exhibited in Amendment C24 with modifications to:

- Reflect the recommendations in this Panel report; and
- Identify on the Strategic Map for Kiewa-Tangambalanga the key strategic planning considerations, such as the area subject to flooding constraints, areas of elevated land where development is to be avoided and areas where interface treatments are considered to be particularly important.

Response:

This recommendation is generally agreed to, in that the new Strategic Map as exhibited as part of Amendment C24 (MSS Review) will be included in Clause 21.04-7 as part of Amendment C21. The key strategic planning considerations are presently included in the text of this Clause, and as such it is not considered necessary to alter the map in this instance. Furthermore, the Kiewa-Tangambalanga Strategic Map will be replaced as part of C24.

Panel Recommendation 2:

Abandon the exhibited rezoning of the western part of KTSP Area 1 to Residential 1 Zone.

Response:

Agreed. Council was not in favour of including this area in the Amendment for a number of reasons. Notwithstanding that the land is included in the Structure Plan as suitable for residential development, the access to the land is limited, and the land is in an area of Tangambalanga that is visually exposed. The zone and overlay maps have been amended to reflect this recommendation.

Panel Recommendation 3:

Abandon the rezoning to Rural Living Zone of part of KTSP Area 2 so that the eastward extent of the Rural Living Zone aligns with the eastern extent of the Rural Living Zone in KTSP Area 2.

Response:

Page 21 of the Panel report suggests that the proposed Rural Living Zone (RLZ) be contracted to the west for Areas 2 & 3, however in the consolidated recommendations on page 6 of the report, the suggestion refers to the contraction of Area 3 only, to be in line with the eastern extent of Area 2. The extent of the areas proposed for rezoning has long been a concern of DPCD, and the Panel also expressed concern at the hearing. Council has maintained that as the areas proposed for rezoning are in only three ownerships, the large areas will ensure continued availability of land and encourage competition.

The Panel's recommendation is supported, as Area 2 contained a large area of land proposed to be rezoned to RLZ. The recommendation does not create an inequitable situation, as the proponent retains a large (approximately 47ha) area of RLZ. Furthermore, as the panel indicated: "...if the landholder wishes to pursue a rezoning, a separate amendment process would allow the landowner to present the justification for rezoning of additional land to RLZ."

Panel Recommendation 4:

Adopt the exhibited rezoning to Rural Living Zone of land on the western side of the Kiewa Valley Highway with a minimum subdivision lot size of 10 hectares.

Response:

Agreed. This recommendation reflects Council's proposal as exhibited with regard to this area. Through the exhibition process, submissions were received requesting the default lot size for the proposed RLZ (2ha with an average of 4ha) in this area. Council's intention with regard to this area was to recognise existing ownership patterns and the fragmented nature of the area, but not increase the density of the area. The default lot sizes in this area would allow many new lots to be created, and as such the proposal put before the Panel was to abandon the rezoning in this area. Panel has considered submissions with regard to this area and has recommended Council's original approach be adopted. No change is required to the exhibited Schedule to the RLZ.

Panel Recommendation 5:

Modify the schedule to the Rural Living Zone to apply a minimum lot size of 2ha and an average lot size of 4ha to the land to the east of the Kiewa Valley Highway.

Response:

This modification is unnecessary as the Schedule to the RLZ presently has these figures.

Panel Recommendation 6:

Provided that it is confirmed that additional development opportunities would not be created, rezone land to the north of Jenkins Lane and east of the Kiewa Valley Highway (Lots 1 & 2 PS527123 & Lot 1 TP43728) to Rural Living Zone with a minimum lot size of 2ha and an average lot size of 4ha.

Response:

At the Panel hearing, the proponent and owner of a number of these lots stated that there could be no further development of these lots, as they are presently developed and rezoning them from FZ to RLZ would not present any additional development opportunities. In reality, one of the lots is undeveloped, and so rezoning would present a development opportunity in this instance. However, the undeveloped lot is surrounded by residential or rural living lots and so it is considered that the intent of the Panel member's recommendation is maintained. The proposed zoning map has been amended to reflect this change.

Panel Recommendation 7:

Consider extending the Rural Living Zone along the Kiewa Valley Highway to land to the north of the exhibited rezonings if further assessment confirms that additional development opportunities would not be created and landholders who may be affected confirm in writing that they do not object.

Response:

As discussed in the Council Briefing report on this subject of July 28, this recommendation is not supported. Extending the Rural Living Zone to the west of the Kiewa Valley Highway as suggested would create additional development opportunities. Again, the intent of applying the RLZ to the west of the Kiewa Valley Highway originally was to recognise the existing fragmented nature of the area and the different ownership patterns. It was recognised that the application of the RLZ with a 10ha minimum lot size would prevent further development on all but one property, resulting in a maximum of two additional lots. If the RLZ were to be extended further to the north, additional development opportunities would be created, which does not accord with the intent of the recommendation by the Panel. This would create ribbon development which is not supported.

Panel Recommendation 8:

Delete Schedule 5 to the Development Plan Overlay.

Response:

Agreed. As the result of the introduction of the RLZ in the two areas generally bisected by the Kiewa Valley Highway, no further subdivision is possible, save for one or possible two new lots. As such, the DPO5 is not required in this area.

Panel Recommendation 9:

In Schedule 6 to the Development Plan Overlay:

Specifically provide for three separate Overall Conceptual Site Development Plans; Strengthen the provisions relating to the staging and subdivision of land and include a requirement to review the Overall Conceptual Site Development Plan when application is made for each subdivision stage; Consider editing the Schedule along the lines set out in Appendix B (of the Panel report).

Response:

The DPO6 relating to the large tracts of land proposed to be rezoned in Tangambalanga was carefully worded in consultation with DPCD prior to authorisation being given for this Amendment. This related to the justification for the large areas involved and ways to ensure development proceeded in a way that did not prejudice existing or proposed land uses, and provided for the efficient use and development of services to the area.

The first point of the Panel's recommendation aims to obtain separate development plans for each area in different ownership. The way this is worded in the Schedule included as Appendix B to the Panel report, this would result in no Overall Conceptual Site Development Plan (OCSDP) that covers all the land in areas 1, 2 & 3. The intent of this part of the DPO6 is to have integrated development between the three areas. The very nature of the DPO will result in an overall Development Plan being required for each area of land. This part of the recommendation is therefore not supported.

The first part of the second point to this recommendation is agreed with, and DPO6 has been altered in the manner suggested. The second part of this recommendation is not supported. If the Overall Conceptual Site Development Plan was to be reviewed when application was made for each subdivision stage, an expectation would be created that the OCSDP was fluid and could be changed to suit the particular application. It would be more appropriate to link the review of the OCSDP to the periodic MSS review.

The final part of this recommendation has been adopted in part, without the elements referred to above.

CONCLUSION

The Independent Panel report for Amendment C21 recommends a number of changes to the exhibited Amendment. For the main part, the recommendations can be adopted. Some points, however, cannot be supported for reasons outlined above. It is recommended that Council resolve to adopt Amendment C21 in the form of the attached document. Further, it is recommended that Council resolve to request the Minister for Planning approve Amendment C21 in the form of the attached document.

10.5 INDIGO PLANNING SCHEME AMENDMENT C38 – STATE HERITAGE ITEMS

File No: E1240.48- Kath Oswald- Assistant Town Planner

For Information

INTRODUCTION

The Minister for Planning has approved and gazetted Amendment C38 to the Indigo Planning Scheme. The Amendment alters the planning scheme maps and the schedule to the Heritage Overlay so that 46 places included in the Victorian Heritage Register are accurately shown in the Indigo Planning Scheme. The explanatory report concerning the Amendment is attached as **Appendix A**.

BACKGROUND

The Amendment was prepared by Heritage Victoria on behalf of the Minister for Planning to fulfil the Minister's requirements under Section 48 of the Heritage Act 1995.

Section 48 of the Heritage Act states:

The Minister administering the Planning and Environment Act 1987 must prepare and approve an amendment to any Planning Scheme applying to a place which is included in the Heritage Register to identify the inclusion of that place in the Heritage Register.

The Act also states that such an amendment "may also make any consequential amendments of the planning scheme that are necessary to remove or modify any provisions which are inconsistent with or duplicate the provisions of this Act."

The Amendment is part of a state-wide program to ensure that all places included in the State Heritage Register are correctly identified in the Heritage Overlay of each planning scheme. As the Amendment was prepared, approved and gazetted by the Minister, there were no notice requirements and no third-party appeal rights.

KEY IMPLICATIONS

As a result of the Amendment, minor alterations have been made to 46 items in the Heritage Overlay, either on the mapping or in the schedule to the overlay. Examples of the types of changes made to the Schedule to the HO and HO mapping are attached as **Appendix B**.

FINANCIAL IMPLICATIONS

There are no financial implications as a result of the Amendment. All places that have been altered presently exist in the Heritage Overlay.

POLICY IMPLICATIONS

There are no policy implications as a result of the Amendment. Clause 43.01 in the Indigo Planning Scheme sets out the requirements for permit requirements in the Heritage Overlay. This clause is not being altered as a result of this Amendment.

CONCLUSION

In conclusion, Amendment C38 to the Indigo Planning Scheme serves to correct anomalies between the listings and/or extent of mapping of items of State significance in local and State Heritage Registers. There is no effect on the operation of the Heritage Overlay nor on any locally significant items.

Attachment A – C38 Explanatory Report
Attachment B – C38 Revised schedule and mapping examples

10.6 SUSTAINABLE DEVELOPMENT WORK IN PROGRESS AND PROJECTS AUGUST 2009

Susan Cheetham – Manager Sustainable Development

For Information

INTRODUCTION

Projects underway are shown in the following table.

PROJECT	CURRENT ACTIONS
STRATEGIC PLANNING	
Amendment C21 – Kiewa Tangambalanga	Council briefed on this matter at July 28 Briefing meeting. Panel report included in this agenda
Municipal Strategic Statement and Indigo Planning Scheme Amendment C24 – Major review	<i>No change from last month.</i> The Independent Panel report makes a number of recommendations, including changes to format of exhibited MSS. Work is on-going, and will be reported to Council prior to being submitted to the Minister for approval.
Amendment C36 – Chiltern Flood Study	The Independent Panel report was received July 23, and will be reported to Council at its September meeting for adoption.
Amendment C38 – State Heritage Items	Gazetted and Approved by the Minister for Planning 9 July 2009. A report on this is included in this agenda.
Indigo Planning Scheme Amendment C44 – Back Creek Road, Yackandandah and Buckland Gap Road, Beechworth	Certification received from the Secretary to the Minister for Planning in June. A report on this is included in this Agenda.
Indigo Planning Scheme C48 – Kiewa Valley Highway	<i>No change from last month.</i> This is a minor amendment to rezone part of the Kiewa Valley Highway from Farming Zone to Road Zone Category 1 to reflect that it is part of the highway reserve. DPCD is undertaking the administrative work for this amendment on behalf of Vic Roads.
Indigo Planning Scheme C49 – Old Beechworth Gaol	<i>No change from last month.</i> This amendment introduces a Schedule to the existing

ORDINARY COUNCIL MEETING MINUTES

	Development Plan Overlay over the site. An Independent Panel has been requested, and is anticipated to be scheduled for late August 2009. The Independent Panel Directions Hearing is scheduled to be held on July 31.
Indigo Planning Scheme –environmental/biodiversity overlay	<p><i>No change from last month.</i></p> <p>Phase 1: Identified biodiversity priority areas within the municipality for further investigation and possible further controls in the planning scheme. Phase 1 report completed.</p> <p>Phase 2: Consultants appointed to undertake this phase of analysis of requirements for additional or changed planning controls. Phase 2 report was presented to Council Briefing in March 2009. Further briefing required.</p>
Rural Land Use Strategy	CPG Australia (formerly known as Coomes Consulting) is undertaking this strategy. Two rounds of consultation completed. Issues and opportunities paper finalised. Draft strategy now being prepared and will be placed on exhibition for public comment in August.
Indigo Planning Scheme Amendment C50 - Chiltern Business 3 rezoning	Application for grant to fund strategic component has been lodged with RDV. Notification of successful application received late May. Preparation of amendment will proceed following this strategic work.
STATUTORY PLANNING	
VCAT Appeals	PP08-4222 Appeal by J Hemmerling against conditions of a Planning Permit for a dwelling at Gemmell Road, Wooragee. Hearing held on 30 June 2009 in Wodonga. Awaiting decision.
HERITAGE SERVICES	
Promotion of signage guidelines	Planning for promotion of recently published signage guidelines now underway.
NATURAL RESOURCE MANAGEMENT	
North East Greenhouse Alliance	<ul style="list-style-type: none"> • New sub-committee on Alliances goals and scope yet to begin work • Pure Local Energy – preliminary figures have been received of over 300 successful applicants across the entire 9 Shires. Rough estimates suggest that approximately 35 Indigo residents secured solar

