

M(12) – 5 OCTOBER 2021

# Ordinary Council Meeting

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Minutes

The **Ordinary Meeting** of the **Alpine Shire Council** was held in on 5 October 2021 and commenced at **5:00pm**.

## **PRESENT**

### **COUNCILLORS**

Cr John Forsyth - Mayor

Cr Sarah Nicholas – Deputy Mayor

Cr Katarina Hughes

Cr Ron Janas

Cr Tony Keeble

Cr Kelli Prime

Cr Charlie Vincent

### **OFFICERS**

Charlie Bird - Chief Executive Officer

William Jeremy - Director Assets

Helen Havercroft - Directors Corporate Performance

### **APOLOGIES**

Nil

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## 1. Recording and livestreaming of Council meetings

*The CEO read the following statement:*

All council meetings are filmed with both video and audio being recorded.

In common with all narrative during council meetings verbal responses to congratulations, obituaries and question time will not be recorded in the written minutes. By submitting a question, you consent to your question being read aloud at the meeting.

The reasoning behind recording council meetings is of course to hold us more accountable and improve transparency of council's decision making to our community.

The full meeting is being streamed live on Council's YouTube channel which is "Alpine Shire Council" and will also be available on the YouTube channel shortly after this meeting.

## 2. Acknowledgement of traditional custodians, and recognition of all people

*The Mayor read the following statement:*

The Alpine Shire Council acknowledges the Traditional Owners of the land we are now on, we pay our respect to Elders, past and present.

We also acknowledge those people who have contributed to the rich fabric of our community and strive to make wise decisions that will improve the quality of life for all.

## 3. Confirmation of minutes

### 3.1 ORDINARY COUNCIL MEETING – M(10) - 7 SEPTEMBER 2021 AND SPECIAL COUNCIL MEETING SPM(11) - 21 SEPTEMBER 2021

*Cr Janas*

*Cr Hughes*

*That the minutes of Ordinary Council Meeting M(10) held on 7 September 2021 and minutes of the Special Council Meeting SPM(11) held on 21 September 2021 as circulated be confirmed.*

*Carried*

## 4. Apologies

## **5. Obituaries / congratulations**

Refer to Alpine Shire Council's website [www.alpineshire.vic.gov.au](http://www.alpineshire.vic.gov.au); for its YouTube live-streaming recording for responses to questions.

## **6. Declarations by Councillors of conflict of interest**

Cr Keeble declared a conflict of interest item 8.3.5 being Permit and Registration Relief for Alpine Shire Businesses.

## **7. Public questions**

Questions on Notice will be limited to two questions per person.

Refer to Alpine Shire Council's website [www.alpineshire.vic.gov.au](http://www.alpineshire.vic.gov.au); for its YouTube live-streaming recording for responses to questions.

## 8. Presentation of reports by officers

### 8.1 CHIEF EXECUTIVE OFFICER – CHARLIE BIRD

#### 8.1.1 Contracts approved by the CEO and Acting CEO

*Cr Vincent*

*Cr Nicholas*

*That the Capital works contracts approved by the CEO and Acting CEO be noted.*

<i>Contract No:</i>	<i>CQ21060</i>	<i>Process:</i>	<i>RFQ</i>
<i>Title:</i>	<i>Kerb and Channel Renewal</i>		
<i>Tenderer:</i>	<i>McPhersons Earthmoving</i>		
<i>\$ (excl. GST):</i>	<i>\$54,250</i>		

<i>Contract No:</i>	<i>Vehicle renewal</i>	<i>Process:</i>	<i>Motor Vehicle State Purchasing Contract</i>
<i>Title:</i>	<i>Supply and delivery of maternal and child health nurse pool vehicle</i>		
<i>Tenderer:</i>	<i>Wangaratta Toyota</i>		
<i>\$ (excl. GST):</i>	<i>\$48,092.89</i>		

<i>Contract No:</i>	<i>Large Plant renewal</i>	<i>Process:</i>	<i>Vendor Panel</i>
<i>Title:</i>	<i>Supply and delivery of one new truck</i>		
<i>Tenderer:</i>	<i>Tristar Truck and bus</i>		
<i>\$ (excl. GST):</i>	<i>\$60,815.70</i>		

<i>Contract No:</i>	<i>Large Plant renewal</i>	<i>Process:</i>	<i>Vendor Panel</i>
<i>Title:</i>	<i>Supply and delivery of one new wide area mower</i>		
<i>Tenderer:</i>	<i>Agpower &amp; Transport</i>		
<i>\$ (excl. GST):</i>	<i>\$95,363.64</i>		

<i>Contract No:</i>	<i>Large Plant renewal</i>	<i>Process:</i>	<i>RFQ</i>
<i>Title:</i>	<i>Supply and delivery of one Woodchipper</i>		
<i>Tenderer:</i>	<i>Bandit Tree Equipment</i>		
<i>\$ (excl. GST):</i>	<i>\$105,845.00</i>		

<i>Contract No:</i>	<i>Footpath Renewal 2021/22</i>	<i>Process:</i>	<i>RFQ</i>
<i>Title:</i>	<i>Howitt and Centenary Park path renewal</i>		
<i>Tenderer:</i>	<i>North East Civil Construction Pty Ltd</i>		
<i>\$ (excl. GST):</i>	<i>\$136,113.05</i>		

*Carried*



## 8.1.2 Alpine Shire Council Annual Report 2020/21

File Number: 900.01

### INTRODUCTION

The purpose of the report is to present Council's 2020/21 Annual Report.

*Cr Nicholas*

*Cr Keeble*

*That, in accordance with s134(1) of the Local Government Act 1989, Council receives and considers the Alpine Shire Council 2020/21 Annual Report.*

*Carried*

### BACKGROUND

#### *Content of Annual Report*

Transitional provisions in s329(7)(b) of the *Local Government Act 2020*, mean that the 2020/21 Annual Report must be prepared in accordance with the *Local Government Act 1989*. From next year onwards, the development of an Annual Report, Financial Statements and Performance Statements will be governed by the *Local Government Act 2020*.

Section 131 of the *Local Government Act 1989* requires Council to prepare an Annual Report for each financial year that contains a report on the operations of the Council, an audited performance statement, audited financial statements, and a copy of the auditor's reports on the performance statement and financial statements.

The Financial Statements and Performance Statement included in the Annual Report were approved in principle at the Ordinary Council meeting held on 7 September 2021. They have been audited, endorsed by Council's Audit Committee, certified by two Councillors authorised by Council, and contain the opinion certificates (auditor's reports) from the Victorian Auditor General.

The Annual Report contains all information required by the *Local Government Act 1989*, and the *Local Government (Planning and Reporting) Regulations 2014*.

### ISSUES

#### *Performance Report*

This section of the Annual Report provides an overview of progress of the strategic themes outlined in the 2017-2021 Council Plan (review 2020). This is the final year of reporting against this Council Plan.

COVID-19 restrictions had the biggest impact on Council's operations during 2020/21. A summary of key achievements during 2020/21 include:

### **A high performing organisation**

- Smooth transition to the new Local Government Act 2020, meeting legislative timelines and requirements for new guiding documentation for Council.
- Advocacy for our local community, including hosting the Victorian Legislative Council in April 2021, Victorian Governor General visit in June 2021, and inclusion of the Alpine Shire in the NSW Border Bubble imposed due to COVID-19.
- Supporting the Council elected in October 2020, including an intensive induction program.

### **A responsible and sustainable organisation**

- The introduction of a new Customer Request Management system to improve our response and tracking of customer requests, and preparation for roll out of new business systems across the organisation.
- Receiving three awards at the MAV Technology Awards for Excellence in 2020 for our business system transformation project, in conjunction with Indigo and Towong Shire Councils.

### **Incredible places for our community and visitors**

- Delivery of 84% of budgeted capital work expenditure, despite challenges associated with COVID-19 restrictions and lockdowns.
- Significant progress made on key works including the Great Valley Trail between Bright and Harrietville, and the Alpine Better Places projects in Tawonga and Harrietville.
- Delivery of important bridges in the Buckland and Kiewa Valleys (Bay Creek).

### **Infrastructure and open space that our community is proud of**

- Establishment of a new multi-agency Municipal Emergency Management Planning Committee to lead municipal emergency management planning into the future.

### **Highly utilised and well managed community facilities**

- Council signed on to the Victorian Energy Collaboration to not only save energy costs, but to ensure that 100% of the electricity used in Council buildings and facilities comes from renewable sources.
- Managing fluctuating COVID-19 restrictions with service delivery across key services such as waste, Visitor Information Centres, libraries, and swimming / sporting facilities.

### **A well planned and safe community**

- Alpine Planning Scheme amendments to address known issues, including the Mount Beauty Aerodrome and Airpark.
- Progression towards Land Development Strategy and Bright Western Gateway plans, to inform and lead development into the future.

### **A thriving and connected community**

- Development of a draft Events Strategy, involving community consultation to provide a framework for events held within the Shire. The strategy will be released for public exhibition in 2021/22.
- Support for businesses and events impacted by COVID-19 restrictions, including the annual funding programs for events and festivals, Dinner Plain, and community grants.
- Recovery programs implemented for the bushfire affected community, and significant funding awarded to Council to facilitate community recovery. Support of the Alpine Community Recovery Committee.

### **Challenges in 2020/21**

Delivery of Council's capital works program and service delivery was impacted by COVID-19 restrictions. Council transitioned quickly to continue to provide services and complete capital works in line with government restrictions.

### ***Governance Report***

This section of the Annual Report contains required statutory information including:

- Council's role and administrative details;
- How Council obtains best value for ratepayers;
- Council documents available for public inspection;
- Council's compliance with relevant Act; and
- An overview of grants and funding provided by Council.

### ***Financial Statements***

The Financial Statements show Council's financial performance, financial position and cash flows against the previous year.

In summary, Council ended the 2020/21 year with a surplus of \$4.7m, which was \$2.5m higher than the \$2.2m surplus projected in the 2020/21 Annual Budget (the Budget).

The higher result was primarily due to the receipt of \$3.5m in additional grant income; additional non-monetary contributions of \$1.0m arising from completed subdivision developments; a revaluation of the Bright and Myrtleford Holiday Parks by \$0.5m; as well as lower than anticipated materials and services expenditure of \$1.1m.

This was in part offset by additional employee costs of \$0.8m, primarily due to additional Working for Victoria employee costs of \$0.7m, and an adjustment to Council's Land under Roads Asset Register of \$3.0m.

It is noted that the financial impact of COVID-19 on staffing costs was minimal as most staff stood down from closed services were redeployed. Council received additional grant income of \$1.4m for several initiatives to offset the adverse impacts of COVID-19 and provided fee relief in the form of reduced fees and charges for businesses at an estimated cost of \$0.1m.

## 1. Income

Altogether Council received \$35.3m in income which was \$5.3m favourable to the Budget projection of \$30.0m. Key variances to budget were as follows:

### *1.1 Grants - operating*

Council received total operating grant income of \$8.0m which was \$3.1m favourable to budget, primarily due to the receipt of additional Working for Victoria funding of \$0.9m, 2019/20 Bushfire Recovery and Relief funding of \$0.8m; additional COVID-19 funding of \$0.5m; and \$0.2m funding to undertake a key worker housing pilot.

### *1.2 Grants - capital*

Council received total capital grant income of \$3.0m which was \$0.4m higher than anticipated, primarily due to additional funds received for the Local Roads and Community Infrastructure Program.

### *1.3 Contributions - non-monetary*

Council received total non-monetary contributions of \$1.2m which was \$1.0m higher than anticipated arising from completed subdivision developments.

### *1.4 Fair value adjustments for investment property*

An external valuation of Council's investment properties resulted in the Bright and Myrtleford Holiday Parks being adjusted by \$0.5m.

## 2. Expenses

Overall expenses were \$30.6m which was \$2.8m higher than Budget. Key areas of variance to budget are as follows:

### *2.1 Employee costs*

Employee costs were \$10.1m, \$0.8m higher than budgeted at \$9.3m, primarily due to additional Working for Victoria employee costs of \$0.7m.

### *2.2 Materials and services*

Materials and services costs were \$11.5m, \$1.1m lower than the budgeted \$12.6m. Primary reasons for the decrease versus budget include:

- The reclassification of \$0.2m of operating expenses as capital expenses
- \$0.4m below budget expenditure on Bushfire Recovery related expenses due to the impact of COVID-19 restrictions
- \$0.2m below budget expenditure on the Dinner Plain bus service due to the impact of COVID-19 restrictions
- \$0.1m below budget expenditure due to delays in strategic planning projects
- \$0.2m below expenditure on kerbside collections and delays in waste management projects.

### *2.3 Land under Roads*

A 2021 review of land under roads by Council's valuers discovered that the original valuation in June 2018 had erroneously included roads not controlled by Council. These have been removed from Council's asset register resulting in an adjustment of \$3.0m.

### ***Performance Statement***

The Performance Statement provides an overview of Council progress against key performance indicators. The Local Government Performance Reporting Framework (LGPRF) provides the basis for these indicators to enable a uniform Performance Statement across all Victorian councils.

A number of performance indicators were impacted due to COVID-19 restrictions and extended closures. Most notably:

- Utilisation of aquatic facilities has fallen as compared to the previous year, from 2.24 to 1.94 visits per capita.
- Active library members were slightly lower than in previous years, dropping from 18.4% to 16.2%, with limited "Click and Collect" services being permitted to operate throughout parts of the year.
- The percentage of critical and major non-compliance food safety notifications followed-up has fallen slightly compared to the previous year from 95.8% to 87.5%, with COVID-19 restrictions impacting on the inspection schedule. However, food safety compliance has improved overall, with fewer total notifications received as compared with the previous year.

Against the trend, Maternal and Child Health services saw an increase in participation to 81.8% as compared to the previous year of 74.3%, as Council continued to support the community, whilst working within the COVID-19 restrictions. As such, participation rates returned to the historical averages, following a drop last year due to bushfires and COVID-19 restrictions.

Council continues to make very few decisions in closed Council meetings, with a strong preference for transparent decision making in an open Council meeting.

Generally, the financial indicators show that Council is financially sustainable and that services are being delivered within expected parameters.

### **POLICY IMPLICATIONS**

The Annual Report must be submitted to the Minister by 30 September each year as required by Section 133 of the *Local Government Act 1989*. Public notice must then be given that the Report has been prepared and can be inspected at the Council office and on the Council's website. The Report must then be considered at a meeting of the Council as soon as practicable after the Council has sent the Annual Report to the Minister as required by Section 134 of the *Local Government Act 1989*.

It is noted that from next year onwards the development of an Annual Report, Financial Statements and Performance Statements will be governed by the *Local Government Act 2020*.

The recommendation is in accordance with the following Strategic Objective of the Council Plan 2017-2021:

- A responsible and sustainable organisation

## **FINANCIAL AND RESOURCE IMPLICATIONS**

The Annual Report containing audited Financial Statements and Performance Statement for the year ended 30 June 2021 shows that Council is financially sustainable and that Council services are being delivered within expected parameters. COVID-19 had minimal financial impact on staffing costs as a number of staff stood down from closed facilities were redeployed elsewhere.

## **CONSULTATION**

The Audit Committee Charter states that the Committee is required to review the Annual Financial Report and consider whether it is complete, consistent with information known to Audit Committee members and reflects appropriate accounting principles. The Audit Committee was presented with the in-principle Financial Statements and Performance Statement and received a briefing from Council's auditors following their review of these documents.

## **CONCLUSION**

Council ended the 2020/21 year with a surplus of \$4.7 million, which was higher than that predicted in the 2020/21 Annual Budget. The higher surplus result is largely attributed to the receipt of unanticipated grant income, additional non-monetary contributions arising from three large sub-division developments and revaluations for the Bright and Myrtleford Holiday Parks, as well as lower than anticipated materials and services expenditure. This was in part offset by additional employee costs, primarily due to additional Working for Victoria employee costs, and an adjustment to Council's Land under Roads Asset Register.

There was reduced take-up of selected services during the COVID-19 restrictions, impacting on selected performance indicators.

## **DECLARATION OF CONFLICT OF INTEREST**

In accordance with section 130 of the *Local Government Act 2020*, and Chapter 7 section A6 of Council's Governance Rules, the following officers declare that they have no interests to disclose in providing this report.

- Chief Executive Officer
- Director Corporate Performance
- Manager Corporate
- Accountant
- Governance Officer

## **ATTACHMENT(S)**

8.1.2 Alpine Shire Council Annual Report 2020/21

## 8.2 DIRECTOR ASSETS – WILLIAM JEREMY

### 8.2.1 Access and Inclusion Plan

#### INTRODUCTION

This report relates to the proposed adoption of the draft Access and Inclusion Plan.

*Cr Hughes*

*Cr Janas*

*That Council:*

- 1. adopts the Access and Inclusion Plan;*
- 2. develops an Action Plan addressing the focus areas, objectives and opportunities identified in the plan; and*
- 3. prioritises projects and programs listed in the Action Plan, identifying resources and budget required to deliver each action.*

*Carried*

#### BACKGROUND

Council plays a key role in working towards an inclusive society, increasing awareness of the positive contribution that people with disability bring to local communities and removing barriers that prevent people with disability fully participating in their local environment.

*Under Section 38 of the Victorian Disability Act 2006*, councils are required to prepare a Disability Action Plan, also known as an Access and Inclusion Plan, identifying actions to remove barriers and increase inclusion for, and change attitudes and practices which discriminate against, people with disability.

Council's Disability Action Plan adopted in 2011 and revised in 2014 contains out of date content.

The Access and Inclusion Plan has been developed in consultation with key internal and external stakeholders alongside the development of the new Council Plan and Municipal Public Health and Wellbeing Plan and recommends that Access and Inclusion be considered in all aspects of Council's work.

The Access and Inclusion Plan is an overarching strategic document which will be supported by the Access and Inclusion Action Plan.

Council endorsed the Draft Access and Inclusion Plan to be placed on public exhibition at the August 2021 Ordinary Council Meeting.

#### ISSUES

The Draft Access and Inclusion Plan was placed on public exhibition for 28 days. Eight submissions were made over the public exhibition period, summarised as follows:

- Four (4) submissions related to upgrading facilities.



- Two (2) submissions related to availability of accessible housing.
- Two (2) submissions related to measurement of outcomes.

The submissions will be addressed through actions captured in the Access and Inclusion Action Plan. It should be noted that Council can play an advocacy role with the relevant agencies in the provision of accessible housing and transport, but it is not directly responsible for the provision of either service.

