

**M I T C H E L L**



**S H I R E   C O U N C I L**

# **M I N U T E S**

**12 SEPTEMBER, 2005.**

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## TABLE OF CONTENTS

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ITEM	SUBJECT	PAGE NO
1.	<b>DECLARATION</b> .....	12115
2.	<b>APOLOGIES AND LEAVE OF ABSENCE</b> .....	12115
3.	<b>CONFIRMATION AND SIGNING OF MINUTES NOT PREVIOUSLY CONFIRMED</b> .....	12116
4.	<b>DECLARATION OF INTERESTS</b> .....	12116
5.	<b>PETITIONS</b> .....	12116
6.	<b>OPEN FORUM</b> .....	12117
7.	<b>COMMUNITY &amp; RECREATION</b> .....	12118
7.1.	COMMUNITY & RECREATION – GENERAL REPORT .....	12118
7.2.	REVIEW OF ANNUAL COMMUNITY GRANTS PROGRAM.....	12122
7.3.	SEYMOUR YOUTH AND FITNESS CLUB FACILITY .....	12126
7.4.	REVIEW RECREATION AND OPEN SPACE STRATEGY .....	12130
7.5.	FAMILY DAY CARE SCHEME LONG FORM FUNDING AGREEMENT .....	12133
7.6.	AUSTRALIAN LIGHT HORSE MEMORIAL PARK COMMITTEE OF MANAGEMENT.....	12135
8.	<b>CORPORATE SERVICES</b> .....	12137
8.1.	CORPORATE SERVICES - GENERAL REPORT .....	12137
8.2.	PYALONG CEMETERY TRUST - ACCOUNTS .....	12141
8.3.	SALE OF LAND – WALDERS ROAD KILMORE .....	12142
9.	<b>ENGINEERING &amp; ENVIRONMENT</b> .....	12146
9.1.	ENGINEERING & ENVIRONMENT - GENERAL REPORT.....	12146
9.2.	TRAFFIC CAPACITY AND SAFETY INVESTIGATION – NORTHERN HIGHWAY (SYDNEY STREET) KILMORE .....	12161
9.3.	MAKE IT HAPPEN IN PROVINCIAL VICTORIA MARKETING CAMPAIGN.....	12166
9.4.	BANNING THE OWNERSHIP OF RESTRICTED BREED DOGS .....	12168
9.5.	MANDATORY DESEXING OF CATS .....	12171
9.6.	COUNCIL SIGN AND SEAL SECTION 173 AGREEMENT – L & D SHEAHAN .....	12174
9.7.	SUSTAINABLE WATER USE PLANS .....	12178

---

- 9.8 AMENDMENT C35 TO THE MITCHELL PLANNING SCHEME – REZONES LOT1  
PS 206896S FROM A PUBLIC CONSERVATION AND RESOURCE ZONE (PCRZ)  
TO INDUSTRIAL 1 ZONE (IN1Z)..... 12181
- 9.9 PROPOSED AMENDMENT C41 TO THE MITCHELL PLANNING SCHEME  
(WALLAN GROWTH MANAGEMENT STRATEGY) ..... 12195
- 9.10 MITCHELL PLANNING SCHEME AMENDMENT C16 – HUME HIGHWAY UPGRADE.. 12202
- 9.11 PLANNING PERMIT APPLICATION NO. P303867, USE AND DEVELOPMENT OF A  
75-PLACE CHILD CARE CENTRE ON LAND AT 10 AND 12 STEVENSON  
STREET, WALLAN..... 12209
- 9.12 PLANNING PERMIT APPLICATION NO. P304009, USE OF LAND AS A  
RETIREMENT VILLAGE AND ASSOCIATED BUILDINGS AND WORKS AND CAR  
PARKING WAIVER – 2-4 WILLIAM STREET, WALLAN 3756 (PART CROWN PORTION  
A VOL. 8245 FOL. 068)..... 12221
- 9.13 PLANNING PERMIT APPLICATION NO. P304066, 9 LOT SUBDIVISION AND REMOVAL  
OF VEGETATION, 1 O'GRADYS ROAD, KILMORE EAST (LOTS 1 AND 2 PS449940U)  
12240
- 9.14 PLANNING PERMIT APPLICATION NO. P304184, 20 LOT SUBDIVISION & VARIATION  
OF AN EASEMENT, WILLOWMAVIN ESTATE ..... 12272
- 9.15 PLANNING PERMIT APPLICATION NO. P304259, BUILDINGS AND WORKS  
IN ASSOCIATION WITH AN EXISTING PLACE OF WORSHIP AND CAR  
PARKING DISPENSATION AT 6 ANZAC AVENUE, SEYMOUR ..... 12301
- 9.16 PLANNING PERMIT APPLICATION NO. P304262 – USE AND DEVELOPMENT OF  
LAND FOR THE PURPOSES OF AN EDUCATION FACILITY (SECONDARY SCHOOL)  
AND BICYCLE PARKING WAIVER – 39 SUTHERLAND STREET, KILMORE (LAND IN  
PLAN OF CONSOLIDATION 368351E)..... 12308
- 9.17 PLANNING PERMIT APPLICATION NO. P304273, USE AND DEVELOPMENT OF  
A DWELLING AND OUTBUILDING (SHED) AT 13 NAZEK COURT, WHITEHEADS  
CREEK. .... 12323
- 9.18 VICTORIAN CIVIL & ADMINISTRATIVE TRIBUNAL HEARINGS AND MITCHELL  
PLANNING SCHEME UPDATE ..... 12332
- 9.19 INCREASING AWARENESS OF ROADSIDE TRAFFIC SAFETY ISSUES ..... 12336
  
- 10. GOVERNANCE & EXECUTIVE .....12339**
- 10.1 GOVERNANCE & EXECUTIVE - GENERAL REPORT ..... 12339
- 10.2 CONTRACT 040526 STREET CONSTRUCTION WORKS FOR DUKE, WINDHAM,  
WATSON AND HIGH STREETS, WALLAN..... 12343
- 10.3 CONTRACT 050601 LOCAL ADVERTISING REQUIRMENTS ..... 12346
- 10.4 FREEDOM OF ENTRY - KILMORE..... 12351
- 10.5 GLEN EIRA CITY COUNCIL..... 12353

10.6 LOCAL GOVERNMENT CHALLENGES AND MAV RESPONSES ..... 12355

**11. DELEGATES REPORTS.....12357**

**12. NOTICE OF MOTION .....12358**

12.1 NOTICE OF MOTION: 371 – GLEN EIRA CITY COUNCIL..... 12358

12.2 NOTICE OF MOTION: 372 – CONWAY STREET TRAFFIC MOVEMENT..... 12360

12.3 NOTICE OF MOTION: 373 – THIRD HEAVY VEHICLE ROAD PRICING  
DETERMINATION..... 12361

12.4 NOTICE OF MOTION: 374 – MITCHELL COMMUNITY RADIO..... 12362

12.5 NOTICE OF MOTION: 375 – ENVIRONMENT-FRIENDLY COUNCIL VEHICLE  
PURCHASE POLICY ..... 12363

12.6 NOTICE OF MOTION: 378 – FROG UNDERPASS ..... 12367

12.7 NOTICE OF MOTION: 379 – WALLAN SECONDARY COLLEGE INFRASTRUCTURE . 12368

**13. QUESTION TIME.....12369**

**14. GENERAL BUSINESS .....12369**

**15. CLOSURE OF MEETING TO MEMBERS OF THE PUBLIC.....12370**

**16. DATE OF NEXT MEETING .....12370**

**17. CLOSURE OF MEETING .....12370**

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**MINUTES OF THE ORDINARY MEETING OF THE  
MITCHELL SHIRE COUNCIL HELD AT THE CIVIC CENTRE  
113 HIGH STREET  
BROADFORD ON  
MONDAY 12 SEPTEMBER, 2005  
COMMENCING AT 7.00 PM**

**PRESENT:**

Cr.W. Melbourne (Chairperson)  
Cr.F. Ure  
Cr.R. Humm  
Cr R. Gordon  
Cr.R. Lee  
Cr.D. Paterson  
Cr S. Marstaeller

**ALSO PRESENT:**

Mr Garry Cecil	Chief Executive Officer
Mr Chris Gillard	General Manager Corporate Services
Mr Ian Scholes	General Manager Engineering & Environment
Mr Brendan McGrath	General Manager Community & Recreation
Mrs Vicki Potts	Minutes Secretary

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**1. DECLARATION**

The declaration was read by Cr. Humm.

**2. APOLOGIES AND LEAVE OF ABSENCE**

All Present

### 3. CONFIRMATION AND SIGNING OF MINUTES NOT PREVIOUSLY CONFIRMED

The minutes of the Ordinary Meeting of Council held on 8 August, 2005 and the Special Meeting held on 23 August, 2005 as circulated, be confirmed.

**MOVED:** CR. S. MARSTAELLER

**SECONDED:** CR. F. URE

**THAT:** the minutes of the Ordinary Meeting of Council held on 8 August, 2005 and the Special Meeting held on 23 August, 2005 as circulated, be confirmed.

**CARRIED**

### 4. DECLARATION OF INTERESTS

*In accordance with Section 78 of the Local Government Act, 1989 (as amended).*

Cr Gordon declared a "interest" in the consideration of:

- Item 9.9 – Proposed Amendment C41 to the Mitchell Planning Scheme (Wallan Growth Management Strategy);
- Item 9.11 – Planning Permit Application No. P303867, Use and Development of a 75 Place Child Care Centre on Land at 10 and 12 Stevenson Street, Wallan;
- Item 9.12 – Planning Permit Application No. P304009, Use of Land as a Retirement Village and Associated Buildings and Works and Car Parking Waiver – 2-4 William Street, Wallan (Part Crown Portion A Vol. 8245 Fol.068);
- Item 9.13 – Planning Permit Application No. P304066, 9 Lot Subdivision and Removal of Vegetation, 1 O'Grady's Road, Kilmore East (Lots 1 and 2 PS449940U);

In that he is or may be the agent for the applicant.

### 5. PETITIONS

*In accordance with clause 7.55 of Local Law No. 4 – Meeting Procedures.*

Nil

**6. OPEN FORUM**

*In accordance with Clause 7.60 of Local Law No. 4 – Meeting Procedures.*

- 6.1 M. Hammond – Senior Managers
- 6.2 J. Evans – Transfer Station, Kilmore
- 6.3 C. Ellis – Item 9.13 Subdivision O’Gradys Road
- 6.4 Y. Whittaker – Hard Rubbish Collection
- 6.5 A. Smith – Item 9.13 – Subdivision O’Gradys Road



## 7. COMMUNITY & RECREATION

### 7.1. COMMUNITY & RECREATION – GENERAL REPORT

**Author:** *Brendan McGrath, General Manager Community & Recreation*

**File No:** *CL/04/012*

**Reference:** *Nil*

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#### 1. Aquatic Facilities

##### 1.1 Mitchell Leisure Centres

During the September School Holidays we are conducting some Capital Improvements at the Mitchell Leisure Centres that will require a closure of some of the Leisure facilities.

At the Kilmore Leisure Centre we will be closing the entire Centre on 29 and 30 September 2005. We will be using a cleaning specialist to clean all of the pool surrounds and gymnasium. We will be installing the new pool wet deck, which will require a lowering of the water level in the pool. We will also be completing the works on our squash court redevelopment and installing all of the new gymnasium equipment. The Centre will re-open to the public on Saturday 1 October 2005.

At the Seymour Sports & Aquatic Centre, the pool area will be closed from Monday 19 September until Saturday 1 October 2005. We will be completing the improvements to the pool concourse to increase the floor slip resistance. The concrete pool concourse will be profiled and painted with a non-slip surface. The gymnasium will operate at standard operating hours. We will also be offering extra dry program classes to replace the standard aqua aerobics classes.

The Broadford Leisure Centre will not operate during the school holidays, as the user groups do not conduct their competition during this period.

We have chosen the school holiday period to ensure a minimal impact on the operation of the Centres.

#### 2. Community Services

##### 2.1 Kindergarten Services

With enrolment applications closing 1 August there are currently 368 applications. Low enrolments across the board have been very surprising and have forced centres to cut back the number of sessions provided.

COMMUNITY & RECREATION GENERAL REPORT (CONT'D)

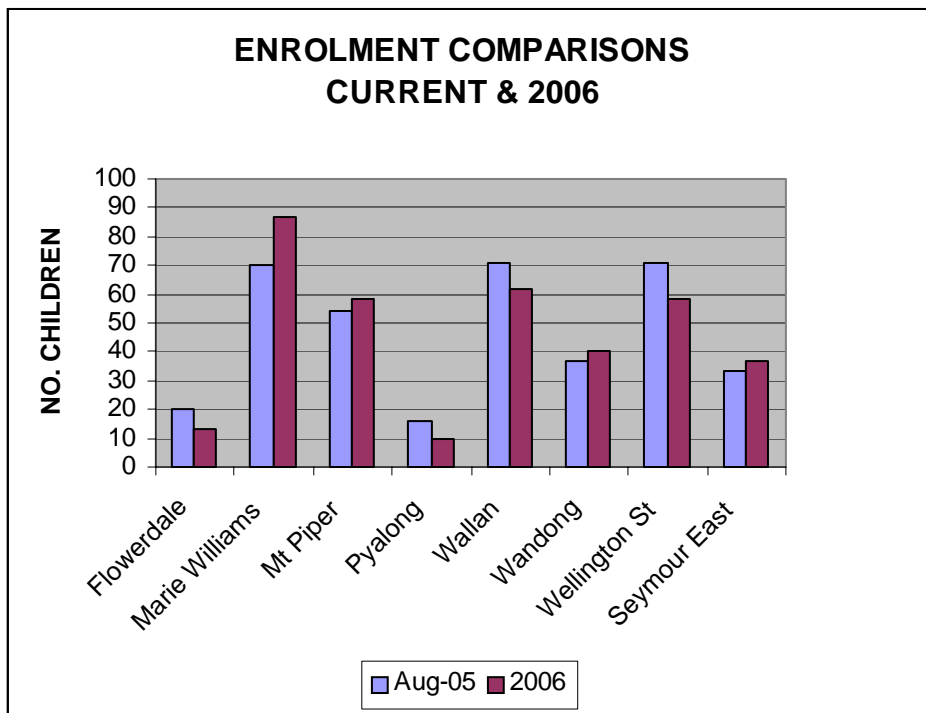
A number of children withdrew from the service by the end of Term 2 in order to return for another year in 2006, leaving our current enrolments the lowest it has been for the year.

The graph below compares applications for 2006 and the current number of enrolments in the service.

Flowerdale, Pyalong, Seymour East and both Wallan kindergartens have considerably low enrolments for 2006, especially considering the amount of enrolments received in the past.

Enrolments at Marie Williams in Kilmore are considerably higher than current enrolments, as predicted, but similar to the enrolments received last year. Due to the move to the Presbyterian Church Hall in April 2005, not all enrolments could be catered for in a smaller venue. It is hoped that all enrolment applications for Marie Williams for 2006 will be filled once they have moved to the new centre.

Enrolments at Mt Piper and Wandong are as predicted with no vacancies for 2006 and a small waiting list at Wandong.



2.2 Graduated Licensing Discussion Paper Released

The State Government has released a discussion paper relating to young driver safety. One third of Victoria's road toll results from crashes involving in 18 to 25 year old drivers - 120 people die, 2300 are seriously injured, and nearly 10,000 people are injured in total for this age group in each year.

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COMMUNITY & RECREATION GENERAL REPORT (CONT'D)

The discussion paper outlines the current system for licensing of drivers, the over representation of young people in fatal and casualty accidents and proposes measures to improve young driver safety.

In summary, the following points are raised in the discussion paper:

- Extend minimum learner period to 12 months.
- Extend probationary licence to 4 years total
- Introduce a two part probationary licence P1 (1 yr) & P2 (3 yrs)
- require alcohol ignition interlocks for young drink-driving offenders

Further information can be obtained from [www.arrivealive.vic.gov.au](http://www.arrivealive.vic.gov.au) or in hard copy by phoning 13 77 71. Submissions close on 11 November 2005.

### **3. Recreation & Leisure Services**

#### **3.1 Changes to Committee of Management Membership following Annual General Meetings**

The following Committees of Management have provided details of changes and additions to their membership, following recent Annual General Meetings:

- Seymour Old Courthouse Committee – two (2) resignations, resulting in two (2) replacement representatives being accepted.
- RB Robson Stadium Committee – three (3) new office bearers elected.

To comply with Privacy Act, the personal details of these members have not been included in this report. Membership details can, however be provided to Councillors, upon request.

#### **3.2 Australian Children's Book Week Activities**

Australian Children's Book Week was held in the week beginning 22 August 2005.

Eighteen Primary Schools, grades 3 and 4 were invited to visit the various library branches in Mitchell Shire and the Romsey Library to celebrate Australian Children's Book Week.

Eleven schools accepted the invitation and throughout the week a total of 587 students and some parents and teachers were introduced to their local library and the books that won this year's awards.

Pauline Roberts, the Children's Librarian maintained her enthusiasm throughout the seventeen sessions.

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COMMUNITY & RECREATION GENERAL REPORT (CONT'D)

As well as stories and information on this years winning books students were given a word puzzle and invited to participate in a colouring in competition in the hope that they will be encouraged to make return visits to the various libraries.

**RECOMMENDATION**

**THAT** the report be received and noted.

*The resolution for Item 7.1 – Community & Recreation – General Report, is found at the end of this section.*

**7.2. REVIEW OF ANNUAL COMMUNITY GRANTS PROGRAM**

**Author:** *Mary-ann McCue, Recreation Officer*  
**File No:** *FN/07/018*  
**Attachment:** *Annual Community Grants Scheme Resource Kit*  
**Reference:** *Nil*

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**Summary**

This report overviews the changes to the current Community Grants Scheme Program and recommends that Council adopts the reviewed Program, as attached with this report.

**Background**

Mitchell Shire Council's Annual Community Grants Scheme is a highly successful program that recognises the invaluable contribution made by volunteer groups in the Shire. Since the program's inception in 1999, demand for funding under this program has continually grown, and far exceeds the program's annual budget allocation. The nature of the grant requests have also changed, reflecting the changing needs of community groups within Mitchell Shire. The program is in need of review, to bring it in line with current demand and address the issues discussed in this report.

**Policy Implications**

The review of the Community Grants Program is in line with the Council Plan 2005-2009 strategies for achieving our objectives "*review the Community Grants Program by June, 2006 and then biennially thereafter*".

**Issues**

There are a number of issues with the current grants program. These issues have arisen as a result of community group feedback, through satisfaction surveys returned to Council, verbal feedback from groups before and after the grants presentation, and discussions with members of the community grants scheme committee, who evaluate grant applications and provide a funding recommendation to Council.

Current issues are:

- The scheme's funding priorities are very broad and this means that most groups who apply are eligible for funding. As the numbers of applicants increases each year, Council cannot meet this demand.

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 REVIEW OF ANNUAL COMMUNITY GRANTS PROGRAM (CONT'D)
 

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- In an effort to address the exceeding demand on grant funding, groups are never fully funded for their projects. Many groups find they struggle to complete their project, as they need to cover the balance of the costs. This creates difficulties for the groups in reaching their objectives, and places them under pressure to further fundraise to meet these costs.
- As groups are currently not restricted in the number of applications they submit, many are now submitting up to five applications.
- The current scheme does not encourage or reward groups to expand their role, “broaden their horizons” or be innovative. Over the last two years there has been a recurring theme of equipment replacement or conducting regular group events/performances. The broader aspect of community development and innovation is getting lost on the way. Furthermore, most community groups are relying on the scheme each year and have a complacent acceptance of their right to receive a grant, regardless of meeting the funding criteria and priorities.
- The evaluation criteria is not specific or weighted, and therefore the process of evaluating and awarding funding to groups is lengthy and difficult.
- Because the current grants scheme does not allow for recurrent funding, the community grants specific ledger is growing and funding groups for any number of years, without real accountability.

Groups currently receiving this direct funding are:

Mitchell Athletics Club	\$2,000
Seymour Theatrical Amateur Players Society	\$1,000
Broadford Amateur Theatre Society	\$2,000
Upper Goulburn Rural Financial Counselling Service	\$2,000
Karingal Fete	\$2,000

The Community Grants program has been reviewed to address these issues. The major proposed changes are:

- Introduction of three funding categories for grants
  1. Community Building (Assets and equipment purchases)
  2. Community Development (participation programs and projects)
  3. Arts

A specific funding allocation will be made to each category.

- Groups may submit one application for each category – a maximum of three grants per group.
- Groups will be either fully funded, or not funded at all.

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**REVIEW OF ANNUAL COMMUNITY GRANTS PROGRAM (CONT'D)**

- Mandatory criteria is to be reduced, but the application will be eliminated if it does not comply (as outlined in the attached Resource Kit).
- Funding priorities will be more specific, and weighted, to allow for a more transparent and equitable evaluation process. The weighting is designed to give incentives for innovation and provides a scoring advantage to groups who did not receive funding in the previous year and have re-applied the following year.

(The weighting formula is clearly explained in the reviewed program attached).

The Community Grants Resource Kit (attached) has also been modified and restructured, to ensure the grants process and priorities are clearer, and the application process simpler.

**Financial and Resource Implications**

Whilst there are no financial or resource implications with the review of the annual community grants program, it is clear that the current funding allocation is insufficient to meet the growing needs of community groups within the Shire. It is intended that groups receiving funding through the current "community grants specific" ledgers will, in future be required to apply for funding through the reviewed community grants program.

**Consultation Procedure**

As previously stated in this report, feedback on this scheme has been sought from community groups through the satisfaction surveys provided each year, verbal comments and discussions from community groups before and after the grants presentation and discussions with the community grants scheme committee, comprising Council officers and three ward Councillors. Council officers had also looked at Community Grants programs from other Council's prior to this review.

**RECOMMENDATION**

**THAT:**

1. Council adopt the reviewed Annual Community Grants Program; and
2. Council eliminates the community grants specific ledgers and redirects the \$9,000 allocated to them to the Annual Community Grants Program ledger, which is currently \$65,000.

*The resolution for Item 7.2 – Review of Annual Community Grants Program, is found at the end of this section.*



**7.3. SEYMOUR YOUTH AND FITNESS CLUB FACILITY**

**Author:** *Mary-ann McCue, Recreation Officer*

**File No:** *RE/05/005*

**Attachment:** *Nil*

**Reference:** *Item 11.2, 8 December 2003*

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**Summary**

This report outlines the history of the Seymour Youth and Fitness club facility and provides recommendations to address the issues as detailed.

**Background**

The Seymour Youth and Fitness Club, which is a Council appointed Section 86 Committee of Management currently runs a number of youth programs within the Council owned boxing hall in Chittick Park, Seymour. As this building has a very limited lifespan and has been recommended for removal by Council's Building Surveyor, an alternative venue needed to be secured by the group. A section of the Seymour Sports and Aquatic Centre was offered by Council at the time such as an alternative venue, the group refused this offer and pursued the option of establishing a new and separate facility.

A draft Plan of a proposed facility was submitted by the Seymour Youth and Fitness Club and was much more elaborate than the group originally proposed, with construction figures estimated to be well in excess of \$500,000. The difficulty in securing this level of funding was a concern to Council, and the group was unsuccessful in its request for an allocation of funds in Council's 2004/05 Capital Works Budget towards this facility. As a result of submissions to the Federal Member, two portable classrooms and an amenities building were offered to the group, subject to Council arranging their removal and transport to Seymour from a defence site in Point Nepean. The offer of the amenities building was retracted just prior to the removal date, and two classrooms were delivered to Chittick Park in February 2005.

Seymour Neighbourhood Renewal contributed funding of \$20,000, which was used to cover the costs of crane hire, establishment of building foundations, works to secure the buildings and connect them to the power supply.

Council approved a \$50,000 allocation in the 2005/06 Capital Works Budget, which would be used to erect a middle roofline and toilet block to integrate the buildings and enable it to become one facility. At a February 2005 meeting with local Ward Councillors, Council Officers and Seymour Youth and Fitness Club committee members, it was agreed that quotations for works be sought from local builders. The quotes would include all works necessary to make the building habitable and provide sufficient detail and break down in costs, to enable a final price to be negotiated if some materials were provided to the

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**SEYMOUR YOUTH AND FITNESS CLUB FACILITY (CONT'D)**

contractor. The Seymour Youth and Fitness Club members had received verbal support from a number of local businesses, and would request business support in the form of donated, suitable materials, using the plans and material list supplied by Council's previous Building Surveyor. Another meeting was to be held when quotes had been received the following month, during which time the Seymour Youth and Fitness Club committee members would seek commitments/contribution from businesses. A list of what materials to be provided for the project were to be presented at this future meeting. Details on this meeting are outlined in the issues section.

**Policy Implications**

The provision of a facility to accommodate the Seymour Youth and Fitness Club is in line with the Council Plan 2005-2009 strategies for achieving our objectives *"continue to provide high quality recreational and leisure facilities throughout the municipality"*.

**Issues**

The abovementioned meeting with the local Ward Councillors, Council officers and Seymour Youth and Fitness club committee members was held on Tuesday 23 August 2005. Quotations provided were far higher than expected - \$125,000. The Seymour Youth and Fitness club could only provide minimal materials received from two local businesses, with a club cash contribution of approximately \$4,000. The project requires at least \$70,000 of additional funding to enable the building to be completed, with no provision yet made for sewer connection to the new building – estimated at approximately \$10,000. Completion of this project would not be realised in the near future, as seeking and applying for funding is a lengthy process, with success not guaranteed. Council again revisited the option of accommodating the club within the Seymour Sports and Aquatic Centre (SSAC) precinct. After discussions with all members, including the Assistant Manager of the SSAC, it was resolved that, if the Seymour Youth and Fitness Club could be offered total physical and management independence from the SSAC, this option would be acceptable and warranted further investigation. Council officers would develop floor plans of the area to be utilised, and the group would meet again in approximately a fortnight, to discuss and initiate refurbishment works giving the group total physical independence from the centre. A formal lease would also be drafted prior to occupation, to ensure total management independence of the Seymour Youth and Fitness Club precinct by the Committee.

**Option 1.**

The \$50,000 allocated to erect a middle section between the two relocated buildings is used for this purpose, leaving the facility incomplete and in abeyance; or

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SEYMOUR YOUTH AND FITNESS CLUB FACILITY (CONT'D)

Option 2.

Approval is granted for the \$50,000 allocation for the Seymour Youth and Fitness Club building be used to provide an independent and dedicated area for the Seymour Youth and Fitness Club within the Seymour Sports and Aquatic Centre precinct.

Option 3.

The Seymour Youth and Fitness Club provide their cash and materials contribution and secure at least \$80,000 in external funding by 31 December, 2005. These funds will enable the relocated buildings to be adapted, as per plans provided by Council and will need to cover sewer connection and any necessary requirements for an occupancy permit to be issued.

**Financial and Resource Implications**

Council has already committed \$50,000 of Capital Works funding in the current year's budget towards this project. The option of establishing a dedicated facility within the Seymour Sports and Aquatic Centre can be achieved within this allocation, and within a short timeframe.

If this option is taken, Council proposes to sell the relocated buildings and use the funds received to demolish the old boxing hall. This area will then be established as a carpark for the user groups in Chittick Park (as outlined in the current Chittick Park Masterplan). Construction of this carpark has already been identified as a priority project and \$60,000 has been allocated in Council's 2006/07 Capital works budget for these works.

If the option is taken to use the \$50,000 on establishing a middle section between the two relocated buildings, there will still be no toilets, kitchen facilities, sewer connection or internal wiring to enable the building to be occupied. To achieve this, approximately \$80,000 of further funds would be required, as well as the committee's cash and materials contribution.

**Consultation Procedure**

Throughout this process, Council officers have worked closely with members of the Seymour Youth and Fitness Club Committee of management. The site of the relocated buildings was selected in consultation with the Seymour Youth and Fitness Club and nearby user groups - Seymour Cricket Club and Little Athletics Club, to ensure the buildings would not impact on any relevant activities. Residents who live in close proximity to the site were also advised of the proposed works, including the future demolition of the old boxing hall and conversion of the area into carparking.

**RECOMMENDATION**

**THAT:** the \$50,000 allocation for the Seymour Youth and Fitness Club building be used to provide an area for the Seymour Youth and Fitness Club within the Seymour Sports and Aquatic Centre.

**MOVED:** CR. W. MELBOURNE

**SECONDED:** CR. F. URE

**THAT:** the recommendation be adopted.

**CARRIED**

#### 7.4. REVIEW RECREATION AND OPEN SPACE STRATEGY

**Author:** *Christine Payne, Manager Libraries, Culture & Commonwealth Games*

**File No:** *RE/08/001*

**Attachment:** *Nil*

**Reference:** *Item 5.1, 1 August, 2000*

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#### Summary

This report overviews the reviewed Recreation and Open Space Strategy and recommends that Council adopt the reviewed strategy which has been provided under separate cover to Councillors.

#### Background

In July 2000 Council adopted the Mitchell Recreation and Open Space Strategy. The strategy's aim was to develop an overall framework, which would facilitate effective and efficient planning for and management of open space and recreation facilities. The strategy has proven to be an invaluable planning tool. Many of the recommendations of the strategy have now been implemented and the rapid growth and development of the Shire has necessitated this review. The new Recreation and Open Space Strategy will provide the strategic direction for recreation and open space planning for the next five years.

#### Policy Implications

The review of the Recreation and Open Space Strategy is a key strategic activity in the Council Plan 2005-2009 which states "*Continue to provide high quality recreational and leisure facilities throughout the municipality*".

The Council Plan strategic indicator relating to the Recreation and Open Space Strategy specifies, "*Implement the priorities of the Recreation and Open Space Strategy within available resources and timelines*".

#### Issues

The project brief identified the aims of the strategy to:

- Maintain an overall framework which will facilitate effective and efficient planning for and management of open space, recreation/leisure resources and the provision of a range of recreation and leisure programs/services
- Ensure up to date policies and their frameworks exist that will enable the Council to cater for a diverse range of recreation/leisure needs for existing and future residents and visitors

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**REVIEW RECREATION AND OPEN SPACE STRATEGY (CONT'D)**

- Continue to improve access to open space, recreation and leisure facilities and services in order to achieve service equity for all residents
- Ensure that the planning principles are in place to preserve and enhance the natural environment
- Define the role Council plays in a regional context in relation to the provision of recreation and leisure assets and activities, and to assist with resource allocation decisions on both a local and a regional basis.

The strategy identifies key issues affecting Mitchell Shire now and in the foreseeable future and proposes the strategies to address the issues. The key areas are:

- Manage change in Mitchell Shire Council
- Encouraging cycling and walking
- Catering for diversity of opportunity
- Designing for equity and inclusion
- Valuing natural and cultural heritage
- Asset and Information management

The establishment of planning guidelines for new residential developments underpins many of the strategies recommendations. Thirteen key planning issues are identified and a range of policy guidelines provided.

The community consultation results indicated a high interest among the population for the encouragement of cycling and walking throughout the Shire and therefore the need for the provision of a network of interlinking cycling / walking paths. The strategy provides strong support for these trails which although highly sought after by the general public often do not have established sporting or community groups advocating for them.

The provision of playgrounds throughout the Shire also generated a high response from the community consultation and rated second as the reason for using open space. It is recommended that a greater diversity in playgrounds is developed to provide a better balance between play value, safety and accessibility.

### **Financial and Resource Implications**

The Recreation and Open Space Strategy review will ensure that projects specified in the capital works and operating budgets comply with the overall strategic direction and plan for recreation and open space development within Mitchell Shire but will not in itself create additional financial or resource implications.

### **Consultation Procedure**

Community Consultation for the Recreation and Open Space Strategy Review has been extensive.

Survey forms were sent to a random 3,000 households in the Shire in November 2004. A total of 419 usable responses were received.

Telephone interviews were then held with stakeholder groups, schools and Landcare groups throughout the Shire.

Three Community workshops were also held in Kilmore, Seymour and Wallan. The draft Recreation and Open Space Strategy was on public display at locations throughout the Shire for three weeks and available via the Council web page and comments were invited.

Nine groups and individuals have responded to the draft Recreation and Open Space Strategy with comments and recommendations many of which have been incorporated into the final report.

**RECOMMENDATION**

**THAT:** Council adopts the reviewed Recreation and Open Space Strategy.

**MOVED:** CR. S. MARSTAELLER

**SECONDED:** CR. F. URE

**THAT:** the Recreation Open Space Strategy be accepted with the following inclusions being the attached amended pages 75 and 76 of the Recreation & Open Space Strategy and page 15 of the Recreation & Open Space Strategy Appendix as part of document as circulated.

**CARRIED**

**7.5 FAMILY DAY CARE SCHEME LONG FORM FUNDING AGREEMENT**

**Author:** *Rob McVernon, Community Services Manager*

**File No:** *CH/04/003*

**Attachment:** *Long Form Funding Agreement*

**Reference:** *Nil*

---

**Summary**

This report advises that Council Sign and the Seal an agreement with the Federal Department of Family and Community Services (FaCS) for funding of Mitchell Shire's Family Day Care Scheme.

**Background**

The Federal Department of Family and Community Services (FaCS) provides funding to Mitchell, to assist in the operation of Family Day Care.

Changes to the funding criteria have resulted in a reduction in funding from FaCS.

Transitional arrangements have been put in place, to continue funding at 2004/05 levels for the first quarter of this financial year (July to September inclusive). The advice received suggests that Council will be eligible to receive \$168,512.50 (excluding GST) in the period from 1 October 2005 to 30 June 2006.

The net effect of this change is outlined in the financial and resource implications section of this report.

Copies of the funding agreement are attached to this report, for Council to Sign and Seal.

**Policy Implications**

Signing this agreement is in line with the 2005-2009 Council Plan strategic indicator "*identify the key challenges to the ongoing viability of the FDC service and opportunities for service development and growth*".

**Financial and Resource Implications**

The implications of this change to the funding show that income will be \$1,969 less than the previous years. In terms of a \$1 million break-even budget this amount is not significant.

This is summarised, below:



## FAMILY DAY CARE FUNDING AGREEMENT (CONT'D)

<b>FaCS Grant</b>		
	Updated	Budgeted
July – Sept	\$58,124	
October - June	\$168,512	
<b>Total</b>	<b>\$226,636</b>	<b>\$228,605</b>
Difference	<b>-\$1,969</b>	

Council has some options in considering the impact of this change.

### **Consultation Procedure**

No community consultation has occurred. Family Day Care Staff have been consulted regarding their preferred option.

### **RECOMMENDATION**

**THAT:** Council sign and seal an agreement with the Federal Department of Family and Community Services for the Family Day Care Scheme for the period 1 October 2005 to 30 June 2006.

*The resolution for Item 7.5 – Family Day Care Scheme Long Form Funding Agreement, is found at the end of this section.*

**7.6 AUSTRALIAN LIGHT HORSE MEMORIAL PARK COMMITTEE OF MANAGEMENT**

**Author:** *Mary-ann McCue, Recreation Officer*

**File No:** *OR/02/015*

**Attachment:** *Nil*

**Reference:** *Item 7.3, 9 March 2004*

---

**Summary**

This report recommends the appointment of four new members to the Light Horse Memorial Park Committee of Management.

**Background**

The Secretary of the Light Horse Memorial Park Committee of Management has written to request the appointment of four new members, which will bring the total committee membership to 16.

To comply with Privacy Act, the personal details of these members have not been included in this report. Membership details can, however be provided to Councillors, upon request.

**Policy Implications**

Item 6 – “Membership” in the Instrument of Delegation states *“The Committee shall comprise up to twelve (12) members, appointed by Council resolution “*

The Committee’s request for the approval of additional membership is in accordance with Item 6(j) in the Instrument of Delegation, which states *“the Council may, on the recommendation of the Committee, give approval for the Committee to be structured on a different basis other than that permitted in the Deed, hereof”*.

**Issues**

There are no issues with the approval of four additional members to the Australian Light Horse Memorial Park Committee of Management.

**Financial and Resource Implications**

There are no financial or resource implications with the approval of four additional members to the Australian Light Horse Memorial Park Committee of Management.

**Consultation Procedure**

Not required.

**RECOMMENDATION**

**THAT:** Council approves the appointment of four additional members to the Australian Light Horse Memorial Park Committee of Management.

*The resolution for Item 7.6 – Australian Light Horse Memorial Park Committee of Management, is found at the end of this section.*

**COMMUNITY & RECREATION REPORTS – ITEMS NOT OTHERWISE DEALT WITH:**

**MOVED:** CR. F. URE

**SECONDED:** CR. R. LEE

**THAT:** the recommendations contained within Item 7.1, 7.2, 7.5 and 7.6 of the Community and Recreation Reports, be adopted.

**CARRIED**

## 8. CORPORATE SERVICES

### 8.1 CORPORATE SERVICES - GENERAL REPORT

**Author:** *Chris Gillard, General Manager Corporate Services*

**File No:** *CL/04/009*

**Reference:** *Nil*

#### 1. Property Issues

##### 1.1 Commonwealth Grants – Local Government Financial Assistance Act

This grant program is administered by the Victoria Grants Commission. The program provides a significant income stream for Council and it is pleasing to see the level of support has increased.

	General Purpose Grant	Roads Grant	Total
Council Budget 2005/06	3,017,900	1,239,811	4,257,711
Commonwealth Allocation	3,162,926	1,187,224	<u>4,350,150</u>
			\$ 92,439

Additional income compared to Budget 2.17%

Annual increase 5.68%

This income will be referred to the mid year Budget review.

#### 2. Finance

##### 2.1 Rate Assistance for Farmers in Exceptional Circumstances

Arrangements have been made for farmers receiving Emergency Circumstances Relief Payments from Centrelink to have half of their Council rates paid by the State Government. This program is to be administered by Council and supported by the Department of Primary Industries. The 50% concession will only be available to farmers in receipt of Centrelink payments when they pay their rates or if they have received such payments in the past 90 days.

##### 2.2 Rates

As at 30 August 2005, rates and charges of \$1,521,760.13 have been collected. This is comprised of \$459,190.16 or 42.95% of the arrears as at 30 June 2005 and \$1,062,569.97 or 8.35% of the current rates and charges. The overall collection rate to date is 10.99%. The table below shows the comparison between the 2004/05 and 2005/06 financial years.

	August 2005	August 2004
Arrears Collected	42.95%	41.11%
Current Collected	8.35%	1.95%
Overall Collected	10.99%	4.85%

The arrears of rates and charges as at 30 June 2005 was \$1,069,004.60, an increase of \$159,830.71 from the previous financial year. As reported in July, officers forwarded letters to over 1000 ratepayers in arrears. As a result of these letters, several hundred ratepayers have since paid the arrears in full. In excess of 150 have contacted Council to make arrangements to pay the accounts off, including the 2005/06 rates, by May 2006. A list of 416 ratepayers who failed to pay as requested or failed to make contact with Council has been forwarded to Council's collection agency and recovery steps will commence in September to recover these debts, in accordance with Council's Debt Collection Policy. As a result of these efforts, the collection of arrears at June 2005 is slightly higher in percentage terms than that of the same time in 2004.

Rate notices for the current financial year were printed in mid July and issued to ratepayers from 22 July 2005, some four weeks earlier than in the 2004/2005 financial year. As a result, the collection of current rates and the overall collection percentages are significantly higher.

Ratepayers are offered various methods of payment for accounts and the following table shows the methods of payment used for the current financial year and the amounts received to date for all types of payments.

<b>Payment Method</b>	<b>Payments Received</b>	<b>Percentage</b>	<b>Total \$'s Received</b>
Australia Post	7,216	68.49%	1,424,168
Counter	2,937	27.87%	1,063,135
EFT Transfer	382	3.64%	2,093,300
<b>Totals</b>	<b>10,535</b>	<b>100.00%</b>	<b>4,580,603</b>

During the month of August, 103 land information certificates have been issued and 101 Notices of Acquisition and Disposition have also been received and records updated.

### 2.3 Voters Roll

A Voters Roll has been forwarded to the VEC for the upcoming Council election. Feedback from the VEC is that the file is good and officers are now maintaining changes to the roll and these must be forwarded to the Electoral Commission by 30 September 2005.

## 3. **Organisational Development**

### 3.1 Citizen Services Strategy

A draft Citizen Services Strategy has been developed to provide:

- An understanding of citizen service in Mitchell Shire today
- A plan for developing future directions for citizen services
- A plan to build the capacity of our people to implement the strategy

This strategy has been developed to take the Shire forward through the next five years and has a comprehensive action plan attached to it.

Consultation has occurred with the Citizen Services Team, the Senior Management Team of Council and a meeting of the Customer Service Working Group has been set for Friday 9 September 2005 at which time the members of the group will be provided with a copy of the draft document for perusal, discussion and input.

It is envisaged that the final strategy will be presented to Councillors prior to the October 2005 Council meeting.

### 3.2 Human Resources Strategy

A draft three year Human Resources Strategy has been developed to provide a whole of service strategic purpose and direction for human resource planning and action in Mitchell Shire which reflects Council policy and priorities, and is linked to the Council Plan outcomes. A comprehensive action plan has also been established.

Consultation with the Human Resources Team has been completed and the document is due to be provided to the Senior Management Group for perusal, discussion and input.

### 3.3 Operational Procedures

A number of human resource operational procedures have either been reviewed or developed over the past month and after approval of the Chief Executive Officer will be work-shopped with staff in order to ensure their full understanding.

### 3.4 EBA No.4

The latest Enterprise Agreement has been negotiated between the Staff Consultative Committee and the relevant Unions and an affirmative vote from staff was provided on Wednesday 31 August. An application will be made to the Australian Industrial Relations Commission within the next 21 days for certification of the Agreement. This EBA, once certified, will set the terms and conditions of employment of Mitchell Shire Council staff for the next 3 years.

CORPORATE SERVICES - GENERAL REPORT (CONTD.)

**3.5 System implementation**

The Finance System is progressing well and will go live as scheduled. Other systems are at an early stage but at this point, are largely on target. It is possible this will change given staff shortages.

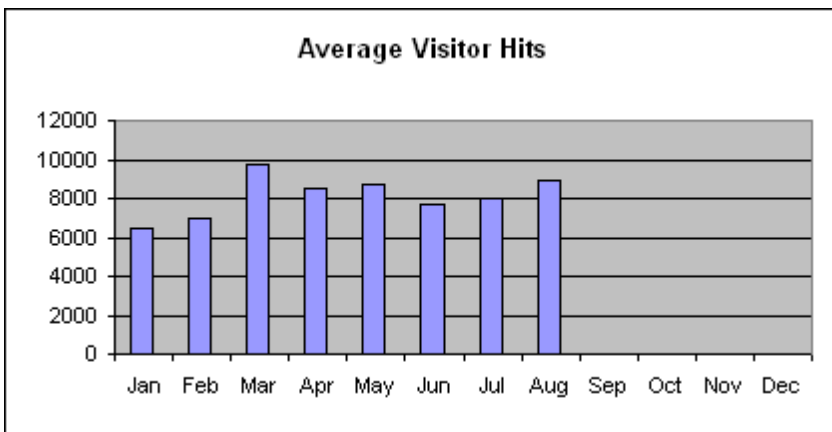
**3.6 Web Site Usage**

**Average Visitors for 2005**

Average Monthly Hits: 5767.0

Average Daily Hits: 189.60

<b>Monthly Total</b>	6488	7004	9723	8538	8750	7735	7957	8903	0	0	0	0
	<b>Jan</b>	<b>Feb</b>	<b>Mar</b>	<b>Apr</b>	<b>May</b>	<b>Jun</b>	<b>Jul</b>	<b>Aug</b>	<b>Sep</b>	<b>Oct</b>	<b>Nov</b>	<b>Dec</b>



**Last 90 days**

Hits	Top 10 Page Name
1279	Planning
1120	Contact Us
1064	Working In Mitchell
929	Community Services
854	Animals

**RECOMMENDATION**

**THAT** the report be received and noted.

*The resolution for Item 8.1 – Corporate Services – General Report, is found at the end of this section.*

**8.2 PYALONG CEMETERY TRUST - ACCOUNTS**

**Author:** Chris Gillard – General Manager, Corporate Services

**File No:** CE/02/001

**Attachment:** Abstract of Accounts

**Reference:** Item 8.2 – 8 August 2005

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**Summary**

This report recommends that the Council sign the Abstract of Accounts and the Condition and Maintenance Report for the Pyalong Cemetery for the six month period 1 January 2005 to 30 June 2005.

**Background**

The Council is required to lodge an Abstract of Annual Accounts and a Condition and Maintenance Report to the Department of Human Services. The Council is the Trust of the Cemetery. The Trust does not have any assets or liabilities.

**Policy Implications**

The new *Cemeteries and Crematoria Act 2003* requires Cemetery Trusts to submit financial abstracts each financial year (from 1 July each year to 30 June each year) rather than each calendar year. The Council is required, as the Trustee, to comply with the *Cemeteries and Crematoria Act*. The Accounts must be signed by three Trustees.

**Issues**

The Council has a Committee of Management appointed to maintain and manage the facility.

**Financial and Resource Implications**

There are none, particularly in consequence of signing the accounts.

**Consultative Procedures**

There have been discussions with a representative from the Department of Human Services.

**RECOMMENDATION**

**THAT:** the Abstract of Accounts and the Condition and Maintenance Report for the six month period 1 January 2005 to 30 June 2005 be signed and sealed by the Council and forwarded to the Department of Human Services.

*The resolution for Item 8.2 – Pyalong Cemetery Trust - Accounts, is found at the end of this section.*



**8.3 SALE OF LAND – WALDERS ROAD KILMORE**

**Author:** *Chris Gillard – General Manager, Corporate Services*

**File No:** *CP/07/010*

**Attachments:** *Submissions (2)*

**Reference:** *Confidential Item 15.2 – July 2005*

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**Summary**

This report recommends that Council proceed to sell part of Lot 1 on Plan of Subdivision 78504 being part of Crown Allotment 13K, Parish of Glenburnie, being land comprised in Certificate of Title Volume 8738 Folio 853 and Crown Grant Allotment 13K1, Parish of Glenburnie, being land comprised in Certificate of Title Volume 10248 Folio 458.

**Background**

The Council has previously advertised its intention to sell this land. The public advertising required by the Local Government Act 1989 has been completed.

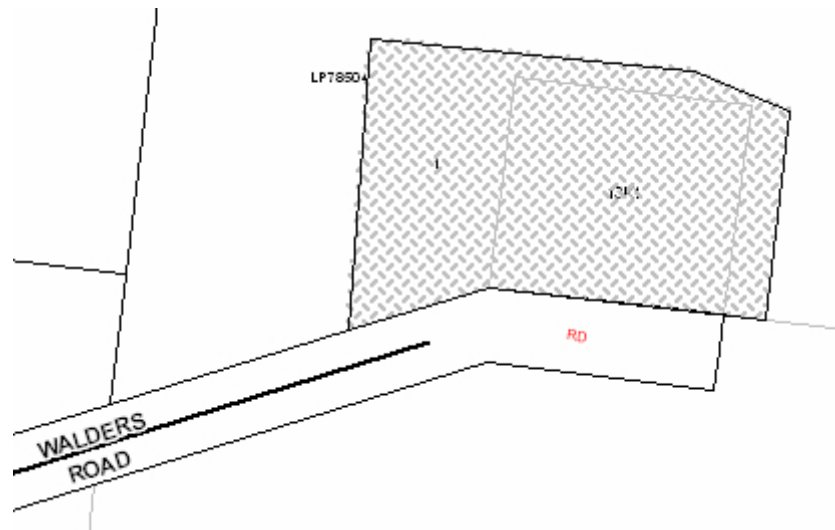
**Policy Implications**

The Council must comply with the provisions of the Local Government Act relating to the sale of land and the description of the land proposed to be sold must be unambiguous to enable the community to be completely informed.

**Issues**

Because the sale of land is a statutory procedure the Council needs to be clear in its intention of the land being sold. The Council has previously determined that there is no need to retain the land. A locality plan is set out below showing the property in question by hatching.

Two submissions are attached. One submission supports Council's intention to sell the land. The second submission requests that Council note the current use of the facility on title to ensure future purchasers are aware the site has been used for waste management. This is a worthwhile suggestion that can be facilitated.



### Financial and Resource Implications

The land is to be sold at market value. This needs to be updated.

### Consultative Procedures

Notice of intention to sell was advertised in Mitchell Matters on 3 August 2005.

### RECOMMENDATION

#### THAT:

1. Pursuant to Section 189 of the Local Government Act 1989 Council sell Lot 1 on Plan of Subdivision 78504 being part of Crown Allotment 13K, Parish of Glenburnie, being land comprised in Certificate of Title Volume 8738 Folio 853 and Crown Grant Allotment 13K1, Parish of Glenburnie, being land comprised in Certificate of Title Volume 10248 Folio 458 to Dorro Nominees Pty Ltd for market value as determined by Council's Valuer.
2. As part of the transfer, an appropriate notation be placed on title to acknowledge the current use of the site.

SALE OF LAND – WALDERS ROAD KILMORE (CONTD.)

**MOVED:** CR. R. HUMM

**SECONDED:** CR. R. LEE

**THAT:**

1. Pursuant to Section 189 of the Local Government Act 1989 Council sell Lot 1 on Plan of Subdivision 78504 being part of Crown Allotment 13K, Parish of Glenburnie, being land comprised in Certificate of Title Volume 8738 Folio 853 and Crown Grant Allotment 13K1, Parish of Glenburnie, being land comprised in Certificate of Title Volume 10248 Folio 458 to Dorro Nominees Pty Ltd for market value as determined by Council's Valuer.
2. As part of the transfer, an appropriate notation be placed on title to acknowledge the current use of the site.
3. Officers negotiate a further 2 x 2 year lease on crown allotment. This site is to be used for the next 2-4 years;
4. Officers pursue another site for a Kilmore Transfer Site in the future;

**LOST**  
2/5

Cr. Lee called for a **DIVISION:**

<b>FOR</b>	<b>AGAINST</b>
Cr. Lee	Cr. Paterson
Cr. Humm	Cr. Melbourne
	Cr. Ure
	Cr. Marstaeller
	Cr. Gordon

**MOVED:** CR. R. GORDON

**SECONDED:** CR. S. MARSTAELLER

**THAT:** the recommendation be adopted.

**CARRIED**  
5/2

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SALE OF LAND – WALDERS ROAD KILMORE (CONTD.)

**CORPORATE SERVICES REPORTS – ITEMS NOT OTHERWISE DEALT WITH:**

**MOVED:** CR. S. MARSTAELLER

**SECONDED:** CR. D. PATERSON

**THAT:** the recommendations contained within Item 8.1 and 8.2 of the Corporate Services Reports, be adopted.

**CARRIED**

## 9. ENGINEERING & ENVIRONMENT

### 9.1 ENGINEERING & ENVIRONMENT - GENERAL REPORT

**Author:** *Ian Scholes, General Manager Engineering & Environment*

**File No:** *CL/04/004 and CL/04/007*

**Reference:** *Nil*

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#### 1. Assets

##### 1.1 Asset Management

2005 has been a busy year for asset management in the Mitchell Shire. Due to the introduction of The Road Management Act, the implementation of roads maintenance into Council's corporate asset management system (Conquest) was carried out in the first months of 2005.

Many hours were spent in examining the local road network by identifying, classifying and surveying all roads considered under Council's control. Up to July, every road in the public road register has been inspected at least twice for defects, and maintenance works carried out in accordance with Council's Road Management Plan.

Due to the experiences gained from the first six months of road inspections, it is expected that the Shire's Road Management Plan will be reviewed in the later stages of 2005.

From these inspections, the public road register has been continually updated to reflect the physical state of the Shire's road network. This data is currently being used to re-map our roads for GIS purposes. To date, all regularly maintained urban and rural Shire roads have been re-drawn and linked to the Conquest database and made available for all Mitchell Shire employees.

Sealed Roads were due for revaluation in June 2005. Due to the identification of a number of errors in the old financial data and new accounting standard requirements, all maintained roads were re-surveyed for updated dimensions and condition assessed.

The revaluation was completed in time for auditing, resulting with a substantial increase in fair value replacement cost, and a significant decrease in annualised depreciation due to the condition based calculation of depreciation.

The following table represents previous vs. current valuation statistics:

Previous Valuation as at 30 June 2004:

<b>Asset Class</b>	<b>Previous Replacement Cost</b>	<b>Accumulated Depreciation</b>	<b>Written Down Value</b>
Rural Unsealed Roads	\$18,922,335	\$14,846,929	\$4,075,406
Rural Sealed Roads	\$18,559,608	\$1,281,654	\$17,277,954
Urban Roads All	\$24,154,186	\$8,039,792	\$16,114,394
<b>TOTALS:</b>	<b>\$61,636,129</b>	<b>\$24,168,375</b>	<b>\$37,467,754</b>

Current Valuation as at 30 June 2005:

<b>Asset Class</b>	<b>Current Replacement Cost</b>	<b>Accumulated Depreciation</b>	<b>Written Down Value</b>
Rural Unsealed Roads	\$28,254,228	\$1,734,892	\$26,519,336
Rural Sealed Roads	\$47,720,158	9,260,408	\$38,459,750
Urban Roads All	\$51,240,177	\$6,120,953	\$45,119,224
<b>TOTALS:</b>	<b>\$127,214,562</b>	<b>\$17,116,253</b>	<b>\$110,098,310</b>

The resulting valuation has also provided Council with accurate and up-to-date data that will provide a basis for the development of the Capital Works Program for 2006-2007 in the areas of rehabilitation and major renewal.

Current statistics on Council roads and related infrastructure are as follows:

<b>Asset Class</b>	<b>Length of Asset</b>
Sealed Roads	595 km
Unsealed Roads	732 km
<b>TOTAL:</b>	<b>1,327 km</b>
Footpaths	95 km
Kerb and Channel	273 km

It should be noted that these figures do not include roads, footpaths and kerbing in recreation reserves nor Fire Access Tracks, Laneways or Unformed Access roads.

The recent release of a Federal Government report into the state of Local Government's management of infrastructure assets has prompted the MAV into a statewide asset 'renewal gap' investigation.

CT Management as part of the MAV's 'Step Program' will be visiting the Shire in October to glean information about the Shire's assets. The process

involves collecting detailed data about the condition and age of several major asset classes. This data is then fed into an asset renewal gap calculator to better understand what Council's renewal expenditure position will be in the coming years.

Anecdotal evidence suggests that most Councils are either not allocating enough funds or are incorrectly allocating funds across various asset classes for infrastructure renewal.

The results of this renewal gap should be made available in time for Council's 2006-2007 budgetary preparation process.

### 1.2 Dry Creek Road – Speed Limit Review

Council at its meeting 15 March 2005 were advised that VicRoads did not support the provision of a 60kph stop sign in Dry creek Road just off Broadford Kilmore Road. Subsequent to that report, officers were requested to meet with VicRoads Representatives to further discuss the matter.

This meeting occurred on 13 July 2005. Following that meeting an inspection was carried out of the road. VicRoads representatives have now advised that consideration will be given to an 80kph speed zone over approximately 800 metres of Dry Creek Road in conjunction with the signing of the curve as 20 kph.

An application is being prepared to VicRoads for the provision of the 80kph speed zone.

### 1.3 Car Parking Strategy

Council at its meeting on 8 August 2005, Item 12.2, resolved:

*“That officers prepare a report to develop a car parking strategy in our central business district areas within the Shire.”*

To facilitate the above study, officers will be preparing a submission for \$20,000 to be allocated at the mid year budget review for this study to be carried out. It is proposed that a brief will be prepared during November and supplied to Councillors in December for comment. The brief will require the successful consultant to look at existing business floor space and arrangements to determine the optimum car space requirements. The proposal, subject to the funding being made available, will then be advertised during January/February 2006.

### 1.4 Public Toilets Strategy

Council at its meeting on 8 August 2005, Item 12.3, resolved:

*“That officers prepare a report to develop a new public toilet strategy required throughout the Shire”*

In order to facilitate the above strategy preparation, officers propose to engage a consultant to review comments from the general community and

interested groups or organisations to a Public Toilet Strategy that encompasses the maintenance and rehabilitation of existing facilities together with the perceived additional needs for facilities at various locations within the townships.

It is proposed that a submission will be put to Council at its mid year budget review for the provision of \$15,000 to enable a consultant to be engaged to prepare the overall strategy. It is envisaged that a brief will be prepared during December in preparation for the allocation of the funds. Advertising will then occur January/February 2006.

#### 1.5 Footbridge over Kilmore Creek, Northern Highway.

Council at its meeting on 15 March 2005, Item 9.1, Clause 1.7, were advised that the footbridge over Kilmore Creek along the Northern Highway was to be lodged as a submission to VicRoads in August/September 2005. Council Officers have now received notification from VicRoads that the bids for 2006/2007 VicRoads Programs is open for submissions. It is noted that bids are required to be submitted to the VicRoads – Northern Region no later than Friday 3 October 2005. A meeting has also been arranged on 8 September 2005 between VicRoads and Council Officers to discuss potential bids.

In line with the above a bid for the shared Footway Bridge over Kilmore Creek will be lodged.

#### 1.6 VicRoads Funding – 2006/2007 Program Bids

Council has received notification from VicRoads that bidding is now open for high Priority Projects on roads where they may source funding from Road System Management, Road Safety or Traffic and Transport Integrated Programs. Council has already suggested a number of projects which include:

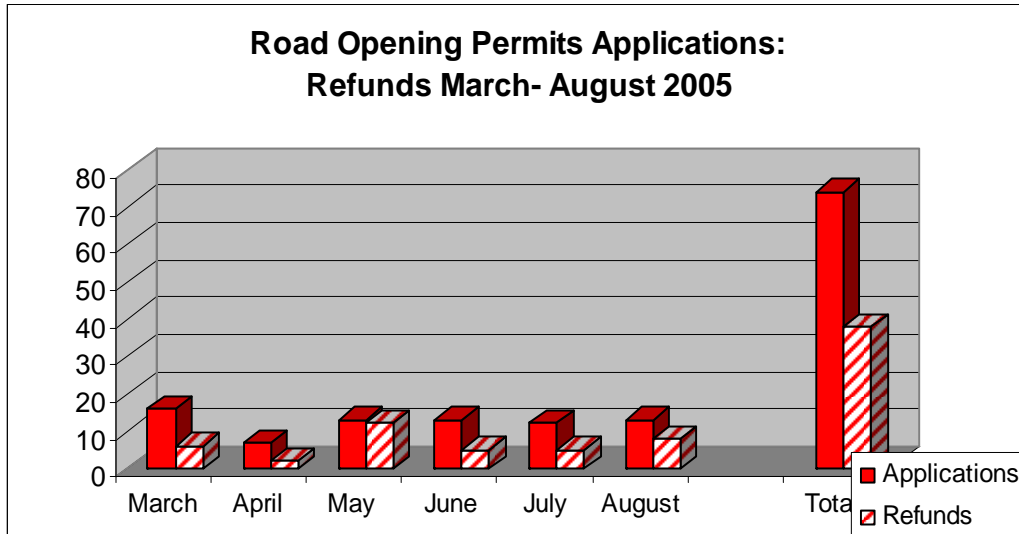
Shared Footbridge over Kilmore Creek, Northern Highway, Kilmore;  
Shared footbridge over Railway Line, Short Street, Broadford;  
Traffic Signals, Northern Highway and William Street, Wallan;  
Shared Footway, High Street, Seymour.

Following a meeting that has been arranged with VicRoads representatives on 8 September 2005, the above submissions together with any other project that is considered warranted will be lodged on the VicRoads Web Site. These bids are to be received by VicRoads by 3 October 2005.

#### 1.7 Statistics for Assets Unit

Chart 1 – Road Opening permits issued and refunded from March to August 2005





The foregoing chart shows the number of Road opening Permits issued over the last six months. This represents the number of applications for the construction of nature strip openings for water tapplings, etc. The fluctuation in the figures relate to development trends within the Shire.

Chart 2 – Subdivision Referrals and Responses – March to August 2005

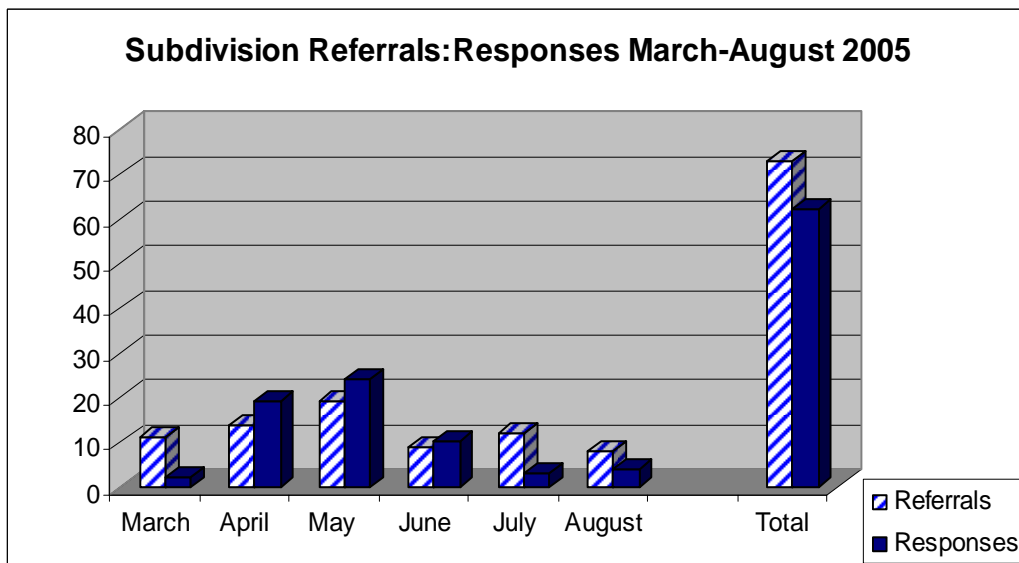
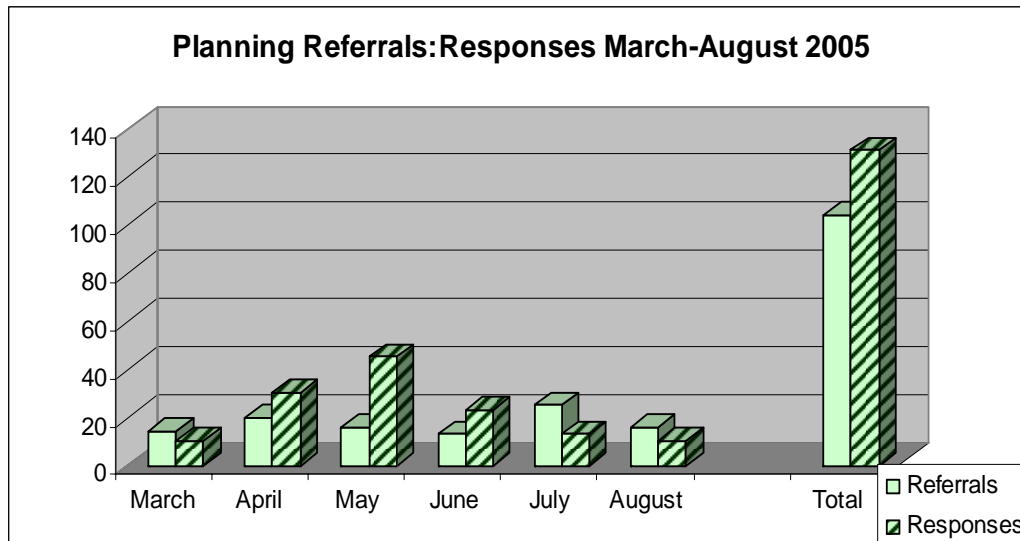


Chart 3 – Planning Referrals and Responses – March to August 2005



The chart 2 and 3 show the number of Planning and Subdivision Referrals that have been received within the Assets Unit over the past six months together with an indication of the number of responses returned to the Planning Unit. As you can see from the figures in most instances the referrals outweigh the number of responses, however there are a number of instances where a referral may be superseded by a subsequent referral where an application has varied slightly.

#### 1.8 Waste Management- Kerbside Collection

The Mitchell Shire Council has recently received the performance report in relation to Local Government Data Collection Survey for 2003-2004. This report builds on previous surveys to enable the evaluation of local government waste management services. The survey focuses on kerbside collection services when analysing household waste generation.

The survey does not include quantities at drop-off facilities (Transfer Stations), or waste removed by private contractors outside of the local kerbside collection.

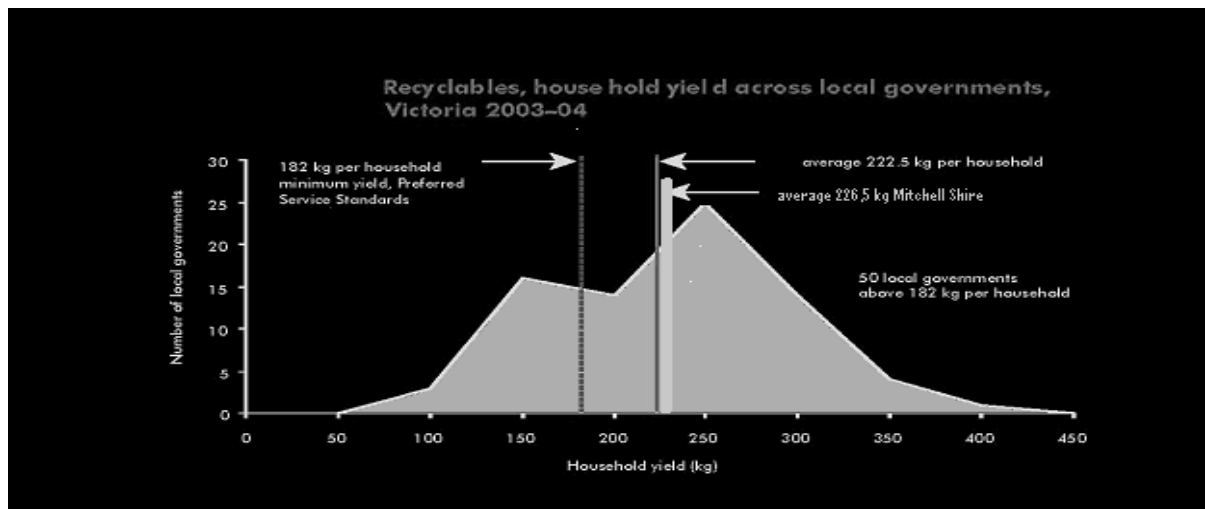
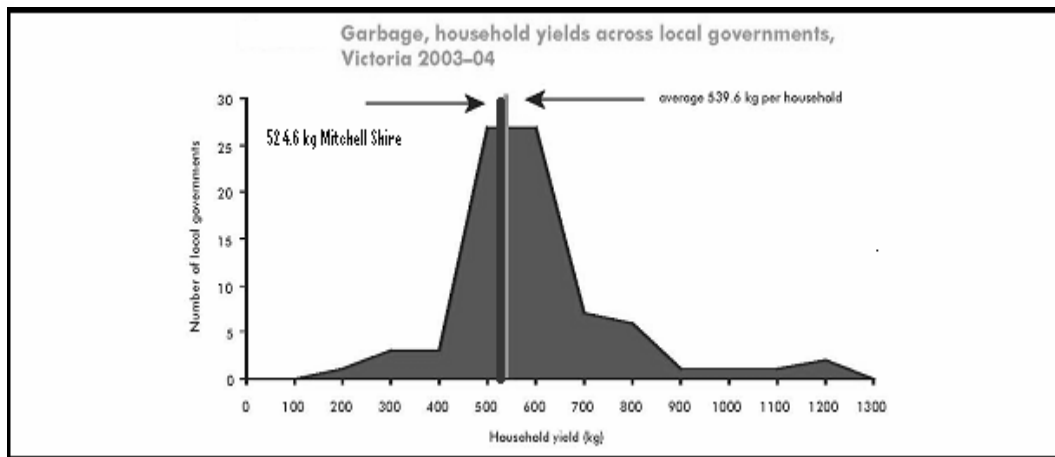
The Shire has at the Kilmore, Seymour, Broadford, and Pyalong transfer stations drop-off facilities for general recyclables, cardboard, green waste and metal. Within the Shire there is also a collection of recyclables from commercial properties. These quantities are not included in the survey results but do form a major part of the material diverted from landfill for Municipalities.

Within the Goulburn Valley Regional Waste Management Group (Resource GV) Mitchell Shire Council is the best performing in relation to the diversion of resources from landfill. The Shire is well positioned when compared to State averages.

	<b>Garbage kg</b>	<b>Recycling kg</b>
State Average	539.6	222.5
Metro	537.3	230.6
Non- Metro	545.9	199.4
Regional	634.7	192.1
Mitchell Shire	524.6	226.5

The information above indicates the average amount of garbage, and recycling per household that is collected in the 2003-04 financial year. The aim is to have the lowest figure in the kilograms of garbage and the highest in recycling. From the figures supplied it is evident that Mitchell Shire Council is well placed in relation to the amount of material that is diverted from landfill.

In the charts below Mitchell Shire Council is represented the wide line

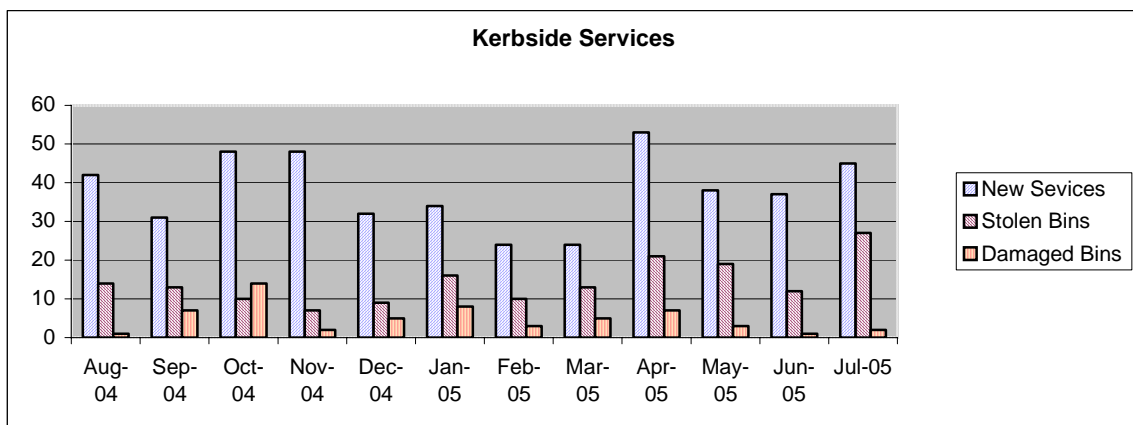
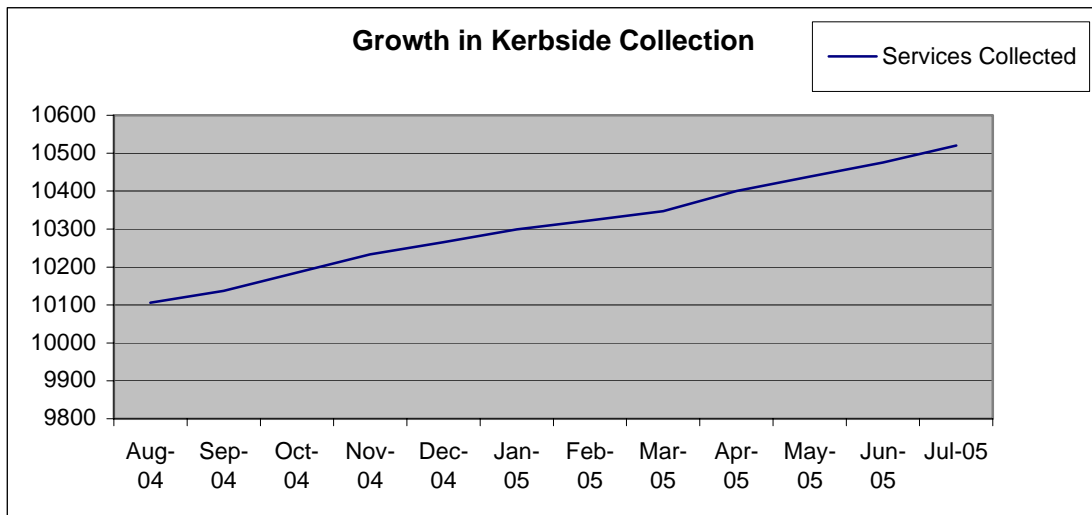


While it is evident that we are performing close to the average, it is also evident there is room for improvement. There are a number of local Councils doing substantially better. We should be aiming to divert more waste from our landfill.