ORDINARY COUNCIL MEETING MINUTES

	<ul style="list-style-type: none"> • rebate pre-approval. • Hosted 'Business Environmental Footprint' workshop • Investigation into holding regional seminar "Fostering Sustainable Behaviour" with widely acclaimed speaker Dr Doug McKenzie-Mohr • Development of regional funding application to Federal Government for 'Water for Future' fund
Lake Sambell	<ul style="list-style-type: none"> • Planting underway – targeting areas include the Glades, adjacent to the boardwalk, the walkway near the pump-house and adjacent GreenCorps track • New maintenance schedule is working effectively – apprentice from Beechworth Town Team & new contractor are both operating within the reserve on regular basis • Many small maintenance issues being attended to
Indigenous Resource Area at Lake Sambell	<ul style="list-style-type: none"> • Planting completed • Direct seeding of grass has been successful
Isaac Park	No change
Community Woodlot Program	<ul style="list-style-type: none"> • Stanley woodlot – no change - has received ~2,000 cubic meters of timber salvaged from fires • Beechworth woodlot – prison crew have cut, split & delivered over 50m³ to Beechworth concession cardholders registered to receive this timber – program working very successfully • Chiltern woodlot – no change - still has some timber available from Council operations. • Yackandandah woodlot – no change - still has considerable amount of dry, sheared timber
Roadside weed initiative	Applications open – invitations to apply sent to all Landcare & VFF groups within the Shire, as well as previous participants.
Roadside weeds	No change - follow up monitoring to occur on roads targeted for spraying of Gorse, Broom & Blackberry and Serrated Tussock under DPI fund.
Eco-Awareness Group	<ul style="list-style-type: none"> • New work placement student will be working on many initiatives, in particular development & distribution of staff education materials • Group to investigate use and cost of bottled water (ie water coolers) in the offices & depots • Investigation into appropriate green training required by members • WasteWise audit to occur soon • Investigation into tour of CleanAway facility by group to foster awareness of what happens to recycling & why

ORDINARY COUNCIL MEETING MINUTES

	<ul style="list-style-type: none"> • A staff survey to occur on barriers to sustainable behaviour in the workplace
Community awareness	Ten schools received donation of indigenous plants for National Tree Day.
Sustainable Water Use Plan	No change – application lodged with RDV for funding for the extension of use of waste water in Rutherglen – has progressed beyond initial approval.
Code of Forest Practice	<ul style="list-style-type: none"> • Receipt of one new Plantation Development Notice – due for inspection • Receipt of Timber Harvesting Plans for 2009/10 from Hancocks Victoria Plantations • Consultant provided comment on a companion document prepared to assist with monitoring and compliance of the Code of Forest Practice
Environmental Advisory Committee	Next meeting scheduled for 12th August in Rutherglen. Guest speaker from DPCD will provide information on development of the Hume Strategy. An interim workshop held between meetings has provided valuable input into further refining the Key Strategy Directions of the developing Environment Strategy.
Roadside Management Plan	Second phase of field assessment of roadside conservation values and weed data has been completed and data handed over at the end of July. Integration to GIS format in August 2009. Roadside Partnership Program wildlife evening complete and submission of social research evaluation report by CSU received.
Greenhouse Action Plan	GAP available on line with hardcopies available at the Yackandandah and Beechworth office. Energy Audit of Yackandandah administration buildings complete. Second half of CCP funding claimed to finance delamping across site.
Environment Strategy	Basic strategy draft was distributed on the 3 rd of August, 2009 for internal comment with additional feedback from the Environmental Advisory committee to be received by mid August. Reworking of the document will be incorporated before release for public comment later in the month.

10.7 SUSTAINABLE COMMUNITIES WORK IN PROGRESS AND PROJECTS JULY 2009

Mark Florence – General Manager Sustainable Communities

For Information

INTRODUCTION

Projects underway are shown in the following table.

PROJECT	CURRENT ACTIONS
ENVIRONMENTAL HEALTH SERVICES	
Alpine contracts	<ul style="list-style-type: none"> • Alpine area inspections in Falls Creek and Mount Hotham will continue during the Winter months
Environmental health	<ul style="list-style-type: none"> • A review of Environmental Health Services was completed late June. Report has been received and an assessment is being conducted.
BUILDING SERVICES	
Building Department Activity	<ul style="list-style-type: none"> • Project works in relation to parts of the RLCIP program have commenced and will continue over the next month for the Rutherglen RSL, Beechworth Senior Citizens, Chiltern Bowls Club and the Bruarong Community Hall. • Initial consultation with the Management Committees of the Stanley Community Hall and Athenaeum Upgrade and Stanley Recreation Reserve Improvements has commenced. • The Building Department is also processing the permits and consulting with the design for both the smaller and major project works being managed by the Assets Department.
LOCAL LAWS	
Domestic Animals Plan	<ul style="list-style-type: none"> • The Domestic Animal Plan is completed and being checked by Management prior to be sent to the Ministers office. This plan ensures all Councils have adequate resources and are using similar methods to provide good service to the community.
Local Laws Activity	<ul style="list-style-type: none"> • Interviews for the replacement Ranger have now been completed and an appointment is pending. • Enforcement Co-ordinator is assisting the Planning Department with a Policy on Enforcement issues.



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10.8 SUSTAINABLE COMMUNITIES (COMMUNITY PLANNING) PROGRESS REPORT - JULY 2009

For Information

PROJECT	ACTION/PROGRESS
<p>Sustainable Communities Tidy Towns Awards 2009</p>	<p>The Sustainable Communities Tidy Towns Awards 2009 finalists have been announced. Indigo Shire will be represented in the following categories:</p> <p style="padding-left: 40px;">Heritage and Culture Award:</p> <ul style="list-style-type: none"> • Rutherglen - Celebrating 100 years of Rutherglen Primary School and preparation for 150 years for Rutherglen • Yackandandah - Rebuilding after the Fire <p style="padding-left: 40px;">Pam Keating Environmental Innovation Award:</p> <ul style="list-style-type: none"> • Beechworth - Beechworth Sustainability Group • Dalcheri Uniquely Ethical • Rutherglen - Wine Village Motor Inn • Rutherglen - Valhalla Winery <p style="padding-left: 40px;">Community Government Partnership Award:</p> <ul style="list-style-type: none"> • Rutherglen - Rutherglen Wine Experience <p style="padding-left: 40px;">Water Conservation Award:</p> <ul style="list-style-type: none"> • Beechworth - Beechworth Sustainability Group • Rutherglen - Save Water for Our Future <p style="padding-left: 40px;">Proud Schools Award:</p> <ul style="list-style-type: none"> • Rutherglen - Rutherglen Primary School Rutherglen <p style="padding-left: 40px;">Overall Sustainable Communities Tidy Towns Award:</p> <ul style="list-style-type: none"> • Beechworth • Rutherglen <p>Regional Presentations will be held in Beechworth and Rutherglen on 1 September 2009 with the State Awards weekend being held in Horsham on 2-4 October 2009.</p>
<p>Council's 2009/2010 Community Grants Program</p>	<p>Council's 2009/2010 Community Grants Program is open and inviting applications from the community until the closing date of 21 August 2009. Guidelines and Application Forms for the Program</p>

ORDINARY COUNCIL MEETING MINUTES

	<p>are available:</p> <ul style="list-style-type: none"> • By contacting Council on phone 1300 365 003 • By downloading from Council's website, www.indigoshire.vic.gov.au <p>At Council's Customer Services Centres at Beechworth, Yackandandah, Rutherglen and Chiltern.</p>
Beechworth Skate Park Extension Project	Council has received funding from the Department of Planning and Community Development to complete the Beechworth Skate Park extension project. It is anticipated that tenders will be called for the project by October 2009 with a completion date in early 2010.
Wodonga Pool	Council has been notified of its successful tender to manage the Wodonga Pool for season 2009/2010 and 2011/2012.
Indigo Shire Public Art Policy	<p>In 2007 Council adopted the Arts Strategic Plan which determined a set of recommendations to develop arts and culture in the Shire. One of the key recommendations was for the development of a Public Arts Policy.</p> <p>Council's Arts and Cultural Development Officer has now commenced work on the Policy and it is anticipated that a Draft will be presented, following the appropriate community consultation process, to Council by December 2009</p>
Early Years Plan	<p>As part of the development of the Indigo Early Years Plan an Early Years Forum was held on 23 July 2009.</p> <p>A steering committee of interested community members has been guiding the development of the plan. The steering committee ran the Forum, which was attended by more the thirty service providers.</p> <p>The purpose of the Forum was to present the draft plan, seek feedback, and for the agencies to identify what role they could play in the implementation of the Plan.</p> <p>The Councillors will be briefed on the Plan in mid September.</p>
Victorian Bushfire Reconstruction & Recovery Authority (VBRRA) - Winter Community Events	The VBRRA recently provided Councils with a funding opportunity to conduct community events in those communities directly affected by the February bushfires. The Program is entitled 'Winter Community Events' and is aimed at increasing the opportunities for community members to attend

ORDINARY COUNCIL MEETING MINUTES

	<p>local events.</p> <p>Council has submitted an application to the Program for funding assistance for the following events:</p> <ul style="list-style-type: none"> • Beechworth and Stanley - Kelly Country Pick to be held on 21-23 August 2009 • Yackandandah - Lions Club Bush Markets in September 2009 • Yackandandah - Community Movie nights in August and September 2009 • Bruarong - Community Meal in September 2009 • Stanley - "Finding Charles Darwin in Stanley" in July 2009 <p>At the time of writing this report, Council had not received any advice on the success of the submission.</p>
<p>FReeZA</p>	<p>Rutherglen hosted the Shire's Battle of the Bands heat on Saturday 27th June. Six bands competed for the opportunity to enter the Regional Final, the winner of that event heading to Melbourne for PUSH. Indigo Shire will be represented by Temporal Logic. The next FReeZA event will be held in Beechworth on August 8th, with former local group Radiostar.</p>

10.9 BUILDING STATISTICS

Glen Colwell – Municipal Building Surveyor

For Information

INTRODUCTION

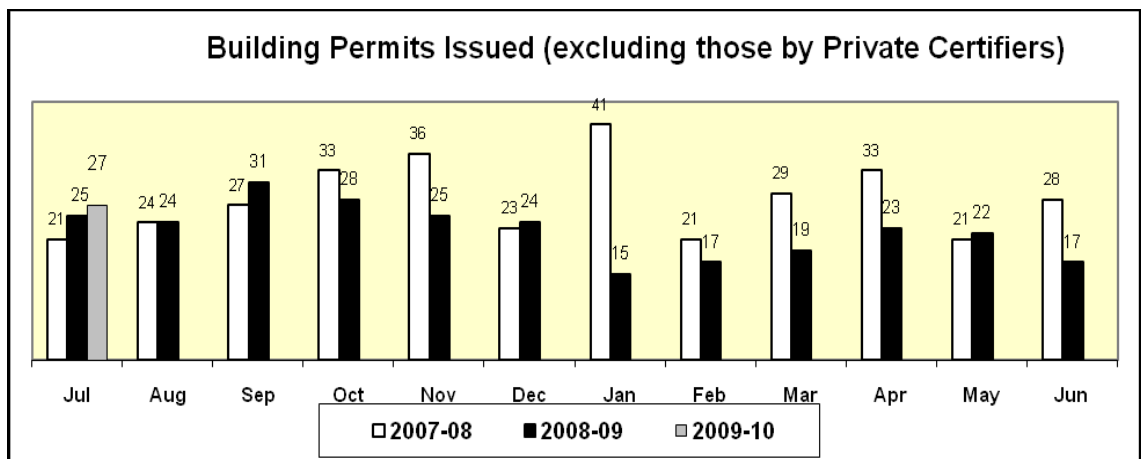
The following table list applications issued in the month of July 2009