### **POLICY IMPLICATIONS**

The recommendation is in accordance with the following Strategic Objective of the Council Plan 2017-2021:

- A thriving and connected community

It is also consistent with the following priority of the Municipal Public Health and Wellbeing Plan:

- Socially connected and supported communities.

### **FINANCIAL AND RESOURCE IMPLICATIONS**

Capital works projects which address actions contained within the Access and Inclusion Action Plan will be added to Council's Project Pipeline and considered as part of the normal annual budgeting processes.

Minor works can be accommodated from within existing operational budgets.

### **CONSULTATION**

The Alpine Shire communities have been engaged throughout the development of the draft plan through:

- Telephone interviews
- Community focus groups
- Online survey
- Email correspondence

The Draft Access and Inclusion Plan was placed on exhibition for 28 days and feedback was sought through:

- Classified Advertisement
- Council's Website
- Facebook posts
- Emails to stakeholders
- Paper copies on display at Council Libraries and Offices.

## **CONCLUSION**

The Draft Access and Inclusion Plan was placed on public exhibition. Feedback received through this process has been considered, and can be addressed through the Action Plan that will be developed following adoption of the Plan. It is recommended that Council adopts the Access and Inclusion Plan.

## **DECLARATION OF CONFLICT OF INTEREST**

In accordance with section 130 of the *Local Government Act 2020*, and Chapter 7 section A6 of Council's Governance Rules, the following officers declare that they have no interests to disclose in providing this report.

- Director Assets
- Acting Manager Community Development

## **ATTACHMENTS**

8.2.1 Draft Access and Inclusion Plan

## 8.2.2 Tawonga Caravan Park - Sewage Rising Main and Sewage Pump Station

File Number: CT21076

### INTRODUCTION

The report relates to the award of a Contract for the Tawonga Caravan Park Sewage Rising Main and Sewage Pump Station Construction.

*Cr Keeble*

*Cr Prime*

*That Council awards Contract No. 2107601 'Tawonga Caravan Park Sewage Rising Main and Sewage Pump Station Infrastructure Construction' to Longford Civil Pty Ltd for the lump sum price of \$560,356 + GST.*

*Carried*

### BACKGROUND

The works as tendered and recommended for award are required as part of a larger package of overall works for the Tawonga Caravan Park Upgrade.

The Engineering works for the project have been procured by Council and completed in coordination with North East Water (NEW). NEW has provided technical approval for the project and the detailed engineering, including entering into a formal Mains Extension Developer Agreement. The Developer Agreement documents the respective responsibilities and obligations on NEW, Council, and Council's appointed engineering consultant.

In developing the engineering design for the project, consideration has been given to the technical requirements of NEW and the proposed capacity expansion plans for the Caravan Park, which includes increasing the number of sites from the current 136 to 299 progressively over the next 10 years.

The works include two distinct components; construction of a Pump Station within the park boundaries, and the construction of a Rising Main (pipeline) external to the park boundaries. The Pump Station will remain a caravan park asset, whereas the Rising Main will become a North East Water asset.

The Invitation to Tender was advertised in the Herald Sun, and on the Tenders.net and Alpine Shire Council websites on 28 June 2021. The Tender documents were downloaded by 45 prospective tenderers with seven conforming tenders being submitted to Council.

### EVALUATION

The evaluation panel consisted of the Acting Director Corporate Performance, Manager Asset Development and the Project Officer.

The key selection criteria listed in the Invitation to Tender were:

- Price
- Qualifications and previous performance
- Delivery
- Social
- Environmental Sustainability

Following the initial assessment, two tenderers were shortlisted for further evaluation. The tenderers were invited to clarify aspects of their tender, present their qualifications, and confirm their proposed methodology including their ability to meet the required timeframes.

The shortlisted tenderers were then reassessed in accordance with the selection criteria. Following the assessment of the shortlisted offers by the evaluation panel it was determined that the tender from Longford Civil best met the selection criteria.

## **ISSUES**

The point of discharge that NEW has nominated adjacent to the Kiewa Valley Highway in Tawonga has limited capacity, and NEW is only able to accept a maximum flow rate of 1.5 litres per second. This is due to capacity constraints in NEW infrastructure. NEW has indicated that this flow rate is likely to be increased to 4.5 litres per second in the future, subject to further capital work that NEW intends to complete as part of wider upgrade of their existing local infrastructure.

To operate within this system constraint, the Pump Station design has had to include 45,000 litre holding tank capacity to address forecast wastewater flows based on the projected peak occupation of the park. Validation of this design by NEW and the final approval from NEW has taken longer than anticipated and has resulted in a delay in delivery of the project.

## **POLICY IMPLICATIONS**

The tender was advertised and evaluated according to Council's Procurement Policy.

The recommendation is in accordance with the following Strategic Objective of the Council Plan 2017-2021:

- Incredible places for our community and visitors

## **FINANCIAL AND RESOURCE IMPLICATIONS**

The project budget for the Tawonga Caravan Park Upgrade is \$2.1 million, and this is fully funded by the State Government under the Crisis Committee of Cabinet Infrastructure Stimulus Fund.

There is sufficient allocation within the 2021-2022 budget to deliver the scope of works required under this Contract.

## **CONSULTATION**

All aspects of the project including the process of connecting the park to the NEW reticulated sewer network have been communicated via the Project Control Group (PCG).

The PCG includes project representatives from Council, Regional Development Victoria and the Department of Environment, Land, Water and Planning.

Consultation has also been carried out with several external authorities including:

- North East Water
- North East Catchment Management Authority
- Fire Rescue Victoria
- Ausnet
- Aboriginal Victoria

## **CONCLUSION**

Following a comprehensive tender evaluation assessment, interviews and reference checks, the tender from Longford Civil is considered to represent the best value option for Council.

## **DECLARATION OF CONFLICT OF INTEREST**

In accordance with section 130 of the *Local Government Act 2020*, and Chapter 7 section A6 of Council's Governance Rules, the following officers declare that they have no interests to disclose in providing this report.

- Director Assets
- Manager Asset Development
- Project Officer

## **ATTACHMENT(S)**

Nil

## 8.2.3 Mount Beauty Airport Upgrade Construction

File Number: CT21075

### INTRODUCTION

This report relates to the award of a construction contract for the upgrade of the Mount Beauty Airport.

*Cr Keeble*

*Cr Prime*

*That Council awards Contract No. 2107501 for the 'Mount Beauty Airport Upgrade Construction' with the asphalt option to Winslow Constructors Pty Ltd for the lump sum price of \$1,865,794.80 + GST.*

*Carried*

### BACKGROUND

Council adopted a revised masterplan for the Mount Beauty Airport in March 2011, which recommended extending the runway from 930m to 1,540m and widening from 10m to 18m.

Funding was sought from the Australian Government's Regional Airport Program (RAP) in December 2019, based on an expanded scope to have the upgrade meet the standards of a registered airport. On 13 June 2020, Council was advised that the funding application was successful.

Specialised airport design consultants were engaged in July 2020 to re-assess the funding application scope against new Civil Aviation Safety Authority (CASA) regulations. On the basis of the feedback received, the scope of the project was revised, with the key change being the decision to retain the airport with the classification 'Aeroplane Landing Area' rather than aiming for an upgrade to a registered airport. The Regional Airports Program approved the change in scope and Council entered into a funding agreement on this basis.

Detailed design was progressed between January and May 2021, and this included flood modelling which was mandated by the North East Catchment Management Authority (NECMA), as the proposed extension was considered likely to encroach onto the Kiewa River floodplain.

The Tender for the construction works was advertised in the Border Mail on 26 June, Herald Sun on 30 June and was posted on Tenders.net and the Alpine Shire Council website. The Tender documents were downloaded by 63 prospective tenderers with 10 tenders being submitted by the closing date.

### EVALUATION

The evaluation panel consisted of the Acting Director Corporate Performance, Manager Asset Development, and Project Officer.

The tenders were evaluated according to the following key selection criteria listed in the Invitation to Tender:

- Price
- Qualifications and Previous Performance
- Delivery
- Social
- Environment

From an initial assessment of the tenders, it was established that the tender pricing was very competitive. This provided the opportunity to explore the option of providing a superior asphalt surface in lieu of the sprayed seal surface initially tendered. All tenderers were asked to submit an alternate price for the asphalt option. Submissions for the alternate price closed on 18 August 2021 and nine of the original tenderers responded.

Based on a detailed assessment of the tenders submitted for the alternate pricing for the asphalt surfacing, including comprehensive reference checking, it was determined that the tender from Winslow Constructors Pty Ltd with the asphalt option best met the overall requirements of the selection criteria.

## **ISSUES**

The site has a Telstra fibre cable traversing under the proposed runway extension which needs to be relocated around the property before the runway construction works can be progressed. The work is now in progress following a decision taken at a Special Council Meeting on 21 September 2021.

The property is encumbered by an unused Government Road traversing the site, which was the subject of a separate report to the September Ordinary Council Meeting. The process of discontinuance is now in progress. The unused road is administered by the Department of Environment, Land, Water and Planning (DELWP) which has given approval for construction works to commence prior to the discontinuation of the road being finalised.

The extension of the runway will mean that the obstacle-free take-off surface of the runway will be impacted by nine large trees at the northern end of the runway. Approval to remove these trees requires a planning permit, which needs the support of DELWP and will require appropriate vegetation offsets to be established. These approval processes are underway.

## **POLICY IMPLICATIONS**

The tender was advertised and evaluated in accordance with Council's Procurement Policy.

The recommendation is in accordance with the following Strategic Objective of the Council Plan 2017-2021:

- Incredible places for our community and visitors

## **FINANCIAL AND RESOURCE IMPLICATIONS**

The project budget is \$3,111,820 + GST, which is 50% funded by the Australian Government through the Regional Airports Program and 50% by Council funds.

There is sufficient budget to cover the award of this contract.

## **CONSULTATION**

The design of the Mount Beauty Airport Upgrade project has been undertaken in consultation with the Mount Beauty Airport Management Association, representatives of the airport user groups, adjacent landowners, and relevant State Government authorities including NECMA and DELWP.

Council will continue to engage with each of these groups throughout the delivery of the construction phase of the project. Restrictions on airport operations resulting from the construction works will be managed in close consultation with the Mount Beauty Airport Management Association, with safety remaining the highest priority.

## **CONCLUSION**

Following a comprehensive assessment, the Tender from Winslow Constructors Pty Ltd incorporating the asphalt surfacing is considered to present the best value option for Council.

## **DECLARATION OF CONFLICT OF INTEREST**

In accordance with section 130 of the *Local Government Act 2020*, and Chapter 7 section A6 of Council's Governance Rules, the following officers declare that they have no interests to disclose in providing this report.

- Director Assets
- Manager Asset Development
- Project Officer

## **ATTACHMENT(S)**

Nil



## 8.2.4 Asphalt Overlay 2021-22

File Number: CT21062

### INTRODUCTION

This report relates to the award of a Contract for asphalt overlay works. Council undertakes asphalt overlaying each year as part of its local roads renewal program.

*Cr Keeble*

*Cr Prime*

*That Council awards Contract No. 2106201 for "Asphalt Overlay 2021-22" to Country Wide Asphalt for the lump sum price of \$147,206.68+GST.*

*Carried*

### BACKGROUND

The 2021-22 asphalt overlay program is based in the Lower Ovens and will be carried out in Myrtleford.

Council undertakes asphalt overlay works each year by a process of overlaying existing sprayseal with asphalt to prolong the life of selected road segments. These segments are typically court bowls and carparks.

The Tender was advertised in the Border Mail, Herald Sun, local newspapers, Tenders.net and Alpine Shire Council websites on 21 July 2021. The Tender documents were downloaded by nine prospective tenderers with two conforming tenders being submitted to Council.

### EVALUATION

The evaluation panel consisted of the Manager Asset Development, the Project Officer, and the Acting Director Corporate Performance.

The tenders were evaluated according to the key selection criteria listed in the Invitation to Tender:

- Price
- Qualifications and Previous Performance
- Delivery
- Social
- Environmental

The tenders were assessed in accordance with the selection criteria, and it was determined that the tender from Country Wide Asphalt best met the selection criteria.

### ISSUES

Council is not aware of any issues.

## **POLICY IMPLICATIONS**

The tender was advertised and evaluated in accordance with Council's Procurement Policy.

This recommendation is consistent with the following Strategic Objective of the Council Plan 2017-2021:

- Incredible places for our community and visitors

## **FINANCIAL AND RESOURCE IMPLICATIONS**

Sufficient budget has been allocated in the 2021/22 financial year to cover the award of this Contract.

## **CONSULTATION**

External customers likely to be directly impacted during the delivery of the works will be notified in advance of the works commencing. The works schedule will be advertised on Council's website.

## **CONCLUSION**

That a Contract be awarded to Country Wide Asphalt to undertake Council's annual asphalt overlay works in the Lower Ovens.

## **DECLARATION OF CONFLICT OF INTEREST**

In accordance with section 130 of the *Local Government Act 2020*, and Chapter 7 section A6 of Council's Governance Rules, the following officers declare that they have no interests to disclose in providing this report.

- Director Assets
- Manager Development
- Project Officer

## **ATTACHMENT(S)**

Nil

## 8.2.5 Resealing 2021-22

File Number: CT21063

### INTRODUCTION

This report relates to the award of the 'Resealing 2021-22' Contract. Council undertakes sprayseal resealing each year as part of its local roads renewal program.

*Cr Keeble*

*Cr Prime*

*That Council awards Contract No. 2106301 for "Resealing 2021-22" to Country Wide Asphalt for the lump sum price of \$434,099.10+GST.*

*Carried*

### BACKGROUND

The 2021-22 reseal program is based in the Lower Ovens area and will be carried out in Myrtleford, Merriang South, Rosewhite, Mudgegonga and Buffalo River.

The list of roads to be resealed is compiled from the annual Sealed Roads Condition Inspection program. Road segments are scored on condition and prioritised accordingly for renewal.

The Tender was advertised in the Border Mail, Herald Sun, local newspapers, Tenders.net and Alpine Shire Council website on 14 July 2021. The Tender documents were downloaded by 13 prospective tenderers with five conforming tenders being submitted.

### EVALUATION

The evaluation panel consisted of the Manager Asset Development and the Project Officer. The tenders were evaluated according to the key selection criteria listed in the Invitation to Tender:

- Price
- Qualifications and Previous Performance
- Delivery
- Social
- Environmental

Following the assessment of the tenders, it was determined that the tender from Country Wide Asphalt best met all the requirements of the selection criteria.

### ISSUES

The works involve a large crew and intense heavy vehicle and plant movements at multiple locations. Therefore, a high standard of traffic management and site safety is required by the contractor.

There have been issues in the past with bleeding of seals which can be caused by sealing under colder conditions. Consistent with the successful delivery of the 2020-21 program,

the delivery of the 2021-22 resealing program has been planned sufficiently early in the year to mitigate this risk.

### **POLICY IMPLICATIONS**

The tender was advertised and evaluated in accordance with Council's Procurement Policy.

This recommendation is consistent with the following Strategic Objective of the Council Plan 2017-2021:

- Incredible places for our community and visitors

### **FINANCIAL AND RESOURCE IMPLICATIONS**

Sufficient budget has been allocated in 2021/22 financial year to cover the award of this Contract.

### **CONSULTATION**

External customers directly impacted during the delivery of the works will be notified in advance of the works commencing. The works schedule will also be advertised on the Alpine Shire Council website.

### **CONCLUSION**

That the Contract be awarded to Country Wide Asphalt to undertake Council's annual resealing works in the Lower Ovens area.

### **DECLARATION OF CONFLICT OF INTEREST**

In accordance with section 130 of the *Local Government Act 2020*, and Chapter 7 section A6 of Council's Governance Rules, the following officers declare that they have no interests to disclose in providing this report.

- Director Assets
- Manager Asset Development
- Project Officer

### **ATTACHMENT(S)**

Nil

## 8.2.6 Great Valley Trail Asphalt

File Number: CT21111

### INTRODUCTION

This report relates to the award of a contract for the supply and laying of asphalt surfacing required for the Bright to Harrietville shared trail, known as the Great Valley Trail (GVT). This contract is for the asphalt wearing course that will be laid on the already constructed pavement along the trail between Tawonga Gap Road, Germantown and Stony Creek Road, Harrietville.

*Cr Keeble*

*Cr Prime*

*That Council awards Contract No. 2111101 for the "Great Valley Trail - Supply and Lay of Asphalt containing 15% recyclable materials" to North East Civil Construction for the lump sum price of \$682,510.14 + GST.*

*Carried*

### BACKGROUND

This contract is for the surfacing of the new (16.7km long) section of shared trail (known as the Great Valley Trail) between Harrietville and Germantown. During the public consultation phase of this project, the single largest request from user groups was to provide a smooth surface finish for cycling. There are two options to achieve this; use a small, slightly rounded stone with a spray seal, or use a dense graded asphalt mix, often referred to as hot mix. Asphalt is a significantly higher quality surface and is more expensive. As a result of this feedback, Council applied for and was successful in securing \$300,000 in State Government funding from a Sustainability Victoria grant funding program aimed at encouraging the increased use of recycled products in civil infrastructure. The requirements of the grant are to use asphalt containing a proportion of target recycled materials, being glass, rubber and plastic.

The Tender was advertised in the Herald Sun on 8 September 2021, as well as on tenders.net and Alpine Shire Council websites. The Tender documents were downloaded by 19 prospective tenderers and seven responses were received by the closing date. One tenderer did not attend the mandatory site meeting nor make contact to arrange another visit. Their tender submission was included in the analysis for comparison, but is considered non-conforming.

### EVALUATION

The evaluation panel consisted of the Manager Asset Development and Project Officer.

The Tenders were evaluated according to the key selection criteria listed in the Invitation to Tender:

- Price

- Qualifications and Previous Performance
- Delivery
- Social
- Environmental

Through this evaluation process it was determined that the tender from North East Civil Construction (NECC) based on 15% recycled material content best met the selection criteria.

## **ISSUES**

A bituminous seal was included as part of the design of the trail pavement for the project from the outset. The upgrade to asphalt will deliver a significantly better user experience compared to the spray seal option. The use of recycled materials in the asphalt demonstrates Council's commitment to sustainability initiatives. There is an opportunity to promote Council's environmental choices with signage erected on the trail highlighting that the asphalt contains 15% recycled product, equating to the equivalent of approximately 350 tonnes of material which has been diverted from landfill.