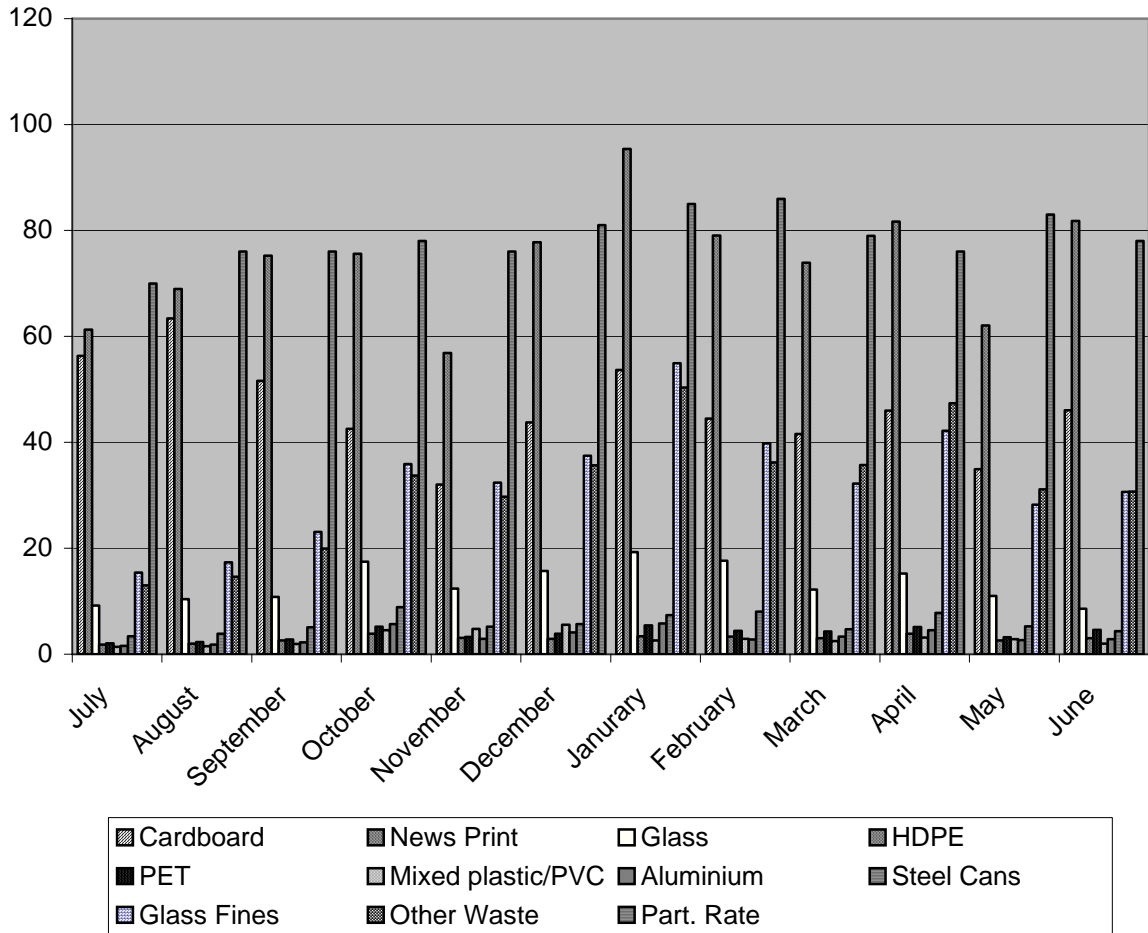
From audits of both the waste and recycling kerbside bins it is evident that the community can improve the diversion rate by becoming aware of the range of material that can be recycled.

The charts below provide a summary of the growth in Kerbside Collections from August 2004 - July 2005.

Over this period there has been a growth of 469 new services, 171 bins stolen and 58 damaged bins. This financial year, Officers are expecting a growth of 501 new services and a similar number of stolen and damaged bins.



Kerbside Recycling Collection Chart



The bar chart covers the Kerbside Recycling information that will appear in the Local Government Data Collection Survey 2004-05. This represents only the recycling component and the categories within that field.

Where previously glass fines were taken to landfill as waste, they are now used for alternative purposes.

In an attempt to reduce the proportion of waste the Contractor and Waste Management Officer are undertaking an education program at Primary Schools within the Shire.

Officers are making students aware of the extended number of items that can be recycled and what is the best way to improve our results. This has been warmly accepted at all Schools with others wanting to be included. The Contractor and Officers of the Shire are working to ensure that our position is continually improving by further education and innovation.

## 2. Business Services

### 2.1 Mitchell South Business Breakfast

Held in Wallan on Friday 12 August 2005, the Mitchell South Business Breakfast provided a welcome networking opportunity for the approximate 100 attendees and the ideal platform to launch Council's Mitchell Business Week and Awards program – to be staged in November 2005.

According to survey forms collected on the day, many local business operators value the opportunity to network with fellow business operators and Council Officers at forums such as these. The consensus was also that Friday was the preferred day of the week for functions of this nature. This feedback will assist the Business and Tourism Services Unit in planning future events.

### 2.2 Food Unlimited Restaurant and Accommodation Guide

Congratulations to Mitchell Community Health and the RecreAction committee on the launch of the Food Unlimited Guide on 15 August 2005. The Guide provides a comprehensive 'access' listing for local eateries and accommodation, including disabled toilets, wheelchair access and so on.

In addition to a Mitchell Shire Council Community Grant, the Guide was supported by Kilmore Chamber of Commerce and Tourism. The Committee expressed their thanks to the volunteers, including Visitor Information Centre volunteers, who inspected business premises as part of an 'access audit' process when collating the guide. Importantly, this audit process was designed to educate businesses on simple and cost effective ways to make their premises more accessible.

### 2.3 Commonwealth Games Business Opportunities

Businesses are being encouraged to avail themselves of business opportunities arising as a result of the Commonwealth Games. For information on tenders and to register as a supplier, businesses can visit [www.gamesopportunities.com.au](http://www.gamesopportunities.com.au). Opportunities also exist for businesses to take advantage of the Games' international spotlight by establishing global business links. Visit [www.businessclubaustralia.com.au](http://www.businessclubaustralia.com.au) for further information.

### 2.4 Home Based Business and Local Government

In July 2005, the Department of Innovation, Industry and Regional Development released the findings of a survey into the impacts of local government policy and regulation on home based business. Council's Business Services Coordinator took part in this survey.

Many of the survey findings are consistent with Council's own Home-Based Business Study commissioned in 2003. In particular, the challenge of identifying home based operators in order to provide targeted support services, was revealed in the recent survey. A copy of the survey findings can be found at [www.business.vic.gov.au/homebased](http://www.business.vic.gov.au/homebased).

### 3. Environmental Services

#### 3.1 Fire Prevention

The Municipal Fire Prevention Committee has been advised regarding the Council's work schedule in preparation for the 2005/2006 fire season. The work schedule, collated from requests by Brigades, was distributed to all CFA delegates at the Municipal Fire Prevention Committee (MFPC) meeting held on the 25 August 2005. It is expected, depending on climatic conditions that the Council's Roadside Slashing Program will commence in the first week of November and the majority of work will be completed by the Mitchell Works Unit. Council's Spraying Program has already commenced in the north of the shire and is being supervised by Council's Environmental Programs Coordinator.

The MFPC also resolved to distribute two information flyers to all ratepayers prior to the fire season. The first flyer to be distributed in the October Rates mail-out is to inform property owners of their requirement to complete all property fire prevention by the dates as advised on the flyer (depending on their location in the Shire). The second flyer will again highlight the CFA and Council requirements with regard to burning.

Council Officers will commence the annual private property fire hazard inspections on Monday 24 October 2005 in Tooborac and will work their way to Beveridge, which depending on the season will commence on Monday 21 December 2005.

#### 3.2 VicRoads' Audit

Council's Enforcement and Compliance Unit has again been audited under the Road Safety Act 1986 with regards to handling confidential information. Recent breaches of confidentiality have been highlighted in the media over the last few weeks at organisations in Melbourne. The Unit has passed the annual audit and its procedures and recordkeeping have been found to comply with VicRoads regulations in this regard. Breaches of Section 92 of the Act can result in fines of up to \$10,000 and can also result in imprisonment for up to six months. The Unit takes the confidentiality of the information seriously and have created procedures and policies to facilitate this.

#### 3.3 Vacant Building Surveyor Position

Council has readvertised the position of Building Services Coordinator (Municipal Building Surveyor) with applications being accepted up until 17 August 2005. The first advertisement saw two applications received and unfortunately both were deemed to be unsuitable. The latest series of advertisements has attracted one further application from an individual who is currently not qualified as a Building Surveyor. The Building Services Unit has been working with a Contract Building Surveyor who has been operating one day a week from the Council Offices. This has obviously slowed the Building Permit process down. All prospective clients are being advised that the processing of building permit applications is taking approximately 3 months

from submission date. Clients are further advised if they require a permit before that date it may be an alternative to seek out a Private Building Surveyor. Advice from neighbouring Councils is that the three month time period is not unusual and that our previous time taken was at the top end of what is normally offered.

A review of the options available to Council with regard to the operation of the Unit is being conducted.

#### **4. Planning**

##### **4.1 P304208 – 58C Fitzroy Street, Kilmore – Vegetation Removal**

Reference Item 9.15 – 11 July 2005

The planning permit for the removal of the tree has now been issued. Officers now believe it would be appropriate to remove the tree and will be organising the removal in the near future.

##### **4.2 Old Goulburn River Bridge**

Correspondence advising Council of the potential listing of the bridge was received from Heritage Victoria on the 17 August 2005 advising that the Heritage Council wishes to consider the placement of the Old Goulburn River Bridge (located along a stretch of the Old Hume Highway, running generally north-south from Seymour-Tooborac Road) on the Heritage Register.

Council has been advised that submissions can be forwarded to Heritage Victoria by midday, 17 October 2005 prior to the Heritage Council making its final decision (approximately 60 days after the 17 August 2005).

Prior to making its final decision, Council is obliged to inform the Heritage Council of any planning permit and/or amendment applications, any activities which may affect the integrity of the bridge within 10 days of becoming aware of them and any proposals to dispose of the asset.

Officers plan to prepare a submission to Heritage Victoria with a view to supporting the listing of the Old Goulburn River Bridge on the Heritage Register. The listing of the bridge is in keeping with its recognised heritage value of the structure. The bridge is currently affected by the Heritage Overlay.

#### **5. Environmental Programs**

##### **5.1 Sustainable Gardening Australia – Green Gardeners Program**

The Victorian Government's Stormwater and Urban Water Conservation Fund, Goulburn Broken Catchment Management Authority, Goulburn Valley Water and Mitchell Sire Council combined together to fund a green gardeners training program for the Goulburn Valley region.

The training is aimed at landscape gardeners, horticulturalists, nursery staff and gardening industry suppliers in local region to attend the TAFE-accredited training on water wise and environmentally sustainable gardening.



Presented by Sustainable Gardening Australia, the program provides practical advice and information about better gardening options and covers topics including water conservation, non-invasive plants, low chemical use, reduced stormwater pollution, greater use of indigenous plants and natural soil improvement.

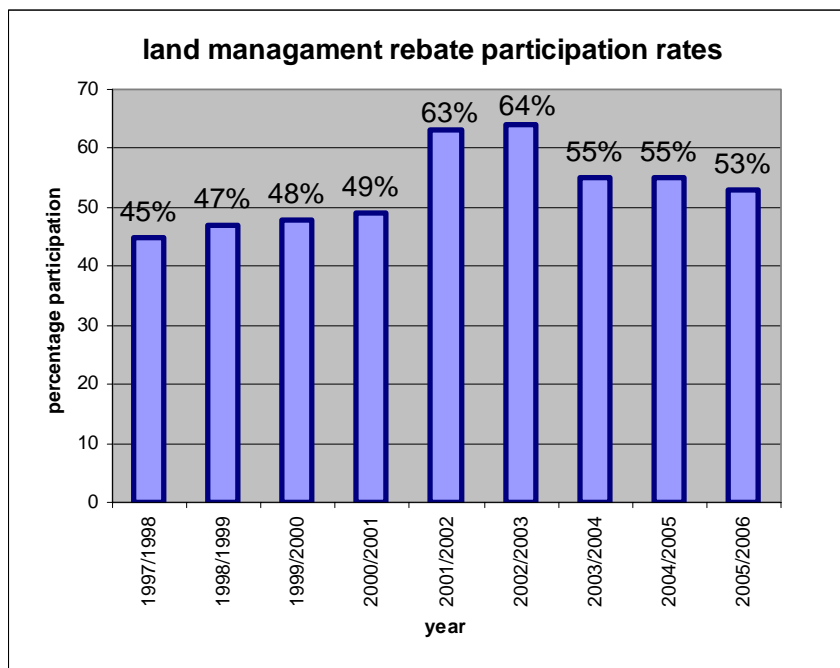
All presenters are qualified trainers with years of practical experience in the gardening and nursery industries. The program recognises the important role landscapers and nursery staff have in providing good advice on waterwise and sustainable gardening practices to the community.

Several of Council's Parks and Gardens team will be attending the training sessions on the 1<sup>st</sup> and 8<sup>th</sup> September at the Goulburn Ovens TAFE, Seymour

## 5.2 Land Management Rebate

There were 3234 properties eligible for the 2005/06 land management rebate, of these 1707 applied. This equates to a 53% uptake, which is lower than previous years.

The graph below illustrates participation rates since the scheme was initiated in the 1997/98 financial year.



Participation rates show a marked increase in the 2001 to 2003 years; this may be partly due to the fact that Council sent out reminder notices to landholders during those years. Council Officers will review the Rebate Scheme during the next 4 months and make recommendations to Council about future changes to the Scheme provisions.

As an initiative of the Mitchell Shire Environment Committee, over the past two years there has been a section on the application forms where landholders can request further environmental information. Under this section, landholders can request information on local landcare groups, native vegetation, weed identification and control and other environmental issues.

Below are some statistics relating to these environmental information requests;

- 504 landholders requested information in the 2004/05 year
- 689 landholders requested information in the current financial year
- This equates to 1193 landholders seeking environmental information over the past two years through the land management rebate scheme alone
- Therefore it could be summarised that 40% of rural landholders in the Mitchell Shire are actively seeking environmental information.

This illustrates the demand for environmental information and the importance of Council's involvement in raising the community's awareness and involvement in environmental issues and management.

### 5.3 Goulburn Broken Catchment Management Authority Seminar

Mitchell Shire Council's Environmental Programs Coordinator attended and made a presentation at the recent Goulburn Broken Catchment Management Authorities annual seminar held in Trawool.

The seminar focused on funding opportunities for landholders to assist them in managing their properties. The day included presentations on whole farm planning, erosion control, works to enhance waterways, exploratory drilling, government funding and landcare success stories.

The Mitchell Shire Council presentation was titled landcare and local government and covered the following topics;

- 'Landcare' Grants and rebates available through Mitchell Shire Council, such as the Land Management Rebate, Community Grants and Festival and Events sponsorship
- Relevant Mitchell Shire Strategies and Policies
- Environmental Programs such as the Cities for Climate Protection Program and Stormwater quality projects
- Environmental Education such as Council's involvement in local shows and Expos, the new residents kit and environmental publications and
- Council's on-ground works including the weed control and revegetation program, rabbit control and erosion management works.

**RECOMMENDATION**

**THAT:** the report be received and noted.

**MOVED:** CR. D. PATERSON

**SECONDED:** CR. S. MARSTAELLER

**THAT:**

- 1) the report be received and noted;
- 2) Council write to the Department of Sustainability and Environment congratulating them on their ongoing program to raise community awareness of the importance of noxious weed control, especially through the "*Tackling Weeds on Private Land Initiative*". However, Council urges the Department of Sustainability and Environment to increase resources allocated to enforce weed control on all land in Mitchell Shire.

**CARRIED**

**9.2 TRAFFIC CAPACITY AND SAFETY INVESTIGATION – NORTHERN HIGHWAY (SYDNEY STREET) KILMORE**

**Author:** *Greg Scott, Assets Manager*

**File No:** *Sydney Street 2*

**Reference:** *N/A*

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**Summary**

This report presents to Council a summary of a Traffic Capacity and Safety Investigation carried out by John Piper Traffic Pty Ltd (copy circulated separately to Councillors) on behalf of VicRoads for traffic movements within Sydney Street, Kilmore.

**Background**

Council has for some time been requesting that VicRoads carry out a study to determine the future alignment for a proposed by-pass of the Kilmore township.

VicRoads have not acceded to this request on the grounds that a traffic report carried out in November 2002 indicated that congestion within the township was in some part due to the local traffic in the area.

To assist Council with issues associated with traffic congestion in Sydney Street, VicRoads commissioned John Piper Traffic Pty Ltd to investigate traffic conditions and crash records with the aim of preparing proposals for improved traffic flow and achieving greater pedestrian safety and improved access in consultation with key community interest groups. It was also noted that the scope of the study did not extend to the investigation of potential alternative arterial routes around the central business area of Kilmore.

**Policy Implications**

The report is consistent with the strategic objective as shown in the Council Plan 2005/2009:

*“Strategically plan for our future in an environmentally sustainable manner”*

And more indicatively to:

*“develop, maintain and manage the Shires physical assets in order to improve amenity, safety immobility for the community.”*

**Issues**

The report as presented was prepared based on information gathered by the consultants engineer as well as information from other interested parties made up of representatives from Councillors, Council Officers, Police and Kilmore Integrity Kept Group Representatives.

The report goes into detail with respect to existing road widths and vehicle access restrictions to the number of car parks along Sydney Street between Foote Street and Union Street. It also looks at a number of intersections along this section of road and tries to ascertain a suitable arrangement to alleviate many of the problems.

Other issues covered included pedestrian movements within the main street, lighting, speed zoning and parking in general.

Within the report, a number of the recommendations are considered reasonable and will be programmed to be done subject to available resources. One area that may be of concern is a proposal to paint a 1.6 metre wide median strip down the centre of Sydney Street.

The rationale for this line marking is quite sound however it will have a tendency to cause the trucks to travel closer to the parked cars. At present the existing through carriageway width is 4.8 metres. The proposal will reduce the width to 4 metres. In discussion with VicRoads representatives, it was determined that should the above proposal prove unsatisfactory, it will be a relatively simple matter to re-line mark the road with the single line.

Of additional concern is related to comments made with respect to the lighting within Sydney Street. The consultant has noted that the decorative lamps may not comply with current standards and therefore need to be checked to determine luminance plots, lux levels and other deficiencies.

Conclusions from the report included a summary of traffic conditions as existing and recommends improvements. These are as follows:

#### Summary of Traffic Conditions

The existing conditions along Sydney Street, Kilmore can be summarised as follows:

- The cross section comprises two wide traffic lanes (flanked by standard provision for parallel parking) – encouraging relatively high through traffic speeds;
- There is no separation of turning traffic from the through traffic flow – creating congestion and delays;
- Signed prohibition on right turns at Kilmore Central is ignored and no control on such turns is provided at the other mid-block access points – causing congestion, delays and safety concerns;
- The crash history of 14 injury crashes over the 800 m route length during the past 5 years equates to a rate of 3.5 crashes/year/km – a crash level that exceeds the eligibility threshold under the National Black Spot program;
- Crash analysis highlights a high pedestrian involvement (5 crashes) and a high night time frequency (6 crashes at night or twilight);
- Traffic volumes are estimated at 10,700 vpd through the Kilmore shopping centre;

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**TRAFFIC CAPACITY AND SAFETY INVESTIGATION – NORTHERN HIGHWAY (SYDNEY STREET) KILMORE (CONT'D)**

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- Analysis of the Union Street intersection has indicated acceptable operational characteristics with Degrees of Saturation, average delays and 95% queue lengths all below intervention levels but able to be improved with cost effective treatments;
- Apart from the pedestrian operated signals towards the south end of the shopping strip, there are no pedestrians crossing facilities along Sydney Street and the retro-fitting of DDA requirements has not commenced.

### Recommended Improvements

The following package of minor improvements is recommended for the implementation in order to improve the efficient flow of traffic through the shopping centre of Kilmore whilst enhancing user safety, in particular that of pedestrians:

- Introduce a contrast seal median along the full length of Sydney Street from Foote Street to Clarke Street;
- Prevent right turns at significant traffic generators:
  - By signing at the laneway adjacent to the Town Hall;
  - By installing a triangular island and modifying kerb returns in the driveway at Kilmore Central;
  - By physical change to the current island and kerb returns in the driveway beside the Royal Oak Hotel;
  - By signing of the driveway beside Mac's Hotel
- Upgrade directional and information signing to off-street parking areas;
- Undertake the following intersection improvements:
  - Provide a northbound protected turn lane in Sydney Street at its approach to Union Street;
  - Include the provision of a protected right turn lane from the north in the proposed intersection improvements at Foote Street;
  - Adjust the lane and median widths at both approaches to Bourke Street to create protected right turn lanes at this intersection for both directions of travel;
  - Modify the proposed line marking treatment at the south approach to Clarke Street to include a short northbound right turn lane into the service station;
- Introduce additional crossing facilities for pedestrians by:
  - Modifying the kerb extensions at Bourke Street to introduce pram crossings;
  - Constructing kerb outstands and pram crossings between the Old Colonial Bank and the Mill Street laneway;
  - Modifying the existing kerb extensions at the Commonwealth Bank to introduce pram crossings;
  - Including pram crossings in any modifications undertaken at Union Street.
- Extend the existing footpaths north to Clarke Street intersection (new supermarket access);
- Ensure that new crossing locations and facilities are suitable for people with disabilities (and are DDA compliant)

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TRAFFIC CAPACITY AND SAFETY INVESTIGATION – NORTHERN HIGHWAY (SYDNEY STREET) KILMORE (CONT'D)

- Review and upgrade lighting to ensure compliance with current standards;
- Consider a northern extension of the existing 50 km/h speed zone to Kilmore Creek.

Council Officers have met with VicRoads' Officers over the issues and have identified responsibility for the various matters for consideration and their priority.

VicRoads will now be seeking input from Council and the general community to the report. Following these submissions, any modification that may be considered warranted will be done prior to adopting the final report.

#### **Financial and Resource Implications**

Funding for the minor works where possible will be accommodated within the current budget. Projects requiring capital input will be referred to Council during its 2006/07 budget deliberations.

#### **Consultation Procedure**

VicRoads are currently advertising the study for public comment.

#### **RECOMMENDATION**

##### **THAT:**

1. The report prepared by John Piper Traffic Pty Ltd on Sydney Street, Kilmore be received and noted; and
2. VicRoads be advised that Council supports the proposed traffic management measures.

**MOVED:** CR. R. LEE

**SECONDED:** CR. R. HUMM

##### **THAT:**

1. The report prepared by John Piper Traffic Pty Ltd on Sydney Street, Kilmore be received and noted; and
2. VicRoads be advised that Council supports the proposed traffic management measures, with the exception of recommended improvement dot point one of a contrast seal median along the full length of Sydney Street from Foote Street to Clarke Street, which would have the effect of bringing trucks and cars 800mm closer to parked cars and pedestrians.

**LOST**

2/5

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TRAFFIC CAPACITY AND SAFETY INVESTIGATION – NORTHERN HIGHWAY (SYDNEY STREET) KILMORE  
(CONT'D)

**MOVED:** CR. R. GORDON

**SECONDED:** CR. F. URE

**THAT:** the recommendation be adopted.

**CARRIED**



### 9.3 MAKE IT HAPPEN IN PROVINCIAL VICTORIA MARKETING CAMPAIGN

**Author:** *Sally Macdonald, Business Services Coordinator*

**File No:** *EC/04/016*

**Reference:** *Nil*

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#### **Summary**

This report summarise Council's 'Make it Happen in Provincial Victoria' campaign activities.

#### **Background**

In 2002, the State government announced funding for a rural and regional marketing and investor attraction campaign. Following extensive market research, the "Make it Happen in Provincial Victoria" branding was adopted and the campaign commenced with a website, television and print advertisements. The objective of this initial phase of the campaign was to build awareness and interest in living, working and investing outside of metropolitan Melbourne.

Since this initial investment, state government funding has been made available to regional Victorian Councils on a competitive basis to assist with marketing activities.

At a State level, the media campaign continues however it now features case study testimonials of people who have happily made the transition from metropolitan life to regional living. Building on the 'Provincial Victoria' brand awareness, the campaign also now incorporates a strong call to action to "make it happen".

Recognising a number of common lifestyle attributes and other synergies, in 2004 Mitchell Shire Council joined forces with Strathbogie, Benalla, Mansfield and Murrindindi Shires to participate in the campaign on a regional level.

#### **Policy Implications**

Participation in the campaign is supported by the 2005 – 2009 Mitchell Shire Council Plan objectives to:

*"Develop and maintain strategic alliances with statutory authorities to facilitate development" and "Support and implement the actions of the Provincial Vic and North East Regional Plan projects".*

#### **Issues**

Given both limited resources and funding, the five partner shires embarked on a Visiting Journalist Program (VJP) in October 2004. Whilst offering no guarantees of media coverage, VJP's are nonetheless a cost effective way of generating media interest.

Two RMIT students were engaged to run the program under the guidance of a Mansfield Shire Officer with substantial experience in VJP activities. The students were hosted by each of the Council's on a two-day familiarisation tour in late 2004 and since that time have been actively pursuing publicity opportunities.

To date publicity for the region to the value of \$525,000 has been secured – including regular features in the Age Domain and Sunday Herald Sun.

In July 2005, the five shires committed to continuing to work in partnership on the VJP throughout the 05/06 financial year and agreed in principle to retain the program format for 06/07.

**Financial and Resource Implications**

Council's 2005/2006 operating budget provides for discretionary funds for Provincial Victoria campaign activities.

**Consultation Procedure**

In addition to a broad cross section of business operators and individuals interviewed during the familiarisation tours, Kilmore Chamber of Commerce and Tourism, Seymour Business and Tourism Incorporated and the Mitchell Tourism Development Group have been consulted on campaign activities.

**RECOMMENDATION**

**THAT:** the report be received and noted.

*The resolution for Item 9.3 – Make it Happen in Provincial Victoria Marketing Campaign, is found at the end of this section.*

**9.4 BANNING THE OWNERSHIP OF RESTRICTED BREED DOGS**

**Author:** *David Huxtable, Environmental Services Manager*

**File No:** *LL/06/003*

**Reference:** *Nil*

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**Summary**

A letter has been received by the Council's Enforcement and Compliance Unit seeking that Council adopt a Local Law banning the ownership of 'Restricted Breed' dogs in the Municipality. It is recommended that this report be received and noted.

**Background**

In 2001 the *Domestic (Feral and Nuisance) Animals Act 1994* was amended by the State Government to include a definition and particular provisions in relation to 'Restricted Breed Dogs'. The amendment saw the introduction of four breeds of dogs that were declared 'Restricted Breeds'. Their importation into Australia had previously been banned under the Commonwealth legislation, *Customs (Prohibited Imports) Regulations 1956*. The breeds are:

- American Pitbull Terrier
- Japanese Toser
- Dogo Argentino
- Fila Brasileiro

The amendment also clearly stated that the breeds had to be purebreds and a cross of any description was not to be included as a 'Restricted Breed' dog. Therefore you could have an American Pitbull Terrier cross Japanese Toser and that dog would not be a "Restricted Breed" dog.

The aforementioned purebreds were classified as 'Restricted Breeds' as historically they had been bred as fighting dogs in their country of origin and the breeds still carry that designation today. The legislation introduced provisions in relation to how those dogs were required to be kept and a higher monetary penalty if the particular breeds were found to be in contravention of the law. Since 2001, dog owners have been required to advise Council if they own a 'Restricted Breed' Dog. There are currently 6 registered 'Restricted Breed' dogs in the Municipality.

**Policy Implications**

The recommendation is in line with the Council plan: "*Develop and implement local laws and enforce relevant State legislation in order to support a safe and secure environment*".

**Issues**

The legislation was amended to assist in the determination of whether a dog is a restricted breed dog or not. If an Authorised Officer believes that a dog is a restricted breed dog and the owner denies that it is, the matter must go before a State Committee of experts to determine the breed of the dog. For this an animal owner must pay \$200, which is not refundable upon determination. There is no monetary cost to Council other than the officer's time to attend to the Committee in Melbourne. The Committee is made up of a representative from the State Governments Bureau of Animal Welfare Committee, a representative from the American Pitbull Breeders' Association, a representative from the RSPCA and a representative from the Victorian Canine Association. The decision of the committee is final. Mitchell Shire Council has not put any dog owner through this process and cannot comment first hand on any of the results. Officers have been advised that approximately 80% of the dogs brought before the committee have **not** been declared 'Restricted Breed' dogs.

When the amendments were introduced, all Councils were advised that the list of 'Restricted Breeds' would increase. This has not been the case for the last four years. The State Government decided not to ban the ownership of the types referred after extensive public consultation. At this stage, Officers are aware of one Municipality (Hobson Bay) which has introduced a Local Law, which states that the Council refuses to register a 'Restricted Breed' dog. The owner of the dog then has to either move, sell the dog or have the dog destroyed. Legislation has recently been introduced in New South Wales and Queensland at a State Government level banning the ownership of purebred Pitbull Terriers. The legislation can be enforced by Local Government or the Police.

To amend the Local Law to ban the ownership of restricted breed dogs would not decrease any of the problems that the Unit deal with on a day to day basis. Over the last five years, all of the dog attacks reported to the Unit have not once involved a restricted breed dog. The Unit is of the belief that it is the training and responsible ownership of a dog which will determine the demeanour of the animal. The Unit has been required to attend to attacks involving Labradors, Border Collies, German Shepherds and a variety of crossbreeds which can cause severe problems depending on the type of cross.

**Financial and Resource Implications**

An amendment to the Local Law would be required to be advertised seeking public consultation and then if adopted advertised advising introduction of the law. In this circumstance the amendment would need to be perused by Council's legal advisors. No funds have been identified as being allocated in this financial year. Taking into account the recent amendments to the Local Laws it would be expected that the cost of the amendment would be estimated at \$5000. The resources required to enforce the amendment would also need to be considered.

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BANNING THE OWNERSHIP OF RESTRICTED BREED DOGS (CONT'D)

**Consultation Procedure**

The amendment to the Domestic (Feral and Nuisance) Animals Act 1994 was advertised back in 2001 seeking public comment. Numerous submissions were received and the State government held public meetings throughout Victoria. If an amendment was to be considered a public consultation process would be required.

**RECOMMENDATION****THAT:**

1. The report on the proposal to ban the ownership of Restricted Breed dogs be received and noted; and
2. The applicant be advised that Council does not propose to introduce such a ban at this stage.

**MOVED:** CR. R. LEE

**SECONDED:** CR. R. GORDON

**THAT:** Council write to the Minister for Agriculture in support of the proposed new laws that will require declared dangerous dogs and restricted breeds, to be desexed.

**CARRIED**

## 9.5 MANDATORY DESEXING OF CATS

**Author:** David Huxtable, Environmental Services Manager

**File No:** LL/06/002

**Reference:** NOM 367 – July 2005 Council Meeting

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### Summary

This report recommends that Council resolve to write to The Hon. Bob Cameron, Minister for Agriculture, supporting the Cat Crisis Coalition in seeking an amendment to the Domestic (Feral and Nuisance) Animals Act 1994 requiring the mandatory desexing of cats with the exception of cats owned by a licensed breeder.

### Background

Officers of the Enforcement and Compliance Unit attended a seminar to launch the CAT CRISIS COALITION in June 2005. The Coalition is an alliance of Victorian animal welfare groups that have united through their commitment to urgently address the current cat problem and to overall improve the welfare of cats. The Coalition includes the following organisations: Australian Animal Protection Society, Cat Protection Society of Victoria, Humane Society for Animal Welfare, Lort Smith Animal Hospital RSPCA Victoria, Save a Dog Scheme, The Lost Dogs home and Western Suburbs Cat Shelter and the Victorian Animal Aid Trust.

This is the first time all major Victorian Animal Aid organisations and Shelters have joined together with the sole aim of achieving mandatory desexing of cats, in order to reduce cat overpopulation and stop the destruction of approximately 32,000 cats per year. Approximately 48,000 cats are impounded or received by shelters each year and approximately 66% are euthanased. This figure has been constant for the last ten years. Each day staff at animal shelters are faced with the fact that out of every 4 cats only one will be rehoused or collected by their owner. Three out of every four cats are destroyed. A high percentage of the cats that are euthanased are under 4 months of age

The Vision of the Coalition is:

*“To end indiscriminate breeding of cats, ensuring that all cats in Victoria are responsibly homed, thereby stopping the annual destruction of tens of thousands of unwanted cats and kittens by animal welfare organizations”*

### Policy Implications

The recommendation is in line with the Council Plan: *“Develop and implement local laws and enforce relevant State legislation in order to support a safe and secure environment”*.

**Issues**

The Coalition is seeking:

- That all cats over the age of 12 weeks must be desexed unless registered to a licensed breeder.
- That all cats and kittens offered for sale by Pet shops or licensed breeders must be desexed.
- That Council's subsidise a cat desexing scheme.

The early age desexing of cats would contribute significantly to solving the problem of unwanted and excess cats. The Cat Protection Society of Victoria has been performing early age desexing since 1991 and it has been accepted by the general public. A five year study of complaints received by the Society from 1996 to 2001 (10,291 complaints) determined that 84% of cats involved were not desexed and the complaints were related to the behaviour of the undesexed cats. The study also determined that the average lifespan of a desexed cat was 5 times greater than an undesexed cat.

The Cat Protection Society also released the following statistics in relation to their study:

- 18% of female cats have produced a litter by the time they are 6 months of age.
- It would need 97% of all owned cats to be desexed to reduce the number of unwanted cats destroyed by pounds and shelters.

Increasingly there are environmental lobbyists that seek to ban cats from certain areas, citing damage to the environment and native animals/species. Stray and wild cat populations are replenished by the unwanted young of stray and irresponsibly owned cats. A study of 3000 owned cats by David Patton, Department of Zoology, University of Adelaide in 1998, found that an undesexed cat could kill up to 64 small mammals, reptiles or birds every year.

**Financial and Resource Implications**

The enforcement of any amendment to the Domestic (Feral and Nuisance) Animals Act 1994 by the State Government would be completed within the current resources of the Enforcement and Compliance Unit. The mandatory desexing may actually reduce resources, as it would be expected that there eventually would be a reduction of impounded cats and therefore cats that are ultimately euthanased.

The introduction of a subsidised desexing scheme would need to be considered prior to the next budget estimates period for consideration by Council as part of the budget process.

**Consultation Procedure**

The Cat Crisis Coalition has commenced a Statewide media campaign. The introduction of mandatory desexing would require an amendment to the Domestic (Feral and Nuisance) Animals Act 1994 and would required to be

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**MANDATORY DESEXING OF CATS (CONT'D)**

advertised seeking comment from any person. Officers would expect that the consultation process would be widely publicised. At this stage the recommendation is to write to the Minister for Agriculture to consider an amendment only.

**RECOMMENDATION**

**THAT:** Council write to The Hon. Bob Cameron the Minister for Agriculture supporting the Cat Crisis Coalition in seeking an amendment to the Domestic (Feral and Nuisance) Animals Act 1994 requiring the mandatory desexing of cats with the exception of cats owned by a licensed breeder.

*The resolution for Item 9.5 – Mandatory Desexing of Cats, is found at the end of this section.*



**9.6 COUNCIL SIGN AND SEAL SECTION 173 AGREEMENT –  
L & D SHEAHAN**

**Author** *David Huxtable – Environmental Services Manager*

**File No:** *9538560930*

**Reference:** *Item 9.13 – 14 June 2005*

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**Summary**

This report seeks that Council resolve to sign and seal a Section 173 Agreement under the Planning and Environment Act 1987 between the Council and L & D Sheahan of 93 Thompson Spur Road Reedy Creek relating to a cost settlement in the matter, Mitchell Shire Council v LP & DE Sheahan.

**Background**

On the 6 November 2002, Council's Planning and Development Enforcement Officer, responding to telephone complaints, attended at 93 Thompson Spur Road Reedy Creek. The Officer recorded that approximately 3 to 4 acres of native vegetation had and was in the process of being felled and removed. No owners were present at the property. The Officer returned to the Council Offices and searched Council's property and Planning databases. It was established that the current owners of the property were LP & DE Sheahan and that a Planning Permit would be required for the works undertaken. It was further established that no Planning Permit existed for the removal of native vegetation. Officers made contact with the owners of the property and arranged for an inspection and meeting onsite for the 7 November 2002.

This commenced the investigation into the alleged destruction of native vegetation. On the 8 November 2002 further evidence was collected in the form of photos etc. An initial evaluation of the evidence collected over the 3 days concluded that a breach of the Mitchell Planning Scheme (MPS) may have occurred and a 'Notice to Show Cause' letter was sent by the Chief Executive Officer. This letter was forwarded to Mr and Mrs Sheahan. Council received a reply to that letter on the 21 November 2002 refuting the allegations and advising that the works had been conducted with regard to fire prevention and therefore they were exempt from obtaining a permit under the Scheme. The evidence collected rebutted the reasons put forward by the Sheahan's. However, Council engaged an aborist to provide independent and expert advice specifically in the following areas:

- Species and number of felled trees
- Assessment of the felled trees – Health and Structure
- If the trees presented a danger to owners or animals
- Value of felled trees

An expert in the field of Fire Prevention was also engaged to provide Council with independent and expert advice with regard to:

- Establishing if the nature of the clearing was exempt as prescribed by the MPS
- Was the extent of the clearing excessive in terms of Fire Prevention

Following receipt of the independent advice, which confirmed all the evidence collected by Officers, a Brief of Evidence was prepared and submitted as per Council's Prosecution Policy.

It had been established that 259 old growth Eucalyptus trees had been destroyed over a 4 acre site. The Brief was duly authorised and charges were submitted to the Seymour Magistrate Court on the 20 February 2003 and a Summons issued to the owners of the property. The matter was listed for Mention at the Seymour Magistrate Court on the 7 March 2003. On the 27 February 2003 a request on behalf of the Sheahans by Legal representatives Puglisi, Heffey & Pavlidis was submitted to the Seymour Magistrate Court requesting an adjournment until April on the ground of defence preparation given a plea of not guilty would be submitted to the court.

A Contest Mention date was set for 11 April 2003. The matter was adjourned at the hearing 11 April 2003 with a settlement being agreed to by both the defendants and Council, the settlement included:

- *Replanting 0.8 of hectare of native Vegetation with an additional 0.4 hectare of planting in an area to be decided at a later date*
- *Payment of council's Prosecution costs to date of \$2,500.00*
- *Registering an agreement pursuant to Section 173 of the Planning and Environment Act 1987 which will provide revegetation, protection and maintenance of the cleared area*
- *Consent for Council to publish the agreed settlement*
- *The fulfilment of all points as set out within the settlement including the completion and presentation to Council of a revegetation report by the 11 September 2003.*

During the period from April to September, the Sheahan's were contacted on a number of occasions to discuss the settlement details. Unfortunately, no contact was received by the Sheahans. At all times the Council was willing to discuss the terms of the settlement. On the 16<sup>th</sup> September 2003 the defendants were advised of the matter being re-listed for a hearing at the Seymour Magistrate Court on the grounds that the 'General Terms of Settlement' were not met by the due date 11 September 2003. The matter again was listed for a contest mention at the Seymour Magistrates Court for the 10 October 2003. This matter was adjourned to the 24 October 2003 to further discuss a settlement option which was agreed to by the Magistrate. Terms of settlement were again rejected by the Sheahans and the matter was listed for a full day hearing on the next available date being the 29 April 2004. All evidence was unable to be heard that day and following numerous adjournments the matter was finalised at the Court on the 23 February 2005. The Magistrate, Mr. Murphy, requested final written submissions from both parties as he deliberated this matter.

The Magistrate handed down his decision on the 29 April 2005. Mr and Mrs Sheahan were found guilty of all offences and fined \$15000 each (The maximum fine is \$120,000 each). In his summary the Magistrate, Mr Murphy stated that there was no doubt that the Sheahans had destroyed 259 trees and that they only sought to consider exemptions under the Mitchell Planning Scheme after the event. Mr. Murphy further stated that was clear with regard to the activity and an enquiry to Council prior to their actions could have avoided this matter. The Prosecution then sought a short 30 minute adjournment so that costs could be discussed with Council Officers and the Sheahans. A 'Cost Settlement' was agreed and included but was not limited to the following:

- The entering into of an agreement pursuant to Section 173 of the Planning And Environment Act 1987
- The payment of costs in favour of the Informant (Council) of the sum of \$20,000.00
- The provision of a revegetation plan
- Agreed schedule of payment of costs including annual CPI increment
- Agreed schedule of provision of revegetation plan and completion of works

Magistrate Murphy stated that the cost settlement was reasonable and included it in his final judgement. The Section 173 agreement is now tabled at Council for perusal, signing and sealing.

### **Policy Implications**

The prosecution was consistent with the Council's Prosecution Policy and the Council Plan:

*"Develop and implement Local Laws and enforce relevant State Legislation in order to support a safe and secure environment."*

### **Issues**

In this instance on a number of occasions the defendants were given the opportunity to settle prior to and during a costly court case. The original settlement requested by Council was for \$2500 plus revegetation work. The final decision handed down by the court was \$50,000 (fine and costs) plus the revegetation works. The Enforcement and Compliance Unit generally looks at ways of working with our residents to achieve compliance with local or State legislation. Unfortunately this is not possible in all circumstances and Council must have the ability to prosecute matters. There are no winners in a matter such as this. The destruction of the trees occurred in August 2002 and the Court proceedings were completed in April 2005. The Council has spent a considerable amount of money prosecuting this matter and the property owner has been fined a significant amount.

**Financial and Resource Implications**

The total cost of the prosecution, including the collection of all evidence expert advice/witnesses and attendance at court was approximately \$48,000. The fine and costs awarded against the Sheahan's was \$50,000 (Fine \$30,000, Costs \$20,000). A further hearing has been had at the Seymour Magistrates Court regarding the payment of the fine whereupon it was agreed that the fine would be paid over a six year period.

**Consultation Procedure**

The Council's Prosecution Policy was put in place to ensure that a clear chain of events occurred prior to bringing a matter to court. The Policy provides senior and experienced officers of Council the opportunity to peruse the evidence included in a Brief and ensure that all matters relevant had been discussed and covered. Throughout the proceedings senior officers were kept informed of events and at various times instructed that a settlement should be sought. At no time was the offer of a settlement agreed to by Mr. and Mrs. Sheahan.

**RECOMMENDATION**

**THAT:** Council sign and seal the Section 173 Planning and Environment Act 1987 Agreement that outlines the conditions relating to the cost settlement in the Mitchell Shire Council v LP & DE Sheahan matter.

*The resolution for Item 9.6 – Council sign and seal Section 173 Agreement – L&D Sheahan, is found at the end of this section.*

**9.7 SUSTAINABLE WATER USE PLANS**

**Author:** *Elyse Kelly, Environmental Programs Coordinator*

**File No:** *WW/01/006*

**Reference:** *Nil*

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**Summary**

This report refers to Sustainable Water Use Plans funding available to local governments to assist in the development of these plans and recommends that Mitchell Shire Council develop and implement a Sustainable Water Use Plan.

**Background**

Many of Victoria's regions have experienced severe drought for many years resulting in serious concerns about sustainability of water resources in Victoria. The Government is working to address this issue by developing a range of water conservation initiatives aimed at every sector of the community.

Local government is often a significant water user, irrigating parks, sporting fields, public gardens and other open spaces, and using water for other council operations. As the local planning authority, local government is in a unique position to shape public attitude and behaviour regarding water conservation and to set standards for water conservation in new developments.

*The Victorian Government's Our Water Our Future White Paper* states that local government Councils in regional Victoria should prepare water conservation plans as has occurred in metropolitan Melbourne.

This commitment is contained in Chapter 5 of the White Paper as follows:

- Action 5.21 - Funding will be provided to support the extension of local government water conservation plans across regional Victoria.
- Action 5.22 - The urban water authorities will be required to work with local government in the preparation of these plans.

In 2003, Melbourne Water launched a program to assist Councils in Melbourne to prepare a Water Management Plan, now referred to as a Sustainable Water Use Plan. To date 24 of the 32 Melbourne and interface Councils have signed up to the Melbourne Water Program to complete Sustainable Water Use Plans. The White Paper actions will now see the development of Plans by regional Councils.

A Sustainable Water Use Plan is a valuable water management and conservation tool. It will identify where council uses water, how much water is used and it will identify actions for Council to reduce our water consumption.

It is structured very similarly to the cities for Climate Protection Program that Mitchell Shire Council has committed to.

The objectives of a Sustainable Water Use Plan are to:

- Provide direction to Council to assess, monitor and reduce water consumption
- Identify and prioritise future works required to enable Council to become more water efficient in management and use of our water resources
- Identify projects which may increase water conservation, recycling and/or the use of stormwater

### **Policy Implications**

The development and implementation of a Sustainable Water Use Plan is supported by the Mitchell Shire Environment Strategy and the following key directions of the Mitchell Shire Council Plan 2004-2008:

- *A commitment to be environmentally responsible*
- *A core value of preservation of our built and natural environment*
- *A strategic objective to strategically plan for our future in an environmentally sustainable manner*
- *A strategy to support and develop environment protection programs*
  - i. Implement Mitchell Shire Environment Strategy in accordance with the timelines contained therein and available resources*
  - ii. Establish and maintain relationships with other stakeholders in environmental management throughout the region including catchment management authorities and local environment groups*

### **Issues**

Council must complete the plan by December 2006.

It is important to note that the Plan will identify actions that will lead to significant water savings and thereby financial savings.

Plans will also identify projects that may increase recycling or use of stormwater. These projects may be eligible for funding under other Our Water Our Future initiatives such as the Stormwater and Urban Water Conservation Fund and the regional component of the Smart Water Fund.

Councils who have undertaken a water conservation planning process will also be looked upon favourably for State Government water funding in the future.

**Financial and Resource Implications**

As part of its *Our Water Our Future Action Plan*, the Victorian Government is offering grants of up to \$10,000 to regional Councils to assist in developing their Sustainable Water Use Plans.

There are 47 Councils in regional Victoria eligible to receive assistance to prepare a Sustainable Water Use Plan; Mitchell Shire Council is one of these.

Council is required to match 1:1 the \$10,000 funding provided by the government. In kind contributions, such as staff time, can be considered as part of the application.

This is not an item that was budgeted for in the 2005/06 budget as the program was not launched until later in the year. However it is anticipated that Council can make significant savings by working together with other local regional Councils and as the development of the plan goes over 2 financial years, a budget allocation can be sought for the 2006/07 year.

**Consultation Procedure**

The DSE Regional Water Managers will provide on the ground support in the regions and be available to discuss and assist with development of the Plans.

There are opportunities for regional councils to create efficiencies by pooling resources to develop multi-council or regional Plans, this was discussed at a recent meeting of several neighbouring and nearby Councils, such as Strathbogie, Moira and Murrindindi Shire Councils and the Greater City of Shepparton.

Mitchell Shire Council would have to work closely with Goulburn Valley Water, and Coliban Water in developing the plan. The Council should also liaise with future water supplier Yarra Valley Water in the development of the plan.

**RECOMMENDATION**

**THAT:** Mitchell Shire Council develops and implements a Sustainable Water Use Plan.

*The resolution for Item 9.7 – Sustainable Water Use Plans, is found at the end of this section.*

**9.8 AMENDMENT C35 TO THE MITCHELL PLANNING SCHEME –  
REZONES LOT1 PS 206896S FROM A PUBLIC CONSERVATION  
AND RESOURCE ZONE (PCRZ) TO INDUSTRIAL 1 ZONE (IN1Z)**

**Author:** *Katie Rizzuto, Senior Strategic Planner*

**File No:** *PL/05/020*

**Reference:** *Nil*

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**Summary**

This report recommends that Council refer all submissions that have not been resolved (in relation to this Amendment) under Section 23 of the Planning and Environment Act 1987 to an independent panel for consideration.

**Background**

This amendment is considered at the request of Foresite Pty Ltd on behalf of Roads Corporation 'VicRoads'. The amendment proposes to rezone 3.184 hectares of land on the western side of the Goulburn Valley Highway, Seymour (Lot 1 PS 206896S) from Public Conservation and Resource Zone to Industrial 1. The Lighthorse Drive Industrial Estate (IN1Z) adjoins the land to the north, with Telegraph Road adjoining land to the south.

The subject land was formerly used as a VicRoads patrol depot and is occupied with existing sheds, office building and associated machinery, (the land is still occasionally used for equipment storage by VicRoads).

The subject land is no longer required by VicRoads as a Depot, as VicRoads operations have been substantially rationalised with depot functions now being relocated to Nagambie. In accordance with State Government practise, the land has been offered to other Government agencies for alternative re-use before being made available to the public.

**Policy Implications**

Council's 'Council Plan 2005 – 2009' acknowledges the need to review the Mitchell Planning Scheme as a strategic objective of its core functions within the management structure of "Sustainable Environments". The proposed rezoning extends an established industrial area in Lighthorse Drive.

**Issues**

The amendment:

- Rezones land on the western side of Goulburn Valley Highway, Seymour (Lot 1, PS 206896S) from Public Conservation and Resource Zone to Industrial 1 Zone.

The Applicant has indicated that the amendment is necessary as the land is no longer required by VicRoads as the VicRoads operations on the site have been substantially rationalised with depot functions now being relocated to



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AMENDMENT C35 TO THE MITCHELL PLANNING SCHEME – REZONES LOT 1 PS206896S FROM A PUBLIC CONSERVATION AND RESOURCE ZONE (PCRZ) TO INDUSTRIAL 1 ZONE (IN1Z) (CONT'D)

Nagambie. In accordance with State Government practice, the land has been offered to other government agencies for alternative re-use before being made available to the public. As part of the State Government *Policy and Instructions on the purchase, compulsory acquisition and sale of land*, the most appropriate zone for the land must be established and put in place before being offered for public sale. VicRoads therefore seeks a planning scheme amendment to rezone the publicly owned land in order to offer the land to the community for sale.

The principle purpose of the current Public Conservation and Resource Zone is primarily to conserve and protect the natural environment or resources. Permitted uses include camping and caravan park, caretaker's house, car park, open sports ground and telecommunications facility. The current zoning of the land is considered inappropriate, given the history of the site, its direct interface with the existing Industrial 1 Zone to the north, and that the site is not required for public purposes.

Essentially, the amendment corrects an anomaly made at the approval of the new Mitchell Shire Planning Scheme in March 1999 when the land was incorrectly rezoned from the previous zoning of Rural 2 (RUZ2) under the Seymour Planning Scheme to Public Conservation and Resource.

The proposed rezoning to Industrial 1 is compatible and consistent with the adjoining Industrial 1 Zone and industrial estate to the north in Lighthorse Drive. The amendment will enable VicRoads to sell the land as a suitable site for industrial development.

The amendment implements the objectives of planning in Victoria as outlined in Section 4 of the *Planning and Environment Act 1987* through:

- Enhancing social, economic and environmental outcomes for the sustainable use and development of the land
- Enhancing employment and industrial opportunities for the land, area and community
- Facilitating development in accordance with Section 4 of the Planning and Environment Act 1987.

Whilst considerable interest and objections were made in respect to the proposed rezoning (discussed in detail later in the report), it is contended that the amendment is expected to have positive social and economic effects for Mitchell Shire, local residents and the wider community as the land is an industrial site immediately adjoining an existing industrial precinct and zoning in Lighthorse Drive. Given its past use as a depot, the land is highly suited for industrial zoning and redevelopment.

Information provided by the Applicant suggests that the amendment will have no significant detrimental effects on the surrounding environment and the environment will have no significant effect on land use or development envisaged in the amendment, given the existence of a number of sheds,

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AMENDMENT C35 TO THE MITCHELL PLANNING SCHEME – REZONES LOT 1 PS206896S FROM A PUBLIC CONSERVATION AND RESOURCE ZONE (PCRZ) TO INDUSTRIAL 1 ZONE (IN1Z) (CONT'D)

associated infrastructure and an office building located on site. Of importance to this summary, however, is the recognition of the significant corridor of native vegetation that extends along the eastern (fronting Goulburn Valley Highway) and southern (addressing Telegraph Road) boundaries. This corridor (much of which is currently protected by a Vegetation Protection Overlay, pursuant to Clause 42.02 of the Mitchell Planning Scheme) provides an excellent interface (i.e. separation) between the industrial estate and surrounding land uses.

Its significance is further identified by the agreement between the Department of Sustainability and Environment and the Applicant that a S173 Agreement will be placed over the land, underpinning the integrity of the planning scheme controls which already exist over the site, so as this corridor of vegetation is preserved and also maintained.

As discussed later in the report, the s173 Agreement will be used to create indicative lot sizes for the development, protect the existing vegetation in nominated areas and also to ensure that a planning permit is required to remove, destroy or lop any vegetation outside the Vegetation Protection Area. The Vegetation Protection Area is identified by a site plan which will be attached and executed as part of the s173 Agreement.

To summarise this, the existing Vegetation Protection Overlay, Schedule 1 (Clause 42.02 – VPO1), Erosion Management Overlay (Clause 44.01– EMO), Salinity Management Overlay (Clause 44.02 – SMO) exist on the site to ensure that there are adequate planning controls that will require (should any further development of the site occur) detailed site assessment, design and approvals can take place through a subsequent planning permit process.

Overall, the amendment is consistent with the Ministerial Direction on the Form and Content of Planning Schemes under Section 7 of the Planning and Environment Act 1987. The Minister's Direction 1, *Potentially Contaminated Land* is not relevant to this particular Amendment as it applies to rezoning for sensitive uses which '*could be significantly adversely affected by any contamination*' and in this case, the land is being zoned for ongoing industrial use and development.

The amendment complies with Minister's Direction No 11, *Strategic Assessment of Amendments*. All requirements to be met under the direction have been considered and met in the preparation of the amendment. These include:

- Why an amendment is required?
- How does the amendment implement the objectives of planning in Victoria?
- How does the amendment address any environmental effects?
- How does the amendment address any relevant social and economic effects?

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AMENDMENT C35 TO THE MITCHELL PLANNING SCHEME – REZONES LOT 1 PS206896S FROM A PUBLIC CONSERVATION AND RESOURCE ZONE (PCRZ) TO INDUSTRIAL 1 ZONE (IN1Z) (CONT'D)

- Does the amendment comply with the requirements of any other Minister's Direction applicable to the amendment?
- How does the amendment support or implement the State Planning Policy Framework and any adopted State policy.
- How does the amendment support or implement the Local Planning Policy Framework, and specifically the Municipal Strategic Statement.
- Does the amendment make proper use of the Victorian Planning Provisions?
- How does the amendment address the views of any relevant agency?

### **Planning Scheme Response**

The amendment complies with and implements the State Planning Policy Framework of the Mitchell Planning Scheme. In particular, the amendment implements:

- Clause 17.03, Industry

This clause has an objective *'To ensure availability of land for industry and to facilitate the sustainable development and operation of industry and research and development activity.'*

The amendment complies with and implements the Local Planning Policy Framework of the Mitchell Planning Scheme. In particular, the amendment implements:

- Clause 21.05-2, Economic Development
- Clause 21.05-3, Settlement

This clause has specific strategic directions for Seymour, including the following strategic directions for industrial development:

- Encourage and promote future industrial and manufacturing business to locate in Seymour
- Strengthen Seymour's position as a preferred location for industrial enterprises based on the availability of infrastructure, work forces and transportation

The amendment makes proper use of the Victoria Planning Provisions. The amendment proposes to rezone land. There are no alternative ways or tools to achieve this change to the Mitchell Planning Scheme.

### **Zoning Controls**

The subject land is zoned Public Conservation and Resource Zone pursuant to Clause 36.03 of the Mitchell Planning Scheme. The purpose of this zone is to:

- Implement the State Planning Policy Framework and the Local Planning Policy Framework including the Municipal Strategic Statement and local planning policies.
- Protect and conserve the natural environment and natural processes for their historic, scientific, landscape, habitat or cultural values.

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AMENDMENT C35 TO THE MITCHELL PLANNING SCHEME – REZONES LOT 1 PS206896S FROM A PUBLIC CONSERVATION AND RESOURCE ZONE (PCRZ) TO INDUSTRIAL 1 ZONE (IN1Z) (CONT'D)

- Provide facilities which assist in public education and interpretation of the natural environment with minimal degradation of the natural environment or natural processes.
- Provide for appropriate resource based uses.

*It is considered that this zone does not correlate with the existing use of the subject land as a VicRoads Depot and would better be utilised, given this use as an Industrial 1 Zone.*

The subject land is partially affected by a Vegetation Protection Overlay, pursuant to clause 42.02 of the Mitchell Planning Scheme. The purpose of the VPO is to:

- Implement that State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- Protect areas of significant vegetation.
- Ensure that development minimises loss of vegetation.
- Preserve existing trees and other vegetation.
- Recognise vegetation protection areas as locations of special significance, natural beauty, interest and importance.
- Maintain and enhance habitat and habitat corridors for indigenous fauna.
- Encourage the regeneration of native vegetation.

*It is considered that the Vegetation Protection Overlay provides for the orderly planning of the land and protection of significant native vegetation which exists on site and also in the road reserve addressing the Goulburn Valley Highway and also Telegraph Road. This control will further be supported by the native vegetation restriction covenanted to the title via a S173 Agreement.*

The Erosion Management Overlay and the Salinity Management Overlay also encumber the land pursuant to clause 44.01 and 44.02 of the Mitchell Planning Scheme. The purposes of the Erosion Management Overlay is to:

- Implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement.
- Protect areas prone to erosion, landslip or other degradation processes by minimising land disturbance and inappropriate development.

The purpose of the Salinity Management Overlay is to:

- Identify areas subject to saline ground water discharge or high ground water recharge.
- Facilitate stabilisation of areas affected by salinity.
- Encourage revegetation of areas which contribute to salinity.

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AMENDMENT C35 TO THE MITCHELL PLANNING SCHEME – REZONES LOT 1 PS206896S FROM A PUBLIC CONSERVATION AND RESOURCE ZONE (PCRZ) TO INDUSTRIAL 1 ZONE (IN1Z) (CONT'D)

- Encourage development to be undertaken in a manner which brings about a reduction in salinity recharge.
- Ensure development is compatible with site capability and the retention of vegetation, and complies with the objectives of any salinity management plan for the area.
- Prevent damage to buildings and infrastructure from saline discharge and high watertable.

*Pursuant to both the EMO and SMO, (clause 44.01-1 and clause 44.02-1. respectively), a planning permit is required to construct a building or construct or carry out works. This does not apply if a schedule to each Overlay states that a permit is not required.*

*It is considered that further buildings and works which may be taken on the above land will need to be considered and assessed against these guidelines.*

### **Referral Agencies**

The adjoining Goulburn Valley Highway is zoned Road 1 and is under the control of VicRoads. The Salinity Management Overlay that applies to the land includes Section 55 referrals to the Department of Sustainability and Environment (DSE). Both VicRoads and DSE have been directly notified of the amendment, with the DSE making a submission to the Amendment, this is discussed in detail, further in the report.

### **What impact will the new planning provisions have on the resource and administrative costs of the responsible authority?**

There will be no impact on the resource and administrative costs of the responsible authority. The land affected by the amendment is a relatively small area. Any subsequent applications for planning permits on the land will be considered on their merits in accordance with the *Planning and Environment Act 1987* and regulated fees for applications.

### **Sale of Government Land**

The amendment is in accordance with the State Government Policy and Instructions on the purchase, compulsory acquisition and sale of land, August 2000.

### **Financial and Resource Implications**

There are no direct financial implications associated with the amendment. The proponents will incur all fees associated with the amendment.

### **Consultation Process**

Exhibition and notification of the amendment took place in accordance with Section 19 of the Planning and Environment Act from the 29<sup>th</sup> October 2004 to the 29 December 2004. Notification of the Amendment was given:

- To prescribed Ministers, relevant authorities and all affected landowners.
- In local newspapers and the Government Gazette.

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AMENDMENT C35 TO THE MITCHELL PLANNING SCHEME – REZONES LOT 1 PS206896S FROM A PUBLIC CONSERVATION AND RESOURCE ZONE (PCRZ) TO INDUSTRIAL 1 ZONE (IN1Z) (CONT'D)

- By public exhibition at Council Offices and the Department of Sustainability and Environment regional and head offices.
- Further, a number of Community Consultation Meetings were held in relation to this Amendment, dates are detailed as follows:
  - 16 February 2005 – On site meeting with Applicant and the DSE.
  - 27 April 2005 – Meeting at Council Officers between Applicant and the DSE.
  - 11 July 2005 – Community Consultation Meeting, including all submitters, Council and Applicant, held at Seymour Leisure Centre.
  - 28 July 2005 – Council officers met on site with submitting parties to the Amendment.

At the completion of the exhibition process and three community consultation meetings, 6 objections to the Amendment were received. These are detailed below:

**Submission One:**

The DSE objected to the Amendment (letter received 15/12/04) on the following grounds:

- Relatively intact vegetation corridors along the North West and South West boundaries.
- Threat to existing native vegetation linkages in the surrounding area.
- Contrary to the provision and integrity of the Vegetation Protection Overlay, clause 42.01 of the Mitchell Planning Scheme.

In their objection, the Department recommended that;

- That prior to rezoning or any development (including future subdivision) taking place, native vegetation on the land be permanently protected by a formal mechanism (ie. Section 173 Agreement, covenant), with development only allowed on currently utilised/disturbed areas.
- That if industrial zoning is deemed appropriate no subdivision be permitted or only be permitted for areas that have no native vegetation values and that land protection issues be taken into account at the development stage.
- That Council takes into account the corridor and linkage values of the native vegetation present in any decision made.

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AMENDMENT C35 TO THE MITCHELL PLANNING SCHEME – REZONES LOT 1 PS206896S FROM A PUBLIC CONSERVATION AND RESOURCE ZONE (PCRZ) TO INDUSTRIAL 1 ZONE (IN1Z) (CONT'D)

- That Council inspects the Lighthouse Industrial Estate to assess potential impacts of industrial zoning of the land in questions.
- That an option of the land being managed by a Committee of Management for recreation/environment purposes be explored.

**Response:**

*A meeting was held at Mitchell Shire Council and also on site between VicRoads/Foresite Planning (Applicant), DSE and a representative from Mitchell Shire Council, to discuss the objection from the DSE. It was agreed that a Section 173 Agreement would be used to satisfy the concerns of the DSE, who would then subsequently withdraw their objection.*

*It was agreed that the Section 173 Agreement would Covenant the owner as follows:*

**1. Restriction on Subdivision of Existing Industrial Improvements Area**

*Not subdivide any part of the Existing Industrial Improvements Area into lots which are less than .5 hectares in area;*

**2. No Industrial Use and Development in Vegetation Protection Area**

*Not use or develop the Vegetation Protection Area or any part thereof for any industrial purpose;*

**3. No removal of Vegetation from Vegetation Protection Area**

*Not remove or seek a permit to remove any native vegetation from the Vegetation Protection Area or any part thereof.*

*It is important to note that the Vegetation Protection Area was derived from the Biological Features Assessment (December 2004) prepared by the Environmental Resources Management on behalf of the Applicant. This nominated Vegetation Protection Areas based upon the environmental significance and sensitivity of the environment.*

The DSE agreed to withdraw their objection subject to the s173 Agreement forming a restriction on title.

**Submission Two**

Received by Council on 30/11/04. Concerns summarised below:

- Concerns in respect to the IN1 Zoning of the land.

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AMENDMENT C35 TO THE MITCHELL PLANNING SCHEME – REZONES LOT 1 PS206896S FROM A PUBLIC CONSERVATION AND RESOURCE ZONE (PCRZ) TO INDUSTRIAL 1 ZONE (IN1Z) (CONT'D)

- Hours of operation and type of industry that may occupy the site.
- Concerns with potential access to the site from Telegraph Road in the North, with particular reference to the impact this may have on an existing School Bus Stop addressing Telegraph Road.
- Safety issues pertaining to the intersection at Telegraph Road and the Goulburn Valley Highway.

**Response:**

*A community consultation meeting was held on the 11<sup>th</sup> July 2005 between a Council representative, VicRoads and Foresite Planning, where this objection was discussed. It was determined by the Applicant that there would be no access to the site from Telegraph Road, nor would there be any detrimental impact on the Bus Stop. It was explained that any Use which may occupy the site would be dictated by Clause 33.01 of the Mitchell Planning Scheme (Industrial 1 Zone) and further, that the hours of operation would be subject to standard EPA requirements, as set out in the State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) as well as a considered approach from Mitchell Shire Council, which would take into consideration the hours of operation for any new uses in the subject area.*

Whilst acknowledging this information, the Submitter indicated that the submission would not be withdrawn.

**Submission Three**

Submission Three was received by email on 02/12/04, the submission is summarised as follows:

- Importance of Telegraph Road as being an integral part of the North – South Corridor in and out of Seymour.
- Prevalence of important vegetation in this corridor, also with examples of remnant native vegetation.
- Detrimental impact of the development, as subject land act's as a 'Gateway' into Seymour and also Mitchell Shire, including the need to improve the image of Seymour, through cultivating Pride of Place and attractive 'Gateways'.
- The need to attract other businesses to Seymour, not further industry, to improve Seymour's sense of place and feel. Encourage people to feel better about themselves and their town by promoting solid and sustainable business development, not industrial – cultivate a better image.



**Response:**

*This submission was also discussed at the Community Consultation Meeting held on 20 January 2005. It was explained by the Applicant that the existing dense vegetation which exists on the northern and western boundaries of the subject land cannot be altered, without planning permission. Given that the subject land has been used as a VicRoads Depot previously, that, should the land be developed, it is unlikely that there would be any adverse detriment as a result.*

*It was further considered by Council, that the design and development of any future buildings and works would be subject to planning permission and that the Section 173 mechanism could also be used as a way to enforce this.*

*Whilst acknowledging this information, the Submitter indicated that the submission would not be withdrawn.*

**Submission Four**

Submission Four was received by hand delivered letter to Council on 10/12/04. This submission is from the same person who wrote Submission Three.

This submission is summarised as follows:

- Loss of Government facility (VicRoads) from Seymour.
- Environmental issues associated with the rezoning.
- Negative 'gateway' image into Seymour, lack of innovation with industry.
- Important to retain vegetation corridor and enhanced for the whole community.

**Response:**

*It is agreed that it is important to have prominent and attractive gateway features for entrances into townships in the Shire. It is also agreed that it is imperative to the integrity of orderly and sustainable Town Planning that natural environmental features and corridors be retained and/or improved as part of the future growth and development of a town. It is contented that the extensive vegetation corridor that exits on the perimeter of the subject site will be maintained by the existing Vegetation Protection Overlay which exists on the site, this will further be enhanced by the vesting of a s173 Agreement onto the Title of the land, which will not only preserve the integrity of the vegetation corridor, it will also provide for the size of subdivided allotments and a vegetation protection zone.*

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AMENDMENT C35 TO THE MITCHELL PLANNING SCHEME – REZONES LOT 1 PS206896S FROM A PUBLIC CONSERVATION AND RESOURCE ZONE (PCRZ) TO INDUSTRIAL 1 ZONE (IN1Z) (CONT'D)

### Submission Five

Submission Five was received on 20/12/04 and is summarised as follows:

- Increased traffic and noise associated with the development of the land for industrial purposes.
- Potential for a Service Station/Truck stop to be located on the site and the detrimental impact this would have on the surrounding area, including air pollution.
- Dangerous nature of the intersection.

### **Response:**

*It is contended that there will be limited traffic disturbances and or increased noise as a result of the future sale and re-use of the land, which historically had been used for industrial purposes. There is no intention for access from the site to be provided onto Telegraph Road or the Goulburn Valley Highway and any future use that is not located with Section One of Clause 33.01 of the Mitchell Planning Scheme will need planning permission.*

### Submission Six

Submission Six was received on 21 December 2004 by the Committee of Management from Light Horse Park, and is summarised as follows:

- The subject land is thickly vegetated and offers a good visual strategic entrance into the Australian Light Horse Park and also to Seymour.
- The subject land contains remnant vegetation and should be assessed independently before development is to occur.
- Currently, the subject land and existing vegetation corridors creates a 'green' feel for the industrial park, which would be lost if the development of this land for industrial purposes is to continue – detrimental to the overall image of Seymour.
- No need to rezone the land to Industrial, given there is no industrial land shortage at present.
- Currently, the Australian Light Horse Park is of National and State significance, and as such, the subject land will become an integral feature of this.

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AMENDMENT C35 TO THE MITCHELL PLANNING SCHEME – REZONES LOT 1 PS206896S FROM A PUBLIC CONSERVATION AND RESOURCE ZONE (PCRZ) TO INDUSTRIAL 1 ZONE (IN1Z) (CONT'D)

**Response:**

*The Applicant has provided a 'Biological Features Assessment Report' prepared by Environmental Resources Australia (ERM) in respect to the subject land. In summary the report finds that:*

- There are no nationally rare or threatened species or state rare or threatened species of flora and fauna recorded on the subject land.
- The Conservation Significance of the vegetation, as determined when applying Victoria's Native Vegetation Management – A Framework for Action, is High.
- It is recommended that all Native Vegetation be retained in order to meet the first step (avoidance) of achieving Net Gain.
- Where clearing is unavoidable, preference should be given to at least retaining areas HZ1 and HZ2, where vegetation quality is high and adjoins other significant roadside vegetation located along Telegraph Road and the Goulburn Valle Highway. (HZ1 and HZ2 and denoted on the attached plan and will form part of the S173 Agreement, located on Title.
- If native vegetation is to be cleared, a Net Gain assessment will need to be undertaken and will need to accompany the Development Plan and subsequent planning permit application.

Further to this, a S173 Agreement has been prepared and drafted which essentially creates a:

- *Restriction on Subdivision of Existing Industrial Improvements Area*  
*Not subdivide any part of the Existing Industrial Improvements Area into lots which are less than .5 hectares in area;*
- *No Industrial Use and Development in Vegetation Protection Area*  
*Not use or develop the Vegetation Protection Area or any part thereof for any industrial purpose;*
- *No removal of Vegetation from Vegetation Protection Area*  
*Not remove or seek a permit to remove any native vegetation from the Vegetation Protection Area or any part thereof.*

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AMENDMENT C35 TO THE MITCHELL PLANNING SCHEME – REZONES LOT 1 PS206896S FROM A PUBLIC CONSERVATION AND RESOURCE ZONE (PCRZ) TO INDUSTRIAL 1 ZONE (IN1Z) (CONT'D)

This will essentially ensure that the existing native vegetation corridors will remain intact, with a covenant effectively being inserted on the title of the land. The subdivision of the land will be reduced to a minimum lot size of 0.5 hectares, effectively providing for the orderly planning of the subject land.

**Panel Process**

All submitters will be invited to present their case to the independent Panel, appointed by the Minister for Planning.

The Minister for Planning may choose to direct any additional matters or additional advertising associated with the Amendment to be given prior to the Panel Hearing.

Council Officers expect that the Panel Hearing will occur between September and January 2005/2006.

**Summary**

The proposed rezoning will extend an established industrial area in Lighthorse Drive and rezones the land for the purpose that it has and is used for. The proposed rezoning to Industrial 1 is compatible with the adjoining Industrial 1 Zone.

The amendment as shown, corrects an anomaly made at the time of the approval of the new formal Mitchell Planning Scheme in March 1999 when the land was zoned incorrectly from Rural Zone 2 (RUZ2) under the Seymour Planning Scheme to Public Conservation and Resource Zone.

The amendment will enable VicRoads to sell the land as a suitable site for further Industrial development, subject to the conditions and constraints imposed by a s173 Agreement. There are no houses in close proximity to the subject land or any significant amenity issues associated with the rezoning given its interface with an existing Industrial 1 Zoned area.

The amendment is strategically justified in the State and Local Planning Policy frameworks of the Mitchell Planning Scheme, Mitchell Shire Council Plan and Minister's Direction to guide planning scheme amendments.

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AMENDMENT C35 TO THE MITCHELL PLANNING SCHEME – REZONES LOT 1 PS206896S FROM A PUBLIC CONSERVATION AND RESOURCE ZONE (PCRZ) TO INDUSTRIAL 1 ZONE (IN1Z) (CONT'D)

**RECOMMENDATION**

**THAT:** Council having noted and considered all the submissions under Section 22 of the Planning and Environment Act 1987 resolves to refer all unresolved submissions (that is all submissions outlined in this report) in relation to Amendment C35 to the Mitchell Planning Scheme pursuant to Section 23 of the Planning and Environment Act 1987 to an independent Panel appointed under Part 8 of the Planning and Environment Act 1987.

**MOVED:** CR. F. URE

**SECONDED:** CR. S. MARSTAELLER

**THAT:** the recommendation be adopted.

**CARRIED**

**9.9 PROPOSED AMENDMENT C41 TO THE MITCHELL PLANNING SCHEME (WALLAN GROWTH MANAGEMENT STRATEGY)**

**Author:** *Richard Strates, Planning and Development Manager*

**File No:** *PL/05/022*

**Reference:** *9 May, 2005 Item 9.6*

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**Summary**

This report details the proposed Amendment C41 to the Mitchell Planning Scheme (Wallan Growth Management Strategy Amendment) and recommends that under Section 9(2) of the Planning and Environment Act 1987, Council request the Minister for Planning to provide consent for the preparation of the amendment. Upon obtaining consent for the preparation of an amendment from the Minister, Council would place the amendment on public exhibition for a period of one month. The amendment and its supporting documents have been circulated to Councillors under separate cover.

**Background**

Amendment C41 to the Mitchell Planning Scheme has been prepared to provide for the projected residential development of the township of Wallan up to the year 2030.

By creating a framework to serve the town up to the year 2030, more effective long term planning for the delivery of residential, commercial, recreation and community facilities can be undertaken, along with a more coordinated development of individual residential estates. The strategy also proposes to achieve improvements in infrastructure and the environmental quality of the township.

On several occasions over the past 18 months, the Council has been advised of progress regarding the preparation of this plan, and a formal presentation was completed by GHD Consultants on 3rd May 2005 who were responsible for the preparation of the plan. A report was submitted to Council on 9th May 2005 with a recommendation:

*That the “ Wallan Growth Management Strategy”, prepared by GHD Consultants on behalf of the Mitchell Shire Council, Baw Baw Shire Council, Department of Sustainability and Environment and the Department of Victorian Communities, be noted by Council and placed on informal exhibition for a period of two months prior to the formal exhibition as part of an amendment to the Mitchell Planning Scheme.*

As a result of this informal exhibition Council has received a total of 5 submissions which are summarised later in this report.

The amendment is the final step in the formulation of a growth management strategy for the township of Wallan. This Strategy was completed as part of the Metropolitan Fringe Partnerships Project, which was commenced in 2003 and initiated by the State Government in partnership with the municipalities of Mitchell, Baw Baw, Moorabool, Macedon Ranges, Hepburn, and Murrindindi largely in response to the effect of the adoption of the Melbourne 2030 Strategy. Pressures that are being experienced in these municipalities regarding the need for long term strategic planning required that a suite of planning tools be assembled and collectively applied by these municipalities. The Department of Sustainability and Environment and the Department of Victorian Communities has administered this project via a steering committee on which Mitchell Shire Council has been represented. The Wallan Growth Management Strategy (WGMS) project was completed under the direction of Mitchell Shire Council simultaneously with the Warragul and Drouin Growth Management Strategies, that were directed by the Shire of Baw Baw.