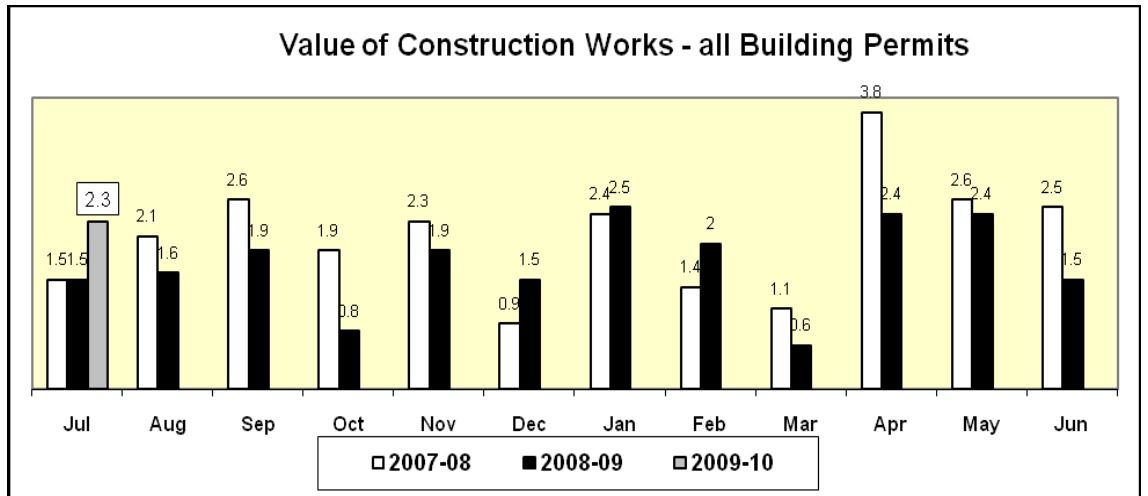
<u>Property Locality</u>	<u>Description</u>	<u>Project Value</u>	<u>Approval Date</u>
Beechworth	Dwelling	\$182,329	01/07/09
Beechworth	New Building	\$27,000	02/07/09
Yackandandah	Demolition & Extension	\$120,000	02/07/09
Beechworth	Dwelling	\$175,562	03/07/09
Beechworth	Dwelling	\$187,141	03/07/09
Chiltern	New Building	\$7,000	06/07/09
Beechworth	Dwelling	\$140,000	06/07/09
Kiewa	New Building	\$2,500	07/07/09
Beechworth	Extension	\$198,000	07/07/09
Wahgunyah	New Building	\$4,000	08/07/09
Beechworth	Dwelling	\$400,000	09/07/09
Barnawartha	New Building	\$27,212	09/07/09
Staghorn Flat	New Building	\$11,800	10/07/09
Tangambalanga	Dwelling	\$130,000	13/07/09
Beechworth	Dwelling	\$50,516	17/07/09
Indigo Valley	New Building	\$33,800	17/07/09
Beechworth	New Building	\$15,409	17/07/09
Yackandandah	Extension	\$8,000	17/07/09

ORDINARY COUNCIL MEETING MINUTES

Yackandandah	Demolition	\$4,400	20/07/09
Beechworth	Extension	\$285,400	22/07/09
Beechworth	Dwelling	\$158,000	22/07/09
Rutherglen	New Building	\$10,000	23/07/09
Chiltern	Alteration	\$4,000	23/07/09
Beechworth	Alteration	\$3,000	24/07/09
Kiewa	Retaining Wall	\$3,000	24/07/09
Chiltern	Shade Structure	\$23,000	24/07/09
Yackandandah	New Building	\$10,800	24/07/09
Wahgunyah	Extension	\$27,724	24/07/09
Allans Flat	Extension	\$5,000	27/07/09
Yackandandah	New Building	\$8,104	28/07/09

TOTAL: \$2,262,697





10.10 PLANNING STATISTICS

Susan Cheetham – Manager Sustainable Development

For Information

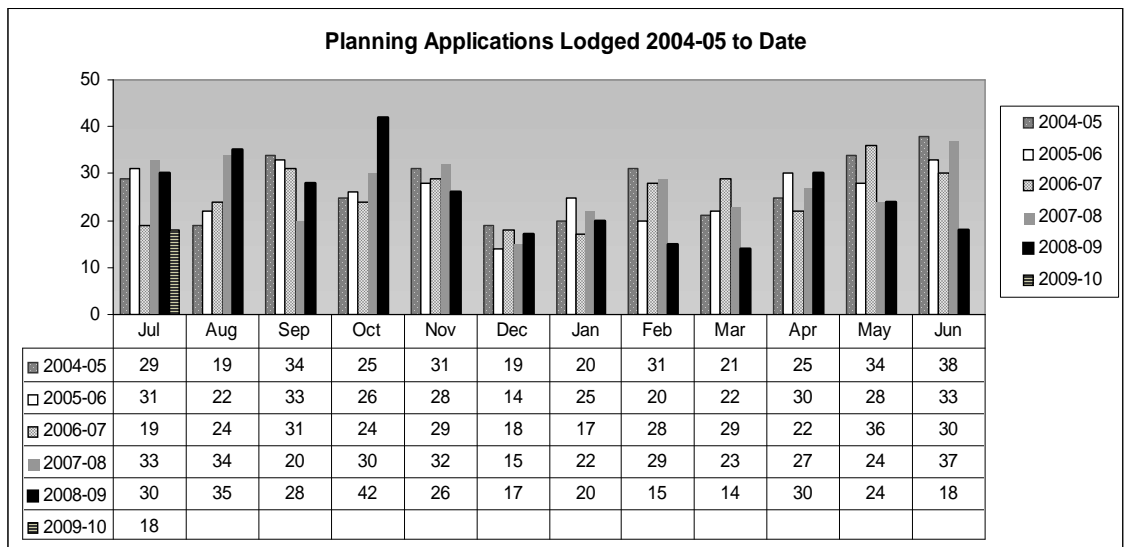
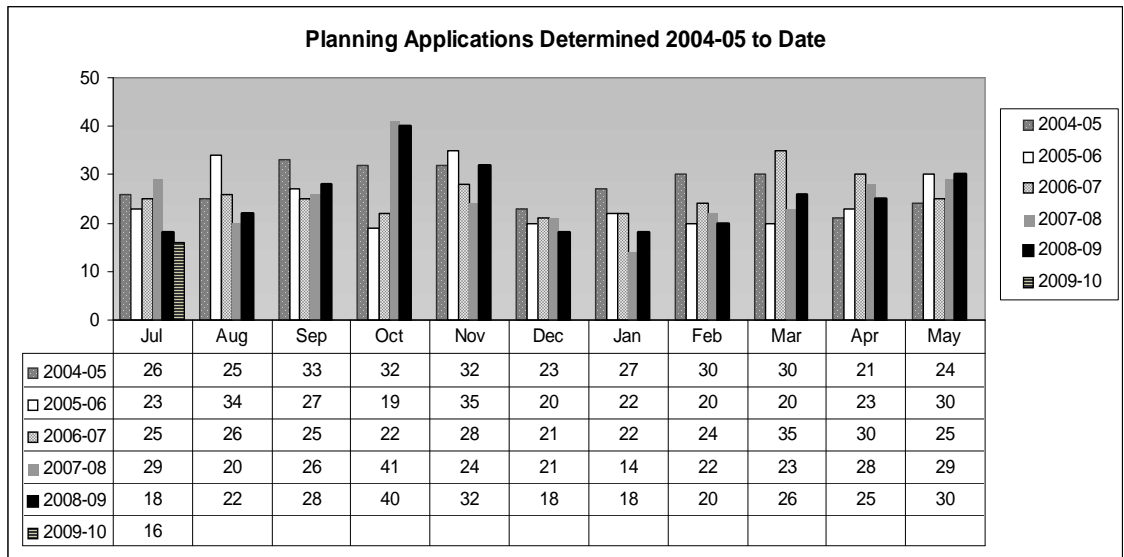
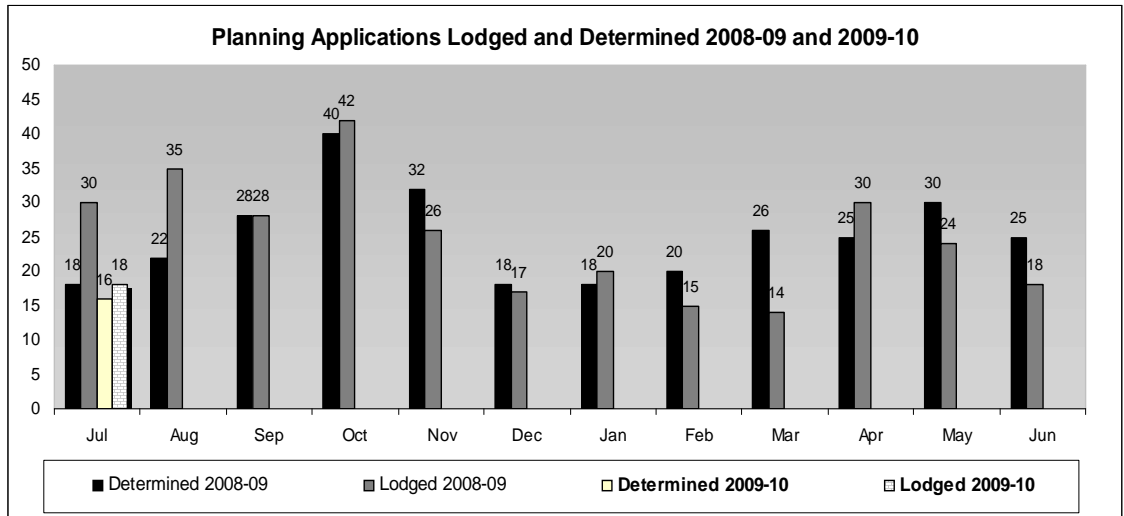
INTRODUCTION

The following table list applications determined in the month of June 2009:

APPL. NO	LOCALITY	PROPOSED USE	PROJECT VALUE	DECISION
PP084351	Barnawartha	Five (5) Lot Subdivision	0	Approved
PP084403	Yackandandah	Replacement of Dwelling destroyed by fire	0	Approved
PP090020	Yackandandah	6 Lot Subdivision - 5 industrial lots and 1 residential lot	190,000	Approved (NOD)
PP090057	Beechworth	Two (2) Lot Subdivision	0	Approved
PP090064	Yackandandah	Group Accommodation - Development Plan	160,000	Approved
PP090074	Rutherglen	Alterations & Additions to Winery Buildings	85,000	Approved
PP090082	Beechworth	Vegetation Removal	2,376	Lapsed
07095.1	Chiltern	Amended Permit - Dwelling	0	Approved
PP090098	Beechworth	Carport	4,010	Approved
PP090100	Yackandandah	Covered Deck	8,000	Approved
PP090104	Stanley	Native Vegetation Removal	2,000	Approved
PP090105	Beechworth	Carport	9,500	Approved
PP090107	Wahgunyah	Shed Extension & Skillion	27,724	Approved
PP090108	Indigo Valley	Garage & Pergola	9,800	Approved
PP090109	Yackandandah	Additions to Dwelling	95,000	Approved
07055.1	Beechworth	Amended Permit – Carport and Additions to Dwelling	0	Approved
TOTAL			\$593,410	

DETERMINATION	JULY 2009	2009-10 FINANCIAL YTD	2008-09 FINANCIAL YEAR
Permit/Amended Permit Issued	11	11	255
Refused	0	0	3
Other Determinations	5	5	44
TOTAL	25	25	302

Note: Included in “Other Determinations” are applications lapsed, formally withdrawn, procedural only subdivisions, Certificates of Compliance, and Development Plans, and Notice of Decisions.