The traditional proportion of recycled product in an asphalt mix is typically up to 10%. This proportion of recycled material has been approved by VicRoads for use on roads following extensive durability testing. A 15% mix includes more rubber, which adds to the flexibility of the asphalt and has been used on applications such as driveways with success. The traffic on the GVT shared trail will be mainly bicycles and pedestrians, which have an extremely low impact on the wearing surface and thus present very low risk to the surface being damaged. The tenderers proposed the 15% mix based on their experience and on their assessment of the trail during the site inspection.

## **POLICY IMPLICATIONS**

The tender was advertised and evaluated in accordance with Council's Procurement Policy.

This recommendation is consistent with the following Strategic Objective of the Council Plan 2017-2021:

- Incredible places for our community and visitors

## **FINANCIAL AND RESOURCE IMPLICATIONS**

The total available budget for the Great Valley Trail is \$3,150,000, funded jointly by Alpine Shire Council, the Federal Government's "Building Better Regions Fund" and the Victorian Government, through Regional Roads Victoria, Sport and Recreation Victoria's "Local Sports Infrastructure Fund" and Sustainability Victoria's "Sustainable Infrastructure Fund".

There is sufficient allocation within the project budget to deliver the asphalt surfacing component of this project through award of this Contract.

Sustainability Victoria's contribution of \$300,000 towards this project was specifically for the construction of an asphalt surface containing recycled content.

## **CONSULTATION**

The Taungurung Land and Waters Council has been extensively engaged, including several site visits and numerous meetings and workshops, and is strongly supportive of the Great Valley Trail project.

DELWP and Parks Victoria have inspected the entire alignment of the trail and evaluated the proposed works. They have provided their written support for the trail and these works.

The community has been extensively engaged throughout the project. The decision to apply for funding to facilitate upgrade to an asphalt surface was driven from the feedback received from the community in early engagement sessions.

All permits and approvals have been obtained for the construction of the trail.

## **CONCLUSION**

Following a comprehensive assessment, the Tender from North East Civil Construction based on 15% recyclables content is considered to present the best value option for Council.

## **DECLARATION OF CONFLICT OF INTEREST**

In accordance with section 130 of the *Local Government Act 2020*, and Chapter 7 section A6 of Council's Governance Rules, the following officers declare that they have no interests to disclose in providing this report.

- Director Assets
- Manager Asset Development
- Project Officer

## **ATTACHMENT(S)**

Nil

## 8.2.7 Dinner Plain – Construction of Bus Bay, Bus Shelter and Car Parking Bays

File Number: CT21087

### INTRODUCTION

This report relates to the award of a Contract for construction of a bus bay, bus shelters and car parking bays in Dinner Plain.

*Cr Keeble*

*Cr Prime*

*That Council, subject to planning permit approval for the removal of native vegetation within the construction footprint, awards Contract No. 2108701 for 'Dinner Plain – Construction of a bus bay, bus shelters and car parking bays' to Prestige Paving Pty Ltd for the lump sum price of \$543,463.01 + GST.*

*Carried*

### BACKGROUND

In September 2020, Council secured a \$500,000 commitment from the State Government 'Bushfire Tourism and Business Fund 2020' to deliver the Dinner Plain Activation Phase 1 Project, comprising of:

- Toboggan Run and Mountain Bike Trail Hub
- Scrubbers Hut Upgrade
- Car Parking upgrades

Council's co-contribution to this project was \$900,000, funded from the Dinner Plain reserve.

In November 2020, Council received confirmation that \$140,000 of Federal Government 'Local Roads and Community Infrastructure (LRCI) Funds' had successfully been allocated to the proposed 'Dinner Plain Village - Traffic and Access Improvements' project, which includes construction of a bus bay, shelters and associated works. There is no Council co-contribution to this project.

Following discussions with Regional Development Victoria (RDV), efficiencies were identified in delivering civil components of Activation Phase 1 with the LRCI funded works - 'Dinner Plain Village Traffic and Access Improvements' as a combined tender package to reduce the need for multiple contractors and the associated duplication of site establishment costs.

The remaining works to be delivered for Dinner Plain Activation Phase 1 shall be completed through a separate procurement and tender package(s).



The Tender was advertised in the Herald Sun and Border Mail on 25 August 2021, as well as on tenders.net and the Alpine Shire Council websites. The Tender documents were downloaded by 21 prospective tenderers and one conforming submission was received by the closing date.

## **EVALUATION**

The evaluation panel consisted of the Manager Asset Development and the Project Officer.

The tender submission was evaluated in accordance with the key selection criteria listed in the Invitation to Tender:

- Price
- Qualifications and Previous Performance
- Delivery
- Social
- Environmental

Following an assessment of the tender submission, and benchmarking against Council's in-house estimate of the cost to deliver these works, it was determined that the tender from Prestige Paving Pty Ltd meets all the requirements of the selection criteria and offers value for money for Council.

## **ISSUES**

A planning permit application is currently awaiting approval for the removal of native vegetation within the footprint of the proposed works. The approval of the Department of Environment, Land, Water and Planning (DELWP) is required prior to construction works proceeding. To address the risk that this outstanding approval presents, it is recommended that Contract award is conditional on planning permit approval.

The window of favourable weather conditions in which to complete the proposed works is limited in Dinner Plain. The contractor has provided a tender program indicating they can complete the works within an acceptable timeframe.

## **POLICY IMPLICATIONS**

The tender was advertised and evaluated in accordance with Council's Procurement Policy.

This recommendation is consistent with the following Strategic Objective of the Council Plan 2017-2021:

- Incredible places for our community and visitors.

## **FINANCIAL AND RESOURCE IMPLICATIONS**

The total combined budget for Dinner Plain Activation Phase 1 and Dinner Plain Village - Traffic and Access Improvements is \$1,540,000, which includes \$500,000 of State

Government funding, \$140,000 of Australian Government funding, and \$900,000 of Council funds.

There is sufficient allocation within the project budget to deliver the works identified in this Contract.

## **CONSULTATION**

The scope of the Dinner Plain Activation Phase 1 Project is the result of a thorough process of engagement undertaken with the Dinner Plain community in the development of the Dinner Plain Village Detailed Concept Design Project. The designs were adopted by Council in July 2020.

A community stakeholder committee has been established to represent the community's contribution to the detailed design and delivery of proposed works in Dinner Plain. Consultation was undertaken with the community stakeholder committee to ensure the scope of works aligns with community expectations.

Extensive consultation has been conducted with a wide range of stakeholders who all support the project, including: DELWP, Mount Hotham Resort Management Board, Regional Development Victoria and the Dinner Plain Community Stakeholder Committee.

## **CONCLUSION**

Following a comprehensive assessment, the Tender submission from Prestige Paving Pty Ltd is considered to present value for Council.

## **DECLARATION OF CONFLICT OF INTEREST**

In accordance with section 130 of the *Local Government Act 2020*, and Chapter 7 section A6 of Council's Governance Rules, the following officers declare that they have no interests to disclose in providing this report.

- Director Assets
- Manager Asset Development
- Project Officer

## **ATTACHMENT(S)**

Nil

## 8.2.8 Alpine Better Places Harrietville and Tawonga

### INTRODUCTION

This report relates to the Alpine Better Places Harrietville and Tawonga project and outlines the proposed next steps for endorsement by Council.

*Cr Nicholas*

*Cr Prime*

*That Council:*

- 1. endorses the draft Alpine Better Places Harrietville Detailed Concept Designs, including proposed staging for the delivery of components of the project, to be placed on public exhibition for a minimum period of 28 days;*
- 2. invites public submissions on the draft Alpine Better Places Harrietville Detailed Concept Designs;*
- 3. reviews and considers any submissions received;*
- 4. considers a recommendation to adopt the Alpine Better Places Harrietville Detailed Concept Designs at a future meeting; and*
- 5. defers the finalisation of the draft Alpine Better Places Tawonga Detailed Concept Designs pending resolution of the proposed purchase of the Tawonga Scout Hall.*

*Carried*

### BACKGROUND

The Alpine Better Places Harrietville and Tawonga project commenced in March 2020.

The key project outcomes described in the design brief include:

- Improved streetscapes, including wayfinding signage, paths, tracks or trails to better connect the town's assets and facilities, integrated landscape treatments and improved parking options; and
- Improved open space reserves, including upgraded and/or additional facilities and amenities.

The Tawonga plans were developed to focus on two key areas identified by the community in the phase one consultation:

- Creating a centralised 'focus' or heart to the township in Pioneer Memorial Park; and
- Improving the circulation and safety for pedestrians.

The Harrietville plans were developed to focus on three key areas identified by the community in the phase one consultation:

- Taware and Pioneer Parks;
- Tronoh Dredge Carpark; and
- Harrietville Community Hall.

## ISSUES

### *Tawonga*

Feedback received during community engagement on the current revision of the detailed concept designs focused on items in the following key areas:

- Pedestrian circulation and crossing points on the Kiewa Valley Highway.
- Carparking on the Kiewa Valley Highway adjacent to the Old Tawonga Store.
- Playground shade trees and natural elements.

During the third round of consultation, Council was made aware that the Tawonga Scout Hall may be available for purchase. It is currently owned by The Scouts Association of Australia Victorian Branch. Considering this information, no changes have been made to the detailed concept designs since the last round of community consultation.

### *Harrietville*

Feedback received during community engagement on the current revision of the detailed concept designs focused on minor items in the following key areas:

- Tree species and positions.
- Bus access and movements.
- Carparking and road alignment.

No changes were made to the draft detailed concept designs as these comments will all be addressed in the detailed design phase.

Based on community feedback, the proposed staging for the delivery of the discrete components of the project is:

1. Tronoh Dredge Hole Carpark
2. Pioneer Park and Taware Park
3. Harrietville Community Hall
4. Feathertop Track Footpath

## POLICY IMPLICATIONS

The recommendation is in accordance with the following Strategic Objective of the Council Plan 2017-2021:

- Incredible places for our community and visitors

## FINANCIAL AND RESOURCE IMPLICATIONS

There are no financial or resource implications associated with the public exhibition of the Draft Alpine Better Places Harrietville Detailed Concept Designs.

Subject to a separate resolution of Council presented to the October 2021 Council Meeting, Council will be submitting a funding application to the Australian Government's 'Black Summer Bushfire Recovery Program' to deliver phase 1 of the Alpine Better Places Harrietville project (Tronoh Dredge Hole Carpark).

## **CONSULTATION**

Consultation with residents, community organisations and internal stakeholders has occurred throughout the development of the detailed concept designs.

Three rounds of community consultation have been carried out including:

July 2020 - Consultation 1 via Zoom webinar. The community provided feedback on the preliminary plans and areas of focus.

February 2021 – Consultation 2, Tawonga Memorial Hall and Harrietville Community Hall, lunch and evening sessions. The community was invited to provide comment on the draft detailed concept designs and proposed project priority list. The presentation and plans were made available online and the feedback period was open for two weeks. A further third round of consultation was supported by the community.

July 2021- Consultation 3, Tawonga Memorial Hall and Harrietville Community Hall, lunch and evening sessions. The community was invited to view and provide feedback on the third revision of the plans. The presentation and plans were made available online. The feedback period was open for five weeks.

## **CONCLUSION**

### ***Tawonga***

It is recommended that Council defers further design work on the 'Alpine Better Places Tawonga Detailed Concept Designs' to await resolution on the proposed purchase of the Tawonga Scout Hall. The property on which the Tawonga Scout Hall is located could play a significant role in the improvements delivered through the project.

### ***Harrietville***

It is recommended that Council endorses the draft 'Alpine Better Places Harrietville Detailed Concept Designs' for public exhibition.

## **DECLARATION OF CONFLICT OF INTEREST**

In accordance with section 130 of the *Local Government Act 2020*, and Chapter 7 section A6 of Council's Governance Rules, the following officers declare that they have no interests to disclose in providing this report.

- Director Assets
- Manager Asset Development
- Project Officers

## **ATTACHMENT(S)**

8.2.8 Draft Alpine Better Places Harrietville Detailed Concept Design - August 2021

## 8.2.9 Funding Applications

### INTRODUCTION

This report relates to available funding opportunities to which Council is eligible to apply and seeks Council's endorsement for funding applications to be submitted to facilitate the delivery of new and upgraded facilities.

Cr Janas moved an amendment to the original motion to include as item 1.c Myrtleford Splash Park for construction up to the value of \$2.2 million.

*Cr Hughes*

*Cr Janas*

*That Council:*

1. *endorses applications to the Australian Government's 'Black Summer Bushfire Recovery Fund' for the following projects, to the funding amounts indicated and noting that no co-contribution of Council funds is required:*
  - a. *Alpine Better Places Harrietteville - Tronoh Dredge Hole Carpark: \$1.1 million*
  - b. *Myrtleford Savoy Soccer Club Upgrade: \$2.0 million*
  - c. *Myrtleford Splash Park: \$2.2 million*
2. *endorses an application to the State Government's 'Building Blocks Fund' for the following project to the funding amount indicated and noting that no co-contribution of Council funds is required:*
  - a. *Mountain View Children's Centre Upgrade Concept Design: \$150,000*

*Carried*

### BACKGROUND

#### Black Summer Bushfire Recovery Fund

The objective of this grant opportunity is to support the recovery efforts of communities in eligible Local Government Areas (LGAs) affected by the 2019-20 bushfires and enables them to apply for projects that address community recovery needs.

The Australian Government will directly fund successful applicants to conduct a range of projects designed to support the social and economic recovery, and restoration of the built environment in those communities.

The objectives of the grant opportunity are to:

- support recovery and resilience of communities impacted by the 2019-20 bushfires, and
- build stronger communities by supporting social, economic and built environment recovery.

The communities in both Harrietville and Myrtleford were impacted by the 2019/20 bushfires, with residents subject to multiple evaluation orders over the period of the emergency. The two projects which are nominated for funding applications have been identified as high priorities for these two communities, and delivery of these projects will significantly contribute to their social and economic recovery.

### Building Blocks Grants

The State Government's 'Building Block Grants' funding program provides grants for planning and pre-construction work on kindergarten building projects that support the roll-out of three year old kindergarten across Victoria.

This grant is for applicants who will potentially wish to apply for a construction Buildings Blocks Grant once planning is complete.

Renewal of Mountain View Children's Centre in Myrtleford is identified as a high priority in Council's Project Pipeline, and this is supported by feedback from the users of the facility and by the operator, Alpine Children's Services. Feasibility and concept design work has recently been completed for an upgrade of the facility, and the Building Blocks Grant program presents an opportunity to secure funding to progress this project through the detailed design stage.

## **ISSUES**

Based on community feedback received to date, the proposed staging for the delivery of the discrete components of the Alpine Better Places Harrietville project is as follows:

- a. Tronoh Dredge Hole Carpark
- b. Pioneer Park and Tavare Park
- c. Harrietville Community Hall
- d. Feathertop Track Footpath

These priorities have not yet been formally adopted by Council. Public exhibition of the draft detailed concept designs for the Alpine Better Places Harrietville project, including the proposed staging for delivery of the project, is the subject of a separate report to the October Council Meeting.

## **POLICY IMPLICATIONS**

The recommendation is in accordance with the following Strategic Objective of the Council Plan 2017-2021:

- Incredible places for our community and visitors

## **FINANCIAL AND RESOURCE IMPLICATIONS**

No Council co-contribution is necessary to support any of the three funding applications which are proposed through this report. The project budgets prepared for these applications include a provision to cover the cost of project managing the delivery of the projects.

## **CONSULTATION**

The projects that have been nominated are identified as high priorities in Council's Project Pipeline. Consultation has been undertaken to ensure that the community and referral agencies are supportive of the projects which have been nominated. The projects that have been nominated have been selected based on their alignment with the funding eligibility and evaluation criteria.

## **CONCLUSION**

Significant opportunities exist to secure grant funding to support Council's commitment to deliver new and upgraded infrastructure. There is strong community support for the project which have been proposed, and it is recommended that Council endorses the submission of funding applications as noted.

## **DECLARATION OF CONFLICT OF INTEREST**

In accordance with section 130 of the *Local Government Act 2020*, and Chapter 7 section A6 of Council's Governance Rules, the following officers declare that they have no interests to disclose in providing this report.

- Director Assets
- Manager Asset Development
- Project Officers

## **ATTACHMENT**

Nil



## 8.2.10 Bushfire Council Support Fund Allocation

### INTRODUCTION

This report relates to the allocation of funding under a second deed of variation to the 'Council Support Fund' provided by the State Government and administered by Bushfire Recovery Victoria.

*Cr Hughes*  
*Cr Nicholas*

*That Council endorses the following allocation of \$800,000 received through the Council Support Fund to continue to support community recovery from the 2019/20 bushfire event and build resilience:*

<i>Activity</i>	<i>Funding Allocation</i>
<i>Bushfire Recovery Team Resourcing</i>	<i>\$400,000</i>
<i>Permit and Registration Fee Relief for Alpine Shire Businesses, Commercial Tenancy Rent Relief Scheme</i>	<i>\$180,000</i>
<i>Preparedness Initiatives</i>	<i>\$80,000</i>
<i>Community Recovery Committee led Programs and Projects</i>	<i>\$80,000</i>
<i>Council led Recovery Programs and Projects</i>	<i>\$60,000</i>
<i>Total</i>	<i>\$800,000</i>

*Carried*

### BACKGROUND

In January 2020, Council received \$1.0 million from the State Government's Council 'Support Fund' to support community recovery from the 2019/20 bushfire event.

An additional \$500,000 was provided in a deed of variation on 8 January 2021 to support further community-led recovery efforts across the Alpine Shire.

A second deed of variation and an additional \$800,000 was provided on 27 July 2021 to continue community recovery efforts, including dedicated funds for employment of recovery staff, and the development and delivery of recovery programs and projects.

### ISSUES

The grant agreement requires that funded activity is delivered, and funds are expended by 31 January 2023.

## **POLICY IMPLICATIONS**

The recommendation is in accordance with the following Strategic Objective of the Council Plan 2017-2021:

- A thriving and connected community.

## **FINANCIAL AND RESOURCE IMPLICATIONS**

The second variation to the grant agreement for the Council Support Fund was received 27 July 2021, after the adoption of the 2021/22 Annual Budget. As a result, the \$800,000 income and related 2021/22 expenditure is not included in the 2021/22 Budget.

## **CONSULTATION**

The recommended allocation of funding has been established with input from the Community Recovery Committee and engagement with a number of Council officers representing different areas of Council's activities.