A report which summarises this information has been previously circulated to Councillors. The distinguishing features of the plan include:

- an urban growth boundary for the township;
- establishment of green-belts and reinforcement of vegetated hillsides to retain the context and scenic quality of the town;
- consolidation of the residential areas with clear identification of future growth direction and key structural requirements;
- a projected requirement for an additional 400 hectares of residential land by 2030;
- the requirement for a total commercial floorspace of 30,000 square metres by 2030;
- the need for a total 116 hectares of industrial land by the year 2030;
- community appreciation of the rural feel, village character and proximity to work;
- the need for a different approach to built form and township development, with an increased range of housing options, and increased supply of public open space (15%).

### **Policy Implications**

Council's 'Council Plan 2005 – 2009 acknowledges the need to review the Mitchell Planning Scheme as a strategic objective of its core functions within the management structure of "Sustainable Environments".

Within the strategic indicators section of the Council Plan, it is Council's role to review the Mitchell Planning Scheme by way of implementation of the Wallan Growth Management Strategy and Structure Plan. In preparing a report for the purposes of proposing to make a request to the Minister for Planning for the preparation and exhibition of an amendment, Council should be mindful that it is meeting one of its strategic indicators within the Sustainable Environments area.

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PROPOSED AMENDMENT C41 TO THE MITCHELL PLANNING SCHEME (WALLAN GROWTH MANAGEMENT STRATEGY) (CONT'D)

Information contained in the Growth Management Strategy has been reviewed by the Department of Sustainability and Environment to confirm its consistency with current strategic policies. However, the proposed request to prepare and exhibit an amendment is a legislative requirement which must be undertaken.

The Wallan Growth Management Strategy and Structure Plan will provide important policy advice to Council in the future in the determination of:

- rezoning applications of land parcels within the nominated growth boundary areas;
- review of town planning applications for use and development within the Wallan township;
- location of suitable sites for the progression of the urban development areas of the Wallan township;
- order of land release for urban development purposes;
- open space allocations and the preferred options;
- the township structure and character;
- integration of community, economic, utility, transport, open space infrastructure and services;
- preferred urban design outcomes.

### **Issues**

As this report is extensive, a list of sub-headings is provided to guide Councillors in their consideration of the proposed amendment:

- Introduction
- Details of the Amendment
- Planning Scheme Amendment procedure
- Proposed public consultation

#### Introduction

This amendment is to provide the strategic basis for the staged delivery of residential land, infrastructure development, and the provision of community, recreational and social facilities for the community of Wallan over the next 25 years, up to 2030. It will also be used to inform the Development Contributions Plan which is also being prepared for the Mitchell Shire Council. The Growth Management Strategy has been prepared based on consultation with key stakeholders such as Council, utility providers, government authorities, interest groups and the community generally. Workshops and information sessions have been completed as part of this consultation process.

#### Planning Scheme Amendment Procedure

Recent changes to the *Planning and Environment Act 1987* require that planning authorities seek authorisation from the Minister for Planning to prepare a planning scheme amendment under section 9(2) of the Act prior to exhibiting a proposed amendment. As a condition of authorisation, the Minister for Planning may place conditions on the amendment notification



process. Council should give full notice of this amendment under Section 19(1) of the Act, including giving notice to all affected landowners and occupiers, for the minimum statutory period of one month. The Minister will also indicate whether Council is able to approve the amendment or whether it must be returned to the Minister for approval

Once authorisation is given, an amendment may be exhibited following a resolution by Council to prepare and exhibit the amendment. Given that this amendment is of strategic importance and should not be delayed due to the election of a new Council in November, it is considered appropriate that the Chief Executive Officer be delegated to prepare and exhibit Amendment C41 once the Minister for Planning has authorised Council to prepare the amendment.

Following the completion of the advertising period, Officers will prepare a report on any submissions received for Council's consideration. It may be safely assumed that there will be a number of submissions that Council will be unable to accept and that such submissions will need to be referred to an independent panel. The independent panel is appointed by the Minister for Planning and its job is to review the submissions and the amendment itself and to recommend to Council the subsequent course of action.

Following the receipt of the panel's report, Council will then make a final determination on the preferred form of the amendment, adopt the amendment, and forward it to the Minister for Planning for approval and subsequent gazettal into the planning scheme.

The Minister for Planning has, in effect, the final say about the approval of the amendment, and Officers will work closely with Officers from the Department of Sustainability and Environment to ensure that the adopted amendment receives the Minister's favourable consideration.

#### Proposed Public Consultation

The Planning and Environment Act 1987 requires that notification be given to all parties affected with the exception that in the case of a significant amendment affecting a wide area of the Shire, it is possible to gain a dispensation from the Minister for individual notifications. Officers believe that a combination of announcements in the local media, individual notification to effected property owners, and, if required, public meetings, will satisfactorily address the notice requirements of the Act in relation to this amendment.

#### Details of the Amendment

As the proposed planning scheme changes proposed as part of amendment C41 are complex and based on a significant number of text changes, officers have provided Councillors with a direct briefing from the planning consultant responsible for the preparation of the documentation (ie GHD P/L) at a briefing session and via a package of material (hard copy) which includes a 'tracked changed' version of the relevant planning scheme provisions proposed to be changed to reflect the adoption of the Wallan Growth

Management Strategy. A draft version of the proposed amendment C41 documents were also provided to Councillors as part of the same package of documents referred to above.

In particular, the amendment will:

- Introduce the Growth Management Strategy and Structure Plan for Wallan, dated May 2005 into the Mitchell Planning Scheme as a reference document.
- Reword parts of the Municipal Strategic Statement and Local Planning Policies which are contradictory to the recommendations and outcomes of the Wallan Growth Management Strategy;
- Introduce a new local planning policy into the Planning Scheme associated with the future use and development of land within the Wallan township; and
- Amend the schedule to Clause 52.01 to reflect the open space contributions required in the Growth Management Strategy and Structure Plan.

Council is advised that the preparation of Amendment C41 will fulfil its ongoing requirement to review the MSS in respect of the Wallan township. In reporting to the Department of Sustainability and Environment at its next MSS Review (which is anticipated to be undertaken in March 2007), Council will be in a position to report to DSE that it has fulfilled its obligations, with respect to the Wallan township area.

#### **Financial and Resource Implications**

Council has provided a budget allocation for the review of the Mitchell Planning Scheme including the costs of a Panel hearing. All costs are being met from this allocation.

#### **Consultative Procedures**

Preparation of the Strategy followed consultation with a wide range of stakeholders, using a communications strategy prepared by consultants GHD. A futures workshop attended by more than 50 key stakeholders and representatives from relevant community groups, agencies and authorities was held at Hidden Valley. The results of this workshop have been incorporated in the Wallan Growth Management Strategy. A Visioning Survey was also completed, using an electronic lodgement system placed on Council's web site. During the course of the project, a series of meetings held as part of Wallan Structure Plan and Urban Design Framework (part of the Pride of Place Program), were used to inform the community about the growth management strategy.

In response to the informal exhibition of the proposed amendment, the key issues which were raised were as follows:

- Requirement for key arterial road, collector road and trunk collector road components to supplement the existing road network; the need to specify traffic management arrangements for Pretty Sally Meadows Subdivision; development of public transport access; and not specify the form of traffic intersection treatments along the Northern Highway at this stage.
- That upgrading of the Wallan- Whittlesea Road/ Hume Freeway interchange to provide southern ramps may be achieved when development levels determine the need; and that there are no proposals to upgrade Hume Freeway/Northern Highway interchange to full freeway standard with a south bound on ramp at this stage..
- The need to provide opportunities for further consolidation of residential development within the Hidden Valley (ie potentially increase the number of lots available from 950 to a larger number).
- Inclusion of the land to the north-east of the intersection of the Wallan- Whittlesea Road and the Hume Freeway as an area with capability for residential development.
- Request to consider the Poultry Farm site on the Wallan Darraweit Road as a site specific amendment rather than the land being included in the consideration of land supply release in the future.
- Submission of development framework for the area south of Wallan (Inverlocky), and requested review of the alignment of this boundary to provide for Low Density Residential development as a transition to the remaining rural area (ie request to change the proposed Wallan growth boundary to the west along Old Sydney Road).
- The absence of sufficient provision of employment opportunities, and proposed use of the greenbelt-spine for this purpose.
- Proposed rezoning request for residential development of 295 Northern Highway, Wallan. A draft rezoning request has been submitted for Council's review on the basis that the proposal is in accordance with the Wallan Growth Management Strategy and Structure Plan.

It is not yet possible to entertain the abovementioned matters in any substance as the strategy plan and amendment documentation has yet to be formally exhibited, however Council officers are of the view that the views expressed by the current submitters are not insurmountable and can be potentially resolved. On the basis that submissions cannot yet be reviewed in any formal way prior to the exhibition of the strategy, Council officers recommend that all submissions received during the informal exhibition stage

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PROPOSED AMENDMENT C41 TO THE MITCHELL PLANNING SCHEME (WALLAN GROWTH MANAGEMENT STRATEGY) (CONT'D)

be referred to Council upon completion of the planning scheme amendment (C41) exhibition stage.

### RECOMMENDATION

**THAT:** Council:

1. Receive and note the report which includes draft amendment documents (provided to separately) and proposed changes to the Mitchell Planning Scheme to implement the changes resulting from the adoption of the Wallan Growth Management Strategy and Structure Plan prepared by GHD P/L.
2. Refer all submissions made during the informal exhibition period (5 submissions) to the formal exhibition period for consideration by Council.
3. Request under Section 9(2) of the *Planning and Environment Act 1987* that the Minister for Planning authorise Mitchell Shire Council to prepare Amendment C41, advising the Minister for Planning that Council intends to give full notification of the amendment under Section 19(1) of the Act.
4. Delegate the Chief Executive Officer to prepare and exhibit Amendment C41 to the Mitchell Planning Scheme under Section 19 of the *Planning and Environment Act 1987* following the Minister for Planning authorising Council to prepare the amendment, formally exhibiting the amendment for a minimum period of one month.

***Cr Gordon having declared an interest in the consideration of this item left the Council Chamber at 8.00pm.***

**MOVED:** CR. S. MARSTAELLER

**SECONDED:** CR. F. URE

**THAT:** the recommendation be adopted.

**CARRIED**

***Cr Gordon returned to the Council Chambers at 8.01pm.***

**9.10 MITCHELL PLANNING SCHEME AMENDMENT C16 – HUME HIGHWAY UPGRADE**

**Author:** *Richard Strates, Planning and Development Manager  
Greg Scott, Asset Manager*

**File No:** *PL/05/011*

**Reference:** *Nil*

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**Summary**

This report details the proposed Amendment C16 to the Mitchell Planning Scheme prepared by VicRoads who are acting as the Planning Authority in this instance. The amendment covers two municipal areas (Hume City Council and Mitchell Shire Council) as the proposal includes the imposition of the Public Acquisition Overlay (PAO5) over private land abutting the Hume Highway. The use of the PAO extends from Donnybrook Road to Donovans Lane. The following map is of the proposed acquisition area.

The purpose of the PAO is to facilitate the future upgrading of the Hume Highway to a Freeway status. To facilitate this change in status, VicRoads is required to undertake access restoration of existing roads including Gunns Gully Road and Donovans Lane. It should be noted that these roads currently have direct access to the Hume Highway and allow users of the roads an ability to head north or south through the use of existing median breaks. The proposed amendment would in effect create service roads in lieu of the existing direct access points.

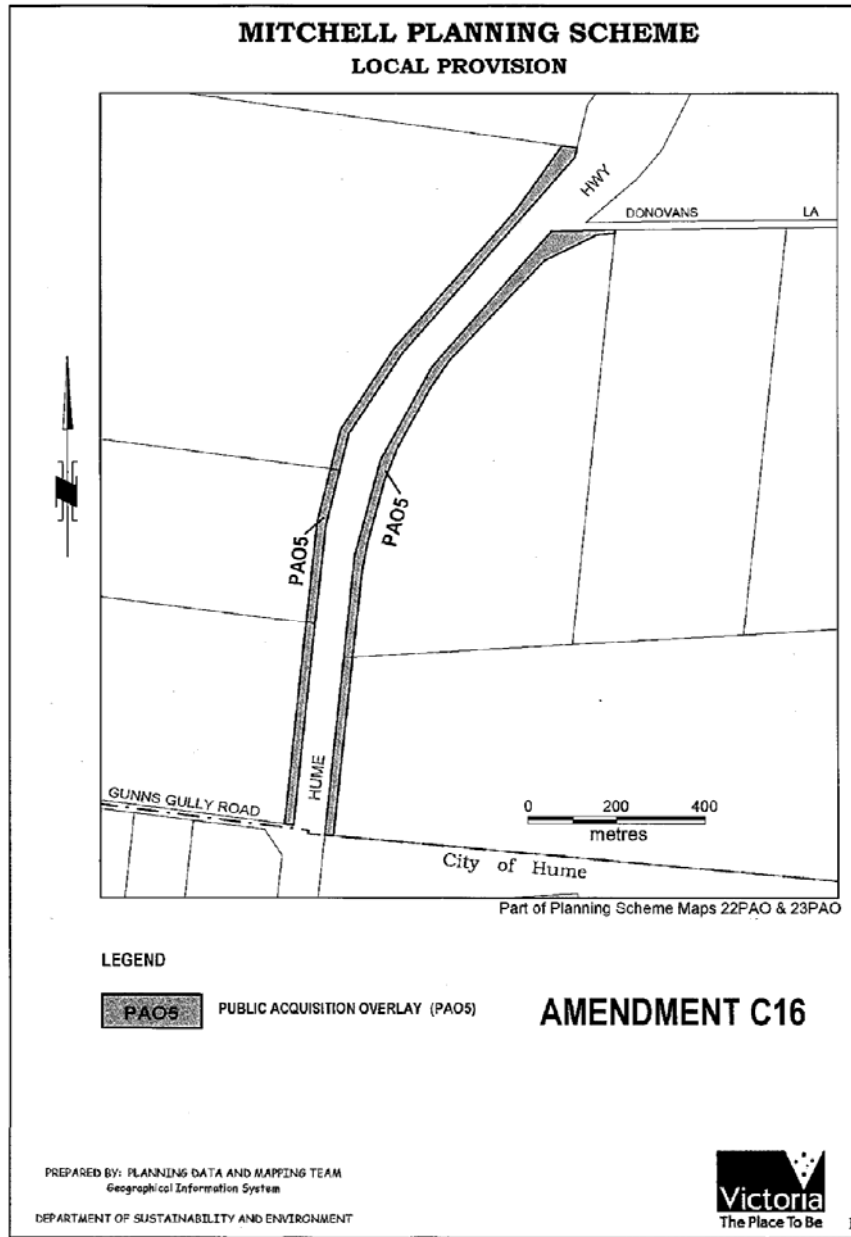
The proposed amendment would also exempt the route from permits to destroy, lop or remove native vegetation under the requirements of the Vegetation Protection Overlay and the requirements of the Salinity Management Overlay for works conducted within the specified upgrade areas.

It is recommended that Officers prepare a submission for the purposes of a Panel submission in relation to amendment C16 in accordance with the issues raised in this report. A recommendation is found at the end of this report.

**Background**

The following is an extract of VicRoads Explanatory Report for Amendment C16, which outlines the background to the proposed amendment:

*“Over the past 2 decades, over \$2 billion has been spent upgrading the Hume Highway between Craigieburn and Wodonga to freeway conditions. The majority of this work was undertaken under the Federal Government’s National Highways Program. With the imminent construction of the Craigieburn Bypass, the section of the Hume Highway between just south of Donnybrook Road and Beveridge will be the last remaining section of the road not meeting, or operating under, freeway conditions in Victoria.*”



Currently, the Hume Highway/Donnybrook Road intersection is an accident Blackspot site, with 17 casualty accidents over the last 5 years. Providing a grade-separated interchange at this location and controlling direct access onto the highway will greatly reduce the number of casualty accidents on the highway between Donnybrook Road and Beveridge, as well as bringing this section of the road up to National Highway standards”.

The proposed amendment within the current Hume Highway section between Gunns Gully Road and Donovans Lane involves the following:

- The closure of a median access across the Hume Highway at Donovans Lane;
- The closure of existing direct access points from a number of properties along the Hume Highway from Gunns Gully Road to Donovans Lane;
- The construction of service roads in a north/south bound direction to provide affected property owners alternative access which will run parallel with the upgraded freeway. The service roads are to be sealed pavement (approx 6 meters wide), two way.
- To achieve the construction of the service roads, Public acquisition of private land parallel to the Hume will be required;

It should be noted by Councillors that the major infrastructure upgrade work is to occur at Kalkallo (corner of Donnybrook Road and the Hume Highway) where a major interchange is to be constructed. This is a high accident zone due to the current intersection configuration (ie median access which allows vehicles to manoeuvre within the current intersection). Given the speed and type of vehicles which manoeuvre within this intersection many unfortunate accidents have occurred at this intersection in the past. VicRoads are of the view that corrective measures are required to be put in place to delete the "blackspot".

### **Policy Implications**

The proposed amendment will alter the Mitchell Planning Scheme as follows:

- inserts a Public Acquisition Overlay (PAO5) – Maps 22PAO and Map 23PAO;
- modifies Clause 42.02 (VPO2) to incorporate exemptions to allow native vegetation removal without the need for a permit, for the purposes of the proposed upgrade works;
- modifies Clause 44.02 (SMO) to incorporate exemptions to allow works to occur as a result of the upgrade without the need for a permit;
- modifies Clause 45.01 (PAO) to include changes to the PAO schedule referencing the areas involved in the acquisition for the works to proceed;
- modifies the schedule to Clause 52.17 (Particular Provisions – Native Vegetation) to exempt native vegetation removal within the specified works area;
- includes an incorporated document at Clause 81 in the form of a diagram (Dwg No.494570) showing the proposed Hume Freeway and access restoration roads.

The proposed amendment does not propose to make changes to the Municipal Strategic Statement or the Local Planning Policy Framework

**Issues**

The proposed amendment is the culmination of \$2 billion in expenditure, which has been spent in upgrading the Hume Highway between Craigieburn and Wodonga to freeway conditions. As mentioned earlier in this report, the majority of the work was undertaken under the Federal Government's National Highway's Program.

The areas involved in the amendment proposal encompass the final stage of the freeway upgrade and merge into the works being undertaken for the construction of the Craigieburn Bypass. It is important to recognize that the works proposed under the amendment have national significance.

As a result of the exhibition of amendment C16, VicRoads received 5 submissions from Mitchell residents.

VicRoads have addressed the Minister's Directions for the Form and Content of Planning Schemes and a summary of those issues are as follows:

**Social and Economic Effects**

VicRoads advise that this project will cater for projected traffic generation in a safer and more efficient manner than is currently being experienced. VicRoads advise that this project will improve the residential amenity of the existing landowners by restricting direct access to the Hume.

Officers comments:

It is clear that the distance existing residents will need to travel to various township areas (ie travel to the north and south) will be far greater than currently experienced. A number of residents are concerned about the proposed changes and specifically mention that travel times to (for example Beveridge) will be increased by anywhere between 5 to 10 minutes (in one direction).

A submission received queried the potential for an interchange to be constructed at Donovan's Lane instead of the need for extended service lanes. A further submission questioned the timing of the proposed upgrade works in order to allow for further review of growth options between Beveridge and Kalkallo (ie there may be other more suitable options available to VicRoads in the event that additional urban growth occurs between Beveridge and Kalkallo).

**Environmental Effects**

VicRoads have advised that all flora, fauna archaeological and heritage aspects of the areas have been investigated. VicRoads have advised that in May 1998 the then Minister for Planning and Local Government determined that an Environmental Effects Statement was not required for the future proposed works.

Environment Australia has assessed the proposal and determined that no further environmental assessment/s are required.



Officers comments:

It is clear that all the relevant environmental aspects have received clearance from the appropriate authorities. The submissions received by VicRoads from Mitchell residents have not raised any detailed objections to the proposed amendment based on environmental issues.

### **Strategic and Policy Justification of the Amendment**

VicRoads advise that the strategic and policy justification for the amendment is linked to the Federal and State Government's strategy to upgrade the Hume Highway to limit access to interchanges only, in an effort to reduce accident rates. VicRoads adds that the amendment also meets State Planning Policy as well as complementing Municipal Strategic Statement provisions which recognizes the economic importance of the Hume Corridor as a major road link for transport related businesses and industries.

### Officers comment

The strategic importance of the Hume Highway/Freeway is a matter which is acknowledged by both the Federal and the State Government's, and as mentioned earlier in this report, has been subject of many millions of dollars in grants for the continued upgrade of this major road transport link. As such, it is clear that the project to upgrade the final section of the Hume in the proposed areas, including restoration works in the form of service roads, is a clear policy objective, which has been undertaken by VicRoads.

Council needs to be satisfied that the access restoration proposal will not prejudice the future road network opportunities available to it if urban growth is to expand into areas south of the existing Beveridge township. To date Officers have been verbally advised by VicRoads staff that no such prejudice will be experienced by the access restoration proposal.

Further to the abovementioned issues the following matters are of importance to Council in forming a view regarding amendment C16:

Should a further interchange be constructed around or near Donovans Lane to reduce travel times for existing residents whose enjoyment of current direct access to the Hume will cease?

### Officers comment

VicRoads (via Egis consultants acting on their behalf) only considered an improved interchange at Donovans Lane if the Boral Hard Rock Quarry to the east was to be developed. Given the lack of progress of the quarry to date it is VicRoads view that such an interchange upgrade is not required (ie the current residents affected by the access closures are capable of making a trip back down to Kalkallo before proceeding with their preferred destination).

Under the circumstances it appears that the construction of service roads to facilitate access for residents is appropriate. It is however an option which will mean affected residents will be required to travel back down to Kalkallo before

commencing their preferred travel path. In essence this will mean affected residents will have a time/distance penalty (particularly when travelling to the north) applied to their day to day vehicle movements.

Council will become responsible for the maintenance of the service roads.

As part of the proposal, VicRoads is proposing to construct service roads on both sides of the Freeway Reservation. It is proposed that these will be fully constructed to a rural standard incorporating a 6.0 metre sealed pavement and shoulders. Approximately 3.3 kilometres of service road is to be constructed within Mitchell Shire. The balance will be in Hume City Council.

Subject to the roads being satisfactorily constructed, Council's Works Department will take over their future care and maintenance. There is a maintenance issue however, associated with the limited access to the service roads in that Council Staff will be required to travel south to the Donnybrook Road interchange in order to travel north to enter the sections of service road within Mitchell Shire. This will increase the travel distance by approximately 6 kilometres in order to maintain the west service road and Gunns Gully Road as well as approximately 12 kilometres extra to maintain the east service road and Donovans Lane.

The provision of access gates for maintenance purposes at the points where Gunns Gully Road and Donovans Lane currently meet the Hume Highway will reduce wasted travel time and should be requested.

The impact of the amendment on future direction and development of the local area?

VicRoads have advised that the proposed access restoration proposal will not prejudice the future opportunities to service extended growth south of the existing Beveridge township. VicRoads advise that appropriate spacing is available between Kalkallo and Donovans Lane for the purposes of the construction of a future interchange. On the basis of this advice, it is the officers opinion that no material detriment will be experienced by Council in the future as a result of the current access restoration proposal.

**Financial and Resource Implications**

There are no particular financial or resource implications as a result of this report. Officer time will be required to attend a part day panel hearing to present Council's views.

**Consultation Procedure**

There are no particular consultative procedures required to be undertaken as a result of the content of this report. As VicRoads is the Responsible Authority in relation to the amendment C16, all public consultation processes are being undertaken by VicRoads. As mentioned earlier in this report, 5 submissions were received by VicRoads in relation to amendment C16.

**RECOMMENDATION**

**THAT** Council resolve to lodge a submission with regard to Amendment C16 to the Mitchell Planning Scheme (hearing date and time to be confirmed by the Panel), which provides in principle support to the access restoration proposal subject to the following:

1. The provision of access gates for maintenance purposes at the points where Gunns Gully Road and Donovans Lane currently meet the Hume Highway.
2. Appropriate spacing is provided between Donnybrook Road and Donovans Lane for the purposes of an additional interchange to service future growth in and around the township of Beveridge.

**MOVED:** CR. R. LEE

**SECONDED:** CR. R. GORDON

**THAT:** Council protest strongly to VicRoads regarding the blockage of access to affected residents, which would cause them to travel an extra 23km to access Beveridge.

**AMENDMENT**

**MOVED:** CR. S. MARSTAELLER

**SECONDED:** CR. F. URE

**THAT:** Council advise the C16 Panel that Council supports access on both sides of the freeway without having to travel to Kalkallo.

The **AMENDMENT** when put was:

**CARRIED**

6/1

**SUBSTANTIVE MOTION**

The **SUBSTANTIVE MOTION** when put was:

**CARRIED**

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**9.11 PLANNING PERMIT APPLICATION NO. P303867, USE AND DEVELOPMENT OF A 75-PLACE CHILD CARE CENTRE ON LAND AT 10 AND 12 STEVENSON STREET, WALLAN**

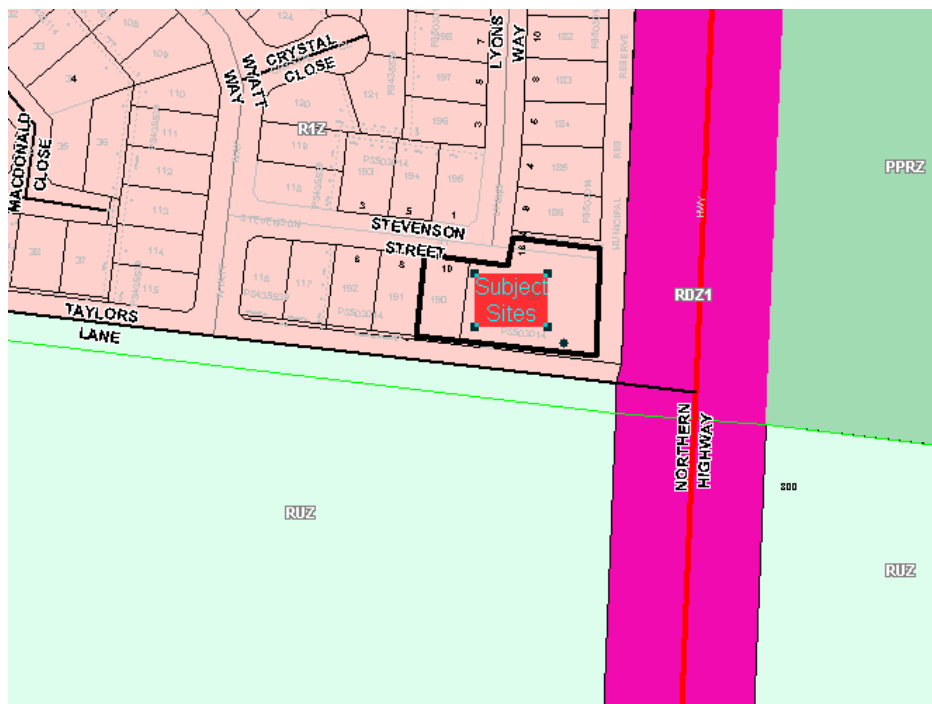
**Author:** Chris Curnow – Statutory Planning Coordinator

**File No:** 8061401800 & 8061401900/P303867

**Reference:** Nil

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**Applicant:** The Crystal Group  
**Property:** Lots 187 and 190 on PS503014, Parish of Wallan Wallan  
**Address:** 10-12 Stevenson Street, Wallan  
**Zoning:** Residential 1 Zone  
**Proposal:** The use and development of a 75-place Child Care Centre on the land.



### Summary

This report recommends that Council issue a Notice of Decision to Grant a Planning Permit for the use and development of a Child Care Centre on the Land in accordance with the endorsed plans.

### History

The proposed development site is comprised of lot 187 (12 Stevenson Street) and lot 190 (10 Stevenson Street) on Plan of subdivision PS503014. Lot 190

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PLANNING PERMIT APPLICATION NO. P303867 (CONT'D)

has an area of 585m<sup>2</sup> and dimensions of 18m x 33m; while lot 187 has an area of 2166m<sup>2</sup> and is L-shaped, with dimensions of 55m x 44m (excluding a 15m x 11m block from the northwest corner to create the L-shape). Neither lot is currently developed, but lot 190 has been used, with permission, by a neighbour for horse agistment.

The site is located on the west side of the northern highway, and is bound by Taylors Lane to the south and partly by Stevenson Street to the north. The site is approximately 750m south of the main business precinct in Wallan. Land to the north and east of the site is within the Residential 1 Zone, while land to the south is zoned Rural and the land to the east (across the other side of the Northern Highway) is in a Public Park and Recreation Zone.

The subject site is devoid of significant vegetation and is substantially flat.

A 1.8m wide strip of Council-owned land runs parallel to a significant portion of the south boundary of all lots between Taylors Lane and Stevenson Street (there is a 6.4m break in this strip to allow access to lot 187 from Taylors Lane). This land was included in the subdivision to disallow lots that front Stevenson Street from having access to Taylors Lane.

A Council owned footpath abuts the southern boundary of lot 187 and provides pedestrian access from Stevenson Street to the Northern Highway

There have been no previous applications on the subject site.

### **Details**

The application was received by Council on 28 June 2004. Adjoining owners were notified on 26 October 2004 and 5 objections were received. On 11 April 2005, McHenry Foster, who acted on behalf of the original applicant, BM Children Services Pty. Ltd. advised that they consented to Crystal Creek Properties taking over the application.

Subsequently, a new set of plans was lodged on 27 June, 2005. These plans will be the subject of this report and featured the following:

- A 616.7m<sup>2</sup> building with verandahs around large portions the north, south and western walls;
- A 363m<sup>2</sup> play yard to the north of the building;
- An internal 76m<sup>2</sup> play yard and a 479m<sup>2</sup> to the south of the building;
- A 175m<sup>2</sup> play yard to the west of the building
- A 76m<sup>2</sup> play yard to the south of the building;
- A service yard and two sheds to the east of the building;
- A gravel drop-off parking area with three parallel parking spaces;
- A graveled area with space for twenty, 90 degree parking spaces all with a minimum 6.4m vehicle maneuvering space behind them;
- A 6.4m wide, entry-only access driveway; and
- A 6m wide exit only driveway.

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PLANNING PERMIT APPLICATION NO. P303867 (CONT'D)

The 616.7m<sup>2</sup> building itself will contain:

- A room for three year olds;
- A room for toddlers;
- A room for 3-4 year olds;
- A room for 4-5 year olds;
- A nursery;
- A kitchen;
- A laundry;
- Three storerooms;
- A Child's water closet and wash up facilities;
- A staff room;
- A meeting room; and
- An office.

The following fencing treatments are proposed:

- A 1.8m high steel post fence with shade cloth behind around play areas to the west, east and north of the main building;
- Retention of an existing timber paling fence to the western boundary;
- A 1.8m high colourbond steel fence to the north boundary with chamfered horizontal rails facing the inside of the site.

The proposed facility will be capable of accommodating 75 children between the ages of 1-5 and will create 27 new full and part time jobs.

Operating hours are proposed to be between 6:30am and 6:30pm, Monday to Friday.

Significant landscaping buffers are proposed for the lot boundaries, although an indicative plan has not been submitted with the application.

### **Referrals**

The application was referred to Council's Recreation Department.

The application was discussed with Council's Engineering Department prior to referral and it was not deemed necessary for conditions above and beyond standard drainage and car-park sealing and line-marking ones to be imposed.

The application was discussed with Council's Urban Designer who suggested that a landscape plan should be submitted for approval.

No external referrals were made.

### **State Controls**

Clause 17.02 Economic development – Business objective

"To encourage developments which meet community's needs for retail, entertainment, office and other commercial services and provide net

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PLANNING PERMIT APPLICATION NO. P303867 (CONT'D)

community benefit in relation to accessibility, efficient infrastructure use and the aggregation and sustainability of commercial facilities.”

#### Clause 18.07 Infrastructure - Education Facilities Objective

“To assist the integration of education facilities with local and regional communities.”

#### Response

The proposed facility will cater to an essential need, given the projected and current heavily commuter based population demographic in Wallan.

Furthermore, the quasi-educational basis of the proposed use is provided for in an appropriate location: within 500m of the future Wallan Secondary College. Parents will be able to access both facilities without too much extra travel.

#### **Local Planning Policy**

##### Clause 21.05-3 (MSS) - Wallan

- “Ensure that new development supports community and commercial services and facilities and contributes to a functioning urban form.
- Progressively provide community services and facilities to assist in creating a central focus for all residents.”

##### Clause 22.04-3 Subdued Tones

#### Objective

- To ensure that all structures blend in with the surrounding environment.
- To ensure that the aesthetic amenity of the area is preserved and/or enhanced.

It is policy that “the colour of building materials should minimise the visual intrusion of structures in any area by use of a soft earthy tone.”

##### Clause 22.05 Economic Development

#### *“Township entrances*

Development along highways and main roads is important for the character and streetscape presentation of the Shire’s towns. Development at township entrances should be designed with respect to the built environment and sited and finished in such a way that it enhances the overall appearance and character of the town and the town entrance.

#### *Landscaping of entrances and township boundaries*

Street trees are important in creating of areas that offer shade and protection from the elements and are conducive in assisting people to stop and use the town. Development located along entrances to all towns should be landscaped with species consistent with the landscape assessment or plan for the township.

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PLANNING PERMIT APPLICATION NO. P303867 (CONT'D)

Developments located on the edge of township area should be landscaped to assist in absorbing the development within the surrounding landscape and to provide a delineated edge to the town. Attention should also be paid to any opportunities to landscape railway station areas that have a significant impact on the townscapes of Wandong, Broadford, Tallarook and Seymour.”

### **Response**

The proposed development is located approximately 400m from the southern end of the main commercial precinct of Wallan. The site represents a highly visible and prominent position on one of the major roads into town.

In light of these factors, the site is seen to be both appropriate for a use that serves a clear community need, while also attracting the need for appropriate landscaping treatments to soften its fairly striking and colourful appearance.

In relation to the issue of subdued tones, the proposed structure clearly breaches the policy. The chosen colour scheme is bright and deliberately festive. The applicant has indicated that they are happy to create a significant landscape buffer around the site, which is what Council’s urban designer has sought.

### **Zoning**

Pursuant to Clause 32.01 of the Mitchell Planning Scheme, a planning permit is required to use and develop land for a Child Care Centre in a Residential 1 zone.

Clause 32.01-2 (Residential 1 Zone) – Decision Guidelines

### Response

As stated above the proposal is seen as satisfactory in light of the provisions of the State and Local Planning Policy Frameworks.

### **Clause 65 (as appropriate)**

- Purpose of the zone

One of the express purposes of the Residential 1 zone is “to encourage residential development that respects the neighbourhood character; and, in appropriate locations, to allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs.”

The proposed design will provide for an obvious community need. Wallan is a town with a significant current and projected commuter population, which will need child care services. The proposed design is clearly not in keeping with the obviously residential nature of the neighbourhood. However, the fairly prominent location of the site on the edge of the urban fringe of town and adjacent to a busy traffic route mitigates these impacts. In light of these locational factors, the proposed use is seen as appropriate in a residential 1 zone.



- Orderly Planning

Three other child care centers have recently been approved in other locations around Wallan:

1. A 90-place center at 61-69 Dudley Street, Wallan, which is located on a 4218m<sup>2</sup> lot, midway along a residential street lot that runs parallel to the west side of the Northern Highway, approximately 1.2km northwest of the subject site and within approximately 450m of the commercial center of Wallan; and
2. A 70-place center at 27-33 Queen Street, Wallan, which is located on a 4800m<sup>2</sup>, reasonably prominent corner lot runs to the west side of the Northern Highway, approximately 1.3km northwest of the subject site on the other side of the Northern Highway from the current application and approximately 400m from the commercial center.
3. An 80-place centre on the corner of Watson and Windham Streets, Wallan, which is located on a 3167m<sup>2</sup> lot on the other side of the Northern Highway adjacent to the proposed secondary college and within 400m of the commercial centre of Wallan.

In light of these three decisions the current application is seen as representing orderly planning, in that it is quite similar in proximity from the commercial center and of equivalent size and client capacity.

- Amenity impacts

There are only two adjoining residential properties and their future amenity needs to be a key consideration in the formulation of permit conditions for the proposed development and use, if an approval is granted. The main impacts are expected to be excessive traffic generation at peak pick-up and drop-off times and noise spill during play times.

Typically, a child care centre of this kind would be treated with an acoustic fence around all play areas to stop noise spill outside the site and this treatment is seen as appropriate for proposal. There is an existing paling fence along the site's western boundary and this should be retained to buffer the adjoining owner from the impacts of the car parking area.

The applicant has proposed 1.8m high steel post fences along the northern boundary and 1.8m high steel post fences with shade cloth around the internal, eastern and southern play areas. These treatments are not seen as adequate for buffering noise from the centre and a fencing treatment prepared in response to an acoustic report will be necessary to ensure that the amenity of adjoining owners is not adversely affected.

In relation to traffic impacts, the proposed design allows for access via a U-shaped driveway from Taylors Lane. There is no access proposed from Stevenson Street.

The access from Taylors Lane will require that Council resolve to allow the applicant to apply for a carriageway easement across the Council's Reserve in order to create the second access required for a "U-shaped" drive. The proposed dual access is seen as a preferable outcome to that provided by a single entry/exit driveway, because the U-shaped configuration can allow for one-way traffic flow into and out of the site, which would be far smoother.

The applicant has not included any access from Stevenson Street and this position is seen as appropriate; because, if there is no access, there will be no clients parking in Stevenson Street to do quick drop-offs. By restricting access to the centre to the Taylors Lane entry/exit point, the impacts on adjoining residences will be significantly decreased.

The provision of 23 car parking spaces provides for 1 space per 3.48 children, which exceeds the widely used standard of 1 space per 5 children and is generally in keeping with the car parking provisions made at the other centers. Although, provision will need to be made for a disabled space with a width of 3.6m close to the entrance to the centre.

### **Notification**

The application was advertised twice. First by way of letters to surrounding properties on 1 November 2004, a sign on the site and an advertisement in two copies of the Free Press newspaper. Upon amendment to the plans, the application was readvertised on 22 June 2005 in a similar manner. The second round of notification included advice to addressees that they needed to formally withdraw their objections to the application if they did not wish for them to be considered as part of the amended application.

### **Objections**

As part of the notification procedure required under the planning process, 3 objections were received as a result of the advertising. The concerns raised in the objections related to the following:

- Traffic congestion;
- Parking problems;
- Inadequate indication of proposed landscaping in application;
- Excessive noise generation;
- There is an oversupply of child care centres in Wallan and the use will fail;
- There is a covenant on the land that restricts this kind of development;
- Inadequate fencing detail in the application;
- Security lighting will affect amenity; and
- Adjoining property values will decrease.

### **Response**

*Traffic congestion*

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 PLANNING PERMIT APPLICATION NO. P303867 (CONT'D)

It is considered that all traffic will be restricted to Taylors Lane and will not impact on Stevenson Street. Hence, the proposed design overcomes this concern.

#### *Parking problems*

The other three facilities mentioned previously in this report provided car parking facilities in the following manner:

Number of children accommodated	Number of car spaces provided
70	22 (1 space / 3.18 children)
80	24 (1 space / 3.33 children)
90	18 (1 space / 5 children)

The current application provides for 23 car parking at a ratio of 1 space / 3.26 children.

The applicant has indicated that they prefer a gravel treatment. However, this is considered unsightly and potentially dusty. This could be overcome by a permit condition that required that the car park and access areas be sealed.

If the car park is sealed, it is considered that the proposed parking provisions are adequate in light of:

- recent approvals;
- the fact that the proposed layout provides for easy through traffic at peak times; and,
- the fact that any car parking impacts will predominantly occur away from the residential streets.

#### *Inadequate indication of landscaping treatments*

This objection is seen as having some merit, but Council will require extensive landscaping plans prior to endorsement of plans. These plans will be considered in light of the need to mitigate the impacts of a bright and colourful design on adjoining residential uses and the traffic on the Northern Highway.

#### *Excessive Noise generation*

This objection is seen as having some merit, but Council will require that an acoustic report be prepared prior to use and acoustic fencing be erected around all play areas in an effort to limit the noise spill to adjoining properties.

#### *Oversupply of child care centres*

There is unarguably a high proportion of child care centres in Wallan, with three recent approvals providing for 240 places. However, this objection relates to a commercial matter and cannot be considered here. Furthermore, Wallan has a high projected and current commuter population and there is every chance that demand will meet supply.

#### *Covenant restrictions*

A title search has revealed that there are no covenants on the subject site, so the objection is not able to be substantiated.

*Inadequate fencing detail*

This objection applied to the original application and does not have merit in regard to the subsequently amended application. The issue of noise impacts is covered previously.

*Security Lighting*

This objection is seen as having merit, but can be dealt with through a planning permit condition requiring that all security lighting be baffled to the satisfaction of the responsible authority.

*Property values*

This objection is commercial in nature and cannot be considered as part of this planning permit process.

**Discussion**

As demonstrated, the proposed design satisfies the provisions of the State and Local Planning Policy Frameworks, zoning provisions and decision guidelines at Clause 65.

In relation to the objector's concerns, it is seen that all of the issues that were raised can be adequately dealt with through permit conditions that will provide for:

- acoustic treatments and fencing;
- landscaping;
- security lighting;
- a disabled car parking bay;
- sealing and line-marking of car parking areas; and
- and operational management;

As discussed, in order for the use and development to operate in accordance with the submitted plans, Council will need to resolve to consent to a planning permit application from the owner to create a carriageway easement over the Council's Reserve, which sits between the subject site and the Taylors Lane road reserve, to allow for access to the second driveway.

**RECOMMENDATION****THAT:**

A.

Council consent to an application by the owner of the land to create a carriageway easement over portion of the Council reserve that sits between the subject site and the Taylors Lane Road reserve; and

B.

Council resolve to issue a Notice of Decision to Grant a Permit for the use and development of a 75-place Child Care Centre on land at 10 & 12 Stevenson

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PLANNING PERMIT APPLICATION NO. P303867 (CONT'D)

Street, Wallan, in accordance with the endorsed plans, subject to the following conditions:

1. Prior to the use and/or development commencing, two (2) copies of amended plans drawn to scale and dimensioned, must be submitted to and approved by the Responsible Authority. The plans must represent the proposed colour scheme and be generally in accordance with the plans submitted with the application, (Ref No. 4221, dated June 2005), but modified to show:
  - a) A Landscape Plan prepared by a suitably qualified designer that includes indicative labels on all plantings and a planting schedule with the following detail:
    - i) botanical and common names;
    - ii) size at planting;
    - iii) mature height; and
    - iv) mature width;
  - b) Acoustic fencing prepared to satisfy the recommendations of the acoustic report prepared under condition 2 of this permit; and
  - c) A disabled car parking bay in a location as close as possible to the entrance to the building and with dimensions 3.6m x 4.9m.
  - d) Water tanks for the purpose of storing stormwater runoff from the building's roof to the satisfaction of the Responsible Authority.
2. Prior to the use commencing, the permit holder shall submit a report by a suitably qualified acoustic engineer which demonstrates that the buildings and works constructed comply with the relevant standards.
3. The area set aside for the parking of vehicles, together with the associated access lanes as delineated on the endorsed plan(s) shall:
  - a) be provided and completed to the satisfaction of the Responsible Authority prior to the commencement of the use hereby permitted;
  - b) be maintained thereafter to the satisfaction of the Responsible Authority;
  - c) be made available for such use during the prescribed operating hours of the premises;
  - d) be properly formed to such levels that it can be used in accordance with the endorsed plans; and
  - e) be drained and sealed with an all weather coat to the satisfaction of the responsible authority.
4. Prior to the commencement of the use hereby permitted vehicular crossing(s) must be constructed to the road to suit the proposed driveway(s) to the satisfaction of the Responsible Authority and any existing crossing or crossing opening must be removed and replaced

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PLANNING PERMIT APPLICATION NO. P303867 (CONT'D)

- with footpath, nature strip, and kerb and channel to the satisfaction of the Responsible Authority.
5. Prior to the commencement of the use hereby permitted, directional signage that indicates that the westernmost access point is "Entry Only" and the easternmost access to Taylors lane is "Exit Only", must be constructed to the satisfaction of the Responsible Authority.
  6. Prior to the commencement of the development hereby permitted, the applicant must obtain a planning permit for and lodge a plan with the Registrar of Titles that allows for the creation of a carriageway easement (in favour of the owner of the land the subject of this permit) across the land known as Reserve 1 on PS5033014L to allow to for the secondary access to the site, as shown on the endorsed plans. The permit applicant must bear all costs involved in the creation of this easement.
  7. All buildings and paved areas must be connected to an underground drainage system designed and installed in accordance with Standards C31 and C32 of the Mitchell Shire Planning Scheme. The system must also be designed and constructed to prevent any surface flow across the footpath or the nature strip on the adjacent road reserve. Drainage computations and detail drawings must be submitted to and approved by the Mitchell Shire Council prior to construction commencing.
  8. The permit holder shall reinstate any damaged footpath, naturestrip or kerb and channel and/or other assets or infrastructure as required by the Responsible authority.
  9. All external plant and equipment must be acoustically treated or placed in sound proof housing to reduce noise to a level satisfactory to the Responsible Authority.
  10. The site shall be kept in an ordered and tidy state so that it will not prejudicially affect the amenity of the locality by reason of appearance to the satisfaction of the Responsible Authority.
  11. Odour filters shall be installed and maintained to control cooking odour, fumes and smoke to the satisfaction of the Responsible Authority so as to prevent the emission of odours outside the premises.
  12. The use hereby permitted must only operate been the hours of 6:30am - 6:30pm Monday to Friday.
  13. This permit shall expire if the use and development hereby permitted is either
    - a) not commenced within two years from the date hereof or
    - b) not completed within four years from the date hereof, or
    - c) within any extension of those times which upon application made before or within three months after the expiry of the permit, is granted in writing by the Responsible Authority.

***Cr Gordon having declared an interest in the consideration of this item left the Council Chambers at 8.25pm.***

**MOVED:** CR. R. LEE

**SECONDED:** CR. S. MARSTAELLER

**THAT:** the recommendation be adopted with a new clause to be inserted, clause 14 to read:

*“14 the applicant must provide concrete footpaths within the reserve to the north of the subject site and Northern Highway and Taylors Lane road reserves where they adjoin the subject site to the satisfaction of the responsible authority.”*

**CARRIED**

***Cr Gordon returned to the Council Chambers at 8.26pm.***

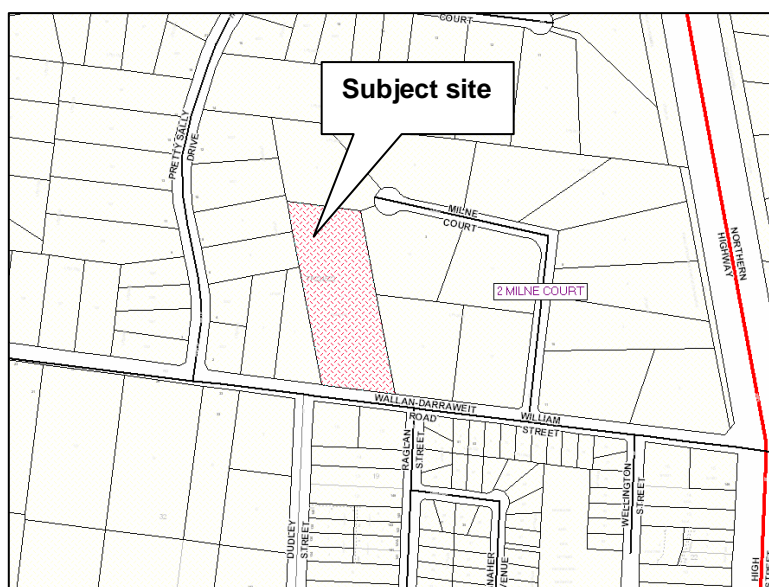
**9.12 PLANNING PERMIT APPLICATION NO. P304009, USE OF LAND AS A RETIREMENT VILLAGE AND ASSOCIATED BUILDINGS AND WORKS AND CAR PARKING WAIVER – 2-4 WILLIAM STREET, WALLAN 3756 (PART CROWN PORTION A VOL. 8245 FOL. 068)**

**Author:** *Linda Graham, Senior Town Planner*

**File No:** **8030906500/P304009**

**Reference:** *Nil*

Applicant: CH Architects Pty Ltd  
Property: Part Crown Portion A vol. 8245 fol. 068  
Address: 2-4 William Street, Wallan 3756  
Zoning: Residential 1 Zone (R1Z)  
Overlays: N/A  
Proposal: Use of land as a retirement village and associated buildings and works and car parking waiver



### Summary

Planning Permit Application No. P304009 was received by Council on the 21 October 2004. The application seeks approval for the construction of a retirement village and a car parking waiver.

The application is before Council owing to the receipt of five objections and development costs, which will exceed 1 million dollars.

A planning permit is required for the following aspects:

- Use and development of land for the purposes of a retirement village pursuant to the provisions of the R1Z
- Car parking waiver pursuant to the provisions of Clause 52.06



This report recommends that the application be approved subject to conditions as the proposed development is considered to meet with the general intent of the Scheme.

### **Background**

The subject site is contained within the Residential 1 Zone (R1Z) and is not affected by any overlays.

The subject site is rectangular in shape (skewed) and is located to the north side of William Street. The subject site is located approximately 350 metres to the west of the intersection of William Street with the Northern Highway. There is a marked difference in level between the Northern Highway and the subject site. The subject site is located towards the crest of a rise in William Street. As such it is an elevated site. The site itself has a fall of approximately 10 metres from its north to south boundaries. There are no easements located on the subject site.

The site has a frontage to William Street of 80.4 metres, a depth of approximately 201.1 metres and an overall area of approximately 15,447 sqm (1.54 hectares). It is currently occupied by a single storey dwelling. The site features 24 existing trees of varying heights and species. Of particular note are eight large Cypress trees located along the west boundary towards the south-west corner of the site. The site context plan prepared by the applicant appears to locate the trees within the boundary of the adjoining property to the west but it is the understanding of the assessing officer that these trees are actually within the boundaries of the subject site. Access to the property is currently via a single crossover from William Street.

The surrounding land use is residential in nature. The subject site is directly adjoined by six properties and each one is occupied by a dwelling with the exception of a single lot. Immediately adjoining development is low-density in appearance however residential development located to south-east of the site and centred around Danaher Avenue is more conventional (ie developed lots of around 5200 sqm). Surrounding dwellings are predominantly single storey with the exception of the dwelling located on the adjoining property to the north, which is double storey. A row of dense Cypress trees are located along the west boundary of the property which adjoins the subject site to the east.

### **Details**

Details of the proposed development are as follows:

- Construction of 14 independent living townhouses each containing two bedrooms and a single garage. The townhouses are single storey in scale and will be setback a minimum of 4 metres from the east boundary. The maximum setback is approximately 6 metres from the east boundary. The rear of units 1 to 11 will face towards the east title boundary. The units are clustered into three modules separated by distances of 1.5 metres (between units 3 and 4) and 2.5 metres (between units 7 and 8). Units 12 to 14 will be orientated to face

William Street and are attached via common walls. The Units will be setback a minimum of 13.6 metres from William Street and are slightly angled. The dwellings are to be constructed of brick with roof tiling. Each townhouse has separate private open space.

- Construction of 58 semi-independent units. The units are clustered into 8 modules known as blocks. Block 8 contains 5 units, Blocks 1, 2, 3 and 6 contain 7 units, Blocks 4 and 7 contain 8 units and Blocks 5 contains 9 units. The units do not have garages and are connected via a series of covered walkways to the “communal building”. The units are single storey and contain single bedrooms only. There are also disabled units, which allow for wheelchair access. Blocks 1 to 3 are setback 5 metres from the west boundary. Blocks 4 and 5 are setback a minimum distance of 5 metres from the west boundary and a maximum distance of 8 metres. Blocks 5 and 6 are setback a minimum distance of 5 metres and a maximum distance of 6 metres from the north boundary. Block 5 is setback 5 metres from the east boundary and Blocks 6 and 7 are setback a minimum distance of 5 metres. The units are to be constructed of brick with roof tiling.
- The construction of a centrally located “communal building”. The communal building is located amidst the semi-independent units. It is understood that this is to allow ease of access by residents to the building. The building is to be double storey in scale. The layout of the ground floor features a multi purpose room, a dining area and kitchen/laundry/office/library/bathroom facilities. The first floor level is to be occupied by the manager’s residence (will contain three bedrooms). The area of the first floor is approximately one third of the size of the ground floor area. The building is to be constructed of brickwork at ground level and timber cladding at first floor level.
- The construction of a 95 bed low and high care assisted living facility. The building is double storey in scale with three centralised voids to landscaped courtyard areas. The building will be setback 6 metres at ground level from the west boundary and approximately 11 metres at first floor level. The building will have a maximum wall height of 3 metres along its west elevation at ground level and a maximum wall height of 6 metres at first floor level. The presentation of the building to the west will consist of four protrusions of the building at ground level. Each protrusion will feature a pitched roof form. There will be no west-facing windows at first floor level and the upper storey addition will predominantly consist of a series of roof pitches (six in total) when viewed from the adjoining property to the west. The building will be setback a minimum of 7 metres from William Street and a maximum setback distance of 15 metres. The building will have an overall building height of 10 metres (measured from ground level to roof apex). The proposed building is well articulated and is to be constructed of brick and render with colourbond roofing.

- Access to the site is to be via William Street. The existing crossover is to be reinstated. A crossover with a width of approximately 7 metres is to be provided. An internal accessway with a width of 5.5 metres will allow emergency vehicles access to the assisted living facility (via porte cochere) and to the on-site car park (provision of 63 on-site car spaces). This is in addition to the 14 single garages providing parking for the 14 independent living townhouses. The communal building contains a designated deliveries area. The plans indicate that the accessway is to feature a road surface, which acts to calm traffic and pedestrian crossings and crossovers. Two disabled car spaces have been provided and one parking space for a mini bus.
- In regard to drainage, the plans indicate the provision of two on-site stormwater retention tanks.
- The west, east and north title boundaries are to be fenced by 2.2 metre high colourbond fences.
- Installation of five gazebo areas within the vicinity of the semi-independent units.
- The plans indicate that 25 trees are to be removed under the application. It was not the original intention of the permit applicant to remove the Cypress trees located along the west boundary, however it has been suggested by Council that any landscaping plan should provide for the selective replacement of the Cypress trees with similar screening trees over a period of time to gradually replace the trees with younger varieties. The plans indicate the ability to plant canopy trees throughout the development.
- The proposed front fence is to be a brick pier and red gum slat construction. The fence will have an approximate height of 1.8 metres (piers) and 1.5 metres (slats).

A traffic impact assessment has been submitted as part of the application. The conclusions of the report are as follows:

- The overall provision of 69 on-site car spaces will cater for anticipated staff, resident and visitor parking demands.
- The parking layout complies with the relevant provisions of the planning scheme.
- The proposed facility contains appropriate provision for loading and unloading of deliveries and waste collection (excepting that the loading bays should be increased to 7.6 metres by 3.6 metres in size). The range of vehicles expected to visit the site will be able to drive into and out of the site in a forward direction.
- The proposed development is likely to generate up to 54 trips during the peak hour (afternoon shift changeover – 2:30pm to 3:30pm), which does not coincide with the general road traffic peak times. At other times negligible to low numbers of trips would be generated per hour.
- The traffic impact of the proposed site is expected to be minimal due to the low number of trips generated and the time difference between the peak site trip generation and general road traffic times.

Amended plans were submitted to Council on the 18 August 2005 to show increased setbacks in response to objections concerning perceived overdevelopment. The amended plans have been circulated to all objectors.

### Referrals

The application was referred internally to the following:

- Council's Urban Design Consultant
- Council's Asset Engineer

Council's Urban Design Consultant has made the following comments:

- Some concern that the revised plans showing an increase in setbacks will result in a tightening up of internal open space areas.
- In regard to development along the east boundary it is considered necessary to require the high quality management of planted landscape material to avoid the undesirable effect of a continuous edge of roof forms. Because of the individual ownership of these units, it is considered unlikely that this will occur. It is suggested that the side fences between private open space associated with the independent living units be removed to allow for shared maintenance of this area (ie landscaping along the east boundary). This will however reduce the privacy to the units.
- *"Proposed setback from the boundary of Block 8 of a minimum of 5 metres is valuable given the small size of the residential unit. This would allow for an effective landscape treatment of a minimum of 2 metres wide along the fence and an outdoor seating area 3 metres wide"*.
- *"Deletion of the western-most unit of Block 5, and a proposed setback of a minimum of 5 metres from the north boundary will provide an adequate area for landscape treatment and as indicated in the diagram (sketch provided to applicant by Council's Urban Design Consultant), this will be maintained as part of the overall open space system"*.
- *"The proposed minimum setback from the west boundary of 5 metres is adequate although the extent to which this setback area is also to be used for a pathway needs to be considered"*.
- *"The proposed minimum setback of the assisted living-aged care facility of 6 metres needs to be considered in regard to the extent of the length of the building edge, the setback of the second floor level, and the proposed cut and fill which will result in the floor level of the northern end being below ground level and the southern end above ground level. This excavation will have an impact on the existing trees along the boundary, and given that inappropriate nature of the species adjacent to the facility (ie Cypress trees), it is more realistic to provide an effective management regime for this boundary, which includes appropriate planting (species and density). The proposed setback provides the opportunity for a consolidated planting area of large shrubs and small trees, in addition to the pathway and outdoor seating and BBQ. The complete removal of tree stumps will also be required to permit replacement of the existing trees, with small trees and large shrubs that are capable of achieving optimum development"*.

The applicant has provided the following response in regard to Council's Urban Design comments:

- The applicant is of the belief that despite an increase in setbacks an appropriate amount of circulation/open space can still be provided within the development. The increased setbacks will result in an increase to peripheral areas able to be landscaped.
- The applicant concurs with Council's Urban Design Consultant in that internal fences between the 14 independent units are not critical and it is possible to incorporate the suggested landscape design into the landscape plan, which will be submitted for endorsement by way of a permit condition. This is to allow for ease of maintenance to landscaping provided along the east boundary between the independent units and existing development to the east.
- Agreement to gradually remove and replace the existing Cypress trees with appropriate species along the western boundary.

In regard to the existing Cypress trees, it was a concern of Officers that the trees would either not survive the construction phase and if they did, would be viewed as a nuisance given their proximity to the proposed aged care facility, resulting in their eventual removal. Given this, it is considered prudent to address the future removal of these trees and ensure their replacement with similar species able to provide the same level of screening. To this end, the landscape plan will be required to show the sequential removal of the Cypress trees and their replacement with suitable species able to provide a similar level of screening. This will allow for continuous screening during the replacement process. This is to safeguard against the wholesale removal of the Cypress trees with either no replacement planting or a lengthy wait for new plantings to fully establish, exposing the full extent of the aged care facility to existing development to the west.

Council's Assets Engineer offers no objection to the proposed development subject to conditions.

## **PLANNING FRAMEWORK**

### **State Planning Policy Framework (SPPF)**

The following SPPF clauses are relevant to the application:

- Clause 11.03-1: SPPF; Settlement
- Clause 14.01: SPPF; Planning for urban settlement
- Clause 15.12: SPPF; Energy efficiency
- Clause 19.03: SPPF; Design and built form

### **Response**

The proposed development is an example of orderly planning (eg development which will not have an unreasonable amenity impact). It also allows for the siting of a necessary facility within an existing neighbourhood. Aged care facilities should not be located in peripheral areas which are

isolated from commercial and community facilities. All open space areas are able to receive adequate solar access. Not all units have been provided with north-facing windows. The placement of windows however will allow for adequate penetration of sunlight into each of the proposed dwellings. There are a number of design principles located at Clause 19.03 which the proposed development is able to respond to in particular; high quality architectural standards, the creation of public open spaces and circulation networks and landscaping.

### **Municipal Strategic Statement (MSS)**

The following MSS clauses are relevant to the application:

- Clause 21.03: MSS; Key issues
- Clause 21.04: MSS; Strategic vision and framework maps
- Clause 21.05: MSS; Objectives and strategies

### Response

The Wallan-Beveridge Structure Plan contains an urban growth management boundary. Given the residential zoning of the land, it is considered appropriate to allow for development of a higher density. The urban growth management boundary lends support to a consideration higher density residential-type development. It is also considered appropriate to allow for an aged care facility within an established residential setting. Aged care facilities should not be located within peripheral areas and should be able to benefit from a neighbourhood context. The identified attributes of Wallan (eg country town feel) will be protected through the use of landscaping.

### **Local Planning Policies (LPP)**

The following LPP clauses are relevant to the application:

- Clause 22.02: LPP; Settlement
- Clause 22.04-3: LPP; Subdued tones
- Clause 22.05-3: LPP; Townscape policy

### Response

The proposed development is of a high architectural quality which has avoided an institutional feel through the use of pitched roofs, varied setbacks and interesting external additions. The design will be further enhanced through the use of landscaping. This will assist in integrating the development with the existing character of William Street which has a garden feel. A condition on any planning permit issued will require a full colour and external finishes board to be submitted to Council. Colours must be of a muted tone and non-reflective to comply with Clause 22.04-3.

### **Zone**

The subject site is contained within the Residential 1 Zone (R1Z). The relevant purpose of the R1Z is as follows:

*In appropriate locations, to allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs.*

A planning permit is required under the R1Z for the following aspects:

- Use and development of the land for the purposes of a retirement village

The assessing officer agrees with the applicant in that the application is not subject to assessment against Clause 55 of the planning scheme. Clause 55 applies to residential buildings, however the definition of a residential building under the scheme clearly states that it does not apply to retirement villages. The applicant has nonetheless submitted an assessment of the proposed development against the performance standards located at Clause 55.

### **Particular Provisions**

#### Clause 52.06, Car parking

Pursuant to the table to Clause 52.06 the development is required to provide 170 on-site car spaces. The submitted traffic report can demonstrate that the granting of a permit to reduce this requirement by 101 car spaces is justified. The justification is based upon a reduced ability for residents to self-drive owing to age, a total of 19 staff members only required to operate the facility (19 staff members will not necessarily be present at any one time owing to rotational shifts) and visitor parking rates of 0.1 car spaces per bed. It is anticipated that the maximum number of cars parked on-site and associated staff will be 21 (arrival of afternoon shift while morning shift is still onsite) and that the maximum visitor parking generated at any one time will be 16 car spaces. The report states that it is uncommon for retirement villages to impose visiting hours meaning that visitations to the site can be dispersed throughout the week although typically visits are more likely to occur over the weekend. The maximum overall parking demand during the peak time (ie changeover to afternoon shift) is expected to be in the order of 59 car spaces – 21 staff spaces, 3 visitor spaces for independent living units, 15 resident spaces for independent living units and 4 resident spaces for the semi-independent units.

#### Clause 52.07, Loading and unloading of vehicles

Clause 52.07 contains provisions for the loading and unloading of commercial vehicles. The community building is provided with a designated delivery area however the assisted living facility does not have an area set aside for unloading/loading. The traffic report states that loading bays should be increased to 7.6 metres by 3.6 metres in size. To this end, a condition on any planning permit issued will require the proposed delivery area associated with the communal building to measure 3.6 metres in width and 7.6 metres in length. The plans must also designate a loading/unloading area for the assisted living facility and that this area must comply with Clause 52.07 and not conflict with the passage of emergency vehicles. Providing the conditions are met, the proposed development is able to meet with the requirements of

Clause 52.07 thereby not triggering a planning permit for a waiving of the provisions.

### **General Provisions**

#### **Clause 65, Decision Guidelines**

The following decision guidelines located at Clause 65 of the Scheme have been taken into consideration:

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

#### **Response**

The application has satisfactorily demonstrated that the development will not result in an unreasonable amenity impact owing to the adoption of suitable setbacks, a high level of articulation and architectural quality, limited overshadowing and low traffic volumes. In this respect the proposed development is representative of orderly planning and will allow for an age care facility to be located within an established residential area.

#### **Notification**

Advertising of the application was undertaken via the direct notification of adjoining and adjacent landowners and land-occupiers, the display of one sign on-site to face William Street and the posting of a public notice in the Kilmore Free Press.

As a result of advertising, Council has received five objections to the proposed development.

#### **Objections**

The nature of the objections can be summarised as follows:

- High density development which is not in keeping with the low density residential feel of the surrounding area.
- Overdevelopment of the site.
- Development provides insufficient recreation areas.
- Development does not provide adequate car parking on-site.
- The proposed development should be single storey only.
- Unacceptable increase in traffic volumes, which will result in safety issues.
- Requirement for roadworks to the intersection of William Street with the Northern Highway.
- Unacceptable setbacks.
- Unacceptable loss of amenity.
- Inadequate boundary fencing.
- Loss of privacy due to two storey construction.
- Unacceptable noise.
- Objection to the removal of the Cypress trees.
- Disruption to lifestyle during the course of construction.
- Threat to existing trees on adjoining properties.



**Discussion**

The following discussion is based upon the above concerns and has been grouped into the following headings:

- Neighbourhood character
- Overdevelopment issues
- Traffic and car parking issues
- Landscaping
- Amenity issues
- Fencing issues

Neighbourhood character

The character of this section of Wallan is characterised by both conventional residential development and low-density residential development. The provisions of the Residential 1 Zone, which apply to the subject land, allow for a consideration of high-density residential development providing there is not an unreasonable loss of existing amenity. A retirement village, although providing for permanent residences, is not considered in the same light as a multi-unit residential development. A retirement village relies upon a clustering of development to serve the purposes of increasingly immobile residents. It is the opinion of the assessing officer that the neighbourhood character of William Street will be preserved through the landscaping works throughout the development and the sequential replacement of the existing Cypress trees located along the west boundary. The assisted living facility and the three units, which are orientated to face William Street, are recognisably residential in style eg the assisted living facility includes a gabled roof form. In this respect the architects have attempted to minimise the 'institutional feel', which can be associated with retirement villages. Front and side setbacks are considered adequate for the undertaking of effective landscaping able to enhance the appearance of the development while softening the edges of the development when viewed from adjoining land. Due to the elevated nature of the subject site and the double storey status of the communal building and the assisted living facility, there may be some ability to view the development from the Northern Highway. Views from the Northern Highway will be screened by existing Cypress trees located on the adjoining property to the east. The proposed roof forms will also assist improving the level of visual interest. Excavation is required to site the assisted living facility, which will also assist in reducing the bulk of the building.

Overdevelopment issues

Overdevelopment tests are generally linked to site coverage and/or the ability to provide sufficient on-site car parking. The applicant has demonstrated that the provision of 69 car spaces (being 101 car spaces less than that required by the planning scheme) is sufficient to cater for the expected demand. Council's Assets Engineer has raised no concerns regarding the proposed level of on-site car parking. The proposed level of site coverage is 46.7% and the level of permeable surfaces is 29.2% meaning that if Clause 55 principles were to be applied, the proposed development would meet with the relevant standards.

### Traffic and car parking issues

Car parking issues have been addressed. The traffic report submitted as part of the application states the following:

- Aged care facilities generate relatively low levels of traffic.
- The majority of traffic to and from the site will be generated by staff, visitors and deliveries. Resident trips will form a very small proportion of trips.
- The peak period (ie morning/afternoon shift change) will generate approximately 54 vehicle movements during that hour (ie between 2:30pm and 3:30pm). At other times, particularly between 7am and 10 am and after 8pm, traffic will be negligible. Given that William Street currently caters for 3500 vehicle movements per day, the addition of a further 54 movements during peak periods associated with the aged care facility will be hardly noticeable. William Street currently features peak periods between 7am and 10am and 3pm and 7pm.

Council's Assets Engineer has requested the following upgrades to William Street; the provision of kerb and channel and the widening of the existing sealed area for that portion of William Street, which adjoins the subject site. There is no request from engineering to provide an upgrade to the intersection of William Street with the Northern Highway. It has also not been considered necessary to provide a protected "right turn in" lane owing to the fact that William Street is sufficiently wide enough to allow for safe right turns and the anticipated low levels of traffic which will be associated with the development.

### Landscaping

The permit applicant will be requested to submit a detailed landscaping plan as part of any permit issued. The landscaping plan must preference local indigenous species and make provisions for the planting of canopy trees wherever practical. A condition will also be imposed which requires the permit holder to continue to maintain the new landscaping to a reasonable standard and replace any dead or diseased plants as soon as is practical. The permit applicant has agreed to incorporate Council's Urban Design Consultant's suggestions into the landscaping plan. This will include the non-provision of internal fences to private open space associated with the independent units in order to increase the possibility of continuous maintenance to landscaping to be established along the east boundary. The sequential replacement of the existing Cypress trees, which are located on the subject site has been discussed. A condition on any planning permit issued however will require the permit applicant to provide tree protection barriers to the existing Cypress trees located on the adjoining land to the east and on-site and that these barriers must be based upon the critical root zones of the trees as determined by an arborist. The tree protection barriers are to protect the trees during the construction phase. In general however, a three metre separation distance between works and existing trees is considered adequate to ensure survival. The proposed buildings are located approximately 4 metres from the base of the trees in question.

Amenity issues

The adopted setbacks and building heights (including second storey components) comply with Clause 55 if it were to be applied. There will be no instance of overlooking due to the construction of a 2.2 metre fence to all side and rear boundaries. The west elevation of the assisted living facility contains no west-facing windows. Any view available from the upper level of the community building will be confined to within the boundaries of the subject site. Owing to the northern orientation of the site, shadowing to the west caused by the double storey assisted living facility will only occur in morning periods and given the area of the adjoining western lot will not result an unreasonable loss of daylight to open space. Any shadowing of habitable windows will occur for a period of less than 5 hours and is therefore compliant with Clause 55 principles. It is not anticipated that high levels of noise will be generated by the aged care facility. Traffic movements will be low. A condition on any planning permit issued however will restrict deliveries to between reasonable hours. Further conditions will be imposed which require all deliveries to occur on-site, any alarm systems to be of a silent type and external lighting to be suitably baffled.

In terms of internal amenity issues, it has been noted that Block 1 (semi-independent units) is located within proximity to the communal car park. The applicant has offered to construct a 1.8 metre high acoustic fence between Block 1 and the car park to protect the amenity of future residents. This will be required by way of permit condition.

Fencing issues

Objections have focussed upon initial plans, which featured timber paling fencing to a height of 1.8 metres. At the suggestion of one particular objector, the plans have been amended to provide for a 2.2 metre high colourbond fence to the side and rear boundaries. The height and style of fencing is considered appropriate in that it will ensure privacy between the proposed facility and the six adjoining properties. A condition on any planning permit issued will require the permit holder to bear all fencing costs.

**RECOMMENDATION****THAT:**

A Notice of Decision to Grant a Permit No. P304009 be issued at 2-4 William Street, Wallan (Part Crown Portion A vol. 8245 fol. 068) for the use of land as a retirement village and associated buildings and works and car parking waiver, generally in accordance with the plans and subject to the following conditions:

1. Prior to the use and development commencing, two (2) copies of professionally drawn and amended plans to scale and dimensioned, must be submitted to and approved by the Responsible Authority. The

plans must be generally in accordance with the plans submitted to with the application but modified to show:

- a) Sample board showing colour schedule and finishes. The chosen colours and finishes must be in accordance with Condition 9 of this permit.
- b) The proposed delivery area associated with the communal building is to measure 3.6 metres in width and 7.6 metres in length. The plans must also designate a loading/unloading area for the assisted living facility. This area must comply with Clause 52.07 of the Mitchell Planning Scheme and not conflict with the passage of emergency vehicles.
- c) The plans must provide for a tree protection barrier to existing Cypress trees located along the west boundary of the subject site and to existing Cypress trees located along the west boundary of the adjoining property to the east during the construction phase. The radius of the tree protection barriers must be based upon the trees critical root zones. The critical root zones must be determined by a qualified arborist and appropriate notations included on the plans.
- d) Provision of a 1.8 metre high acoustic fence between the proposed car park area and the units comprising Block 1. The requirement for an acoustic fence is to protect the amenity of future residents from noise associated with the car park.

The plans must be to the satisfaction of the Responsible Authority and once approved will be endorsed under this permit.

2. Prior to the commencement of the development, two (2) copies of a landscape plan for the subject site drawn to scale and prepared by a suitably qualified person or firm must be submitted to and approved by the Responsible Authority. When approved the plan will be endorsed accordingly and will then form part of this permit. Such plans must show:
  - a) The marking of all existing vegetation to be removed or retained including details of species.
  - b) The provision of tree protection barriers to comply with Condition 1(c) of this permit.
  - c) Specific reference to the existing Cypress trees located along the west title boundary and a programme showing their gradual replacement with suitable species able to achieve a similar degree of screening. The programme must provide timeframes for the undertaking of replacement planting and must not result in unreasonable exposure of the assisted living facility to existing development located to the west.
  - d) A schedule of all proposed plantings including species, number, height and spread at maturity and height and spread at planting stage. The schedule should preference locally indigenous species and should provide for the planting of canopy trees wherever practical.