11.0 OPERATIONS AND ASSETS

11.1 LAND PURCHASE CHILTERN LANEWAY

File No: 09/495 - Andre Kompler – General Manager Major Projects & Programs

For Decision

RECOMMENDATION

That Council sign and seal Transfer of Land documents for the purchase of land for the extension of Greens Lane with:

- 1. D.S Rowland and**
- 2. I.R and Y.R Berryman**

Moved Cr Goldsworthy

Seconded Cr Croucher

That Council sign and seal Transfer of Land documents for the purchase of land for the extension of Greens Lane with:

- 1.D.S Rowland; and**
- 2.I.R and Y.R Berryman**

CARRIED

INTRODUCTION

Council Officers have successfully negotiated land purchase with the two property owners to enable the extension of Green's Lane through to Main Street. This forms part of the fully funded Chiltern Urban Renewal Project.

BACKGROUND

A number of different options were investigated for providing delivery vehicles access and car park access to shops from the southern side of Conness Street. The preferred option selected was to extend Martins lane in an easterly direction to Main Street. This option required land acquisition from two owners and land swaps with the adjoining Crown Land.

Purchase from the Berryman's involved the purchase of the whole of their title as their preferred option. Council will own lot 4 on the attached pS 622814L, the future use fo this lot has not been determined. Purchase from D. Rowland involved part of their property as well as land acquisition from Berryman to provide a practical outcome. Negotiations have been lengthy however were achieved with good will.

KEY IMPLICATIONS

Legislative and regulatory implications have been complied with. The purchase of the parcels of land and construction of the laneway will also significantly reduce flooding in the Conness Street / Main Street area by providing a clear flood path.

FINANCIAL IMPLICATIONS

Land has been purchased at valuation and is funded from Council funding provided through the Capital Works Program.

POLICY IMPLICATIONS

This project is an approved Capital Works Project

CONCLUSION

The land purchase will enable construction works to commence.

Attachment
Chiltern Laneway Locality Map

11.2 CHILTERN FLOOD MITIGATION LAND PURCHASE

File No: W120.1- Andre Kompler – General Manager Major Projects

For Decision

RECOMMENDATION

That Council sign and seal Transfer of Land documents for the purchase of land for the construction of a retention basin for flood mitigation works in Suffolk Street Chiltern with MJ O’Keefe and DE Meunier.

Moved Cr Murdoch

Seconded Cr Goldsworthy

That Council sign and seal Transfer of Land documents for the purchase of land for the construction of a retention basin for flood mitigation works in Suffolk Street Chiltern with MJ O’Keefe and DE Meunier.

CARRIED

INTRODUCTION

Council and the North East Catchment Management Authority jointly commissioned a flood study for Chiltern which recognised the need to construct a major retention basin on the waterway in the Suffolk Street area. Council at its February 2009 meeting resolved to purchase the necessary parcel of land for the retention basin and the transfer of land documentation completes the purchase process.

BACKGROUND

The township of Chiltern lies in a natural floodway and regular flooding creates substantial damage in the residential and commercial areas of Chiltern. The flood study was completed some two years ago and recommended a number of actions to reduce flooding, one of which was the construction of a major retention basin on the major catchment which flows in a southerly direction for the Suffolk Street area.

Following completing of the flood study Council was successful applying for funding through the Natural Disaster Mitigation Program and together with a \$100,000 contribution from Council, the current budget for flood mitigation works is \$300,000. Works to date have included cleaning out and improving flow paths in existing channel areas to ensure the smooth transition and optimal flows of flood water into these flood ways.

Importantly the flood study recognised that the flood ways flowing down through the Lake Anderson and Black Ball dam areas were not the major flood ways causing the majority of the flooding problem, but rather the Suffolk Street catchment was the major flood way. The construction of a retention basin capable of managing the 1 in 100 year flood will enable flood flows to be retained in existing flood channels and will prevent the flooding of the Chiltern commercial area, unless the 1 on 100 year flood is exceeded.

KEY IMPLICATIONS

The completion of the land purchase, which was achieved by negotiation, will enable the prompt construction of the retention basin while there is substantial moisture in the ground which will enable cost effective construction of the retention basin dam wall.

FINANCIAL IMPLICATIONS

The land purchase and retention basin can be completed within the available funding. The future use of the 8 hectare parcel of land is yet to be determined however the area to be used by Council for the retention basin wall and excavation pit area is minimal. Options will be explored and Council will be further advised.

POLICY IMPLICATIONS

The project is an approved Capital Works project.

CONCLUSION

The land purchase will enable construction works to commence.

Appendix
Locality Map

11.3 OPERATIONS & ASSETS DEPARTMENT – PROGRESS REPORT – TO JULY 2009 PHIL PRIOR – GENERAL MANAGER OPERATIONS & ASSETS

For Information

ASSETS CAPITAL WORKS	
PROJECT	DESCRIPTION
RUTHERGLEN WINE BOTTLE	Engineers report has been received and distributed to all Councillors. Indigo and NEW need to progress the development of a project plan.

Cr Murdoch declared a conflict of duty in the item above, as she is a Director on the board of NEW. Cr Murdoch departed the meeting at 3.41pm.

Cr Murdoch returned to the meeting at 3.43pm.

CHILTERN FLOODPLAIN WORKS	No change. Purchase of the detention basin site has been completed. Designs of retention basin underway. Works commencement soon. Together with other completed works this will effectively flood proof Chiltern from known occurrences. Council offer to purchase has been accepted.
READY/SOLES STREET DRAINAGE	Works 20% complete.
CHILTERN COMMERCIAL AREA PARKING	Works proceeding.
RUTHERGLEN HEAVY VEHICLE DEVIATION.	Stakeholder and public meeting held on 10 June with approximately 250 people attending at various times. Consultants currently preparing detail plans of short listed routes. Council and VicRoads officers assessing future options for Up River and Gorramadda Roads.
TANGAMBALANGA MULTI-PURPOSE ACTIVITY CENTRE	Contract works scheduled to commence after football season September 2009. Building permit issued.
FORMER BEECHWORTH METHODIST CHURCH ROOF	All but complete.
TANGAMBALANGA INDUSTRIAL ESTATE	Preliminary planning underway.

PROJECT	DESCRIPTION
YACKANDANDAH DEPOT INDUSTRIAL ESTATE AND STEEL RD INDUSTRIAL AREA	Planning Permit issued.
WAHGUNYAH BOAT RAMP	Funding in 2009/2010 to develop a foreshore master plan.
OSBORNE'S FLAT HALL UPGRADE	Final Scope to be compiled before requests for quotes are sought.
OPERATIONS CAPITAL WORKS	
MELLISH STREET RECONSTRUCTION	Contractor's progress has been slower than planned. Council is taking necessary steps to accelerate progress.
SPRING STREET CONSTRUCTION	The contractor has continued to make good progress. However rain has delayed works right as the contractor was preparing the pavement for sealing. Sealing will be completed as soon as the pavement is dry enough to be compacted adequately.
RUTHERGLEN TO WAHGUNYAH RAIL TRAIL	The rail removal contractors have completed work and the pavement and drainage is being constructed along the spine trail. Weather permitting, it is expected sealing will commence in early August.
KIEWA BONEGILLA ROAD	The contractor has been progressing well but has been delayed due to weather.
OXFORD STREET FOOTBRIDGE	Project completed on 7 th July 2009.
SUTHERLAND ROAD BRIDGE	Due to the poor performance of the contractor the contract has been awarded to a new contractor who is committed to delivering the bridge in six weeks. Bridge due for completion Mid August, by new contractor.
INDIGO CREEK ROAD WIDENING	Works have commenced and progress has been very good.
RESHEETING PROGRAM	Resheeting has been completed. There has been a focus on shoulder sealing during the last phase of the resheeting program.
BUS STOPS	Wellsford St works are underway and are expected to be completed during the first half of August.

PROJECT	DESCRIPTION
WAHGUNYAH-MOODEMERE WALKING TRAILS	Most pavement and drainage works complete. Ready for seal.
Annual Tree Planting Program	The annual tree planting program has commenced.
OPERATIONS MAINTENANCE WORKS	
GENERAL MAINTENANCE	
ROAD MAINTENANCE	Some rain has enabled road grading to be undertaken. New roller has been refurbished and in operation and being used with new tractor.
PARKS AND GARDENS	Parks and gardens are still looking very dry due to dry conditions and water restrictions. Trees are also very stressed particularly young trees. Many recent plantings have died.
INDIGO WASTE MANAGEMENT	Waste compactor removed and Cleanaway now completing bin clearances.
ASSETS MAINTENANCE WORKS	
SUBDIVISIONAL WORKS BY DEVELOPERS	No substantial subdivisional development underway.
LANDS & BUILDINGS REVALUATION	Valuations completed.
ROADS DATA RECOLLECTION WORKS	Data recollection completed.

12.0 CORPORATE SERVICES

12.1 LOCAL LAW NO. 3 – MEETING PROCEDURE

FILE NO: M200-04 - David Montgomery - Manager Governance and Risk

For Decision

RECOMMENDATION

**That in accordance with Section 119 of the Local Government Act 1989, Council hereby resolves to make and adopt the revised attached Local Law No. 3 (2009) – Meeting Procedure and:
give public notice of the making of the Local Law in the Border Mail and the Government Gazette ; and
that a copy of the made Local Law is sent to the Minister for Local Government.**

**Moved Cr Goldsworthy
Seconded Cr Issell
That Council adopt Local Law No.3 as presented in principle.**

CARRIED

**Moved Cr Goldsworthy
Seconded Cr Pockley
That Section 4.8 Item 2 the Opening Prayer be removed and replaced with an acknowledgment of the traditional indigenous owners of the land.**

An amendment to this motion was:

**Moved Cr Gaffney
Seconded Cr Issell
That the above motion “Section 4.8 Item 2 the Opening Prayer be removed and replaced with an acknowledgment of the traditional indigenous owners of the land” be held over to the September Meeting of Council for discussion.**

CARRIED

**Moved Cr Goldsworthy
Seconded Cr Gaffney
That Section 4.30 – except for sub section (d), 4.31 and 4.33 be removed and replaced with**

one section that is titled 'Record of votes'. All votes are to be recorded clearly showing which councillors voted for and against a particular motion. That if all councillors vote the same, either for or against a motion, then an indication of this is sufficient in lieu of recording individual names.

An amendment to this motion was:

Moved Cr Murdoch

Seconded Cr Croucher

That the above motion "Section 4.30, 4.31 and 4.33 be removed and replaced with one section that is titled 'Record of votes'. All votes are to be recorded clearly showing which councillors voted for and against a particular motion. That if all councillors vote the same, either for or against a motion, then an indication of this is sufficient in lieu of recording individual names" be deferred to the September Meeting of Council for discussion.

LOST

The original motion:

That Section 4.30 - except for sub section (d), 4.31 and 4.33 be removed and replaced with one section that is titled 'Record of votes'. All votes are to be recorded clearly showing which councillors voted for and against a particular motion. That if all councillors vote the same, either for or against a motion, then an indication of this is sufficient in lieu of recording individual names.

CARRIED

INTRODUCTION

This report recommends that Council make and adopts Local Law No. 3 (2009) Meeting Procedure. This report was initially considered at Council's June 2009 meeting and again at the July 2009 meeting and was held over to the August 2009 meeting for further consideration. Formatting issues in the document have now been addressed.

BACKGROUND

At its January 2009 Council meeting, Council resolved that an immediate review of the meeting procedure local law be carried out to bring it in line with the Local Government Act 1989.

ORDINARY COUNCIL MEETING MINUTES

There was an anomaly between the Local Law and the Local Government Act particularly in paragraph 23 which stated that “the Mayor, Chief Executive Officer or at least 2 councillors may by written notice call a Special Meeting of the Council”. This is deemed incorrect, with Section 84 of the Local Government Act stating that “the Mayor or at least 3 Councillors may by written notice call a Special Meeting of Council”.

KEY IMPLICATIONS

Not applicable

FINANCIAL IMPLICATIONS

Legal costs and staff resources to get the draft local law to where it is currently have not been insignificant. Based on the matter requiring to be addressed having now been rectified and the document put in a professional form and in compliance with the Local Government Act 1989, it is now proposed that this Local law as amended be approved and progress to finalisation.

POLICY IMPLICATIONS

Not applicable.