## **CONCLUSION**

The recommended allocation of funding will allow Council and the Community Recovery Committee to continue to support our communities in their ongoing recovery from the 2019/20 bushfires, and to strengthen community resilience.

## **DECLARATION OF CONFLICT OF INTEREST**

In accordance with section 130 of the *Local Government Act 2020*, and Chapter 7 section A6 of Council's Governance Rules, the following officers declare that they have no interests to disclose in providing this report.

- Director Assets
- Manager Bushfire Recovery

## **ATTACHMENT(S)**

Nil

## 8.3 DIRECTOR CORPORATE PERFORMANCE - HELEN HAVERCROFT

### 8.3.1 Community Vision, Council Plan and Financial Plan

#### INTRODUCTION

This report relates to the adoption of the draft Community Vision and Council Plan incorporating the Municipal Public Health and Wellbeing Plan, and the Financial Plan.

*Cr Nicholas*

*Cr Vincent*

*That Council:*

- notes that nine community submissions and one internal submission were received during public exhibition of the draft Community Vision 2040, Council Plan 2021-2025 incorporating the Municipal Public Health and Wellbeing Plan, and Financial Plan, with the following amendments proposed:*

<i>Section</i>	<i>Submission</i>	<i>Amendment</i>
<i>Strategic Indicators</i>	<i>4,6,8</i>	<i>Targets and trends added for some strategic indicators</i>
<i>About the Community Vision and Council Plan</i>	<i>7</i>	<i>Added wording around Council's commitment to gender equality</i>
<i>Strategic Driver 1 – For those who live and visit</i>	<i>7</i>	<i>Strategy 1.6.2 wording strengthened to include reference to Gender Impact Assessments</i>
<i>Strategic Driver 3 – For the bold protection of our future</i>	<i>7</i>	<i>Strategy 3.5.1 extended to refer to physical and mental health as well as social wellbeing</i>
<i>Strategic Driver 4 – For the enjoyment and opportunities of our lifestyle</i>	<i>Internal</i>	<i>Added Strategy 4.2.4 - Maintain a current Planning Scheme that reflects the development aspirations of the community and supports sustainable development</i>
<i>Strategic Driver 5 – For strong and informed leadership</i>	<i>Internal</i>	<i>Added Strategy 5.2.6 Maintain a skilled organisation with a positive culture</i>

<i>Section</i>	<i>Submission</i>	<i>Amendment</i>
<i>Major Initiatives</i>	<i>Internal</i>	<i>Timing for delivery of major initiatives included</i>
<i>Various</i>	<i>2, Internal</i>	<i>Corrections and clarifications</i>

- 2. adopts the updated Community Vision 2040 and Council Plan 2021-2025 incorporating the Municipal Public Health and Wellbeing Plan;*
- 3. adopts the Financial Plan; and*
- 4. acknowledges and thanks submitters and the community panel for their valuable input into the development of these plans.*

*Carried*

## **BACKGROUND**

All Victorian councils are required to develop a Community Vision, Council Plan, Financial Plan, and a Municipal Public Health and Wellbeing Plan [the Plans].

The Plans will supersede the 2030 Community Vision and the 2017-2021 Alpine Shire Council Plan (incorporating the Municipal Public Health and Wellbeing Plan).

Council has maintained a Long-Term Financial Plan for many years. This has previously been an internal document used to support the development of the Budget and Strategic Resource Plans. It has not previously been adopted by Council.

## **ISSUES**

### *Community Vision*

Council developed a draft Community Vision in accordance with section 88 of the *Local Government Act 2020* (LGA 2020). The scope of the draft Community Vision must cover a period of at least the next ten financial years and must describe the community's aspirations for the future of the municipality. Council is proposing a Community Vision which is valid through to the year 2040.

### *Council Plan incorporating the Municipal Public Health and Wellbeing Plan*

Council has developed a draft Council Plan for the period of four years after its general election in accordance with section 90 of the LGA 2020. The draft Council Plan lists strategic drivers, strategic objectives, strategies, strategic indicators, major initiatives and guiding legislation and plans that will collectively provide direction to Council's endeavours during its term.

The draft Municipal Public Health and Wellbeing Plan [MPHWP] is prepared in accordance with Section 26 of the *Public Health and Wellbeing Act 2008*. The draft MPHWP must be prepared within a twelve-month period after each general election of Council. Section 27 of the Act allows for the MPHWP to be incorporated into the Council Plan, which is the approach taken by Council. On 1 September 2021, the Department of Health granted approval to incorporate the MPHWP into the draft Council Plan.

### ***Financial Plan***

Council has developed a draft Financial Plan covering the next ten financial years in accordance with section 91 of the LGA 2020. The draft Financial Plan includes statements describing the financial resources required to give effect to the draft Community Vision and Council Plan and other strategic plans of the Council and provides information about the decisions and assumptions that underpin the forecasts in those statements.

## **CONSULTATION FOR DEVELOPMENT OF PLANS**

Broad engagement was carried out with the community during March and April 2021, which included an on-line survey, three community pop-ups, workshops, and a community webinar. A total of 368 community members participated in these engagement opportunities, which focused on three key questions: Where are we now? Where do we want to be? How do we get there?

Four key themes were identified during this broad engagement, and these themes were used to frame a deliberative engagement process where Council invited interested community members to become part of a Community Panel. An expression of interest process was advertised in the local newspapers and through Council's social media channels.

The Community Panel members were selected by an independent consultant to achieve a representative group of 46 people, considering demographics of age, gender, location, homeownership and other selected social indicators and vulnerabilities across the Shire. These panel members were invited to take part in six deliberative engagement sessions during May and June 2021.

Twenty-three panel members participated in the workshops, which were used to develop strategic objectives. The strategic objectives developed by the Community Panel were then used as the basis for Council staff to develop the draft Community Vision and Council Plan.

## **CONSULTATION FOR SUBMISSIONS**

The draft Community Vision 2040 and Council Plan 2021-2025 incorporating the Municipal Public Health and Wellbeing Plan, and the draft Financial Plan were released for public submissions at the August 2021 Council meeting.

Following the meeting, the documents were made available on Council's website, with an advertisement placed in the Myrtleford Times / Alpine Observer on 11 August 2021. A consultation campaign, accommodating applicable COVID-19 restrictions, was delivered including:

- referral to the Community Panel members.
- attendance at community group meetings.
- attendance at a community market.
- targeted community group emails.
- social media posts.

- distribution of printed collateral.

Submissions closed on 9 September 2021, with a total of nine submissions from the community and one collated internal submission (from Council) being received by the closing date. Submitters were invited to present their submissions in person to a committee of Councillors - three community submitters chose to do so at a hearing on 14 September 2021.

A summary of submissions is as follows:

#	Submission summary	Council response
1	Support for volunteers <ul style="list-style-type: none"> <li>• Insurance for non-profit groups</li> <li>• Remove facility fees for non-profit groups</li> </ul>	<b>No change to draft Plans:</b> Council officers will work with community groups to investigate potential cost saving measures. This action is in accordance with strategies in the draft Council Plan.
2	<ul style="list-style-type: none"> <li>• Recognition of Alpine Health's role in MPHWP</li> <li>• Changes to ALPINE values</li> <li>• General grammatical updates</li> </ul>	<b>Changes made to draft Plans:</b> Many of the suggested wording changes are made in the draft Council Plan.
3	<ul style="list-style-type: none"> <li>• Objective 3.1 - Review climate change and its impacts on health in MPHWP</li> <li>• Indicators - encourage additional measures to be included relating to health and wellbeing such as those on pg. 19-21</li> <li>• Will the community be invited to provide feedback on the MPHWP Action Plan?</li> </ul>	<b>No change to draft Plans:</b> The document is considered to adequately reflect the alignment between climate change impacts and health. Additionally, the measures referred to are largely external to Council, and will be collected by other entities for Council's reference. The related Action Plan will be a flexible document that rapidly responds to conditions and feedback. It is not intended to be formally placed on public exhibition.

#	Submission summary	Council response
4	<ul style="list-style-type: none"> <li>• Measure and report how changes in population growth and demographics provide demand signals for education, waste and health services.</li> <li>• Measure and report progress for services, particularly health, planning and building services</li> <li>• Manage continued growth in demand for Council services by including an increase in FTE to provide service levels. Report annually.</li> </ul>	<p><b>Changes made to draft Plans:</b></p> <p>Targets and trends are now included in the draft Council Plan for some strategic indicators and will be reported quarterly to the public through Council's quarterly performance reporting regime. Council's website now includes a link to the 'Know Your Council' performance measure website for Victorian councils.</p> <p>Staffing resources will be implemented in accordance with Council's Workforce Plan, which will be developed by December 2021. Council's draft Financial Plan will be amended to indicate that its human resources will be reflective of its Workforce Plan.</p>
5	<ul style="list-style-type: none"> <li>• Focus on LGBTIQ+ equality and prioritise the following:</li> <li>• Advocacy to challenge discrimination, and support access and inclusion of community members</li> <li>• Implement an LGBTIQ+ action plan</li> <li>• Achieve Rainbow Tick accreditation for Council services</li> </ul>	<p><b>No change to draft Plans:</b></p> <p>The document is inclusive of all community groups. It would not be appropriate to specifically emphasise a particular cohort.</p>

#	Submission summary	Council response
6	<ul style="list-style-type: none"> <li>Indicators give no baseline and success or COVID impact - suggest targets</li> <li>Suggest Indicators for each sub-level - i.e. for 1.1, 1.3-6 and so-on through doc</li> <li>How will education / health be managed with increasing population?</li> <li>How will Council mitigate stress on resources with no increase in FTE over the next 10 years?</li> </ul>	<p><b>Changes made to draft Plans:</b></p> <p>Targets and trends are now included in the draft Council Plan for some strategic indicators and will be reported quarterly to the public through Council's quarterly performance reporting regime. Council's website now includes a link to the Know Your Council performance measure website for Victorian councils.</p> <p>Staffing resources will be implemented in accordance with Council's Workforce Plan, which will be developed by December 2021. Council's draft Financial Plan will be amended to indicate that its human resources will be reflective of its Workforce Plan.</p>
7	<ul style="list-style-type: none"> <li>Encourage Council to include Gender Equality obligations in the 'about' section of the plan.</li> <li>Strengthen 1.6 to "Collaborate with local and regional partners....."</li> <li>Strengthen MPHWP Priority 2 and Objective 3.5.1 "Lead community education....."</li> <li>Link MPHWP priority 4 to Objective 3.4</li> </ul>	<p><b>Changes made to draft Plans:</b></p> <p>The suggested wording changes have been made to the strategies in the draft Council Plan.</p>
8	<ul style="list-style-type: none"> <li>Indicators do not always represent the actions outlined. Need to be strengthened - eg engagement with youth / traditional owners / volunteers, but no matching Indicators.</li> <li>Key Worker Housing Pilot project - fails to address AirBnB property issue.</li> </ul>	<p><b>Changes made to draft Plans:</b></p> <p>Targets and trends have now been included in the draft Council Plan for some strategic indicators to provide rigour around the achievement of Council's Strategic Objectives.</p> <p>As the draft Council Plan is a high-level document, reference to specific industries will be included in detailed strategies and policies.</p>



#	Submission summary	Council response
9	Needs more detail as a framework for delivery of Objectives. <ul style="list-style-type: none"> <li>• 4.1 townships and landscapes need more distinction between localities across Shire</li> <li>• 4.2 goals should be tied to the growth in each township</li> <li>• 4.5 needs to include bike / walking paths (as distinct from open spaces)</li> </ul>	<b>Changes made to draft Plans:</b> Descriptions of township characteristics and landscapes will be included in township structure plans and strategic planning documents. As the draft Council Plan is a high-level document, reference to specific localities or infrastructure is more appropriately included in detailed strategies and policies.
Internal	Submissions from staff including improving connectivity with Alpine Planning Scheme, grammatical improvements, and other minor updates.	<b>Changes made to draft Plans:</b> Many of the suggested wording changes made in the draft Council Plan.

## POLICY IMPLICATIONS

The draft Community Vision, Council Plan, and Financial Plan have each been prepared in accordance with the requirements of the *Local Government Act 2020*. The Municipal Public Health and Wellbeing Plan has been prepared in accordance with the *Public Health and Wellbeing Act 2008*.

The recommendations are in accordance with the following Strategic Objective of the Council Plan 2017-2021:

- A high performing organisation

## FINANCIAL AND RESOURCE IMPLICATIONS

The Financial Plan outlines the resources necessary to deliver the strategies and major initiatives described in the Council Plan in support of achieving the Community Vision.

Projects and services to be delivered in the 2021/22 financial year have been budgeted in the 2021/22 adopted budget. Projects and services to be delivered in subsequent financial years will be subject to the normal annual budgeting processes.

## CONCLUSION

Detailed deliberative engagement has been conducted with the community, Councillors and staff in the development of the draft Plans. By placing the draft Plans on public exhibition, the wider community is provided with the opportunity to contribute to the proposed direction before the final documents are presented to Council for formal adoption.

## **DECLARATION OF CONFLICT OF INTEREST**

In accordance with section 130 of the *Local Government Act 2020*, and Chapter 7 section A6 of Council's Governance Rules, the following officers declare that they have no interests to disclose in providing this report.

- Director Corporate Performance
- Manager Corporate
- Project Officer

## **ATTACHMENT(S)**

- 8.3.1.a. Draft Community Vision 2040 and Council Plan 2021-2025, incorporating the Municipal Public Health and Wellbeing Plan.
- 8.3.1.b. Draft Financial Plan

## 8.3.2 Instruments of Delegation

File Number: Delegations Register

### INTRODUCTION

Instruments of Delegation are an important way for Council to ensure its officers hold the appropriate legislative powers required for the various Acts and Regulations that Council administers. This report updates Council's Instruments of Delegation to the Chief Executive Officer and to staff, to ensure that they are reviewed within 12 months of the general election, as required by the *Local Government Act 2020*.

*Cr Janas*

*Cr Keeble*

*That Council:*

1. *notes that a review of Instruments of Delegation has been undertaken in accordance with s11(7) of the Local Government Act 2020, with the following actions required:*
  - a. *No Instruments of Delegation have been made to members of Delegated Committees, and hence there are no instruments of this type to review; and*
  - b. *The Instrument of Delegation from Council to the Chief Executive Officer and Instrument of Delegation from Council to Members of Council staff are being updated to ensure that current legislative powers, duties, and functions are delegated to the appropriate staff.*
2. *exercises the powers conferred by section 11(1)(b) of the Local Government Act 2020, so that:*
  - a. *There be delegated to the person holding the position, acting in or performing the duties of Chief Executive Officer the powers, duties and functions set out in attachment 8.3.2(a) "S5 - Instrument of Delegation from Council to the Chief Executive Officer" (instrument S5), subject to the conditions and limitations specified in that instrument;*
  - b. *Instrument S5 be signed and sealed at the appropriate stage of this meeting;*
  - c. *Instrument S5 comes into force immediately the common seal of Council is affixed to the instrument;*
  - d. *On the coming into force of instrument S5, all previous delegations to the Chief Executive Officer are revoked;*
  - e. *The duties and functions set out in instrument S5 must be performed, and the powers set out in the instruments must be executed, in accordance with any guidelines or policies of Council that it may from time to time adopt.*
3. *exercises the powers conferred by the legislation referred to in attachment 8.3.2(b) "S6 - Instrument of Delegation from Council to Members of Council staff" (instrument S6), so that:*

- a. There be delegated to the members of Council staff holding, acting in or performing the duties of the offices or positions referred to in instrument S6, the powers, duties and functions set out in that instrument, subject to the conditions and limitations specified in that Instrument;*
- b. Instrument S6 be signed and sealed at the appropriate stage of this meeting;*
- c. Instrument S6 comes into force immediately the common seal of Council is affixed to the instrument;*
- d. On the coming into force of instrument S6, all previous delegations to members of Council staff (other than the Chief Executive Officer) are revoked; and*
- e. The duties and functions set out in instrument S6 must be performed, and the powers set out in the instruments must be executed, in accordance with any guidelines or policies of Council that it may from time to time adopt.*

*Carried*

## **BACKGROUND**

Many legislative Acts and Regulations provide Council with specific powers, duties or functions. To enable Council as an organisation to run smoothly, many of these powers, duties and functions are delegated to the Chief Executive Officer (CEO), who can then further sub-delegate these duties to staff. This ensures that decisions are made on a timely basis, without the need for every legislative decision being presented to a Council meeting.

Council's S5 Instrument of Delegation to the CEO passes on Council's powers directly to the CEO. For instances where decisions are required that are not within the CEO's delegation, these must be presented directly to Council - for example, where a purchase exceeds the CEO's financial delegation of \$150,000 including GST.

Where legislation allows it, the CEO then sub-delegates specific legislative duties to staff, via a separate Instrument.

Some legislation does not allow sub-delegation via the CEO, so Council must delegate these powers directly to staff using the S6 Instrument of Delegation to Council Staff.

## **ISSUES**

### ***Local Government Act 2020***

On 1 May 2020, the power to delegate Council powers, duties and functions moved from the *Local Government Act 1989* (LGA 1989) to the LGA 2020. Council re-issued Instruments of Delegation to the CEO and Staff under s11(1)(b) of the LGA 2020 on 1 September 2020. The CEO's delegation was subsequently re-made on 6 July 2021 to ensure that powers delegated to Council under the *Environment and Protection Act 2017* were able to be passed on to staff.

Section 11(7) of the LGA 2020 requires that councils review all delegations made under s11 within 12 months of a general election. Council is able to delegate its power to either members of a Delegated Committee, or directly to the CEO. In the case of Alpine

Shire Council, no Delegated Committees have been created by Council, and hence there are no committee delegations to review. Council has already reviewed the CEO delegations in July 2021, which meets the requirements of s11(7), but is providing this report to ensure that staff delegations are also updated by the required timeframes.

### ***Update of Instruments***

Council subscribes to the Maddocks Delegations and Authorisations service, where templates are provided to allow Council and the CEO to delegate their powers directly to staff.

By updating the Instrument of Delegation to CEO at this time, this ensures that the CEO can delegate the relevant powers, duties and functions available at the time of signing. This ensures that any legislative changes that have occurred since the S5 Instrument was last signed, are now able to be passed on to the CEO. No changes to the content of the Instrument of Delegation to the CEO has been made since it was last adopted.

The S6 Instrument of Delegation to Council Staff has been updated to reflect the legislative changes since it was last adopted in September 2020, and to update and include staff titles that may have changed or been added in the previous 12 months.