- e) Provision of notes outlining measures to ensure the survival of new plantings.
  - f) Consideration of a need to import fill onto the site and the selecting of appropriate species likely to thrive in this environment.
  - g) Provision of tree protection barriers to existing Cypress trees located along the west boundary of the adjoining property to the east.
  - h) Location of all pathways, courtyards, gazebos and outdoor recreation areas including paving and internal fencing treatments.
  - i) Incorporation of Council's Urban Design Consultant's diagrams (prepared by Mr. Marc Bartsch) into the landscape design and faxed to CH Architects Pty Ltd on the 9 August 2005.
3. The layout of the site and design of the buildings and works and landscaping, as shown on the endorsed plans must not be altered or modified without the consent in writing of the Responsible Authority. Note: this does not obviate the need for a permit where one is required.
4. The trees and shrubs included in the endorsed landscaping plan must be planted within twelve (12) months of the commencement of the development, and thereafter must be maintained in a healthy condition to the satisfaction of the Responsible Authority with any dead or diseased vegetation being replaced as soon as practicable. To this end once the development has commenced, the permit holder must notify the Responsible Authority in writing of the date of commencement of the development.
5. All buildings and paved areas must be connected to an underground drainage system designed and installed in accordance with Standards C31 and C32 (Clause 56) of the Mitchell Planning Scheme. The point of discharge shall be nominated by the applicant and approved by the Mitchell Shire Council. Down stream flows must be restricted to pre-development levels. Drainage computations and detail drawings must be submitted to and approved by the Mitchell Shire Council prior to the construction commencing.
6. The site shall be kept in an ordered and tidy state so that it will not prejudicially affect the amenity of the locality by reason of appearance to the satisfaction of the Responsible Authority.
7. The amenity of the area must not be detrimentally affected by the use or development, through the:
- a) Transport of materials, goods or commodities to or from the land.
  - b) Appearance of any building, works or materials.
  - c) Emission of noise, artificial light, vibration, smell, steam, soot, ash, dust, waste water, waste products.

- d) Presence of vermin or otherwise.
8. All security alarms or similar devices installed on the land must be of a silent type in accordance with any current standard published by Standards Australia International Limited and be connected to a security service, to the satisfaction of the Responsible Authority.
  9. Provision must be made on the land for the storage and collection of garbage and other solid waste. This area must be graded and drained and screened from public view to the satisfaction of the Responsible Authority.
  10. All external materials to be used in the construction of the building hereby permitted shall be of muted tonings and non-reflective and shall not result in any adverse visual impact on the amenity of the surrounding area.
  11. No signs (apart from traffic direction signs) or advertisement shall be erected or displayed on the land except as permitted by the Responsible Authority or pursuant to the provisions of the Mitchell Planning Scheme.
  12. All external lights must be of a limited intensity to ensure no nuisance is caused to adjoining or nearby residents and must be provided with approved baffles, so that no direct light or glare is emitted outside the site to the satisfaction of the Responsible Authority.
  13. No external floodlighting shall be installed without the prior written consent of the Responsible Authority.
  14. The permit holder must provide road construction in William Street adjacent to the site frontage, to the satisfaction of the Mitchell Shire Council.
  15. Before any road/drainage works associated with the development start, detailed construction plans and specifications must be submitted to and approved by the Mitchell Shire Council. These plans must include:

#### Road Construction to William Street

- a) Barrier kerb and channel (B2) adjacent to site frontage, at an offset to match the existing kerb and channel return.
  - b) Pavement widening and 2 coat seal for the length of the property frontage.
  - c) Any necessary drainage.
16. Before the use or occupation of the development starts, the areas set aside for the parking of vehicles and access lanes as shown on the endorsed plans must be:

- a) Constructed
- b) Properly formed to such levels that they can be used in accordance with the plans
- c) Surfaced with an all-weather-seal coat
- d) Drained
- e) Line marked to indicate each car space and all access lanes
- f) Clearly marked to show the direction of traffic along access lanes and driveways

to the satisfaction of the Mitchell Shire Council. Car spaces, access lanes and driveways must be kept available for these purposes at all times.

17. All car parking spaces must be designed to allow all vehicles to drive forwards both when entering and leaving the property.
18. The loading and unloading of goods from vehicles must only be carried out on the land within designated loading bays and must not disrupt the circulation and parking of vehicles on the land.
19. A vehicle crossing must be constructed to William Street to suit the proposed driveway to the satisfaction of the Responsible Authority.
20. No polluted and/or sediment laden run-off is to be discharged directly or indirectly into any street, drain, watercourses or other private land during construction. To this end, pollution or litter traps must be provided on site. Refer to the Department of Sustainability and Environment publications, 'Guidelines for minimising soil erosion and sedimentation for construction sites' and 'Control of soil erosion for construction sites'.
21. The permit holder shall reinstate any damaged footpath, naturestrip or kerb and channel and/or other assets or infrastructure as required by the Responsible Authority, for all works associated with this permit.
22. The owner of the land must enter into agreements with the relevant servicing authorities for the provision of water supply, drainage, sewerage facilities, electricity, gas and telecommunication services to each lot shown on the endorsed plan in accordance with the authority's requirements and relevant legislation of the time.
23. Deliveries shall not be conducted before 7am or after 6pm on any day to the satisfaction of the Responsible Authority.
24. All fencing costs are to be borne by the permit holder.

25. In regard to the buildings and works hereby approved, this permit shall expire if the development is not commenced within two years from the date hereof, completed within four years of the date hereof or within any extension of that time which upon application made before or within three months after the expiry of the permit, is granted in writing by the Responsible Authority.

***Cr Gordon having declared an interest in the consideration of this item left the Council Chambers at 8.30pm.***

**MOVED:** CR. R. LEE

**SECONDED:** CR. R. HUMM

**THAT:** a Notice of Refusal to grant a Planning Permit be issued on the following grounds:

1. The proposal does not satisfactorily address Clause 19.03 of the Mitchell Planning Scheme. The proposal is inconsistent with the character of the area, which is influenced by single dwellings on large, landscaped blocks. The surrounding pattern of development is unable to absorb the impact of reduced front and side setbacks, two storey buildings, limited landscaping, multiple buildings on a single site, extent of hard surfacing, the medical nature of the primary building (ie assisted living facility) and fencing style.
2. The assisted living facility represents an instance of unacceptable building bulk and combined with the constraints of the site and the extent of the overall development, will result in a loss of visual amenity to surrounding development.
3. The assisted living facility overly relies upon the screening provided by adjoining boundary trees located to the east. Should the adjoining trees at any time be removed, the bulk of the building will be exposed with limited internal opportunities for landscaping of a similar kind.

**LOST**  
3/3

*The motion was **LOST** on the casting vote of the chairperson.*

Cr. Lee called for a **DIVISION:**

<b>FOR</b>	<b>AGAINST</b>
Cr. Lee	Cr. Pateson
Cr. Humm	Cr. Melbourne
Cr. Marstaeller	Cr Ure



**Cr Gordon returned to the Council Chambers at 8.31pm.**

**Cr Gordon declared that he does not have an interest in the consideration of this item and remained.**

**MOVED:** CR. F. URE

**SECONDED:** CR. D. PATERSON

**THAT:** the recommendation be adopted.

**LOST**

**3/4**

Cr. Melbourne called for a **DIVISION:**

<b>FOR</b>	<b>AGAINST</b>
Cr. Ure	Cr. Lee
Cr. Melbourne	Cr. Gordon
Cr. Paterson	Cr. Marstaeller
	Cr. Humm

**MOVED:** CR. R. LEE

**SECONDED:** CR. R. HUMM

**THAT:** a Notice of Refusal to grant a Planning Permit be issued on the following grounds:

1. The proposal does not satisfactorily address Clause 19.03 of the Mitchell Planning Scheme. The proposal is inconsistent with the character of the area, which is influenced by single dwellings on large, landscaped blocks. The surrounding pattern of development is unable to absorb the impact of reduced front and side setbacks, two storey buildings, limited landscaping, multiple buildings on a single site, extent of hard surfacing, the medical nature of the primary building (ie assisted living facility) and fencing style.
2. The assisted living facility represents an instance of unacceptable building bulk and combined with the constraints of the site and the extent of the overall development, will result in a loss of visual amenity to surrounding development.
3. The assisted living facility overly relies upon the screening provided by adjoining boundary trees located to the east. Should the adjoining trees at any time be removed, the bulk of the building will be exposed with limited internal opportunities for landscaping of a similar kind.

**ADJOURN TO CONSIDER**

The Chairperson adjourned the meeting to consider Local Law No. 4 – Meeting Procedure at 8.36pm.

The Chairperson having reviewed the Local Law No. 4 – Meeting Procedure resumed the meeting at 8.38pm.

The **MOTION** when put was:

**CARRIED**  
4/3

Cr. Melbourne called for a **DIVISION**:

<b>FOR</b>	<b>AGAINST</b>
Cr. Gordon	Cr. Ure
Cr. Lee	Cr. Melbourne
Cr. Humm	Cr. Paterson
Cr. Marstaeller	

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**9.13 PLANNING PERMIT APPLICATION NO. P304066, 9 LOT SUBDIVISION AND REMOVAL OF VEGETATION, 1 O'GRADYS ROAD, KILMORE EAST (LOTS 1 AND 2 PS449940U)**

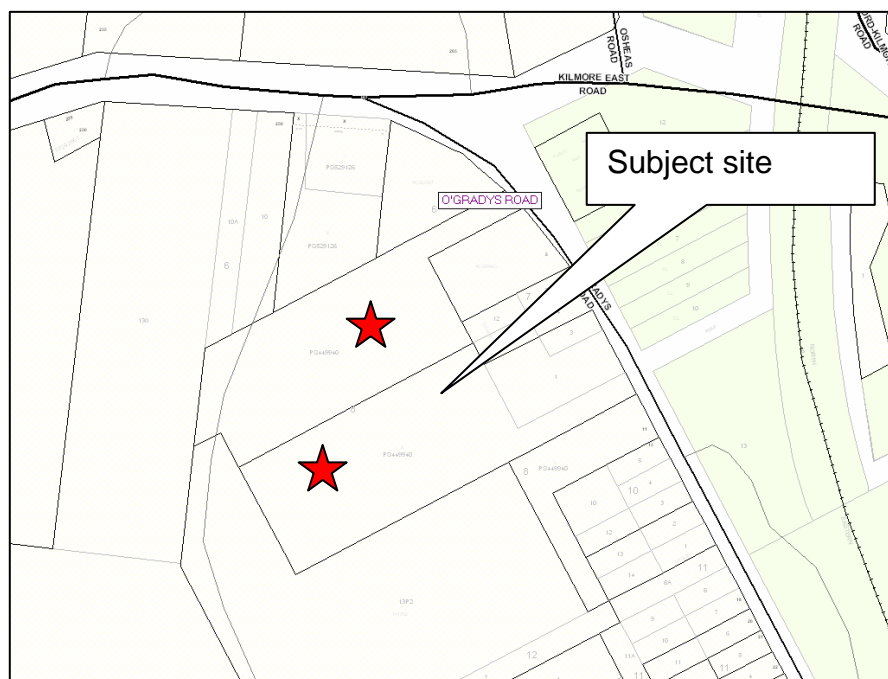
**Author:** *Linda Graham, Senior Town Planner*

**File No:** *6074100100/P304066*

**Reference:** *Nil*

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Applicant: Group Units Pty Ltd C/O - Tomkinson  
Property: Lots 1 and 2 PS449940U  
Address: 1 O'Gradys Road, Kilmore East  
Zoning: Township Zone (TZ)  
Overlay: Erosion Management Overlay (EMO)  
Proposal: 9 lot subdivision and removal of vegetation

**Summary**

Planning Permit Application No. P304066 for the subdivision of land and removal of vegetation at 1 O'Gradys Road, Kilmore East (Lots 1 and 2 PS449940U) was lodged with Council on the 6 December 2005.

The application is before Council owing to the receipt of seven objections.

Under the Mitchell Planning Scheme, the proposed development requires a planning permit for the following reasons:

- Subdivision of land under the provision of the Township Zone.

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PLANNING PERMIT APPLICATION NO. P304066 (CONT)

- Removal of vegetation under the provisions of the Erosion Management Overlay (EMO) and Clause 52.17 of the Mitchell Planning Scheme.

### History

The application proposes a nine lot subdivision on land abutting the west side of O'Gradys Road, Kilmore East, just south of the intersection of O'Gradys Road with Sunday Creek Road. The subject land is comprised of two titles (Lots 1 and 2 PS449940U). The two lots have battleaxe configurations, which allow for access to O'Gradys Road. Lot 1 has an existing crossover from O'Gradys Road. Lot 2 has no established access. The subject land is within the 80 kilometre per hour zone of Kilmore East. Despite the presence of the existing crossover to Lot 1, it is noted that the entry/exit point is directed onto double lines on a curve with marginal sight distance.

The two land parcels are heavily vegetated. Lot 2 features an ephemeral waterway. The Goulburn Broken Catchment Management Authority (GBCMA) has revealed that this waterway is a designated waterway under the *Water Act 1989*. The waterway is clearly defined when entering the site at its south-west corner (ie defined bed and banks) before petering away to what could be described as a drainage line. Water flows occur along the passage of the waterway and continue across the south east arm of Lot 2 before entering the adjoining property at Crown Allotment, 1 Section 7, Parish of Glenburnie (O'Gradys Road). A dam is located on this property and acts to capture water flows before channelling it out onto O'Gradys Road. GBCMA do not consider the adjoining dam to be a diversion of an existing waterway and view it as an obstruction. The assessing officer has found no evidence of prior approvals for the adjoining dam at Crown Allotment, 1 Section 7, Parish of Glenburnie.

The subject land is sloped featuring a south-east to north-west slope of approximately 11 per cent. The land rises upward from O'Gradys Road reaching a contour level of 310 AHD towards the north-west corner.

Adjoining development is residential in nature and is low density/rural-residential in appearance (eg medium to large sized blocks within a bushland setting).

There is no evidence of previous planning permits on the land in question.

### Details

The proposal entails the subdivision of land to create nine new lots which will be accessed by an internal road. Further details of the proposed development are as follows:

- Construction of an internal road to run east-west from O'Gradys Road before making a 90 degree turn to run north-south terminating in a court bowl. The proposed road will be constructed over land which has a slope of approximately 11 per cent in part. The road will allow entry and exit from O'Gradys Road to all lots.

- The proposed lots are to have the following areas:

Lot 1	4173
Lot 2	4037
Lot 3	4069
Lot 4	5541
Lot 5	4044
Lot 6	4025
Lot 7	4400
Lot 8	5249
Lot 9	4688

- The battleaxe arm of Lot 1 PS449940 will become part of proposed Lot 9.
- The construction of the internal road will include the construction of a single culvert crossing along its east-west leg.
- The construction of a pedestrian path to follow the west side of the internal road and the south side. The applicant has indicated that the footpath is to be constructed of granitic sand and will include a culvert crossing. The applicant has indicated that the court bowl will be capable of containing a diameter of 23 metres.
- The removal of native vegetation to create the internal road. The flora and fauna report indicates the need to remove 57 trees with an ability to retain 23 trees within the proposed road reserve. The applicant has indicated that there may be potential to retain a greater number of trees within the proposed road reserve area.
- Provision of building and effluent envelopes. Effluent envelopes have been provided which show primary and reserve fields. On-site irrigation systems have been proposed. The building envelopes for Lots 1, 2, 8 and 9 are setback a distance of 30 metres from the existing waterway. Effluent fields are setback a distance of between 60 to 63 metres from the existing waterway which complies with the minimum requirements of the Code of Practice for Septic Tanks, 2003.
- The permit applicant has indicated that the majority of internal storm water drainage is to be controlled via an underground pipe system. A swale drain is to be constructed between the boundaries of Lots 1, 3 and 4 and the adjoining properties to the east.
- The construction of a new table drain along the west side of O'Gradys Road within the vicinity of the opening to the new road to redirect water to the existing box culvert within O'Gradys Road rather than across the driveway and into the adjoining property.
- Kilmore east is currently provided with reticulated water.

A flora and fauna report prepared by the permit applicant states the following in regard to the quality of vegetation and presence of fauna:

- No flora species of significance were recorded. No flora species of significance was observed during site inspections.

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PLANNING PERMIT APPLICATION NO. P304066 (CONT)

- Eleven threatened fauna species were identified following a desktop analysis of the Kilmore East area. As the identified species are commonly associated with permanent water bodies such as dams, wetlands and permanent watercourses, it is considered unlikely that the identified species will be present within the subject site.
- The subject site has been delineated into two zones (ie Zones 1 and 2) based upon the level of vegetation coverage and disturbance. Zone 1 features *“remnant scattered tree cover with weed dominated shrub and ground flora (less than 30% of understorey species intact/present”*. Zone 2 features *“largely intact remnant canopy vegetation with little physical disturbance by reduced understorey and moderate levels of weed cover”*.

The subject site would have been located within the Grassy Dry Forest EVC 22 prior to European development. This EVC is defined as depleted throughout the Central Victorian Uplands with 40% of its pre European extant still intact.

The land capability assessment prepared by the applicant reaches the following conclusions:

*Our capability assessment has shown that at least one rational and sustainable on-site effluent disposal methods (20:30 standard irrigation methods) may be appropriate for the subdivision, for allotment sizes down to 4000m<sup>2</sup>.*

*Allotment setout and geometry should take into account the requirement of a 60m set-back from the ephemeral stream located adjacent to the south-eastern boundary and to avoid slopes steeper than 20%.*

The land capability assessment states that ground surface slopes are between 15% to 22% generally and locally to 25%. The report states that there is no evidence of past land slip. The report states further that *“...sub-surface conditions, slope degree and geometry and for the proposed range of hydraulic loadings, the stability of the ground slopes within the disposal areas are unlikely to be compromised”*. The report describes site surface drainage as generally fair and states that the residual soils will control effluent seepage rates. The report states that; *“In accordance with AS/NZS 1547:2000 the residual clay materials can be classified as Type 5 soils. Hence, we have adopted a design loading rate (DLR) of 6 litres/m<sup>2</sup>/day for 20/30 standard effluent”*.

The report recommendations are based upon the above and in part on consecutive 9<sup>th</sup> decile monthly rainfalls and a daily effluent production of 1000 litres (considered to be conservative). The type of system proposed is an on-site irrigation system where effluent should be treated by an aerated treatment plant, sand filter or other approved method, to a standard that meets or exceeds the water quality requirements of the 20/30 standard for BOD/SS or

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PLANNING PERMIT APPLICATION NO. P304066 (CONT)

complies with Schedule E of State Environment Protection Policy – Waters of Victoria or to a standard suitable to allow discharge from the site to a point of disposal approved by the Municipal Council or subsurface irrigated on-site.

Council does not consent to a system which will allow discharge from the site. All effluent must be retained and treated on-site.

## Referrals

### External referrals

The application was referred to the following external bodies:

- DSE, under Section 52 of the Act
- GBCMA, under Section 52 of the Act
- CFA, under Section 55 of the Act
- Origin, under Section 55 of the Act
- TXU (T-squared), under Section 55 of the Act
- Telstra, under Section 55 of the Act
- GVW, under Section 55 of the Act

In reviewing the applicant's flora and fauna report and net gain propositions, DSE have indicated a preference for Option 2 (Zone 1) and Option 1 (Zone 2). Zones 1 and 2 have been used by the permit applicant to designate differing qualities of vegetation found across the site.

GBCMA offers no objection to the proposed development providing building envelopes are located at least 30 metres from the designated waterway. The Authority also suggests that advice in regard to the removal of native vegetation should be obtained from DSE.

TXU (T-squared) and CFA offer no objection to the proposed subdivision subject to the inclusion of permit conditions.

Origin and Telstra offer no objection to the proposed subdivision and have not sought to impose any permit conditions.

The site can be connected to reticulated water but not reticulated sewerage. The application was referred to GVW. GVW has stated that there are no reticulated sewerage services in Kilmore East and there is no proposal to provide this service in the future. The Authority states that; *"In this respect Goulburn Valley Water considers the average area of the proposed allotments 4470 sqm maybe inappropriate without reticulated sewerage"*. The Authority has suggested that a land capability assessment be prepared prior to the development of the land proceeding and that this report should be to the satisfaction of not only Council but GVW as well. A copy of the land capability assessment submitted with the application was forwarded to GVW on the 3 May 2005. At the time of writing this report, no comment has been received from GVW. GVW has been advised that Council's Environmental Health Manager has no objection to the development proceeding. Conditions

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PLANNING PERMIT APPLICATION NO. P304066 (CONT)

relating to the provision of reticulated water will be included on any permit issued.

#### Internal referrals

The application was referred to internally to:

- Council's Acting Asset Engineer
- Council's Environmental Programmes Co-ordinator
- Council's Environmental Health Manager
- Council's Works Manager

Council's Acting Asset Engineer states that the proposed access point into the subdivision fronts a straight section of sealed road, however the building line is approximately 2 to 2.5 metres below the level of the sealed roadway (ie O'Gradys Road). Any subdivisional access to the main roadway will require substantial filling near the main roadway and the construction of a flat standing zone. Council's Acting Asset Engineer states further:

A majority of the land falls steeply to the south east with the majority of the proposed residential area estimated to be 10% slope or greater. The proposed roadway will require a high level of both road safety and drainage measures incorporated into the design.

Concerns have been raised regarding the construction of the road across land which has a slope of 11%, the use of a substantial amount of fill at the commencement of the internal road and the 90 degree bend in the road as it turns from a north-south direction to run east-west. Permit conditions will however require the preparation of detailed road construction plans. There is also some concern regarding the continued use of access to Lot 4 from O'Gradys Road given the bend in O'Gradys Road and speed limits (80 kph). There are also double white lines at this point which vehicles will be required to cross. The following comments have been made in regard to stormwater; *Stormwater discharge from the subdivision will need to be addressed due to the likely flow being directed across adjacent freehold land. Drainage easements and or drainage to a nominated point of discharge will be required in any design. Likewise some form of treatment and possible retention is desirable in steep discharge such as is proposed.* All drainage will be required to be taken underground. There will also be a requirement proposed to construct a swale drain between the subject site and properties located to the east and a spoon drain between the subject site and the property located to the north. The swale drain will capture run-off which contains nutrients from effluent fields and the spoon drain will capture run-off from the road surface and prevent a contaminated water flow entering the adjoining dam located to the north.

Council's Environmental Programmes Co-ordinator has raised concerns regarding the extent of vegetation removal required to undertake the subdivision, the likelihood of further vegetation removal once the lots are developed, erosion issues and nutrient levels associated with the proposed



effluent systems which may threaten the health of vegetation to be retained. In response, the permit applicant states the following:

- The permit applicant has indicated that the proposed road will take on a meandering form which will result in an increased ability to retain vegetation. A condition on any planning permit issued will require registered building envelopes to appear on the plan of subdivision. The building envelopes must be sited so as to minimise the extent of vegetation removal required and the extent of excavation.
- The applicant acknowledges that due to the densely vegetated nature of the subject land, it will be necessary to install effluent systems within vegetated areas. The land capability assessment submitted with the application provides commentary on the effects of irrigation on existing trees. A study undertaken by Melbourne University indicates that the impacts of 20/30 irrigation on eucalypts (remnant species) has shown that trees would not be adversely effected by subsurface 20/30 standard irrigation provided the distribution slots did not exceed about 150mm in depth. The land capability assessment therefore concludes that the proposed effluent systems will not a negative impact on existing vegetation as a result of siting the effluent lines.
- Erosion issues can be dealt with via the preparation of an erosion management plan to be undertaken by the permit holder.

Council's Works Manager has requested that the following items be considered:

- That rock beaching be provided to the outlet of the proposed culverts over the main drainage stream so as to dissipate energy of the flow and eliminate erosion as a result of said dissipation.
- That any road drainage system outlets discharging to the main drainage system also have rock beaching applied around those outlets to eliminate erosion and dissipate accumulated energy within such discharge flows.

There were initial concerns raised by Council's Environmental Health Manager regarding the size of the proposed lots and the ability to treat and retain effluent on-site. Following a meeting between Council's Environmental Health Manager and Paul Williams who prepared the LCA, there is no objection offered by the Environmental Health Unit. It is still noted that land slope is a concern, however as the effluent lines will be sited to follow the contours of the land there is a reduced concern regarding effluent discharge across the site due to stormwater flows. The LCA prepared by the applicant states that based upon land slope, the effluent fields will need to occupy a certain area. Dwelling size (eg number of bedrooms) will also have an impact on the area of the effluent field required. A condition on any planning permit issued will require the applicant to site effluent fields so as to take into account land slope and appropriate dwelling size given land capability. The effluent fields will need to be fully dimensioned. The effluent fields and accompanying locations will then be registered on the plan of subdivision as a restriction. A Section 173 Agreement will also be imposed which requires future landowners to undertake annual monitoring of the irrigation systems and report to Council.

**State Planning Policy Framework (SPPF)**

The following SPPF clauses have been considered:

- Clause 11.03-2: SPPF; Environment
- Clause 15.01: SPPF; Protection of catchments, waterways and groundwater
- Clause 15.09: SPPF; Conservation of native flora and fauna
- Clause 15.12: SPPF; Energy efficiency

Comments

Net gain principles will be applied in regard to the replacement of vegetation to be removed under the application. The design of the effluent systems will be the subject of a Section 173 Agreement and a restriction will appear on the plan of subdivision nominating the location of effluent fields based upon land slope and household size. All lots are capable of satisfactorily orientating development to the north.

**Municipal Strategic Statement (MSS)**

The following MSS clauses have been considered:

- Clause 21.03: MSS; Key issues
- Clause 21.05: MSS; Objectives and strategies

Comments

Specific guidance in regard to the development of Kilmore East is not contained within the scheme. It is noted however that Kilmore is a growing township and that there is a strong rural residential interest in the Shire. In general it is considered preferable to intensify development in reticulated areas rather than allow for development of a higher order in unsewered areas. In this instance however the applicant has demonstrated an ability to meet with minimum requirements and subject to permit conditions, it is not anticipated that the development will have an environmental impact.

**Local Planning Policies (LPP)**

The following LPP clauses have been considered:

- Clause 22.03-1: LPP; Effluent disposal and water quality
- Clause 22.03-2: LPP; Erosion risk
- Clause 22.03-5: LPP; Land capability and catchment and land protection
- Clause 22.03-09: LPP; Steep land
- Clause 22.04-2: LPP; Fire safety
- Clause 22.06-1: LPP; Residential infrastructure requirements

Comments

Issues regarding effluent disposal, erosion, land capability, emergency access (eg in the event of fire) and road construction have been addressed throughout this report and conditions applied accordingly.

## Zone

The subject site is located within the Township Zone (TZ). The relevant purpose of the TZ is as follows:

*To provide for residential development and a range of commercial, industrial and other uses in small towns.*

*To encourage residential development that respects the neighbourhood character.*

A planning permit is triggered under the provisions of the TZ for the subdivision of land. The application is required to be assessed under Clause 56 (Residential subdivision) of the scheme. An assessment of the subdivision against Clause 56 is located below.

## Overlays

The subject site is affected by the following overlays:

- Erosion Management Overlay (EMO).

### Erosion Management Overlay

The purpose of the EMO is as follows:

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

*To protect areas prone to erosion, landslip or other land degradation processes, by minimising land disturbance and inappropriate development.*

A planning permit is required under the EMO for the removal of vegetation and for the construction and carrying out of works. It is noted however that roadworks are a form of works which are exempted at Clause 62.20 of the scheme.

The following decision guidelines are considered relevant to the application:

- Any proposed measures to manage concentrated runoff and site drainage.
- Any proposed measures to minimise the extent of soil disturbance.
- Whether the removal of vegetation will increase the possibility of erosion, the susceptibility to landslip or other land degradation processes, and whether such removal is consistent with sustainable land management.
- The need to stabilise disturbed areas by engineering works or revegetation.

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 PLANNING PERMIT APPLICATION NO. P304066 (CONT)

- Whether the land is capable of providing a building envelope which is not subject to high or severe erosion concern.
- Whether buildings or works are likely to cause erosion or landslip.
- Whether access and servicing of the site or building envelope is likely to result in erosion or landslip.

Drainage will be predominantly managed through the provision of underground infrastructure. The undertaking of compensatory planting and the need to prepare an erosion management plan to address identified erosion will assist in restabilising the area post-works. The land capability assessment prepared by the applicant has indicated that the subject land shows no signs of past land slip. Building envelopes will be required to be registered on the plan of subdivision which ensure a minimisation of vegetation removal and the extent of excavation required.

Council has commenced the preparation of Amendment C39 to the planning scheme which seeks to reduce areas affected by the EMO. In referring to Kilmore East, prepared amendment documentation states that the EMO should be retained over those areas which reflect steeper slopes in geological and soil types that are more subject to erosion. The reduced EMO areas should reflect the critical erosion prone areas as identified in maps associated with the *Land Capability of the Shire of Mitchell, Centre for Land Protection Research, July 1996*. The land capability mapping prepared for the Shire states in regard to Kilmore East that the soil types are poor with severe limitations including; *Considerable engineering difficulties during development and/or a high risk of land degradation exists*. It would therefore seem unwise to remove the EMO from the subject land meaning that it is likely that the existing controls will continue to guide development and trigger planning permits for the removal of vegetation.

### Particular Provisions

The following provisions are relevant:

- Clause 52.17, Native vegetation
- Clause 56, Residential subdivision

#### Clause 52.17, Native vegetation

Clause 52.17 states that a planning permit is required to remove native vegetation on lots of greater than 4000 sqm in area. There are a number of exemptions, which exist under Clause 52.17 however the proposed subdivision does not qualify. A planning permit is therefore required to remove native vegetation in order to the site the proposed road.

#### Clause 56, Residential Subdivision

The proposed development has been assessed against Clause 56. The following is relevant:

<b>56.02-1 Residential character and identity</b>	The character of Kilmore East is one, which presents as a cluster of dwellings around the Kilmore East train station.
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<p><b>objective</b> <b>Standard C1</b></p>	<p>Kilmore East has a low density/rural-residential feel. There is no sense of residential connectivity between the dwellings, between the dwellings and train station and between settlement and the township of Kilmore. The proposed plan of subdivision includes an internal pedestrian path, which will allow access out onto O'Gradys Road. Although there is no pedestrian path located along O'Gradys Road (eg to allow pedestrian access to the train station) future Kilmore East initiatives may allow for its eventual connection, in which case the proposed subdivision will be able to link directly. In this way, the proposed subdivision is able to partly contribute towards improving the identity of Kilmore East. The density of lots proposed is in keeping with the purpose of the Township Zone. It is considered that the existing controls which apply to the land (ie the EMO which triggers a planning permit for vegetation removal) will act to control future vegetation removal. Building envelopes will be required to be registered on the plan of subdivision which seek to minimise vegetation removal and the extent of excavation required to site dwellings and ancillary outbuildings.</p> <p><b><i>Objective and standard achieved subject to conditions</i></b></p>
<p><b>56.02-2 Planning for movement objective</b> <b>Standard C2</b></p>	<p>The subdivision layout allows for an internal road capable of providing two-way vehicle access. An internal pedestrian path will also be provided along one side of the proposed road. The Kilmore East train station is within relative proximity to the subject land. It is noted that while there is no footpath along O'Gradys Road which acts as a pedestrian link, should a future O'Gradys Road footpath be constructed the proposed subdivision will be able to connect. Whilst there is no impediment to cyclists using the proposed internal road, there may be some safety issues for cyclists upon entering and exiting O'Gradys Road. Beyond the train station there are limited destinations for commuter and recreational cyclists. This situation is beyond the scope of the subdivision to rectify and should not be viewed as an impediment to granting a permit.</p> <p><b><i>Objective and standard achieved</i></b></p>
<p><b>56.02-3 Environmental sustainability objective</b> <b>Standard C3</b></p>	<p>See above clauses for discussion on the provision of vehicle, pedestrian and cyclist access. The application does entail the removal of vegetation for the purpose of constructing the internal road. Future vegetation removal will also be required as each lot is developed for the purposes of dwellings and required effluent systems. The existing EMO will provide adequate control as to future vegetation removal (ie through the planning permit process) and it is not envisaged that Amendment C39 to the scheme will remove this control from the land given a tendency towards erosion. A flora and fauna report</p>

	<p>prepared by the applicant includes discussion on compensatory planting. The applicant has confirmed an ability to provide for all required compensatory planting within the confines of the subject land (ie proposed road reserve and along the alignment of the existing waterway). There is some concern that once the lots are developed with dwellings and ancillary development (eg effluent disposal systems and outbuildings) wholesale vegetation removal will occur. It is noted however that the EMO, which applies to the land, currently triggers a planning permit for vegetation removal and that there are no exemptions available under that control. The existing planning controls are therefore considered to be adequate in terms of controlling future vegetation removal and requiring further compensatory planting in the event of approving vegetation removal. The existing waterway is badly eroded in portions, particularly towards the common boundary of the subject land and land adjoining to the south. A condition on any planning permit issued will require the applicant to prepare an erosion management plan which outlines measures to be undertaken to control identified and manage identified erosion. The subdivision does not compromise the integrity of the existing waterway. The land capability assessment recognises that land slope has a bearing upon site areas which need to be devoted to the installation of irrigation systems. The size of future households (ie number of bedrooms) will also have an impact upon the likely functioning of the proposed systems. To this end a permit condition will require the nomination of effluent fields based upon land slope and feasible dwelling size. The effluent fields and accompanying notations will appear as a restriction on the plan of subdivision.</p> <p><b><i>Objective achieved subject to conditions</i></b></p>
<p><b>56.02-4 Residential diversity objective Standard C4</b></p>	<p>Kilmore East is isolated from the township of Kilmore. Kilmore contains a variety of commercial/community services and a diversity of housing stock. The TZ recognises that Kilmore East is a cluster of dwellings grouped around the Kilmore East train station and that this is a residential pattern as opposed to a rural living or rural land development. The zoning also recognises that given the existence of the train station there may be some future ability to capitalise upon the rail link to Melbourne and encourage a diversity of development around the station. Kilmore East is not connected to reticulated sewerage meaning that lots must be of a size able to retain effluent. The 'diversity' envisioned by Standard C4 is therefore limited in this instance as there must be a degree of uniformity in lot size if an increase in residential density is contemplated. In any case an increase in the number of lots within Kilmore East is considered appropriate in terms of increasing the number of residents who will be able to make greater use of the train station,</p>

	<p>which is within a comfortable distance. The Kilmore East Reserve is also located opposite the subject land, which may serve a recreational purpose to future residents. Although it is difficult for the subdivision to achieve Standard C4 for the reasons outlined above, the objective (<i>To provide residential areas that meet the diverse needs of the community with a wide choice in housing and associated public and commercial uses</i>) is able to be met. The proposed subdivision seeks to increase the residential density of Kilmore East, which will provide a greater choice in available lot sizes and it will enable a greater number of residents to easily access the Kilmore East train station.</p> <p><b><i>Standard unable to be achieved however objective is satisfactorily achieved</i></b></p>
<p><b>56.02-5 Public open space objective Standard C5</b></p>	<p>The proposed development does not include any public open space areas able to be used for recreation. It is acknowledged however that the subdivision is small in scale and that the Kilmore East Reserve is located directly opposite the subject land to the east side of O'Gradys Road. A condition on any planning permit issued will require the permit holder to contribute a monetary sum to Council in lieu of the provision of physical space for recreation purposes. Although the proposed subdivision does not meet with Standard C5 and arguably the objective, which is to provide public open space for recreation, future residents will have convenient foot access to the Kilmore East Reserve. In this respect the subdivision is considered to meet with the objective, which is to provide a public open space network. The subdivision is able to take advantage of existing recreation reserves.</p> <p><b><i>Standard not achieved however objective is satisfactorily achieved subject to conditions</i></b></p>
<p><b>56.02-6 Safety and security objective Standard C6</b></p>	<p>All of the proposed lots will have a frontage to the new internal road. The proposed pedestrian path will also be located to adjoin residential lots. In this way the proposed development satisfies Standard C6 and will allow for passive surveillance to occur within the new development.</p> <p><b><i>Objective and standard achieved</i></b></p>
<p><b>56.02-7 Environmental constraints and bushfire hazard objective Standard C7</b></p>	<p>An instance of erosion has been identified along the alignment of the existing waterway. This erosion is considered to be severe in parts. As discussed above, a condition on any planning permit issued will require the applicant to prepare an erosion management plan to address and manage erosion problems. The slope of the land (approximately 11%) has raised some concerns with engineering regarding road construction and with environmental health regarding the performance of the proposed effluent disposal systems. The applicant will be required to lodge detail road construction plans to</p>

	<p>engineering for approval prior to the commencement of works and a Section 173 Agreement will be imposed which requires future landowners to monitor the proposed effluent systems. The application has been referred to the CFA in regard to the construction of the road. The Authority offers no objection to the proposed development subject to conditions. In regard to safeguarding property against bushfire, it is noted that the subject land is not contained within the Wildfire Management Overlay (WMO) or subject to Amendment C35, which seeks to increase land affected by the WMO. The responsibility for developing a fire management plan will rest with future landowners. It is noted that due to the planning overlays, which affect the land, vegetation clearing to create buffers around dwellings will require planning approval.</p> <p><b><i>Standard and objective achieved subject to conditions</i></b></p>
<p><b>56.03-1 Street network objectives Standard C8</b></p>	<p>The proposed subdivision involves the construction of one road only to service the nine lots. This road can be described as an “access street” being a street designed to cater for 30 dwellings or less. An access street also facilitates pedestrian and cyclist movements and should have a target speed of between 30 to 40 km’s an hour. The proposed road will terminate at a court bowl and has not been designed to allow for through traffic. This is considered appropriate however given the boundaries of the TZ, which interface with rural land.</p> <p><b><i>Standard and objective achieved</i></b></p>
<p><b>56.03-2 Street network detail objectives Standard C9</b></p>	<p>The small scale of the subdivision and direct link to O’Gradys Road ensures convenient access from each lot to an arterial road (ie O’Gradys Road) in less than three turns.</p> <p><b><i>Standard and objective achieved</i></b></p>
<p><b>56.03-3 Intersection objective Standard C10</b></p>	<p>The proposed layout contains no internal intersections. The new road does however form a T-Junction intersection with O’Gradys Road. This will serve to reduce car speed to and from the proposed subdivision and in that respect provide a level of traffic management. O’Gradys Road is a Council road and is not under the authority of VicRoads. Harrington Street (T-Junction intersection with O’Gradys Road) is located approximately 520 metres to the south-east of the proposed access point into the subdivision and an unopened road reserve is located approximately 340 metres to the south-east. The spacing of existing and proposed intersections are well in excess of Standard C10. A condition on any planning permit issued will require the roadwork plans to have input from a qualified traffic engineer in regard to the design of the intersection. This will include commentary upon the potential need to provide a right turn/left turn lane into the development and a resulting need to widen O’Gradys</p>



	<p>Road.</p> <p><b><i>Standard and objective achieved subject to conditions</i></b></p>
<p><b>56.03-4 Controlling speed objective Standard C11</b></p>	<p>The proposed subdivision will appropriately control vehicle speed through limiting the length of the road and the provision of an internal 90 degree turn. Council's engineering department had initial concerns regarding safety given the angle of the turn however have imposed appropriate conditions to manage safety concerns.</p> <p><b><i>Standard and objective achieved subject to conditions</i></b></p>
<p><b>56.03-5 Local accessibility objectives Standard C12</b></p>	<p>The proposed road network will provide safe access for pedestrians and cyclists. As stated above, the subdivision layout will include a footpath. Please refer above for a more detailed discussion on pedestrian and cyclists issues. A condition on any planning permit issued will require the footpath to be constructed of asphalt rather than granitic sand which will allow for ease of maintenance once the road reserve is transferred to Council.</p> <p><b><i>Standard and objective achieved subject to conditions</i></b></p>
<p><b>03-6 Public transport objectives Standard C13</b></p>	<p>There are no public transport services available to Kilmore East with the exception of the Melbourne-Sydney rail line. Please refer above for a more detailed discussion on connectivity to the Kilmore East train station. It is difficult for the subdivision to achieve objectives relating to public transport given limitations on available services. The subdivision will allow however for more residents to be located within a closer proximity to the Kilmore train station. The subdivision is also of a small scale and does not need to allow for the circulation of public transport vehicles through the subdivision.</p> <p><b><i>Standard and objective satisfactorily achieved</i></b></p>
<p><b>56.04-1 Pedestrian and cyclists objectives Standard C14</b></p>	<p>Please refer above for a discussion on pedestrian and cyclist issues.</p> <p><b><i>Standard and objective achieved</i></b></p>
<p><b>56.05-1 Shared usage objective Standard C15</b></p>	<p>Please refer to Standard C16. The proposed subdivision does not provide public open space.</p>
<p><b>56.05-2 Public open space provision objectives Standard C16</b></p>	<p>No public open space has been provided as part of the application. This is considered appropriate however given the small scale nature of the development and the close proximity of the Kilmore East Reserve. A condition on any planning permit issued however will require the applicant to contribute a monetary sum to Council in lieu of physically providing public open space.</p>

	<b><i>Standard and objective achieved subject to conditions</i></b>
<b>56.05-3 Public open space design objectives Standard C17</b>	Please refer to the above standard  <b><i>Not applicable</i></b>
<b>56.06-1 Lot diversity objective Standard C18</b>	The size of the lots is dictated in part by the constraints posed by having to rely upon on-site effluent treatment. The lots are therefore of a uniform size, however are not inconsistent with the surrounding pattern of development and the purpose of the zone, which is to allow for residential development.  <b><i>Standard and objective achieved</i></b>
<b>56.06-2 Solar orientation objective Standard C19</b>	The lots are capable of being developed by dwellings which are capable of being orientated to the north. Open space is also able to be provided with good northern orientation.  <b><i>Standard and objective achieved</i></b>
<b>56.06-3 Site constraints and features objective Standard C20</b>	Please refer to Standard C7 for discussion on site constraints and features.
<b>56.06-4 Lot area and dimensions objective Standard C21</b>	The applicant has demonstrated that the each lot is capable of containing a building envelope and effluent field. Building envelopes and effluent fields will be imposed via a restriction on the plan of subdivision.  <b><i>Standard and objective achieved</i></b>
<b>56.07-1 Streetscapes objectives Standard C22</b>	There are a number of standards which refer to gradient, crossfalls and speed control. The application was referred to engineering who are aware of land slope issues but have consented to the application subject to conditions. Those conditions include a necessity to prepare detailed road construction plans.  <b><i>Standard and objective achieved subject to permit conditions</i></b>
<b>56.07-2 Street width objectives Standard C23</b>	Refer to Standard C22
<b>56.07-3 Street alignment objective Standard C24</b>	Refer to Standard C22
<b>56.07-4 Street function objectives Standard C25</b>	Refer to Standard C22
<b>56.07-5 Emergency vehicle access</b>	Emergency vehicles will not be restricted from entering the subject site. CFA have commented upon the

PLANNING PERMIT APPLICATION NO. P304066 (CONT)

<b>objective Standard C26</b>	<p>application and have imposed conditions relating to the construction of the road.</p> <p><b><i>Standard and objectives achieved subject to conditions</i></b></p>
<b>56.07-6 Intersections and turning objective Standard C27</b>	<p>The proposed subdivision does not include any internal intersections. The new road will make a T-Junction with O'Gradys Road however. This will have the effect of slowing traffic and controlling the speed of traffic upon entry and exit from the proposed subdivision. There are no safety issues associated with the location of the intersection owing to O'Gradys Road having a straight alignment in this section and other T-Junctions along O'Gradys Road being located at a distance of greater than 300 metres to the south-east.</p> <p><b><i>Standard and objectives achieved</i></b></p>
<b>56.08-1 Pavement construction objectives Standard C28</b>	<p>The proposed footpath will be required to be constructed of asphalt and not granitic sand. This will allow for efficient maintenance and flexibility given tree roots. Detailed drawings of the proposed footpath will need to be submitted to Council for approval.</p> <p><b><i>Standard and objective achieved subject to conditions</i></b></p>
<b>56.08-2 Pavement edge objective Standard C29</b>	<p>Please refer to Standard C28</p>
<b>56.08-3 Path construction objective Standard C30</b>	<p>Please refer to Standard C28</p>
<b>56.09-1 Minor drainage layout objectives Standard C31</b>	<p>The permit holder will be required to prepare and submit detailed drainage plans to Council for approval. As stated throughout the report, drainage is to be located underground and will also include the creation of swale and spoon drains to further manage run-off across effluent fields and from roads. The existing waterway will continue to allow a natural flow of water through the property. Natural flows will be directed towards O'Gradys Road and a table drain.</p> <p><b><i>Standard and objective achieved subject to conditions</i></b></p>
<b>56.09-2 Minor drainage design objectives Standard C32</b>	<p>Refer to Standard C31</p>
<b>56.09-3 Minor drainage discharge objective Standard C33</b>	<p>Refer to Standard C31</p>
<b>56.09-4 Drainage pits objective Standard C34</b>	<p>Refer to Standard C31</p>

<b>56.09-5 Major drainage system objectives Standard C35</b>	Refer to Standard C31
<b>56.10-1 Shared trenching objective Standard C36</b>	There is no impediment to trench sharing for the transmission of services. This will be negotiated at a later date when agreements are reached between the permit holder and the relevant authorities.  <b><i>Standard and objective achieved</i></b>
<b>6.10-2 Sewerage objective Standard C37</b>	Kilmore East has no existing reticulated sewerage services. The standard states that sewerage should be disposed of via a reticulated system as this is not possible all effluent must be retained and treated on-site. To this end, the applicant has prepared a land capability assessment, the findings of which Council's Environmental Health Manager concurs with. The proposed effluent systems are able to meet with the Code of Practice for Septic Tanks, 2003.  <b><i>Standard unable to be fully met however objective is satisfactorily achieved</i></b>
<b>56.10-3 Water supply objective Standard C38</b>	The proposed subdivision will be required to connect to existing reticulated water infrastructure.  <b><i>Standard and objective achieved subject to conditions</i></b>
<b>56.10-4 Electricity, telecommunications and gas objective Standard C39</b>	The proposed subdivision has been referred to all relevant servicing authorities. The subdivision must connect to electricity and telecommunications services. The referral authorities have not indicated an impediment to providing these services. It is noted that gas services are not available to Kilmore East residents.  <b><i>Standard and objective are achieved subject to conditions</i></b>
<b>56.10-5 Public lighting objective Standard C40</b>	The proposed subdivision should be provided with public lighting of a standard design. This requirement will be a condition of any planning permit issued.  <b><i>Standard and objective achieved subject to conditions</i></b>

## General Provisions

### Clause 65, Decision Guidelines

The relevant decision guidelines located at Clause 65 of the Mitchell Planning Scheme have been considered including lot size, vegetation removal, pedestrian and cyclist movements, vehicle movements, drainage, fire hazard and land capability/site constraints. A discussion of the above matters is contained throughout this report.

## Notification

The application was advertised by way of direct notification to adjoining and adjacent landowners and occupiers, two signs on site (to face O'Gradys Road) and the posting of a public notice in the Kilmore Free Press.

## Objections

As a result of notification Council has received seven objections. The nature of the objections can be summarised as follows:

- Potential water pollution to existing dam located at the north
- Flooding to adjoining properties
- Removal of vegetation from waterway
- Damage to existing water flow and potential contamination from septic tanks run-off, fertilisers, motor oil, detergents, sedimentation if road is unsealed etc
- Light pollution
- Dust pollution
- Noise pollution
- Insufficient details regarding proposed revegetation programme
- Reliance upon fill to construct road which may contain pollutants
- Instance of erosion within the alignment of the existing waterway and potential jeopardy to common boundary fence (ie subject land and)
- Property devaluation

One objector has suggested that the internal road be located along the battleaxe arm of Lot 4. An access point at this location cannot be considered however owing to safety issues (eg sight lines and the presence of double white lines).

## Discussion

### Potential water pollution to existing dam located at the north

All drainage will be underground and a spoon drain located along the north boundary of the southern arm of the subject site (ie between the subject site and the property located to the east) to prevent the transference of water running of the road into the existing dam. The assessing officer is satisfied that the proposed development will not result in contamination of the existing dam. It is uncertain however as to what degree the required drainage (ie underground) will result in a restriction of water flows into the dam. The dam will fill naturally via rainwater and general overland flows, however if the dam water levels rely heavily upon discharge from the existing waterway, it may be necessary for the proposed drainage works to contemplate the artificial release of clean water into the dam. To this end, a condition on any planning permit issued will require the permit holder to enter into discussions with the adjoining landowner to the north to ascertain as to whether drainage infrastructure should allow for the periodic release of clean water into the existing dam. If so, this mechanism must be provided.

Damage to existing water flow and potential contamination from septic tanks run-off, fertilisers, motor oil, detergents, sedimentation if road is unsealed

The permit applicant has indicated that the flow of water through the existing watercourse will not be restricted through the provision of culverts at those points which the road and proposed footpath cross the watercourse. The applicant states further that the provision of compensatory planting within the alignment of the water course will assist further in protecting the integrity and function of the watercourse (eg through additional filtration of discharges).

All drainage will be via an underground drainage system and the addition of a swale drain between the common boundary of the subject land and properties to the east (to capture run-off flowing downhill which has travelled across irrigation fields) and a spoon drain between subject land and the property located to the north (to ensure that contaminated water does not flow across the road into the adjoining property thus transferring contaminants into the existing dam.

The internal road is to be sealed eliminating sedimentation due to the transference of surface gravel.

Flooding to adjoining properties

The subject site is not located within a known flood area. All stormwater will be managed via underground drainage and the integrity of the existing waterway will be protected (ie existing water flows will not be obstructed). Water flows will be directed towards O'Gradys Road within which table drains will be located.

Removal of vegetation from waterway

Vegetation to be removed must be replaced and an Erosion Management Plan must be prepared by the applicant and submitted to Council for approval. This plan will address identified erosion within the waterway alignment.

Light pollution

The subdivision must be provided with street lighting to ensure a degree of safety within the development. The lighting can be of a limited intensity however. Details of the required lighting will be required via an amendment of the submitted plans. Details of the location, number and type of lighting must be provided.

Dust pollution

As the proposed road is to be sealed, dust issues will not be experienced by adjoining properties.

Noise pollution

All noise will be residential in nature which is acceptable given that the land is zoned for township purposes.

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PLANNING PERMIT APPLICATION NO. P304066 (CONT)

Insufficient details regarding proposed revegetation programme

The applicant has provided a flora and fauna report which recommends offset planting ratios. A condition on any planning permit issued will require the applicant to confirm the extent of vegetation removal required and to provide details to Council as to the extent of revegetation (eg number and types of species) and the locations within which planting is to occur. The submitted revegetation programme will be endorsed under the planning permit.

Reliance upon fill to construct road which may contain pollutants

A general permit condition will be included which refers to the required fill and foreign pollutants.

Instance of erosion within the alignment of the existing waterway and potential jeopardy to common boundary fence

The applicant will be required to address erosion problems as part of any approval given. Once the erosion programme is approved and erosion control works commence, the applicant will be able to negotiate with the adjoining landowner regarding fencing type through the provisions contained in the Fences Act.

Property devaluation

This is not a valid planning ground upon which Council can contemplate an assessment of the current planning proposal.

## **RECOMMENDATION**

### **THAT:**

Notice of Decision to Grant a Permit No. P304066 be issued for subdivision of land and the removal of vegetation at 1 O'Gradys Road (Lots 1 and 2 PS449940U), generally in accordance with the endorsed plans and subject to the following conditions:

1. Prior to the subdivision commencing, two (2) copies of amended plans drawn to scale and dimensioned, must be submitted to and approved by the Responsible Authority. The plans must be generally in accordance with the plans submitted to with the application but modified to show:
  - a) Full extent of pedestrian footpath along the west and south side of the proposed internal road. The plans are to notate that the path is to be constructed of asphalt.
  - b) The provision of public street lighting within the proposed internal road. The plans must show the number, location and type of lighting to be provided. This detail should be provided upon consultation with T-Squared and must comply with Condition 26 of this permit.
  - c) The re-instatement of existing access from O'Gradys Road to Lot 1 PS449940U. All access to the future Lot 4 is to be via the proposed internal road with no access available from

- O'Gradys Road. Suitable fencing is to be provided to the frontage.
- d) The plans must clearly mark all trees and vegetation for removal and retention within the proposed road reserve.
  - e) Lots 1, 2, 8 and 9 must be provided with building envelopes that are located a minimum distance of 30 metres from the existing waterway. In addition, all lots must be provided with building envelopes which seek to minimise vegetation removal and the extent of excavation required. To this end, the slope of land across which the envelopes will be located must be notated on the plans. These building envelopes must be registered on the plan of subdivision. Dwellings and associated outbuildings must be constructed within the building envelope areas.
  - f) All lots must be provided with effluent fields to correspond with the findings of the *Land Capability Assessment for On-Site Effluent Disposal at O'Gradys Road, Kilmore East* prepared by Paul Williams and Associates Pty Ltd (November 2004). To this end, the plan of subdivision must provide for appropriate irrigation areas based upon land slope and maximum dwelling size. The plans must notate the slope of land over which the irrigation fields will be located, contain properly dimensioned effluent fields and stipulate the maximum dwelling size which should be constructed on each of the proposed lots. The effluent envelopes and above notations will appear as a restriction on the plan of subdivision to be registered by the permit holder.
  - g) Notation regarding the undertaking of erosion works to accord with the requirements of Condition 11 of this permit.
  - h) Location of street trees to comply with Condition 20 of this permit. Details of the species and maximum height and spread of the trees must also be supplied.
  - i) Easements in favour of Mitchell Shire Council or referral authority to the satisfaction of the Mitchell Shire Council.
  - j) Cul-de-sac heads to be designed to provide minimum radius of 15.0m BOK, for turning movements for Design Medium Rigid Vehicle (11.5m) in accordance with Mitchell Planning Scheme Standard C27.
  - k) Undergrounding of low stormwater flows along the principal depression to at least the junction with the proposed cul-de-sac.

Once approved the plans will be endorsed under the permit.

2. The layout of the proposed subdivision as shown on the endorsed plan, shall not be altered or modified (whether or not in order to comply with any Statute, Statutory Rule or Local Law or for any other reason) without the prior consent of the Responsible Authority.



### 3. Road Construction

Before roadworks associated with the development start, detailed construction plans and specifications must be submitted to Council for approval. The plans must have been prepared with input from a qualified traffic engineer. The plans must include:

#### *Internal Roads and Streets*

- a) Fully sealed pavement with SM2 kerb and channel both sides, pavement width to be not less than 6.0 metres
  - b) Pavement shall be designed in accordance with Austroads Pavement Design – a Guide to Structural Design of Road Pavements, revised 1999. Pavements shall include a minimum wearing course of 30mm asphalt. The pavement design shall use equivalent axle loadings based on a traffic generation rate of 20 vehicles per day per lot and a 20 year design life.
  - c) Traffic control and safety devices.
  - d) Footpaths shall be provided with suitably located points to meet DDA requirements.
  - e) Underground stormwater drains
  - f) Vehicle crossing to each lot.
  - g) Street nameplates and other traffic control signs as required.
  - h) Intersection design with O’Grady’s Road. The design must investigate the need to provide a right turn/left turn lane into the development including the potential need to widen O’Grady’s Road.
4. Preparation to a revegetation plan which undertakes compensatory planting in accordance with the recommendations of the flora and fauna assessment submitted with the application and prepared by *Felix Botanica Pty Ltd (2005)*. The plan is to reflect “Option 2” for “Zone 1” and “Option 1” for “Zone 2” in terms of planting ratios. The plan is to reference the types, species and location of chosen compensatory planting and must replicate the natural composition of a Grassy Dry Forest EVC 22 area. The plan must indicate the percentage of understorey and overstorey species and must also clearly indicate the location of new plantings. The plan must also contain planting notes which outline the methods of planting and procedures to ensure a survival rate of 80%. The revegetation plan must be submitted to the Responsible Authority prior to the commencement of works and once approved will be endorsed under this permit.
5. Before the plan of subdivision is certified under the Subdivision Act, 1988 the permit holder must enter into an agreement with the Responsible Authority made pursuant to Section 173 of the Planning and Environment Act, 1987 for the purposes of contributing an agreed

Community Development Levy of \$900.00 and an Infrastructure Levy of \$600.00 per each new lot created by the subdivision. Such an agreement shall, in addition to the formal requirements, contain terms providing:

- a) If the permit lapses or is cancelled, the Responsible Authority shall refund any contribution(s) to the permit holder.
- b) If the permit is amended so that the number of lots is increased or reduced, a corresponding payment or refund shall be made to the Responsible Authority or the permit holder, whichever is the case.
- c) The contribution is to be paid into a Community Development Levy Reserve account for the future provision of services in the vicinity of the development.
- d) The payment of the contribution may be staggered in accordance with the approved staging plan provided that payment for each stage is made prior to the issuing of a Statement of Compliance for that stage.
- e) That the permit holder shall be liable to pay the full cost of preparing and registering the agreement.

Should the permit holder provide written confirmation that the agreed Community Development Levy will be paid within seven days prior to the issue of the Statement of Compliance, this Section 173 Agreement will not be required.

6. Further to Condition 1(h), the on-site irrigation systems required to service each of the nine approved lots must be in accordance with the findings of the *Land Capability Assessment for On-Site Effluent Disposal at O'Gradys Road, Kilmore East* prepared by Paul Williams and Associates Pty Ltd (November 2004) and submitted as part of the application. In so saying, prior to the commencement of the development, the permit holder must enter into an agreement with the Responsible Authority made pursuant to Section 173 of the Planning and Environment Act, 1987 to provide for the following:

- a) The required on-site irrigation systems must be installed to Lots 1 to 9 prior to the use and occupation of future dwellings. The systems must be installed to the satisfaction of the Responsible Authority. The design of the systems must be carried out by a person or firm approved by the Responsible Authority and must specify the details of the systems including the disposal of waste.

Maintenance reports must be prepared by a person or firm approved by the responsible authority and must be submitted to the responsible authority (ie Council's Environmental Health Unit) every twelve months (ie by the 1<sup>st</sup> August on an annual basis). The report must be prepared after an inspection of the system and must document the condition and operation of the system and any repair works which are necessary. The carrying

out of all maintenance and repair work documented in the latest maintenance report must occur within 2 months of the report.

The cost of preparing the above Section 173 Agreement is to be borne by the permit applicant.

7. Drainage Construction

Before drainage works associated with the development start, detailed construction plans and specifications must be submitted to Council for approval. The plans must include:

a) *Internal Drainage System.*

All lots, reserves and other areas must be connected to a drainage system designed and installed in accordance with Standards C31, C32, C33 and C34 of the Mitchell Planning Scheme, adapted as required to suite greater run-off from industrial sites. The system must include provision within the development for restriction of stormwater outflows to pre-development levels and a gross pollutant trap prior to discharge to any watercourse or existing drainage line.

The drainage system must be provided to maintain stormwater flows from any higher land and protect buildings from inundation under normal and minor system blockages conditions for an AEP of 1% in accordance with Mitchell Planning Scheme Standard C35.

Low flow stormwater in the depression shall be undergrounded and the bed and banks of the depression reconstructed or reinstated to the satisfaction of the Responsible Authority.

b) *Outfall Drainage System.*

Underground stormwater drainage discharge from the development to an approved waterway or outfall shall be designed and constructed to reduce 70% of stormwater litter and 80% solids.

c) *Drainage Outfall.*

The applicant must negotiate with the landowner or land manager of lands external to the subdivision to acquire any easements, rights or licence to drain stormwater run off through the land to the nearest drainage line or approved outfall point.

d) *Drainage works at applicants cost*

The owner/developer/applicant under this permit is required to construct at no cost to Council, drainage works between the subject land and the Council nominated point of discharge. Such drainage works shall be designed by a qualified engineer and submitted to

Council's Development Approvals Engineer for approval. Construction of the drainage system must be carried out in accordance with Council's specification and under Council supervision. Council shall approve the nominated point of discharge.

e) *Stormwater Retention*

The developer is required to provide an on-site detention system to retain and treat stormwater wholly within the boundaries of the subject land. The detention system must be designed and installed to the satisfaction of the Responsible Authority.

f) *Release of water into the existing dam located the north*

The permit holder must engage in discussions with the adjoining landowner located to the north to discuss whether the drainage infrastructure should be designed to allow for the slow release of clean water into the existing dam. Such mechanisms would allow the dam to maintain current water levels.

8. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities and electricity, public lighting, gas and telecommunication services to each lot shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.
9. All works constructed or carried out must be in accordance with those plans and specifications and completed to the satisfaction of the Mitchell Shire Council prior to issue of a Statement of Compliance.
10. The owner shall pursuant to Section 18 of the Subdivision Act, 1988 and in accordance with the following requirements, provide a public open space contribution as follows; pay to Mitchell Shire Council 5% of the site value of all of the land in the subdivision. This condition shall be deemed to take effect not more than seven days prior to the issue of a Statement of Compliance for the subdivision or any stage thereof.
11. Preparation of an Erosion Management Plan to specifically address identified erosion along the alignment of the waterway which passes through Lots 8 and 9. The plan must outline measures for the undertaking of erosion control works. The Erosion Management Plan must be to the satisfaction of Council. Once approved, the plan will be endorsed and will then form part of this permit. Erosion works as outlined within the report must be completed prior to the issue of Statement of Compliance by Mitchell Shire Council.
12. Rock beaching must be provided to the outlet of the proposed culverts over the main drainage stream so as dissipate energy of the flow and eliminate erosion as a result of said dissipation.

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PLANNING PERMIT APPLICATION NO. P304066 (CONT)

13. The road drainage system outlets discharging to the main drainage system must have rock beaching applied around those outlets to eliminate erosion and dissipate accumulated energy within such discharge flows. This must appear as a notation on the plan of subdivision for endorsement.
14. The applicant must provide: public lighting, street trees, road works, drainage, road furniture and landscaping for each lot to the satisfaction of Mitchell Shire Council.
15. Prior to the issue of Statement of Compliance, access shall be provided to all lots hereby approved to the satisfaction of the Responsible Authority. The Statement of Compliance will be released when all conditions contained in this permit have been fulfilled to the satisfaction of the Responsible Authority.
16. The permit holder shall make provision within the construction period, and to the satisfaction of the Responsible Authority, for the following:
  - a) Collection and disposal of building rubble, waste and surplus materials.
  - b) Erosion control and filtering of sediments from stormwater runoff.
  - c) Hardstanding areas for construction vehicles and equipment and materials.
  - d) Washdown and disposal of mud and waste materials from construction and delivery vehicles.
  - e) Reinstatement of naturestrips and adjacent private properties.
  - f) The installation and maintenance of barriers, fencing and signage.
17. Ensure that the site be developed and managed to minimise the risks of stormwater pollution through the contamination of run-off by sediments, chemicals or gross pollutants in accordance with currently accepted best practice.
18. A truck wheel-wash must be installed and maintained during infrastructure construction, and used so that vehicles leaving the site do not deposit mud or other materials on roadways to the satisfaction of the Mitchell Shire Council.
19. All roads/storage areas/external stockpiles/vacant or grazed areas must be maintained to avoid dust nuisance to any residential area to the satisfaction of the Mitchell Shire Council.
20. *One street tree per lot under a plan to be approved of by the Responsible Authority*
21. The waterway shall be rehabilitated and planted to the satisfaction of Council.

22. The developer shall, prior to the issue of a Statement of Compliance, pay a plan checking fee of 0.75% of the value of the subdivision civil construction cost and a supervision fee of 2.5% of the subdivision civil construction cost, to the Responsible Authority. The developer shall certify the subdivision civil construction cost by submitting a priced schedule of works as supplied by the successful construction contractor.
23. All existing and proposed easements and sites for existing or required utility services and roads on the land must be set aside in the plan of subdivision submitted for certification in favour of the relevant authority for which the easement on site is to be created under the Subdivision Act 1988.
24. Only that vegetation marked as “to be removed” or similar notation on the endorsed plans shall be allowed to be removed or destroyed to the satisfaction of the Responsible Authority.
25. The permit holder shall enter into agreements with the relevant authorities for the provision of services – including reticulated water supply, drainage, sewerage, electricity, gas and telecommunications.
26. All external street lighting must be of a limited intensity to ensure no nuisance is caused to adjoining or nearby residents and must not result in direct light or glare to adjoining properties to the satisfaction of the Responsible Authority and relevant electricity authority.
27. All fill transported onto the site must be clean and free of foreign contaminants.
28. In regard to the approved subdivision, this permit will expire if the either of the following circumstances applies:
  - a) The plan of subdivision is not certified within two years of the issue date of this permit; or
  - b) The subdivision is not completed within five years of the date of certification of the plan of subdivision.

The Responsible Authority may extend the permit if a request is made in writing prior to expiry of the permit or within three months afterwards.

#### Department of Sustainability and Environment

29. All earthworks must minimise soil erosion in accordance with the “Guidelines for Minimising Soil Erosion and Sedimentation from Construction Sites in Victoria”, (Soil Conservation Authority, 1970).
30. Prior to the removal of native vegetation, a Native Vegetation Management Plan should be developed in consultation with the Department.

Goulburn Valley Water

31. Payment of a headworks contribution for water supply to the development, such amount being determined by the Authority at the time of payment.
32. Provision of a reticulated water supply and associated construction works to each allotment within the development, at the developer's expense, in accordance with standards of construction adopted by and to the satisfaction of the Goulburn Valley Region Water Authority.
33. The operator under this permit shall be obliged to enter into an Agreement with the Goulburn Valley Region Water Authority relating to the design and construction of any water works required. The form of such Agreement shall be to the satisfaction of Goulburn Valley Water. A copy of the format of the Agreement will be provided on request.
34. The plan of subdivision lodged for certification is to be referred to the Goulburn Valley Region Water Authority pursuant to Section 8(1) of the Subdivision Act, 1988.

T-Squared

35. Enter into an agreement with SPI Electricity Pty Ltd for supply of electricity to each lot on the endorsed plan.
36. Enter into an agreement with SPI Electricity Pty Ltd for the rearrangement of the existing electricity supply system.
37. Enter into an agreement with SPI Electricity Pty Ltd for rearrangement of the points of supply to any existing installations affected by any private power line which would cross a boundary created by the subdivision, or by such means as may be agreed by SPI Electricity Pty Ltd.
38. Provide easements satisfactory to SPI Electricity Pty Ltd for the purpose of "Power Line" in favour of "Electricity Corporation" pursuant to Section 44 and Schedule 2 of the Electricity Industry Act 1993, where easements have not been otherwise provided, for all existing SPI Electricity Pty Ltd electric power lines and for any new power lines required to service the lots on the endorsed plan and/or abutting land.
39. Obtain for the use of SPI Electricity Pty Ltd any other easement required to service the lots.
40. Adjust the position of any existing SPI Electricity Pty Ltd easement to accord with the position of the electricity(s) as determined by survey.

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PLANNING PERMIT APPLICATION NO. P304066 (CONT)

41. Set aside on the plan of subdivision Reserves for the use of SPI Electricity Pty Ltd for electric substations.
42. Provide survey plans for any electric substations required by SPI Electricity Pty Ltd and for associated power lines and cables and executes leases for a period of 30 years, at a nominal rental with a right to extend the lease for a further 30 years. SPI Electricity Pty Ltd requires that such leases are to be noted on the title by way of a caveat or a notification under Section 88(2) of the Transfer of Land Act prior to the registration of the plan of subdivision.
43. Provide SPI Electricity Pty Ltd a copy of the plan of subdivision submitted for certification that shows any amendments that have been required.

#### Country Fire Authority

44. Before the development commences, amended plans to the satisfaction of CFA must be submitted for approval by CFA and the responsible authority. When approved, the plans will be endorsed and then form part of the permit. The plans must be drawn to scale with dimensions. The plans must be generally in accordance with the plans submitted with the application but modified to show:
  - Operable hydrants, above or below ground. Hydrants must be shown with a maximum distance between a hydrant and the rear of a building envelope (or in the absence of the building envelope, the rear of a lot) of 120m and hydrants must be no more than 200m apart.
  - Constructed roads with a minimum trafficable length width of 7.3 m, if parking unrestricted, or 5.4m if parking prohibited on one side of road or 3.5m if parking prohibited on both sides of road.
  - Constructed roads more than 60m in length from the nearest intersection must have a turning circle with a minimum radius of 8m (including roll-over kerbs if they are provided) T or Y heads of dimensions specified by the CFA may be used as alternatives.
45. Hydrants:
  - 45.1 Operable hydrants, above or below ground must be provided to the satisfaction of CFA.
  - 45.2 The maximum distance between these hydrants as the rear of all building envelopes (or in the absence of the building envelope, the rear of all lots) must be 120m and hydrants must be no more than 200m apart.
  - 45.3 Hydrants must be identified as specified in 'Identification of Street Hydrants for Firefighting purposes' available under publications on the Country Fire Authority web site ([www.cfa.vic.gov.au](http://www.cfa.vic.gov.au)).



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PLANNING PERMIT APPLICATION NO. P304066 (CONT)

46. Roads:

- 46.1 Roads must be constructed to a standard so that they are accessible in all weather conditions and capable of accommodating a vehicle of 15 tonnes for the trafficable road width.
- 46.2 The average grade must be no more than 1 in 7 (14.4%) (8.1 degrees) with a maximum of no more than 1 in 5 (20%) (11.3 degrees) for no more than 50 metres. Dips must have no more than 1 in 8 (12%) (7.1 degree) entry and exit angle.

***Cr Gordon having declared an interest in the consideration of this item left the Council Chambers at 8.45pm.***

**MOVED:** CR. R. LEE

**SECONDED:** CR. R. HUMM

**THAT:** Council defer this item to October Ordinary meeting for further investigation by officers and ward Councillors.

**LOST**  
3/3

*The motion was **LOST** on the casting vote of the chairperson.*

***Cr Gordon returned to the Council Chambers at 8.46pm.***

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 PLANNING PERMIT APPLICATION NO. P304066 (CONT)

***Cr Gordon having declared an interest in the consideration of this item left the Council Chambers at 8.55pm.***

**MOVED:** CR. R. LEE

**SECONDED:** CR. R. HUMM

**THAT:** a Notice of Refusal to grant a Planning Permit be issued on the following grounds:

1. The removal of native vegetation and danger to wildlife is inappropriate.
2. Due to the slope of the land, the future development of the proposed lots will result in excessive stormwater run-off which will be difficult to control.
3. The proposed T-junction with O'Gradys Road will be unable to safely accommodate the vehicle movements associated with the additional lots.
4. The possible sewerage seepage from the subdivision is a risk to pollution of local waterways.

**CARRIED**

3/3

*The motion was **CARRIED** on the casting vote of the chairperson.*

Cr. Lee called for a **DIVISION:**

<b>FOR</b>	<b>AGAINST</b>
Cr. Humm	Cr. Paterson
Cr. Lee	Cr. Ure
Cr. Melbourne	Cr. Marstaeller

***Cr Gordon returned to the Council Chamber at 8.57pm.***

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**9.14 PLANNING PERMIT APPLICATION NO. P304184, 20 LOT SUBDIVISION & VARIATION OF AN EASEMENT, WILLOWMAVIN ESTATE**

**Author:** *Luke Cervi- Subdivision & Development Officer*

**File No:** *5054450000 / P304184*

**Reference:** *Nil*

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Applicant: Mrs M Ryan c/o Millar Merrigan P/L  
Property: Lot ET9 PS443564E, Parish of Willowmavin  
Address: 50 Kulin Drive, Kilmore  
Zoning: Residential 1 Zone (R1Z)  
Proposal: 20 lot subdivision and removal of easement E-1 on lot ET9 on PS443564

**Summary**

This report recommends that a Notice of Decision to grant a planning permit be issued for the proposed 20 lot subdivision and removal of easement E-1 at Lot ET9 PS 443564S, Willowmavin Estate, Kilmore, given the application meets the objectives of the Local and State policies and Rescode. The report also recommends a number of conditions on the planning permit be included, which are considered appropriate for this nature of development.

**Background**

A planning permit was issued on 21/5/99 to allow the subdivision of a large rezoned (rural to residential) parcel into "maxi-lots" through permit P301459. The subject site was thus formed and was labelled "ET9". The subject lot was effectively landlocked, but there was a presumption that it would be further subdivided once other adjoining maxi-lots had been subdivided and roads formed.

The road network approved by P301459 for maxi-lot ET9 has been altered by a further plan of subdivision, P302908 for the land adjoining maxi-lot ET9 on the northern boundary. This subdivision altered the proposed road network by creating two courts branching south off Francis Court and deleting an access point that was originally proposed to link with maxi-lot ET9 (being the subject land) and Kulin Drive to the South. This subdivision plan was endorsed on 16/8/2002.

The subject site is described as Lot ET9 PS443564S which covers an area of 2.177ha and is zoned Residential 1 under the Mitchell Planning Scheme. No overlays apply to the site. The site contains an existing dwelling and shed.

**Covenants, Restrictions and/or Agreements**

In accordance with the current title search(s) submitted with this application, there are two Agreements registered as restrictions on the Title:

1. An agreement made pursuant to Section 173 of the Planning and Environment Act 1987, which provides for:
  - Subdivision of the land to be undertaken "generally in accordance with the layout shown on the endorsed plan."
  - A "Maxi-Lots Developers Levy", which was "to be paid to the Responsible Authority by the owner for each additional lot created by the plan of subdivision prepared for that stage";
  - A "Residential Develop Levy", which was "to be paid to the Responsible Authority by the new owner for each additional lot created by the plan of subdivision prepared for that Stage, prior to the Statement of Compliance for that Stage";
  - A "Community Infrastructure Levy", which was "to be paid to the Responsible Authority prior to the issue of a Building Approval to be issued of the construction of a dwelling on a Maxi-lot.;
  - The Responsible Authority to undertake works at the times set down in the Schedule.
  
2. An Agreement entered into pursuant to the provisions of 17(2c) of the Act with Goulburn Valley Water and the developer, which provided for the construction of sewerage infrastructure within the estate as it progressed.

**Comments**

Agreement 1 is an agreement with Council. It is the officers' opinion that the proposal is generally in accordance with the endorsed plan. The Levy's specified in the agreement can be conditioned into the permit.

Agreement 2 is an agreement with Goulburn Valley Water. The application was referred to Goulburn Valley Water who did not object to the proposal subject to the imposition of conditions. A number of these conditions relate to the provision of sewerage infrastructure.

**Details**

The current application is to subdivide maxi-lot ET9 PS443564E into 20 lots and remove the easement shown as E-1. The easement provides for access and other servicing of the land. The proposal is considered to be generally in accordance with P301459. Kulin Drive shall be continued as a through road linking the eastern and western sides of the estate. A road linking ET9 with the land adjoining to the south will also be constructed to the southern boundary of ET9 as part of this subdivision. The lots shall range in size from 386m<sup>2</sup> to 2681m<sup>2</sup>.