CONCLUSION

In accordance with the Local Government Act, Council’s proposal to make the Local Law was advertised in the Border Mail and the Government Gazette. At the close of submissions on the 25th of May 2009, no submissions had been received.

Attachment
Draft Local Law No. 3

12.2 COUNCIL PROCUREMENT POLICY – FURTHER AMENDMENT

File No: M663 – Mark Crouch – General Manager Corporate Services

For Decision

RECOMMENDATION

That in relation to the Indigo Shire Council Procurement Policy adopted by Council at the July 14, 2009 Council meeting, and based on the need to provide the Council Chief Executive Officer (CEO) with sufficient authority and clear parameters / limits to approve contracts;

That the Indigo Shire Council Procurement Policy as adopted by Council July 14, 2009, be amended at clause 2.4.2.2 ‘Delegations reserved for the Council’ to read as follows;

Commitments and processes which exceed the Chief Executive Officer’s delegation and which must be approved by Council are:

Initial signing and sealing of Contract documents.

Tender recommendations and contract approval for all expenditure over \$500,000 for goods and services, and \$500,000 for design and construct works in value.

Contract term extensions (requiring additional budget).

Moved Cr Croucher

Seconded Cr Murdoch

That the Indigo Shire Council Procurement Policy as adopted by Council July 14, 2009, be amended at clause 2.4.2.2 ‘Delegations reserved for the Council’ to read as follows;

Commitments and processes which exceed the Chief Executive Officer’s delegation and which must be approved by Council are:

Initial signing and sealing of Contract documents.

Tender recommendations and contract approval for all expenditure over \$500,000 for goods and services, and \$500,000 for design and construct works in value. Contract term extensions (requiring additional budget).

CARRIED

INTRODUCTION

At the July 14, 2009 Council meeting, the following motion was adopted:

That the revised Indigo Shire Council Procurement Policy as appended to this report be adopted subject to the following amendment to the policy:

ORDINARY COUNCIL MEETING MINUTES

*That an additional paragraph be added to Clause 2.1.4 to include:
The perception of the public must be considered when making the decision.*

If a past employee is contracted, Council is to be advised and the reasons recorded with the contract.

The existing delegated authority to the CEO provides capacity for the CEO to approve tenders and contracts up to a value of \$500,000.

Based on the above, and given the potential limits to the existing policy being exceeded as part of the large capital work program being undertaken currently by the Council, the need to clarify the authority is evident.

The above changes are not inconsistent with sections 186 & 186A of the Local Government Act 1989.

BACKGROUND

Not applicable.

KEY IMPLICATIONS

Minimisation of delayed tender and contract approvals as well as consistency between Council policy documents.

FINANCIAL IMPLICATIONS

As detailed above.

POLICY IMPLICATIONS

The report is concerned with Council policy.

CONCLUSION

The above changes and amendment to the adopted policy will ensure consistency with the current delegated authority to the CEO, and ensure there are minimal delays in the capital works program as a result of delayed tender and contract approvals.

Attachment
Current delegated authority to CEO for Tender and Contract approvals.

12.3 TRADING PLACES POLICY REVIEW

File No: M201.1-02 – Mark Crouch – General Manager Corporate Services

For Decision

RECOMMENDATION

That based on:

Legal advice from Councils legal advisers Russell Kennedy;

Input from Council’s liability insurers CMP; and

some level of consistency and sound principles between the existing policy of Council and many other similar Trading Policy policies maintained by other Councils;

That council maintain its existing Trading Places policy in its current form without alteration.

Moved Cr Goldsworthy

Seconded Cr Pockley

That the CEO causes a report to be tabled to council examining the following proposition in relation to the Trading Places Policy:

Traders in Beechworth and Yackandandah are permitted to have goods on display or street furniture within one metre of their window line. All displays or furniture within this area must have a tap rail surrounding it on the 3 sides not facing the window. The tap rail is to comply with any Australian or industry standard.

Street furniture (not goods for sale) is permitted on the space between the veranda posts and the gutter or within 1.2 metres of the gutter back towards the window line, whichever is more, applies.

No goods, ornaments, flags or any other items are to hang down and provide less than 1.8 metres clearance from the footpath.

That like conditions of the placement of street furniture and goods on display be considered for other townships with retail shops or cafes etc., taking into consideration the narrower footpaths to the September Meeting of Council.

CARRIED

INTRODUCTION

The Indigo Shire Council Trading Places policy was introduced in late 2007 as a means to provide guidelines and regulations associated with the display of trading wares and other items / equipment on footpaths within retail and commercial precincts. The policy implementation has resulted in expressions of concern from some traders, particularly in the Beechworth commercial area, as to the perceived negative impact of the policy on trading activity.

The Trading Places policy and its review process was considered at a Council briefing session held July 21, 2009 at which time a Council briefing report was considered.

BACKGROUND

Council considered this matter at the February 10, 2009 Council meeting where it was resolved that "a review of Indigo Shire Trading Places policy be undertaken".

On May 21, 2009, a working group comprising of Councillors, and representatives from traders, disability committee, community, and Council staff, was convened to consider the existing policies of Council with regard trading places. A copy of the meeting notes from the above working group meeting was provided to all Councillors at the briefing session and is now provided as an attachment to this report.

All parties were afforded an opportunity to detail their position and any concerns they had with the existing policy of Council with regard to the above.

The Council General Manager Sustainable Communities outlined the key aspects of the existing Council policy, and features and principles that form the basis of the current policy. It was explained to those in attendance that the Council policy contained features and structure not dissimilar to many other trading places policies maintained by other councils'.

The workshop group was advised that Council had sought professional input from its solicitors, Municipal Association of Victoria (MAV) and Council liability insurers, who had indicated support for the trading places structure currently implemented by Council. Lawyers Russell Kennedy advised having regard to the Disability Discrimination Act 1992 (DDA) that it is their view that if Council permits goods, signs and other obstacles to be placed and/or located near the building line, thereby obstructing and/or encroaching on the continuous accessible path of travel that Council would be exposed to a risk of litigation under the DDA. It is Council's ultimate responsibility to interpret and take heed to the DDA, as well as the level of risk Council is prepared to bear in this area of footpath management. Given the aging community and the level of democratic structure of those people visiting the historical towns in Indigo Shire, these added risk factors may also need to be taken into account when considering risk.

It was also indicated to the group that the final arbiter in any case of alleged negligence by Council would be the courts. The courts would determine whether Council was in breach of any act or at common law, and whether Council had acted 'reasonably'.

The MAV advises that 51 Councils in Victoria are actively encouraging traders to adopt accessible practices and 45 Councils have either a Footpath Trading Places Policy or are developing one based on standards espoused by legal and legislative advice.

The fact that other councils' did or did not have local laws or policies controlling, or enabled a different form of trading places structure to that of Indigo Shire, does not mean Indigo Shire Council has acted unreasonably or have policies regulating trading places that are wrong. Council has put in place or established policies that have a strong regard to DDA, and features key themes and sound principles that are found in many other councils' policies being implemented across the state. How the Indigo Shire Trading Places policy was put in place at the time, and how much consultation and input was sought from traders and disabled groups, is not known.

There was "around the table" support at the meeting May 21, 2009 for the use of footpaths for trading purposes and that there was a need for some common sense level of regulation to control same. There was support for the needs and interests of the disabled, and that the primary use of footpath being the safe trafficking of pedestrians. There were varied opinions expressed on the matter of "continuous accessible path of travel area" and whether there should be scope for individual traders to decide whether to place goods up against their property line or on other locations on the footpath.

One matter that was clear from the discussion was that there were many and varied opinions as to what was or was not appropriate with regarding trading places and other regulations relating to footpaths in Indigo Shire, and that the likelihood of a consensus view was remote. One thing that was not in doubt is that the Council must manage footpaths for all users and that Council may ultimately be called upon to prove it has acted reasonably.

In moving forward, Council has a number of option regarding trading places;
Status quo. Leave the existing Trading Places policy as it is currently and enforce what has been agreed and established.

Disband the existing Trading Places policy and do nothing.

Revise / amend aspects of the existing Trading Places policy, preferably in consultation with the various stakeholders, seeking to provide a basis for meeting the obligations placed on Council, yet seeking to placate some of the concerns that have been raised.

Disband the existing policy in its entirety and seek to come up with a better structure that meets the needs of those impacted and also accommodates Council's obligations to act reasonably and responsibly with regard footpaths and those that use the footpaths.

KEY IMPLICATIONS

Is Council acting reasonably with regard the existing Trading Places policy?

Based on the legal advice sought by Council, is the existing policy excessive or unnecessarily restrictive?

If Council alters the existing policy regarding trading places, can a better policy structure be articulated that meets the needs of all concerned yet ensures Council has acted reasonably and does excessively expose Council to risk?

Council is not obliged to establish a trading places policy in any set form or structure under law.

Council's insurers cannot force Council to establish a trading places policy or dictate what form a policy takes.

Council is required to act responsibly given its duty of care responsibilities at law.

FINANCIAL IMPLICATIONS

Council faces widespread financial implications associated with public liability issues involving Council and the wider community

The existing CMP liability insurance excess for liability claims is currently set at \$10,000 for each and every claim.

POLICY IMPLICATIONS

This report is concerned with existing Council Policy.

CONCLUSION

There is an overall need and desire to arrive at a workable and common sense outcome in a world often dominated by regulation and litigation. The existing policy regarding trading places has not been created to make life difficult for shop trader operating in Indigo Shire. The existing policy was created in accordance with the Local Government Act 1989 and would have involved an opportunity for community input at the time of its creation.

What Council must seek to achieve is a workable outcome based on a number of sound principles that respects the rights of all footpath users, provides a reasonable basis for traders to exhibit and sell their ware, meets the required provisions as laid out the in the DDA, Local Government Act 1989, and any other regulations, and ultimately an outcome that is reasonable and protects the Council of imprudent risks.

Appended to this report is a copy of the legal advice dated September 5, 2008 from Russell Kennedy re Trading Places Guidelines – footpath trading.

The legal advice concludes that having regard a number of factors as set out in the legal advice, it is the opinion of Russell Kennedy that if Council permits good, signs or other obstructions to be placed and/ or located near the building line, thereby obstructing and/or encroaching on the continuous accessible path of travel, Council would be exposed to the risk of litigation under the DDA.

Attachment
Meeting notes – Trading Places Working Party meeting May 21, 2009
Legal advice from Russell Kennedy Trading Places Guidelines – footpath trading

12.4 MAYORAL AND COUNCILLOR ALLOWANCE ADJUSTMENT FACTOR

FILE NO. 09/735 - David Montgomery – Manager Governance and Risk

For Decision

RECOMMENDATION

Based on notification from the Victorian Minister for Local Government in accordance with the 73B of the Local Government Act 1989;

That the allowances to be paid to the Mayor be increased by the regulated adjustment factor to \$49,610 and Councillors to \$16,605, such allowances to be effective from the 1st of December 2009.

Moved Cr Issell

Seconded Cr Pockley

Based on notification from the Victorian Minister for Local Government in accordance with the 73B of the Local Government Act 1989;

That the allowances to be paid to the Mayor be increased by the regulated adjustment factor to \$49,610 and Councillors to \$16,605, such allowances to be effective from the 1st of December 2009.

CARRIED

Cr Goldsworthy requested that his vote against the motion be recorded.

INTRODUCTION

This report advises of an indexation allowance to apply to all Mayoral and Councillor Allowances effective from the 1st December 2009.

BACKGROUND

Section 73B of the Local Government Act 1989 provides for annual adjustments to Mayoral and Councillors allowances. The adjustments are decided by the Minister for Local Government and have regard the movement in the remuneration of Victorian Statutory and Executive Officers policy.

On the 1st of July 2009, the Premier the Hon. John Brumby announced the Executive Remuneration policy for 2009/2010 and a movement increase of 2.5%.

In the Government Gazette on the 12th of July 2009, the Hon. Richard Wynne, Minister for Local Government advertised a notice which provided for a 2.5% increase to apply to all Mayoral and Councillor Allowances effective from the 1st of December 2009.

These annual adjustments are not subject to reviews or Section 223 processes under the Local Government Act or community submission processes.

KEY IMPLICATIONS

Legislative - Section 73B of the Local Government Act provides for at (5): if a notice is published in the Government Gazette under (4) a Council must increase Councillor and Mayoral allowances in accordance with the adjustment factor.