## **POLICY IMPLICATIONS**

The recommendation is in accordance with the following Strategic Objective of the Council Plan 2017-2021:

- A high performing organisation

## **FINANCIAL AND RESOURCE IMPLICATIONS**

Council has an annual subscription for Maddocks delegations and authorisations service that is allowed for in Council's annual budget. Appropriate delegations and authorisations allow Council and Council staff to operate effectively within legislative frameworks.

## **CONSULTATION**

No external consultation is required. Council to CEO delegations have been discussed with the relevant Manager, Director and CEO.

## **CONCLUSION**

A review and update of the Instruments of Delegation to the CEO and to Staff ensures that Council has complied with the review requirements of s11(7) of the LGA 2020. The review also ensures that appropriate delegation of Council's powers, duties and functions available at the time of signing has been passed on to the CEO and Staff.

Council has not issued any Instruments of Delegation to Delegated Committees, hence there are no Instruments to review.

## **DECLARATION OF CONFLICT OF INTEREST**

In accordance with section 130 of the *Local Government Act 2020*, and Chapter 7 section A6 of Council's Governance Rules, the following officers declare that they have no interests to disclose in providing this report.

- Director Corporate Performance
- Manager Corporate
- Governance Officer

## **ATTACHMENT(S)**

8.3.2.a. S5 - Instrument of Delegation from Council to the Chief Executive Officer

8.3.2.b. S6 - Instrument of Delegation from Council to Members of Council Staff

### 8.3.3 Instruments of Appointment and Authorisation - *Planning and Environment Act 1987*

File Number: Delegations register

#### INTRODUCTION

Instruments of appointment and authorisation are an important means of Council ensuring that its officers are appropriately authorised under the relevant Acts that Council administers. This report provides for a change in title for an officer with planning responsibilities.

*Cr Nicholas*

*Cr Keeble*

*That Council exercises the powers conferred by section 147(4) of the Planning and Environment Act 1987, so that:*

- 1. the following members of Council staff referred to in attachment 8.3.3 "S11A – Instrument of Appointment and Authorisation – Planning & Environment Act 1987" (the instrument) be appointed and authorised as set out in the instrument;*
  - a. Director Corporate Performance; and*
  - b. Planning Officer.*
- 2. the instruments come into force immediately the common seal of Council is affixed to the instrument, and remains in force until Council determines to vary or revoke them*
- 3. on the coming into force of the instrument, the previous "S11A – Instrument of Appointment and Authorisation – Planning and Environment Act 1987" for the following members of Council staff, as dated, be revoked;*
  - a. Director Corporate Performance (Acting), dated 6 July 2021.*
- 4. the instruments be signed and sealed at the appropriate stage of this meeting.*

*Carried*

#### BACKGROUND

Council staff involved in planning roles require current and accurate authorisations to fulfil their duties. Council has appointed a new Director Corporate Performance and a new Planning Officer, requiring new Instruments of Appointment and Authorisation under the *Planning and Environment Act 1987*. Following the permanent appointment of the Director Corporate Performance, the authorisation for the Acting Director Corporate Performance can be revoked.

## ISSUES

### *Authorised Officers*

Authorised officers have statutory powers under relevant legislation. In the case of Council's staff in the Planning department, the attached Instruments of Appointment and Authorisation under the *Planning and Environment Act 1987* mean that they are authorised officers for the purposes of that Act.

While Council may delegate its powers, duties or functions to staff, so that a delegate acts on behalf of the Council, staff appointed as authorised officers have their own statutory powers under the relevant Act.

### *Planning and Environment Act 1987*

Section 188(1)(b) of the *Planning and Environment Act 1987* specifies that "a planning authority ... may by instrument delegate any of its powers, discretions or functions under this Act to an officer of the authority". However, Section 188(2)(c) specifically prevents an officer from further sub-delegating any duty, function or power. Therefore, as the responsible authority, Council must authorise staff directly using the "S11A – Instrument of Appointment and Authorisation – Planning and Environment Act 1987", rather than via the Chief Executive Officer.

### *Maddocks Delegations and Authorisations Service*

Council utilises the delegations and authorisations service provided by law firm Maddocks. This is a template system used by many councils and provides a detailed way of ensuring that appropriate delegations and authorisations are given to Council staff. All of the relevant legislation affecting local government, including Acts and regulations and the sections that relate to the powers, duties and functions of Council are outlined within the template and the relevant officer is allocated accordingly.

## POLICY IMPLICATIONS

Ensuring authorisations are kept up to date ensures that Council's planning staff can undertake their statutory roles.

The recommendation is in accordance with the following Strategic Objective of the Council Plan 2017-2021:

- A well planned and safe community

## FINANCIAL AND RESOURCE IMPLICATIONS

Council has an annual subscription to the Maddocks delegation and authorisation service that is provided for in Council's annual budget. There are no other financial implications associated with these instruments of appointment and authorisation.

Appropriate authorisations allow Council and Council staff to operate effectively and within legislative frameworks.



## **CONSULTATION**

The relevant staff and Director have been consulted during the preparation of the IoAAs. There is no requirement to consult the community in the preparation of these instruments.

## **CONCLUSION**

The appropriate appointment of authorised officers to enforce the *Planning and Environment Act 1987* is required to ensure that Council officers can undertake their statutory roles.

## **DECLARATION OF CONFLICT OF INTEREST**

In accordance with section 130 of the *Local Government Act 2020*, and Chapter 7 section A6 of Council's Governance Rules, the following officers declare that they have no interests to disclose in providing this report.

- Director Corporate Performance
- Manager Corporate
- Governance Officer

## **ATTACHMENT(S)**

- 8.3.3.a. S11A – Instrument of Appointment and Authorisation – *Planning & Environment Act 1987* – Director Corporate Performance
- 8.3.3.b. S11A – Instrument of Appointment and Authorisation *Planning & Environment Act 1987* – Planning Officer

### 8.3.4 Audit and Risk Committee Meeting Minutes and Recommendations

File Number: 0900.06

#### INTRODUCTION

The purpose of the report is to present the minutes of the Audit and Risk Committee meetings No.2021/22-1 held on 30 July 2021 and No.2021/22-2 held on 7 September 2021.

Key items presented to and considered by the Audit and Risk Committee (Committee) at these meetings included:

- 2020/21 annual self-assessment of performance.
- Closing report by the External Auditors on the 2020/21 annual audit.
- 2020/21 annual financial and performance statements.

*Cr Vincent*  
*Cr Nicholas*

*That Council:*

1. *receives and notes the minutes of Audit and Risk Committee Meeting No.2021/22-1 held 30 July 2021*
2. *receives and notes the minutes of Audit and Risk Committee Meeting No.2021/22-2 held 7 September 2021*

*Carried*

#### REPORT

*Audit and Risk Committee Meeting No.2021/22-1, 30 July 2021*

Welcome to new members

The Committee extended a welcome to new independent member Julie Guest, appointed to the Committee by Council in July 2021.

Annual self-assessment of performance

The Audit and Risk Committee Charter requires the Committee to undertake a self-assessment of its performance each year. An online survey has been made available to Committee members since 2017 and was again provided in this format for the 2020/21 survey.

Feedback was again very positive with members satisfied with the overall performance of the Committee concluding that it is functioning well. Members were satisfied with the information they received to be assured that Council's financial controls and reporting,

risk management framework, and compliance processes are in place and effective. The relationship between members and management is positive and productive.

### ***Audit and Risk Committee Meeting No.2021/22-2, 7 September 2021***

#### External Auditor

Council's External Auditors, Phil Delahunty, Partner, and Blessing Mendosa, Chartered Accountant, of RSD Audit, Bendigo attended the video conference meeting to discuss the Victorian Auditor General's Office (VAGO) Audit, Year Ending 30 June 2021.

The Committee received and noted the VAGO Closing Report on the 2020/2021 Financial and Performance Statements of Council.

#### 2020/2021 Annual Financial and Performance Statements (Draft)

Each year Council is required to prepare an Annual Financial Report containing financial statements that are audited according to Australian Accounting Standards. The financial statements show Council's financial performance, financial position, and cash flows against the previous year and comprise a balance sheet and statements of income, changes in equity, cash flows and capital works.

The annual performance statement is a specific requirement of the Local Government Act and is generated from indicators and measures from the Local Government Performance Reporting Framework. It consists of six sustainable capacity indicators, 12 service performance indicators, and 12 financial performance indicators – all of which are subject to audit.

The Committee considered and endorsed for Council approval in principle the draft Financial and Performance Statements for the year ended 30 June 2021.

### **POLICY IMPLICATIONS**

The recommendation is in accordance with the following Strategic Objective of the Council Plan 2017-2021:

- A responsible and sustainable organisation

### **CONCLUSION**

The Audit and Risk Committee, being satisfied with the detail provided in its agendas and the officer reports, submits the minutes of its meetings No.2021/22-1 held on 30 July 2021 and No.2021/22-2 held on 7 September 2021 to Council for noting.

## **DECLARATION OF CONFLICT OF INTEREST**

In accordance with section 130 of the *Local Government Act 2020*, and Chapter 7 section A6 of Council's Governance Rules, the following officers declare that they have no interests to disclose in providing this report.

- Director Corporate Performance
- Manager Corporate
- Health, Safety and Risk Officer

## **ATTACHMENT(S)**

8.3.4.a. Minutes of Audit and Risk Committee Meeting No.2021/22-1, 30 July 2021

8.3.4.b. Minutes of Audit and Risk Committee Meeting No.2021/22-2, 7 September 2021

*Cr Keeble declared a conflict of interest with item 8.3.5 Permit and Registration Fee Relief for Alpine Shire Businesses and was moved from the virtual meeting into a waiting room at 6.08pm.*

## 8.3.5 Permit and Registration Fee Relief for Alpine Shire Businesses

### INTRODUCTION

This report relates to fee relief for Alpine Shire businesses in 2021/22.

*Cr Janas*  
*Cr Vincent*

*That Council:*

- 1. adopts a fee of zero dollars (\$0.00) for registrations and permit applications applicable under the Food Act 1984, Public Health and Wellbeing Act 2008, Residential Tenancies Act 1997 and Community Local Law 2019 for the 2021/22 financial year;*
- 2. approves a refund of any fees already paid under the Food Act 1984, Public Health and Wellbeing Act 2008, Residential Tenancies Act 1997 and Community Local Law 2019, in the 2021/22 financial year; and*
- 3. notes that the fee relief, estimated to total \$132,000, will be fully funded from the State Government's 'Local Councils Outdoor Eating and Entertainment Package' and 'Council Support Fund'.*

*Carried*

### BACKGROUND

Council adopts fees for a range of regulatory functions each year as part of the annual budget process. This includes registration fees for food premises, caravan parks, health and beauty businesses as well as footpath advertising, trading and dining permits.

These fees are generally set by legislation or are benchmarked against other councils. Fees levied for registrations/permits under the *Food Act 1984, Public Health and Wellbeing Act 2008, Residential Tenancies Act 1997* and *Community Local Law 2019* for the 2021/22 financial year are detailed as attachment 8.3.7 - Summary of registration and permit fees for 2021/22. Fees are exempt from GST.

The impacts of the fires and the ongoing restrictions of COVID19 are significant for businesses of the Alpine Shire, particularly tourism and retail related businesses.

Council has received State Government funding that can be utilised to support the waiving of fees for this financial year.

### ISSUES

#### *Estimated value of fee relief*

The proposed fee relief includes the following components, based on the current number of registered premises, permits issued and the actual and estimated fees levied for the full financial year.

Registrations	Estimated value
<i>Food Act 1984</i>	\$105,000
Public Health and Wellbeing Act 2008	\$13,000
<i>Residential Tenancies Act 1997</i>	\$1,000
Community Local Law 2019 business permits	\$13,000
<b>Total</b>	<b>\$132,000</b>

It is noted that there may be additional premises that will register over the course of the year. As such, the total amount of fees for the current financial year is likely to be higher than the amounts listed above.

### ***New Applications***

Businesses would still be required to obtain permits / registration as per the normal requirements; however, no fees would be payable under *the Food Act 1984, Public Health and Wellbeing Act 2008, Residential Tenancies Act 1997* and the Community Local Law 2019.

### ***Refund of fees already paid***

Permits and registrations already paid under the *Food Act 1984, Public Health and Wellbeing Act 2008, Residential Tenancies Act 1997* and the Community Local Law 2019 would be refunded.

Fees for registration under the *Food Act 1984, Public Health and Wellbeing Act 2008, Residential Tenancies Act 1997* are levied by calendar year, so the refunded registration would apply to the 2021 calendar year.

Local Laws permits are renewed every financial year, so the refunded permit fees would apply to the 2021/22 financial year.

It is recommended that refunds are issued by cheque. Council has records of all businesses that have paid fees. Cheques can be raised and sent to the businesses. It is anticipated that fees could be refunded within one month following approval by Council.

## **POLICY IMPLICATIONS**

The recommendation is in accordance with the following Strategic Objective of the Council Plan 2017-2021:

- A well planned and safe community

## **FINANCIAL AND RESOURCE IMPLICATIONS**

Council has received funding from the State Government through the 'Local Councils Outdoor Eating and Entertainment Package' as well as bushfire recovery funding received from State Government through the Council Support Fund administered by Bushfire Recovery Victoria. These funds have been made available in response to the

2019/20 bushfire events and the COVID19 pandemic. The intention of both streams of funding is to assist community and businesses directly or indirectly affected by the fires to recover and provide hospitality businesses with an opportunity to continue to trade during the restrictions of the COVID19 pandemic by enabling businesses to expand dining outside off premises.

The costs of the proposed fee relief will be completely offset by State Government funding.

## **CONSULTATION**

The following Council officers have been consulted in the preparation of this report:

- Director Assets
- Manager Building and Amenity
- Acting Manager Economic Development
- Acting Manager Community Development
- Accountant

## **CONCLUSION**

Council has received funding from the State Government in response to the 2019/20 bushfire event and impacts of the COVID19 pandemic. The use of this funding to enable Council to waive fees will support local businesses which have been directly and indirectly affected by the bushfires and the ongoing restrictions of the COVID19 pandemic.

## **DECLARATION OF CONFLICT OF INTEREST**

In accordance with section 130 of the *Local Government Act 2020*, and Chapter 7 section A6 of Council's Governance Rules, the following officers declare that they have no interests to disclose in providing this report.

- Director Corporate Performance
- Manager Building and Amenity

## **ATTACHMENT(S)**

8.3.5 Summary of registration and permit fees for 2021/22

*Cr Keeble was readmitted into the virtual meeting at 6.13pm.*

### 8.3.6 Planning Application P.2021.35 - 15 O'Donnell Avenue, Myrtleford

<i>Application number:</i>	<i>P.2021.35</i>
<i>Proposal:</i>	<i>Three (3) Lot Subdivision with Common Property and Buildings and Works for the Construction of Three (3) Dwellings</i>
<i>Applicant's name:</i>	<i>Brenda Clissoid (Andrews Homes)</i>
<i>Owner's name:</i>	<i>Lollie Investments Pty Ltd</i>
<i>Address:</i>	<i>15 O'Donnell Avenue, Myrtleford</i>
<i>Land size:</i>	<i>Approximately 1109sqm</i>
<i>Current use and development:</i>	<i>The site contains a single storey dwelling with vehicle access from O'Donnell Avenue on the northern side of the lot.</i>
<i>Site features:</i>	<i>The site is an irregular rectangular shape. The site slopes down from the middle of the north-eastern lot boundary to western corner by approximately 1.75 metres with an average slope of approximately 5.38%.</i>
<i>Why is a permit required?</i>	<i>Clause 32.08-3 - Subdivision (GRZ) Clause 32.08-6 - Construction and extension of two or more dwellings on a lot (GRZ)</i>
<i>Zoning:</i>	<i>General Residential Zone (GRZ)</i>
<i>Overlays:</i>	<i>None</i>
<i>Restrictive covenants on the title?</i>	<i>None</i>
<i>Date received:</i>	<i>31 August 2021 (amended plans)</i>
<i>Statutory days:</i>	<i>20 days at 20 September 2021</i>
<i>Planner:</i>	<i>James Trimble</i>

*Cr Janas*  
*Cr Vincent*

*That a Notice of Decision to grant a planning permit be issued for a three (3) lot subdivision with common property, and buildings and works for the construction of (3) dwellings accordance with the conditions outlined in Attachment 8.3.6.a. and for the following summarised reasons:*