The removal of the E-1 easement is possible as alternative arrangements for servicing can be conditioned into the permit. Access will be provided (by way of construction of the proposed roads) and other services have been considered by the relevant authorities as part of the referral process. The referral authorities benefiting from the easement either had no objections or required conditions to ensure services can be catered for.

**Planning Controls****State Planning Policy Framework***Clause 11.03-1 Settlement*

Planning is to anticipate and respond to the needs of existing and future communities through provision of zoned and serviced land for housing, employment, recreation and open space, commercial and community facilities and infrastructure. Planning is to recognise the need for, and as far as practicable contribute towards:

- Health and safety.
- Diversity of choice.
- Adaptation in response to changing technology.
- Economic viability.
- A high standard of urban design and amenity.
- Energy efficiency.
- Prevention of pollution to land, water and air.
- Protection of environmentally sensitive areas and natural resources.
- Accessibility.
- Land use and transport integration.

*Clause 14.01-1 Settlement Objective*

- To ensure a sufficient supply of land is available for residential, commercial, industrial, recreational, institutional and other public uses.
- To facilitate the orderly development of urban areas.

*Clause 15.12-1 Energy Efficiency Objective*

To encourage land use and development that is consistent with the efficient use of energy and the minimisation of greenhouse gas emissions.

*Clause 16.01-1 Residential development for single dwellings Objective*

To encourage:

- Subdivisions in locations with access to physical and community infrastructure and providing a range of lot sizes, a convenient and safe road network, appropriate pedestrian and cycle paths, sufficient useable public open space and low vulnerability to fire.
- Residential development that is cost-effective in infrastructure provision and use, energy efficient, incorporates water-sensitive design principles and encourages public transport use.
- Opportunities for increased residential densities to help consolidate urban areas.

*Clause 18.01-1 Declared highways, railways and tramways Objective*

To integrate land use and transport planning around existing and planned declared highways, railways, principal bus routes and tram lines.

*Clause 18.07-2 Education Facilities General Implementation*

In planning areas near to education facilities, adjoining streets and accessways should be designed to encourage safe bicycle and pedestrian access.

*18.12-2 Developer Contributions to Infrastructure General Implementation*

- Development Contributions Plans, prepared and approved under the Planning and
- Environment Act 1987, should be used to manage contributions towards infrastructure.
- Development contributions may be collected on the basis of an approved Development Contributions Plan.
- When preparing Development Contributions Plans planning authorities should have regard to the Development Contributions Guidelines (Department of Sustainability and Environment, June 2003).

*Clause 19.01-2 Particular Uses and Development – Subdivision - General implementation*

Planning schemes should enable:

- Referral of applications for subdivision and plans of subdivision to relevant statutory authorities and relevant Government agencies responsible for water, sewerage, drainage, electricity, gas and telecommunications services, the management of water supply and drainage catchments, the management of fire risk areas, the allocation of water rights or access to a freeway, highway, main road, tourist road or forest road.
- The placing of open space requirements on development proposals.

- The removal or variation of easements and restrictions to enable use or development that complies with planning schemes after the interests of affected people are considered.
- The adjustment of boundaries to comply with other legislation.

*Clause 19.03 Particular Uses and Development Design and Build Form*

Comments

The proposed subdivision is seen to be appropriately located in regard to its proximity to a large open space reserve to the west. Furthermore, it represents 'in-fill' development in an area of increasing residential use and density. The demand for housing in Kilmore is strong and this site represents a good opportunity to increase the viability of businesses in town, without increasing the need for vehicular traffic and, subsequently, emission of greenhouse gases.

Proximity to recreational facilities is quite good, with the Kilmore Leisure center only about 5 minutes drive to the east of the proposed lots and Hudson Park even closer.

Access to major roads, i.e. Kilmore Lancefield Road and the Northern Highway is easily attainable via Kulin Drive.

**Municipal Strategic Statement**

*Clause 21.05-3 Settlement*

Settlement Strategy

The overall settlement strategy for the Mitchell Shire is to support continuing residential growth based on the areas which can be serviced with reticulated water and sewer and which are well served by the road infrastructure and planned community services and facilities. This will mean that residential growth will continue to be focused on the traditional towns of... Kilmore...

The key features of Kilmore are:

- A "country" township with a blend of town focused and metropolitan commuter population.
- A wide range of facilities and services able to meet the needs of the regional community.
- A strong historical and cultural base to the community development.
- An integrated range of economic and social infrastructure.
- A disproportionately high quantity of education facilities (a feature of the township).
- An attractive physical setting for existing and future development.
- Structure of the township is strongly influenced by the topography and drainage pattern.
- The growth and development of specific commercial facilities is greatly dependent on the traffic passing through the township, however, increasing heavy commercial vehicle traffic adversely affects town amenity.

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PLANNING PERMIT APPLICATION NO. P304184 (CONT)

- Facilities and services within the town centre are servicing the township and wider hinterland.

#### Residential Growth

- Incorporate buffering between the rural, rural residential and urban developments.
- Where possible utilise natural and landscape features, parkland or public land as boundaries and buffers.
- Implement regulatory measures to ensure septic systems comply with present standards.
- Encourage the consolidation of urban development.
- Future Investigation Areas indicated on the town structure plan will be considered for rezoning from rural to residential or low density residential when existing residential zoned land will provide for less than 15 years projected.
- Investigate the need for Neighbourhood Character statements or overlays with the Kilmore urban area.

#### Comments

This proposed subdivision represents an urban subdivision, as it is only a few minutes drive from the center of Kilmore and represents an excellent opportunity to consolidate the western edge of town.

The proposed layout can provide for passive recreational (walking) access to the proposed open space reserve.

The site will be provided with full sewerage infrastructure, although the developer will need to provide for appropriate on-site stormwater drainage mechanisms.

#### **Local Planning Policy Framework**

##### *Clause 22.02 Settlement*

#### Objectives:

- To maintain and strengthen the attributes of the separate towns within the Shire.
- To ensure the co-ordinated management of new urban development and growth.
- To manage the impact of urban development and growth on the productive capacity of surrounding rural land and the environment generally.
- To use the strategic structure plan for each town and community to assist in coordinated land use and development planning.

#### Comments

The proposed subdivision fulfils the intent of the original maxi-lot subdivision of the estate.



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 PLANNING PERMIT APPLICATION NO. P304184 (CONT)

## Zoning Provisions

Residential 1 Zone

### *Clause 32.01-2 Subdivision*

A permit is required to subdivide land.

**A subdivision must meet the requirements of Clause 56.**

### Clause 56 Assessment Table

Objective	Comments	Assessment
<p><b>Residential character and identity objective</b></p> <p>To design residential areas that promote community development through the creation of neighbourhood focal points and a sense of local character and identity.</p>	<p>Scheme provisions</p> <ul style="list-style-type: none"> <li>▪ The character of the subdivision layout is not governed by any scheme provisions, beyond this assessment.</li> </ul> <p>Title restrictions</p> <ul style="list-style-type: none"> <li>▪ However, there is a section 173 agreement that was included as a restriction on all titles created when the estate was subdivided into superlots.</li> <li>▪ This agreement provided for a nominal subdivisional layout and required that subsequent subdivision applications be in “general accordance” with that layout.</li> <li>▪ The road layout of ET9 was subsequently altered through permit P302908, which removed a road linking ET9 with land on its northern boundary.</li> </ul> <p>Site Context</p> <ul style="list-style-type: none"> <li>▪ The proposal is part of the Masterplan for Willowmavin Estate.</li> </ul> <p>Neighbourhood identity</p> <ul style="list-style-type: none"> <li>▪ The subdivision is consistent with the existing identity having regard to lot size and existing Masterplan</li> </ul>	<p>Complies</p>
<p><b>Planning for movement objective</b></p> <p>To provide a movement network that establishes good</p>	<p>Road layout</p> <ul style="list-style-type: none"> <li>▪ The proposed road layout provides for reasonably short vehicle trips for pedestrians seeking to enter Kilmore.</li> </ul>	<p>Complies</p>

<p>internal and external access for residents, maximises safety, encourages public transport patronage and minimises the impact of through traffic.</p>	<p>Road widths</p> <ul style="list-style-type: none"> <li>▪ Road reserve widths vary between 18m and 20m.</li> <li>▪ Kulin Drive is the road that links the eastern and western sides of the estate.</li> </ul>	
<p><b>Environmental sustainability objective</b></p> <p>To facilitate an environmentally sustainable approach to urban development by minimising fossil fuel use, protecting environmental assets and providing for higher densities.</p>	<p>Minimising fossil fuel use</p> <ul style="list-style-type: none"> <li>▪ The proposed layout provides adequate connectivity back into Kilmore’s broader road network...</li> <li>▪ Residents will have a reasonable passive recreation opportunity on their doorstep.</li> </ul> <p>Pedestrian and Cyclists</p> <ul style="list-style-type: none"> <li>▪ The street network will allow for pedestrians and cyclists to access the Kilmore township through a series of footpaths and a cycle path located approximately 300m from the subject site.</li> </ul> <p>Vegetation removal</p> <ul style="list-style-type: none"> <li>▪ The application does not include vegetation removal.</li> </ul> <p>Natural features, drainage and erosion</p> <ul style="list-style-type: none"> <li>▪ The site has slopes of between 2% and 3.5% and has a watercourse running to the west of the subject sites.</li> <li>▪ This watercourse is proposed to form the centrepiece of a reserve that is designated through the Section 173 agreement.</li> <li>▪ Provided appropriate drainage measures are employed the functioning of the proposed reserve to the east should overcome drainage and erosion issues.</li> </ul>	<p>Objective is achieved</p>
<p><b>Residential diversity objective</b></p> <p>To provide residential areas that meet the diverse needs of the community with a wide choice in housing and associated public and commercial uses.</p>	<p>Lot sizes</p> <ul style="list-style-type: none"> <li>▪ The lot sizes will range between 386m2 and 2681m2 providing for a variety of housing types.</li> </ul> <p>Future potential for commercial facilities</p> <ul style="list-style-type: none"> <li>▪ Not considered relevant.</li> </ul> <p><u>Public transport</u></p> <ul style="list-style-type: none"> <li>▪ Kilmore has no public transport</li> </ul>	<p>Objective is achieved.</p>

	and, owing to the close proximity of Kilmore township, a good quality footpath network would serve the community better.	
<p><b>Public open space objective</b></p> <p>To provide a public open space network, including appropriate land for recreation, that can meet the diverse needs of today's residents and be adapted to the needs of future users.</p>	<p>Open space provisions</p> <ul style="list-style-type: none"> <li>▪ The adjoining lot to the west will provide ample open space.</li> </ul>	Objective achieved.
<p><b>Safety and security objective</b></p> <p>To enhance the safety and security of residents and property in residential areas by reducing the potential for crime and vandalism.</p>	<p><u>Lot orientation</u></p> <ul style="list-style-type: none"> <li>▪ All lots have satisfactory orientation.</li> </ul>	Objective achieved.
<p><b>Environmental constraints and bushfire hazard objective</b></p> <p>To ensure that the design of residential areas takes into account environmental constraints including soil erosion, flooding and bush fire hazard.</p>	<p>Flooding issues</p> <ul style="list-style-type: none"> <li>▪ The subject site currently drains to a watercourse to the west.</li> <li>▪ A drainage plan should channel stormwater runoff to this watercourse and appropriate treatment measures should be made there.</li> </ul> <p>Significant vegetation retention</p> <ul style="list-style-type: none"> <li>▪ No significant vegetation.</li> </ul>	Objective achieved.
<p><b>Street Network objectives</b></p> <p>To provide a network of streets with clear physical distinctions between traffic routes and residential streets based on function, legibility, convenience, traffic volumes, vehicles speeds, public safety and amenity.</p> <p>To provide acceptable levels of accessibility,</p>	<p>Solar access</p> <ul style="list-style-type: none"> <li>▪ All lots provide for adequate solar access.</li> </ul> <p>Accessibility</p> <ul style="list-style-type: none"> <li>▪ Appropriate access has been provided and as such no additional matters remain unresolved.</li> </ul>	Objective achieved.

<p>safety and convenience for all street and road users in residential areas, while ensuring acceptable levels of amenity and minimising the negative impact of through traffic.</p> <p>To orient the street network to facilitate the production of lots with high solar access potential and integrate the street network with natural drainage and open space systems.</p>		
<p><b>Street network detail objectives</b></p> <p>To provide acceptable levels of accessibility, safety and convenience for all street and road users in residential areas, while ensuring acceptable levels of amenity and minimising the negative impact of through traffic.</p> <p>To discourage residential streets from operating as through traffic routes for externally generated traffic, while limiting the length of time local drivers need to spend in a low speed environment.</p> <p>To provide the basis for cost effective design and construction of the street network.</p>	<p>Street layout</p> <ul style="list-style-type: none"> <li>▪ The street layout provides appropriate and convenient access, generally in accordance with the endorsed plan.</li> </ul>	<p>Objective achieved.</p>
<p><b>Intersection objective</b></p> <p>To ensure street intersections are safe, convenient and appropriate for the type</p>	<ul style="list-style-type: none"> <li>• Proposed intersections meet with engineering standards</li> </ul>	<p>Objective achieved.</p>

PLANNING PERMIT APPLICATION NO. P304184 (CONT)

of street.		
<p><b>Local accessibility objectives</b></p> <p>To provide a safe, convenient and legible movement network for pedestrians and cyclists along streets and paths to points of attraction within and adjoining the development.</p> <p>To provide a movement network that contributes to limiting the use of fossil fuels.</p>	<p>Street network</p> <ul style="list-style-type: none"> <li>▪ The accessibility created by the street network is considered suitable in the overall context of the estate.</li> </ul>	<p>Objective is achieved.</p>
<p><b>Public transport objective</b></p> <p>To provide for bus routes that are accessible from all dwellings and activity centres and efficient to operate.</p> <p>To provide a movement network in the vicinity of fixed rail that is focused towards passenger stops.</p> <p>To establish a movement network that provides convenient linkages to activity centres and local facilities either within or adjoining the development.</p>	<p>Public transport</p> <ul style="list-style-type: none"> <li>▪ Kilmore has no public transport.</li> <li>▪ Kilmore's train station is located at Kilmore East and the subject site cannot be reasonably improved to provide pedestrian access to it.</li> <li>▪ In the event that public transport becomes available, Kulin Drive would be the most likely route. All lots are in close proximity to Kulin Drive.</li> </ul>	<p>Objective is achieved.</p>
<p><b>Pedestrian and cyclists objectives</b></p> <p>To provide a safe, convenient and legible network of on-street and off-street paths for pedestrians and cyclists to points of attraction within and beyond the development.</p>	<p>Pedestrian and cyclist network</p> <ul style="list-style-type: none"> <li>▪ Pedestrian and cycle access can be formed through the links into the other lots.</li> </ul> <p>Footpaths</p> <ul style="list-style-type: none"> <li>▪ Road reserve widths allow for footpaths on both sides of all streets and this provision would be desirable.</li> </ul>	<p>Objective is achieved.</p>

<p>To design and develop new residential communities to promote walking and cycling to daily activities.</p>		
<p><b>Shared usage objective</b></p> <p>To encourage the efficient use of public open space to meet diverse community needs.</p>	<p>Public open space provisions</p> <ul style="list-style-type: none"> <li>▪ The large open space proposed to the west can cater for larger and more formal passive and active recreational pursuits.</li> </ul>	<p>Objective is achieved.</p>
<p><b>Public open space provision objectives</b></p> <p>To ensure public open space of appropriate quality and quantity is provided to contribute towards meeting the recreational and social needs of the community in convenient locations.</p> <p>To incorporate natural and cultural features in the design of public open space where appropriate.</p>	<p>Open space reserves</p> <ul style="list-style-type: none"> <li>▪ As above.</li> </ul>	<p>Objective is achieved.</p>
<p>Public open space design objectives</p> <p>To ensure that public open space of appropriate quality and quantity is provided to contribute towards meeting the recreational and social needs of the community in convenient locations.</p> <p>To incorporate natural and cultural features into areas of public open space, where appropriate.</p> <p>To ensure that public</p>	<ul style="list-style-type: none"> <li>• As above</li> </ul>	<p>Objective is achieved.</p>

open space is designed and located to provide a safe environment for users and abutting and adjacent residents.		
<p><b>Lot diversity objective</b></p> <p>To provide a range of lot sizes to suit a variety of dwelling and household types, with an area and dimensions that meet user requirements.</p>	<p>Lot diversity</p> <ul style="list-style-type: none"> <li>▪ The lot sizes will range between 386m<sup>2</sup> and 2681m<sup>2</sup> providing for a variety of housing types.</li> <li>▪ Each lot can accommodate a dwelling and ancillary components.</li> </ul>	Objective is achieved.
<p><b>Solar orientation objective</b></p> <p>To orient lots to reduce fossil fuel use and make best use of solar energy.</p>	<p>Solar orientation</p> <ul style="list-style-type: none"> <li>▪ All lots have appropriate solar orientation.</li> </ul>	Objective is achieved.
<p><b>Site constraints and features objective</b></p> <p>To provide lots with an area and dimensions that protect environmental features and take account of site constraints.</p>	<p>Site constraints</p> <ul style="list-style-type: none"> <li>▪ The subject site is relatively flat and featureless.</li> <li>▪ Erosion can be controlled through appropriate drainage measures.</li> </ul>	Objective can be achieved through standard conditions.
<p>Lot area and dimensions objective</p> <p>To provide lots with area and dimensions to enable the appropriate siting and construction of a dwelling, private open space and vehicle access and parking.</p>	<p>Lots between 300sqm-500sqm</p> <ul style="list-style-type: none"> <li>▪ Lots 4 &amp; 5 are proposed to be 386m<sup>2</sup>.</li> <li>▪ Appropriate building envelopes have been shown.</li> </ul>	Objective is achieved .
<p><b>Streetscape objectives</b></p> <p>To provide attractive streetscapes that contribute to the creation and enhancement of neighbourhood character and amenity.</p> <p>To provide sufficient carriageway and verge widths to enable streets</p>	<p>Streetscape character</p> <ul style="list-style-type: none"> <li>▪ The proposed road reserves are appropriately graduated based on the nature of the streets.</li> </ul>	Objective is achieved.

<p>to perform their designated functions within the street network.</p> <p>To encourage use of residential streets by pedestrians and cyclists and allow cars, buses and other users to proceed safely and without unacceptable inconvenience and delay.</p> <p>To provide a safe, distinct and pleasant environment for residents and other users.</p>		
<p><b>Street width objectives</b></p> <p>To provide sufficient carriageway and verge widths to allow streets to perform their designated functions within the street network.</p> <p>To encourage use of residential streets by pedestrians and cyclists and allow cars, buses and other uses to proceed safely and without unacceptable inconvenience and delay.</p>	<ul style="list-style-type: none"> <li>• 20m &amp; 18m wide road reserves are provided which are deemed acceptable</li> </ul>	<p>Objective achieved</p>
<p><b>Street alignment objective</b></p> <p>To provide street geometry that is consistent with the needs of the street function, physical land characteristics and safety.</p>	<ul style="list-style-type: none"> <li>• Street alignment deemed appropriate</li> </ul>	<p>Objective achieved</p>
<p><b>Street function objectives</b></p> <p>To provide sufficient</p>	<ul style="list-style-type: none"> <li>• Road widths are deemed appropriate</li> </ul>	<p>Objective achieved</p>



<p>carriageway and verge widths to allow streets to perform their designated functions within the street network.</p> <p>To provide street geometry that is consistent with the needs of the street function, physical land characteristics and safety.</p> <p>To accommodate public utility services and drainage systems.</p>		
<p><b>Emergency vehicle access objective</b></p> <p>To provide appropriate emergency vehicle access.</p>	<ul style="list-style-type: none"> <li>Road network previously assessed as part of P301459.</li> </ul>	Objective achieved
<p><b>Intersections and turning objective</b></p> <p>To ensure intersections are designed to provide safe and convenient vehicle movements.</p>	<ul style="list-style-type: none"> <li>Intersection meet engineering requirements</li> </ul>	Objective achieved
<p><b>Pavement Construction objectives</b></p> <p>To provide street pavement and edges that reinforce the function and amenity of vehicles at a minimum total cost to the community.</p>	<ul style="list-style-type: none"> <li>Subject to appropriate condition on permit</li> </ul>	Objective can be achieved with conditions.
<p><b>Pavement edge objective</b></p> <p>To provide a pavement edge that is appropriate for the control of vehicle movements, performs any required drainage function and is structurally adequate.</p>	<ul style="list-style-type: none"> <li>As above</li> </ul>	Objective can be achieved with conditions.
<p><b>Path construction</b></p>	<ul style="list-style-type: none"> <li>As above</li> </ul>	Objective can

<p><b>objective</b></p> <p>To ensure the geometry and construction of footpaths and bicycle paths is appropriate.</p>		<p>be achieved with conditions.</p>
<p><b>Minor drainage layout objectives</b></p> <p>To prevent stormwater damage to property.</p> <p>To provide a stormwater system that can be maintained economically.</p> <p>To minimise the occurrence of traffic accidents during minor storm events.</p> <p>To minimise increases in stormwater run-off and protect the environmental values and physical characteristics of receiving watercourses from degradation by urban run-off.</p>	<ul style="list-style-type: none"> <li>• Drainage to be dealt with at design stage. Subject to appropriate condition on permit</li> </ul>	<p>Objective can be achieved with conditions.</p>
<p><b>Minor drainage objectives</b></p> <p>To prevent stormwater damage to property.</p> <p>To contain nuisance flows to a level that is acceptable to the community.</p>	<ul style="list-style-type: none"> <li>• As above</li> </ul>	<p>Objective can be achieved with conditions.</p>
<p><b>Minor drainage discharge objective</b></p> <p>To prevent stormwater damage</p>	<ul style="list-style-type: none"> <li>• As above</li> </ul>	<p>Objective can be achieved with conditions.</p>
<p><b>Drainage pits objective</b></p> <p>To protect the environmental values and physical characteristics of</p>	<ul style="list-style-type: none"> <li>• As above</li> </ul>	<p>Objective can be achieved with conditions.</p>

receiving watercourses from degradation by urban run-off.		
<p><b>Major drainage system objectives</b></p> <p>To prevent flood damage to the built environment and prevent both short term and long term inundation of dwellings.</p> <p>To contain nuisance flows to a level that is acceptable to the community.</p> <p>To ensure the street system operates adequately during and after storm events.</p> <p>To provide a stormwater system that minimises erosion and utilises open space in a manner that does not detract from its principal function.</p> <p>To protect the environmental values and physical characteristics of receiving watercourses.</p>	<ul style="list-style-type: none"> <li>As above</li> </ul>	Objective can be achieved with conditions.
<p><b>Shared trenching objective</b></p> <p>To provide public utilities to each lot in a timely, efficient and cost effective manner.</p> <p>To maximise the opportunities for shared trenching and reduce constraints on landscaping within road reserves.</p>	<ul style="list-style-type: none"> <li>Shared trenching is now standard practice and is dealt with at the subdivision detailed design stage.</li> </ul>	Objective achieved
<p><b>Sewerage objective</b></p> <p>To provide a sewerage system that is adequate</p>	<ul style="list-style-type: none"> <li>Reticulated sewer is available</li> </ul>	Objective achieved

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 PLANNING PERMIT APPLICATION NO. P304184 (CONT)
 

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for the maintenance of public health and the disposal of effluent in an environmentally friendly manner.		
<b>Water supply objective</b>  To provide an adequate, reliable, safe, efficient supply of water.	<ul style="list-style-type: none"> <li>Reticulated water is available</li> </ul>	Objective achieved
<b>Electricity, telecommunications and gas objective</b>  To provide public utilities to each lot in a timely, efficient and cost effective manner.	<ul style="list-style-type: none"> <li>Application referred to relevant authorities</li> </ul>	Objective achieved
<b>Public lighting objective</b>  To provide public lighting to ensure safety of pedestrians, cyclists and vehicles.	<ul style="list-style-type: none"> <li>To be dealt with at detailed design stage. Subject to appropriate condition on permit.</li> </ul>	Objective can be achieved with conditions.

#### Clause 32.01-2 (Residential 1 Zone) – Decision Guidelines

- The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- The objectives and standards of Clause 56.

#### Clause 35.01-6 (Rural Zone) – Decision Guidelines

##### General issues

- The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- Any Catchment and Land Protection Strategy and policies applying to the land.
- The capability of the land to accommodate the proposed use or development, addressing sit quality attributes including soil type, soil fertility, soil structure, soil permeability, aspect, contour and drainage patterns.
- How the use or development relates to rural land use, rural diversification and natural resource management.
- Whether the dwelling is reasonably required for the operation or the rural activity conducted on the land.

Rural issues

- The maintenance of farm production and the impact on the rural economy.
- Whether the site is suitable for the use or development and the compatibility of the proposals with adjoining and nearby farming and other land uses.
- The farm size and the productive capacity of the site to sustain the rural enterprises and whether the use or development will have an adverse impact on surrounding land uses.
- The need to prepare an integrated land management plan
- The requirements of any existing or proposed rural industry
- The impact on the existing and proposed rural infrastructure.
- An assessment of industry requirements, growth expectations, staging of the development and investment requirements.

Environmental issues

- An assessment of the likely environmental impact on the natural physical features and resources of the area and in particular any impact caused by the proposal on soil and water quality and by the emission of noise, dust and odours.
- The protection and enhancement of the natural environment and the character of the area, including the retention of vegetation and fauna habitat and the need to revegetate land including riparian buffers along waterways, gullies ridge lines, property boundaries, discharge and recharge areas.
- The impact on the character and appearance of the area or features of architectural, historic or scientific significance or of natural scenic beauty or importance.

Design and siting issues

- The design, colours and materials to be used and the siting, including the provisions of development and effluent for any building or works.
- The impact of the use or development on the existing and surrounding rural uses.
- The location of any building or works with respect to the natural environment, major roads, vistas and water features and the measures to be undertaken to minimize any adverse impacts.
- The location and design of existing and proposed roads and their impact on the landscape and whether the use or development will cause significant traffic generation which will require additional traffic management programs to be initiated.
- The location and design of existing and proposed infrastructure services including gas, water, drainage, telecommunications and sewerage facilities.

Clause 35.03-5 (Rural Living Zone) – Decision GuidelinesGeneral Issues

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

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PLANNING PERMIT APPLICATION NO. P304184 (CONT)

- Any Regional Catchment Strategy and associated plan applying to the land.
- The capacity of the land to accommodate the proposed use or development.
- Whether the site is suitable for the use or development and whether the proposal is compatible with adjoining and nearby land uses.

#### Agricultural Issues

- The capacity of the site to sustain the agricultural use.
- Any integrated land management plan prepared for the site.
- The potential for the future expansion of the use or development and the impact of this on adjoining and nearby agricultural and other land uses.

#### Environmental Issues

- The impact on the natural physical features and resources of the area and in particular any impact caused by the proposal on land water quality and by the emission of noise, dust and odours.
- The impact of the use or development on the flora, fauna and landscape features of the locality.
- The need to protect and enhance the biodiversity of the area, including the need to retain vegetation and faunal habitat and the need to revegetate land including riparian buffers along waterways, gullies, ridgelines, property boundaries and saline discharge and recharge area.
- The location of on-site effluent disposal areas to minimize the impact of nutrient loads on waterways and native vegetation.

#### Design and siting issues

- The impact of the siting, design, height, bulk, colours and materials to be used, on the natural environment, major roads, vistas and water features and the measures to be undertaken to minimize any adverse impacts.
- The impact on the character and appearance of the area or features of architectural, historic or scientific significance or of natural scenic beauty or importance.
- The location and design of existing and proposed infrastructure including roads, gas, water, drainage, telecommunications and sewerage facilities.
- Whether the use or development will require traffic management measures.

#### Clause 44.01-5 (Erosion Management Overlay)– Decision guidelines

- The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- Regional Catchment Strategy (Catchment and Land Protection Act 1994).
- Environmental Guidelines for Major Construction Sites, Environment Protection Authority, February 1996.
- Construction Techniques for Sediment Pollution Control, Environment Protection Authority, May 1991.
- Control of Erosion on Construction Sites, Soil Conservation Authority.
- Your Dam, an Asset or a Liability, Department of Conservation and Natural Resources.
- Any proposed measures to manage concentrated runoff and site drainage.
- Any proposed measures to minimize the extent of soil disturbance.

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PLANNING PERMIT APPLICATION NO. P304184 (CONT)

- Whether the removal of vegetation will increase the possibility of erosion, the susceptibility to landslip or other land degradation, processes, and whether such removal is consistent with sustainable land management.
- The need to stabilize disturbed areas by engineering works or revegetation.
- Whether the land is capable of providing a building envelope which is not subject to high or severe erosion concern.
- Whether buildings or works are likely to cause erosion or landslip.
- Whether access and servicing of the site or building envelope is likely to result in erosion or landslip.
- Land Capability Report (if prepared) as developed by the Department of Sustainability and Environment, Centre for Land Protection Resource.

Clause 44.02-4 (Salinity Management Overlay) – Decision Guidelines

- The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- The State Environmental Protection Policy, (Waters of Victoria).
- The regional Landcare Plan applicable to the catchment.
- The Catchment Salinity Management Plan to the particular catchment.
- A Local Government Planning Guide for Dry Land Salinity – Department Conservation and Natural Resources, 1995.
- The need to augment tree planting and the establishment of deep-rooted, high water-use pasture species to reduce rainfall accessions to the watertable in high recharge areas.
- The need for planting of salt-tolerant species to stabilize and lower ground water levels in discharge areas.
- The need for stock-proof fencing of discharge and high discharge areas to enable effective stock management for site stabilization.
- Any proposed landscaping and the need to preserve existing vegetation, particularly in high recharge and high discharge areas.
- Any land management plan, works program, or farm plan applicable to the land.
- The design, siting and servicing of the development and the extent of earthworks.
- The appropriateness of the proposed use or development having regard to the sensitivity and constraints of the land and the capability of the land to accommodate the use or development.

**Referrals**

External Referrals

TXU – conditional consent.

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PLANNING PERMIT APPLICATION NO. P304184 (CONT)

Origin Energy – unconditional consent.

CFA – conditional consent.

Telstra – conditional consent.

GVW – conditional consent.

#### Internal Referrals

Asset Engineers – conditional consent.

#### **Notification**

Council notified all adjoining neighbours as well as all owners and residents of Kulin Drive between the subject site and the intersection of Simone Street. Additionally, the applicant was required to display a Public Notice on the subject land for at least 14 days.

#### **Objections**

An objection to the proposal was received during the consultation period. The issues raised by the objection are summarised as follows;

1. Currently only 1 access point services Willowmavin Estate (being Kulin Drive which links with the Kilmore Lancefield Road).
2. Increase of traffic on Kulin Drive particularly during construction when heavy vehicles can be expected.
3. Safety concerns attributed to the increased traffic.

#### Comments

In considering the concerns expressed by the objector it is important to understand the background to the Willowmavin Estate. P301459 in essence approved a road network that would serve the whole of the estate and a number of maxi-lots that could be sold for future development. These maxi-lots were often landlocked. Maxi-lots that are landlocked are dependant on adjoining land being developed so as to provide access to infrastructure necessary to allow the development of the landlocked maxi-lot. This has effectively forced the Estate to develop in a logical manner. Taking this into account the assessing officer has made comment to the objectors concerns as follows;

1. Currently only 1 access point services Willowmavin Estate (being Kulin Drive which links with the Kilmore Lancefield Road).

Whilst this is true, additional accesses to the Willowmavin Estate have been incorporated into the Masterplan (P301459). Whilst no precise timing of when these additional access points will be constructed can be given, it is accepted that they will be provided at the time of construction of the relevant Maxi-lots.



It is the assessing officer's opinion that provision of the additional access points at the time of development of the relevant maxi-lots is both acceptable and appropriate. To require the developer of this maxi-lot (ET9) to construct the road through land to the West and back to Kilmore Lancefield Road (as shown on P301459) would be unwarranted and unreasonable.

2. Increase of traffic on Kulin Drive particularly during construction when heavy vehicles can be expected.

Again, whilst this is possible, the construction of the road has been required to comply with relevant engineering standards having regard to expected vehicle movements and usage. It is acknowledged that some inconvenience may be experienced by residents due to increased traffic using Kulin Drive especially during construction stages. However, it is the officer's opinion that the development is generally in accordance with the Masterplan for the Estate and therefore inconvenience experienced would not be more than would have been reasonably expected by all owners and occupiers at the time of purchase.

3. Safety concerns attributed to the increased traffic.

Anytime traffic movements are increased there is an increase in the possibility of an accident occurring. However, the existing roads meet with engineering standards as will all new roads that result from this proposal. It is the officer's opinion that the proposal will not result in an unacceptable safety situation.

### **Discussion**

The proposal meets with the relevant planning controls applying to the land and type of development. While the objection received has merit, Council needs to consider the issues raised by the objection and also that the applicant has met all relevant development standards when making its decision.

### **RECOMMENDATION**

#### **THAT:**

A Notice of Decision to Grant a Permit be issued for a 20 lot subdivision & variation of an easement at Lot ET9 PS443564S (Willowmavin Estate), in accordance with the endorsed plans, subject to the following conditions:

1. Before the plan of subdivision is certified under the Subdivision Act 1988, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and then form part of the permit. The plans must be drawn to scale with dimensions and three (3) copies must be provided. The plans must be generally in accordance with the

plans submitted with the application, (Ref No. 12116T1, dated 7/3/2005), but modified to show:

- (a) Easements in favour of Mitchell Shire Council or referral authority to the satisfaction of the Mitchell Shire
2. This permit will expire if either of the following circumstances applies:-
- a) the plan of subdivision is not certified within two years of the issue date of this permit; or
  - b) the subdivision is not completed within five years of the date of certification of the plan of subdivision.
- The Responsible Authority may extend the permit if a request is made in writing prior to expiry of the permit or within three months afterwards.
3. Before the issue of statement of compliance for the subdivision, the owner must:
- a) Pay to Council the Residential Lots Developer levy of \$1000 per lot, as stipulated in the section 173 agreement (X008932T) that is registered as a restriction on the title to the land; and either,
  - b) Pay to Council a Community Infrastructure levy of \$500 per lot as stipulated in the section 173 agreement (X008932T) that is registered as a restriction on the title to the land; or,
  - c) Enter a note on the plan of subdivision for certification that all future purchasers of lots within the subdivision must pay to Council a Community Infrastructure levy of \$500 per lot.
4. The applicant must provide: public lighting, street trees, road works, drainage, road furniture and landscaping for each lot to the satisfaction of the Mitchell Shire Council.
5. Prior to any road/drainage works associated with the subdivision commencing, detailed construction plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. These plans must include:
- (a) Provision for footpaths on one side of all roads.
  - (b) Pavement shall be designed in accordance with Austroads Pavement Design – a Guide to Structural Design of Road Pavements, revised 1999.  
Pavements shall include a minimum wearing course of 30mm asphalt. The pavement design shall use equivalent axle loadings based on a traffic generation rate of 10 vehicles per day per lot and a 20 year design life.
  - (c) Traffic control devices.
  - (d) Details of traffic turning movements at court heads to satisfy the provisions of Standard C27 in Clause 56 of the Mitchell Planning Scheme. These details to include pavement strengthening where required in driveway crossings and allowance for street furniture, service utilities infrastructure and vehicle parking.
  - (e) Street nameplates and other traffic control signs as required

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PLANNING PERMIT APPLICATION NO. P304184 (CONT)

- (f) Underground stormwater drains and stormwater connection point for each new allotment all designed to satisfy standards C31, C32, C33 C34 and C35 of Clause 56 of the Mitchell Planning Scheme.
  - (g) The system must include:
    - provision for restriction of stormwater outflows from all land that falls to the Council reserve to the west to pre-development levels.
    - A gross pollutant trap prior to discharge to any watercourse or existing drainage line. Drainage systems shall be designed to remove 70% of stormwater litter and 80% of solids.
    - Underground stormwater drainage discharge shall be designed to discharge to an approved waterway or outfall.
    - All systems to be designed to take account of overall discharge from relevant catchments.
  - (h) .Concrete Vehicle crossing to each lot from the back of kerb to the property line. This work can be deferred upon supply to the Responsible Authority of a bank guarantee to the value of \$1,500.00 per lot.
6. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities and electricity, public lighting, gas and telecommunication services to each lot shown on the endorsed plan in accordance with the authorities' requirements and relevant legislation at the time.
7. A construction Management Plan shall be prepared to the satisfaction of the Responsible Authority prior to the commencement of any works. The Plan shall provide for the following:
- Wheel Wash. A truck wheel-wash must be installed and used so vehicles leaving the site do not deposit mud or other materials on roadways to the satisfaction of the Mitchell Shire Council.
  - Dust Control. All roads/storage areas/external stockpiles/vacant or grazed areas must be maintained to avoid dust nuisance to any residential area to the satisfaction of the Mitchell Shire Council.
  - Run Off Control. No polluted and/or sediment laden run-off is to be discharged directly or indirectly into any street, drain, watercourses or other private land during construction. To this end, pollution or litter traps must be provided on site. Refer to the Department of Sustainability and Infrastructure publications, 'Guidelines for minimising soil erosion and sedimentation for construction sites' and 'Control of soil erosion for construction sites'.
  - Temporary Access/Egress. Prior to the construction of the subdivision a temporary construction access/egress point must be submitted and approved in writing by the Responsible Authority. All vehicular movement associated with the construction of the subdivision must use the identified temporary constructions access/egress point.
8. All existing and proposed easements and sites for existing or required utility services and roads on the land must be set aside in the plan of subdivision submitted for certification in favour of the relevant authority for which the easement on site is to be created under the Subdivision Act 1988.

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PLANNING PERMIT APPLICATION NO. P304184 (CONT)

9. The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to the relevant authority in accordance with Section 8 of such Act.
10. The construction of any dwelling or other building for residential purposes shall not be commenced on any lot of the subdivision until a Statement of Compliance has been issued releasing the relevant lot in accordance with the requirements of the Subdivision Act 1988.
11. Topsoil from the works shall be re-used on site. No topsoil shall be removed without the prior consent of the Responsible Authority. Any sub soil to be removed from the site must be separated from topsoil prior to transport.
12. All noxious weeds as scheduled under the Catchment and Land Protection Act must be destroyed and/or removed from the land to the satisfaction of the Responsible Authority prior to commencement of onsite works. The land is to be maintained to these requirements thereafter to the satisfaction of the Responsible Authority.
13. Boundaries between the street and the adjoining reserve to the west shall be provided with a post and rail fence or similar to the approval of Council.
14. The developer shall, prior to the issue of a Statement of Compliance, pay a plan checking fee of 0.75% of the value of the subdivision civil construction cost and a supervision fee of 2.5% of the subdivision civil construction cost, to the Responsible Authority.  
The developer shall certify the subdivision civil construction cost by submitting a priced schedule of works as supplied by the successful construction contractor.

#### Country Fire Authority

15. Before the subdivision commences, amended plans to the satisfaction of the CFA must be submitted for approval by CFA and the responsible authority. When approved, the plans will be endorsed and then form part of the permit. The plans must be drawn to scale with dimensions. The plans must be generally in accordance with the plans submitted with the application but modified to show:
  - (a) Operable hydrants, above or below ground. Hydrants must be shown with a maximum distance between a hydrant and the rear of a building envelope (or in the absence of the building envelope, the rear of a lot) of 120m and hydrants must be no more than 200m apart. Note: Hydrants must be identified as specified in 'Identification of Street Hydrants for Firefighting purposes'
  - (b) Constructed roads with a minimum trafficable width of 7.3m if parking unrestricted, or 5.4m if parking prohibited on one side of road or 3.5m if parking prohibited on both sides of road.
  - (c) Constructed roads must have an average grade of no more than 1 in 7 (14.4%) (8.1 degrees) with a maximum of no more than 1 in 5

(20%) (11.3 degrees) for no more than 50 metres. Dips must have no more than a 1 in 8 (12%) (7.1 degrees) entry and exit angle.

#### Goulburn Valley Water

16. Goulburn Valley Water requires the developer to investigate the impact the proposed development and the removal of easements has on the existing overall Willowmavin Water Supply and Sewerage Master Plan and any issues are to be addressed as part of the initial planning for the provision of reticulated water supply and sewerage services to the subsequent subdivision of Lots ET9 to the satisfaction of the Authority with all costs to be borne by the developer.
17. Any revised overall water supply and sewerage servicing strategy plans prepared in accordance with condition 29 above, are to be provided to Goulburn Valley Region Water Authority to the satisfaction of the Authority.  
Provision of easements to the satisfaction of Goulburn Valley Region Water Authority over all existing and proposed water supply and sewer mains located within private property, on any subsequent plan of subdivision of Lot ET9.
18. The plan of removal of easements on Lot ET9 lodged for certification is to be referred to the Goulburn Valley Region Water Authority pursuant to Section 8(1) of the Subdivision Act, 1988.
19. Payment of a headworks contribution for water supply to the development, such amount being determined by the Authority at the time of payment.
20. Provision of a reticulated water supply and associated construction works to each allotment within the development, at the developer's expense, in accordance with standards of construction adopted by and to the satisfaction of the Goulburn Valley Region Water Authority.
21. Payment of any outstanding contributions towards existing water schemes, such amount being determined by the Authority at the time of development.
22. Payment of a headworks contribution for sewerage services to the development, such amount being determined by the Authority at the time of payment.
23. Provision of a reticulated water supply and associated construction works to each allotment within the development, at the developer's expense, in accordance with standards of construction adopted by and to the satisfaction of the Goulburn Valley Region Water Authority.
24. Payment of any outstanding contributions towards existing sewerage schemes, such amount being determined by the Authority at the time of development.

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PLANNING PERMIT APPLICATION NO. P304184 (CONT)

25. Disconnection of any existing house connection drain, and each allotment to be independently and directly connected to a sewer main of the Goulburn Valley Region Water Authority.
26. Pursuant to Section 36 of the Subdivision Act, if the Authority considers that, for the economical and efficient subdivision and servicing of the land covered by the Application for Permit, it requires to owner of the land to acquire an easement over other land in the vicinity. That is, any land not owned by the Developer through which a sewerage extension servicing the development is to be located, easements shall be created in favour of the Authority.
27. The operator under this permit shall be obliged to enter into an Agreement with Goulburn Valley Region Water Authority relating to the design and construction of any sewerage or water works required. The form of such Agreement shall be to the satisfaction of Goulburn Valley Water. A copy of the formal of the Agreement will be provided on request.
28. The plan of subdivision lodged for certification is to be referred to the Goulburn Valley Region Water Authority pursuant to Section 8(1) of the Subdivision Act 1988.

SPI Electricity Pty Ltd

29. The applicant must enter into an agreement with SPI Electricity Pty Ltd for supply of electricity to each lot on the endorsed plan.
30. The applicant must enter into an agreement with SPI Electricity Pty Ltd for the rearrangement of the existing electricity supply system.
31. The applicant must enter into an agreement with SPI Electricity Pty Ltd for rearrangement of the points of supply to any existing installations affected by any private electricity power line which would cross a boundary created by the subdivision, or by such means as may be agreed by SPI Electricity Pty. Ltd.
32. The applicant must provide easements satisfactory to SPI Electricity Pty Ltd for the purpose of 'Power Line' in the favour of 'Electricity Corporation' pursuant to Section 44 and Schedule 2 of the Electricity Industry Act 1993, where easements have not been otherwise provided, for all existing SPI Electricity Pty Ltd electric power lines and for any new power lines required to service the lots on the endorsed plan and/or abutting land.
33. The applicant must obtain for the use of SPI Electricity Pty Ltd any other easement required to service the lots.
34. The applicant must adjust the position of any existing SPI Electricity Pty Ltd easement to accord with the position of the electricity line(s) as determined by survey.
35. The applicant must set aside on the plan of subdivision Reserves for the use of SPI Electricity Pty Ltd for electric substations.

36. The applicant must provide survey plans for any electric substations required by SPI Electricity Pty Ltd and for associated power lines and cables and execute leases for a period of 30 years, at a nominal rental with a right to extend the lease for a further 30 years. SPI Electricity Pty. Ltd. requires that such leases are to be noted on the title by way of a caveat or a notification under Section 88 (2) of the Transfer of Land Act prior to the registration of the plan of subdivision.
37. The applicant must provide to SPI Electricity Pty Ltd a copy of the plan of subdivision submitted for certification that shows any amendments that have been required.

Telstra

38. That the applicant enter into an agreement with Telstra or other licensed telecommunications carrier for the satisfactory provision of telephone cable reticulation one metre into each allotment created.
39. That the applicant pay to Telstra, the reasonable cost of any works necessary, as a result of the subdivision, to remove, or alter the position of any existing facility of the subdivision, or on any adjacent land of Government Road, pursuant to Section 91 (1) & (2) of the Australian Telecommunications Corporation Act 1989.
40. That the plan of Subdivision submitted for certification be referred to Telstra or other licensed telecommunications carrier, whichever is appropriate, in accordance with Section 8 of the Subdivision Act 1988.
41. Set aside on the plan of subdivision, reserve/s satisfactory to Telstra, for Telecommunications substation/s if required.

*The resolution for Item 9.14 – Planning Permit Application No. P304184, 20 Lot Subdivision & Variation of Easement, Willowmavin Estate, is found at the end of this section.*

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**9.15 PLANNING PERMIT APPLICATION NO. P304259, BUILDINGS AND WORKS IN ASSOCIATION WITH AN EXISTING PLACE OF WORSHIP AND CAR PARKING DISPENSATION AT 6 ANZAC AVENUE, SEYMOUR**

**Author:** Karen Evans – Planning Officer

**File No:** 2004900350/P304259

**Reference:** Nil

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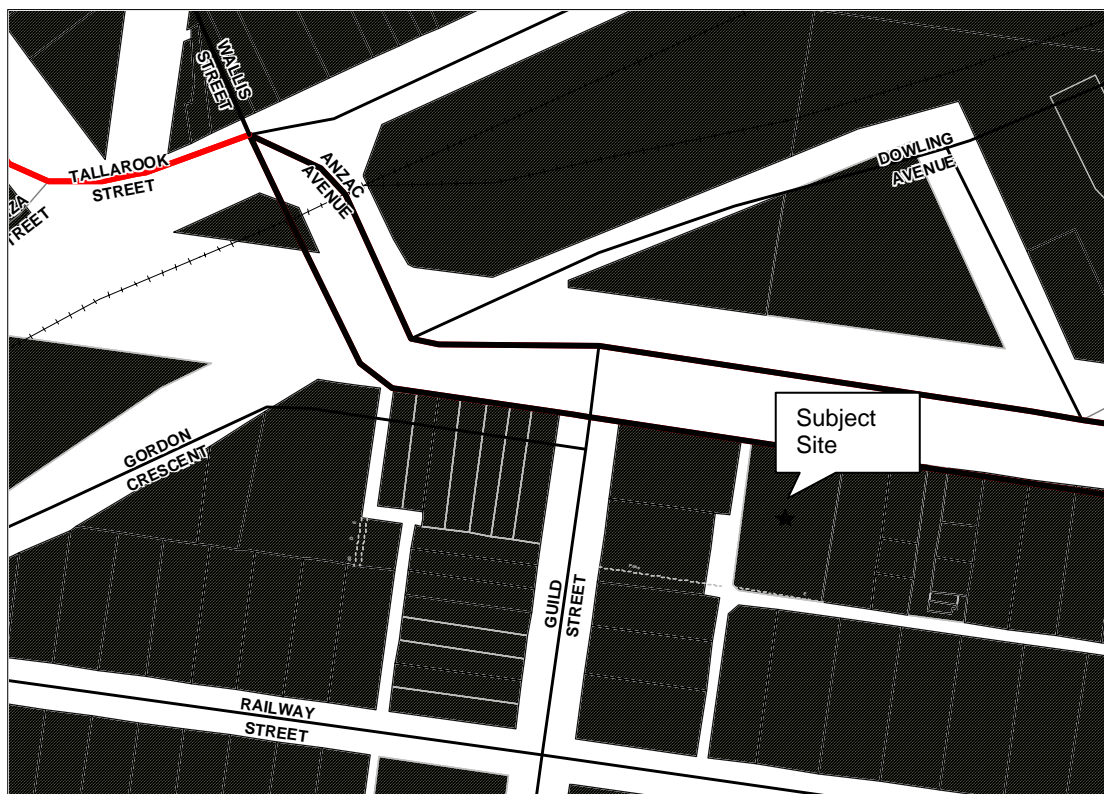
Applicant: Ross Tarry Architects Pty Ltd

Property: Lot 3, PS 526280J

Address: Anzac Avenue, Seymour

Zoning: Residential 1 Zone

Proposal: Buildings and works in association with an existing place of worship and car parking dispensation.



### Summary

This report recommends that a Notice of Decision to Grant a Planning Permit be issued for buildings and works in association with an existing place of worship given that the application meets the objectives of the State Planning Policy Framework, the Local Planning Policies and Zone provisions. The report also recommends a number of conditions be included on the planning permit that are considered appropriate for this nature of development.



**History**

The subject site contains the Anglican Church, an architecturally significant building that has been identified for inclusion in the proposed "Seymour Progress Precinct" heritage overlay in the Mitchell Shire Council Heritage Review current being conducted. Built in 1945, the church was designed by Louis Williams, one of Victoria's most distinguished ecclesiastical 20<sup>th</sup> Century Architects.

Located on the south side of Anzac Avenue, the church is approximately 200m south east of the business centre in Station Street and opposite the Seymour Railway Station and Reserve.

Planning Permit P303784 was issued on the 7 September 2004 for a three lot subdivision (a 5 lot title realignment) in order for the title boundaries to conform with the existing buildings on the land. A right-of-way running north/south from Anzac Avenue through to Railway Street, divides Lot 1 (the church hall) and Lot 2 (the previous rectory) from Lot 3 (the Anglican Church) and provides access to the church and church hall. This laneway extends to the rear of the church, running 198m west to Goulburn Street and provides rear access to properties in Guild Street and Railway Street.

In June 2004, the Wangaratta Diocesan Trustees proposed to purchase and close part of the laneway (from Anzac Avenue to the rear of the church). This proposal was advertised to local residents and three objections were received. Council, at the Ordinary Meeting held on the 9 August 2004, resolved not to proceed with the sale or partial closure of the laneway in view of the residential opposition.

The subject site is rectangular in shape and comprises 1528 m<sup>2</sup>, with a frontage of 38.48m to Anzac Avenue. A 5m x 27m parcel of land (136 m<sup>2</sup>) located to the west of the right of way is included as part of Lot 3 and utilised for car parking purposes.

The adjoining properties to the immediate west of the subject site contain the parish hall and a single storey dwelling that was previously owned by the Wangaratta Diocesan Trustees and used as the church rectory. Properties to the south-west, south and east of the subject property contain single storey dwellings and associated outbuildings.

**Details**

An application for buildings and works to an existing place of worship and car parking dispensation was lodged with Council on the 15 May 2005. The application proposes to construct an 8.8m x 6.6m (59 m<sup>2</sup>) office that will extend from the east porch entrance of the Church. The extension will provide:

- An office area with direct access into the church through the existing double doors
- An interview room
- A kitchenette

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PLANNING PERMIT APPLICATION NO. P304259 (CONT'D)

- Bathroom (including toilet facilities)

The proposed works will result in the existing building being extended by 6.6m to the east, establishing a 1.2m setback from the boundary fence of the adjoining residence. The setback of the building to Anzac Avenue will not be decreased, with the extension to be recessed 820mm from the existing north fascia of the building.

Pedestrian and wheelchair access will be provided from Anzac Avenue via a path and concrete ramp leading directly to the office extension and church.

### **Policy Implications**

#### **State Planning Policy Framework**

*Clause 11.03-6: Social Needs*

Planning must provide *“for a range of accessible community resources, such as affordable housing, places of employment, open space and education, cultural, health and community support ... through the appropriate location of uses and developments...”*

#### Response

The church has existed on this property since 1945, providing a well-utilised religious facility for many residents of Seymour. The proposed on site office facilities will assist the parish priest to continue the efficient provision of this community resource.

*Clause 15.11: Heritage*

*Clause 19.03: Design and Built Form – Heritage*

Clause 15.11 of the SPFF has an objective of *“assisting the conservation of places that have natural, environmental, aesthetic, historic, cultural, scientific or social significance or other special value”, while Clause 19.03-02 directs that “new development should respect, but not simply copy, historic precedents and create a worthy legacy for future generations.”*

#### Response

The consultation with Council’s Heritage Advisor and the willingness of the applicant to incorporate Ms Keeble’s suggestions into the final design of the extension, have ensured a heritage-responsive design for the façade of this significant building.

#### **Local Planning Policy Framework**

*Clause 21.05-3: Settlement – Objectives*

This policy encourages the provision of *“community facilities and services that meet the needs of the planned for population”* while preserving *“the built heritage throughout Seymour”*.

Response

The development of an office area within the existing building will assist the parish priest in continuing to provide an effective and responsive community resource. The design of the proposed extension is considered as being sympathetic to the historical architectural relevance of the building.

*Clause 22.04-3: Subdued Tones*

Local Planning Policy 22.04-3 encourages the preservation and/or enhancement of the “*aesthetic amenity of the area*” by ensuring that all structures “*blend in with the surrounding environment*”.

Response

The extension will be constructed in the same external materials that are incorporated in the existing structure (white painted brick walls and glazed Marseilles terra cotta roof tiles). Design elements of the present church, such as the simplified geometric details and decoration derived from medieval church architecture have been integrated into the design of the extension.

*Clause 22.05-3: Townscape Policy*

The Townscape Policy has an objective of ensuring that “*all development has regard to design, siting and landscape issues*” to enhance “*the presentation of main road entrances into townships and the immediate environment*”.

Response

The subject site is positioned 200m south-east of the Anzac Avenue and Station Street roundabout and the business centre in Station Street. Anzac Avenue provides a main entranceway to the Seymour township from the south. It is considered that the care taken to ensure that the extension is sympathetic to the historical significance of the church will not detract from the appearance and character of the town entrance.

**Zoning Provisions**

The property is located within a Residential 1 Zone and is not affected by any overlays or proposed amendments to the Mitchell Planning Scheme.

Pursuant to Clause 32.01-6 of the Residential 1 Zone, buildings and works in association with a Section 2 use require a planning permit. The table of uses (Clause 32.01-1) indicates that a place of assembly with a site area in excess of 1200 m<sup>2</sup>. and a building area in excess of 180 square metres is a Section 2 use.

One of the purposes of the Residential 1 Zone is to allow, in appropriate locations, “*educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs*”.

Response

The application as proposed would assist in ensuring the efficient, continued provision of a religious facility that has been provided to the people of Seymour since 1945, by providing on-site office facilities for the parish priest.

**Particular Provisions**Clause 52.06: *Car Parking*

Pursuant to Clause 52.06-1, "if the floor area occupied by an existing use is increased, the parking requirement only applies to the floor area of any extension of the use or site area provided the existing number of car spaces is not reduced".

Response

The extension comprises a total of 58 m<sup>2</sup> Assessment against the requirements for a place of assembly (0.3 spaces to each sq.m. of net floor area) would result in an additional 17 car parking spaces being required. As the proposed extension will not result in an increase in the number of people attending church services or in the number of cars attending the venue, it is considered that it would be more appropriate to assess car parking requirements under an office use (3.5 spaces to each 100 m<sup>2</sup>.), resulting in the requirement for 2 additional car parking spaces.

On assessment of the application and on advice from Council's Engineering Department, the existing car parking facilities are considered adequate and the request for a dispensation of this car parking requirement reasonable.

**General Provisions**Clause 65: *Decision Guidelines*

The following guidelines outlined in this clause have been considered in the assessment of this application:

- The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies
- The purpose of the zone and other provisions
- The orderly planning of the area
- The effect on the amenity of the area

**Referrals***Council's Heritage Advisor – Ms Willys Keeble*

The church on the subject property has been identified as a substantial and architecturally significant building within the proposed "Seymour Progress Precinct" heritage overlay. The application was forwarded to Council's Heritage Advisor, Ms Keeble, who raised the following concerns regarding the façade of the submitted design:

- The alignment of the front wall would conceal the form of the existing porch buttress, which would lose its visual character as a 3 dimensional form projecting from the main wall.

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PLANNING PERMIT APPLICATION NO. P304259 (CONT'D)

- The addition would alter the strong symmetry of the existing church façade and its two side porches; the east porch would no longer exist as a balancing element to the west (main entry) porch.
- The window and door heads as drawn did not match the existing shape and form of the original porch windows and doorways.
- The size of the new window and door openings were domestic in character and did not match the original door/window sizes.
- The drawings indicated a slate roof, but the existing, prominent roofing, is of 'autumn coloured' glazed Marseilles terra cotta tiles.

Ms Keeble offered the applicant two design options that addressed her concerns as outlined above. An on-site meeting with the applicant and Ms Keeble resulted in one of these options being incorporated into the design as follows:

- The addition façade set back (820mm) beyond the existing porch buttress and doorway. This setback retains the architectural intactness of the original porch roof and external doorway, making it less prominent, and to an extent, preserves and respects the original symmetry of the church façade.
- Roof tiles, door and window openings in the new façade altered to match the existing building
- A wider access ramp, allowing two way traffic and space for at least two people to walk side by side.

### Engineering

#### Response

#### Laneway alteration:

The application as submitted does not include any proposed alteration or restriction of the present vehicular or pedestrian access to the laneway or Anzac Avenue. Should a permit be approved and issued for this application, there will not be any conditions allowing such alterations to be undertaken.

#### Use of Office as Living Quarters

In a Residential 1 Zone, the use of the building as a dwelling is an as-or-right use. The applicant has however, indicated that there is no intention for the extension to be utilised as a residence.

It is considered that the objections are not relevant to the considerations made under the planning process in relation to this application.

### **Conclusion**

It is considered that the application supports the State Planning Policy Framework, the Local Planning Policy Framework and the zoning requirements of the Mitchell Planning Scheme. The identification of the building as being one of significant historical relevance has ensured that the submitted extension design is sympathetic to the symmetry and architectural integrity of the Church. The request for a car parking dispensation created by

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PLANNING PERMIT APPLICATION NO. P304259 (CONT'D)

the addition of the parish office is considered appropriate as the increase in floor area should not result in an increase in parishioner numbers, nor an increase in demand for car parking.

### RECOMMENDATION

**THAT:** a Notice of Decision to Grant a Permit be issued for the buildings and works in association with an existing place of worship, at Lot 3, Anzac Avenue, Seymour in accordance with the endorsed plans and subject to the following conditions:

1. The submitted plan(s) shall be stamped the endorsed plan(s) and once stamped, shall be the plan(s) referred to in this Planning Permit. No alteration or modification will be permitted without the written consent of the Responsible Authority.
2. Stormwater shall be disposed of in an approved manner to the satisfaction of the Responsible Authority.
3. All external materials used in the construction of the extension hereby permitted shall be of muted tonings and non-reflective, matching the existing building.
4. This permit shall expire if the development hereby permitted is not completed within two years from the date hereof or within any extension of that time which upon application made before or within three months after the expiry of the permit, is granted in writing by the Responsible Authority.

*The resolution for Item 9.15 – Planning Permit Application No. P304259, Buildings and Works in Association with an existing place of Worship and Car Parking dispensation at 6 Anzac, Avenue, Seymour, is found at the end of this section.*

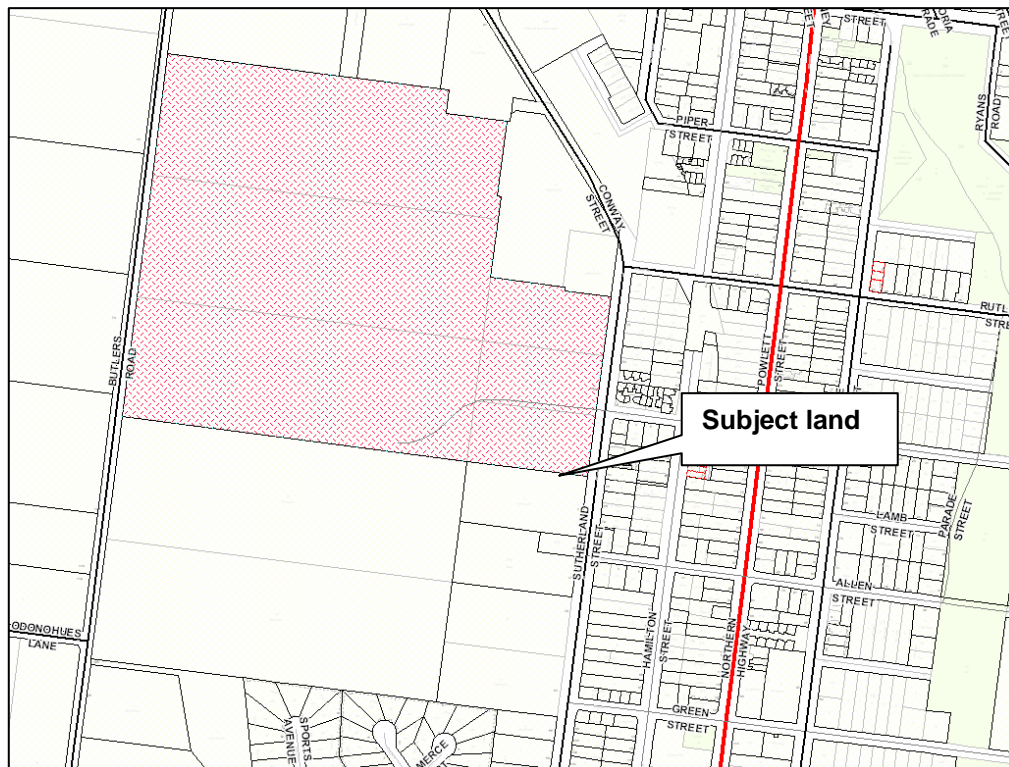
**9.16 PLANNING PERMIT APPLICATION NO. P304262 – USE AND DEVELOPMENT OF LAND FOR THE PURPOSES OF AN EDUCATION FACILITY (SECONDARY SCHOOL) AND BICYCLE PARKING WAIVER – 39 SUTHERLAND STREET, KILMORE (LAND IN PLAN OF CONSOLIDATION 368351E)**

**Author:** Linda Graham – Senior Town Planner

**File No:** 5057304000/P304262

**Reference:** Nil

**Applicant:** Trustees of the Marist Brothers, Southern Province, trading as Assumption College  
**Property:** Land in Plan of Consolidation 368351E  
**Address:** 39 Sutherland Street, Kilmore  
**Zoning:** Residential 1 Zone (R1Z)  
**Proposal:** Use and development of land for the purposes of an education facility (secondary school) and bicycle parking waiver



**Summary**

Planning permit application No. P304262 was lodged with Council on the 18 May 2004. The application concerns the use and development of land for the purposes of an education facility (secondary school) and bicycle parking waiver at 39 Sutherland Street, Kilmore (Land in Plan of Consolidation 368351e formerly known as Portion 7 Parish of Bylands vol. 10396 fol. 133 &

Portion 8 Parish of Bylands vol. 10396 fol. 134). 39 Sutherland Street, Kilmore is currently occupied by Assumption College being a secondary school.

The application is before Council owing to the receipt of two objections and the cost of the development, which exceeds 1 million dollars.

This report recommends that the application be approved subject to conditions as it generally meets state and local planning policies and will not result in an unacceptable loss of amenity.

### **History**

Assumption College is located at 39 Sutherland Street. The campus occupies a number of titles. The majority of the school's buildings are located across two titles. The college grounds have a combined area of 74.7 hectares. The titles comprising the school grounds are also subject to a range of land zonings and overlays including the Residential 1 Zone, Rural Zone, Special Use Zone – Schedule 4 (Private educational or religious institutions) and the Heritage Overlay – Schedule 85 which denotes the former Convent of Mercy (currently contains the school's boardroom and boarding facilities). The subject land being the subject of this application is known as Land in Plan of Consolidation 368351E (formerly known as Portion 7 Parish of Bylands vol. 10396 fol. 133 & Portion 8 Parish of Bylands vol. 10396 fol. 134). The subject land is located within the Residential 1 Zone (R1Z) is not affected by any planning overlays.

Given the planning controls affecting the site, a planning permit is required for the following aspects:

- Use of the land for the purposes of an education facility and associated works pursuant to the provision of the R1Z
- Bicycle parking waiver pursuant to the provisions of Clause 52.34

The applicant engaged Y2 Architects to act on their behalf in consulting with Council prior to lodging the planning permit application and in liaising with Council once the application had been lodged. The assessing officer and Council's Urban Design Consultant expressed support for the proposed building given its contemporary nature and the contribution it will make to the profile of the college.

As a result of advertising two objections have been received by Council. A mediation session was held (11 August 2005) to which the objectors were invited and a copy of the resulting resolution has been circulated to all objectors. Further details of the nature of the objections and the agreed upon outcomes following mediation are outlined later on in this report.

The subject land (combined titles) is rectangular in shape and is located to the west side of Sutherland Street, diagonally opposite the T-junction intersection of Sutherland Street with Lumsden Street. The land is currently occupied by tennis courts and a building used for music tuition (Portion 8) and a dwelling



(Portion 7). The subject land has an overall area of approximately 40,000 sqm and a fall of approximately 3 metres from west to east and presents as a grassed and open area with the exception of medium sized deciduous trees located towards the frontage of Sutherland Street and approximately thirteen trees of varying heights located along the south boundary of Portion 8.

The applicable section of Sutherland Street is sealed. Kerb and channel does not adjoin the site. There is a grass verge with no footpath.

Residential development consistent with the Residential 1 Zone is located directly opposite the subject land on the east side of Sutherland Street. Two new dwellings are located further to the south of Assumption College to the west of Sutherland Street. Residential development is single storey in scale.

### Details

The specifics of the proposed development are as follows:

- Construction of three stand-alone buildings to accommodate Years 7 and 8 students. All proposed buildings are to be connected via covered walkways. Owing to the topography of the subject land, the walkways will be sloped in parts but will not exceed 1 in 20. The buildings have been sited so as to surround an internal piazza area, which will remain uncovered. The piazza area is to have some limited flood lighting. The building has been designed to accommodate teaching styles, which require small class sizes.
- Total floor area of approximately 2002 sqm.
- The development will have varied building heights achieving a minimum building height of 3.4 metres and a maximum building height of 5.8 metres in part.
- At its closest point the development will be setback 6.1 metres from Sutherland Street. The maximum setback of the development from Sutherland Street is 25.5 metres.
- Existing vegetation located towards the frontage of Sutherland Street is to be retained under the application. Three existing trees are located within proximity to the development however given there is a separation distance of approximately 3 to 5 metres it is believed the vegetation will survive post-construction.
- Approximately 10 trees ranging in size are to be removed under the application. These trees are located along the south boundary of Portion 8 and are exotic in species.
- Pedestrian walking paths from the proposed development to an internal road will allow students to easily access other campus buildings and to circulate freely within the school grounds.
- Provision of disabled ramp access.
- The subject land is already fenced to Sutherland Street with standard Assumption College picket and piers.
- The proposed development can be described as contemporary featuring unusual angles, a range of external cladding treatments and differing window alignments. The plans indicate the external use of brick, render, colourbond or composite metal cladding for fascias, boral

blockwork and vitrepanel timber cladding. A full colour schedule has not been submitted as part of the application however a colour perspective of a portion of the proposed building has been included with the application package. It shows the use of earthy tones with blue trim.

- Some requirement for cut and fill. A maximum cut of 1.4 metres to the eastern elevation, which will require the construction of a retaining wall and the use of fill to a depth of 0.6 metres to the east and north elevations.

Although a landscape plan has not been submitted with the application, the applicant has provided the following written description of likely landscape works:

- An open grassed area to the north to be screened by existing trees along the internal driveway (to the north of the development site) and the Sutherland Street frontage. The existing planting is to be strengthened particularly along Sutherland Street.
- The provision of a terraced garden area to the north west of the development site to follow the contours of the site.
- Screen planting and mounding to the south to limit the impact of wind and weather.

The applicant has stated that there are 918 students currently enrolled at the college (121 of which board at the college). Forecasting as a result of the development sees a maximum enrolment number of 1050 students. This translates to a possible increase in enrolment numbers by 132 students. The proposed new building will cater for between 300 to 336 Years 7 and 8 students.

There are currently 94.5 staff members employed by the college. Forecasting estimates a need to employ an additional 7.5 staff members to ensure appropriate student/staff ratios should enrolments increase (future total of 102 staff members). The college currently provides 122 on-site car spaces.

At a pre-application meeting held on the 19 April 2005 it was suggested that Portions 7 and 8 (former titles comprising the subject land) be consolidated as the proposed building is to be constructed across a title boundary. Title consolidation does not require a planning permit. The applicant has lodged a subdivision plan for consolidation, which was issued with Statement of Compliance on the 14 July 2005. Council was notified of the lodgement of the new title with the titles department on the 18 August 2005.

### **Referrals**

The planning permit application was referred internally to Council's Urban Design Consultant and Council's Asset Engineer. Comments are as follows:

#### Council's Urban Design Consultant

Council's Urban Design Consultant, in describing Sutherland Street as likely to have a predominantly contemporary residential character in the future

(identified as part of draft *Kilmore Neighbourhood Character Study* page 40), has provided the following comments:

*Within this context the proposed form of development, which is contemporary in its treatment, is appropriate. The proposed extension is also separated from the most historical elements of the College and St Patrick's Church, allowing the building age and treatment to provide a transition between the existing and proposed college extension.*

*Key features and characteristics of this precinct noted in the Neighbourhood Character Study include that housing is generally brick and tile (1970's – 1990's), limited footpath development and some established vegetation features. Planning and design responses note that "given the diverse range of housing styles, seek to achieve an overall compatibility of external material treatments, colours and site landscape design" (page 41). In response to this, it is appropriate for the external building materials selected for the school to be integrated with the existing school facilities and St Patrick's Church.*

*Building scale and composition of the form, which is punctuated by three vaulted sections, is effectively absorbed by the size of the site and the graduated setback from its frontage to Sutherland Street.*

*Because of the extent of the College frontage to Sutherland Street, the site has the potential to contribute substantially to the overall quality and character of this precinct. The detail of the final landscape plans, prepared as condition of the permit will be relevant in achieving this outcome. While maintaining a high level of public surveillance between the street and the school, consolidated planting beds with locally indigenous shrubs and ground covers positioned beneath canopy trees would be desirable.*

*The absence of a section of footpath along the western side of Sutherland Street will need to be addressed. With the future development of residential allotments to the south, this side of the road will be desirable as a pedestrian route. As an interim treatment the maintenance of a compacted gravel path may be acceptable. It is also anticipated that the current school crossing arrangement is seen as more desirable until the residential properties to the south is completed.*

Urban design and landscape issues are discussed in greater detail later on in this report.

The possibility of constructing a footpath along the west side of Sutherland Street to adjoin the subject land has been raised with the applicant. Although the college has no issue with the eventual construction of a footpath along Sutherland Street, it does not believe that this application should trigger that requirement. The college has agreed to install no standing signs to deter parents from dropping off and picking up students directly outside the subject

land. As it is not the intention of the college to encourage students to circulate within Sutherland Street outside the subject land, it is not seen as critical that a footpath be constructed at this stage. A footpath with a length of approximately 35 metres has been constructed outside a Sutherland Street bus shelter adjoining the college. A footpath with a length of 66 metres is also located on the east side of Sutherland Street outside St. Patrick's School. This will continue to provide Assumption College students with an eastern pedestrian link.

#### Council's Asset Engineer

Council's Asset Engineer offers no objection to the proposed development subject to conditions. The application was discussed with engineering on the 19 July 2005 (Development Assessment Group meeting) and Council's Assets Engineer attended the mediation session held on the 11 August 2005. Conditions include:

- A requirement to enter into a Section 173 Agreement with Council to contribute towards 50 per cent of the cost of constructing kerb and channel from the existing extent of kerb and channel (within the vicinity of Gate 1 into the college) to the south boundary of Land in Plan of Consolidation 368351E at that time which Council seeks to impose a Special Charge Scheme.
- A requirement to connect to existing underground drainage infrastructure.

### **PLANNING FRAMEWORK**

#### **State Planning Policy Framework (SPPF)**

The following SPPF clauses are relevant to the application:

- Clause 18.07, Education facilities
- Clause 19.03, Design and built form

#### Response

The objective of Clause 18.07 as it relates to education facilities refers more so to the construction of new schools. Assumption College is an established education facility, which is able to service the needs of local residents. Clause 18.07 contains a focus upon pedestrian and cyclist access. The potential to construct a footpath to improve walkability has been raised however it has been negotiated that a footpath will not be constructed at this stage under the application and students will continue to use existing pedestrian access provided in Sutherland Street. Clause 52.34 refers to the provision of bicycle facilities. This is discussed in more detail below.

Clause 19.03 is applicable to all non-residential development. Clause 19.03 contains a number of design principles. The following briefly addresses each of the principles:

- *Context* – The applicant has provided a rationale for the siting of the proposed buildings. The setbacks have been adopted to ensure some ability to plant along Sutherland Street and to enable the creation of recreation space to the north of the development site which is able to

be easily supervised. The building has been designed with the topography of the land in mind. To ensure a 500mm difference in level between all spaces, cut and fill is required to allow the buildings to nestle into the slope of the land. Together with the proposed setbacks and the compartmentalising of the form of the building (eg different construction materials and architectural styles) the proposed buildings will not result in an instance of unacceptable building bulk.