FINANCIAL IMPLICATIONS

The allowances currently paid are as follows:

Mayor:	\$48,400
Councillors:	\$16,200

These allowances would be increased to those detailed in the officer's recommendation above.

POLICY IMPLICATIONS

Not applicable.

CONCLUSION

Not applicable.

12.5 COUNCIL MEETING TIMES AND LOCATIONS – COMMUNITY FORUMS

File No: M211 – David Montgomery – Manager Governance and Risk

For Decision

RECOMMENDATION

That:

Council continue with the Council meeting schedule for 2009 noting that the current format of Council meetings and Community Forums appear to be operating well. Council determine that the attached meeting cycle be implemented.

**Moved Cr Croucher
Seconded Cr Gaffney**

That:

Council continue with the Council meeting schedule for 2009 noting that the current format of Council meetings and Community Forums appear to be operating well, pending the deletion of the Melbourne Cup Day lines within the schedule. Council determine that the attached meeting cycle be implemented.

CARRIED

INTRODUCTION

This report is prepared in response to Council's resolution at the May 2009 meeting where it resolved to introduce additional Community Forums throughout the Shire and also follows a motion at Council's meeting on 10 February 2009 whereby Council would review its meeting times and locations at the end of July 2009.

BACKGROUND

At Council's meeting on 10 February 2009 Council adopted the Meeting Schedule which provided for Council meetings to be conducted on a rotational basis at Rutherglen, Chiltern, Yackandandah, Beechworth and Kiewa/Tangambalanga. Community Forums follow the Council meetings held in each locality.

Subsequent to that there was concern that smaller towns throughout the Shire were missing out on Community Forums. Accordingly Council at its April 2009 meeting resolved to conduct Community Forums in the outlying townships of the Shire on the respective third Tuesday of each month.

The meeting cycle of the Community Forums appears to be working reasonably well. Numbers at the Community Forums are not great but it provides a good mechanism for Councillors and Senior Managers to interact with the community and is obviously well received in those communities.

KEY IMPLICATIONS

Not applicable.

FINANCIAL IMPLICATIONS

Not applicable.

POLICY IMPLICATIONS

Not applicable.

CONCLUSION

Council to continue with the current meeting cycle and the new meeting cycle as included be implemented as per previous page.

Attachment
Council meeting schedule for 2009
Draft Council meeting schedule for 2010

12.6 MURRAY TO THE MOUNTAINS RAILTRAIL LOCAL LAW NO. 5 OF 2009

File No: 09/929 – David Montgomery – Manager Governance and Risk

For Decision

RECOMMENDATION

1. That Council determine to adopt Murray to the Mountains Rail Trail Local Law No. 5 of 2009 as detailed in this report.

The Chief Executive Officer be authorised to:

- a. Give public notice that submissions in respect of this matter will be considered in accordance with Section 223 of the Local Government Act 1989
 - b. Make available for public inspection the information required to be made available.
2. Submissions on the proposed Murray to the Mountains Local Law 5 of 2009, made in accordance with the Local Government Act 1989 be received by Monday, 21 September 2009;
 - a. pursuant to Section 223 (1) (b) (1) and (c) of the Local Government Act 1989, be considered by a committee of all Councillors to be held at The Shed, High Street Yackandandah on Tuesday 6 October 2009 at 5.30pm, and to be formally considered by Council at its October 13, 2009 Council meeting.

Moved Cr Goldsworthy

Seconded Cr Issell

That:

Pending amendment to page 17 of the Local Law No.5 Document Clause 39 (5)(a); "38 (2)" be amended to read "39 (2)".

- 1. Council determine to adopt Murray to the Mountains Rail Trail Local Law No. 5 of 2009 as detailed in this report.**

The Chief Executive Officer be authorised to:

- a. **Give public notice that submissions in respect of this matter will be considered in accordance with Section 223 of the Local Government Act 1989**
 - b. **Make available for public inspection the information required to be made available.**
- 2. Submissions on the proposed Murray to the Mountains Local Law 5 of 2009, made in accordance with the Local Government Act 1989 be received by Monday, 21 September 2009;**
 - a. **pursuant to Section 223 (1) (b) (1) and (c) of the Local Government Act 1989, be considered by a committee of all Councillors to be held at The Shed, High Street Yackandandah on Tuesday 6 October 2009 at 5.30pm, and to be formally considered by Council at its October 13, 2009 Council meeting.**

CARRIED

INTRODUCTION

This report has been held over since the May and June 2009 Ordinary Meetings of Council to clarify various issues.

This Report recommends the adoption of a Local Law to control activities on the Rail Trail. Similar Local Laws have been adopted in the Rural City of Wangaratta and are in the process of adoption at the Alpine Shire.

BACKGROUND

The 1st stage of the Murray to the Mountains Rail Trail was completed and officially opened in September 2002. The former railway reserves are crown land reserved as Public Purposes (Rail Trail) Reserve in accordance with the provisions of the Crown Land (Reserves) Act 1978. In accordance with the provisions of that Act, the Councils of Alpine and Indigo Shires and Rural City of Wangaratta have been appointed as the Committee of Management Murray to the Mountains Rail Trail to manage that reserve in accordance with the purposes of the reservation.

ORDINARY COUNCIL MEETING MINUTES

Crown Land Reserves (Murray to the Mountains Rail Trail Reserve) Regulations 2003 were gazetted to assist the Committee of Management in managing the reserve. However the powers to enforce the regulations have not been realised and it was determined by the Committee of Management to investigate the feasibility of managing the crown land reserve through the introduction of a Local Law.

KEY IMPLICATIONS

Regulatory and Environmental

The main reason for the introduction of Local Laws (refer attachment) for the Murray to the Mountains Rail Trail are the long standing land reserve issues which have been unable to be resolved by other means. These issues include disused car wrecks parked on the crown land reserve in close proximity to the trail, barb wire fences built on crown land reserve without a permit and in close proximity to the trail and vehicles using the trail as an access route causing damage to property on the trail.

The purpose of this Local Law is to:

- a) prohibit, regulate and control activities which may be dangerous or unsafe or detrimental to the enjoyment and use of the Rail Trail;
- b) prohibit, regulate and control access to, behaviour on and use of, the Rail Trail; and
- c) to provide for the peace, order and good governance of the municipal district.

Given the Committee of Management is formally responsible as the Crown Land Reserve managers it was determined to thoroughly investigate the legal implications specific to enforcement activities.

Legislative

Section 223 of the Local Government Act 1989 allows for the right to make a submission on this local law.

FINANCIAL IMPLICATIONS

Not applicable.

POLICY IMPLICATIONS

Not applicable.

CONCLUSION

Not applicable.

Attachment
DRAFT Murray to Mountains Rail Trail Local Law

12.7 PROPERTY VALUATIONS

File No: Property & Valuations – Graeme Pool – Senior Revenue Officer

For Information

INTRODUCTION

The Victorian Valuer General made a proposal in late 2008 that would see his office take over property valuations for all Councils. The theory at the time was that the Valuer General’s Office would hold contracts directly with property valuers and that this would lead to a reduction in valuation costs compared to current system whereby each Council has a contract with a valuer of their choosing. The Valuer General’s Office would also have the added advantage of “owning” the data and this would enable them to seek other opportunities to sell parts of the data and generate an alternative income source. This aspect was never fully explained as to what data could be sold on.

In May 2009 the Victorian Government decided to give Councils an option when looking at property revaluations. Councils can now include the Valuer General’s Office as a potential valuer for future revaluations but would not be forced to accept this as the only option.

BACKGROUND

Since January 2000 Council has been required to obtain independent property valuations on all properties on a two yearly cycle. Individual Councils have had sole discretion in appointing an independent property valuer provided the valuer was registered with the Valuer General’s Office. The cost of a revaluation has increased from \$80000 in 2002 to \$135000 for 2010. Council is able to claim half of this cost from the Valuer General’s Office in exchange for a complete set of revaluation data. “Ownership” of this data has however remained with Council. This will remain if Council chooses to continue with own contract negotiations and arrangements.

KEY IMPLICATIONS

There are no implications for the 2010 property revaluation as this has been under contract with current valuers, L G Valuation Services since September 2008 with a final valuation return date of 30 April 2010. Council has already received stage 1 works and the Valuer is well advanced with stage 2 which is due by end of August 2009.

Whilst Council holds an option with the current valuer for the 2012 revaluation it does not have a commitment and could consider the Valuer General’s Office as an option if so desired.

FINANCIAL IMPLICATIONS

There are no immediate financial implications as 2010 contract has been in place with the existing valuer since September 2008.

The Valuer Generals proposal claims cost savings from “Economy of Scale” as they may enter into contracts with the one valuer but for a number of Councils. The Valuer General could contract one valuer to complete valuations for all councils within North East of State.

A true answer to any cost savings will not be known until such time as Council includes Valuer

ORDINARY COUNCIL MEETING MINUTES

General's Office in tendering process for property revaluations from 2012 and beyond.

CONCLUSION

Council holds a current contract with L G Valuation Services for the completion of 2010 property revaluation. This contract also contains an option for 2012 property revaluation.

Initially it was proposed that Councils would no longer have a choice in property valuers as all contracts would be arranged via the Valuer General's Office.

The final decision allowing Councils to continue to choose property valuer and include the Valuer General's Office as an additional option would appear to be a common sense compromise.

12.8 BEECHWORTH OFFICE AND MEMORIAL HALL OWNERSHIP STATUS

File No: M422 – David Montgomery – Manager Governance and Risk

For Information

INTRODUCTION

At Council's February 2009 meeting, Council resolved that ownership status of the Beechworth Shire Offices and Memorial Hall area be ascertained. Title searches were carried out on the various property allotments with title searches indicating that the conveyance records were in old law. Subsequently application has been made to the Titles Office to have the titles transferred from "old law" to Torrens title.

BACKGROUND

Advice has been received from the Registrar of Titles that a Provisional Folio of the Register Vol 11148 Fol 244 has been created for crown allotments 7, 8, 18 and 19 Section 9 Township of Beechworth. These allotments relate to the Memorial Hall, Offices, car park and the Burke Museum. There is a warning on the title as to subsisting General Law Interests, and that these 'interests' will automatically be removed at the expiration of 15 years. However, it may be removed within that time upon application supported by a legal practitioner's certificate.

Advice from Council's legal advisers is that this matter would only be applicable if Council was intending to sell the land. They further advise that it is common for a similar warning to be put on all titles issued from land conversions in this manner. In 15 years time this warning will automatically be removed. It is possible to remove the general interests but this would require establishing the chain of title and the carrying out of a full title survey.

KEY IMPLICATIONS

Not applicable.

FINANCIAL IMPLICATIONS

Not applicable.

POLICY IMPLICATIONS

Not applicable.

CONCLUSION

Council has now completed its review of property ownership associated with the various titles including the Memorial Hall, Offices, car park and the Burke Museum. Council has now been issued with a new title covering the 4 allotments above.

The matter of long term tenure held by the Beechworth RSL has also been concluded, with details of the long term lease tenure by the RSL reported to the July 2009 Council meeting.

Appendix - Copy of title Vol 11148 Fol 244 particulars.

12.9 REGISTER OF INTERESTS – GUIDE

File No: 09/744 - David Montgomery – Manager Governance and Risk

For Information

INTRODUCTION

This report advises on the Register of Interests Guide which is intended to assist Council in complying with the revised provisions of the Local Government Act 1989 (the Act).

BACKGROUND

Local Government Victoria has provided for Councillors information a Register of Interests Guide. They advise that it is important for Councillors, members of special committees and nominated officers to lodge accurate interest returns, not just because a failure constitutes an offence, but because these returns ensure a level of public transparency about the relevant private interests of people who exercise significant powers and duties on behalf of the community.

Local Government Victoria have advised that it is of concern that recent investigations have shown failures by some Council administrations and by people who are required to lodge interest returns. As a consequence, a number of people have been charged and in some cases convicted of failing to comply with the requirements of the Act.

The Office of Local Government has provided a Register of Interests guide which is inserted as an attachment to the agenda.