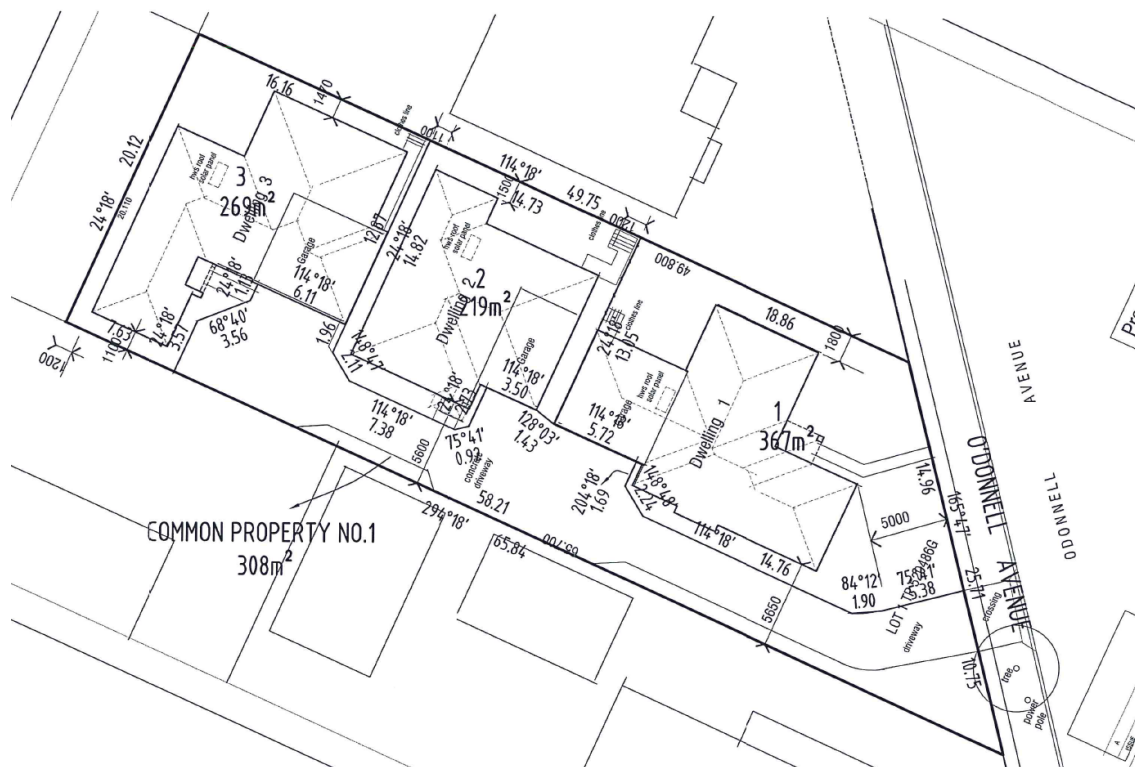


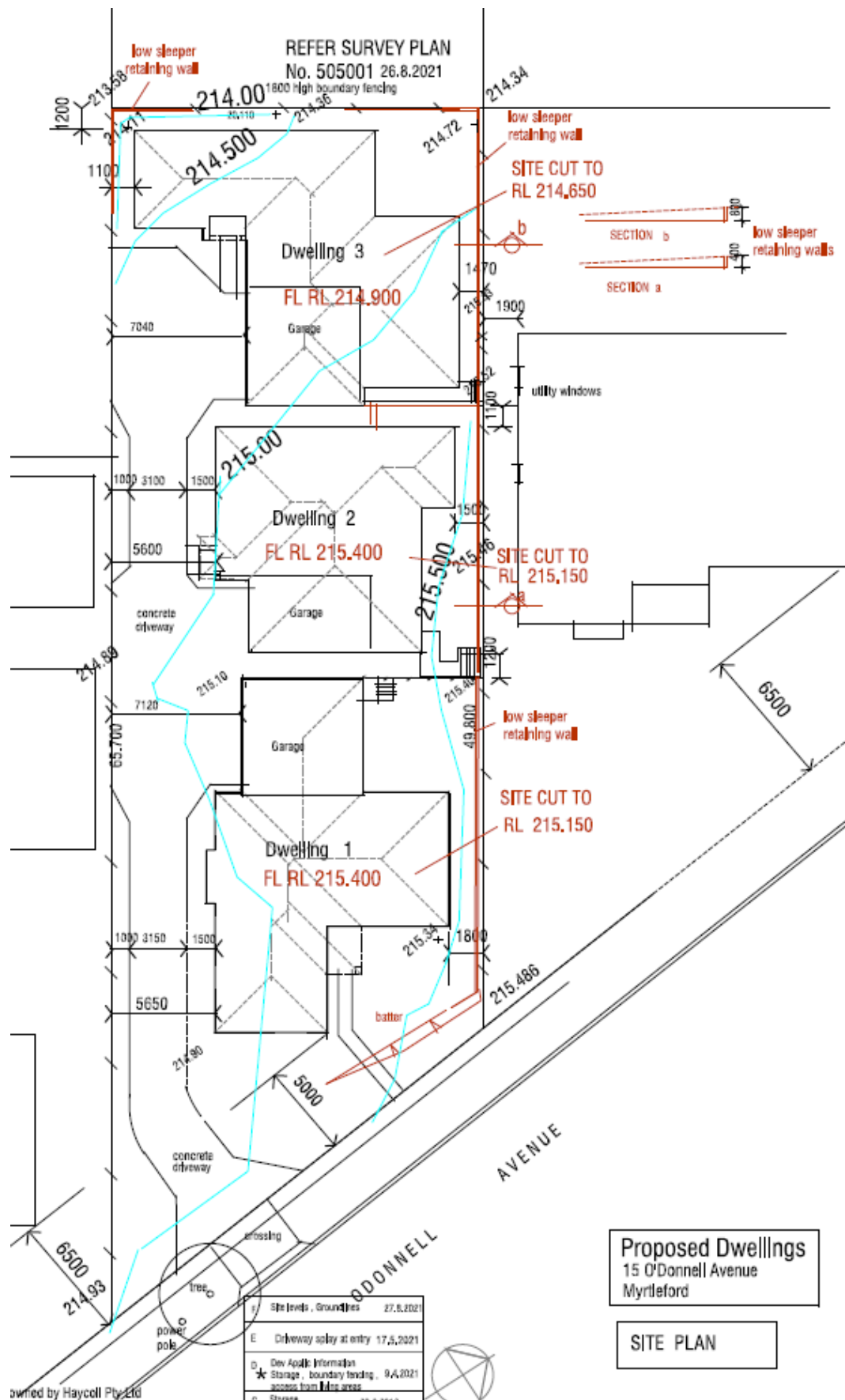


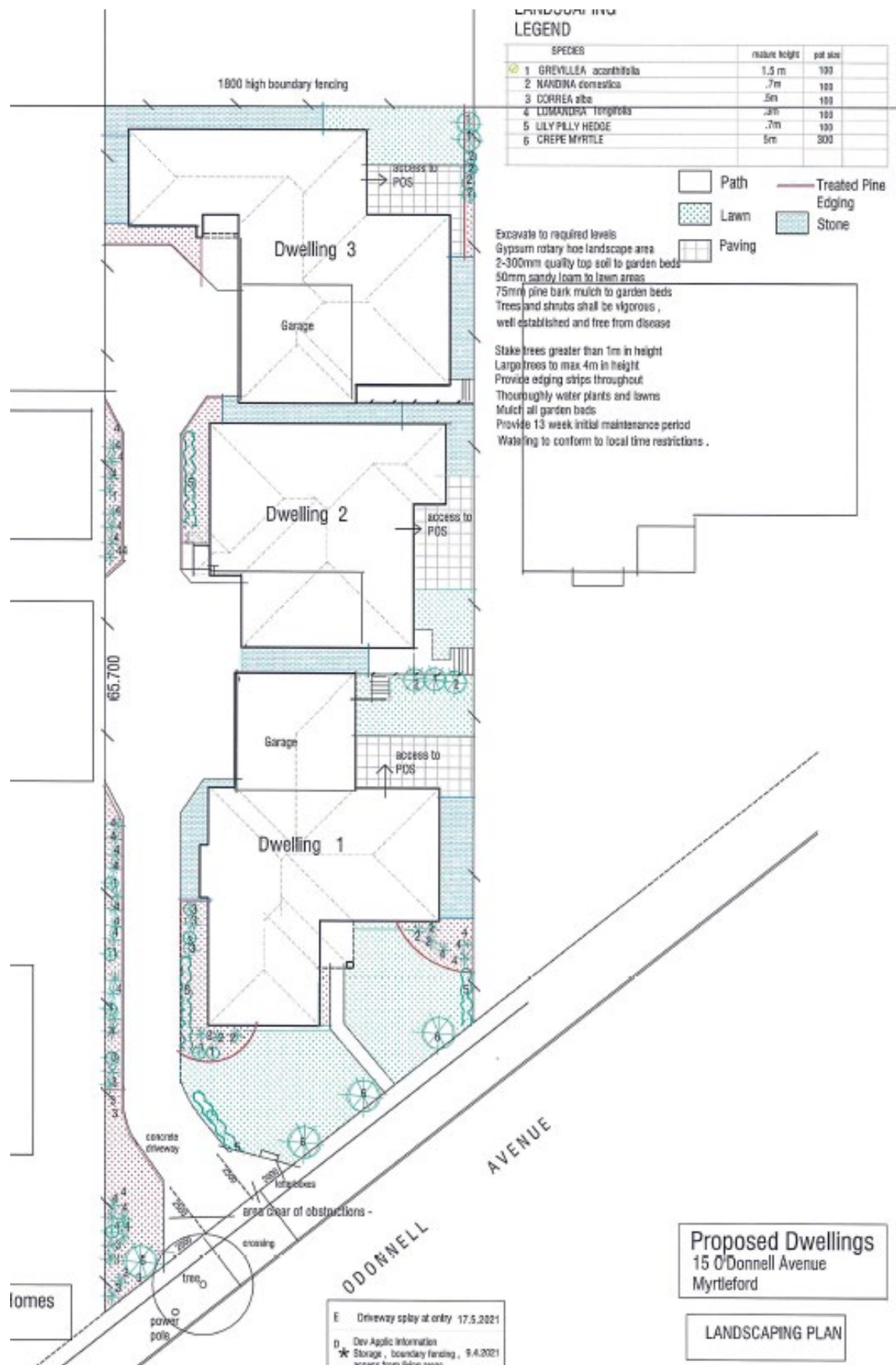
### Buildings and Works for the construction of three (3) dwellings

All dwellings are single storey. The dwelling on proposed Lots 1 and 3 has a double garage, open plan living dining kitchen, 3 bedrooms, 2 bathrooms, and a separate laundry. The new dwelling on proposed Lot 2 has a single garage, open living dining kitchen, 2 bedrooms, 2 bathrooms and a separate laundry.

No boundary walls are proposed. A minimum 5 metre setback is proposed from O'Donnell Avenue, a minimum 1.47 metre setback is proposed from adjoining 17 O'Donnell Ave, a minimum 1.2 metre setback is proposed from the rear lot boundary adjoining 7 Kneebone Court, and a minimum 1.1 metre setback is proposed from adjoining common property at the end of Kneebone Court. A communal bin storage area and letterboxes are proposed in Lot 1 within the street setback area. Maximum 0.8 metre high retaining walls are proposed in the western corner of the site. 1.8 metre high boundary fencing is proposed.





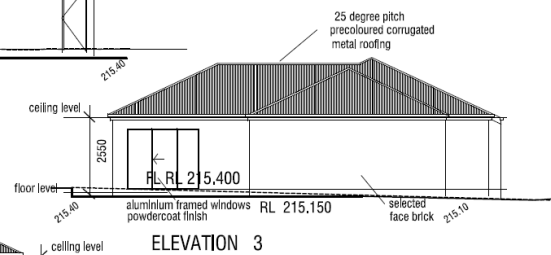
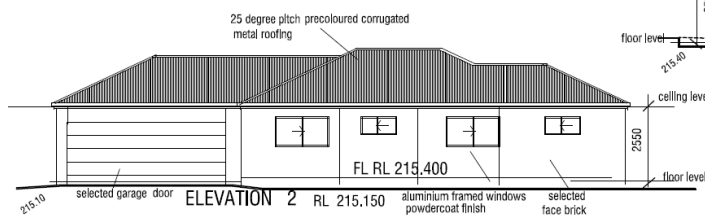
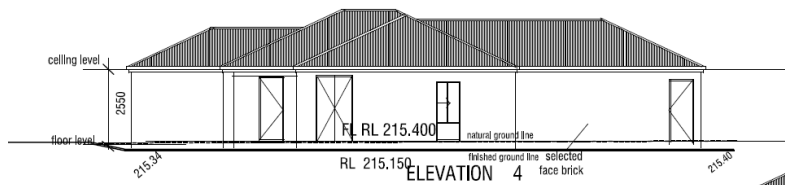
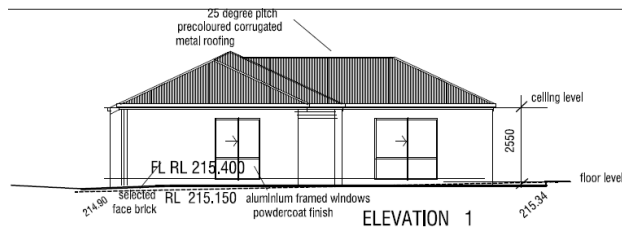
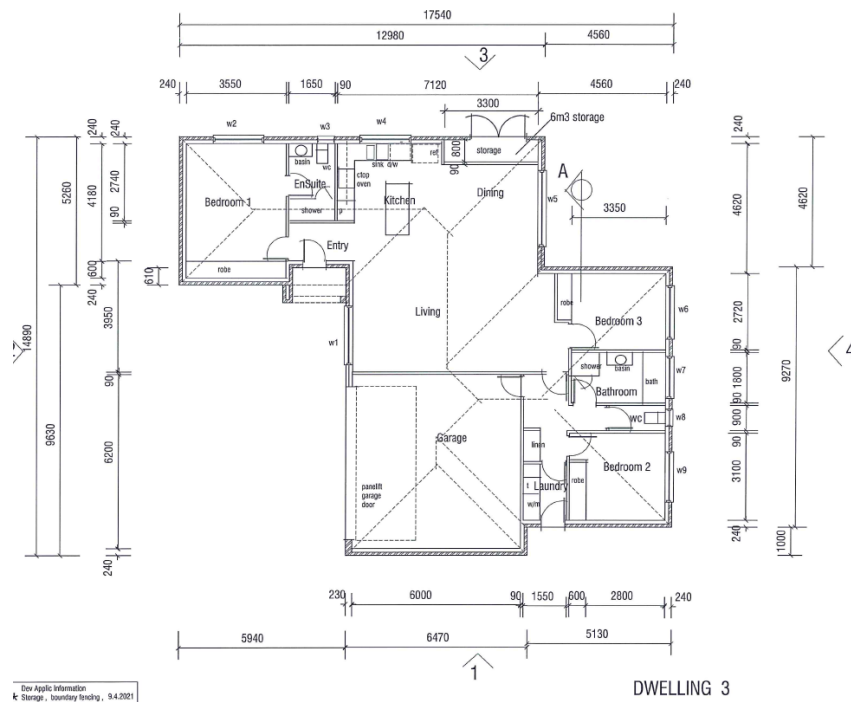


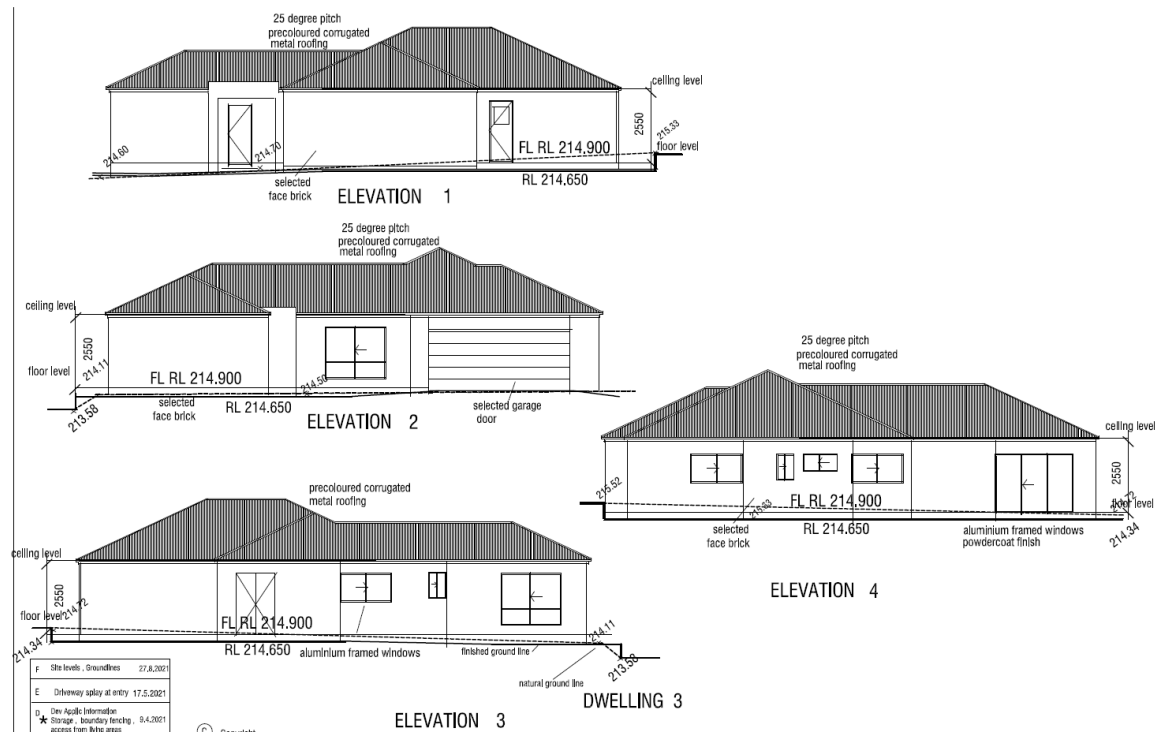
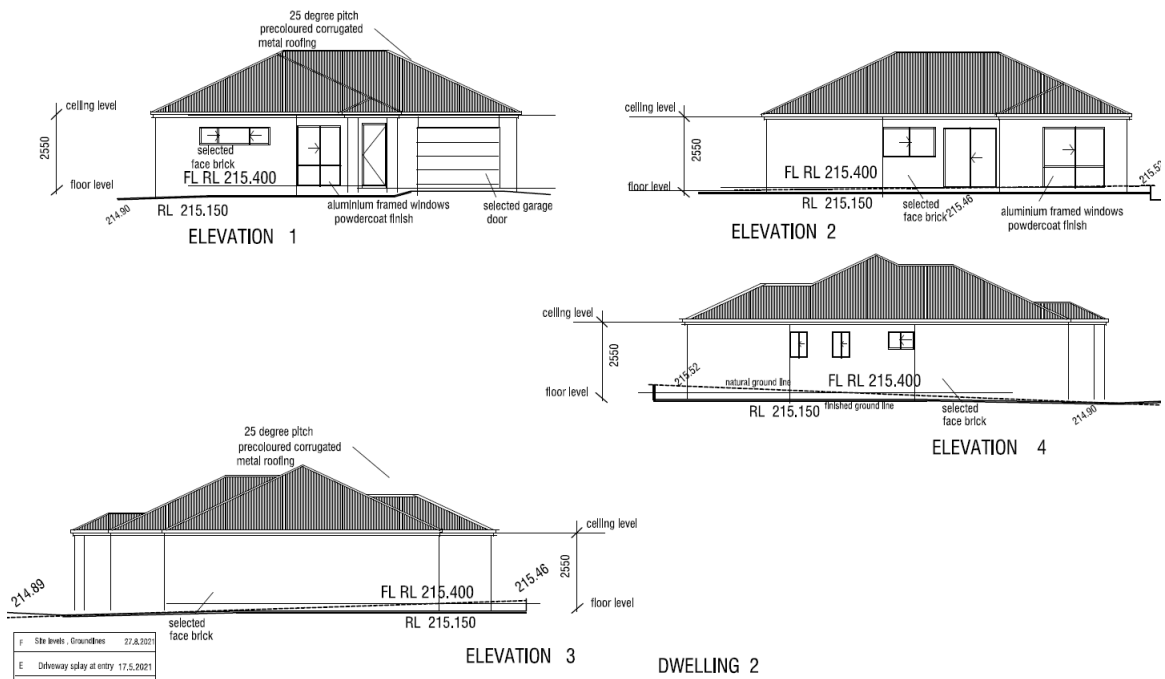


## DWELLING 1

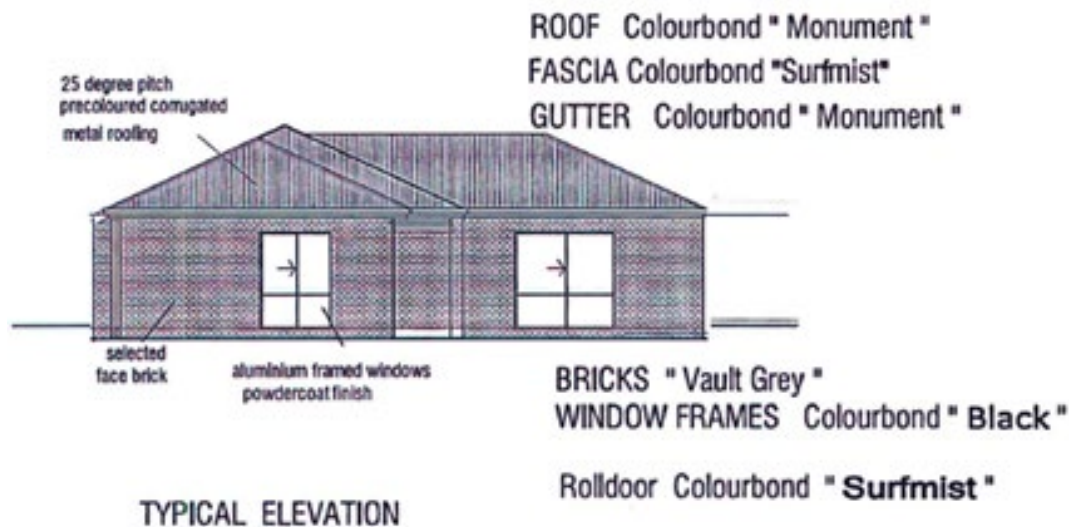


## DWELLING 2









**Figure 2: Shows the buildings and works layout on site.**

## **SUBJECT LAND AND SURROUNDS**

The site has a total area of approximately 1109sqm and is an irregular rectangular shape. The site slopes down from the middle of the north-eastern lot boundary to western corner by approximately 1.75m with an average slope of approximately 5.38%. The site contains an existing single storey dwelling and vegetation. Vehicle access to the existing dwelling is from O'Donnell Avenue on the northern side of the lot.