- *The public realm* – The proposed site layout aims to create a communal environment for students while allowing for a connection to existing college facilities. This is achieved through the use of a central piazza area, open space for recreation and pedestrian paths.
- *Landmarks, views and vistas* – The original college building and St. Patrick's Church will not be negatively impacted upon due primarily to the separation distance. It is the opinion of the assessing officer that the proposed works will in fact enhance the presentation of the college to Sutherland through the creation of a landmark building and additional landscaping.
- *Pedestrian spaces* – The proposed site layout has been designed to allow students and staff to circulate freely within and around the development. The proposed buildings are of a high architectural quality, which will add visual interest to the college.
- *Heritage* – The style of the proposed buildings is contemporary. The design has not sought to mimic existing heritage buildings, which comprise part of the college's facilities. The proposed buildings are capable of making an architectural contribution in their own right.
- *Consolidation of sites and empty sites* – The area to be occupied by the proposed buildings is currently vacant. It makes sense to develop this area as it has a street frontage and will assist in filling a gap within the streetscape of Sutherland Street.
- *Light and shade* – The proposed buildings will not result in the overshadowing of adjoining land or diminish the level of sunlight available to the existing college grounds. The applicant has indicated that landscaping and land forming techniques will be used to provide shade and shield the development from wind.
- *Energy and resource efficiency* – The proposed buildings will be required to meet energy rating requirements at the building permit approval stage. The applicant has provided details in regard to environmental sustainable design (ESD) principles. This includes the orientation of the building towards the north, roof overhangs to reduce direct solar penetration, cross ventilation and rain water collection tanks.
- *Architectural quality* – The proposed buildings and works are of a high architectural quality, which will enhance the profile of the college.
- *Landscape architecture* – Although a detailed landscape plan will form a condition of permit, there are adequate setbacks and sufficient open space to undertake effective landscaping able to soften the appearance of the buildings and create a pleasant environment for students and staff.

**Municipal Strategic Statement (MSS)**

The following MSS clauses are relevant to the application:

- Clause 21.05-3, Settlement

**Response**

The Mitchell Planning Scheme supports continued residential growth within the municipality's southern regions. As the Shire's population increases, it is fair to say that, expectations as to the quality and variety of services also increases. The college is aware of residential growth within its catchment area (ie areas focussed on Lancefield, Kilmore, Wallan and Broadford) and wishes to ensure that its teaching philosophy is one, which caters to increased interest in the school. In drawing out the key features of Kilmore, Clause 21.05-3 states the town has a disproportionately high quantity of educational facilities. The educational focus of Kilmore is a strong feature. Development of the township's schools should be facilitated where appropriate in recognition of the growing interest these school's are experiencing and a need for the school's to adapt to evolving teaching styles.

**Local Planning Policies (LPP)**

The following LPP clauses are relevant to the application:

- Clause 22.05-3, Townscape policy

**Response**

Clause 22.05-3 applies to the entrances and streetscapes of all urban settlements and townships. The following objective is relevant:

*To ensure that all development has regard to design, siting and landscaping issues.*

The applicant has satisfactorily demonstrated that the proposed development has regard to design, siting and landscaping issues.

Clause 22.05-3 states further that it is policy for the design of new buildings to take into consideration the heritage context of the Shire's towns. Clause 22.05-3 also requests that the character of the streetscape in which the development is to occur inform new development. As discussed above, the proposed development will not detract from the heritage value of the Assumption College campus. The height and scale of the proposed buildings are not overbearing. The buildings are essential single storey and have adopted suitable setbacks. Landscaping, external construction materials and architectural design will all assist in creating an attractive addition to Sutherland Street.

**Zone**

The subject site is contained within the Residential 1 Zone (R1Z). The relevant purpose to the R1Z is as follows:

*In appropriate locations, to allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs.*

A planning permit is required for the use of the land for an educational facility and for the associated buildings and works pursuant to Clauses 32.01-1 and 32.01-6 of the Mitchell Planning Scheme.

### **Particular Provisions**

The following particular provisions are relevant to this application:

- Clause 52.06, Car parking
- Clause 52.34, Bicycle facilities

#### Clause 52.06, Car parking

According to the car parking table located at Clause 52.06 an educational facility must be able to provide 1.2 car spaces for each staff member employed. The applicant has indicated a likely increase in staff numbers as a result of the proposed development. It is estimated that the college will need to employ 102 staff members in order to maintain appropriate staff/student ratios. This equates to a need to provide 122.4 on-site car spaces. The college has stated that there are 122 existing on-site car spaces. As such, the application does not trigger the need to provide additional car parking or the requirement for a car parking dispensation.

#### Clause 52.34, Bicycle facilities

Clause 52.34 of the Mitchell Planning Scheme triggers the need to provide bicycle parking due to an increase in floor area. The combined floor area of new buildings is 2002 sqm. The table to Clause 52.34 states that a secondary school must provide 1 bicycle space to each 20 employees and 1 bicycle space to each 5 students. Although the provision states that the calculation is to be based upon floor area, the table calculates the required bicycle spaces based upon staff and students numbers. In order to work out what the correct bicycle parking requirement should be the rate will be applied to the forecasted 7.5 additional teaching staff and 132 additional students. This requires the provision of 27 bicycle parking spaces. The table does not trigger the need to provide showers and change room facilities are available within the school. It is considered appropriate to waive the requirements of Clause 52.34. The college has advised that at present two staff members cycle to work and make use of limited bicycle parking facilities. Students rely heavily upon private vehicles and bus services for transportation to the college. It is not anticipated that local students will be regularly using bicycles as a mode of transport owing to the topography of Kilmore. The granting of a bicycle parking waiver however will not prevent the school from monitoring student transportation and if needs be providing additional bicycle parking facilities to accommodate increased bicycle usage.

### **General Provisions**

The following general provisions are relevant to this application:

- Clause 65, Decision guidelines

### Clause 65, Decision guidelines

The application has been considered under Clause 65 of the Mitchell Planning Scheme. The following is relevant:

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

### Response

The proposed development represents orderly planning as it will fill a gap within the existing Sutherland Street streetscape. It is considered to be preferable to encourage development on otherwise vacant land which has a frontage to an established street. The proposed development will not have an unreasonable impact upon existing amenity. The applicable section of Sutherland Street is dominated by educational facilities (Ie Assumption College and St. Patrick's School).

### **Notification**

The application was advertised via the direct notification of adjoining landowners and occupiers, the display of one on-site sign to face Sutherland Street and the posting of a public notice in the Kilmore Free Press.

### **Objections**

As a result of advertising, Council has received two objections. The objections can be summarised as follows:

- Drainage concerns
- Traffic management concerns
- Construction of footpath

The following additional areas also require discussion:

- Urban design considerations
- Landscaping

### **Discussion**

The following is a discussion of the proposed development in light of current objections to the proposal:

#### Drainage concerns

The proposed development will be connected to existing drainage infrastructure. In addition, the college has agreed to enter into a Section 173 Agreement to pay a financial contribution towards the provision of kerb and channel to the west side of Sutherland Street (from existing kerb and channel section to southern most boundary of subject land). This will further assist in channelling stormwater and eliminating the pooling of water within the Sutherland Street road reserve as it adjoins the subject land.

#### Traffic management concerns

The college has agreed to provide no standing signs directly outside the new development to deter parents from dropping off and picking up students who may be enrolled in Years 7 and 8 and therefore occupying the new building.



An internal road is located within proximity to the new development and children can easily access Sutherland Street making it a likely point for parents to attempt drop off and pick up. The college has indicated that it currently has a system in place to co-ordinate parent drop off and pick up which includes an on-site car park located to the rear of the school and a u-shaped drive-through which buses also utilise. The college has indicated that the majority of children are transported to and from the site by local bus services. Ultimately the school must be responsible for managing the traffic volumes generated by student enrolment and staff numbers. The proposed development will result in a slight increase in student numbers but on the whole the status quo will remain unchanged. It is also assumed that the eventual relocation of St. Patrick's to Conway Street may assist in lessening some of the parking competition experienced within Sutherland Street before and after school hours.

#### Construction of footpath

As stated above, it has been agreed that this application should not be the vehicle to trigger the partial construction of a footpath to adjoin the college. The benefit of a footpath in Sutherland Street is obvious, as it will contribute towards the improved walkability of Kilmore and the ease with which students on foot can access the school. This is not to say that a continuous footpath will never be constructed along Sutherland Street but that it will need to be considered by Council at a later stage. In negotiating with Council, the college has agreed to direct students and parents in vehicles away from this section of the college through the use of no standing signs. The cost of preparing and installing the signs must be borne by the applicant. Local laws have verbally indicated that there is no issue in the installation of such signage at this point. Students will continue to utilise existing pedestrian access within Sutherland Street ie footpath located outside St. Patrick's school and the footpath located outside the Sutherland Street bus shelter.

#### Urban design considerations

Council's Urban Design Consultant has responded positively to the proposed development. Particular comments include the necessity for external building materials to integrate with existing campus buildings and St. Patrick's Church. St. Patrick's Church is of bluestone construction while the majority of the college buildings visible to Sutherland Street are constructed of orange-red brickwork. Chosen external materials include brick, render, borl blockwork and timber cladding. These materials are considered to be appropriate. A condition on any planning permit issued however will require the plans to be amended to include a full colour schedule. Chosen colours must be consistent with existing buildings including heritage buildings of note ie St Patrick's Church and the former Convent of Mercy (main college building).

The subject land is not affected by the Heritage Overlay. Land associated with the college and located further to the north is affected by the Heritage Overlay. Notable college buildings include the former Convent of Mercy (listed on the Register of the National Estate and affected by the Heritage Overlay – Schedule 85, former Convent of Mercy, 43 Sutherland Street,

Kilmore). The application was not referred to Council's Heritage Advisor as there is an adequate separation distance between the former convent and the development site (approximately 212 metres). The Assumption College campus contains a number of buildings of varying circas. In this respect the proposed building will not be discordant. The proposed building has been adapted to suit the current needs of the college and will integrate with existing buildings of recent construction.

In regard to fencing, it is understood that there will be no gated access provided in the existing fence to allow students direct access to Sutherland Street.

#### Landscaping

A detailed landscaping plan will be required via a condition of permit. The concept drawings indicate an ability to retain existing vegetation located towards the frontage of the site. Landscaping will assist in softening the bulk of the building when viewed from Sutherland Street and improving the general presentation of the college.

Council's Urban Design Consultant has emphasised that public surveillance between Sutherland Street and the school should be maintained (eg landscaping should not act to obstruct views) however the planting of canopy trees should be considered. A condition of permit will specifically request the planting of canopy trees where possible.

### **RECOMMENDATION**

#### **THAT:**

A Notice of Decision to Grant a Permit (Planning Permit No. P304262) be issued for the use and development of land (Land in Plan of Consolidation 368351E) for the purposes of an education facility (secondary school) and bicycle parking waiver, generally in accordance with the submitted plans and subject to the following conditions:

1. Prior to the commencement of the buildings and works hereby permitted, two (2) copies of plans drawn to scale and dimensioned shall be submitted to Responsible Authority. Such plans shall be generally in accordance with the plans submitted to with the application but modified to show:
  - a) A full colour schedule. The colour schedule must be harmonious with the existing college buildings and St. Patrick's Church.
  - b) Plans to indicate that no gate is to be provided within the existing fence that fronts Sutherland Street and adjoins Land in Plan of Consolidation 368351E.

The plans must be to the satisfaction of the Responsible Authority and once approved will be endorsed under this planning permit.

2. Prior to the completion of the development hereby approved, two copies of a landscape plan prepared by a suitably qualified person or firm and drawn to scale and dimensioned, must be submitted to and approved by the Responsible Authority. The plans must be generally in accordance with the plans submitted with the application, and drawn to show:
- a) The clear marking of existing vegetation to be removed or retained. Details of the species of vegetation to be removed/retained must be provided.
  - b) Where appropriate the replacement of existing canopy trees identified for removal with new canopy trees able to soften the bulk of the development. The landscape plan should make provisions for the planting of new canopy trees wherever practicable.
  - c) The provision of a proposed planting schedule which indicates plant species, number and maximum height and spread of proposed species at planting stage and at maturity. The planting schedule must include details of planting methods to ensure a high survival rate.
  - d) Details of all proposed hard surfacing treatments (eg creation of courtyards, walking paths etc), details of any required land forming (eg retaining walls, tiered garden beds etc) and details regarding proposed fencing both internal and to the frontage of the site with Sutherland Street.
  - e) A strong preference for the planting of locally indigenous species where appropriate.

The landscape plan once approved by the Responsible Authority shall be endorsed and will then form part of this planning permit.

3. The layout of the site (including landscaping), and the size of the proposed buildings and works as shown on the endorsed plans, shall not be altered or modified (whether or not in order to comply with any Statute, Statutory Rule or Local Law or for any other reason) without the prior consent of the Responsible Authority.
4. Prior to the commencement of the buildings and works hereby approved, the permit holder shall enter into an agreement pursuant to Section 173 of the Planning and Environment Act 1987 with the Responsible Authority, for the purposes of contributing towards a Special Charge Scheme to provide kerb and channel to Sutherland Street. Such an agreement shall, in addition to the formal requirements shall contain terms providing:
- a) An agreement to contribute towards fifty per cent of the cost of constructing kerb and channel from the termination of existing kerb and channel within the vicinity of Gate 1, Assumption College to the south boundary of Land in Plan of Consolidation 368351E at that

time upon which Mitchell Shire Council seeks to impose a Special Charge Scheme.

The applicant shall be liable to pay the full cost of preparing and registering the agreement.

5. The permit holder shall install 'no standing' signs towards the frontage of the subject land (ie Land in Plan of Consolidation 368351E) to deter vehicles from dropping off and picking up students from this point. The parking restriction must apply to school hours only with the restricted days and hours clearly displayed on the signage. Details of the signage wording, the number of signs and the location of signs must be submitted to and approved by the Responsible Authority prior to their installation. The signs must be installed upon the commencement of first term 2006, being the anticipated date upon which the approved building will come into operation. All costs associated with the production and installation of the required signs must be borne by the permit holder.
6. Disturbed surfaces on the land resulting from the works hereby approved by this permit shall be stabilised within three months of the completion of the development to the satisfaction of the Responsible Authority.
7. No polluted and/or sediment laden run-off is to be discharged directly or indirectly into any street, drain, watercourses or other private land during construction. To this end, pollution or litter traps must be provided on site. Refer to the Department of Sustainability and Environment publications, 'Guidelines for minimising soil erosion and sedimentation for construction sites' and 'Control of soil erosion for construction sites'.
8. The permit holder shall make provision within the construction period, and to the satisfaction of the responsible authority, for the following:
  - a) Collection and disposal of building rubble, waste and surplus materials.
  - b) Erosion control and filtering of sediments from stormwater runoff.
  - c) Hardstanding areas for construction vehicles and equipment and materials.
  - d) Washdown and disposal of mud and waste materials from construction and delivery vehicles.
  - e) Reinstatement of naturestrips and adjacent private properties.
  - f) The installation and maintenance of barriers, fencing and signage.

9. Prior to the commencement of the buildings and works hereby approved, the permit holder shall provide plans and computations for approval by the Responsible Authority of the proposed drainage system to cater for all surface runoffs, runoff from paved/sealed areas and landscaped areas to current design standards. Drainage shall be provided underground pipes and shall connect to existing underground drainage infrastructure.
10. The whole of the subject site, including any landscaped or sealed/paved areas, must be graded and drained to the satisfaction of the Responsible Authority so as to prevent the uncontrolled discharge of stormwater from the subject site across any road or footpath or onto adjoining land.
11. Any external lighting must be of a low intensity and/or fitted with suitable baffles so that no direct light shines onto any nearby property or outside land to the satisfaction of the Responsible Authority.
12. The permit holder shall reinstate any damaged footpath, naturestrip or kerb and channel and/or other assets or infrastructure as required by the Responsible Authority.
13. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities, electricity, gas and telecommunications services to each lot shown on the endorsed plan in accordance with that authority's requirements and relevant legislation at the time.
14. This permit shall expire if the buildings and works hereby permitted are not commenced within two years of the date of this permit and are not completed within four years. The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires or within three months after the expiry of this permit.

*The resolution for Item 9.16 – Planning Permit Application No. P304262 – Use and Development of Land for the Purposes of an Education Facility (Secondary School) and Bicycle Parking Waiver – 39 Sutherland Street, Kilmroe (Land in Plan of Consolidation 368351E), is found at the end of this section.*

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**9.17 PLANNING PERMIT APPLICATION NO. P304273, USE AND DEVELOPMENT OF A DWELLING AND OUTBUILDING (SHED) AT 13 NAZEK COURT, WHITEHEADS CREEK.**

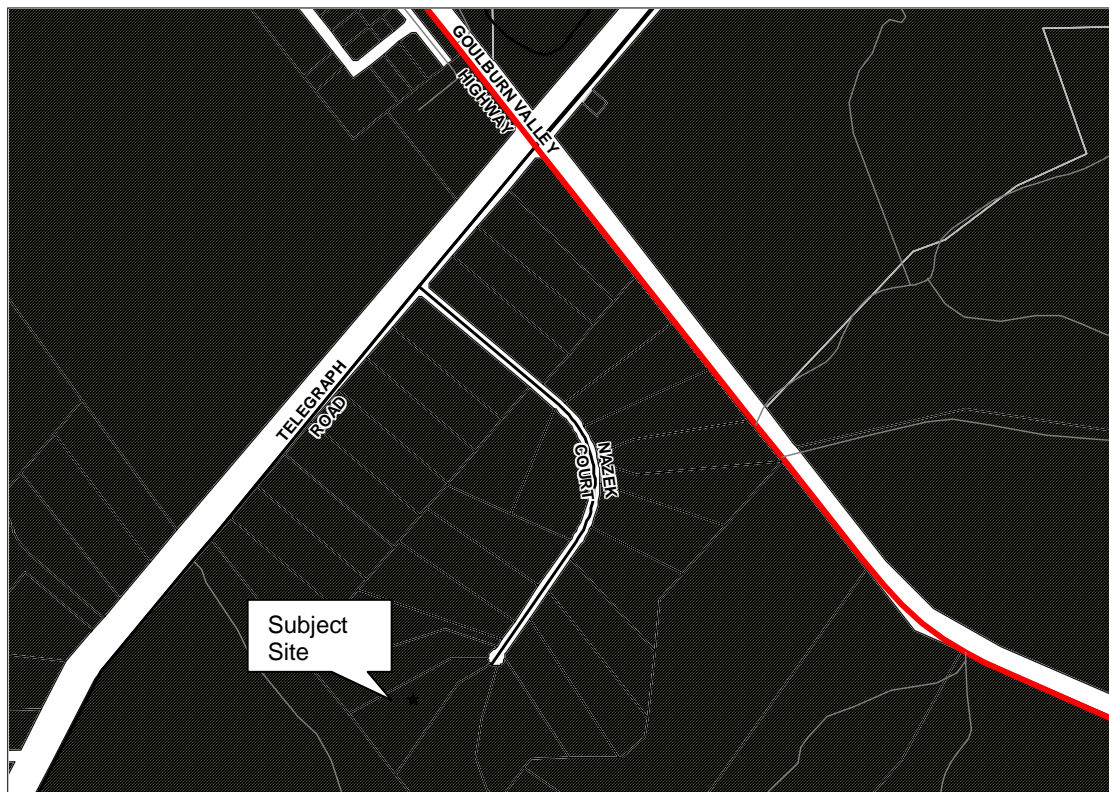
**Author:** Karen Evans – Planning Officer

**File No:** 4155020240/P304273

**Reference:** Nil

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Applicant: K Dare  
Property: Lot 24, PS400330Y  
Address: 13 Nazek Court, Whiteheads Creek  
Zoning: Rural Zone  
Proposal: Use and development of a dwelling and outbuilding (shed).



### Summary

This report recommends that a Notice of Decision to Grant a Planning Permit be issued for the proposed use and development of a dwelling and outbuilding (shed) given that the application meets the objectives of the State Planning Policy Framework, the Local Planning Policies and Zone provisions. The report also recommends a number of conditions be included on the planning permit that are considered appropriate for this nature of use and development.

**History**

The site is located at the end of Nazek Court, approximately 926m south of the Goulburn Valley Highway and Telegraph Road intersection, approximately 10km south of the centre of Seymour. Lighthorse Park is located approximately 534m to the north-west, with the Goulburn River 890m to the south. The property is part of a 33 lot subdivision (Planning Permit 121 issued on 26/9/88) known as the Bonnieview Heights Estates. The subdivision comprises rural lots of between 2 and 3 hectares in size

The subject property comprises just over 2 hectares in area with the land rising from Nazek Court, levelling out slightly on the top of the front rise and then rising again towards the south-west (rear) of the property. The property offers exceptional views to the east and north-west. There is very little remnant vegetation on the block and a dam is located in the western corner of the property. The applicant has already planted approximately 100 native trees along the property's south-eastern boundary. Access to the property is provided via a culvert crossing and gravelled driveway.

The adjoining properties to the north and south of the subject property contain dwellings and associated outbuildings. The majority of the 33 lots of the subdivision have been, or are in the process of being developed for residential living purposes.

**Details**

An application for a dwelling and outbuilding (shed) was lodged with Council on the 25 May 2005. The applicant proposes to construct a 42 square elevated brick dwelling comprising three bedrooms and study, full master ensuite and double garage. The dwelling is to be sited on the rise of the first hill, 61m west of Nazek Court and 12m from the property's southern boundary, with the dwelling oriented towards the north. A barnstyle 9m (length) x 9m (width) x 4.6m (high) colorbond shed suspended on brickwork is to be erected 8m from the property's southern boundary and 6m south of the proposed dwelling. The existing driveway will be extended to access the proposed shed, with a circular driveway providing access to the garage and dwelling.

**Policy Implications****State Planning Policy Framework**

*Clause 16.03: Rural Living and Rural Residential Development*

The objective of this policy is to identify land suitable for rural living and rural residential development that is supplied with electricity, water and good quality road access.

**Response**

The property was created as part of a recent 33 lot subdivision. The property has access to water, electricity and telecommunication services. Nazek Court is sealed with access to each property via culvert crossings. Of the 33 lots created, over half of these are being developed and used for residential living.

**Local Planning Policy Framework****22.04-3 Hilltop and Ridgeline Protection**

The objective of this policy is:

- *to protect areas of environmental and visual significance from inappropriate development*
- *To limit development on prominent ridges and hilltops*
- *To encourage the protection and revegetation of landscape feature as an enhancement*
- *To contribute to the protection of the environmental qualities of hilltops and ridgelines.*

**Response**

The area where the proposed dwelling is to be constructed is elevated but is not considered to constitute a prominent hilltop or ridgeline. The existing dwellings to the north and south of the subject property have sited their homes to take advantage of the views available from this elevated position at the end of the Court. The siting of the proposed dwelling is not considered inappropriate as it maintains the setbacks from Nazek Court that have been established by the two adjoining dwellings.

**22.04-4 Subdued Tones**

The objective of this policy is to “*ensure that all structures blend in with the surrounding environment and to ensure that the aesthetic amenity of the area is preserved and/or enhanced*”.

**Response**

The dwelling is to be constructed in red brickwork with “Pale Eucalypt” colorbond roofing. The shed will be clad in “Sandbank” colorbond with “Pale Eucalypt” colorbond roofing.

**22.04-4 Construction of dwellings on small lots in the rural zone**

This local planning policy applies to all land in rural zones with one objective ensuring that “*farming operations in the rural zone are not adversely constrained by the inappropriate construction of additional dwellings in nearby areas*”. The construction of dwellings in locations that require the upgrading of infrastructure is also to be discouraged.

**Response**

It is considered that approval of this application will not adversely constrain any nearby farming operations. The roads servicing the property are sealed and will not require upgrading.

**Zoning Provisions**

The property is located within a Rural Zone and affected by an Erosion Management Overlay (EMO) and a Salinity Management Overlay (SMO)



**Rural Zone**

Pursuant to the table of uses outlined in Clause 35.01-1 of the Rural Zone, a dwelling constructed on a property less than 40 hectares is a Section 2 use and requires a planning permit. Buildings and works associated with a Section 2 use also require a planning permit (Clause 35.01-3). A planning permit is also required for a dwelling located 100m from a dwelling not in the same ownership. Decision guidelines that must be considered by the relevant authority are outlined in Clause 35.01-6 and include:

- *The State Planning Policy Framework and the Local Planning Policy Framework including the Municipal Strategic Statement and Local Planning Policies.*
- *Whether the site is suitable for the use or development and the compatibility of the proposal with adjoining and nearby farming and other land uses.*
- *The impact of the use or development on the existing and surrounding rural uses.*
- *The location and design of existing and proposed infrastructure services including gas, water, drainage, telecommunications and sewerage facilities.*

**Response**

The proposed use and development will be compatible with the adjoining and nearby farming and other land uses. The properties surrounding the subject site are of similar size with most containing dwellings and outbuildings. The site has access to water, electricity and telecommunication services.

**Erosion Management Overlay**

Pursuant to Clause 44.01-1 of the EMO a planning permit is required to construct a building or construct or carry out works. Decision guidelines that must be considered by the relevant authority are outlined in clause 44.01-5 and include:

- *The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *Regional Catchment Strategy (Catchment and Land Protection Act 1994).*
- *Construction Techniques for Sediment Pollution Control, Environment Protection Authority, May 1991.*
- *Any proposed measures to manage concentrated runoff and site drainage.*
- *Any proposed measures to minimize the extent of soil disturbance.*
- *Whether the removal of vegetation will increase the possibility of erosion, the susceptibility to landslip or other land degradation, processes, and whether such removal is consistent with sustainable land management.*

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PLANNING PERMIT APPLICATION NO. P304273 (CONT'D)

- *The need to stabilize disturbed areas by engineering works or revegetation.*
- *Whether buildings or works are likely to cause erosion or landslip.*

#### Response

The applicant proposes minimal earthworks by elevating the dwelling and has already commenced revegetation of the property. A condition relating to the development being undertaken in accordance with the EPA guidelines in relation to sediment pollution control will be included on any permit issued. Standard DSE conditions will also be included.

#### **Salinity Management Overlay**

A Salinity Management Overlay also affects the subject land. Pursuant to Clause 44.02-4, a permit is required to construct a building or construct or carry out works. Decision guidelines that must be considered by the relevant authority are outlined in clause 44.02-4 and include:

- *The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *Any proposed landscaping and the need to preserve existing vegetation, particularly in high recharge and high discharge areas.*
- *Any land management plan, works program, or farm plan applicable to the land.*
- *The design, siting and servicing of the development and the extent of earthworks.*
- *The appropriateness of the proposed use or development having regard to the sensitivity and constraints of the land and the capability of the land to accommodate the use or development.*

#### Response

Conditions relating to the re-vegetation of any disturbed soil and storm water management should ensure the minimization of any possible erosion or salinity concerns. Standard DSE conditions will also be included on any permit issued.

#### **Referrals**

##### Department of Sustainability and Environment

An Erosion Management Overlay and a Salinity Management Overlay affect the subject property. Pursuant to Clause 44.02-3, referral is required to the DSE under Section 55 of the Planning and Environment Act 1987, unless in the opinion of the Responsible Authority the proposal satisfies requirements previously agreed to in writing. The DSE and Council have signed such an agreement (July 2002) and as the application meets the specified conditions, referral was not required. Standard DSE conditions will be considered for inclusion in any permit issued.

### Engineering

The application was referred to Council's Engineering Department. Conditions requested for the proposed development are outlined below:

- Stormwater shall be disposed of in an approved manner to the satisfaction of the Responsible Authority.
- Stormwater discharge from buildings or overflow from water tank/s shall be controlled in such a way so as not to concentrate water causing erosion or sedimentation within the site or external to the site. All to the satisfaction of the Responsible Authority.
- The development shall be undertaken in accordance with the EPA guideline No. 275 'Construction Techniques for Sediment Pollution Control' to the satisfaction of the Responsible Authority.
- Earthworks shall be kept to a minimum and shall be in accordance with relevant Australian standards with no soil to be left stockpiled on site at the completion of the works.
- No sediment shall be deposited on Council's road due to the works and/or vehicles entering or leaving the site during construction.

The above conditions will be included on any permit issued.

### **Notification**

The application was considered as possibly causing material detriment to adjoining neighbours due to the close proximity of adjoining dwellings (approximately 25m north and south). The application was notified to adjoining owners/occupiers by direct mail. One objection was received.

### **Objections**

The concerns raised in the objection relate to the following:

- Location of dwelling on a prominent ridgeline
- Height of proposed dwelling (6.3m)
- Obstruction of objector's view of Anzac Hill in Lighthorse Park caused by location of dwelling and shed
- Possible failure of existing dam

An on-site meeting was arranged with the objector and applicant in an attempt to discuss the objector's concerns. The meeting did not result in the formal withdrawal of the objection. The applicant has recently submitted amended plans that amend the height of the shed to 4.6m rather than the 5.8m originally proposed. The applicant has advised the objector of this decrease in height.

### Response

The proposed site of the dwelling has the same setbacks to Nazek Court as the dwellings on adjoining properties to the north and south. Although these existing dwellings and the proposed dwelling are positioned on an elevated area, the area is not considered to be a significant hilltop or ridgeline.

The height of the dwelling and shed are also not considered excessive. The narrowness of the subject site and surrounding properties, combined with the

topography of the land prohibits the provision of extensive setbacks of dwellings from each other. The applicant proposes to establish the dwelling 25m from the existing dwelling to the south and approximately the same distance from the existing dwelling to the north. The shed will be erected 8m from the adjoining boundary to the property on the south.

The positioning of the dwelling and, more particularly the shed, may partially encroach onto the north-westerly view presently enjoyed by the objector from the rear of his dwelling. The subject property and the objector's property are part of a 33 lot subdivision that has resulted in the creation of lots ranging in size from 2 to 3 hectares that are being primarily developed for residential living. The expectation of the right to undisturbed views is considered unrealistic. The extensive planting that the applicant has already undertaken along the property's southern boundary will, on maturity, effectively screen the shed from view. As such, the objection to the location of the shed on the grounds that it will be detrimental to the amenity of the area is not considered reasonable.

The dam that is shown on the site plan is not part of this application and concerns that the dam is not retaining water and requires attention is not relevant to the assessment of this planning application.

### **Discussion**

It is considered that the application supports the State Planning Policy Framework, the Local Planning Policy Framework and the zoning and overlay requirements of the Mitchell Planning Scheme. The proposed dwelling and outbuilding (shed) are considered compatible with the surrounding land use and development. Standard planning permit conditions that are routinely included on any permit issued for a dwelling and outbuildings will be included on any permit issued.

### **RECOMMENDATION**

**THAT:** a Notice of Decision to Grant a Permit be issued for the use and development of a dwelling and outbuilding (shed) at 13 Nazek Court, Whiteheads Creek in accordance with the endorsed plans, subject to the following conditions:

1. The submitted plan(s) shall be stamped the endorsed plan(s) and once stamped, shall be the plan(s) referred to in this Planning Permit. No alteration or modification will be permitted without the written consent of the Responsible Authority.
2. Stormwater shall be disposed of in an approved manner to the satisfaction of the Responsible Authority.
3. Stormwater discharge from buildings or overflow from water tank/s shall be controlled in such a way so as not to concentrate water causing erosion or sedimentation within the site or external to the site, all to the satisfaction of the Responsible Authority.

4. The development shall be undertaken in accordance with the EPA guideline No. 275 'Construction Techniques for Sediment Pollution Control' to the satisfaction of the Responsible authority.
5. Earthworks shall be kept to a minimum and shall be in accordance with relevant Australian Standards with no soil to be left stockpiled on site at the completion of the works.
6. No sediment shall be deposited on council's road due to the works and/or vehicles entering or leaving the site during construction.
7. Prior to any works commencing, the permit holder/owner shall make application to Council's Environmental health Unit for a permit to install a septic system.
8. All external materials to be used in the construction of the building hereby permitted shall be of muted tones and non-reflective and shall not result in any adverse visual impact on the amenity of the surrounding area.
9. The outbuilding (shed) approved under this permit is for storage purposes only and such use shall not be altered without the prior written consent of the Responsible Authority.
10. The outbuilding (shed) approved under this permit must not be used for human habitation and must not contain facilities that could be used for cooking, eating or sleeping.
11. This permit shall expire if the development hereby permitted is not completed within two years from the date hereof or within any extension of that time which upon application made before or within three months after the expiry of the permit, is granted in writing by the Responsible Authority.

Department of Sustainability and Environment

12. That all proposed septic tanks and associated effluent lines be located and constructed in accordance with the current septic tank code of practice and to the satisfaction of the Responsible Authority.
13. That access sites are to be restricted to slopes of not more than 15% and drainage from the hard surfaces be disposed of in a manner that minimises the potential for soil erosion and sediment movement.
14. At the completion of the dwelling and outbuilding, all areas of disturbed ground shall be stabilised and revegetated to the satisfaction of the responsible authority.
15. Ensure that the site be developed and managed to minimise the risks of stormwater pollution through the contamination of run-off by

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PLANNING PERMIT APPLICATION NO. P304273 (CONT'D)

sediments, chemicals or gross pollutants in accordance with currently accepted best practice.

16. That all batters are to have a maximum slope of 2 horizontal to 1 vertical and be properly drained to minimise batter erosion and slumping.
17. That all batters and disturbed areas to be top soiled with a minimum of 75mm of topsoil and revegetated to the satisfaction of the Responsible Authority.

*The resolution for Item 9.17 – Planning Permit Application No. P304273, Use and Development of a Dwelling and outbuilding (Shed) at 13 Nazek Court, Whiteheads Creek, is found at the end of this section.*

## 9.18 VICTORIAN CIVIL & ADMINISTRATIVE TRIBUNAL HEARINGS AND MITCHELL PLANNING SCHEME UPDATE

**Author:** *Richard Strates – Planning & Development Manager,*

*David Huxtable - Environmental Services Manager*

**File No:** *CL/04/004-01*

**Reference:** *Nil*

### Summary

The following is a summary of the current VCAT and Planning Scheme Amendment activities being dealt with by the Planning and Development Unit.

#### Planning & Development

##### 1.1 Victorian Civil and Administrative Tribunal (VCAT) Hearings Update

<b>Applicant/Proposal</b>	<b>Appealed By</b>	<b>Hearing Update</b>
Seymour Walking Trail Landowners v's MSC	Compensation dispute re land acquisition.	Directions hearing held on 9 June 05. Tribunal ordered objector to provide further information within 30days. Compulsory conference set for 12 August 2005. Further compulsory conference set for 28 October.
Partial demolition, buildings and works and reduction in car parking. Macs Hotel. 57-59 Sydney Road Kilmore P304038	Appeal lodged by objector. (Notice of Decision to Grant a Permit). Appeal lodged by permit applicant for review of conditions.	Hearing held 1 June 2005. Awaiting decision.
Subdivision of the land into two (2) lots. 2220 Northern Highway Kilmore P303975	Appeal lodged by applicant (Refusal).	Hearing held 8 August 2005. Council decision upheld – no permit to issue.
40 lot subdivision. ET8 Francis Court Kilmore P303990	Appeal lodged by permit applicant, failure to determine.	Direction for applicant and Council to resolve issues or matter will proceed to a hearing.
209 lot subdivision. WT's 3,4,9,10 & 11 Lancefield Kilmore Road Kilmore P303947	Appeal lodged by permit applicant, failure to determine.	Direction for applicant and Council to resolve issues or matter will proceed to a hearing.

18 Units 151 – 159 Dudley Street Wallan P304092	Appeal lodged by permit applicant (Refusal)	Awaiting hearing date.
Boutique Brewery 110 Butlers Road Kilmore P304245	Appeal lodged by objector.	Hearing to be held 4 October 2005.
2 Lot subdivision 165 Diggings Road Kilmore P304085	Appeal lodged by applicant. (Refusal)	Awaiting Hearing date.
6 Lot subdivision 112 White Street Kilmore P303932	Appeal lodged by applicant. (Condition)	Awaiting Hearing date.
Alterations to existing building and car parking waiver. 81 High Street Broadford P304030	Appeal lodged by objector.	Hearing to be held 14 October 2005.
34 Lot subdivision and removal of 36 native trees and shrubs. 31 Wallan Darraweit Road Wallan P304212	Appeal lodged by objector. (Failure to give notice)	Directions Hearing held 26 August 2005. Verbal determination given by Tribunal, appeal to allow objector to proceed for failure to give notice disallowed. Permit to issue
84-86 High St, Wallan – Wallan Medical Centre	Appeal lodged by applicant to review conditions	Hearing held 26 August 2005 – Awaiting decision.

## 1.2 Planning Scheme Amendments Update

<b>Amendment No.</b>	<b>Description</b>	<b>Amendment Update</b>
Amendment C16	Hume Highway Upgrade	Panel Hearing 5 & 7 September 2005.
Amendment C19	Inserts Clause 21.05-2 into the MSS which addresses water quality management in the Lake Eppalock Catchment. Inserts a new Local Planning Policy – Clause 22.03-3 Lake Eppalock Catchment Management and Water Quality Protection Policy. Amends Schedule 2 to the environmental Significance Overlay, Clause 42.01 to introduce permit requirements and referral requirements.	Awaiting Minister's approval.



Amendment C27	Transfer of updated flood data mapping prepared by DSE & Goulburn Broken Catchment Management Authority	All submissions resolved. Amendment documentation sent to DSE for review prior to approval of amendment by the Minister.
Amendment C30	Proposes to rezone land in Council ownership from Rural to Public Use Zone, Industrial 3, Public Park & Recreation and Residential 1 Zone/s. A minor change to the Kilmore Structure Plan is also required.	Submissions closed 1 November 2004. Council Officers reviewing submissions with a view to making recommendations to Council in due course.
Amendment C32	Redefining the area of Wildfire Management Overlay	Panel Hearing 26 – 29 September 2005.
Amendment C35	Rezone former VicRoads Depot from Public Conservation & Resource Zone to Industrial 1 Zone.	Submissions closed 20 December 2004. See council report this month for review of submissions and officer recommendations.

### 1.3 Enforcement Update

South Mountain Road, Heathcote Junction	Vegetation Removal	Hearing held 26/27 April – Member reserved decision and costs pending Council's preparation of a report and rewording of draft orders to suit report. Preparation of costs report and draft orders completed and submitted to VCAT – Final hearing date – 28 October 2005.
Sydney Street, Kilmore	Commencement of use prior to completion of permit conditions	Penalty Infringements issued to Owner, Occupier and Developer for non-compliance to permit conditions. Council in conjunction with VicRoads have pursued issues of public safety regarding the development. This has resulted in: <ul style="list-style-type: none"> <li>• installation of footpath to 91 Sydney St,</li> <li>• bituminous seal completed</li> </ul>

		<p>at intersection, and</p> <ul style="list-style-type: none"> <li>• certification of lighting for intersection complete.</li> </ul> <p>VicRoads is preparing to issue practical completion of works with defects listing. Plan to be provided by developer for satisfaction completion of defects list.</p>
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**1.4 Activities Carried out Under Delegation**

A list of planning permit applications for the month has been circulated separately and discussed at the Planning Briefing.

**RECOMMENDATION**

**THAT:** the report be received and noted.

*The resolution for Item 9.18 – Victorian Civil & Administrative Tribunal Hearings and Mitchell Planning Scheme Update, is found at the end of this section.*

**9.19 INCREASING AWARENESS OF ROADSIDE TRAFFIC SAFETY ISSUES**

**Author:** *Stephen Richards - Manager Works*

**File No:** *ST/01/001*

**Reference:** *Nil*

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**Summary**

This report details issues related to roadside safety, arising from participation in Vic Roads, Northern Region Enhanced Crash Investigation (ECI) Project.

**Background**

Mitchell Shire has been invited to participate in the ECI Project which is an “*in depth*” examination of the factors that cause serious injury crashes. The project is being carried out by Monash University Accident Research Centre (MUARC) who will present a final project report to the State Government by June 2006.

A total of 81 serious injury crashes from across Victoria will be investigated. 36 of these will be from the Metropolitan area and 5 Rural Regional panels will each analyse 9 crashes. Vic Roads, Northern Region has assessed its first 3 crashes at a panel meeting on 18 August 2005.

The project will investigate serious injury crashes in which one driver/passenger was taken to hospital for at least one night and where no one was killed. Run off the road crashes will be the key focus.

**Policy Implications**

The outcomes of this report are consistent with Council’s Strategic Indicator, “*Review the Capital Works Forward Projections and articulate priorities to the community.*”

**Issues**

Following involvement in the Panel officers believe there are two issues are pertinent to Mitchell Shires’ forward planning with respect to the funding of Capital Works Projects.

The issues are as follows:

- Substandard bends or corners at the end of long straights in rural areas.
- Miscellaneous or isolated roadside hazards posing a risk to motorists.

The first of these arose subsequent to the ECI panel reviewing a particular crash where a car travelling along a long straight piece of road in a 100 kph speed zone in a rural area failed to take a sudden very tight bend at the end of the long straight section of road. An example of this situation in Mitchell Shire is at “Carmel’s Corner” just east of Pyalong on the Seymour/Pyalong

Road. This corner can be approached from both directions at or near the speed limit of 100 kph and yet the corner has a rather small radius and an advisory speed of 40 kph posted. There are also hazards beyond the carriageway which an errant vehicle may collide with, being trees and also the Mollison Creek.

The second issue raised is in relation to the philosophy behind the State Governments "Arrive Alive" Program. The program's aim is to reduce or remove the potential for serious run off the road crashes by implementing a number of counter measures along the States Highways and main roads. There are two of these projects proceeding within Mitchell Shire at present, being on Northern Highway between Kilmore and Wallan and on Epping/Kilmore road between Kilmore and Wallan East. The nature of the works involved in these projects includes widening of culverts, widening of verges, construction of protection barriers and removal of trees.

Officers believe that it would be appropriate for Council to take a proactive approach by auditing the network for such hazards, identifying and prioritising the located hazards then addressing the hazards via the Capital Works Program.

#### **Financial and Resource Implications**

It is anticipated that there will be no net additional financial implications for Council if the recommendation is adopted. There will merely be a redistribution of project budgets among the various Capital Works Program road groupings.

#### **Consultative Procedures**

Nil

#### **RECOMMENDATION**

**THAT:** Council refer to its 06/07 Budget preparation process, the introduction of a "Road Safety" category within the Roads Group of projects in the Capital Works Program.

*The resolution for Item 9.19 – Increasing Awareness of Roadside Traffic Safety Issues, is found at the end of this section.*

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INCREASING AWARENESS OF ROADSIDE TRAFFIC SAFETY ISSUES (CONT'D)

**ENGINEERING & ENVIRONMENT REPORTS – ITEMS NOT OTHERWISE DEALT WITH:**

**MOVED:** CR. D. PATERSON

**SECONDED:** CR. R. LEE

**THAT:** the recommendations contained within Item 9.3, 9.5, 9.6, 9.7, 9.14, 9.15, 9.16, 9.17, 9.18 and 9.20 of the Engineering & Environment Reports, be adopted.

**CARRIED**

## 10. GOVERNANCE & EXECUTIVE

### 10.1 GOVERNANCE & EXECUTIVE - GENERAL REPORT

**Author:** Garry Cecil, Chief Executive Officer

**File No:** CL/04/002

**Reference:** Nil

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#### 1. Timber Towns

Council has received a copy of the Timber Towns Victoria (TTV) Annual Report for 2004/2005. Mitchell Shire Council is a member of the TTV, with membership open to all Victorian municipalities where forest industries are recognised as significant contributors to the economy and community. There are 20 member Councils across the state.

The Presidents report from Cr Malcolm Hole highlights a number of achievements as follows:

- *Water reform was a major issue for the association this year. The concerted efforts of TTV, combined with those of industry, successfully resulted in a number of changes to State Government policy in relation to plantations and water usage;*
- *Implementation of the Forest Practitioner Accreditation Scheme continued this year. A further series of briefings were undertaken for local government and industry, with a particular focus on the west of the State;*
- *This year we initiated the Local Timber Roads Funding Strategy. The Strategy builds on the information provided in the TIRES reports and will assist councils to assess local road funding priorities.*

Council's representative on the Timber Towns Association is Mr Jim Ure.

#### 2. Human Rights in Victoria

Council has received a copy of the community discussion paper "*Have your say about human rights in Victoria*".

The document includes ten key questions the Human Rights Consultation Committee would like considered. They are:

1. *Is change needed in Victoria to better protect human rights?*
2. *If change is needed, how should the law be changed to achieve this?*
3. *If Victoria had a Charter of Human Rights, which rights should it protect?*
4. *What should be the role of our institutions of government in protecting human rights?*

5. *What should happen if a person's rights are breached?*
6. *What wider changes would be needed if Victoria brought about a Charter of Human Rights?*
7. *What role could the wider community play in protecting and promoting human rights?*
8. *What other strategies are needed to better protect human rights?*
9. *If Victoria introduced a Charter of Human Rights, what should happen next?*
10. *Is there anything else you would like to tell the committee about how human rights should be protected in Victoria?*

The discussion paper encourages individuals, groups or organisations to make submissions. Further information can be obtained and submissions made to the Department of Justice website: [www.justice.vic.gov.au/humanrights](http://www.justice.vic.gov.au/humanrights).

### **3. Best Value Review – Children's Service**

As part of our continued commitment to improvements as part of Best Value. Council has undertaken a review by an independent person on the Best Value Review for Children's Service. The following observations were found:

- Each of the services subject of the review namely, Kindergartens, Maternal and Child Health and Family Day Care have mechanisms in place to ensure that they regularly consult with their clients and staff and the feedback received is a valuable means of effecting service improvements;
- It is noted that all of the Key Performance Indicators contained in the 2002 Best Value Review were achieved;
- There is monitoring of the fees set for the Kindergarten service and the Family Day Care scheme when establishing the annual Budget. Comparisons are undertaken in relation to the Kindergarten fees to ensure they are comparable with other similar providers. In this regard it is noted that 76% of the Kindergarten clients were happy what Council's fees were affordable in 2004.

Overall the Children's Services performed well against the Best Value review principles.

**4. Best Value Review – Waste Services**

A review was also undertaken on the Waste Services, the following overview is provided:

- The Waste Management Service has performed well over the review period. The customer satisfaction survey with the Waste Management service has a satisfaction ranking of 67%, which ranks second in all the services provided by the Council.
- The necessary approvals have been obtained to facilitate the new landfill site at Hilldene.
- The cost of the garbage/recycling service has increased from \$126 to \$170 or 34.92%.

**5. Best Value Reporting Requirements**

The Minister for Local Government in response to the recommendation from the Best Value Commission to reduce the reporting requirements on Local Government, revoked the Ministerial Program Code and Ministerial Code for Reporting. This notice was published in Victorian Gazette 16 June, 2005 and takes effect from this date.

There is no longer a requirement to provide Best Value annual reports, as prescribed in the Code of Reporting, to the Minister for Local Government. Council is however, still required to comply with the requirements of the Local Government Act, 1989, and will be provided a brief description of how Council has applied the Best Value principles in our Annual Report.

**6. Fire Service Levy**

Council is supporting the action taken by the MAV to advise the Government that it will not support the Victorian State Emergency Services Bill 2005,, which is currently before State Parliament. This Bill would put an onus on Local Government to become the collection agency for the fire services levy.

**7. Discussion Paper on Local Government**

The Victorian Nationals has just released a discussion paper on Local Government. A number of key initiatives are highlighted in the discussion paper these include:

- Initiate a major conference of Victorian State and local government bodies to clarify the roles and responsibilities of each tier of Government.
- Implement a range of measures to improve the financial viability of country Councils.



- Make changes to the rating system to ensure greater transparency and equity.
- Establish an independent Local Government Bureau to oversee local government in Victoria.
- Increase the minimum number of Councillors from 5 to 7.
- Ensure Councils give priority to delivering services cost efficiently and abandon the State Government “Best Value”.

A copy of the paper can be downloaded from the Nationals website.

### **RECOMMENDATION**

**THAT:** the report be received and noted.

*The resolution for Item 10.1 – Governance & Executive – General Report, is found at the end of this section.*

**10.2 CONTRACT 040526 STREET CONSTRUCTION WORKS FOR DUKE, WINDHAM, WATSON AND HIGH STREETS, WALLAN**

**Author:** *Vicki Potts, Governance & Executive Services Coordinator*  
**File No:** *CT/02/040526*  
**Attachment :** *Nil*  
**Reference:** *8 August, 2005 - Item 9.4*

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**Summary**

This report recommends not awarding Contract 040526 being Street Construction Works for Duke, Windham, Watson and High Streets, Wallan on the basis of a reduction in available funding and therefore the necessity to re-scope the works.

**Background**

Advertisements calling for tenders were placed in the following:

- The Melbourne Age 30 July, 2005
- Kilmore Free Press 3 August, 2005
- Seymour Telegraph 3 August, 2005

Tenders were also available on Council's website.

Tenderers were required to make submissions, in accordance with the specifications and return by 30 August, 2005.

The tender box was opened at 4.00pm on 30 August, 2005, by:

- Greg Scott Asset Manager
- Vicki Potts Governance & Executive Services Coordinator

Submissions as recorded in the Tender Register were received from:

1. Presta & Son
2. Airport Concrete Paving Pty Ltd
3. CDN Contractors Pty Ltd
4. Grancon Road Constructions Pty Ltd
5. Winslow
6. Metro Asphalt Pty Ltd
7. Newearth Constructions
8. Mitchell Shire Council
9. Akron Roads Pty Ltd
10. NorthVic Constructions

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CONTRACT 040526 STREET CONSTRUCTION WORKS FOR DUKE, WINDHAM, WATSON AND HIGH STREETS,  
WALLAN (CONT'D)

### **Policy Implications**

This project is in line with the 2005-2009 Council Plan key strategic activity “*complete 90% of projects contained in year 1 of the Capital Works Program by 30 June each year*”.

### **Issues**

This contract was scoped in a way to include major infrastructure works surrounding the proposed Wallan Secondary College. Council, on the advice of the Department of Education and Training (DE&T), declared a Special Charge Scheme at its meeting on 8 August, 2005, and the contract specification was prepared on the basis of that declared scheme.

Council has received verbal advice that DE&T will not be supporting the infrastructure works that had been proposed as part of this contract. The anticipated funding from the “Good Neighbour Program” will now not be forthcoming this year.

It is disappointing that DE&T has determined that a project of this magnitude does not warrant funding from the ‘*Good Neighbour Program*’ to support the construction of roads and footpaths. DE&T had previously provided advice acknowledging the poor surrounding infrastructure and that they would consider assisting with funding for some indented parking around the school to assist in the reduction of traffic congestion in the peak periods.

Because of the advice from the Department that funds will not be forthcoming this will now dramatically change the scope of the works involved with this contract. Officers are now required to re-scope the works and prepare a new set of contract specifications to vary the works to match funds available in the adopted Budget. These works will be prepared having consideration of safety concerns regarding student access, traffic management and Council priorities.

Council, in its 2005/2006 Capital Works Programme allocated \$200,000 of Council funds towards infrastructure provision and \$100,000 towards community facilities. This was to be matched by equal funds from DE&T making a total capital allocation for both projects of \$600,000.

Due to the matching funding no longer being available, it is considered that Council should:

- Re-scope the infrastructure works to be carried out to facilitate the safety of students attending the school;
- Allocate its full \$300,000 towards the provision of infrastructure around the school site;

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CONTRACT 040526 STREET CONSTRUCTION WORKS FOR DUKE, WINDHAM, WATSON AND HIGH STREETS, WALLAN (CONT'D)

### **Financial and Resource Implications**

Council budgeted \$400,000 in its 2005/2006 Capital Works Programme. This included a forecast \$200,000 from the Department of Education and Training. An additional \$200,000 was also forecast for community facilities in association with the Wallan Secondary College. A total of \$300,000 was allocated from Council sources.

### **Consultation Procedure**

Officers have participated in the Wallan Secondary Education Planning Committee. The Committee were advised of the Education Department stance at its meeting held on 31 August, 2005.

### **RECOMMENDATION**

#### **THAT:**

1. Contract 040526 being Street Construction Works for Duke, Windham, Watson and High Streets, Wallan not be awarded;
2. Council write to the Minister for Education highlighting Councils disappointment in the Department not providing funds for the safety of students, parents and the community in the form of supporting infrastructure as part of the construction of this major facility.

**MOVED:** CR. R. GORDON

**SECONDED:** CR. S. MARSTAELLER

#### **THAT:**

1. Contract 040526 being Street Construction Works for Duke, Windham, Watson and High Streets, Wallan not be awarded;
2. Council write to the Minister for Education highlighting Councils disappointment in the Department not providing funds for the safety of students, parents and the community in the form of supporting infrastructure as part of the construction of this major facility.
3. Council will provide a sealed car park on Greenhill Reserve and footpath in High Street and bus parking in Duke Street, for \$400,000 with \$100,000 from the State to ensure pupil safety prior to the High School opening in January.

**CARRIED**

6/1

**10.3 CONTRACT 050601 LOCAL ADVERTISING REQUIRMENTS**

**Author:** Garry Cecil, Chief Executive Officer

**File No:** CT/02/050601

**Attachment (1):** Global Score Sheet

**Reference:** Nil

---

**Summary**

The report provides an overview of quotations received for Local Advertising requirements for the Mitchell Shire and recommends awarding this contract.

**Background**

Council sought quotations for the supply of local advertising from the following:

- Seymour Telegraph
- Seymour Nagambie Advertiser
- North Central Review
- Kilmore Free Press

Tenderers were required to make submissions, in accordance with the brief and return by 1 September, 2005.

The tender box was opened at 4.05pm on 1 September, 2005, by:

- Noeline Boyer Executive Assistant
- Catherine Watts Communications Officer

Submissions received were:

1. The North Central Review
2. Seymour Telegraph
3. Central Highland Newspaper
4. Seymour Nagambie Advertiser

**Policy Implications**

Local advertising is seen as an integrated way to communicate with our community. The Council Plan 2005-2009 contains the strategic indicator "*undertake a biennial review of Council advertising arrangements to ensure maximum readership*".

Council's Communications Policy sets out objectives as follows:

- *"To improved community information and awareness that will provide two-way open communication between Council and the Community. Promote a positive public image of Council as a responsible governing organisation that provides strong leadership and direction within the*

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 CONTRACT 050601 LOCAL ADVERTISING REQUIREMENTS (CONT'D)

*Community. Provide the Community with relevant and current information that will increase access to Council facilities and services”.*

### Issues

The “*Mitchell Matters*” page has been circulated in local editorials since 1 October, 2001. The page contains all Council business information and the community now recognise the page as Council’s media outlet.

A brief for Local Advertising requirements was prepared based on contractors providing a Lump sum price for:

- Full page advertisement (approx 25cm x 38cm) Colour
- Full page advertisement (approx 25cm x 38cm) Black and white.

For a period of two years from 1 October, 2005 to 30 September, 2007, in line with the strategic indicator in the Council Plan. The brief also contains an option for extension up to four years.

The brief stated that “*Council will only accept either schedule 2A or 2B for the Lump Sum Price*”.

Contractors were given the opportunity to indicate which page they guarantee to publish Mitchell Matters on in their publication.

The following is the lump sum prices received with the guaranteed page:

		<b>Lump Sum 2 Years (incl GST) Colour</b>	<b>Lump Sum 2 Years (incl GST) Black &amp; White</b>	<b>Guaranteed Page</b>
1	North Central Review	\$82,460	\$77,086.8	11
2	Seymour Telegraph	\$63,163.10	\$55,260.96	7
3	Central Highlands Newspaper	\$34,650	\$31,350	4,6 or 7 (Councils choice)
4	Seymour Advertiser	\$57,024	\$42,240	5

The brief provided the following selection criteria:

- Price 60%
- Insurance Evidence 20%
- Capability 20%

### Price

Scores assigned to price is determined by the formula detailed in our purchasing procedure as this is a lump sum contract.

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CONTRACT 050601 LOCAL ADVERTISING REQUIREMENTS (CONT'D)

### Insurance Evidence

Scores have assigned on the evidence of insurance coverage as detailed in the tender brief which stated "*Insurance Evidence – demonstrate details of currency*". All respondents except Seymour Nagambie Advertiser provided a photocopy of their current insurance certificates. Seymour Nagambie Advertiser did not supply evidence of insurance cover with scores allocated accordingly.

### Capability

All respondents are capable of undertaking the requirements of Council, having produced publications previously.

Council over the past has produced the Shire page in both a North and South publication and it is intended that this would continue. The page is currently being produced in colour and the panel recommend awarding Schedule 2 (a) Full page advertisement (approx 25cm x 38cm) Colour. The panel would recommend maintaining page 7 in both publications for consistency to the community as it has been the page allocated in previous years.

As can be seen by the global score sheet, the panel recommend awarding the South publication to Central Highlands Newspaper and the North publication to Seymour Telegraph.

### **Financial and Resource Implications**

Council has allocated an amount of \$50,000 in the 2005/2006 Budget for Corporate advertising.

Should Council accept the recommendation to award to Seymour Telegraph and Central Highlands Newspaper the total cost for two years \$97,813.10 which would be in line with Council's budget allocation of \$50,000 per year.

### **Consultation Procedure**

The Mitchell Matters page forms part of Council's overall community consultation program and communications strategy. The consolidated approach to Council's communications each week has proved beneficial.

CONTRACT 050601 LOCAL ADVERTISING REQUIREMENTS (CONT'D)

**RECOMMENDATION**

**THAT:** Council determine its local advertising arrangements based on:

1. The tender received from Central Highlands Newspaper for Schedule 2 (a) item a full page advertisement - Colour once per week (on page 7) at the Lump Sum price of \$34,650.00 for the period 1 October, 2005 to 30 September, 2007, plus Schedule 3 casual line advertising as submitted; and
2. The tender received from Seymour Telegraph Pty Ltd for Schedule 2 (a) item a full page advertisement - Colour once per week (on page 7) at the Lump Sum price of \$63,163.10 for the period 1 October, 2005 to 30 September, 2007, plus Schedule 3 casual line advertising as submitted.

**MOVED:** CR. R. LEE

**SECONDED:** CR. F. URE

**THAT:** the item be deferred to allow the contract to be readvertised for a 1 year period.

**LOST**  
2/5

**MOVED:** CR. R. GORDON

**SECONDED:** CR. R. HUMM

**THAT:** Council determine its local advertising arrangements based on:

1. The tender received from Central Highlands Newspaper for Schedule 2 (a) item a full page advertisement - Colour once per week (on page 7) at the Lump Sum price of \$34,650.00 for the period 1 October, 2005 to 30 September, 2007, plus Schedule 3 casual line advertising as submitted; and
2. The tender received from Seymour Telegraph Pty Ltd for Schedule 2 (a) item a full page advertisement - Colour once per week (on page 7) at the Lump Sum price of \$63,163.10 for the period 1 October, 2005 to 30 September, 2007, plus Schedule 3 casual line advertising as submitted

**LOST**  
2/5

Cr. Humm called for a **DIVISION:**

<b>FOR</b>	<b>AGAINST</b>
Cr. Gordon	Cr. Lee
Cr. Humm	Cr. Melbourne
	Cr. Paterson
	Cr. Marstaeller
	Cr. Ure



**MOVED:** CR. D. PATERSON

**SECONDED:** CR. F. URE

**THAT:** The tender received from North Central Review for Schedule 2 (a) item a full page advertisement - Colour once per week (on page 11) at the Lump Sum price of \$82,460.00 for the period 1 October, 2005 to 30 September, 2007, plus Schedule 3 casual line advertising as submitted be accepted.

**CARRIED**  
5/2

**10.4 FREEDOM OF ENTRY - KILMORE**

**Author:** *Catherine Watts Communications Officer*

**File No:** *OR/04/009*

**Attachment:** *Nil*

**Reference:** *Nil*

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**Summary**

This report recommends that Council grant Freedom of Entry to the Puckapunyal School of Artillery to the township of Kilmore. The ceremony for this honour is scheduled to take place on Saturday 15 October 2005 and will form part of the 150<sup>th</sup> Anniversary Celebrations of the Kilmore Mechanic's Institute.

**Background**

In January, 2004, Council was approached by the Kilmore Mechanics Institute seeking "in principle" support to stage a Freedom of Entry ceremony to Kilmore by the Puckapunyal School of Artillery. On behalf of the Institute, Council has extended to the School of Artillery an offer of the privilege of Freedom of Entry to the township of Kilmore, which has been accepted.

**Policy Implications**

Freedom of Entry to the Puckapunyal School of Artillery to the township of Kilmore is supported by Council's strategic indicator which states that Council will *"ensure that civic functions and community celebrations are conducted in a timely and coordinated manner throughout the municipality."*

**Issues**

Council's role in this activity includes granting the right to Freedom of Entry, participation in the ceremony, liaising with the Australian Army, Victoria Police, the Kilmore Mechanics Institute, VicRoads and other relevant parties to ensure logistics and protocols are met for the ceremony and presentation; that road closures and traffic diversion are in place and that invitations are extended to relevant parties. It is anticipated that the actual parade through Kilmore will take approximately fifteen minutes and will create minimal traffic disruption.

The event is being organised by the Kilmore Mechanics Institute as part of their 150<sup>th</sup> Anniversary celebrations and apart from what is outlined above which are ceremonial formalities because of Mayoral involvement and protocols required by the Australian Defence Force, Council has no other responsibilities in the conduct of this event.

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FREEDOM OF ENTRY - KILMORE (CONT'D)

**Financial and Resource Implications**

While there is no specific Budget allocation for this activity, Council will provide in kind support via its Local Laws Unit and Executive Unit staff and will contribute \$400 towards the catering for the Civic Function to be held in the Kilmore Memorial Hall after the parade. Council will also arrange for a ceremonial scroll to be made for presentation on the day.

**Consultation Procedure**

Consultation has taken place with the Kilmore Mechanics Institute and the Australian Army with further consultation to include VicRoads, Victoria Police and other relevant parties.

**RECOMMENDATION**

**THAT:** Council grant Freedom of Entry to the Puckapunyal School of Artillery to the township of Kilmore and sign and seal the ceremonial scroll.

**MOVED:** CR. R. HUMM

**SECONDED:** CR. R. LEE

**THAT:** the recommendation be adopted.

**CARRIED**

**10.5 GLEN EIRA CITY COUNCIL**

**Author:** Vicki Potts, Governance & Executive Services Coordinator  
**File No:** CL/01/001  
**Attachment:** Nil  
**Reference:** Nil

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**Summary**

This report overviews the recent report released regarding the Glen Eira City Council.

**Background**

On 28 September, 2004, the Glen Eira City Council requested the Minister for Local Government, to appoint an Inspector of Municipal Administration to investigate and report on matters arising out of an audit of Councillors' expenses by its Internal Auditor.

The Minister acted on the request and issued Terms of Reference which stipulated that the Inspector review Council's governance practices.

**Policy Implications**

Reporting on the release of the report tabled is in line with the strategy as detailed in the 2005-2009 Council Plan "*remain well informed on political and social issue that effect6 the community of the Shire and advocate on behalf of the community on issues of public interest*".

**Issues**

A media release from the Minister for Local Government highlights the report that raised serious questions of governance among Councillors at Glen Eira.

The media release states "*This report outlines, in great detail, a litany of deficiencies of governance which made it impossible for the Council to provide fair representation for its local community*".

The media release goes on to say "*among the reasons for the suspension of the Council outlined in the report are:*

- *The lack of an effective code of conduct,*
- *The lack of an appropriate Councillor expenses policy,*
- *Breaches of confidentiality,*
- *Misunderstanding of Councillor role and responsibilities, and*
- *A poor relationship between Councillors and Council staff, including the CEO."*

In a letter addressed to the Mayor, the Minister for Local Government, states "*I urge each Council to closely study the findings of the report, the*

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GLEN EIRA CITY COUNCIL (CONT'D)

*recommendations, the Government response and the media release. It's important that we heed the lessons of this episode and make sure they are not repeated in any other Victorian Council."*

### **Financial and Resource Implications**

There is none envisaged.

### **Consultation Procedure**

The full report is accessible on line at [www.dvc.vic.gov.au/local\\_gov.htm](http://www.dvc.vic.gov.au/local_gov.htm) a copy of the report has been provided to all Councillors electronically.

### **RECOMMENDATION**

**THAT:** the report be received and noted.

*The resolution for Item 10.5 – Glen Eira City Council, is found at the end of this section.*

**10.6 LOCAL GOVERNMENT CHALLENGES AND MAV RESPONSES**

**Author:** Vicki Potts, Governance & Executive Services Coordinator

**File No:** LG/02/001

**Attachment:** Nil

**Reference:** Nil

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**Summary**

This report overviews the issues paper "*Local Government Challenges and MAV Responses*".

**Background**

The Rules of the Municipal Association of Victoria (MAV) define the structure, processes and functions under which the MAV State Council, Board and organisation operate.

The Management Board, guided by resolutions of State Council, has resolved to undertake a comprehensive review of the Rules.

The issues paper forms the first step in the review process and outlines issues and challenges confronting the Victoria Local Government sector and proposed roles for the MAV in response to them.

**Policy Implications**

Over viewing the issues paper is in line with the strategy as detailed in the 2005-2009 Council Plan "*remain well informed on political and social issue that effect6 the community of the Shire and advocate on behalf of the community on issues of public interest*".

**Issues**

The issues paper has been prepared as part of the MAV 2005/2006 Rules Review Project and an options paper will be developed following the responses to the issue paper.

The issues paper in summary states "*There are three major areas of challenge for local government emerging from the above brief summary of the current issues:*

1. **Accountability:** *local government is and will be increasingly expected to be accountable for what it does and how it does it*
2. **Governance:** *local government is and will be increasingly expected to adopt transparent and effective decision-making processes and relationships as it goes about its business, and*

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**LOCAL GOVERNMENT CHALLENGES AND MAV RESPONSES (CONT'D)**

3. **Finances:** *local government is facing a widening gap between its resources and the expectations of communities with respect to infrastructure and the delivery of services.*

*The response of local government to these areas of challenge will have a significant impact on the future of the sector.*

**Summary of MAV Role**

*There are various roles available to the MAV for it to help its members and the local government sector to respond to the challenges identified above. Although the roles vary across the nine categories of issues, they can themselves be grouped under six general types of role for the MAV:*

1. **Advocacy:** *representation of the needs and interests of the sector with other levels of government and with other stakeholders.*
2. **Capacity Building:** *working actively with councils to support them to improve how they operate in specific areas, particularly in areas where there is significant change or new requirements.*
3. **Networking:** *coordination, hosting and/or sponsorship of opportunities for the sector (or parts of the sector with common interests) to come together to share experiences and plan responses.*
4. **Policy Development:** *setting of standards for the sector and developing the policies and the sector-wide regulations and codes needed in order to deliver service enhancement, financial and economic health and social capital.*
5. **Professional Development:** *training and educational programs to develop the understandings and skills of both councillors and staff.*
6. **Awareness Raising:** *research and analysis leading to information dissemination and awareness-raising promotions and campaigns."*

Feedback is invited from Councils about the issues raised in the paper and should be submitted by 30 September, 2005.

**Financial and Resource Implications**

There is none envisaged.

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LOCAL GOVERNMENT CHALLENGES AND MAV RESPONSES (CONT'D)

**Consultation Procedure**

This is the first step in the phase to review the rules and structure of the MAV, with an Options Paper anticipated to be released in November, 2005.

**RECOMMENDATION**

**THAT:** the report be received and noted.

*The resolution for Item 10.6 – Local Government Challenges and MAV Response, is found at the end of this section.*

**GOVERNANCE & EXECUTIVE REPORTS – ITEMS NOT OTHERWISE DEALT WITH:**

**MOVED:** CR. F. URE

**SECONDED:** CR. S. MARSTAELLER

**THAT:** the recommendations contained within Item 10.1, 10.5, and 10.6 of the Governance & Executive Reports, be adopted.

**CARRIED**

**11. DELEGATES REPORTS**

Nil



**12. NOTICE OF MOTION****12.1 NOTICE OF MOTION: 371 – GLEN EIRA CITY COUNCIL****Author: CR R LEE****File No: CL/01/001**

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**MOVED: CR. R. LEE****SECONDED: CR. R. GORDON****THAT.**

1. Council write to the Minister for Local Government in support of the VLGA's report "A Way Forward for Glen Eira" expressing Council's concern at the loss of democracy in Glen Eira, only 15 weeks from a scheduled general election (Nov 05); and
2. The Minister be asked to put in place a quality and comprehensive program to provide information and training to successful candidates in the November election for the incoming Council at Glen Eira.

**CARRIED**

6/1

Councillor's Comments.

The following Media Release is from the VLGA which clearly documents the subject:

**VLGA Media Release - Sunday 14 August 2005****A WAY FORWARD  
FOR GLEN EIRA****Report provides no solutions**

"The Report of Investigation into Glen Eira Council fails to provide any way forward for the Council or Community apart from suspension. The decision to suspend Glen Eira Council was the consequence of an investigation that the Council had itself called for, but we expected that the recommendations would identify strategies for strengthening an incoming Council," said VLGA Chief Executive Andrew Rowe.

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NOTICE OF MOTION – 371 GLEN EIRA CITY COUNCIL (CONT'D)

"After having fully read the Report of Investigation, the VLGA Executive is dismayed that the investigator's report, recommendations and the Minister's action to dismiss Glen Eira Council, fail to provide the Council and Community with anything more than a 'circuit- breaker'. The Glen Eira community may in November re-elect the same Councillors who were just suspended."

"What will have changed if that occurs?" said Rowe

"It is important to note that the decision to suspend is due to the Council's governance and not about peripheral issues of expenses and ridiculous attempts by the investigator to average out the numbers of phone calls - a truly unhelpful exercise"

"The VLGA calls on the Minister Candy Broad and Administrator John Lester to put in place at Glen Eira a quality and comprehensive program to provide information and training for prospective candidates in the November Elections and for the incoming Council to undertake Councillor training that is accredited and measurable. The Glen Eira community is owed some real tools to improve the prospects of good governance"

"The VLGA stands ready to assist the communities of Glen Eira; we have already been invited to address the Glenhuntly Progress Group on Thursday 18 August and will offer continued support," said Rowe.

Officers comments:

The report is clear in its findings on the investigation, Councils can learn from the recommendations and subsequent correspondence from the Minister which states *"I urge each Council to closely study the findings of the report, the recommendations, the Government response and the media release. It's important that we heed the lessons of this episode and make sure they are not repeated in any other Victorian Council"*

**12.2 NOTICE OF MOTION: 372 – CONWAY STREET TRAFFIC MOVEMENT**

**Author:** CR R LEE  
**File No:** CONWAY 2-01

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**MOVED:** CR. R. LEE  
**SECONDED:** CR. R. HUMM

**THAT.** Council prepare a report on the future traffic management in Conway Street, Kilmore, with particular reference to traffic movement reflecting the adjoining educational usages.

**CARRIED**

4/3

Officers comment:

Conway Street, Kilmore, has been identified as a local street. It will potentially require some form of traffic management when and if the St Patricks Primary School relocates. Conditions may be placed on a planning permit for the new school development that could include traffic management considerations depending on the proposed access points and areas where students are concentrating.

Therefore, pending the lodgement of a proposal to develop the new primary school site, the preparation of a traffic movement plan or traffic management plan at this early stage will be premature.

It is also considered that when the traffic movement study is being prepared, consideration should be given to the whole area including:

- The linking of Sutherland Street between Rutledge Street and Piper Street.
- Traffic issues in Rutledge Street.
- Traffic management in Sutherland Street, adjoining Assumption College.

**EXTENSION OF TIME**

**MOVED:** CR. S. MARSTAELLER  
**SECONDED:** CR. F. URE

**THAT:** an extension of time be granted.

**CARRIED**

**12.3 NOTICE OF MOTION: 373 – THIRD HEAVY VEHICLE ROAD PRICING DETERMINATION****Author: CR D. PATERSON****File No: TR/03/003-1**

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**MOVED: CR. D. PATERSON****SECONDED: CR. R. HUMM**

**THAT.** Council Officers lodge an official objection to the proposed Draft changes to the Registration of B-Double vehicles. We feel this will cause increased prices for people in the rural areas who rely on these vehicles for transport.

**CARRIED**

6/1

Officers comment:

As part of a report entitled "Third Heavy Vehicle Road Pricing Determination – Discussion Paper" prepared by the National Transport Commission, it was identified that registration fees and charges for B-double truck could more than double in cost from \$7,565 to up to \$20,250. The new charges are proposed to come into effect in 2006.

The purpose of the report was to obtain comments on the estimated share of road construction and maintenance costs that is the responsibility of heavy vehicles and the implications of these cost estimates for heavy vehicle road use charges.

Comments on the report were to be received by 8 August 2005. A submission by Council at this stage may be considered as part of the proposal.

**12.4 NOTICE OF MOTION: 374 – MITCHELL COMMUNITY RADIO****Author: CR R HUMM****File No: OR/02/016**

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**MOVED: CR. R. HUMM****SECONDED: CR. R. LEE**

**THAT.** Council prepare a report on the potential community benefits of expanding the Kilmore Community radio together with possible funding sources.

**LOST**

2/5

Councillor Comments:

Mitchell Community Radio commenced broadcasting in 2002 and currently has 22 voluntary presenters sending out 40-50 hours live broadcast each week, with the remaining full time covered by a stand-in computer system.

The station is in current negotiation with Australian Communication and Media Authority to bring shire wide communication to Mitchell and its residents.

The support of this program will be a major benefit to all Mitchell community Groups, Local Businesses and sporting groups throughout the Shire.

Officers comments:

It is not clear exactly what is meant by expanding the Community radio. Officers would be prepared to offer whatever assistance to this group as practicable and within budget resources.

**EXTENSION OF TIME****MOVED: CR. S. MARSTAELLER****SECONDED: CR. F. URE****THAT:** an extension of time be granted.**CARRIED**

**12.5 NOTICE OF MOTION: 375 – ENVIRONMENT-FRIENDLY  
COUNCIL VEHICLE PURCHASE POLICY**

**Author:** CR R. LEE

**File No:** CL/15/003

---

**MOVED:** CR. R. LEE

**SECONDED:** CR. R. GORDON

**THAT.** Council will review the Vehicle Purchase Policy having regard to the letter from the Environment Committee (as attached) to the following effect:

1. Council vehicles be selected to reflect more fuel efficiency by reducing the engine size from 6 to 4 cylinders where practical; and
2. As a leadership example the Mayoral vehicle be replaced with a hybrid-type vehicle which is much more fuel efficient and therefore more environmentally friendly.