KEY IMPLICATIONS

It is necessary for all Councillors, members of Special Committees (as required) and nominated officers to lodge returns twice a year. The Guide provides specific advice on completing the returns. Councillors are asked to carefully consider these legislative requirements and obligations.

FINANCIAL IMPLICATIONS

Not applicable.

POLICY IMPLICATIONS

Not applicable.

CONCLUSION

Not applicable.

Attachment
Register of Interests Guide

12.10 FINANCE REPORT FOR JUNE 2009

File No: M064 - MF - Frank Bonacci - Finance Manager

For Information

INTRODUCTION

This report provides Council's with a brief update on financial reporting status as at end of June 2009.

SUMMARY

The Finance team is currently in the process of closing off the 2008-09 year end in preparation for audit. Results for the year ending June 2009 are likely to change slightly over the coming weeks as year end adjustments journals are applied.

Consequently, no financial reports as at the end of June 2009 are provided for the August Council meeting.

An initial review of the June figures does indicate that the 30 June year end position will be very much in line (within \$50K) of the year end Statutory forecast for May provided at the July Council meeting.

13.0 GOVERNANCE

13.1 COMMUNICATIONS POLICY

File No: M450.7 – COMMUNICATIONS ADVISER, Roberta Baker

For Decision

RECOMMENDATION

That Council adopt the Communications Policy August 2009.

Moved Cr Goldsworthy

Seconded Cr Pockley

That Council adopt the Communications Policy August 2009.

An amendment to this motion was:

Moved Cr Murdoch

Seconded Cr Issell

That Council adopt the Communications Policy August 2009 in Draft form and seek public input.

CARRIED

The amendment became the motion.

CARRIED

INTRODUCTION

Communication and community engagement are issues that Local Government grapples with generally and Indigo Shire is no different. In the community consultation process for the Council Plan 2009-12 earlier this year, residents said these issues were of major concern to them. This concern is reflected in the new Council Plan at 1.3, enhance our communications (Review and implement Council’s Communication and Engagement Strategy) and 1.4, and Foster community involvement in council decision making.

BACKGROUND

Council resolved in January to create a Communications Committee under Section 86 of the Local Government Act to examine Indigo Shire communications, including the effectiveness of the Community Engagement Policy. At the June Council meeting, council resolved to make this committee a Working Group. A draft Communications Policy developed by this working group has been presented to the Corporate Management Group, Senior Management Group and to a Council briefing session. It has been warmly received.

KEY IMPLICATIONS

The Communications Policy will impact on all staff and Councillors. It is about fostering cultural change to provide better customer service through improved communication processes and better community engagement. The policy will work 'hand-in-hand' with the new Council Plan and will therefore help to guide everything we do.

FINANCIAL IMPLICATIONS

Not applicable.

POLICY IMPLICATIONS

See Key Implications.

CONCLUSION

The Council has shown through the community consultation process for the Council Plan a willingness to work closely with residents on issues of concern. This Communications Policy builds on that willingness. It is a dynamic document in that it is short, in plain English and sets out the principles that form the foundation for how we deliver services to our residents. The implementation of this policy will help create a solid, working partnership between the Council and the wider Indigo Community.

Attachment
Communications Policy

13.2 COMPLETION OF CAPITAL WORKS FOR 2008/2009 FINANCIAL YEAR

File No: Brendan McGrath – Chief Executive Officer

For Information

INTRODUCTION

This report is intended to provide a fairly basic analysis of the level of Capital Works completion for the 2008/2009 financial year.

BACKGROUND

The Council has set the target to increase its level of Capital Works completion at 80%.

This target was set following several years of fairly poor delivery in terms of both the number of projects actually completed and the quantum of actual spend on projects for a variety of reasons which have previously been considered by council.

The level of completion in previous years has been approximately; 39% in 2005/2006, 33% in 2006/2007 and 26% in 2007/2008.

There are a range of reasons why this has generally been the case, these include:

- A lack of key personnel, due to retirement of several key staff members along with staff moving on to progress other career opportunities, which subsequently results in a delay in finding replacements
- Indigo Shire has generally been very reliant on funding from other sources, often putting projects in its budget without being clear as to whether funding had been received. This meant that works could not commence on these projects until the funding was confirmed
- Inclement weather
- Availability of external contractors and consultants to conduct required works
- Programming and planning has been slightly flawed due to the expectation that projects could be; designed in concept, funding sought, detailed design carried out, work tendered and work completed, all in a 12month cycle. The Council has now moved toward adopting a three year program with these stages spread over the two or three year period
- Regulatory frameworks have become increasingly more sophisticated and complicated and add significant delays to the completion of projects.

This year's completion rate, as is set out on the table below, as can be seen across the total year, is just under \$5M worth of work that was actually carried out. This equates to 44% of the total value of work to be carried out and 59/110 projects that were actually completed, which equates to a 54% completion rate. As can be seen this is well short of the 80% completion rate, either measured by dollars spent and the actual number of projects completed, but it is pleasing to note the actual quantum of dollars spent is about equivalent to that which would normally be our Capital Works Program in any "normal" given year.

ANALYSIS OF COMPLETION OF CAPITAL WORKS FOR 2008/2009 FINANCIAL YEAR					
2007/2008 Carry Forward Projects					
No. of Projects	Value of Projects	No. Completed	%(No.)	Value of work completed	%(\$)
27	\$ 4,150,220.00	12	44%	\$ 1,169,519.00	28%
2008/2009 Adopted Budget Projects					
No. of Projects	Value of Projects	No. Completed		Value of work completed	
44	\$ 6,112,213.00	24	55%	\$ 3,247,365.00	53%
2008/2009 Projects added during the year					
No. of Projects	Value of Projects	No. Completed		Value of work completed	
39	\$ 695,121.00	23	59%	\$ 448,854.00	65%
Total Completed Including Carry Forwards, Adopted & New Projects					
110	\$ 10,957,554.00	59	54%	\$ 4,865,738.00	44%

- Policy implications. Council has considered a range of initiatives which are aimed at improving the delivery of Capital Works projects, at the time these were considered it was very clear that it would take a couple of financial years to take effect. Just some of these initiatives include:
 - Programming the work across financial years with more accuracy
 - Increase staff resources into the delivery of Capital Works (we are currently in the process of appointing a few key personnel into these positions)
 - Confirming funding in advance of the financial year (the vast majority of funding in the current financial years program has been confirmed)
 - And a range of various other initiatives.
- Financial implications. The non completion of Capital Works means that council often has a surplus of funds sitting in its account; these are not really available for a range of other uses as they will be spent as the works are actually completed and costs are incurred. A more accurate Capital Works program and better completion rate will mean that funds are not unnecessarily tied up by works which will go on uncompleted across several financial years.

KEY IMPLICATIONS

Not applicable.

FINANCIAL IMPLICATIONS

Not applicable.

POLICY IMPLICATIONS

Not applicable.

CONCLUSION

Whilst the actual quantum of dollars spent in the 2008/2009 financial year on Capital Works projects has improved there is still some way to go to lift the completion rate to the targeted 80%. I am very confident that 2009/2010 will see a much better result.

14.0 NOTICES OF MOTION

Nil.

15.0 COMMITTEE AND DELEGATES REPORTS – JULY 2009

15.1 CR PETER GRAHAM OAM

For Information

DATE	TIME	EVENT / FUNCTION
3 July	10.30 am	Admin NevRWaste, Wangaratta
	1.30 pm	Meet with constituent, Stanley
	2.30 pm	Review Tour Burke Museum
6	9.00 am	Weekly meeting with CEO, Beechworth
	10.00 am	Kerferd Committee Meeting, La Trobe
	12 noon	"How we take to each other" workshop, Rutherglen
7	11.00 am	"How we talk to each other" workshop, Beechworth
	4.30 pm	Coffee, cake and community, Beechworth
8	7.30 pm	Chiltern Tourism Association Inc AGM
	9.00 am	NevRWaste Meeting, Wangaratta
9	3.00 pm	Meet with Tourism Manager, Valhalla, Wahgunyah
	9.00 am	Murray Darling Association Meeting, Urana
13	7.30 am	Breakfast Launch Climate Change, Melbourne
	2.00 pm	Weekly meeting with CEO, Beechworth
14	11.00 am	Councillors photos, Beechworth
	1.00 pm	Special Meeting of Council, Beechworth
	2.00 pm	Council Briefing Meeting, Beechworth
	3.00 pm	Ordinary Meeting of Council, Beechworth
	7.00 pm	Community Forum, Beechworth
15	7.00 pm	Burke Museum AGM, Beechworth
17/18	Full days	Association of Victorian Regional Waste Management Groups meetings, Torquay
19	12.30 pm	Opening Chiltern Skate Park
20	9.00 am	Weekly meeting with CEO, Beechworth
	10.00 am	Meeting with Murray Darling Association re 2010 Conference, Beechworth
	2.00 pm	Rutherglen Red Cross AGM
	6.30 pm	Beechworth & District Chamber of Commerce & Industry AGM, Beechworth
21	7.30 pm	Bigger Beechworth Project Public Meeting, Beechworth
	1.30 pm	Special Meeting of Council re Budget, Sandy Creek
	3.00 pm	Council Briefing Meeting, Sandy Creek
22	7.00 pm	Wahgunyah Progress Association AGM
	11.00 am	Attend Funeral Late Molly Mitchell, Rutherglen
23	3.30 pm	Meeting re Barnawartha ABC Learning Centre, Beechworth
	7.30 am	Albury Directors Breakfast, Directors & Officers Responsibility for OH&S, Albury

ORDINARY COUNCIL MEETING MINUTES

	10.00 am	Early Years Action Forum, Rutherglen DPI
	6.00 pm	Museums Victoria Awards, Melbourne
24	6.00 pm	Rutherglen Apex Club AGM
26	2.00 pm	Rutherglen Seniors Association AGM
27	9.00 am	Weekly meeting with CEO, Beechworth
	10.00 am	Meeting with EDU representatives, Beechworth
	1.30 pm	Kerferd Committee Meeting, La Trobe
28	4.00 pm	Council Briefing Meeting, Yackandandah
	5.00 pm	Special Council meeting re Budget, Yackandandah
30	2.00 pm	Admin NevRWaste, Wangaratta
	4.00 pm	Meeting S Brown and others, Beechworth
31	12.30 pm	Official Opening Albury-Wodonga Health Service
	7.30 pm	50 Anniversary Dinner Murray Valley Centre, Albury

15.2 ALBURY-WODONGA DIRECTORS BREAKFAST - CR PETER GRAHAM OAM

For Information

I attended the OH&S Breakfast in Albury on Thursday 23 July 2009 and found this to be interesting, particularly regarding:

- Responsibility of Directors (Councillors) towards sub-contract staff
- Extension of reasonable responsibility to directors of organisations; and
- Steps necessary to ensure that procedures are being followed, reviewed and updated in light of experience and changes in working conditions.

Tabled is a copy of the presentations for all councillors, senior managers and staff involved in risk management and OH&S implementation.