Surrounding land is zoned GRZ, excluding 20 O'Donnell Ave which is zoned Public Use Zone – Health and Community and contains the Myrtleford Library, Cundy Park, a playground and a skatepark. Lot sizes within 5 sites, north of Duke Street and east of Lawrence Street, range from approximately 186sqm at 2/9 Kneebone Court to 1250sqm at 19 O'Donnell Avenue. The majority of these sites contain a single dwelling. The site abuts common property at the end of Kneebone Court at the rear of the site.

There is a street tree, partially constructed crossover, footpath and constructed kerb and channel in the verge abutting the site.





**Figure 3: Subject land.**

## **PUBLIC NOTIFICATION**

The application was advertised in accordance with Section 52 of the *Planning and Environment Act 1987*. Notice of the application was sent to surrounding landholders and occupiers. A sign was displayed on the subject land. Three (3) objections were received and maintained. The matters raised in the objections have been summarised as follows:

1. Setback to close to Kneebone Court
2. Will negatively impact on land and house value.
3. Will result in negatively changing the character of the area
  - a. Front fencing should be provided to align with the character of the area
4. Overdevelopment of the site
5. Lack of appropriate onsite landscaping
  - a. Lack of landscaping along back fence near Kneebone Court -should be provided to assist in adding privacy and minimise noise impacts

6. No onsite visitor car parking
  - a. Lack of adequate on street car parking
7. Street setback to O'Donnell Ave is inappropriate
  - a. Inconsistent with existing character of the area
  - b. Will create additional negative overshadowing impacts
  - c. Should maintain existing setback on the site
8. Additional noise impacts
  - a. Wall facing onto Kneebone Court, should have features to minimise noise impacts.
  - b. Request for windows facing into back yard of Kneebone Court to be double glazed
  - c. Fencing along Kneebone Court should be higher to assist in reducing noise impacts
  - d. Request for fence between 15 and 17 be boxed and capped wooden construction (at the developers expense) to minimise noise impacts
9. Overlooking impacts
  - a. Wall facing onto Kneebone Court, should have features to enhance privacy
  - b. Request for windows facing into back yard of Kneebone Court to have obscure glazing
  - c. Fencing along Kneebone Court should be higher to assist in adding privacy
  - d. Request for fence between 15 and 17 be boxed and capped wooden construction (at the developers expense) to add privacy
  - e. Unclear if all boundaries are to be fenced to prevent overlooking

The applicants response is summarised as follows:

1. The proposed dwellings meet the requirements of the planning scheme relating to setback/s to the rear lot boundaries.
2. There have been many VCAT cases that have determined that land values are not a valid planning consideration.
3. Neighbourhood Character
  - a. The proposal meets the purpose of the Alpine Planning Scheme, where policy provides direction that planning should facilitate well-located, integrated, and diverse housing that meets community needs, such as diverse housing that offers choice and meets changing household needs by widening housing diversity through a mix of housing types. The Local Planning Policy objective identifies that the majority of urban growth should be directed in the Shire to Bright, Porepunkah, Myrtleford etc It also identifies that redevelopment and intensification of existing urban areas by providing for higher density development should be encouraged. There are also strategies that identify to provide for a range of housing choice that is affordable, accessible and meets community needs such as the proposal. The proposal is supported by policy.

- b. The proposal satisfies the requirements of the Alpine Planning Scheme, where the negative impacts are assessed through the Clause 55 and 56 Assessments. The proposal satisfies all the standards with the only exception being the front setback which is required to be varied.
  - c. There is no requirement in the planning scheme that requires a front fence. In actual fact front fences are generally discouraged as no front fence provides for passive surveillance to the street.
- 4. The proposal generally meets the standards of Clause 55 with the only exception being a variation to the front setback which is varied at 5 metres. The site coverage is less than 60% and it also meets the side and rear setbacks, garden area requirements and therefore it is considered that the three (3) dwellings are not an overdevelopment of the site.
- 5. Landscaping
  - a. No landscaping is required as the rear boundary fence will provide for sufficient privacy.
  - b. The proposal provides for limited landscaping, including that it meets the garden area requirement of the General Residential Zone.
- 6. The proposal meets the Alpine Planning Scheme requirements of Clause 55.03-10. No visitor car parking is required for a development of three (3) dwellings.
- 7. The proposal requires one variation to the street setback of 5 metres. It is acknowledged that the setbacks along O'Donnell Avenue are not uniform and varies greatly along the avenue. It is noted that 23 O'Donnell Avenue is setback approximately 4 metres with No 11 O'Donnell Avenue being setback 5 metres, and therefore the proposed setback of 5 metres is not out of place and considered acceptable in this instance.
- 8. Noise impacts
  - a. The proposed colorbond fence will assist with minimising noise.
  - b. The 1.8 metre fence is considered satisfactory and is the normal standard height for residential fencing
- 9. Overlooking
  - a. The proposal meets the overlooking standard of Clause 55
  - b. There is no requirements for the windows to be double glazed or have obscure glazing as the overlooking standard has been met in accordance with Clause 55.
  - c. The proposed colorbond fence will assist with providing privacy and minimising noise.
  - d. The 1.8 metre fence is considered satisfactory and is the normal standard height for residential fencing

The assessing officer's response is provided as follows:

- 1. Setback to Kneebone Court
  - a. The site does not directly abut Kneebone Court, however, does abut a common property accessway at the end of Kneebone Court. Clause 55.04-1 includes a

standard setback requirement of 1m from the lot boundary abutting the common property accessway at the end of Kneebone Court. The proposal complies with this requirement.

2. The impacts of the proposal on land and house values is not a relevant planning consideration.
3. Neighbourhood Character Impacts
  - a. The area considered to form the existing neighbourhood character was all lots with the same zoning, within 5 sites in all directions, north of Duke Street and east of Lawrence Street. Lots within this area range from approximately 186sqm at 2/9 Kneebone Court to 1250sqm at 19 O'Donnell Ave. The subject site has an area of approximately 1109sqm with a minimum proposed lot size of 219sqm.
  - b. Respecting character does not mean preventing change. The neighbourhood character standard is not intended to result in the replication of existing building stock or stop change. In simple terms, respect for the character of a neighbourhood means that the development should try to 'fit in'.
  - c. The level of density proposed is similar that existing within the area.
  - d. The site is within the identified Medium Density Residential Opportunity for Myrtleford in local planning policy 21.07-2.
4. Overdevelopment
  - a. This is a subjective matter.
  - b. Refer to comments at point 3. above in relation to neighbourhood character.
  - c. The proposal complies with the standard at clause 55.03-3 with site coverage being less than 60% of the current lot area.
5. Onsite landscaping
  - a. Clause 55.03-8 includes objectives and standards relating to landscaping. Subject to conditions the proposal is considered to comply with these provisions.
6. Visitor Car Parking
  - a. There is no requirement for the proposal to include visitor car parking however there is an objective within clause 55.03-10 within the scheme which states - To provide convenient parking for resident and visitor vehicles.
  - b. There is no formal on street car parking in the O'Donnell Ave verge abutting the site.
7. Setback to O'Donnell Ave
  - a. Clause 55.03-1 within the scheme includes objectives and standards relating to street setbacks. The proposal does not comply with the standard at B6 relating to street setbacks. The proposal is considered to meet the relevant decision guidelines and objective with existing dwellings at 11 and 23 O'Donnell Ave in close proximity of the site having a minimum street setback of approximately 4 metres, the minimal visual impact of the reduced street setback with the front wall of dwelling 1 being at an angle to the street lot boundary, and the proposed

setback not resulting in the loss of any significant vegetation within the current street setback area.)

#### 8. Noise Impacts

- a. The proposal is not considered to result in substantial additional adverse noise impacts.
- b. Suitable conditions could be included to ensure compliance with the noise provisions of clause 55.04-8

#### 9. Overlooking impacts

- a. Clause 55.04-6 within the scheme includes standards in relation to overlooking. Within the standard it is stated 'This standard does not apply to a new habitable room window, balcony, terrace, deck or patio which faces a property boundary where there is a visual barrier at least 1.8 metres high and the floor level of the habitable room, balcony, terrace, deck or patio is less than 0.8 metres above ground level at the boundary'.
- b. Where the relevant standard is met, a proposal is considered to meet the relevant associated objectives.
- c. The plans for consideration indicate single storey development only.
- d. The plans for consideration indicate 1.8m high boundary fencing above proposed retaining walls.
- e. Suitable conditions would be included to ensure the above standard is complied with, should the application be supported.

An in person and online planning forum was held on Thursday, 15 July 2021.

### REFERRALS

Referrals / Notice	Advice / Response / Conditions
Section 55 referrals:	Country Fire Authority - Conditional consent North East Water - Conditional consent Ausnet - Conditional consent Goulburn Murray Water - Conditional consent
Internal referrals:	Alpine Shire Council Arborist Department - No concerns Alpine Shire Council Engineering Department - Conditional consent

### PLANNING ASSESSMENT AND RESPONSE TO GROUNDS OF OBJECTION

All applicable policy and decision guidelines can be found in Attachment 8.3.6.b.

#### State Planning Policy Framework

The following State Planning Policy Framework (SPPF) gives support to the proposal.  
11.02-1S - Supply of urban land

The proposal provides additional supply of land for residential uses and will assist in ensuring that sufficient land is available to meet forecast demand.

#### 15.01-3S - Subdivision design

The proposal assists in providing a range of lot sizes to suit a variety of dwellings and household types to meet the needs and aspirations of different groups of people.

#### 16.01-1S - Housing Supply

The proposal increases the proportion of housing in designated locations in established urban areas (including under-utilised urban land) and reduces the share of new dwellings in greenfield, fringe and dispersed development areas.

### **Local Planning Policy Framework**

The following Local Planning Policy Framework (LPPF) give support to the proposal.

#### 21.03-1 - Townships and villages

The proposal directs urban growth in the Shire to Myrtleford.

#### 21.06-1 – Infrastructure

The proposal supports the consolidation of the Shire's population in the main towns and some villages so as to make effective use of existing infrastructure, as it maximises the use of existing infrastructure and limits the need for new infrastructure by consolidating growth in towns with reticulated services by encouraging higher density development.

#### 21.07-2 – Myrtleford

The proposal supports residential growth in areas already zoned for residential development.

The site is within the identified medium density residential opportunity area.

### **Zoning**

The subject land is zoned General Residential Zone. The proposal is consistent with the purposes and decision guidelines of the General Residential Zone for the following reasons:

- It respects the neighbourhood character of the area.
- It encourages a diversity of housing types and housing growth particularly in locations offering good access to services and transport.
- The pattern of subdivision and its effects on the spacing of buildings is appropriate subject to conditions.

The minimum garden area requirement of clause 32.08-4 does not apply to the proposal, as the site is within a designated medium density housing area in Local Planning Policy 21.07-2 - Myrtleford.

### **Particular Provisions**

#### **Clause 52.06 Car Parking**

Pursuant to the requirements of this clause dwellings 1 and 3 must be provided with at least 2 car parking spaces and dwelling 2 must be provided with at least 1 car parking

space, which meet the minimum dimension requirements of Table 2. Conditions have been included to ensure compliance, should the application be supported.

### **Clause 53.01 - Public Open Space Contribution and Subdivision**

Pursuant to the requirements of this clause a public open space contribution is required as no new public open space is proposed onsite. A suitable condition has been included should the application be supported.

### **Clause 55 - Two or more Dwellings on a lot**

The application complies with all standards within the clause 55 provisions, subject to conditions, excluding standard B6 relating to street setbacks.

The proposed street setback does not meet the requirements of standard B6 relating to street setbacks, therefore the relevant decision guidelines and objectives must be considered. The proposal is considered to meet the relevant decision guidelines and street setback objective with existing dwellings at 11 and 23 O'Donnell Avenue in close proximity of the site having a minimum street setback of approximately 4 metres, the minimal visual impact of the reduced street setback with the front wall of dwelling 1 being at an angle to the street lot boundary, and the proposed setback not resulting in the loss of any significant vegetation within the current street setback area.

A detailed assessment of the proposal against the provisions of clause 55 is contained on the planning file - reference no. P.2021.35.

### **Clause 56 - Residential Subdivision**

The application must meet the requirements of clause 56. A detailed assessment of the proposal against the provisions of clause 56 is contained on the planning file – reference no. P.2021.35. The application is considered to meet the relevant requirements of this clause, subject to conditions.

### **General Provisions**

Clauses 65.01 and 65.02 of the Alpine Planning Scheme provides the general decision guidelines that must be considered before deciding on an application. A detailed assessment of the proposal against the provisions of Clauses 65.01 and 65.02 is contained on the planning file – reference no. P.2021.35. The proposal is generally in accordance with the decision guidelines.

### **CONCLUSION**

The application is considered to be consistent with the Alpine Planning Scheme and should be approved for the following summarised reasons:

1. The proposal generally meets the relevant provisions of the:
  - a. State and Local Planning Policy Framework
  - b. General Residential Zone

- c. Particular provisions including 52.06 Car Parking, 53.01 Public Open Space Contribution and Subdivision, 55 Two or more Dwellings on a lot, and 56 Residential Subdivision.
  - d. Decision Guidelines at Clause 65.01 and 65.02.
2. The proposal provides for urban infill in a centrally sited location within the township of Myrtleford.
3. The proposal provides an appropriate design and respects the existing and desired neighbourhood character.

## **DECLARATION OF CONFLICT OF INTEREST**

In accordance with section 130 of the *Local Government Act 2020*, and Chapter 7 section A6 of Council's Governance Rules, the following officers declare that they have no interests to disclose in providing this report.

- Director Corporate Performance
- Manager Planning and Amenity
- Planning Coordinator
- Planning Officer

## **APPENDICIES**

- 8.3.6.a. Conditions
- 8.3.6.b. Policy and decision guidelines



### **Appendix 8.3.6.a. CONDITIONS**

#### **Amended Plans**

1. Before the development starts, 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 will 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. No fencing higher than 1.5 metres within 3 metres of the O'Donnell Avenue boundary.
  - b. The common property access handle having a minimum width of 6 metres.
  - c. The bin storage area and letter boxes not being sited within the 2 metre by 2.5 metre visual truncation areas at the entrance to the accessway off O'Donnell Avenue and wholly contained within the proposed common property area.
  - d. Dwelling 2 being provided with a 6 cubic metre externally accessible secure store space.

#### **Endorsed Plans**

2. The layout of the site and the size of the proposed buildings and works must be generally in accordance with the endorsed plans which form part of this permit. The endorsed plans must not be altered or modified (whether or not to comply with any statute statutory rule or local law or for any other reason) without the consent of the responsible authority.
3. The layout of the subdivision as shown on the endorsed plan must 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 written consent of the Responsible Authority.

#### **Landscaping Works**

4. Before the occupation of the dwellings commence or by such later date as is approved by the responsible authority in writing, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the responsible authority.
5. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the responsible authority, including that any dead, diseased or damaged plants are to be replaced.

#### **Defect identification - Council's Assets Condition Report**

6. Prior to commencement of construction, the owner or developer must submit to the responsible authority a written report and photographs of any prior damage to public infrastructure. Listed in the report must be the condition of any kerb and channel, footpath, seal, streetlights, signs and other public infrastructure fronting the

property and abutting at least two properties either side of the development. Unless identified with the written report, any damage to infrastructure post construction will be attributed to the development. The owner or developer of the subject land must pay for any damage caused to the responsible authorities assets/public infrastructure caused as a result of the development permitted by this permit.

### **Tree Protection During Construction**

7. Before the development (including demolition) starts, a tree protection zone fence must be erected around the existing street tree from the base of the trunk to define a 'Tree Protection Zone'. The fence must be constructed of (star pickets and chain mesh or similar) to the satisfaction of the responsible authority. The tree protection fence must remain in place until construction is completed. The tree protection zone fencing is to be installed in accordance with Australian Standard AS 4970.

### **Regulation of Activities in Tree Protection Zone**

8. No vehicular or pedestrian access, trenching or soil excavation is to occur within the Tree Protection Zone without the written consent of the responsible authority. No storage or dumping of tools, equipment or waste is to occur within the Tree Protection Zone.