**LOST**  
2/5

16<sup>th</sup> February 2005

Garry Cecil  
Chief Executive Officer  
Mitchell Shire Council  
113 High Street  
BROADFORD, VIC 3658

Dear Garry,

**RE: Review of the Mitchell Shire Vehicle Policy**

I am writing to you in reference to a recommendation of the Mitchell Shire Environment Committee at the 9<sup>th</sup> December 2004 meeting.

Firstly the Committee would like to congratulate Council on reaching Milestone 2 of the Cities for Climate protection program; this is a significant step forward in reducing greenhouse gas emissions.

Secondly The Committee would like to recommend a review of the Mitchell Shire vehicle policy to incorporate environmental considerations to demonstrate leadership in the reduction of greenhouse gases.

The table below shows the greenhouse emissions as well as the cost savings that could be generated by replacing current vehicles with other more efficient types

	Currently Purchased	Smaller Cylinder	Hybrid Vehicle
	COMMODORE EXECUTIVE	HOLDEN BARINA	TOYOTA PRIUS
Co2 emissions (g/kg) based on highway travel	261-280	141-160	101-120
Cost of purchase (app)	\$36,000	\$17,000	\$36,000
Fuel cost/ year (based on \$1/litre)	\$5,600	\$2,950	\$2,200
Re sale value (app) derived from <a href="http://www.redbook.com.au">www.redbook.com.au</a>	\$19-22,000	\$12-15,000	\$23-26,000

Replacement of current vehicle to those that are more efficient would assist Council in reaching the aim of a 20% reduction of all corporate greenhouse gas emissions in ten years.

The Committee would appreciate your response to this enquiry.

Yours faithfully

**Officers Comment:**

A response to the letter received from the Environment Committee was forwarded to the Committee on 25 February, 2005. A copy is detailed at the end of this comment.

Council's current fleet is made up of 29 six cylinder vehicles, 24 four cylinder vehicles.

The type of vehicles is mixed and fuel consumption varies in the four cylinder vehicles from 9.2ltrs/100km to 9.4ltrs/100km (petrol) and for the six cylinder vehicles from 11.5ltrs/100km to 12.9ltrs/100km (petrol) with the Mayors vehicle fuel consumption average 14.5ltrs/100km (Fuel consumption averages as detailed in RACV vehicle costs 2004).

On average most vehicle travel 50,000km per year cost savings to replace all vehicles with four cylinder would be approximately \$1,820.00 per vehicle based on fuel costs of \$1.04/ltr (petrol). This would have to be netted against the trade-in value of four cylinder vehicles.

---

NOTICE OF MOTION 375 – ENVIRONMENT FRIENDLY COUNCIL VEHICLE PURCHASE POLICY (CONT'D)

There are only two hybrid vehicles available to purchase with the average fuel consumption for the Toyota Prius 5.1ltrs/100km.

It must be noted that the hybrid vehicles are in effect approximately \$11,000 dearer to purchase than that of four cylinder vehicles. Resale evidence on the Toyota Prius depreciates at 51% where as a Toyota Corolla at 41%. The Prius has a high depreciation figure due to the infancy of the market.

The Prius can only be serviced at recognised dealers of which are located in Melbourne and Wangaratta, this in itself will place an additional cost to have the vehicle serviced.

Many vehicles form part of remuneration packages with individual employees salary sacrificing significant amounts to pay for this benefit and as such the drivers have full private use of their vehicles. Other vehicles are purchased having consideration for the use of the vehicle ie: Animal control, surveying, child care, road maintenance.

The mix of Council's fleet is about 50/50 at this stage, it is always good not to "*put all your eggs in one basket*" and having the mix of vehicles allows for officers to test the market and ensure the best value for money at the time for resale of vehicles.

Council officers are currently undertaking an audit on the vehicle usage to ensure optimum use of Council vehicles.

#### COPY OF LETTER

Chairperson  
Mitchell Shire Environment Committee  
113 High Street  
BROADFORD 3658

Dear Chairperson,

#### **REVIEW OF VEHICLE POLICY**

Thank you for your letter regarding a possible review Council's Vehicle policy.

Council as a matter of course undertakes a review of its policies and procedures on a regular basis. The Vehicle Use Procedure is a procedural document. Council does not have an adopted policy in respect to this matter.

In response to your estimated savings I advise that the prices quoted in your table are inaccurate. The cost to purchase the Commodore is only \$25,300 compared with the Toyota Prius of \$34,500. There is no significant difference in the trade-in value of the two vehicles so the only cost savings is the cost of fuel. We estimate this to be about \$2,500 per year, however, it should be noted that the Toyota Prius can only be serviced at recognised dealers of



---

NOTICE OF MOTION 375 – ENVIRONMENT FRIENDLY COUNCIL VEHICLE PURCHASE POLICY (CONT'D)

which are located in Melbourne and Wangaratta, this in itself will place an additional cost to have the vehicle serviced.

Many of our vehicles form part of remuneration packages with individual employees salary sacrificing significant amounts to pay for this benefit and as such the drivers have full private use of their vehicle. Our other pool vehicles are purchased having consideration for the use of the vehicle ie: Local Laws need a 4WD due to the inaccessible terrain encountered, Engineering need a vehicle able to transport surveying equipment, etc.

This is not to say that Council will not be investigating alternative vehicles. In our current investigation the Toyota Prius is being considered to purchase as a pool vehicle, however, any purchases are subject to Budget allocations and ability to service the vehicle.

Our current vehicle use procedure already makes an allowance for the use of LPG vehicles and this is the same for other alternative fuel vehicles.

Our officers will continue to investigate options for alternative energy fuel vehicles based on Councils requirements, employee remuneration requirements and Budget allocations.

Yours faithfully,

Signed by GC

**GARRY CECIL**  
**CHIEF EXECUTIVE OFFICER.**

**12.6 NOTICE OF MOTION: 378 – FROG UNDERPASS**

**Author:** CR R. GORDON

**File No:** GV/01/004

---

**MOVED:** CR. R. GORDON

**SECONDED:** CR. R. LEE

**THAT** Council will advocate with VicRoads to provide a frog underpass at GV Hwy Trawool.

**LOST**  
2/5

**12.7 NOTICE OF MOTION: 379 – WALLAN SECONDARY COLLEGE  
INFRASTRUCTURE****Author: CR. R. GORDON****File No: ED/02/003-03**

---

*Notice of Motion 379 was **WITHDRAWN** by Cr. Gordon.*

**THAT** Council will provide \$300,000 towards a community facility in connection with Wallan Secondary College from borrowings and will pursue funding from other levels of Government, the said sum of \$300,000 to be in addition to funding towards footpath, kerb & channel.

Officers Comments

Council, in its 2005/2006 Capital Works Programme allocated \$200,000 (from loans) of Council funds towards infrastructure provision and \$100,000 (from loans) towards community facilities. This was to be matched by equal funds from DE&T making a total capital allocation for both projects of \$600,000.

This project and the implications of funds not being forthcoming from the Department of Education and Training has been reported as Item 10.2 in this agenda.

### 13. QUESTION TIME

In accordance with Clause 7.52 of Local Law No. 4 – Meeting Procedures

13.1 Shelly Banks – Kilmore Transfer Station

*“My question is why are Council selling the Kilmore Transfer Station after spending in excess of \$100,000 in improvements. It is to remain open for the next 2-4 years why do Council have to rush and sell it now?”*

The Chief Executive Officer advised that Council intends to sell the land as it is excess to Councils requirements.

13.2 Shelly Banks – Tallarook Transfer Station

*“My question is if Council voted to keep Tallarook Transfer station open for the benefit of far less residents than Kilmore have, why can't Council vote to retain the Kilmore site?”*

The Chief Executive Officer advised that retaining the Kilmore Transfer Station will be a Council decision in due course.

13.3 Gerri Seppanen – P304177 Wholesale Nursery

*“My question is at Mitchell Shire Council's meeting on 8 August, 2005, Planning Permit Application P304177 (Use and Development of an approved wholesale Nursery for the purpose of Retail Sales to the Public) was refused. As retail sales to the public have continued to be conducted at the low-density residential allotment every Saturday up to and including 10 September, 2005, what is Council doing to ensure that the applicant complies with Council's ruling?”*

The Chief Executive Officer advised that if aware of breaches of use our Enforcement Unit will investigate.

### 14. GENERAL BUSINESS

In accordance with Clause 7.43 of Local Law No. 4 Meeting Procedures

Nil.

**15. CLOSURE OF MEETING TO MEMBERS OF THE PUBLIC**

In accordance with Section 89 of the Local Government Act, 1989 (as amended)

**MOVED:** CR. S. MARSTAELLER

**SECONDED:** CR. F. URE

**THAT:** the meeting be closed to members of the public.

**CARRIED**

The meeting was closed at 10.10pm.

**16. DATE OF NEXT MEETING**

The next ordinary meeting of Council is scheduled to be held on 10 October, 2005, commencing at 7.00pm.

**17. CLOSURE OF MEETING**

There being no further business the meeting was declared closed at 10.27pm.

# ATTACHMENTS



# Mitchell Shire Council

Ordinary Council Meeting

**12 SEPTEMBER 2005**

## **ANNUAL COMMUNITY GRANTS SCHEME RESOURCE KIT**

Attachment 1  
Pages 29





**M I T C H E L L**



**S H I R E C O U N C I L**

# **ANNUAL COMMUNITY GRANTS SCHEME**

**- RESOURCE KIT -**

Updated By: Mary-ann McCue  
Recreation Officer  
August 2005

**Adopted by Mitchell Shire Council: 12 September 2005**



# Annual Community Grants Scheme

## -RESOURCE KIT-

### CONTENTS

	Page number
<b>Introduction</b> .....	<b>3</b>
<b>Grant Information and Guidelines (including Appendix Section</b> .....	<b>4</b>
<b>Application Form</b> .....	<b>20</b>
<b>Assessment Scoring Chart (office use only)</b> .....	<b>29</b>

## **Introduction**

Mitchell Shire Council's Annual Community Grants Scheme is formal recognition of the invaluable contribution made by volunteer groups in the Shire. It is these efforts which contribute to community wellbeing and make Mitchell Shire a wonderful place to live.

The Scheme encourages community participation in relevant activities as determined by the local community.

Included in this **Resource Kit** is the:

- Grant Information and Guidelines
- An Appendix Section for information purposes, which includes:
  1. Grant Funding Agreements which successful applicants must complete and sign. This form will be forwarded to all successful applicants when they are advised of the outcome of their application;
  2. Evaluation Report to be completed by successful applicants upon completion of their funded activity. This form will be included with the grant cheque;
  3. An outline of the internal processes for administering the Scheme on an annual basis;
  4. Annual Scheme Satisfaction Survey for assessing the community's opinion of the Scheme. This opinion will assist Council to further enhance and develop its Annual Community grants Scheme. The survey is forwarded to all applicants with letter advising of the application outcome.
- Grant Application Form
- Assessment Scoring Chart (for office use only)

Updated By:

Mary-ann McCue  
Recreation Officer  
September 2005

**M I T C H E L L**



**S H I R E C O U N C I L**

## **ANNUAL COMMUNITY GRANTS SCHEME**

## **GRANT INFORMATION AND GUIDELINES**

*The Mitchell Annual Community Grants Scheme recognises the importance of providing financial assistance to local community groups so that they develop and provide innovative activities which enhance community participation and well being.*

Mitchell Shire Council allocates funding each year towards the Annual Community Grants Scheme, to assist local community groups to develop, grow and provide innovative activities which enhance community participation and well being.

This year, a total of \$XXX has been allocated to the Annual Community Grants Scheme.

Funding will be distributed between the three categories as follows:

Community Building (Assets)	24% of funding pool or \$XX
Community Development	38% of funding pool or \$XX
Arts	38% of funding pool or \$XX

### **Funding Category Details**

Grant Applications up to \$2000.00 will be considered for community activities in one of the following three categories.

#### **a) Community Building (Assets)**

The aim of this category is to support community groups for facility development and assets acquisitions.

*Eg. Purchase of chairs and tables, purchase of sporting equipment, construction of a ramp to allow disabled access.*

#### **b) Community Development**

This category is to support projects that increase social capital and participation.

*Eg. To organise an outing for the elderly and isolated, to run a schools holiday program, to hold a family fun day.*

#### **c) Arts**

This category is for performance and visual art projects for audience and community participation.

*Eg. To hold a performance/concert, to establish a youth choir or other Arts group, to provide a work of art accessible to the public.*

**GROUPS MAY SUBMIT UP TO THREE FUNDING APPLICATIONS, BUT CAN ONLY SUBMIT ONE APPLICATION PER CATEGORY.**

**Funding Priorities and Weighting**

**All applications will be scored and ranked according to the Funding Priorities and Weighting below.**

<b>Funding Priority</b>	<b>Weighting</b>
Project benefits wider community through multi use, not just specific group	4
Group did not receive funding last year in this category	5
Innovation - The project is innovative	10
All abilities inclusion in project	8
Youth focus in project	8
Sustainability – Does this project encourage growth and development of group?	6
Activity is not in order to raise money for charity	4
Activity encourages participation for isolated or socially disadvantaged people	5
New Group incentive	7
Project has educational or developmental value	3
Inclusion of group’s own contribution via cash or realistic in-kinds support	2
Project increases Group’s assets	3

Applications in each category will be funded in priority from the highest score down, until the available funds have been exhausted.

Applications that address a higher number of these priorities will score higher and therefore increase their likelihood of funding.

Mitchell Shire Council understands the importance of grant funding for community groups, who often struggle to raise the necessary funds to enable them to purchase equipment and assets or conduct activities that are integral to their survival. For this reason, grants will either be fully funded as per the application, or not funded at all.

Groups who are not incorporated, or who are not currently seeking incorporation (see item 2.1 – Essential Eligibility Criteria in the Application Form) may be auspiced by an Incorporated Group. To discuss this option in further detail, please contact Council’s Recreation Officer on 5734 6200.

**APPLICANTS ARE TO ENSURE THAT ALL ITEMS IN THE “ESSENTIAL ELIGIBILITY CRITERIA” ON PAGE 23 ARE MET.**

**FAILURE TO PROVIDE THIS INFORMATION WILL IMMEDIATELY RENDER THE APPLICATION INVALID, AND THE APPLICATION WILL NOT BE CONSIDERED FOR FUNDING.**



### **Evaluation of Applications**

A Sub Committee of Mitchell Shire Council assesses all Grant Applications.

Applications are considered if they provide information required on- Essential Eligibility Criteria (page 23). Applications will be scored according to how they address the Funding Priorities (page X).

Funding recommendations, based on these scorings, are then submitted to Council.

The level of assistance available through grants is limited. For this reason, grants in each of the categories will be funded by highest scoring applications down, until funding is exhausted. Groups will either be fully funded, or not funded at all.

Rejection of an application does not necessarily mean that the project is not worthy of support. Many worthwhile applications may be rejected because of budgetary constraints.

With the introduction of a weighting for groups who did not receive funding the previous year, re-submitted applications in the following year will have an increased score and improved opportunity for success.

### **Conditions of the Grant**

- Successful applicant organisations must complete a Grant Funding Agreement prior to receiving any funding. This will be forwarded with the letter advising the group of their application being successful.
- Acknowledgment of Mitchell Shire Council support must be included on all promotional material. The following wording must be incorporated in any material related to the funded project:

**“Supported by Mitchell Shire Council.”**

- Copies of any project leaflets or promotional materials should be forwarded to Council at the time of the event.
- Equipment purchased with grant monies will become property of Council if the successful applicant organisation should cease to exist or operate.
- Unexpended funds must be returned to Council.

If you have any further queries regarding the Community Grants Scheme, or wish to discuss your application, please contact Council's Recreation Officer on 5734 6200.

**EXAMPLES OF SUCCESSFUL GRANT APPLICATIONS**

Examples of previous years' successful Mitchell Community Grant applications which are consistent with the Funding Priorities list on page 8 of the Application Form:

**2003**

**GROUP**

**ACTIVITY**

Broadford & District Motorcycle Club

Open ride day for youths.

Rotary Club of Kilmore/Broadford

Tour of Christmas lights in Broadford for disabled and elderly citizens.

Wallan and District Cricket Club

Coaching clinics for junior cricketers.

Panyule Neighbourhood Centre

Young people's film night.

**2004**

**GROUP**

**ACTIVITY**

Recreation

Production of an Accessible Restaurants and Accommodation Guide.

Upper Maribyrnong Catchment Group Inc

Establishment of "Friends of Wallan Creek".

Wandong Hall Committee of Management

Conduct a "What can our community offer you" networking expo.

Seymour Bowling Club

Purchase of bowls and equipment to teach school groups bowling.

**2005**

**GROUP**

**ACTIVITY**

Dream Theatre

Conduct a Production

1<sup>st</sup> Broadford Scout Group

Re-introduction of a Venturer unit in Broadford

JJ Clancy Reserve Committee of Management

Purchase of tables and stackable chairs for all user groups in the reserve.

Mitchell Rangers Soccer Club

Purchase of competition bibs and promotional banners for soccer activities.

**Closing Date**



# **APPENDIX SECTION**

## **FOR INFORMATION ONLY**

- APPENDIX ONE      GRANT FUNDING AGREEMENT**
- APPENDIX TWO      EVALUATION REPORT – SUCCESSFUL APPLICANTS**
- APPENDIX THREE    ADMINISTRATION PROCESSES**
- APPENDIX FOUR     ASSESSMENT SCORING CHART**
- APPENDIX FIVE     ANNUAL SCHEME SATISFACTION SURVEY - ALL APPLICANTS**

## **Appendix One – Grant Funding Agreement**

The Grant Funding Agreement is included with each letter sent to community groups advising of their application for funding being successful.

The Grant Funding Agreement must be completed, signed by the community group and returned to Council within 7 days of receipt. The Funding Agreement must be returned to Council in order to receive grant funding.

On receipt of the signed Funding Agreement by Council, it is signed by the Recreation and Library Manager and a copy is sent to the community group for their records.

# MITCHELL



## MITCHELL COMMUNITY GRANTS SCHEME 2006/2007 GRANT FUNDING AGREEMENT

Please complete:

Community Group Name:

Address : \_\_\_\_\_

Telephone No: \_\_\_\_\_

Purpose of the Community Grant: \_\_\_\_\_

Conditions of the Grant:

1. Grants allocated to Community Groups will be paid in one instalment;
2. This Grant Funding Agreement must be completed, signed by representatives of the incorporated Community Group receiving the Grant, and returned to Council within 7 days of its receipt. **Grants will not be issued to Groups who have not returned this Agreement to Council.**
3. Acknowledgement of Mitchell Shire Council support of the funded activity must be included on all promotional material. The following wording must be incorporated in any relevant material;

**“Supported by Mitchell Shire Council”.**

4. Equipment purchased with grant monies will become property of Council if the successful applicant group should cease to exist or operate;
5. Council must be advised in writing of any unexpended grant funds. Unexpended funds must be returned to Council.
6. Funds must be expended by the successful applicant group in accordance with the purpose and timelines provided in the group’s Application Form.

Key tasks and completion dates are:

	Key Tasks	Anticipated completion Date
1.		
2.		
3.		
4.		
5.		
6.		

Closing Date

7. Any change to the original proposal for which the Grant is given, must have the prior written approval of Mitchell Shire Council;
8. The incorporated group must complete an Evaluation Report once the Grant is expended and submit this to Council.

I, \_\_\_\_\_ am the \_\_\_\_\_  
**Print name** **Position**  
of \_\_\_\_\_ I have read and  
**Community group**  
and agree to abide by the above conditions.

**Signature** \_\_\_\_\_ **Date** \_\_\_\_\_

Signed on behalf of Mitchell Shire Council by

\_\_\_\_\_ **Date** \_\_\_\_\_

Recreation and Library Manager

Please return this Funding Agreement at Mitchell Shire Council by \_\_\_\_\_  
(within 7 days of receipt). Once it has been signed at Council, a copy will be sent to you.

Please return to: Mitchell Shire Council  
Recreation and Library Manager  
113 High Street  
BROADFORD VIC 3658

## **Appendix Two – Evaluation Form – Successful Applicants**

The Evaluation Report is included with each Grant cheque. This is given to the successful community group at the Presentation Evening.

The Evaluation Report must be completed and returned by the Community Group to Council within a year of the Grant being provided.

Failure to provide this report, or written evidence of the status of the project will render the group ineligible for future grants under this scheme.



# MITCHELL



## MITCHELL COMMUNITY GRANTS SCHEME 2006/2007

### EVALUATION REPORT

This report must be completed by the incorporated group who has received a Mitchell Community Grant. It must be returned to Mitchell Shire Council by **DATE**.

Community Group Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone No.: \_\_\_\_\_

Name of Person completing this Report: \_\_\_\_\_

Position: \_\_\_\_\_

Purpose of the Community Grant: \_\_\_\_\_

Amount Granted: \$ \_\_\_\_\_

1. What evidence can you provide to demonstrate the success of this project?

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. How many participants did the project attract? \_\_\_\_\_

\_\_\_\_\_

3. Detail **ongoing** benefits to the community from this project?

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. Please provide evidence of project completion eg. Promotional material, photos of event, photo of equipment purchased, copy of receipts for purchases.

5. Further comments: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Please return this Report to Mitchell Shire Council, Recreation and Leisure, 113 High Street, BROADFORD Vic 3658

Closing Date

## **Appendix Three – Administration Processes**

The timetable for administering the Community Grants Scheme on an annual basis is provided.

## Mitchell Shire Council Annual Community Grants Scheme

### Administration Processes

May	Finalise / correctly date all documents eg. Application Form
May	Commence <u>promotion</u> of Community Grants and invite applications using Community Mailing List, Council Website and Mitchell Matters page in local newspapers.
May - June	Assist community groups to submit appropriate Applications, seek other funding sources, etc.
End June	Applications close. Acknowledgement of receipt of application sent to all applicants.
Early July	Recreation Officer (RO), Recreation & Library Manager (RLM) and Community Development Coordinator read all applications, which are scored in accordance with the Funding Priorities and Weighting. Those applications which do not comply to the requirements in the Essential Eligibility Criteria will be rendered invalid. Prepare recommendation for Council Sub-Committee meeting in early July. Sub- Committee meeting held and recommendations finalized.
Early July	RLM & RO plan and prepare for the Presentation Evening – Guest Speaker, Mayor, entertainment, catering, and venue.
Mid July	Report to Council meeting. Advise <u>all</u> successful / unsuccessful applicants of outcome of the Application and the Presentation Evening. Include Funding Agreement and Satisfaction Survey with this letter.
Early August	Presentation Evening – provide successful applicants with Grant cheque and Evaluation Report.
Late August	Analyse Satisfaction Survey results.

## **Appendix Five**

# **Annual Scheme Satisfaction Survey**

To assess how the Annual Community Grants Scheme is received in the community, the following survey will be forwarded to all applicants – whether successful or not – when they are advised of the outcome of their Application and the Presentation Evening. This will occur in mid July.

A Reply Paid envelope will be included with this advice letter and the survey to encourage applicants to respond.

The survey results will be analysed after the Presentation Evening. These results will be used to further develop the Scheme.

# MITCHELL



## Mitchell Annual Community Grants Scheme 2006/2007

### Applicant Satisfaction Survey

\*\* The following survey will take approximately 5 minutes to complete \*\*

Mitchell Shire Council wants to hear your opinion about the **Mitchell Community Grants Scheme**. Please answer the following questions and return the survey to Council in the enclosed Reply Paid envelope. All survey results will be analysed so that Council may further enhance and develop its Community Grants Scheme.

Please return this survey by **DATE**.

Mary-ann McCue  
Recreation Officer

1. Where did your group learn about the **Mitchell Community Grants Scheme**?

Please tick

- Council Letter
- Newspaper Ad/Notice
- Councillor
- Council Officer
- Other \_\_\_\_\_  
Please detail


2. Do you have any suggestions as to how Council may further promote the Community Grants Scheme?

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3. Please rate each part of the Scheme

Please circle your preferred answer

- Promotion of the Scheme to the community *Excellent or OK or Needs Improvement*
- Application Form / Information Guidelines *Excellent or OK or Needs Improvement*
- Presentation Evening *Excellent or OK or Needs Improvement*

Comments on any of the above points:

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4. Did you require further advice / assistance from Council to complete your application?

Please tick: Yes  or No

Was this assistance/advice provided:

- |                                |     |  |       |  |
|--------------------------------|-----|--|-------|--|
| • In a professional way?       | Yes |  | or No |  |
| • On time?                     | Yes |  | or No |  |
| • Clearly                      | Yes |  | or No |  |
| • Was it useful to your group? | Yes |  | or No |  |

Comments:

---



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5. Are the Scheme's

**ESSENTIAL ELIGIBILITY CRITERIA & FUNDING PRIORITIES AND WEIGHTING**

clear?

Please tick: Yes or No

6. Do you have any other comments about the Mitchell Community Grants Scheme?

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Thank you for taking the time to complete this survey.

Please return it to Council by **DATE** in the Reply Paid Envelope.



**M I T C H E L L**



**S H I R E C O U N C I L**

## **ANNUAL COMMUNITY GRANTS SCHEME**

### **- APPLICATION FORM -**

Updated By: Mary-ann McCue  
Recreation Officer  
August 2005

**Adopted by Mitchell Shire Council: 12 September 2005**



# MITCHELL



## Annual Community Grants Scheme Application Form

Applications close DATE

Please complete the following:

### 1. Community Group Details

Group Name \_\_\_\_\_ Incorporated

Certificate of Incorporation Number \_\_\_\_\_

*(Please attach a copy of the Incorporation Certificate to this Application Form.)*

Contact Person \_\_\_\_\_

Postal Address \_\_\_\_\_

E-mail Address \_\_\_\_\_

Telephone \_\_\_\_\_ Business hours \_\_\_\_\_ After hours \_\_\_\_\_

In which year was the group established? \_\_\_\_\_

No. of group members \_\_\_\_\_

ABN \_\_\_\_\_

If your group doesn't have an ABN, please complete the

"Statement by a Supplier – Reason for Not Quoting an ABN" provided in this Application Form.

*(Please call the Australian Taxation Office on 132478 if you are unsure.)*

#### Goods and Services Tax

Grants made to community groups under the provisions of the Mitchell Shire Council Annual Community Grants Scheme are regarded as 'gifts' and will therefore not be subject to Goods and Services Tax.

Please provide contact details of the following group members:

**Chairperson/President -** Name \_\_\_\_\_

Address \_\_\_\_\_

Phone \_\_\_\_\_

**Treasurer -** Name \_\_\_\_\_

Address \_\_\_\_\_

Phone \_\_\_\_\_

**Secretary -** Name \_\_\_\_\_

Address \_\_\_\_\_

Phone \_\_\_\_\_

## **2. Essential Eligibility Criteria**

Each group who applies for a Mitchell Community Grant **MUST** have the following:

- 2.1 Current incorporation status or if a Section 86 Committee of Management appointed by Mitchell Shire Council, the official committee name.  
*Please attach a copy of the Incorporation Certificate to this Application Form.*  
(A group may be in the process of applying for incorporation – please include details if this is so. For further information on incorporation, contact Council’s Recreation Officer or Consumer Affairs Victoria).
- 2.2 Current Public Liability Insurance, which covers the activity for which a Mitchell Community Grant is sought. *Please attach a copy of the Insurance Policy Note to this Application Form;*
- 2.3 An Australian Business Number (ABN) or exemption from the Australian Taxation Office – see “Statement by a Supplier” on the rear of this application;
- 2.4 A copy of the group’s most recent Bank Statement;
- 2.5 A copy of the group’s most recent Annual Financial Statement;
- 2.6 Be a non-profit community group;
- 2.7 Conduct the activity for which a grant is sought for residents of Mitchell Shire;
- 2.8 The activity for which a grant is sought, is non political;
- 2.9 The activity begins after a Mitchell Community Grant is awarded;
- 2.10 The Mitchell Community Grant will not be used for staff, management or administration costs;
- 2.11 The activity excludes major building or construction work;
- 2.12 The group applying for a Mitchell Community Grant must be up to date with any loan repayments it owes to Council;

**APPLICANTS MUST COMPLY WITH ALL 12  
OF THE ABOVE CRITERIA IN ORDER TO  
HAVE THEIR APPLICATION CONSIDERED.**

**Please answer the following questions, addressing as many of the funding priorities as possible in your response (See page 6 – Funding Priorities and Weighting).**

Please detail below the activity for which you wish to receive a Mitchell Community Grant:

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What is your group hoping to achieve through this activity? \_\_\_\_\_

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How will the community benefit from your group's activity? \_\_\_\_\_

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- Please attach another page if more space is required.

**Closing Date**

Please indicate the amount (up to \$2000.00) being sought from Mitchell Shire Council

\$ \_\_\_\_\_

Please list either the FULL incorporated group name or Section 86 Committee of Management name to whom the cheque is to be made payable, should your application be successful:

\_\_\_\_\_

What will the grant money be spent on?  
Itemise each part of the activity and the amount.  
For example - equipment, venue hire, promotion etc.

ACTIVITY	\$ AMOUNT
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
TOTAL	\$ _____

**Activity/Project Management –**

Who will manage the project?

Name: \_\_\_\_\_

Postal Address: \_\_\_\_\_

Contact Telephone No. \_\_\_\_\_

E-mail Address \_\_\_\_\_

Position In Group \_\_\_\_\_

When will the activity start? (Indicate month & year) \_\_\_\_\_

When will the activity be finished? (Indicate month & year) \_\_\_\_\_

What contribution will your organisation make towards this activity? Please list each contribution and the estimated value.

Volunteer hours can be used as the group's contribution. This can be the sole contribution, or in conjunction with any monetary contribution.

No. of Volunteers \_\_\_\_\_

No. of Volunteer hours \_\_\_\_\_ @ \$10 per hour

= Volunteer Effort \$ \_\_\_\_\_

Group's monetary contribution \$ \_\_\_\_\_

Equipment \$ \_\_\_\_\_

Other (For example - donated raffle prizes, venue at reduced rate or no cost etc.) \_\_\_\_\_

\_\_\_\_\_

Did your group receive an Annual Community Grant last year? Please tick :

Yes  or No

Does your group have funds invested? (ie. Term deposits) Please tick: Yes  or No

\*If yes, please attach copies of Statements.

**Attachments – Checklist**

Please ensure you have attached all the requested documentation to this Application Form;

Tick if attached

- Incorporation Certificate
- If applicable - Statement by a Supplier – Reason for not Quoting an ABN
- Annual Financial Statement – most recent
- Bank Statement – most recent
- Insurance Policy Note
- Quotations
- Other \_\_\_\_\_

**Please note:**

**Failure to attach all necessary requested documentation will render your application invalid.**

**Application For And Payment Of Grants**

- Applications should be submitted on this official Application Form no later than close of business on the nominated closing date.
- Applications received after the specified closing date will not be considered.
- Grants will be paid to successful applicant organisations in the form of a cheque or direct bank credit and provided at a Presentation Night to be held in August.
- Funding is for the current Council financial year and projects funded must be expended in accordance within time lines set out in the Funding Agreement.

**Further Information**

Further assistance on this Funding Scheme or application process is available from Council by contacting the Recreation Officer on:

**PH: (03) 5734 6200**

# Statement by a supplier



Australian Taxation Office

Reason for not quoting an Australian Business Number (ABN) to an enterprise

Name of supplier	<input type="text"/>
	<input type="text"/>
Address of supplier	<input type="text"/>
	<input type="text"/>
	<input type="text"/>

Under the Pay As You Go legislation and guidelines produced by the Australian Taxation Office I provide you with a written statement that, for the supply I am making and further supplies of this type that I make to you:

Tick the appropriate box

The supply is made to you in my capacity as an individual, and the supply is made in the course of activity that is a **private recreational pursuit or hobby**

The supply is made to you in my capacity as an individual, and the supply is wholly of a **private or domestic nature for me**

I (or the supplier that I represent) am/is a **non-resident who is not carrying on an enterprise in Australia**

The whole of the payment that I (or the supplier that I represent) will receive for the supply is **exempt from income tax**

I (or the partnership that I represent) have **no reasonable expectation of profit or gain** from the activity undertaken and consider that I (or the partnership that I represent) do not meet the definition of enterprise for tax purposes

Therefore, I am not quoting you an ABN. You should not withhold an amount from the payment you make to me for the supply. I agree to advise you in writing if circumstances change to the extent that this statement becomes invalid.

Name of authorised person (if not the supplier)	<input type="text"/>
Signature of supplier or authorised person	<input type="text"/>
Date	<input type="text"/> / <input type="text"/> / <input type="text"/>
Daytime contact phone number	<input type="text"/>

It is an offence to make a false or misleading statement

The person/entity to whom this statement is made should retain the statement for 5 years



**Applications should be addressed as follows:**

**“ 2006/2007 Mitchell Community Grants Program”  
Mitchell Shire Council  
113 High Street  
BROADFORD VIC 3658**

*Please keep a copy of your Application for your records and future reference.*

**THIS PAGE IS FOR OFFICE USE ONLY**

Name of Group -----

Project Description -----

Application received on: \_\_\_\_\_

Category:    Tick -        Community Building (Assets)       

                                  Community *Development*           

                                  Arts   

**ASSESSMENT SCORING CHART**

<b>Funding Priority</b>	<b>Score</b>	<b>Tick</b>
Project benefits wider community through multi use, not just specific group	4	
Group did not receive funding last year in this category	5	
Innovation – The project is innovative	10	
All abilities inclusion in project	8	
Youth Focus in project	8	
Sustainability – Does this project encourage growth and develop the group?	6	
Activity is not in order to raise money for charity	4	
Activity encourages participation for isolated or socially disadvantaged people	5	
New Group incentive	7	
Project has educational or developmental value	3	
Inclusion of group's own contribution via cash or realistic in-kind	2	
Project increases Group's assets	3	
<b>TOTAL SCORE</b>		

Closing Date

29



# Mitchell Shire Council

Ordinary Council Meeting

**12 SEPTEMBER 2005**

## **MITCHELL SHIRE FAMILY DAY CARE SCHEME – LONG FORM FUNDING AGREEMENT**

Attachment 1  
Pages 64





**Australian Government**

**Department of Family and Community Services**

## Long Form Funding Agreement

BETWEEN THE

Commonwealth of Australia as represented by and acting through the  
Department of Family and Community Services

ABN 36 342 015 855

AND

**Mitchell Shire Council**

ABN 27 352 592 142

for the **Mitchell Shire Family Day Care Scheme (the "Project")** under the  
Commonwealth's Child Care Support Program

## Table of Contents

<b>1.</b>	<b>Operation of this Agreement .....</b>	<b>1</b>
1.1	Definitions .....	1
1.2	Interpretation.....	5
1.3	Severance.....	6
1.4	Documents and Inconsistency.....	6
1.5	Where Guidelines Not Attached .....	6
1.6	Term .....	6
1.7	Other Commonwealth Funding.....	7
1.8	Future Funding.....	7
<b>2.</b>	<b>Program .....</b>	<b>7</b>
2.1	About the Program .....	7
<b>3.</b>	<b>Conduct of the Project under the Program.....</b>	<b>7</b>
3.1	Obligations.....	7
3.2	Electronic Facilities and Equipment.....	8
<b>4.</b>	<b>Payment of Funding .....</b>	<b>8</b>
4.1	Preconditions of Funding.....	8
4.2	Payment of Funding to Funding Recipient.....	8
4.3	Payment to the Funding Recipient .....	8
4.4	Where Department Not Required to Make Payments.....	8
4.5	Department May Withhold Payment.....	9
4.6	Financial Undertaking .....	9
<b>5.</b>	<b>Use of Funding and accounts.....</b>	<b>9</b>
5.1	Expenditure of Funding .....	9
5.2	Use of Funding.....	9
5.3	Use of Interest on Funding.....	9
5.4	Refund of Non-Expended Funding .....	9
5.5	Survival .....	9
<b>6.</b>	<b>Records, reports and audit requirements.....</b>	<b>9</b>
6.1	Records Required .....	9
6.2	Production of Documents .....	10
6.3	Reports .....	10
6.4	Form of Reports.....	10
6.5	Retention of Records .....	10
6.6	Audit of Final Acquittal Report.....	10
6.7	Audit of Other Reports .....	11
6.8	Inspection of Records and Reports .....	11
6.9	Right to Copy Records .....	11
6.10	Survival .....	11
<b>7.</b>	<b>Incorporation .....</b>	<b>11</b>
7.1	Funding Recipient's warranty .....	11
7.2	Copy of Constitution upon request .....	11
7.3	Approval of Commonwealth to Alter Constitution.....	11
<b>8.</b>	<b>Assets .....</b>	<b>11</b>
8.1	Use of Funding to Acquire Asset.....	11
8.2	Ownership.....	12
8.3	Use of Asset.....	12
8.4	Funding Recipient Obligations.....	12
8.5	Disposal of Asset .....	13

8.6	Depreciation of Asset.....	13
8.7	Failure to Pay.....	13
8.8	Survival.....	13
9.	<b>Liaison and Monitoring.....</b>	<b>14</b>
10.	<b>Goods and Services Tax.....</b>	<b>14</b>
10.1	Applicability.....	14
10.2	Definitions.....	14
10.3	Funding is GST Inclusive.....	14
10.4	Commonwealth Access to GST Records.....	14
10.5	Reduction.....	14
10.6	Recipient Created Tax Invoice.....	14
10.7	Department is Registered for GST.....	15
11.	<b>Commonwealth Material.....</b>	<b>15</b>
11.1	Ownership of Commonwealth Material.....	15
11.2	Return of Commonwealth Material.....	15
11.3	Use and Supply of Commonwealth Material.....	15
11.4	Safe Keeping of Commonwealth Material.....	15
12.	<b>Intellectual Property Rights.....</b>	<b>15</b>
12.1	Ownership of Intellectual Property Rights.....	15
12.2	Licence of Intellectual Property Rights to the Funding Recipient.....	15
12.3	Licence of Intellectual Property Rights to the Commonwealth.....	15
12.4	Documentation of Licences.....	16
12.5	Use of Intellectual Property Rights.....	16
12.6	Protection of Intellectual Property Rights.....	16
12.7	Survival.....	16
13.	<b>Indemnity.....</b>	<b>16</b>
13.1	Funding Recipient Indemnifies the Commonwealth.....	16
13.2	Reduction of liability.....	16
13.3	Right of Indemnity.....	17
13.4	Definitions.....	17
13.5	Survival.....	17
14.	<b>Insurance.....</b>	<b>17</b>
14.1	Funding Recipient to Provide and Maintain.....	17
14.2	Copy of Insurance Policy.....	17
15.	<b>Conflict of interest.....</b>	<b>17</b>
15.1	Warranty.....	17
15.2	Resolution of Conflict of Interest.....	17
16.	<b>Disclosure of Confidential Information.....</b>	<b>17</b>
16.1	Approval to Disclose.....	17
16.2	Conditions of Disclosure.....	18
16.3	Confidential Undertaking.....	18
16.4	Survival.....	18
17.	<b>Protection of Personal Information.....</b>	<b>18</b>
17.1	Application.....	18
17.2	Funding Recipient's Obligations.....	18
17.3	Subcontractors.....	19
17.4	Indemnity.....	19
17.5	Definition.....	19
17.6	Survival.....	20



18.	<b>Dispute Resolution</b> .....	20
	18.1 Method of Dispute Resolution.....	20
	18.2 Obligations During Dispute.....	20
	18.3 Application of Clause.....	20
	18.4 Survival.....	20
19.	<b>Termination for Default</b> .....	21
	19.1 Commonwealth's Rights.....	21
	19.2 Repayment of Funding.....	21
	19.3 Recovery of Other Amounts.....	21
	19.4 Non-derogation of Commonwealth's Rights.....	22
20.	<b>Termination with Compensation</b> .....	22
	20.1 Termination.....	22
	20.2 Obligation of the Funding Recipient.....	22
	20.3 Liability for Costs.....	22
	20.4 Amount Exceeding Funding.....	22
21.	<b>Negation of Legal Relationship of Employment, Partnership and Agency</b> .....	23
	21.1 No Partnership, Agency or Employment.....	23
	21.2 Authority to Bind Other Party.....	23
22.	<b>Reduction in Scope</b> .....	23
	22.1 Reduction in Scope.....	23
	22.2 Obligation of the Funding Recipient.....	23
	22.3 Liability for Costs.....	23
	22.4 Amount Exceeding Funding.....	24
23.	<b>Entire Agreement and Variation</b> .....	24
	23.1 Entire Agreement.....	24
	23.2 Variation of Agreement.....	24
24.	<b>Waiver</b> .....	24
25.	<b>Assignment and Novation</b> .....	24
	25.1 Assignment.....	24
	25.2 Novation.....	24
26.	<b>Subcontractors</b> .....	24
	26.1 Procedure for Subcontracting.....	24
	26.2 Funding Recipient's Obligations.....	24
	26.3 Terms and Conditions of Subcontract.....	25
	26.4 The Department's Rights.....	25
	26.5 Procedure.....	25
	26.6 Approval of replacement.....	25
27.	<b>Acknowledgement and Publications</b> .....	25
28.	<b>Compliance</b> .....	25
	28.1 Governing Law.....	25
	28.2 Compliance with Laws.....	26
	28.3 Police Checks.....	25
29.	<b>Notices</b> .....	26
	29.1 Address for Notice.....	26
	29.2 Method of Delivery.....	26

29.3	Receipt of Notice.....	26
	<b>Schedule - Project details.....</b>	<b>30</b>
	<b>Annexure A - Deed of Confidentiality.....</b>	<b>38</b>
1.	<b>Acknowledgment.....</b>	<b>38</b>
2.	<b>Interpretation.....</b>	<b>38</b>
	2.1 Definitions.....	38
	2.2 Interpretation.....	39
	2.3 Enforceability.....	40
3.	<b>Non-disclosure.....</b>	<b>40</b>
	3.1 Non-disclosure.....	40
	3.2 The Funding Recipient consent.....	40
	3.3 Conditions.....	40
	3.4 Compliance with conditions.....	40
4.	<b>Restrictions on use.....</b>	<b>40</b>
	4.1 Use.....	40
	4.2 Need to know.....	40
	4.3 Liability of Confidant.....	40
5.	<b>Commonwealth legislation.....</b>	<b>41</b>
6.	<b>Protection of Personal Information.....</b>	<b>41</b>
7.	<b>Survival.....</b>	<b>41</b>
8.	<b>Production of documents.....</b>	<b>41</b>
	8.1 Definition.....	41
	8.2 Time for performance.....	41
	8.3 Delivery up.....	42
	8.4 Location of documents.....	42
	8.5 Legal proceedings.....	42
9.	<b>No exclusion of law or equity.....</b>	<b>42</b>
10.	<b>Indemnity.....</b>	<b>42</b>
	10.1 Indemnity.....	42
	10.2 Definition.....	42
11.	<b>Remedies cumulative.....</b>	<b>42</b>
	11.1 Rights not exclusive.....	42
	11.2 No derogation.....	42
12.	<b>Waiver.....</b>	<b>43</b>
13.	<b>Severability.....</b>	<b>43</b>
14.	<b>Applicable law.....</b>	<b>43</b>
15.	<b>Notices.....</b>	<b>43</b>
	15.1 Addresses for service.....	43
	15.2 Mode of communication.....	43
	15.3 Deemed receipt.....	43



Long Form Funding Agreement made at

on

DO NOT  
COMPLETE

**Parties** Commonwealth of Australia ("Commonwealth"), as represented by and acting through the **Department of Family and Community Services ABN 36 342 015 855** of Tuggeranong Office Park, Athllon Drive, Greenway ACT 2905 ("Department")

**Mitchell Shire Council ABN 27 352 592 142** of 113 High Street, BROADFORD 3658 ("Funding Recipient")

### Recitals

- A. The Commonwealth is committed to the Program.
- B. The Funding Recipient is committed to helping achieve the Program Objectives, through its conduct of the Project.
- C. As a result of its commitment, the Department has agreed to provide the Funding to the Funding Recipient for the purposes of, and subject to, the terms and conditions of this Agreement.
- D. The Department is required by law and policy to ensure accountability for the Funding, and the Funding Recipient is required to be accountable for all Funding received under this Agreement.
- E. The Funding Recipient accepts the Funding for the Approved Purposes, and subject to the terms and conditions of this Agreement.

### The parties agree

---

## 1. Operation of this Agreement

### 1.1 Definitions

In this Agreement, if the context permits:

"**Agreed Program Principles**", if any, are as set out in Item 3 of the Schedule.

"**Agreement**" means this document including the Schedule and any Annexures.

"**Agreement Commencement Date**" means the date both Parties signed this Agreement.

"**Agreement Completion Date**" is the same as the Project Completion Date specified in Item 2.7 of the Schedule.

"**Agreement Material**" means all Material:

- (a) brought into existence by the Funding Recipient in performing this Agreement; and
- (b) copied or derived from Material referred to in paragraph (a) above.

"**Approved Auditor**" means a person who is either:

- (a) a registered company auditor under the *Corporations Act 2001*;
- (b) a Certified Practising Accountant;
- (c) a member of the National Institute of Accountants; or

(d) a member of the Institute of Chartered Accountants; and

not an officer, employee, subcontractor, or agent of the Funding Recipient and does not have any conflict of interest in performing the audit functions.

**"Approved Purposes"** means the purposes of performing the Project, as described in Item 2 of the Schedule, and this Agreement.

**"Asset"** means any Item of personal, real or incorporeal property, with a price or value of \$5,000 or more, inclusive of GST, and which has been created or acquired wholly or in part with the Funding.

**"Budget"** means the budget approved by the Department for expenditure of the Funding for the purposes of the Project under this Agreement.

**"Business Day"** in relation to the doing of any action in a place, means any day other than a Saturday, Sunday, public or bank holiday in that place.

**"Commonwealth"** includes the officers, delegates, employees, other contractors and agents of the Commonwealth.

**"Commonwealth Material"** means any Material provided by the Commonwealth to the Funding Recipient for the purposes of this Agreement.

**"Confidential Information"** means information that is by its nature confidential, and:

- (a) is designated by a Party as confidential; or
- (b) the recipient knows or ought to know is confidential;

and includes Agreement Material, but does not include information which:

- (c) is or becomes public knowledge other than by:
  - (i) breach of this Agreement; or
  - (ii) any other unlawful means;
- (d) is in the possession of a Party without restriction in relation to disclosure before the date of receipt from the other Party;
- (e) has been independently developed or acquired by a Party;
- (f) is by law permitted or required to be disclosed, including during testimony before any judicial or quasi-judicial court or tribunal, under court subpoena, parliamentary order, under the *Freedom of Information Act* 1982 or as part of discovery during legal proceedings; or
- (g) is required by Commonwealth Government policy to be disclosed to any government agency, authority, Department or Minister, or to any parliamentary committee,

and the burden of establishing any of the exceptions referred to in subparagraphs (c) to (g) above is on the other Party.

**"Constitution"** means (depending on the context):

- (a) a company's constitution, or equivalent documents, which (where relevant) includes rules and any amendments that are part of the company's constitution; or
- (b) in relation to any other kind of body:
  - (i) the body's charter or memorandum; or
  - (ii) any instrument or law constituting or defining the constitution of the body or governing the activities of the body or its members.

**"Department"** means the Commonwealth Department of Family and Community Services or such other Commonwealth Department as may be responsible from time to time for the administration of this Agreement.

**"Departmental Officer"** means the person for the time being holding, occupying or performing the duties of an officer of the Department, as specified in Item 12.1 of the Schedule, or any other persons specified by the Commonwealth and notified in writing to the Funding Recipient from time to time.

**"Depreciated"** means reducing an Asset's value as calculated in accordance with the depreciation rate nominated by the Department from time to time for Assets of the type being dealt with, and **"Undepreciated"** has a corresponding meaning.

**"Existing Material"** means all Material in existence prior to the execution of this Agreement:

- (a) incorporated in;
- (b) supplied with, or as part of; or
- (c) required to be supplied with, or as part of,

the Agreement Material.

**"Final Acquittal Report"** means the final audited report required by the Department verifying:

- (a) that Funding provided under this Agreement has been expended for the Approved Purposes of the Project; and
- (b) any other matters required by the Department for its own or any Commonwealth accountability purposes.

**"Final Project Report"** means the final report on the Project, which must be delivered, to the Department, and which:

- (a) verifies that the Project Plan has been fully completed and that the Project Outputs have been achieved; and
- (b) if applicable, indicates how the results of the Project will be publicly disseminated.

**"Funding"** means the money or any part of it paid to the Funding Recipient under clause 4, as specified in Item 5 of the Schedule, and includes any interest earned on that money.

**"Funding Recipient"** means the Party described as such on page 1 of this Agreement and includes all successors and assigns and the officers, employees, agents, subcontractors and volunteers of the Funding Recipient.

**"Guidelines"** means any Departmental guidelines for the administration of the Program as attached to this Agreement under clause 1.4(d) or issued separately by the Department under clause 1.5.

**"Intellectual Property Rights"** includes all copyright (including Moral Rights), neighbouring rights, rights in relation to inventions (including patent rights), registered and unregistered trademarks (including service marks), registered designs, Confidential Information (including trade secrets and know how) and other rights resulting from the intellectual activity in the industrial, scientific, literary or artistic fields.

**"Interest"** means interest calculated at an interest rate equal to the general interest charge rate as specified in section 8AAD of the *Taxation Administration Act 1953*, on a daily compounding basis, plus 1%.

**"Material"** includes documents, equipment, software (including source code and object code versions), goods, information and data stored by any means including all copies and extracts of the same.

**"Minister"** includes the holder or occupant of any office in the Department whom the Minister has authorised by written instrument to exercise the powers and functions of the Minister under this Agreement.

**"Moral Rights"** means the right of attribution of authorship, the right not to have authorship falsely attributed and the right of integrity of authorship granted to authors under the *Copyright Act 1968*.

**"Party"** means a party to this Agreement and **"Parties"** has the plural meaning as the context indicates.

**"Personal Information"** has the same meaning as under the Privacy Act, which currently is:

"information or an opinion (including information or an opinion forming part of a database), whether true or not, and whether recorded in a Material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion".

**"Privacy Act"** means the *Privacy Act 1988*.

**"Privacy Commissioner"** means the Office of the Privacy Commissioner established under the Privacy Act and includes any other entity that may, from time to time, perform the functions of that office.

**"Premises"** means premises occupied by the Funding Recipient or where any obligation under this Agreement is undertaken.

**"Program"** means the program of the Department specified in Item 2.2 of the Schedule under which the Funding Recipient receives the Funding for the Project.

**"Program Objectives"** means the aims of the Program as specified in Item 2.3 of the Schedule.

**"Progress Performance Report"** means the report required from the Funding Recipient as specified in clause 6 and Item 6 of the Schedule.

**"Project"** means the project named in Item 2.4 of the Schedule and described in Item 2.5 of the Schedule, and approved by the Department for the purposes of funding under this Agreement.

"Project Start Date" means the date specified in Item 2.6 of the Schedule.

"Project Completion Date" means the date specified in Item 2.7 of the Schedule.

"Project Manager" means the person responsible for managing the Project for the Funding Recipient and liaising with the Departmental Officer specified in Item 12.2 of the Schedule, or as otherwise notified in writing by the Funding Recipient to the Departmental Officer as from time to time.

"Project Milestones" means the events or stages the Funding Recipient must meet in providing the Project for the Commonwealth, as specified in Item 2.9 of the Schedule.

"Project Objectives" means the aims the Funding Recipient must achieve in providing the Project for the Commonwealth, as specified in Item 2.8 of the Schedule.

"Project Outputs" means the products the Funding Recipient must provide for the Project, as specified in Item 2.10 of the Schedule.

"Project Plan" means the plan approved by the Department describing how the Funding Recipient will perform the Project, the details of which are contained in Item 2 of the Schedule or as amended by written agreement of the Parties from time to time.

"Serious Criminal Record" means a criminal record of a person that relates to sexual offences against adults or children, child pornography offences, or offences relating to the assault of a minor.

"Specified Personnel" means the personnel, if any, (whether officers, employees, subcontractors or volunteers of the Funding Recipient) required to undertake the Project or any part of the work constituting the Project as specified in Item 9 of the Schedule.

"Term" has the meaning specified in clause 1.6.

## 1.2 Interpretation

In this Agreement:

- (a) headings are for convenience only and do not affect the interpretation of this Agreement;

and unless the context indicates a contrary intention:

- (b) a reference to a "person" includes a reference to a partnership or incorporated body as well as an individual;
- (c) words importing a gender include any other gender;
- (d) words in the singular include the plural and words in the plural include the singular;
- (e) all reference to clauses are clauses of this Agreement;
- (f) "includes" is not a word of limitation;
- (g) where any word or phrase has been given a defined meaning, any other part of speech or other grammatical form about that word or phrase has a corresponding meaning;



- (h) a reference to any statute or other legislation (whether primary or subordinate) is to a statute or other legislation of the Commonwealth and, if it has been or is amended, is a reference to that amended statute or other legislation;
- (i) a reference to "\$" or "dollars" is a reference to Australian currency;
- (j) if an example is given of any thing (including a right, obligation or concept), the example does not limit the scope of that thing; and
- (k) each provision of this Agreement will be interpreted without disadvantage to the Party who (or whose representative) drafted that provision, that is, the *contra proferentem* rule does not apply to this Agreement.

### 1.3 Severance

Any reading down or severance of a particular provision of this Agreement does not affect the other provisions of this Agreement.

### 1.4 Documents and Inconsistency

- (a) The terms and conditions of this Agreement prevail to the extent of any inconsistency between the provisions of this Agreement and the Schedule (including any Annexures) to this Agreement.
- (b) If there is any conflict between any part of the Schedule and any part of any Annexures, then the Schedule prevails.
- (c) Subject to paragraphs (a) and (b) above, if there is any conflict between any document (not being the Schedule or any Annexures) referred to in this Agreement and the terms and conditions of this Agreement, or any Schedule or Annexure, then the terms and conditions of this Agreement, the Schedule or the Annexures (as the case may be) prevail.
- (d) For the purposes of this clause 1.4, "Annexures" includes any Guidelines, which may be attached to the Agreement, but does not include Guidelines to which clause 1.5 applies.

### 1.5 Where Guidelines Not Attached

- (a) This clause 1.5 applies where the Guidelines, if any, are not attached to the Agreement.
- (b) The Guidelines may be amended, and the Department may issue new Guidelines, from time to time by whatever means it may determine in its absolute discretion, however, for compliance with such changes to be enforceable in accordance with this Agreement, the Funding Recipient must be given reasonable notice of such amendments or new Guidelines.
- (c) To avoid any doubt, the Agreement prevails over the Guidelines to the extent of any inconsistency.

### 1.6 Term

This Agreement commences on the Agreement Commencement Date and ends on the Agreement Completion Date, unless terminated earlier in accordance with this Agreement or the law ("Term").

## 1.7 Other Commonwealth Funding

If the Funding Recipient receives other Commonwealth funding, a breach of any other agreement with the Commonwealth constitutes a breach of this Agreement and the Commonwealth may elect to terminate this Agreement in accordance with clause 19.

## 1.8 Future Funding

The Funding Recipient agrees that the Commonwealth is under no obligation to provide any Funding beyond the Agreement Completion Date, or any further or future funding to the Funding Recipient of any kind.

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## 2. Program

### 2.1 About the Program

- (a) The Program is a Commonwealth funded program administered by the Department.
- (b) The Commonwealth gives no warranty as to the future form, or continuation of, the Program.
- (c) The Commonwealth reserves the right, consistent with this Agreement; to change or modify the Program (including the Program Objectives) at any time.

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## 3. Conduct of the Project under the Program

### 3.1 Obligations

- (a) The Funding Recipient must:
  - (i) provide the Project in accordance with this Agreement, and the Project Plan;
  - (ii) use its best endeavours to comply with any Agreed Program Principles;
  - (iii) comply with any Guidelines at all times; and
  - (iv) conduct the Project:
    - A. strictly in accordance with this Agreement;
    - B. diligently;
    - C. effectively;
    - D. to a high professional standard; and
    - E. using Specified Personnel, if any;
  - (v) prevent fraud upon the Commonwealth; and
  - (vi) promptly inform the Departmental Officer of any relevant matters that might affect the Funding Recipient's ability to meet its obligations under this Agreement.

- (b) The Funding Recipient agrees to be fully responsible for the Project, and for ensuring compliance with the requirements of this Agreement, and will not be relieved of that responsibility because of any:
  - (i) involvement by the Commonwealth in the performance of this Agreement;
  - (ii) payment made to the Funding Recipient under this Agreement; or
  - (iii) subcontracting of any part of this Agreement.

### **3.2 Electronic Facilities and Equipment**

The Funding Recipient must maintain for the Term any electronic facilities and equipment specified in Item 10 of the Schedule, and as required by the Guidelines from time to time.

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## **4. Payment of Funding**

### **4.1 Preconditions of Funding**

The Funding Recipient agrees that Item 1 of the Schedule sets out preconditions to its entitlement to the Funding under this Agreement.

### **4.2 Payment of Funding to Funding Recipient**

The Department will provide the Funding to the Funding Recipient subject to:

- (a) Parliamentary appropriation; and
- (b) at the times and in the manner specified in this Agreement, and Item 5 of the Schedule.

### **4.3 Payment to the Funding Recipient**

- (a) The Commonwealth will provide the Funding under this Agreement by cheque or by electronic transfer to the Funding Recipient's bank account, specified in Item 5 of the Schedule or as agreed by the Departmental Officer, to the Funding Recipient.
- (b) If the Funding Recipient's bank account details change, the Funding Recipient must notify the Departmental Officer in writing within 20 Business Days of the change or, if a payment is due within 20 days of the change, at least 5 Business Days before the payment is due.

### **4.4 Where Department Not Required to Make Payments**

The Department will not be required to make payments if the Funding Recipient:

- (a) has failed to complete the Project, as specified in the Project Plan;
- (b) has expended the Funding otherwise than in accordance with the Guidelines, the Budget or this Agreement;
- (c) does not provide a financial security (if required) in accordance with clause 4.6;
- (d) has changed any part of the Project Plan or Budget without the prior written approval of the Department;

- (e) has not provided any report in accordance with clause 6 and Item 6 of the Schedule, or any other information requested by the Department; or
- (f) is in default of any other obligation under this Agreement.

#### **4.5 Department May Withhold Payment**

Without limiting the Commonwealth's rights under this Agreement or the law, the Department may defer, suspend or withhold a Funding payment in whole or in part until the Funding Recipient has performed the obligation to which the Funding payment relates to the Department's satisfaction in its sole discretion.

#### **4.6 Financial Undertaking**

If specified in Item 11 of the Schedule, the Funding Recipient must provide an unconditional financial security from a financial institution in the form set out in Annexure B of the Schedule to this Agreement (see Item 13 of the Schedule) and for an amount acceptable to the Department in its sole discretion.

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### **5. Use of Funding and accounts**

#### **5.1 Expenditure of Funding**

- (a) The Funding must be expended by the Funding Recipient solely and specifically for the Approved Purposes, and in accordance with this Agreement.
- (b) The Funding Recipient must expend the Funding consistently with the Budget.

#### **5.2 Use of Funding**

The Funding must not be used as security for any purpose without the Department's prior written consent.

#### **5.3 Use of Interest on Funding**

Money earned by the Funding Recipient from interest on the Funding must be used and dealt with by the Funding Recipient as if the money earned was part of the Funding provided.

#### **5.4 Refund of Non-Expended Funding**

If, at the Agreement Completion Date, there remains an amount of Funding that has not been expended, then this amount becomes a debt due to the Commonwealth and, unless clause 19.2 applies, must be refunded by the Funding Recipient to the Commonwealth within 30 Business Days from the Agreement Completion Date or as otherwise agreed in writing with the Department.

#### **5.5 Survival**

This clause 5 survives the expiration or earlier termination of this Agreement.

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### **6. Records, reports and audit requirements**

#### **6.1 Records Required**

The Funding Recipient must keep and maintain all records and accounts (including all receipts and invoices) in accordance with accounting principles generally applied in commercial

practice, as required by law, and as necessary to provide a complete and detailed record and explanation of:

- (a) the expenditure of Funding and whether that Funding was expended for the Approved Purposes in accordance with the Budget;
- (b) other expenditure on the Project (including any in-kind contributions); and
- (c) implementation and progress of the Project.

## **6.2 Production of Documents**

If requested to do so by the Departmental Officer, the Funding Recipient must:

- (a) produce originals of receipts and invoices; and
- (b) provide copies of receipts and invoices,

to the Departmental Officer within 10 Business Days of the date on which the Department makes the request.

## **6.3 Reports**

The Funding Recipient must prepare and give to the Departmental Officer the following reports specified in Item 6 of the Schedule:

- (a) Progress Performance Reports as specified in Item 6.1 of the Schedule on the date specified in Item 6.1 of the Schedule;
- (b) a Final Acquittal Report as specified in Item 6.2 of the Schedule on the date specified in Item 6.2 of the Schedule;
- (c) a Final Project Report as specified in Item 6.3 of the Schedule on the date specified in Item 6.3 of the Schedule; and
- (d) any other written reports that may be required by the Commonwealth from time to time, including reports which verify how the Funding has been expended for the Approved Purposes or how any part of the Project has been, or will be, performed.

## **6.4 Form of Reports**

All reports must be in the English language and in a form acceptable to the Department. If, in the Departmental Officer's opinion, either the form or the content of a report is not adequate for the Commonwealth's purposes, the Departmental Officer may require the Funding Recipient to submit a revised report satisfactory to the Commonwealth within 30 days of written notice to the Funding Recipient. Where practical, the Departmental Officer will take into account the Funding Recipient's reporting systems in determining the form of the reports.

## **6.5 Retention of Records**

The Funding Recipient must retain a copy of all reports, records and account books in original form for at least 5 years following the Agreement Completion Date or earlier termination of this Agreement.

## **6.6 Audit of Final Acquittal Report**

The Final Acquittal Report must be independently audited at the Funding Recipient's expense by an Approved Auditor.

## **6.7 Audit of Other Reports**

The Department may require any other reports that relate to the expenditure and acquittal of Funding to be independently audited by an Approved Auditor. These audits will be at the Funding Recipient's expense.

## **6.8 Inspection of Records and Reports**

The Commonwealth, its auditor, or the Auditor-General may at all reasonable times and on reasonable notice, enter the Funding Recipient's Premises and inspect the records kept by the Funding Recipient, and the progress of the Project, to audit the Funding Recipient's compliance with this Agreement. The Funding Recipient will give to the Commonwealth, its auditor, or the Auditor-General, all necessary facilities and assistance to enable the conduct of the audit.

## **6.9 Right to Copy Records**

In conducting an inspection under clause 6.8, the Commonwealth, its auditor, or the Auditor-General, may take copies of any records that they consider relevant to the Project or the Funding Recipient's obligations under this Agreement.

## **6.10 Survival**

This clause 6 survives the expiration or earlier termination of this Agreement.

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## **7. Incorporation**

### **7.1 Funding Recipient's warranty**

The Funding Recipient warrants that its Constitution is not and will not become inconsistent with this Agreement.

### **7.2 Copy of Constitution upon request**

The Funding Recipient will provide a copy of its Constitution upon the Departmental Officer's request.

### **7.3 Approval of Commonwealth to Alter Constitution**

- (a) The Funding Recipient will obtain the written approval of the Departmental Officer to any amendments to its Constitution, which may affect the eligibility of the Funding Recipient for the Funding, or its capacity to comply with this Agreement.
- (b) If the Funding Recipient alters its Constitution in breach of this clause 7, the Department may terminate this Agreement under clause 19.1(f).

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## **8. Assets**

### **8.1 Use of Funding to Acquire Asset**

- (a) The Funding Recipient must not:
  - (i) use the Funding to acquire any Asset; or

- (ii) lease any asset where the total sum payable during the term of the lease for that asset (or any extension of that lease) exceeds \$5,000 (including GST),

without obtaining the prior written approval of the Departmental Officer. Approval may be given subject to any conditions the Departmental Officer may deem appropriate.

- (b) Any Assets detailed in Item 8, part A of the Schedule are approved, for the purposes of (a) above, when this Agreement is executed by the Commonwealth.

## **8.2 Ownership**

Except as specified in Item 8, part B of the Schedule, which sets out any Assets to be owned by the Commonwealth, and subject to clauses 8.5 and 8.6, the ownership of any Asset purchased by the Funding Recipient with the Funding will be vested in the Funding Recipient.

## **8.3 Use of Asset**

During the Project, the Funding Recipient must use any Asset only in accordance with this Agreement.

## **8.4 Funding Recipient Obligations**

The Funding Recipient must:

- (a) not encumber or dispose of any Asset, or deal with or use any Asset other than in accordance with this clause 8, without the prior written approval of the Departmental Officer;
- (b) hold all Assets securely and safeguard them against theft, loss, damage or unauthorised use;
- (c) maintain all Assets in good working order;
- (d) maintain all appropriate insurances for all Assets;
- (e) if required, maintain registration and licensing of all Assets;
- (f) be fully responsible for, and bear all risks relating to, the purchase, use or disposal of all Assets;
- (g) maintain an Assets register recording:
  - (i) the date of purchase;
  - (ii) purchase price;
  - (iii) Asset description;
  - (iv) Asset location;
  - (v) the proportion of the Funds used to create or acquire the Asset; and
  - (vi) (where relevant) details of Asset disposal including, but not limited to, the sale price and method of disposal; and

- (h) as and when requested by the Departmental Officer, provide copies of the Assets register to the Department.

## 8.5 Disposal of Asset

If the Funding Recipient sells or otherwise disposes of an Asset during the Term, and at the time of the sale or disposal the Asset has not been fully Depreciated the Funding Recipient must, at the option of the Department, either:

- (a) pay to the Department, within 28 days of the date of the sale or disposal, an amount equal to the proportion of the Undepreciated value of the Asset, that is equivalent to the proportion of the purchase price of the Asset that was funded from the Funding; or
- (b) pay to the Department, within 28 days of the date of the sale or disposal, the proceeds of the sale or disposal, less an amount equal to the sum of:
  - (i) the Funding Recipient's proportionate contribution to the purchase price of the Asset; and
  - (ii) the Funding Recipient's substantiated reasonable and proper costs of sale or disposal of the Asset.

## 8.6 Depreciation of Asset

If, on expiration or earlier termination of this Agreement, an Asset has not been fully Depreciated the Funding Recipient must, at the option of the Department, either:

- (a) pay to the Department, within 28 days after completion of the Project or earlier termination of this Agreement, an amount equal to the proportion of the Undepreciated value of the Asset, that is equivalent to the proportion of the purchase price of the Asset that was funded from the Funding; or
- (b) sell the Asset for the best price reasonably obtainable and pay to the Department, within 28 days of the date of sale, the proceeds of sale less an amount equal to the sum of:
  - (i) the Funding Recipient's proportionate contribution to the purchase price of the Asset; and
  - (ii) the Funding Recipient's substantiated reasonable and proper costs of disposal of the Asset.

## 8.7 Failure to Pay

If the Funding Recipient fails to make payment as required by either clauses 8.5 or 8.6:

- (a) the Funding Recipient must also pay the Department Interest on the relevant amount from the date it was due, for the period it remains unpaid; and
- (b) the relevant amount, and Interest owed under this clause, will be recoverable by the Commonwealth as a debt due to the Commonwealth by the Funding Recipient.

## 8.8 Survival

This clause 8 survives the expiration or earlier termination of this Agreement.



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## 9. Liaison and Monitoring

The Funding Recipient will:

- (a) liaise with and provide information to the Departmental Officer as reasonably required by the Departmental Officer; and
- (b) comply with all reasonable requests, directions, or monitoring requirements of the Departmental Officer.

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## 10. Goods and Services Tax

### 10.1 Applicability

This clause 10 applies if the Funding Recipient is registered or is required to be registered for GST.

### 10.2 Definitions

"GST", "Adjustment Notes", "Recipient Created Tax Invoice" and "Taxable Supplies" have any of the meanings used in the *A New Tax System (Goods and Services Tax) Act 1999*, or any other relevant legislation, regulations, or applicable rulings by the Australian Taxation Office ("GST Law").

### 10.3 Funding is GST Inclusive

The amounts payable to the Funding Recipient under this Agreement include an amount to cover any of the Funding Recipient's liability for GST on any Taxable Supplies under this Agreement.

### 10.4 Commonwealth Access to GST Records

If required by the Commonwealth, the Funding Recipient will provide to the Commonwealth access to GST returns and any GST assessments and accounting records relating to the Funding to satisfy the Commonwealth that GST is payable and has been paid under this Agreement in accordance with GST Law.

### 10.5 Reduction

The Funding Recipient agrees and warrants that the Funding includes the benefit of any reduction in or removal of taxes, duties, or charges, which impact on the costs to the Funding Recipient in performing this Agreement.

### 10.6 Recipient Created Tax Invoice

- (a) The Funding Recipient agrees to allow the Department to issue the Funding Recipient with a Recipient Created Tax Invoice ("RCTI").
- (b) The Commonwealth may issue a RCTI for any Taxable Supplies made under this Agreement. Where the Commonwealth issues a RCTI, the Funding Recipient must not use a tax invoice for the supply to which the RCTI relates. The Commonwealth will issue such RCTI within 28 days of determining the value of the Taxable Supplies to which the RCTI relates and may do this by facsimile. Adjustment Notes relating to Taxable Supplies, for which a RCTI has been issued, will be issued within 28 days of the date of adjustment.

- (c) If, for any reason, the Department does not issue the Funding Recipient with a RCTI the Funding Recipient must provide a valid tax invoice, which can be sent to the Department by facsimile. The Funding Recipient must issue any Adjustment Notes relating to Taxable Supplies for which the Funding Recipient previously issued a valid tax invoice within 28 days of the date of adjustment.

## **10.7 Department is Registered for GST**

The Department is registered in accordance with GST Law and will notify the Funding Recipient of any change in its GST registration status.

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## **11. Commonwealth Material**

### **11.1 Ownership of Commonwealth Material**

Ownership of all Commonwealth Material remains vested at all times in the Commonwealth.

### **11.2 Return of Commonwealth Material**

Upon the Agreement Completion Date or earlier termination of this Agreement, the Funding Recipient must return all Commonwealth Material remaining in its possession to the Department, unless otherwise agreed in writing by the Commonwealth.

### **11.3 Use and Supply of Commonwealth Material**

The Funding Recipient must ensure that all Commonwealth Material is used, copied, supplied, or reproduced only for the purposes of this Agreement and the Funding Recipient agrees to use the Commonwealth Material strictly in accordance with any conditions or restrictions notified from time to time in writing by the Commonwealth.

### **11.4 Safe Keeping of Commonwealth Material**

The Funding Recipient will be responsible for the safe keeping and maintenance of Commonwealth Material it has been given for the purposes of this Agreement.

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## **12. Intellectual Property Rights**

### **12.1 Ownership of Intellectual Property Rights**

Intellectual Property Rights in all Agreement Material vests in the Commonwealth.

### **12.2 Licence of Intellectual Property Rights to the Funding Recipient**

The Commonwealth grants to the Funding Recipient a non-exclusive licence to use, reproduce, publish, adapt, modify, and exploit any Agreement Material for the purposes of the Project and any other purposes approved in writing by the Department.

### **12.3 Licence of Intellectual Property Rights to the Commonwealth**

For the avoidance of doubt, the Funding Recipient grants to the Commonwealth a perpetual, irrevocable, non-exclusive licence (including a right to sublicense) to use, reproduce, publish, adapt, modify, and exploit any Existing Material for the purposes of the Project and any Commonwealth purposes.

#### **12.4 Documentation of Licences**

If requested by the Commonwealth, the Funding Recipient agrees to bring into existence, sign, execute, or otherwise deal with any document that may be necessary or desirable to give effect to this clause 12.

#### **12.5 Use of Intellectual Property Rights**

The Funding Recipient warrants that it is entitled, or will be entitled at the relevant time, to deal with the Intellectual Property Rights in the Agreement Material and any Existing Material in the manner provided for in this clause 12.

#### **12.6 Protection of Intellectual Property Rights**

The Funding Recipient agrees to take all reasonable steps to protect the Intellectual Property Rights in Agreement Material and to comply with the warranties in clause 12.5.

#### **12.7 Survival**

The licence granted in clause 12.3 will survive despite the expiration or earlier termination of this Agreement.

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### **13. Indemnity**

#### **13.1 Funding Recipient Indemnifies the Commonwealth**

The Funding Recipient must indemnify, keep indemnified, and hold the Commonwealth, its officers, employees, and agents harmless against any:

- (a) loss or liability incurred by the Commonwealth;
- (b) loss of or damage to Commonwealth property; or
- (c) loss or expense incurred by the Commonwealth in dealing with any claim against it, including legal costs and expenses on a solicitor/own client basis and the cost of time spent, resources used, or disbursements paid by the Commonwealth.

arising from:

- (d) any act or omission by the Funding Recipient in connection with this Agreement, where there was fault on the part of the person whose conduct gave rise to that liability, loss, damage, or expense;
- (e) any breach by the Funding Recipient of its obligations or warranties under this Agreement; or
- (f) the use by the Commonwealth of the Agreement Material or Existing Material, including any claims by third parties about the ownership or right to use Intellectual Property Rights in Agreement Material or Existing Material.

#### **13.2 Reduction of liability**

The Funding Recipient's liability to indemnify the Commonwealth under this clause 13 will be reduced proportionally to the extent that any fault of the Commonwealth contributed to the relevant loss, damage, expense, or liability.

### **13.3 Right of Indemnity**

The right of the Commonwealth to be indemnified under this clause 13 is additional to, and not exclusive of, any other right, power, or remedy provided by law, but the Commonwealth is not entitled to be compensated in excess of the amount of the relevant liability, damage, loss, or expense.

### **13.4 Definitions**

In this clause 13, "fault" includes any negligent or unlawful act or omission or wilful misconduct.