15.3 CR BERNARD GAFFNEY

For Information

DATE	TIME	EVENT / FUNCTION
2 July	12.30 pm	Rostrum Meeting, Albury
	7.00 pm	Residential Rate 2 Meeting, Beechworth
3	2.30 pm	Tour of Burke Museum
7	4.00 pm	Council Briefing Meeting, Yackandandah
9	4.00 pm	Finance Committee Meeting, Beechworth
	7.00 pm	Residential Rate 2 Meeting, Beechworth
12	12 noon	Meet with constituent
13	11.00 am	Meet with constituent
14	11.30 am	Councillors photos, Beechworth
	1.00 pm	Special Meeting of Council, Beechworth
	2.00 pm	Council Briefing Meeting, Beechworth
	3.00 pm	Ordinary Meeting of Council, Beechworth
	7.00 pm	Community Forum, Beechworth
15	7.00 pm	Burke Museum AGM
16	12.30 pm	Rostrum Meeting, Albury
20	6.30 pm	Beechworth Chamber of Commerce & Industry AGM
21	3.30 pm	Special Meeting of Council re Budget, Sandy Creek
	4.00 pm	Council Briefing Meeting, Sandy Creek
	7.00 pm	Community Forum, Sandy Creek
22	9.30 am	Destination Rutherglen Meeting, RWE, Rutherglen
	6.00 pm	ACSUM Meeting, Albury
25	11.00 am	Meet with constituent
26	12 noon	Meet with constituent
27	11.00 am	Meeting with Manager Governance & Risk
28	4.00 pm	Council Briefing Meeting, Yackandandah
	5.00 pm	Special Meeting of Council re Budget, Yackandandah
29	9.30 am	Indigo Tourism Advisory Committee Meeting, Rutherglen
30/31	Full days	MAV Training "So you think you know what good governance looks like", Melbourne

15.4 CR PETER CROUCHER

For Information

Date	Time	Function / Event details
2 July	9.30 am	Lake Hume Land and On-water Management Plan Community Reference Group Meeting, Wodonga
3	2.30 pm	Tour of Bourke Museum
6	9.00 am	Meet with P Prior, Yackandandah
	11.00 am	"How we talk to each other" Youth workshop, Rutherglen
7	4.00 pm	Council Briefing Meeting, Yackandandah
8	7.30 pm	Chiltern Tourism Inc AGM, Chiltern
13	10.30 am	Early Years Meeting, Wooragee
14	11.00 am	Councillor photos, Beechworth
	1.00 am	Special Meeting re Budget Submissions, Beechworth
	2.00 pm	Council Briefing Meeting, Beechworth
	3.00 pm	Ordinary Meeting of Council, Beechworth
	7.00 pm	Community Forum, Beechworth
16	12 noon	Anglicare Community Support Forum, Yackandandah
17	7.00 pm	"The Last Wake at Sheoak Creek", Chiltern
19	12.30 pm	Opening of Skate Park, Chiltern
21	1.30 pm	Council Briefing Meeting, Sandy Creek
	7.00 pm	Community Forum, Sandy Creek
23	10.30 am	Early Years Forum, DPI, Rutherglen
	4.30 pm	Indigo Heritage Advisory Committee Meeting, Chiltern
27	9.00 am	Presentation Student Badges, Kiewa Valley PS
28	4.00 pm	Council Briefing Meeting, Yackandandah
	5.00 pm	Special Meeting to Adopt Budget, Yackandandah
29	9.30 am	Indigo Tourism Advisory Committee Meeting, Wahgunyah
	7.00 pm	Planning Focus Meeting, Kergunyah
30	9.00 am	Junior Council Meeting, Yackandandah
	5.30 pm	MAV North East Group Meeting, Wodonga
31	10.00 am	MAV Roadshow Meeting, Benalla
	4.00 pm	S86 East Timor Friendship Group Meeting, Beechworth

15.5 JUNIOR COUNCIL MEETING - CR PETER CROUCHER

For Information

The Junior Council met on Thursday 30 July at the Yackandandah Primary School.

This year's Junior Councillors have agreed to raise funds to build an enclosure at the Beechworth Animal Shelter for wombats that have been injured or require special care. We travelled by mini bus from Yackandandah to the Shelter so the Junior Councillors could see first hand where and how the enclosure would be built.

The owner / operator, Mr Piers Foa took us on a guided tour of the property and the children were very interested in seeing where injured birds and animals are nursed back to good health and then released back into the bush, wherever possible, to their home location.

The footings to the new wombat enclosure have been commenced and Piers explained how the structure would be built and why it was necessary to have a mesh wall embedded into the ground to prevent wombats digging their way out.

On our walk he also pointed out feeding stations where native animals could come to find fruit, seeds or other appropriate food when needed.

It was a very interesting morning, enjoyed by everyone and we all came away with a greater understanding of the difficulties and challenges of caring for injured animals.

On return to the Yackandandah Primary School the junior councillors finished their letters to Atauro Island schools. These are to be taken to Atauro Island by former Councillor Frances Walsh when she travels there in August.

The meeting concluded with a tour of the school, particularly highlighting the new classrooms, which have just been commenced.

The next meeting will be on Thursday 10 September at the Stanley Primary School.

15.6 S86 ATAURO ISLAND FRIENDSHIP COMMITTEE

For Information

Members of the Atauro Island Friendship Group met in Beechworth on Friday 31 July.

Dr Wendy Connor and her sister Kerry Connor have recently returned from Timor Leste and Atauro Island and had prepared a discussion paper on areas they felt the Friendship Group could focus on.

The suggestion which was embraced by the group was for the establishment of an Indigo Scholarship for two secondary school graduates per year (one boy and one girl), to attend university in Dili. The group would cover the cost of university fees and living costs in Dili for the duration of their degree. It was noted that as it was a standard three year degree, it was expected to have a maximum of six students at the most.

Cost estimates (\$US) provided by Wendy were that university fees are just under \$200 per year. Living costs in Dili were \$30 per month if staying with family and \$60 per month if staying independently.

Wendy suggested that the group speak to community organisations such as Rotary, etc and invite them to each sponsor a student, or possibly two.

To administer the process it would be necessary to appoint an administrator. This person would most likely be expected to travel to Dili each month, draw money from an account and distribute it to the students. The students would have to produce receipts as proof of continued attendance at university, etc. The administrator would be required to keep accurate records and all parties would need to be accountable.

The S86 Committee will address Council at a future briefing meeting and will request Council to guarantee an amount of up to \$2,000 to pay the administrator.

Dr Connor is aware of a person who may be suitable to fill this role.

Dr Connor suggested that there may be other groups who have already tried similar projects and it was agreed that further investigations be made.

Note: Subsequent to Friday's meeting, Frances Walsh has contacted Richard Brown of the Timor Leste Friendship Association of the VLGA. He advises there is a process in place for what Indigo's group is aspiring to. Frances has contact details for a volunteer based in Aileu and she will contact him whilst she is in Timor between 2 and 25 August.

Further information will be provided when the S86 Atauro Island Friendship Group meets with Council.

15.7 CR LARRY GOLDSWORTHY

For Information

DATE	TIME	FUNCTION / MEETING DETAILS
03 July	2:30 pm	Burke Museum Tour, Beechworth
07	4:00 pm	Council Briefing Meeting, Yackandandah
09	4:00 pm	Finance Committee, Beechworth
10	12.30 pm	Communications Committee Meeting, Beechworth
14	11:30 am	Council Photos, Beechworth
	1:00 pm	Special Meeting, Beechworth
	2:00 pm	Council Briefing Meeting, Beechworth
	4:00 pm	Council Ordinary Meeting, Beechworth
	7:00 pm	Community Forum, Beechworth
16	12:00 pm	North East Road Safe, Wangaratta
20	2:00 pm	Senior Council Staff, Beechworth
21	1:30 pm	Special Meeting, Sandy Creek
22	5:30 pm	ACSUM General Meeting, Albury
28	4:00 pm	Council Briefing Meeting, Yackandandah

15.8 COUNCILLOR DEVELOPMENT WEEKEND 24TH – 26TH JULY REPORT

File No: M506-14- Cr Barbara Murdoch

For Information

I attended this very positive and informative Conference which had numerous speakers including renowned Business Commentator Robert Gottliebsen who spoke on the economy and its recovery over the next couple of years and the likelihood of interest rate rises into the future affecting all Councils and Tom Roper who gave an informative presentation on Climate Change and the effect of changing weather patterns on water availability and climate variability and particularly the effects of rising tides on low lying areas of the world including Australia and the need for Councils to help to adapt to these changes.

Of the workshops I attended Peter Kenyon's on The BEAR Necessities-Keys to Successfully Engaging Your Communities and Susan Benedyka's Tribal Relations- Getting The Most Out of Your Teams were the most informative and demonstrated practical ways to assist Councils to ensure that their communities are involved in the decision making processes and working together to achieve the best results for Communities

15.9 JULY 2009 DIARY - CR BARBARA MURDOCH

For Information

Date	Time	Function
1-12 July		Leave of absence
14	11:00 am	Council Photos, Beechworth
	1.00 pm	Council Briefing, Beechworth
	1.30 pm	Special Meeting Budget Presentations, Beechworth
	3.00 pm	Council Meeting, Beechworth
	7.00 pm	Community Forum, Beechworth
16	12.00 pm	Anglicare Community Support Program, Yackandandah
17	7:00 pm	Chiltern Lions Amateur Players Performance 'The Last Wake at She-Oak Creek, Chiltern
19	12:30 pm	Opening of the Chiltern Skate Park, Chiltern
20	9:00 am 7:00 pm	Presentation of the Barnawartha School Badges, Barnawartha Beechworth Chamber of Commerce AGM, Beechworth
21	1:30 pm	Special Meeting of Council, Sandy Creek
	3.00 pm	Council Briefing Meeting, Sandy Creek
	6.00 pm	Wahgunyah Progress Association AGM
22	7:00 pm	General Meeting ASCUM, Albury
23	10:00 am	Indigo Early Years Action Forum, Rutherglen
24	12:00 pm	Intelligent Communities 'Where to From Here' Presentation, Melbourne
24-26		MAV Councillor Development Weekend, Creswick
28	4:00 pm	Council Briefing Meeting, Yackandandah
	5.00 pm	Special Meeting of Council, Yackandandah
30	10:00 am	Junior School Council, Yackandandah
31	10:30 am	MAV Roadshow, Benalla

15.10 JULY 2009 DIARY – CR A POCKLEY

For Information

Date	Time	Function / Meeting details
3 July	10.30 am	Coffee, Cake & Conversation Pre-Kerferd Oration discussion at Beechworth Neighbourhood Centre
	2.00 pm	Burke Museum tour
7	11.00 am	“How We Talk To Each Other”, Beechworth Youth Centre
	4.00 pm	Council Briefing, The Shed, Yackandandah
9	4.00 pm	Finance Committee Meeting, President’s Room, Beechworth
10	12.30 pm	Communications Committee, President’s Room, Beechworth
14	11.00 am	Photo session, Town Hall, Beechworth
	1.00 pm	Council Briefing, Beechworth
	2.00 pm	Council Meeting, Beechworth
16	12 noon	Community Support in Yackandandah, Anglicare meeting, The Shed, Yackandandah
	1.30 pm	Briefing Meeting, Sandy Creek
	7.00 pm	Community Forum, Sandy Creek
22	5.30 pm	ACSUM meeting and dinner, Albury City Council
23	4.30 pm	Indigo Heritage Committee meeting, Chiltern
25	7.00 pm	“Finding Darwin in Stanley” dinner, Stanley Hall
27	7.00 pm	Beechworth Neighbourhood Centre Management Committee meeting
28	4.00 pm	Council Briefing meeting, The Shed, Yackandandah
	5.00 pm	Special meeting to adopt the 2009/10 budget, The Shed, Yackandandah
29	9.30 am	Indigo Tourism Advisory Committee, The Pickled Sisters, Cofields Winery, Wahgunyah
30-31		“Better Governance” MAV course, Melbourne

16.0 GENERAL BUSINESS

Cr Goldsworthy presented to Council requests from both Michael Menzie and Caitlin McCulloch for sponsorship to enable them to travel to Melbourne and interstate to pursue their sporting achievements.

**Moved Cr Goldsworthy
Seconded Cr Gaffney**

That sponsorship of \$250 be awarded to both Michael Menzie and Caitlin McCulloch to further their sporting achievements in Melbourne.

CARRIED

Cr Graham presented to Council information received from Bill McArthur at MAV.

**Moved Cr Murdoch
Seconded Cr Issell**

That Indigo Shire Council support MAV Duties and Legislation.

LOST

**Moved Cr Pockley
Seconded Cr Issell**

That the Ordinary Council Meeting move into Confidential session in accordance with Section 89 (2) (d) of the Local Government Act 1989.

CARRIED

17.0 CONFIDENTIAL

Moved Cr Goldsworthy
Seconded Cr Issell

That the Confidential Session close and Council move back to the open session of the Ordinary Council Meeting.

CARRIED

Moved Cr Goldsworthy
Seconded Cr Murdoch

That the 20 year lease commencing January 20 2009 between L. R Bould & A M Bould and the Indigo Shire Council for the lease of Chiltern Caravan Park pursuant to Section 17D of the Crown Lands (Reserve) Act 1978, as appended to the Council report, be signed and sealed by Council.

CARRIED

The Mayor declared the Ordinary Council Meeting closed at 5.28pm.

Meeting Concluded: 5.28pm

Next Meeting: 13th October 2009

- Senior Citizens Hall, Chiltern