### **13.5 Survival**

This clause 13 will survive the expiration or earlier termination of this Agreement.

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## **14. Insurance**

### **14.1 Funding Recipient to Provide and Maintain**

The Funding Recipient must, for so long as any obligations remain under this Agreement, effect and maintain insurance as specified in Item 7 of the Schedule.

### **14.2 Copy of Insurance Policy**

Upon request, the Funding Recipient will provide the Commonwealth with a copy of any insurance policy effected in accordance with clause 14.1 and a certificate of currency.

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## **15. Conflict of interest**

### **15.1 Warranty**

The Funding Recipient warrants that, to the best of its knowledge and belief after making diligent inquiries at the date of signing of this Agreement, no conflict of interest exists or is likely to arise in the performance of its obligations under this Agreement.

### **15.2 Resolution of Conflict of Interest**

- (a) If, during the Term, a conflict of interest arises, or appears likely to arise, the Funding Recipient undertakes to notify the Departmental Officer immediately in writing and to take such steps as the Departmental Officer may reasonable require to resolve or otherwise deal with the conflict.
- (b) If the Funding Recipient fails to notify the Departmental Officer, or is unable or unwilling to resolve or deal with the conflict as required, the Commonwealth may terminate this Agreement in accordance with clause 19.

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## **16. Disclosure of Confidential Information**

### **16.1 Approval to Disclose**

- (a) The Funding Recipient must not, without the prior written approval of the Commonwealth, disclose to any person other than the Commonwealth, any Confidential Information of the Commonwealth.

- (b) Subject to paragraph (c), the Commonwealth must not, without the prior written approval of the Funding Recipient, disclose any Confidential Information of the Funding Recipient to any person other than the Funding Recipient.
- (c) The Department reserves the right, in its absolute discretion and without any liability to account to the Funding Recipient or any third person, to make available, disclose, and allow the disclosure of any information received from the Funding Recipient or otherwise relating to this Agreement to:
  - (i) any Commonwealth department, agency, authority, or Minister; and
  - (ii) any third person, including any court, tribunal, or governmental committee, where such disclosure would be permitted or required by law, or otherwise would be consistent with Commonwealth government policy.

## **16.2 Conditions of Disclosure**

The Party approving any disclosure of its Confidential Information may impose any conditions or restrictions it considers appropriate when giving its approval under clause 16.1.

## **16.3 Confidential Undertaking**

The Commonwealth may, at any time, require the Funding Recipient to give, and to arrange for its subcontractors, employees, and volunteers engaged in the performance of the Project to give, written undertakings in a form substantially similar to that set out in Annexure A to the Schedule, relating to the non-disclosure of Confidential Information (see Item 13 of the Schedule). The Funding Recipient will arrange for all such undertaking to be given promptly.

## **16.4 Survival**

Clause 16.1 survives the expiration or earlier termination of this Agreement.

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## **17. Protection of Personal Information**

### **17.1 Application**

This clause applies only where the Funding Recipient deals with Personal Information when, and for the purpose of, conducting the Project under this Agreement.

### **17.2 Funding Recipient's Obligations**

The Funding Recipient agrees to be treated as a "contracted service provider" within the meaning of section 6 of the Privacy Act, and agrees in respect to the conduct of the Project under this Agreement:

- (a) to use or disclose Personal Information obtained during the course of conducting the Project under this Agreement, only for the purposes of this Agreement;
- (b) not to do any act or engage in any practice that would breach an Information Privacy Principle ("IPP") contained in section 14 of the Privacy Act, which if done or engaged in by an agency, would be a breach of that IPP;
- (c) to carry out and discharge the obligations contained in the IPPs as if the Funding Recipient were an agency under that Act;

- (d) to notify individuals whose Personal Information the Funding Recipient holds, that complaints about the Funding Recipient's acts or practices may be investigated by the Privacy Commissioner who has power to award compensation against the Funding Recipient in appropriate circumstances;
- (e) not to use or disclose Personal Information or engage in an act or practice that would breach section 16F (direct marketing), a National Privacy Principle ("NPP") (particularly NPPs 7 to 10) or an Approval Privacy Code ("APC"), where that section, NPP or APC is applicable to the Funding Recipient, unless:
  - (i) in the case of section 16F of the Privacy Act - the use or disclosure is necessary, directly or indirectly, to discharge an obligation under this Agreement; or
  - (ii) in the case of an NPP or an APC - where the activity or practice is engaged in for the purpose of discharging, directly or indirectly, an obligation under this Agreement, and the activity or practice which is authorised by this Agreement is inconsistent with the NPP or APC;
- (f) to otherwise comply with the Privacy Act;
- (g) to immediately notify the Department if the Funding Recipient becomes aware of a breach or possible breach of any of the obligations contained in, or referred to in, this clause 17, whether by the Funding Recipient or any of its subcontractors;
- (h) to comply with any directions, guidelines, determinations or recommendations of the Privacy Commissioner to the extent that they are not inconsistent with the requirements of this clause; and
- (i) to ensure that any of the Funding Recipient's employees who are required to deal with Personal Information for the purposes of this Agreement are made aware of the Funding Recipient's obligations set out in this clause 17.

### **17.3 Subcontractors**

The Funding Recipient agrees to ensure that any subcontract entered into for the purpose of fulfilling its obligations under this Agreement contains provisions to ensure that the subcontractor has the same awareness and obligations as the Funding Recipient has under this clause, including the requirement in relation to subcontracts.

### **17.4 Indemnity**

The Funding Recipient agrees to indemnify the Commonwealth in respect of any loss, liability or expense suffered or incurred by the Commonwealth which arises directly or indirectly from a breach of any of the Funding Recipient's obligations under this clause 17, or a subcontractor under the subcontract provisions referred to in subclause 17.3.

### **17.5 Definition**

In this clause 17, the terms "agency", "Approved Privacy Code" (or "APC"), "Information Privacy Principles" (or "IPPs"), and "National Privacy Principles" (or "NPPs") have the same meaning as they have in section 6 of the Privacy Act, and "subcontract" and other grammatical forms of that word has the meaning given in section 95B(4) of the Privacy Act.

## 17.6 Survival

This clause 17 survives the expiration or earlier termination of this Agreement.

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## 18. Dispute Resolution

### 18.1 Method of Dispute Resolution

The Parties agree that any dispute or difference ("**dispute**") arising during the course of this Agreement will be dealt with as follows:

- (a) the Party claiming that there is a dispute will send to the other Party a notice setting out the nature of the dispute;
- (b) the Parties will try to resolve the dispute by direct negotiation, and may refer the matter to persons who have authority to intervene and direct the form of resolution;
- (c) the Parties have 10 Business Days from the sending of the notice to reach a resolution or to agree that the dispute will be submitted to mediation or some other form of alternative dispute resolution procedure;
- (d) if:
  - (i) there is no resolution or agreement; or
  - (ii) there is a submission to mediation or some other form of alternative dispute resolution procedure but there is no resolution within 15 Business Days of the submission, or such extended time as the Parties may agree in writing before the expiration of the 15 Business Days,

then either Party may commence legal proceedings.

### 18.2 Obligations During Dispute

Notwithstanding the existence of a dispute, each Party will continue to perform its obligations under this Agreement.

### 18.3 Application of Clause

- (a) A party may commence court proceedings relating to any dispute arising from this Agreement at any time where that Party seeks urgent interlocutory relief.
- (b) This clause 18 does not apply to action by the Commonwealth under or purportedly under clause 4 or clause 20.

### 18.4 Survival

This clause 18 survives the expiration or earlier termination of this Agreement.

## **19. Termination for Default**

### **19.1 Commonwealth's Rights**

If anyone or more of the following event occurs, the Commonwealth may immediately terminate this Agreement upon written notice to the Funding Recipient:

- (a) the Funding Recipient fails to fulfil, or is in breach of, any of its obligations under this Agreement, and does not rectify the omission or breach after receiving 10 Business Days' notice in writing from the Department to do so;
- (b) the Funding Recipient is in breach of any other agreement with the Commonwealth under clause 1.7;
- (c) the Funding Recipient fails to perform a direction of the Departmental Officer;
- (d) the Funding Recipient fails to comply with its obligations in clause 17;
- (e) the Funding Recipient fails to comply with its obligations in clause 15.2;
- (f) the Funding Recipient fails to comply with its obligations in clause 7.3; or
- (g) the Funding Recipient suffers financial difficulty and the Commonwealth is not reasonably satisfied that, because of that financial difficulty, the Funding Recipient will be able to comply with its obligations under this Agreement.

### **19.2 Repayment of Funding**

- (a) If this Agreement is terminated under this clause 19, the Funding Recipient must immediately:
  - (i) cease the performance of its obligations under this Agreement in accordance with the notice;
  - (ii) do everything possible to mitigate all losses, costs and expenses, arising from the termination contained in the notice; and
  - (iii) repay as a debt due to the Commonwealth the Funding unexpended or not acquitted, to the Commonwealth's satisfaction;
- (b) any amount which remains unpaid will be a debt due to the Commonwealth and payable within 20 Business Days of the Funding Recipient receiving notice of termination under this clause 19, or as otherwise directed in writing by the Commonwealth; and
- (c) if a debt, due under this clause 19.2, is not paid within the required time, the Funding Recipient agrees to pay Interest to the Commonwealth from the date the debt fell due for payment until the date the Commonwealth receives payment for the debt due.

### **19.3 Recovery of Other Amounts**

Clause 19.2 does not limit or exclude any other right of the Commonwealth, including the right to recover any other amounts from the Funding Recipient on termination of this Agreement.



#### **19.4 Non-derogation of Commonwealth's Rights**

This Agreement does not vary any of the Commonwealth's other rights to recover the Funding or any other Commonwealth funding from the Funding Recipient.

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### **20. Termination with Compensation**

#### **20.1 Termination**

The Commonwealth may, at any time by written notice to the Funding Recipient, terminate this Agreement without prejudice to the rights, liabilities, or obligations of either Party accruing prior to the date of termination. If this Agreement is terminated, the Commonwealth will only be liable for:

- (a) payments under the payment provisions of this Agreement that were due, before the effective date of termination or reduction; and
- (b) subject to clauses 20.3 and 20.4, any reasonable costs incurred by the Funding Recipient and directly attributable to the termination of this Agreement.

#### **20.2 Obligation of the Funding Recipient**

Upon receipt of a notice of termination in accordance with clause 20.1, the Funding Recipient must immediately:

- (a) cease the performance of its obligations under this Agreement in accordance with the notice;
- (b) do everything possible to mitigate all losses, costs, and expenses, arising from the termination contained in the notice; and
- (c) return any unspent Funding to the Commonwealth.

#### **20.3 Liability for Costs**

The Commonwealth's liability to pay any compensation under or in relation to this clause 20, is subject to:

- (a) the Funding Recipient's strict compliance with this clause 20; and
- (b) substantiation of any amount claimed under clause 20.1(b).

#### **20.4 Amount Exceeding Funding**

The Commonwealth will not be liable to pay compensation for loss of prospective profits for a termination under this clause 20, or loss of any benefits that would have been conferred on the Funding Recipient had the termination not occurred.

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## **21. Negation of Legal Relationship of Employment, Partnership and Agency**

### **21.1 No Partnership, Agency or Employment**

Nothing in this Agreement constitutes or is taken to constitute the legal relationship between the Commonwealth and the Funding Recipient of:

- (a) partnership;
- (b) agency; or
- (c) employment.

### **21.2 Authority to Bind Other Party**

Neither the Commonwealth nor the Funding Recipient have authority to bind or represent, or will attempt to bind or represent, the other Party in any way or for any purpose.

---

## **22. Reduction in Scope**

### **22.1 Reduction in Scope**

The Commonwealth may, at any time by written notice to the Funding Recipient, reduce the scope of this Agreement without prejudice to the rights, liabilities, or obligations of either Party accruing prior to the date of reduction in scope. If this Agreement is reduced in scope, the Commonwealth will only be liable for:

- (a) payments under the payment provisions of this Agreement that were due before the effective date of the reduction in scope; and
- (b) subject to clauses 20.3 and 20.4, any reasonable costs incurred by the Funding Recipient and directly attributable to the reduction in scope of this Agreement.

### **22.2 Obligation of the Funding Recipient**

Upon receipt of a notice of reduction in accordance with clause 22.1, the Funding Recipient must immediately:

- (a) cease or reduce the performance of its obligations under this Agreement in accordance with notice;
- (b) do everything possible to mitigate all losses, costs, and expenses, arising from the termination or reduction in scope contained in the notice; and
- (c) return any unspent Funding to the Commonwealth.

### **22.3 Liability for Costs**

- (a) If there is a reduction in scope of the obligations under this Agreement, the Commonwealth's liability to pay any part of the Funding will, in the absence of written agreement between the Parties to the contrary, abate proportionately to the reduction in the obligations under this Agreement.
- (b) The Commonwealth's liability to pay any compensation under or in relation to this clause 22 is subject to:

- (i) the Funding Recipient's strict compliance with clause 22; and
- (ii) substantiation of any amount claimed under clause 22.1(b).

#### **22.4 Amount Exceeding Funding**

The Commonwealth will not be liable to pay compensation for loss of prospective profits for a reduction in scope under this clause 22 or loss of any benefits that would have been conferred on the Funding Recipient had the reduction not occurred.

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### **23. Entire Agreement and Variation**

#### **23.1 Entire Agreement**

This Agreement constitutes the entire agreement between the Parties and supersedes all communications, negotiations, arrangements, and agreements, whether oral or written, between the Parties about the subject matter of this Agreement.

#### **23.2 Variation of Agreement**

No agreement or understanding varying or extending this Agreement, including the scope of the Project, will be legally binding upon either Party unless it is in writing and signed by both Parties.

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### **24. Waiver**

A waiver by a Party of any breach of a provision of this Agreement, including a failure to enforce an obligation, is not, and will not be deemed to be, a waiver of any other subsequent breach.

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### **25. Assignment and Novation**

#### **25.1 Assignment**

The Funding Recipient must not assign, in whole or in part, its benefits under this Agreement without the prior written approval of the Departmental Officer.

#### **25.2 Novation**

The Funding Recipient must not consult with any other person or body, for the purposes of entering into an arrangement which will require novation of the Agreement, without first consulting the Departmental Officer.

---

### **26. Subcontractors**

#### **26.1 Procedure for Subcontracting**

The Funding Recipient must not, without the prior written consent of the Departmental Officer, subcontract the whole, or any part, of its obligations under this Agreement or the Project Plan.

#### **26.2 Funding Recipient's Obligations**

- (a) The Funding Recipient is responsible for ensuring the suitability of a subcontractor and for ensuring that any part of the Project performed by the subcontractor meets the requirements of this Agreement.

- (b) The consent of the Department to any subcontract will not relieve the Funding Recipient from any liability or obligation under this Agreement.
- (c) The Funding Recipient remains liable under this Agreement for the acts or omissions of any past subcontractors as if they were current subcontractors.

### **26.3 Terms and Conditions of Subcontract**

- (a) The Department may impose any terms and conditions it thinks fit when giving its approval under clause 26.1.
- (b) However, as a minimum, the Funding Recipient must ensure that the subcontractor complies with clauses , 6, 11 to 18 (inclusive), 20, 22 and 26.5 of this Agreement in any subcontract the Department approves.

### **26.4 The Department's Rights**

The Department may revoke its approval of a subcontractor on any reasonable ground.

### **26.5 Procedure**

Upon receipt of a written notice from the Departmental Officer revoking its approval of a subcontractor, the Funding Recipient will:

- (a) immediately replace the subcontractor; or
- (b) as soon as practicable, cease using that subcontract to perform the Project,

but the Funding Recipient agrees that the Commonwealth will not be liable, and the Funding Recipient agrees to indemnify the Commonwealth, for any loss or damage suffered by the Funding Recipient, or for any claim made by the Funding Recipient or any other person against the Commonwealth, whether in respect of the Funding Recipient's contract with a subcontractor or otherwise, arising out of the Funding Recipient's compliance with this clause.

### **26.6 Approval of replacement**

Any replacement subcontractor proposed by the Funding Recipient must be approved in writing by the Department.

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## **27. Acknowledgement and Publications**

- (a) In every and all publications, promotional Material, and activities relating to this Agreement, the Funding Recipient must acknowledge the Commonwealth's financial and other support.
- (b) The form of acknowledgement must be approved by the Department, prior to its use in accordance with paragraph (a) above.

---

## **28. Compliance**

### **28.1 Governing Law**

This Agreement will be governed by and construed in accordance with the laws of the Australian Capital Territory and the Parties submit to the non-exclusive jurisdiction of the courts of that Territory.

## 28.2 Compliance with Laws

The Funding Recipient will, in carrying out its obligations under this Agreement, comply with the provisions of all relevant statutes, regulations, by-laws, and requirements of any Commonwealth, State, Territory, or local authority.

## 28.3 Police Checks

(a) **The Funding Recipient's warranty regarding police checks**

The Funding Recipient warrants that the Funding Recipient will not engage any person to work on or in relation to a Project involving children/young people without first conducting a police check of that person's criminal record. For the purpose of this clause a police check is a formal inquiry or inquiries made to all relevant authorities, which is or are designed to obtain details of a person's criminal convictions in each State and Territory of Australia, where the person is known to have resided.

(b) **The Funding Recipient's warranty regarding persons with criminal records**

The Funding Recipient warrants that you will not engage any person to work on or in relation to any part of the Project who has a Serious Criminal Record.

---

## 29. Notices

### 29.1 Address for Notice

Any notice, request, or other communication to be given or served under this Agreement must be in writing and dealt with as follows:

- (a) if given by the Funding Recipient to the Departmental Officer - signed by the Project Manger, addressed and forwarded to the Departmental Officer at the address indicated in Item 12 of the Schedule, or as otherwise notified in writing by the Departmental Officer; or
- (b) if given by the Commonwealth to the Funding Recipient - signed by the Departmental Officer and forwarded to the Funding Recipient for attention of the Project Manger, at the address indicated in Item 12 of the Schedule, or as otherwise notified in writing by the Funding Recipient.

### 29.2 Method of Delivery

Any such notice, request, or other communication will be delivered by hand or sent by prepaid security post or facsimile to the address of the Party to which it is sent. If the notice is transmitted by facsimile, a copy is to be sent to the addressee by prepaid post.

### 29.3 Receipt of Notice

Any notice, request, or other communication will be deemed to be received:

- (a) if delivered by hand, on the date of delivery;
- (b) if sent by prepaid security post within Australia, upon the expiry of 2 Business Days after the date on which it was sent; and
- (c) if transmitted by facsimile, upon receipt by the sender of an acknowledgement that the communication has been properly transmitted to the recipient.

**Executed** as an agreement.

**Signed** for and on behalf of by Karen Scobell,  
Acting Director of Family Services, Victoria State  
Office, represented by and acting through the  
Department of Family and Community Services,  
**ABN 36 342 015 855**, in the presence of:

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(Signature of Witness)

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(Signature of Departmental Representative)

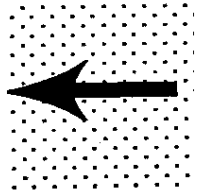
---

(Name of Witness in full)

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(Name of Departmental Representative)

**The Common Seal** of Mitchell Shire Council  
ABN 27 352 592 142 was affixed here in  
accordance with its rules in the presence of:



---

(Signature of Witness)

---

(Signature of authorised/delegated officer)

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(Name of Witness in full)

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(Name of authorised/delegated officer in full)

## Schedule - Project details

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### 1. Preconditions of Funding

The Funding Recipient agrees that it is a precondition of its entitlement to the Funding that the Funding Recipient must:

- (a) comply with child care legislation (A New Tax System (Family Assistance) (Administration) Act 1999 and related disallowable instruments.
  - (b) have an Australian Business Number ("ABN");
  - (c) immediately notify the Department if the Funding Recipient ceases to be registered with an ABN;
  - (d) correctly quote the ABN on all documentation to the Commonwealth;
  - (e) supply proof of GST status, if requested by the Departmental Officer; and
  - (f) immediately notify the Department of changes to GST status.
- 

### 2. Project Plan

#### 2.1 Name of Funding Recipient

Mitchell Shire Council

#### 2.2 Name of Program

Child Care Support Program – Family Day Care Network Support

#### 2.3 Program Objectives

The Commonwealth Department of Family and Community Services administers the Child Care Support Program.

The Child Care Support Program supports and promotes access to quality child care for children, families and communities through strategies that compliment the significant assistance provided to families through Child Care Benefit.

The objectives of Child Care Support Program are to:

- Promote, support and enhance quality child care;
- Improve access to child care for children and families with special or additional needs; and
- Support equitable access to child care for children and families in areas and/or circumstances where services would not otherwise be available.

The purpose of the Family Day Care Network Support payment is to assist Family Day Care services to support a network of carers providing flexible care, operating in a number of different locations.

#### 2.4 Name of Project

Mitchell Shire Family Day Care Scheme

## **2.5 Description of Project**

The **Mitchell Shire Family Day Care Scheme** will provide access to flexible and inclusive Family Day Care which is responsive to the needs of families and communities. The service will be delivered within the **LGA of Mitchell** or as agreed with the Department. The **Mitchell Shire Family Day Care Scheme** has been allocated **258** approved EFT places and may not deliver Family Day Care services beyond this number of places.

## **2.6 Project Start Date**

1 October 2005

## **2.7 Project Completion Date**

30 June 2006

## **2.8 Project Objective**

The **Mitchell Shire Family Day Care Scheme** agrees to:

- establish and/or maintain a quality Family Day Care service
- provide advice, support and information to families and communities on Family Day Care, child care and related community links
- recruit, train and support suitable carers/staff
- administer and support a network of carers who provide flexible care for children in the carers' homes, including:
  - full-time, part-time, casual or weekend care in standard and non-standard hours
  - flexible care
  - care for seasonal, sessional or emergency situations
  - care for school children, before and after school and during school holidays
- register and participate in the Family Day Care Quality Assurance system
- monitor and evaluate the quality of care provided
- develop/deliver training material/resources
- develop sound business and financial management practices
- provide training and support for co-ordination staff
- receive and manage Child Care Benefit on behalf of parents
- promote the care type within the community



**Family Day Care Services must be delivered in accordance with the following:**

- Family assistance law and related disallowable instruments as relevant to the Funding Recipient;
- 2005-06 Child Care Services Handbook (including the on-line version); and
- State/Territory and local government laws, regulations and licensing requirements.

**2.9 Project Milestones**

Assessment and Performance Reports are submitted by 14 October 2005 and 14 April 2006 as defined in Item 6 of the Schedule.

**2.10 Project Outputs**

- provision of quality, accessible and inclusive, child care that is responsive to the needs of families within the approved area
- effective utilisation of approved EFT places within the service's allocation limit
- maintain an adequate supply of well trained and supported carers
- provide information, advice and support to families
- effective promotion of service within approved area
- effective administration of all Australian Government funds.

**2.11 Approved Purposes**

Funding is provided to Family Day Care services for the purpose of assisting families with dependent children to participate in the workforce and general community by:

- providing quality, accessible and inclusive Family Day Care
- monitoring the quality of care delivered
- recruiting, training and supporting carers
- providing advice, support and information to families
- promoting services within the agreed service delivery area.

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**3. Agreed Program Principles**

Following on from the Program Objectives, the underlying Program Principles for the Child Care Support Program are:

- Equity in the distribution of resources according to need;
- Accessible and transparent planning and performance assessment processes;
- Capacity for flexibility, responsiveness and innovation;
- Efficiency in achieving outcomes; and
- A focus on outcomes for families and children.

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#### 4. Budget

Not required

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#### 5. Payment of Funding

- (a) Total amount of Family Day Care Network Support payable to the Funding Recipient (including any applicable Transitional Funding):

The funding amount has been determined by using the information provided to the Department by the Funding Recipient through the application process.

The rate of funding for the Family Day Care Network Support payment for 2005-06 is \$21.25 per occupied place per week. The funding amount below is an **estimate** of total funding to be paid during this Funding Agreement, and may be revised due to variations in occupied places.

Variations in occupied places will be noted in the Assessment and Performance Reports, which will be submitted to the Department by the Funding Recipient on 14 October 2005 and 14 April 2006. The Department may adjust future payments if the Funding Recipient submits an Assessment and Performance Report which shows that the number of occupied places has increased or decreased by **more than 15% or 30 EFT, whichever is lesser**.

If this situation arises, the Department will contact the Funding Recipient in writing, within 30 days of receiving the Assessment and Performance Report, to advise them of any changes to future payments.

The table below sets out the amount of Family Day Care Network Support to be paid during this Funding Agreement.

	<b>2005-06 Financial Year (1/10/05 to 30/6/06) (Estimate)</b>
Funding (excl. GST)	<b>\$168,512.50</b>
GST Component	<b>\$16,851.25</b>
<b>Total Funding</b>	<b>\$185,363.75</b>

(b) Funding Recipient's Bank Account:

**To be paid into an account nominated by the Funding Recipient**

(c) When the estimated payments will be made by the Department to the Funding Recipient:

Payment Date	Payment Amount (excl. GST)	GST Component	Total Payment
1 October 2005 (within 10 working days)	\$56,170.83	\$5,617.08	\$61,787.92
1 January 2006 (within 10 working days)	\$56,170.83	\$5,617.08	\$61,787.92
1 April 2006 (within 10 working days)	\$56,170.83	\$5,617.08	\$61,787.92

\* The first payment will be made within 10 working days of 1 October 2005 if a Funding Agreement is executed prior to this date. If the Funding Agreement is executed after 1 October 2005, the first payment will be made within 10 working days of the execution date.

**NOTE:** As at 1 July 2005, there are **258** Family Day Care places allocated to **Mitchell Shire Family Day Care Scheme**. If the number of occupied places remains lower than the number of allocated places by more than 15% or 30 places (whichever is lesser) over a period of 12 months, the Funding Recipient may be required to return a portion of the unoccupied allocated places to the Department.

**Regional Travel Assistance Grants (RTAG)**

Payments to services under RTAG will be paid quarterly in arrears, and are in addition to the funding outlined above. RTAG payments will be made within 10 working days of the Department receiving a completed claim form to the extent that the claim meets the eligibility criteria, as assessed by the Department. The first RTAG claim for 2005-06 is due on 1 October 2005.

Eligibility criteria for RTAG payments are described in the 2005-06 Child Care Handbook.

**Disabled Supplementary Services (DSUPS) Payments**

Services that are eligible for Disabled Supplementary Services (DSUPS) payments must comply with the DSUPS guidelines and submit form/s as outlined in the Child Care Services Handbook. Payments will only be made to services if the relevant eligibility criteria are met and necessary forms are submitted correctly.

## 6. Reports

### 6.1 Progress Performance Reports

#### (a) Monitoring Reports

##### (i) Assessment and Performance Report

The Funding Recipient must prepare an Assessment and Performance Report and provide a copy of this report to the Departmental Officer by the due date specified below or the next working day.

The Department has provided the Funding Recipient with the necessary format for this report, which has been included with this agreement. Additional copies are available by contacting the Departmental Officer.

The following table sets out the reporting period and due date for each Assessment and Performance Report.

<b>Assessment and Performance Report</b> (1 April 2005 to 30 September 2005)	<b>Due</b> 14 October 2005
<b>Assessment and Performance Report</b> (1 October 2005 to 31 March 2006)	<b>Due</b> 14 April 2006

#### Performance Indicators

The Performance Indicators for Family Day Care services have been developed from the outcomes for the Child Care Support Program. These outcomes have informed the content of the Assessment and Performance Report. The outcomes for Family Day Care services are:

- Family Day Care services are providing access to quality, flexible and inclusive child care that is responsive to the needs of families and communities;
- Family Day Care services are providing a well maintained service delivery network, including carers and coordination unit/s; and
- Funded services are operating effectively and efficiently.

## 6.2 Final Acquittal Report

### (a) Financial Reports

#### (i) Audited Financial Statement

This is a statement prepared by a registered, qualified auditor for the specified audit period. It includes a profit and loss (income and expenditure) statement and a balance sheet (statement of assets and liabilities).

A copy of the Audited Financial Statement (for the period 1 October 2005 to 30 June 2006) must be provided to the Departmental Officer by the due date specified below or the next working day.

<b>Audited Financial Statement</b> (1 October 2005 to 30 June 2006)	<b>Due</b> 14 October 2006
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## 6.3 Final Project Report

Not required

## 6.4 Other written reports

- Action Plan – a report detailing strategies to increase utilisation will be required if a service's number of occupied places varies by more than 15% from the number of allocated places. If this occurs, services will be notified of the variance in writing, and provided with a format and due date for this report.
- Any other reports and information that may be required by the Department from time to time in relation to the Family Day Care service.

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## 7. Insurance requirements

The Funding Recipient agrees to provide the following insurance:

- (a) Public Liability for not less than \$10 million, noting the interests of the Commonwealth;
- (b) Workers' compensation as required by the law in force in each State or Territory where employees of the organisation work in relation to the Project;
- (c) Compulsory third party and comprehensive insurance for all motor vehicles acquired with the Funding; and
- (d) Professional Indemnity for not less than \$5 million.

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## 8. Assets

### 8.1 Part A - Approved Assets (see clause 8.1)

### 8.2 Part B – Assets to be owned by the Commonwealth (see clause 8.2)

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**9. Specified Personnel**

Not required

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**10. Information technology requirements**

Not required

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**11. Financial undertaking**

Not required

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**12. Other information****12.1 Departmental Officer**

Name: Fouli Christmann  
Postal Address: GPO Box 9820, Melbourne, Vic, 3001  
Street Address: Level 3, 2 Casselden Place, Melbourne, Vic, 3001  
Email Address: fouli.christmann@facs.gov.au  
Telephone: (03) 8626 1169  
Facsimile: (03) 8626 1220

**12.2 Project Manager**

Name: Ms Deb Saunders  
Postal Address: 113 High St, BROADFORD VIC 3658  
Street Address: 113 High Street, BROADFORD 3658  
Email Address:  
Telephone: (03) 57346259  
Facsimile: (03) 57346215

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**13. Annexures to this Schedule**

- (a) Annexure A to this Schedule contains the Deed of Confidentiality referred to in clause 16.3.
- (b) Annexure B to this Schedule contains the Financial Undertaking referred to in clause 4.6.



- (b) is designated by the Commonwealth as confidential; or
- (c) the Confidant knows or ought to know is confidential;

but does not include information which:

- (d) is or becomes public knowledge other than by breach of this Deed or by any other unlawful means;
- (e) is in the possession of the Confidant without restriction about disclosure before the date of receipt;
- (f) has been independently developed or acquired by the Confidant; or
- (g) is required by law to be disclosed.

**"Funding"** means the Funding provided to the Funding Recipient by the Commonwealth under and according to the terms of the Agreement.

**"Funding Recipient"** means the Funding Recipient as defined in the Agreement.

**"Personal Information"** has the same meaning as it has in the *Privacy Act 1988*.

**"Program"** means the program described in the Agreement under which Funding for the Project has been approved or provided by the Commonwealth.

**"Project"** means the Project described in the Agreement for which Funding is approved or provided by the Commonwealth.

## 2.2 Interpretation

In this Deed:

- (a) headings are for convenience only;

and unless the context indicates a contrary intention:

- (b) a reference to this **"Deed"** means this Confidentiality Deed Poll;
- (c) a reference to a **"person"** includes a reference to a partnership or incorporated body as well as an individual;
- (d) words importing a gender include any other gender;
- (e) words in the singular include the plural and words in the plural include the singular;
- (f) all references to clauses are clauses of this Deed;
- (g) where any word or phrase has been given a defined meaning, any other part of speech or other grammatical form about that word or phrase has a corresponding meaning;
- (h) a reference to any statute or other legislation (whether primary or subordinate) is to a statute or other legislation of the Commonwealth and, if it has been or is amended, is a reference to that amended statute or other legislation;
- (i) a reference to dollars is a reference to Australia dollars;



- (j) if an example is given of any thing (including a right, obligation or concept), the example does not limit the scope of that thing; and
- (k) each provision of this Agreement will be interpreted without disadvantage to the party who (or whose representative) drafted that provision, that is, the *contra proferentum* rule does not apply to this Agreement.

## **2.3 Enforceability**

This Deed operates as a deed poll, and is enforceable against the Confidant in accordance with its terms by the Commonwealth, even though the Commonwealth is not a party to this Deed.

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## **3. Non-disclosure**

### **3.1 Non-disclosure**

The Confidant must not disclose Confidential Information to any person without the prior written consent of the Commonwealth.

### **3.2 The Funding Recipient consent**

The Commonwealth may grant or withhold its consent in its absolute discretion.

### **3.3 Conditions**

If the Commonwealth grants its consent, it may impose conditions on that consent. In particular, but without limiting the generality of this subclause 3.1, the Commonwealth may require that the Confidant procure the execution of a Deed in these terms by the person to whom the Confidant proposes to disclose the Confidential Information.

### **3.4 Compliance with conditions**

If the Commonwealth grants consent subject to conditions, the Confidant must comply with those conditions.

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## **4. Restrictions on use**

### **4.1 Use**

The Confidant must use the Confidential Information only for the Project.

### **4.2 Need to know**

The Confidant must not request the written consent of the Commonwealth under subclause 3.1 to disclose Confidential Information to, and must not actually disclose Confidential Information to, any officer, employee, co-worker or volunteer of the Confidant except where those persons have a legitimate need to know the Confidential Information for the purposes of performing their duties.

### **4.3 Liability of Confidant**

The Confidant will be liable for any breach by any of the Confidant's officers, employees, co-workers, agents, volunteers or advisers to whom the Confidant has disclosed Confidential Information as if such persons were the Confidant.

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## 5. Commonwealth legislation

The Confidant acknowledges that it is aware of the provisions of the *Crimes Act 1914* relating to unauthorised access, use or disclosure of information and covenants and agrees not to breach those provisions.

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## 6. Protection of Personal Information

The Confidant agrees to:

- (a) use Personal Information held or controlled by it in connection with this Deed only for the purposes of fulfilling its obligations under this Deed;
- (b) take all reasonable measures to ensure that Personal Information in its possession or control in connection with this Deed is protected against loss and unauthorised access, use, modification or disclosure;
- (c) comply with the Information Privacy Principles contained in the *Privacy Act 1988* to the extent that the content of those principles applies to the types of activities the Confidant is undertaking under this Deed, as if it were an agency as defined in that Act;
- (d) co-operate with any reasonable demands or inquiries made by the Commonwealth on the basis of the exercise of the functions of the Privacy Commissioner under the *Privacy Act 1988* including, but not limited to, a request from the Commissioner to comply with a guideline concerning the handling of Personal Information;
- (e) ensure that any person who has an access level which would enable that person to obtain access to any Personal Information is made aware of, and undertakes in writing, to observe the Information Privacy Principles referred to in this clause 6;
- (f) comply, in so far as is practicable, with any policy guidelines issued by the Department or the Privacy Commissioner from time to time relating to the handling of Personal Information; and
- (g) comply with any direction of the Commonwealth to observe any recommendation of the Privacy Commissioner relating to any acts or practices of the Confidant that the Privacy Commissioner considers breach the obligations in this clause 6.

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## 7. Survival

This Deed will survive the termination or earlier expiry of the Agreement.

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## 8. Production of documents

### 8.1 Definition

For the purposes of this clause 8, "**documents**" means any form of storage of information or record of information including, without limitation, storage by electronic means.

### 8.2 Time for performance

The Confidant must immediately comply with a demand under this clause 8.

### **8.3 Delivery up**

The Commonwealth may demand (without needing to demand in writing) that the Confidant deliver up to the Commonwealth all documents in the possession or control of the Confidant containing Confidential Information.

### **8.4 Location of documents**

If the Commonwealth makes a demand under this clause 8, and the Confidant has placed Confidential Information, or is aware that documents containing the Confidential Information are, beyond his or her possession or control, then the Confidant must provide full particulars of the location of the documents containing the Confidential Information, and the identify of the person who has custody or control of the documents.

### **8.5 Legal proceedings**

The Confidant acknowledges that the Commonwealth may take legal proceedings against the Confidant or third parties if there is any actual, threatened or suspected breach of this Deed, including proceedings for an injunction to restrain such breach.

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## **9. No exclusion of law or equity**

This Deed must not be construed to exclude the operation of any principle of law or equity intended to protect and preserve the confidentiality of the Confidential Information.

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## **10. Indemnity**

### **10.1 Indemnity**

The Confidant must, at all times, indemnify the Commonwealth against any loss, damage, liability, cost or expense sustained or incurred by the Commonwealth arising out of or in connection with any breach of any obligation of the Confidant arising under this Deed, at common law or in equity.

### **10.2 Definition**

For the purposes of clause 10.1, "**liability**" includes any liability assumed by the Commonwealth to pay a person a reasonable amount as compensation for loss or damage suffered by that person as a result of any breach of this Deed by the Confidant for which the Commonwealth would have been liable under the *Privacy Act 1988* if such a breach had been that of the Commonwealth.

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## **11. Remedies cumulative**

### **11.1 Rights not exclusive**

The rights and remedies provided under this Deed are cumulative and are not exclusive of any rights or remedies provided by law or any other such right or remedy.

### **11.2 No derogation**

Subject to the other covenants of this Deed, the rights and obligations of the Confidant and the Commonwealth pursuant to this Deed are in addition to and not in derogation of any other right or obligation of the Confidant or the Commonwealth at law or under any other deed or agreement to which either or both of them are parties.

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## **12. Waiver**

A waiver by the Commonwealth of any breach of a condition or provision of this Deed will not be deemed to be a waiver of any continuing or subsequent breach of that provision, or a breach of any other provision. The failure of the Commonwealth to enforce at any time any of the provisions of this Deed shall in no way be interpreted as a waiver of such provision.

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## **13. Severability**

Each provision of this Deed and each part thereof will, unless the context otherwise necessarily requires it, be read and construed as a separate and severable provision or part. If any provision or part thereof is void or otherwise unenforceable for any reason, then that provision or part (as the case may be) will be severed and the remainder will be read and construed as if the severable provision or part had never existed.

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## **14. Applicable law**

This Deed is governed by and is to be construed in accordance with the laws of the Australian Capital Territory and the parties agree, subject to the Deed, that the courts of that Territory will have jurisdiction to entertain any action in respect of, or arising out of, this Deed.

---

## **15. Notices**

### **15.1 Addresses for service**

Any notice, request or other communication to be given or served under this Deed must be in writing and addressed as follows:

- (a) **Department of Family and Community Services**  
**GPO Box 9820, Melbourne, Vic, 3001**
- (b) **Mitchell Shire Council, 113 High St, BROADFORD VIC 3658**

### **15.2 Mode of communication**

Any such notice, request or other communication must be delivered by hand or sent by prepaid security post or facsimile to the address of the person to whom it is sent.

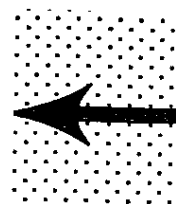
### **15.3 Deemed receipt**

Any notice, request or other communication will be deemed to be received:

- a) if delivered personally, on the date of delivery;
- b) if sent by prepaid security post, on the day that the acknowledgment of delivery is completed by the recipient; and
- c) if sent by facsimile, upon receipt by the sender of an acknowledgment that the communication has been properly transmitted to the recipient.

**Executed as a deed poll**

**Signed, sealed and delivered by Mitchell Shire Council ABN 27 352 592 142, in the presence of:**



---

(Signature of Witness)

---

(Signature of Confidant)

---

(Name of Witness in full)

---

(Name of Confidant in full)

## Annexure B - Financial Undertaking

THIS DEED ("Undertaking") is made in [insert] on [insert day] of [insert]

BY

Commonwealth of Australia, represented by and acting through the Department of Family and Community Services, ABN 36 342 015 855, of Tuggeranong Office Park, Athllon Drive, Greenway ACT ("Department")

AND

[Insert name of Guarantor] ABN [insert ABN] of [insert registered address] ("Guarantor")

### Agreement:

#### 1. Unconditional and irrevocable guarantee

At the request of [insert] ("Funding Recipient") and in consideration of the Department accepting this Undertaking, the Guarantor unconditionally and irrevocably, as a primary obligation, undertakes and covenants to pay to the Department, on demand, and without reference to the Funding Recipient and notwithstanding any notice given by the Funding Recipient to the Guarantor not to pay same, any sum or sums which may from time to time be demanded in writing by the Department to a maximum aggregate sum of \$[insert amount of money guaranteed].

#### 2. Continuing liability

The Guarantor's liability under this Undertaking is a continuing liability and continues until payment is made or the Department notifies the Guarantor that this Undertaking is no longer required. The obligations of the Guarantor under this Undertaking are not affected by anything which, but for this provision, might operate to exonerate it from that liability in whole or in part and this Undertaking may be enforced against the Guarantor without the Department being required to exhaust any remedy it may have against the Funding Recipient. The Guarantor agrees that it is not to be discharged or released from this Undertaking by any arrangement made between the Funding Recipient and the Department.

#### 3. Interest

The Guarantor agrees to pay interest to the Department on any amount payable by it to the Department under this Undertaking from when it becomes due for payment, during the period that it remains unpaid, on demand, or at times determined by the Department calculated on daily balances at the rate of 5% over the Commonwealth Bank of Australia's indicator interest rate, and is capitalised (if not paid) every 7 days.

#### 4. Time for payment

The Guarantor must make payments to the Department under this Undertaking no later than 11.00 am Canberra time on the due date to the account of the Department which the Department designates by notice.

#### 5. Deductions

If a law requires the Guarantor to withhold or deduct taxes from a payment so that the Department would not actually receive for its own benefit on the due date the full amount provided for under this Undertaking, then:

- (a) the amount payable is increased so that, after that deduction and deductions applicable to additional amounts payable, the Department is entitled to receive the amount it would have received if no deduction had been required;
- (b) the Guarantor must make the deduction; and
- (c) the Guarantor must pay the full amount deducted to the relevant authority in accordance with applicable law.

6. **Applicable law**

This Undertaking is governed by the laws of the Australian Capital Territory and the parties agree that the courts of that Territory will have jurisdiction to entertain any action in respect of, or arising out of, this Undertaking and submit themselves to the jurisdiction of those courts.

7. **Indemnity**

The Guarantor indemnifies the Department against, and will pay the Department on demand, the amount of all losses, liabilities, costs, expenses, stamp duty and goods and services taxes payable in connection with this Undertaking and in connection with preserving its rights under this Undertaking.

8. **Notices**

The following notice arrangements apply:

- (a) a notice or other communication which may be given to or served on the Guarantor under this Undertaking will be deemed to have been duly given or served if it is in writing, signed on behalf of the Department and is either delivered by hand, posted or transmitted by facsimile to the Guarantor or its agent at any registered office of the Guarantor or posted to the Guarantor's address set out below or such other address as is notified in writing to the Department from time to time;
- (b) a notice or other communication which may be given to or served on the Department under this Deed will be deemed to have been duly given or served if it is in writing, signed by or on behalf of the Guarantor, and is either delivered by hand, posted or transmitted by facsimile to the Department at the address set out above or such other address as is notified in writing to the Guarantor from time to time;
- (c) a notice sent by post will be deemed to have been given at the time when, in due course of transmission, it would have been delivered at the address to which it is sent; and
- (d) if transmitted by facsimile, upon receipt by the sender of an acknowledgment that the communication has been properly transmitted to the recipient.

9. **Certificate conclusive evidence**

A statement, signed on behalf of the Department by any of its authorised representatives, as to any matter or any amount at the date specified in the statement, is conclusive evidence in the absence of manifest error.

10. **Prohibitions**

Until the obligations of the Funding Recipient have been performed in full, the Guarantor must not:

- (a) share in any security interest or money received or receivable from the Department in relation to the guaranteed obligations, or stand in the place of the Department in relation to any security interest or right to receive money;
- (b) take any steps to enforce a right or claim against the Funding Recipient relating to any money paid by the Guarantor to the Department under this Deed;
- (c) have or exercise any rights as surety in competition with the Department;
- (d) receive, claim or have the benefit of any payment (including a payment under a guarantee), distribution or security interest from or on account of the Funding Recipient or any other person; and
- (e) claim to be entitled by way of contribution, indemnity, subrogation, marshalling or otherwise to the benefit of any agreement or document to which the Department is a party.

11. **Proof**

If the Funding Recipient is wound up or bankrupted, the Guarantor irrevocably authorises the Department to prove for all money that the Guarantor has paid under this Undertaking until the guaranteed obligations have been irrevocably performed in full. The Department is not obliged to do this.

12. **Reinstatement of the Department's rights**

If, after the Department applies any amount against any of the obligations of the Funding Recipient, it forms the view that it is obliged to make a payment for the amount so applied by it to any person under any law relating to bankruptcy, winding up or the protection of creditors:

- (a) the rights of the Department are to be reinstated and will be the same in respect of that amount, or the relevant part of it, as if the application, or the payment or transaction given rise to it, had not been made; and
- (b) the Guarantor must immediately do all things (including the signing of documents) required by the Department to restore to the Department any guarantee to which it was entitled immediately before that application or the payment or transaction giving rise to it.



Executed as a deed

Signed, sealed and delivered by [insert name] on behalf of the Commonwealth of Australia acting through and represented by the Department of Family and Community Services ABN 35 342 015 855 by [insert name of Commonwealth representative] at [Canberra ACT] in the presence of:

---

(Signature of Witness)

---

(Signature of Commonwealth Representative)

---

(Name of Witness in full)

---

(Name of Commonwealth Representative in full)

Signed, sealed and delivered by [insert name] on behalf of [insert name of Guarantor and ACN] in the presence of:

---

(Signature of Witness)

---

(Signature of Guarantor Representative)

---

(Name of Witness in full)

---

(Name of Guarantor Representative in full)

# Family Day Care Assessment and Performance Report

Period for which report is submitted  day/month/year to  day/month/year

Please complete this form, keep a copy for your reference and return the other copy to the Departmental Officer at the address below by **14 October 2005**. The proforma for the remaining reporting period covered by the current funding agreement is available on the FaCS website at [www.facs.gov.au](http://www.facs.gov.au) or from the Departmental Officer.

You can choose to submit your report using postal mail, hand delivery, facsimile or e-mail. Please ensure however that your completed report is delivered to the Departmental Officer, as specified in your current funding agreement.

If you have a Long Form Funding Agreement, the contact/address details for the Departmental Officer can be found in Item 12 of the Schedule. If you have a Short Form Funding Agreement, these details can be found in the Funding Agreement Letter of Offer.

This Assessment and Performance Report has been submitted by:

**Operator/Sponsor** \_\_\_\_\_

**Name of Service** \_\_\_\_\_

**Service ID** \_\_\_\_\_

**Postal Address** \_\_\_\_\_

\_\_\_\_\_ **Postcode** \_\_\_\_\_

**Contact Person** \_\_\_\_\_

**Telephone** \_\_\_\_\_ **Facsimile** \_\_\_\_\_

**E-mail address** \_\_\_\_\_

## Assessment and Performance Report – Background Information

The purpose of the Assessment and Performance Report is to collect three types of information from services funded under the Child Care Support Program. As mentioned in your Funding Agreement, services will be required to submit this report on a six monthly basis during the 2005-06 financial year (due on 14 October 2005 and 14 April 2006).

In future years existing services will need to complete Sections 1 and 2 on a six monthly basis (14 October and 14 April), with Section 3 only required annually (14 October).

Section 1 (page 3) of this report requires information to enable the Department of Family and Community Services (FaCS) to calculate the average number of actual occupied places in each child care service, for each six monthly reporting period. This information will assist FaCS to determine each service's funding eligibility in the 2006-07 financial year.

Section 2 (page 4) seeks to collect quantitative information about some of the operational aspects of each service. All questions in this section must be answered.

Section 3 (page 7) seeks to collect more detailed qualitative information about the operation of each service, and the service delivery environment. All of the questions section of the report must be answered, however, there is also an area ('Other Information') that encourages services to provide additional information. This area of the report provides services with the opportunity to let FaCS know about important aspects of your work that are not already recorded.

All of this information will assist FaCS to develop a greater understanding of how Family Day Care services operate. It will also assist FaCS to develop a body of evidence to demonstrate the effectiveness of the sector to government.

There is a Glossary in this report (Page 10), which explains some of the terminology used in the report.

If you require any clarification regarding the information requested in this report, please contact your FaCS State/Territory Office.

## Section 1

In this section, services are required to provide the necessary information to calculate the average number of actual occupied places in the six monthly period specified on page 1.

Please enter the required information in the table below.

### Actual Occupied Places

	<b>1 April 2005 – 30 June 2005</b>	<b>1 July 2005 – 30 September 2005</b>
Total hours of care charged for all children attending your service in each CCB statement period		
Number of weeks open during each CCB statement period		

## Section 2

This section is designed to collect quantitative information about the operational aspects of each service within the six monthly period specified on page 1.

Please respond to each question in the categories below.

### **Category 1: Children**

1. Number of children (FTE) aged between 0-24 months provided with care during the period	
2. Number of children (FTE) aged from 24 months up to 6 years provided with care during the period	
3. Number of children (FTE) aged between 6 and 12 years provided with care during the period	

### **Category 2: Families**

1. Total number of families provided with care during the period	
2. Number of new families provided with care during the period	
3. Number of families withdrawing from the service during the period	

### Category 3: Flexibility of care

1. What are the standard hours chosen by your service?	
2. Number of carers (FTE) that have worked <i>non-standard hours</i> during the period	
3. Number of requests from families for <i>non-standard hours</i> care during the period	
4. Number of requests to the service for <i>non-standard hours</i> care that were met during the period	
5. Total number of hours of <i>non-standard hours</i> care provided during the period	
6. Number of requests to the service from families for <i>unexpected care</i> during the period	
7. Number of requests for <i>unexpected care</i> that were met during the period	
8. Number of requests to the service from families for <i>24 hour care</i> during the period	
9. Number of requests for <i>24 hour care</i> that were met during the period	
10. Number of children (FTE) provided with care under exceptional circumstances	

### Category 4: Carers Information

1. Number of active carers (FTE) during the period	
2. Number of carers (FTE) recruited during the period	
3. Number of carers (FTE) leaving the service during the period	
4. Number of active carers (FTE) during the period that identify as being Indigenous	
5. Number of active carers (FTE) during the period that identify as being from Cultural and Linguistically Diverse (CALD) backgrounds	

### Category 5: Services Information

1. Number of staff (FTE) working in the network office/s during the period (for <b>Multiple Care</b> services, an <b>estimate</b> is acceptable)	
2. Number of home visits in standard hours by network office staff during the period	
3. Number of home visits in <i>non-standard hours</i> by network office staff during the period	
4. Number of hours of support provided in non- standard hours during the period (eg. Phone support, actual visits, etc.) (for <b>Multiple Care</b> services, an <b>estimate</b> is acceptable)	







### Category 3: Workforce Issues

1. Are there any particular workforce issues within your community (as defined by you) that affect the way you deliver your service? If so, what are the affects?

(eg. Unemployment levels, shift work widely available, long commuting distances, part-time work widely available, etc.)

**Note:** For larger schemes that provide Family Day Care services in many communities, please provide information on each community.

2. Do you have any issues with recruiting or training network staff and/or carers? If so, what are the issues?

### Category 4: Other Information

1. Please provide any additional information about important aspects of delivering Family Day Care services in your area, or any different work that your service is doing, which are not already recorded in another way. (eg. 24 hour care, linkages with other community support services in the area, etc.)

## Glossary

**Active Carer** – means a carer who is monitored, trained and supported to work directly with children/families and has worked at least one day during the reporting period.

**CALD** – means people from Culturally and Linguistically Diverse backgrounds.

**Exceptional Circumstances** – means a child aged 12 years or over, who is receiving care, as approved by the Department.

**Family Day Care** – provides quality care for children up to 12 years of age in the homes of Family Day Care Carers

**Family Day Care Service** – provides care through a network of approved Family Day Carers, who are organised and supported by a professional Coordinating Team.

**Flexible service** – means a service that is able to adapt to changing circumstances and the needs of carers/families

**FTE (Admin staff)** – means full-time equivalent. The number of full-time equivalent staff can be measured by using the following formula:

- Calculate the total number of full days worked by staff members during the reporting period; and
- Divide this by the total number of coordination unit working days in the reporting period.

### Example

1. One week is the reporting period (5 working days) and the service employs three staff members;
2. One staff member works 5 days and the other two **both** work for 3 days each;
3. Add these days together and the total number of full days worked equals **11**;
4. Divide **11** by **5** and you have **2.2 FTE** staff during the reporting period.

**FTE (Carers)** – means full-time equivalent. The number of full-time equivalent carers can be measured by using the following formula:

- Calculate the total number of full days worked by carers during the reporting period; and
- Divide this by the total number of carer working days in the reporting period.

**Example**

1. One week is the reporting period (**5** working days) and the service supports three carers;
2. One carer works **5** days and the other two **both** work for **3** days each;
3. Add these days together and the total number of full days worked equals **11**;
4. Divide **11** by **5** and you have **2.2 FTE** carers during the reporting period.

**FTE (Children)** – means full-time equivalent. The number of full-time equivalent children can be measured by using the following formula:

- Calculate the total number of full days that children received care during the reporting period; and
- Divide this by the total number of care days in the reporting period.

**Example**

1. One week is the reporting period (**5** working days) and the carer delivers child care for three children;
2. One child attends **5** days and the other two **both** attend for **3** days each;
3. Add these days together and the total number of full days of care equals **11**;
4. Divide **11** by **5** and you have **2.2 FTE** children during the reporting period.

**Standard Hours** – mean the hours that apply in Family Day Care services within the range of 7am to 6:30pm, chosen by the service as their standard operating hours. Standard hours are ten hours each weekday.

**Non-standard hours** – means any hours of care that are delivered outside the range of standard hours.

**Unexpected care** – means care that is unforeseen, such as emergency care.

**24 hour care** – means care provided to a child who does not return to the care of their parent or guardian for a 24 hour period and is cared for by an approved service during this time.



**ATTACHMENT**

**PYALONG CEMETERY TRUST -  
ACCOUNTS**

**ABSTRACT OF ACCOUNTS**

**COUNCIL MEETING**

**12 SEPTEMBER 2005**

Pages 4



**Interim Six-Month Abstract Of Accounts**

Note this abstract must be forwarded to the Cemeteries and Crematoria Program by 1 October 2005

ABSTRACT of the accounts of the cemetery trust of the Pyabong Cemetery  
Public Cemetery situated at Northern Highway Pyabong, for the 6-month  
period from 01 January 2005 to 30 June 2005 rendered pursuant to the *Cemeteries and  
Crematoria Act 2003*.

**General Account**

INCOME			EXPENDITURE		
	\$	c			
Balance at Bank }			Salaries and Wages -	\$	c
Cash in hand } as at 1 Jan 2005			Secretary		
Investments }			Sexton		
Interest received			Grave-digging		
Fees received for graves, monuments, interments, etc			Contractors		
<b>Transfers from</b>			Others		
Investments			Plaque		
Reserves			Office Expenses		
DHS Grants			Building		
Other Grants			Insurance		
Unpresented Cheques			Works (Including repairs, fencing, draining, etc)		
Other Income			Sundry expenses and miscellaneous		
			Balance at Bank		
			Cash in hand } as at 30 June 2005		
			Investments } as at 30 June 2005		
<b>TOTAL</b>		<b>NIL</b>	<b>TOTAL</b>		<b>NIL</b>



## Lawn Cemetery Reservation Fund

INCOME			EXPENDITURE		
Balance as at 1 Jan 2005	\$	c	Expenditure or transfer to General account during period	\$	c
Interest			Balance as at 30 June 2005		
New funds received					
<b>TOTAL</b>		<b>NIL</b>	<b>TOTAL</b>		<b>NIL</b>

## Perpetual Maintenance Trust Account

INCOME			EXPENDITURE		
Balance as at 01 Jan 2005	\$	c	Expenditure or transfer to General account during period	\$	c
Interest			Balance as at 30 June 2005		
New funds received					
<b>TOTAL</b>		<b>NIL</b>	<b>TOTAL</b>		<b>NIL</b>

## General Condition of Cemetery

### Brief report on the state of repair of buildings, fences, paths, roadways, etc:

The Cemetery is closed and is maintained by a group of volunteers that are very active and considered in their efforts

Grass is regularly mown but paths need gravel and fencing although generally sound needs work to the gates and other minor work.

**Brief outline of any repairs, maintenance and improvements considered necessary, and the estimated cost of any works proposed during the period.**

Fencing repairs	\$ 700.00
Spraying	250.00
Gravel for paths	300.00
Fuel / blades	180.00
Signage	600.00
	<u>\$ 2030.00</u>

If accurate figures are not available regarding the following items, estimates should be given

**Grave sites**

Number of new grave sites sold during the past six-month period NIL

Number of unused grave sites in the cemetery as at 30 June 2005 NIL

**Burials**

Number of burials which took place during the past six-month period NIL

Total number of burials which have now taken place since the inception of the cemetery NIL

Size of the cemetery reserve or reserves managed by the trust (acres or hectares) NIL

**Cremations**

Number of cremations (if applicable) which took place during the past six-month period NIL

**Opening Hours**

Hours during which pedestrian access to the cemetery is permitted ALL HOURS

Days of the week during which pedestrian access to the cemetery is permitted 7 DAYS

# Statutory Declaration

We, the undersigned, do solemnly and sincerely declare that the above is a true and faithful Abstract of the Accounts of the \_\_\_\_\_ Cemetery, for the period 01 January 2005 to 30 June 2005 and we make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of an Act of the Parliament of Victoria rendering persons making a false declaration punishable for wilful and corrupt perjury.

## Must be signed by Three Trust Members

Declared at \_\_\_\_\_  
this \_\_\_\_\_ day of \_\_\_\_\_

To be signed by at least three Trust Members

20\_\_\_\_ before me

Secretary's name  
and address  
phone number & fax

Authorised Witness

## **Cemeteries and Crematoria Act 2003**

### *Schedule 2, clause 20 Accounts and abstracts*

Despite the repeal of sections 33, 34 and 35 of the *Cemeteries Act 1958*, a cemetery trust must provide to the Secretary by 1 October 2005, accounts, abstracts and a statement for the period commencing 1 January 2005 and ending 30 June 2005 containing the information referred to in those sections as in force immediately before their repeal.

**NB: Certificates as to the balance of investments and also of funds at the bank at the end of the period MUST be forwarded with this form to the Department of Human Services, Level 16, 120 Spencer Street, MELBOURNE, VIC 3001.**

**ATTACHMENT**

**PYALONG CEMETERY TRUST -  
ACCOUNTS**

**ABSTRACT OF ACCOUNTS**

**COUNCIL MEETING**

**12 SEPTEMBER 2005**

Pages 4



**Interim Six-Month Abstract Of Accounts**

Note this abstract must be forwarded to the Cemeteries and Crematoria Program by 1 October 2005

ABSTRACT of the accounts of the cemetery trust of the Pyabong Cemetery  
Public Cemetery situated at Northern Highway Pyabong, for the 6-month  
period from 01 January 2005 to 30 June 2005 rendered pursuant to the *Cemeteries and  
Crematoria Act 2003*.

**General Account**

INCOME		EXPENDITURE	
	\$	c	
Balance at Bank }			Salaries and Wages -
Cash in hand } as at 1 Jan 2005			Secretary
Investments }			Sexton
Interest received			Grave-digging
Fees received for graves, monuments, interments, etc			Contractors
<b><u>Transfers from</u></b>			Others
Investments			Plaque
Reserves			Office Expenses
DHS Grants			Building
Other Grants			Insurance
Unpresented Cheques			Works (Including repairs, fencing, draining, etc)
Other Income			Sundry expenses and miscellaneous
			Balance at Bank
			Cash in hand } as at 30 June 2005
			Investments } as at 30 June 2005
<b>TOTAL</b>		<b>NIL</b>	<b>TOTAL</b>
			<b>NIL</b>

## Lawn Cemetery Reservation Fund

INCOME			EXPENDITURE		
Balance as at 1 Jan 2005	\$	c	Expenditure or transfer to General account during period	\$	c
Interest			Balance as at 30 June 2005		
New funds received					
<b>TOTAL</b>		<i>NIL</i>	<b>TOTAL</b>		<i>NIL</i>

## Perpetual Maintenance Trust Account

INCOME			EXPENDITURE		
Balance as at 01 Jan 2005	\$	c	Expenditure or transfer to General account during period	\$	c
Interest			Balance as at 30 June 2005		
New funds received					
<b>TOTAL</b>		<i>NIL</i>	<b>TOTAL</b>		<i>NIL</i>

## General Condition of Cemetery

### Brief report on the state of repair of buildings, fences, paths, roadways, etc:

*The Cemetery is closed and is maintained by a group of volunteers that are very active and considered in their efforts*

*Grass is regularly mown but paths need gravel and fencing although generally sound needs work to the gates and other minor work.*

**Brief outline of any repairs, maintenance and improvements considered necessary, and the estimated cost of any works proposed during the period.**

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Spraying	250.00
Gravel for paths	300.00
Fuel / blades	180.00
Signage	600.00
	<u>\$2030.00</u>

If accurate figures are not available regarding the following items, estimates should be given

**Grave sites**

Number of new grave sites sold during the past six-month period NIL

Number of unused grave sites in the cemetery as at 30 June 2005 NIL

**Burials**

Number of burials which took place during the past six-month period NIL

Total number of burials which have now taken place since the inception of the cemetery NIL

Size of the cemetery reserve or reserves managed by the trust (acres or hectares) NIL

**Cremations**

Number of cremations (if applicable) which took place during the past six-month period NIL

**Opening Hours**

Hours during which pedestrian access to the cemetery is permitted ALL HOURS

Days of the week during which pedestrian access to the cemetery is permitted 7 DAYS



# Statutory Declaration

We, the undersigned, do solemnly and sincerely declare that the above is a true and faithful Abstract of the Accounts of the \_\_\_\_\_ Cemetery, for the period 01 January 2005 to 30 June 2005 and we make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of an Act of the Parliament of Victoria rendering persons making a false declaration punishable for wilful and corrupt perjury.

## Must be signed by Three Trust Members

Declared at \_\_\_\_\_  
this \_\_\_\_\_ day of \_\_\_\_\_ { \_\_\_\_\_ }

To be signed by at least three Trust Members { \_\_\_\_\_ }

20 \_\_\_\_ before me { \_\_\_\_\_ }

Secretary's name \_\_\_\_\_  
and address \_\_\_\_\_  
phone number & fax \_\_\_\_\_

Authorised Witness { \_\_\_\_\_ }

## **Cemeteries and Crematoria Act 2003**

### *Schedule 2, clause 20 Accounts and abstracts*

Despite the repeal of sections 33, 34 and 35 of the *Cemeteries Act 1958*, a cemetery trust must provide to the Secretary by 1 October 2005, accounts, abstracts and a statement for the period commencing 1 January 2005 and ending 30 June 2005 containing the information referred to in those sections as in force immediately before their repeal.

**NB: Certificates as to the balance of investments and also of funds at the bank at the end of the period MUST be forwarded with this form to the Department of Human Services, Level 16, 120 Spencer Street, MELBOURNE, VIC 3001.**

**ATTACHMENT**

**PYALONG CEMETERY TRUST -  
ACCOUNTS**

**ABSTRACT OF ACCOUNTS**

**COUNCIL MEETING**

**12 SEPTEMBER 2005**

Pages 4



**Interim Six-Month Abstract Of Accounts**

Note this abstract must be forwarded to the Cemeteries and Crematoria Program by 1 October 2005

ABSTRACT of the accounts of the cemetery trust of the Pyalong Cemetery  
Public Cemetery situated at Northern Highway Pyalong, for the 6-month  
period from 01 January 2005 to 30 June 2005 rendered pursuant to the *Cemeteries and  
Crematoria Act 2003*.

**General Account**

INCOME			EXPENDITURE		
	\$	c		\$	c
Balance at Bank }			Salaries and Wages -		
Cash in hand } as at 1 Jan 2005			Secretary		
Investments }			Sexton		
Interest received			Grave-digging		
Fees received for graves, monuments, interments, etc			Contractors		
<b><u>Transfers from</u></b>			Others		
Investments			Plaque		
Reserves			Office Expenses		
DHS Grants			Building		
Other Grants			Insurance		
Unpresented Cheques			Works (Including repairs, fencing, draining, etc)		
Other Income			Sundry expenses and miscellaneous		
			Balance at Bank		
			Cash in hand } as at 30 June 2005		
			Investments } as at 30 June 2005		
<b>TOTAL</b>		NIL	<b>TOTAL</b>		NIL

## Lawn Cemetery Reservation Fund

INCOME			EXPENDITURE		
Balance as at 1 Jan 2005	\$	c	Expenditure or transfer to General account during period	\$	c
Interest			Balance as at 30 June 2005		
New funds received					
<b>TOTAL</b>		<b>NIL</b>	<b>TOTAL</b>		<b>NIL</b>

## Perpetual Maintenance Trust Account

INCOME			EXPENDITURE		
Balance as at 01 Jan 2005	\$	c	Expenditure or transfer to General account during period	\$	c
Interest			Balance as at 30 June 2005		
New funds received					
<b>TOTAL</b>		<b>NIL</b>	<b>TOTAL</b>		<b>NIL</b>

## General Condition of Cemetery

### Brief report on the state of repair of buildings, fences, paths, roadways, etc:

The Cemetery is closed and is maintained by a group of volunteers that are very active and considered in their efforts.

Grass is regularly mown but paths need gravel and fencing although generally sound needs work to the gates and other minor work.

**Brief outline of any repairs, maintenance and improvements considered necessary, and the estimated cost of any works proposed during the period.**

Fencing repairs	\$ 700.00
Spraying	250.00
Gravel for paths	300.00
Fuel / blades	180.00
Signage	600.00
	<u>\$2030.00</u>

If accurate figures are not available regarding the following items, estimates should be given

**Grave sites**

Number of new grave sites sold during the past six-month period NIL

Number of unused grave sites in the cemetery as at 30 June 2005 NIL

**Burials**

Number of burials which took place during the past six-month period NIL

Total number of burials which have now taken place since the inception of the cemetery NIL

Size of the cemetery reserve or reserves managed by the trust (acres or hectares) NIL

**Cremations**

Number of cremations (if applicable) which took place during the past six-month period NIL

**Opening Hours**

Hours during which pedestrian access to the cemetery is permitted ALL HOURS

Days of the week during which pedestrian access to the cemetery is permitted 7 DAYS

# Statutory Declaration

We, the undersigned, do solemnly and sincerely declare that the above is a true and faithful Abstract of the Accounts of the \_\_\_\_\_ Cemetery, for the period 01 January 2005 to 30 June 2005 and we make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of an Act of the Parliament of Victoria rendering persons making a false declaration punishable for wilful and corrupt perjury.

## Must be signed by Three Trust Members

Declared at \_\_\_\_\_  
this \_\_\_\_\_ day of \_\_\_\_\_ { \_\_\_\_\_ }

To be signed by at least three Trust Members { \_\_\_\_\_ }

20 \_\_\_\_\_ before me { \_\_\_\_\_ }

Secretary's name \_\_\_\_\_  
and address \_\_\_\_\_  
phone number & fax \_\_\_\_\_

Authorised Witness { \_\_\_\_\_ }

## **Cemeteries and Crematoria Act 2003**

### *Schedule 2, clause 20 Accounts and abstracts*

Despite the repeal of sections 33, 34 and 35 of the *Cemeteries Act 1958*, a cemetery trust must provide to the Secretary by 1 October 2005, accounts, abstracts and a statement for the period commencing 1 January 2005 and ending 30 June 2005 containing the information referred to in those sections as in force immediately before their repeal.

**NB: Certificates as to the balance of investments and also of funds at the bank at the end of the period MUST be forwarded with this form to the Department of Human Services, Level 16, 120 Spencer Street, MELBOURNE, VIC 3001.**

**ATTACHMENT**

**SUBMISSIONS**

**SALE OF LAND**  
**WALDERS ROAD KILMORE**

**COUNCIL MEETING**

**12 SEPTEMBER 2005**

Pages 4



# SUBMISSION 1

10 August 2005

Mitchell Shire Council  
113 High Street  
Broadford VIC 3658

**Re: Notice of intention to sell land (Walders Road, Kilmore)**

Dear Sir / Madam,

I wish to record my endorsement of Council's intention to sell the land currently occupied by the Shire operated Waste Transfer Station in Walders Road, Kilmore.

As my company (Dorro Nominees) is the owner of the surrounding land and has been the lessor of the Shire's Kilmore Landfill site for the past 27 years, I have a strong interest in this matter and would appreciate consideration of my submission.

### History of the site

I am sure you are aware of the history of the landfill site but I would like to bring to your attention the following:

1. In 1977 the Shire approached me about the possibility of extending the landfill site outside the area of the current Transfer Station site which was then a landfill. I agreed, on behalf of my company to lease to the Shire an adjoining 15 acres for a period of 15 years at a minimal rental of \$250 per annum on the basis that on expiry of the lease:
  - a. The Shire would sell to Dorro Nominees that portion of land on which the current Transfer Station now operates and which was owned by the Shire and,
  - b. The Shire would "facilitate in all things any application by the Lessor to purchase the adjoining land presently used as a municipal garbage depot designated as a Crown Reserve".

[Please note points a and b above will hereafter be referred to as the "option terms".]

A lease of the required 15 acres for a period of 15 years containing the "option terms" was prepared and executed by both the Shire and my company.

2. Subsequently, in 1992 the Shire requested a further extension of the lease expiring 31 December 1999. A lease for this extended period, again containing the "option terms", was prepared and executed by both the Shire and my company.

Thursday, 18 August 2005 (15).max

Wednesday, 7 September 2005 (16).max

3. In 1997, the Shire purchased that portion of the current Transfer Station site then designated as a Crown Reserve (i.e. the land referred to in point b of the "option terms").
4. In 2000, the Shire again requested that the lease of the 15 acres be further extended for five years to 31 December 2004 when it represented that tipping would cease. As requested an agreement which again contained the "option terms" was prepared for signing but has not been executed. However the Shire has remained in occupation and continues to pay rent.
5. In 2001, a residential dwelling was built on Walders road close to the transfer station in reliance on representations by the shire that tipping would cease by 31 December 2004 and that the Shire would honour the option terms contained in the lease agreements.
6. Since October 2003, I have met with Council representatives on many occasions to discuss the cessation of Landfill tipping and the move to a transfer station.
7. As the Shire was unable to complete preparation of an alternate transfer station by 31 December 2004, Dorro Nominees agreed to a further extension of landfill tipping to 31 March 2005 and subsequently to 26 April 2005. The Shire presently remains in occupation of the 15 acres pending completion of statutory rehabilitation works.

#### Suitability of the transfer station site

I think everyone would agree that siting of the landfill in its current location is an historical anomaly that would not have been considered in more recent times. Likewise it is highly debatable that a new transfer station would be located on rural land in the current location. As per the proposed Wallan transfer station current best practice is that such facilities be located in industrial estates.

#### Submission

I am supporting the Shire's "Notice of Intention to Sell Land" for the following reasons:

1. I believe Council should honour the long standing "option terms" contained in the lease agreements with my company.
2. Sale of the land now will provide certainty to both parties and further cement our long and harmonious relationship.
3. Use of the site as a transfer station is not current best practice and should only be of a limited temporary nature in order to allow time for implementation of a more suitable site.
4. At the time of the original (and subsequent) agreements, transfer stations were not a consideration and as a consequence, the residential dwelling and other infrastructure have been sited on the basis of representations that all Shire operations on the land would cease by 31 December 2004.

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5. Siting of the current transfer station at such close proximity to the main infrastructure on my property greatly increases the risk of injury to both my race horses and the people handling them. It also has a material effect on the value of my residential dwelling.

In closing I wish to commend both Council and Shire staff for the considerable effort they have put into the new Waste Management Strategy and I support the sale of this land.

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## SUBMISSION 2

In relation to the disposal of the land at the end of Wallders Rd, formerly used as the Kilmore tip, I make the following submission:

- Whilst I strongly object to the current proposals related to transfer stations and the loss by the Kilmore township of a transfer or tip site for the first time in 150 years, I believe that the unrealistic attitude adopted by Council will be amply demonstrated in the form of huge costs etc. for illegal roadside tipping which will commence as soon as the proposed arrangements take effect. However, I do not believe that the current site is essential. Other possibilities may be superior venues. So I do not object to the sale as described in the Free Press of August 3<sup>rd</sup> 2005.
- I do not submit but believe that council should commence planning now for provision of another waste facility.
- The land use is an entirely different matter. I believe that any certificate of title should clearly show that that the site has been used for some (50+?) years as a municipal tip. This is to ensure that any future council does not inadvertently give permission for inappropriate planning, such as ordinary residential, upon a totally unacceptable substrate.
- I therefore submit under 192 and 223 of the LGA that an appropriate resolution be carried by Council to endorse the title accordingly in relation to land use.

17/8/05



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Mitchell Shire Council  
Contract No 050601  
Local Advertising Requirements

Range of scores

- Excellent 5
- Very Good 4
- Good 3
- Average 2
- Poor 1
- Unacceptable 0

Evaluation Criteria	Weight (W)	Tender No. 1 North Central Review		Tender No. 2 Seymour Telegraph		Tender No. 3 Central Highlands		Tender No. 4 Seymour Nagambie Advertiser	
		Grading (G)	Score (G x W)	Grading (G)	Score (G x W)	Grading (G)	Score (G x W)	Grading (G)	Score (G x W)
Price	60	2.1	126	2.7	162	5	300	3	180
Insurance Evidence	20	5	100	5	100	5	100	0	0
Capability	20	5	100	5	100	5	100	5	100
<b>Possible Total</b>	<b>500</b>		<b>326</b>		<b>362</b>		<b>500</b>		<b>280</b>

The evaluation scores shown in this document have been assessed by the full evaluation panel and the scores shown represent the weighted score for each tenderer as determined jointly by the panel without bias.

*[Signature]*  
Signature of Panel Member

*[Signature]*  
Signature of Panel Member

2.9.05  
Date