### **Street Tree**

9. No excavation is allowed within the drip line of any existing street tree unless otherwise approved by the responsible authority. This permit does not authorise the applicant to remove, trim or otherwise damage street trees within the vicinity of works. Should a tree be damaged, all replacement or arborist's costs shall be borne by the applicant.
10. Existing street trees must not be removed, without the prior written consent of the responsible authority.

### **Construction Site Storage Area**

11. An area for the storage of construction materials must be designated prior to the arrival of equipment and materials onsite. Wherever possible, disturbed areas should be used rather than areas of good quality indigenous vegetation and significant stands of trees. At the completion of construction all excess materials must be removed and the site should be regenerated to the satisfaction of the responsible authority.

### **Mailboxes**

12. Mailboxes must be provided and located for convenient access as required by Australia Post.

### **Garbage Storage**

13. Provision must be made on the land for the storage and collection of garbage and other solid waste. This area must be screened from public view to the satisfaction of the responsible authority.

### **Boundary fencing**

14. Prior to the occupation of the dwellings hereby approved boundary fences along the lot boundaries behind the front walls of the dwellings must be a minimum of 1.8 metres high above the finished ground level(s) within the site within the 9 metre cone of vision of any approved ground floor habitable room window which overlooks any existing habitable room window or secluded private open space.

### **Vehicle Manoeuvring**

15. All car parking spaces and driveways must be designed to allow all vehicles to drive forwards both when entering and leaving the property.

### **External Materials and Colours**

16. The external materials of the building(s) including the roof must be constructed in materials of muted colours, to the satisfaction of the responsible authority. No materials having a highly reflective surface shall be used. For the purposes of this condition 'highly reflective' includes but is not limited to unpainted zincalume.

### **Vehicle Access Points**

17. The vehicle access points must have a corner splay or area at least 50 per cent clear of visual obstructions extending at least 2 metres along the frontage road from the edge of an exit lane and 2.5 metres along the exit lane from the frontage, (excluding the proposed letterboxes as indicated on the endorsed plans) to provide a clear view of pedestrians on the footpath of the frontage road. The area clear of visual obstructions may include an adjacent entry or exit lane where more than one lane is provided, or adjacent landscaped areas, provided the landscaping in those areas is less than 900mm in height.

### **Construction of Car parking**

18. Prior to occupancy of the approved buildings the car parking spaces, access lanes, driveways and associated works shown on the plan must be:
  - constructed and available for use in accordance with the plan approved by the responsible authority
  - formed to such levels and drained so that they can be used in accordance with the plan
  - treated with an all-weather seal or some other durable surface
- all to the satisfaction of the responsible authority.

## **Noise Sources**

19. Noise sources, such as mechanical plant, should not be located near bedrooms of immediately adjacent existing dwellings, to the satisfaction of the responsible authority.

## **Subdivision Conditions**

### **Existing Structures**

20. Prior to issue of a statement of compliance under the Subdivision Act 1988, existing buildings and works on all proposed lots must be demolished and removed from site to the satisfaction of the Responsible Authority.

### **Common Property**

21. Prior to the issue of a statement of compliance, the submission and approval of a to scale and dimensioned plan and report identifying:
  - a. The common area to be owned by the body corporate, including any streets and open space;
  - b. The reasons why the area should be commonly held;
  - c. Lots participating in the body corporate;
  - d. The proposed management arrangements including maintenance standards for streets and open spaces to be commonly held.

### **Telecommunications**

22. The owner of the land must enter into an agreement with:
  - a telecommunications network or service provider for the provision of telecommunication services to each lot shown on the endorsed plan in accordance with the provider's requirements and relevant legislation at the time; and
  - a suitably qualified person for the provision of fibre ready telecommunication facilities to each lot shown on the endorsed plan in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.
23. Before the issue of a Statement of Compliance for any stage of the subdivision under the Subdivision Act 1988, the owner of the land must provide written confirmation from:
  - a telecommunications network or service provider that all lots are connected to or are ready for connection to telecommunications services in accordance with the provider's requirements and relevant legislation at the time; and
  - a suitably qualified person that fibre ready telecommunication facilities have been provided in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can

demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.

### **General**

24. 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.
25. All existing and proposed easements and sites for existing or required utility services and road 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 or site is to be created.
26. 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 the Act.

### **Covenants**

27. No covenants shall be created over the subject land without the further consent in writing of the responsible authority.

### **Payment in lieu of open space provision**

28. Prior to the issue of the Statement of Compliance under the Subdivision Act 1988, the applicant or owner must pay to the responsible authority a sum equivalent to five per cent of the site value of all the land in the subdivision.

### **Driveway Construction Requirements**

29. Prior to issue of the Statement of Compliance under the Subdivision Act 1988, the common property driveway as shown on the endorsed plans must be:
  - a. constructed of concrete or surfaced with an all-weather seal coat; and
  - b. drained in accordance with an approved drainage plan;
30. to the satisfaction of the responsibility authority.
31. The driveway must be constructed and drained to prevent diversion of flood or drainage waters, and maintained in a continuously useable condition to the satisfaction of the responsible authority.

### **Alpine Shire Engineering Conditions**

#### **Urban Drainage Works**

32. Prior to issue of a Statement of Compliance under the Subdivision Act 1988 or occupancy of the approved buildings (whichever occurs first), all stormwater and surface water discharging from the site, buildings and works must be conveyed to the legal point of discharge by underground pipe to the satisfaction of the responsible authority. No effluent or polluted water of any type may be allowed to enter the Council's stormwater drainage system. The legal point of discharge for this

site is the underground drainage pipe on O'Donnell Avenue. All roof water from buildings and surface water from paved areas must be collected and discharged to the legal point of discharge to avoid any nuisance discharge to adjacent land, to the satisfaction of the responsible authority.

### **Drainage Discharge Plan**

33. Prior to issue of certification of the Plan of Subdivision or the commencement of buildings and works authorised by this permit (whichever occurs first), a properly prepared drainage discharge plan with computations must be submitted to and approved by the responsible authority. When approved, the plans will be endorsed and will then form part of this permit. The plans must be drawn to scale with dimensions. The information submitted must show the details listed in Council's Infrastructure Design Manual and be designed in accordance with the requirements of that manual. The information and plan must include:
- a. details of how the works on the land are to be drained and/or retarded
  - b. connection points for drainage for each lot (for subdivisions only)
  - c. underground pipe drains conveying stormwater to the legal point of discharge for each allotment
  - d. measures to enhance stormwater discharge quality from the site and protect downstream waterways, including the expected discharge quality emanating from the development and design calculation summaries of the treatment elements
  - e. a maximum discharge rate from the site is to be determined by computation to the satisfaction of the responsible authority or 37 lit/sec/ha
  - f. the provision of gross pollutant and/or litter traps installed at the drainage outfall of the development to ensure that no effluent or polluted water of any type may be allowed to enter the Council's stormwater drainage system
  - g. the details of the incorporation of water sensitive urban design designed in accordance either "Urban Stormwater Best Practice Environmental Management Guidelines" 1999
  - h. maintenance schedules for treatment elements
34. Prior to issue of a Statement of Compliance under the Subdivision Act 1988 or occupancy of the approved buildings (whichever occurs first), all works constructed and carried out must be in accordance with the endorsed plans to the satisfaction of the responsible authority.

### **Urban Vehicle Crossing Requirements**

35. Prior to issue of a Statement of Compliance under the Subdivision Act 1988 or occupancy of the approved buildings (whichever occurs first), vehicular crossings shall be constructed in accordance with the endorsed plan(s) to the satisfaction of the responsible authority, and shall comply with the following:
- a. Standard vehicular crossings shall be constructed at right angles to the road to suit the proposed driveways, and any existing redundant crossing shall be

- removed and replaced with concrete kerb and channel and landscaping to match into the surrounding profile with 100mm topsoil and reseeded.
- b. Any proposed vehicular crossing shall have satisfactory clearance to any side-entry pit, power or Telecommunications pole, manhole cover or marker, or street tree. Any relocation, alteration or replacement required shall be in accordance with the requirements of the relevant Authority and shall be at the applicant's expense
- c. Crossings shall be constructed of plain grey concrete and be generally in accordance with IDM drawing SD240

### **Prior to Commencement of Construction**

- 36. Before any road/drainage works associated with the subdivision/development start, the following items must be satisfied:
  - a. Issue of the certified Plan of Subdivision
  - b. Approval of the construction plan
  - c. An on-site meeting with officers of the municipality, the contractor and the developer or the developer's consultant to discuss matters such as roadside management, construction techniques, sedimentation controls, vegetation clearing controls and vegetated areas to be barricaded off prior to and during construction

### **Vehicle Turning**

- 37. All car parking spaces must be designed to allow vehicles to drive forwards when entering and leaving the property. A turning template is to be shown on the approved drawings which clearly indicates a B85 vehicle is capable of achieving the required movements.

### **Construction Management Plan**

- 38. Soil erosion control measures must be employed throughout the construction stage of the development to the satisfaction of the responsible authority.
- 39. Prior to the commencement of construction, a construction management plan shall be submitted to and approved by the responsible authority. The plan must outline how issues such as mud on roads, dust generation and erosion and sediment control will be managed, on site, during the construction phase. Details of a contact person/site manager must also be provided, so that this person can be easily contacted should any issues arise. Management measures are to be in accordance with EPA guidelines for Environment Management, "Doing It Right On Subdivisions" Publication 960, September 2004.

### **No Mud on Roads**

- 40. Appropriate measures must be implemented throughout the construction stage of the development to rectify and/or minimise mud, crushed rock or other debris being

carried onto public roads and footpaths from the subject land, to the satisfaction of the responsible authority.

### **Ausnet Conditions**

41. The plan of subdivision submitted for certification must be referred to AusNet Electricity Services Pty Ltd in accordance with Section 8 of the subdivision Act 1988.
42. The applicant must –
  - a. Enter into an agreement with AusNet Electricity Services Pty Ltd for the extension, upgrading or rearrangement of the electricity supply to lots on the plan of subdivision. A payment to cover the cost of such work will be required.
  - b. Provide electricity easements internal and external to the subdivision in favour of AusNet Electricity Services Pty Ltd to service the lots on the plan of subdivision and/or abutting lands as required by AusNet Electricity Services Pty Ltd. The provision of reserves for electricity substations may also be required.

### **Country Fire Authority Conditions**

#### **Hydrants**

43. Prior to the issue of a Statement of Compliance under the Subdivision Act 1988 the following requirements must be met to the satisfaction of the CFA:
  - a. Above or below ground operable hydrants must be provided. The maximum distance between these hydrants and the rear of all building envelopes (or in the absence of building envelopes, the rear of the lots) must be 120 metres and the hydrants must be no more than 200 metres apart. These distances must be measured around lot boundaries.
  - b. The hydrants must be identified with marker posts and road reflectors as applicable to the satisfaction of the Country Fire Authority.

Note –CFA’s requirements for identification of hydrants are specified in ‘Identification of Street Hydrants for Firefighting Purposes’ available under publications on the CFA web site ([www.cfa.vic.gov.au](http://www.cfa.vic.gov.au))

### **North East Water Conditions**

1. That prior to works commencing pursuant to the permit, the applicant enters into a Developer Works Agreement with North East Water that requires it to construct, at the applicant’s cost, works necessary to provide a water supply service to the proposed subdivision to the satisfaction of North East Water, in accordance with its policies and requirements applicable from time to time.
2. That prior to works commencing pursuant to the permit, the applicant enters into a Developer Works Agreement with North East Water that requires it to construct, at the applicant’s cost, works necessary to provide a sewerage service to the proposed subdivision to the satisfaction of North East Water, in accordance with its policies and requirements applicable from time to time.



3. That the applicant pays a new customer contribution determined in accordance with North East Water's policy for development charges applicable to the water supply system currently servicing the area in which the subject land is located.
4. That the applicant pays a new customer contribution determined in accordance with North East Water's policy for development charges applicable from time to time towards North East Water's sewerage and disposal systems servicing the area to which the permit applies.
5. Easements must be provided over sewerage infrastructure to the satisfaction of North East Water.
6. The applicant must enter into an agreement with North East Water for any proposed structures or works over or near a North East Water easement or asset in accordance with North East Water requirements.
7. That in constructing any private water services, the applicant ensures that such services do not traverse property boundaries and are independently supplied from a point of supply approved by North East Water.
8. That the plan of subdivision be referred to North East Water when submitted for certification pursuant to Section 8 of the Subdivision Act 1988.
9. That North East Water's consent is sought by the Responsible Authority prior to issuing a Statement of Compliance under the Subdivision Act 1988.

### **Expiry Condition**

10. This permit will expire if one of the following circumstances applies:
  - a. The buildings and works are not started within two (2) years of the date of this permit.
  - b. The buildings and works are not completed within four (4) years of the date of this permit.
  - c. The plan of subdivision is not certified within two (2) years of the date of this permit.
  - d. The registration of the subdivision is not completed within five (5) years of the date of certification of the plan of subdivision.
11. The responsible authority may extend the time if a request is made in writing before the expiry of the permit or within 6 months afterwards.

### **END OF CONDITIONS**

### **Planning Notes**

12. This permit does not authorise approval under the Building Act. It is the responsibility of the applicant to determine if a building permit is required for the proposed buildings and works.
13. A road opening/crossing permit must be obtained from the responsible authority prior to working in or occupying the road reserve with construction equipment or materials. Applications may be accessed from the Alpine Shire Council website.

14. It is recommended that, at an early date the applicant commences negotiations with AusNet Services for a supply of electricity in order that supply arrangements can be worked out in detail, so prescribed information can be issued without delay (the release to the municipality enabling a Statement of Compliance with the conditions to be issued).
15. Arrangements for the supply will be subject to obtaining the agreement of other Authorities and any landowners affected by routes of the electric power lines required to supply the lots and for any tree clearing. Prospective purchasers of lots on this plan should contact this office to determine the availability of a supply of electricity. Financial contributions may be required. For all enquiries please email: [subdivisions@ausnetservices.com.au](mailto:subdivisions@ausnetservices.com.au).
16. The fire hydrant requirements referenced above are required to ensure compliance with the subdivision requirements (Clause 56.09-3) of Clause 32.08-3 for subdivisions of three or more lots.
17. CFA does not consent to the Certification of the Plan of Subdivision and Statement of Compliance for Subdivision at this stage.

### **Appendix 8.3.6.b.**

#### **POLICY AND DECISION GUIDELINES**

All of the below mentioned relevant planning considerations from the Alpine Planning Scheme may be viewed at the following link: <https://planning-schemes.delwp.vic.gov.au/schemes/alpine>.

#### **State Planning Policy Framework**

The State Planning Policy Framework (SPPF) provides relevant direction to the proposal at the following clauses:

- 11.01-1S Settlement
- 11.02-1S Supply of urban land
- 13.01-1S Natural hazards and climate change
- 13.02-1S Bushfire planning
- 14.02-1S Catchment planning and management
- 15.01-2S Building design
- 15.01-3S Subdivision design
- 15.01-5S Neighbourhood character
- 16.01-1S Housing supply
- 16.01-2S Housing affordability
- 18.02-4S Car parking
- 19.03-2S Infrastructure design and provision
- 19.03-3S Integrated water management

The Local Planning Policy Framework (LPPF) provides relevant direction to the proposal at the following clauses:

- 21.03-1 Townships and villages
- 21.03-4 Built form and heritage
- 21.04-4 Environmental risk
- 21.04-6 Catchments and waterways
- 21.06-1 Infrastructure
- 21.07-2 Myrtleford
- 22.01-1 Battle-axe blocks policy
- 22.04-1 Infrastructure
- 22.04-4 Urban stormwater management

#### **Zone**

The subject land is zoned General Residential Zone.

#### **Particular Provisions**

- 52.06 Car Parking
- 53.01 Public Open Space Contribution and Subdivision
- 55 Two or more Dwellings on a lot and Residential Buildings
- 56 Residential Subdivision

## **General Provisions**

Clauses 65.01 and 65.02 within the Alpine Planning Scheme provides the general decision guidelines.

### 8.3.7 Planning Application P.2019.169.1 - 490 Buckland Valley Road

<i>Application number:</i>	<i>P.2019.169.1</i>
<i>Proposal:</i>	<i>Use and Development of the Land for Group Accommodation (Development of three short term accommodation cabins)</i>
<i>Applicant's name:</i>	<i>Nick Vlahandreas, Mountain Planning</i>
<i>Owner's name:</i>	<i>Aisha Nominees Pty Ltd</i>
<i>Address:</i>	<i>490 Buckland Valley Road, Buckland.</i>
<i>Land size:</i>	<i>9.967 hectares</i>
<i>Current use and development:</i>	<i>Agricultural and residential</i>
<i>Site features:</i>	<i>The subject site is located on the western side of Buckland Valley Road. The site is legally described as Lot 2 on Plan of Subdivision 812578M and has a total area of 9.967 hectares. The site currently contains a single storey dwelling and garage/shed/carport. The site is currently used as an olive plantation associated with the production of olive oil. Part of the site is also used for horse grazing. Access is afforded to the site via an existing crossover located on Buckland Valley Road, and an all-weather driveway.</i>
<i>Why is a permit required?</i>	<i>Farming Zone Clause 35.07-1 (FZ) A permit is required for a Section 2 use - accommodation Farming Zone Clause 35.07-4 (FZ) A permit is required for buildings and works associated with a Section 2 use. Significant Landscape Overlay Clause 42.03-2 (SLO4) A permit is required to construct a building or to construct or carry out works. Bushfire Management Overlay Clause 44.06-2 (BMO) A permit is required to construct a building or to construct or carry out work associated with accommodation (including a dependent person's unit).</i>
<i>Zoning:</i>	<i>Clause 35.07 – Farming Zone</i>
<i>Overlays:</i>	<i>Clause 42.03 – Significant Landscape Overlay – Schedule 4 Clause 44.06 – Bushfire Management Overlay</i>

<i>Restrictive covenants on the title?</i>	<p><i>Section 173 Agreement AJ534698A – The owner covenants and agrees that the land that surrounds the land the subject of this agreement is zoned Farming under the Scheme and accepts that the owners of the adjoining and surrounding land retain a right to farm, and as such may be subject to the seasonal agricultural practices of the adjoining agricultural land such as noise, odours, spray drift, etc, that may impinge on the Land the subject of this Agreement. Such usages on the adjoining land may include the use of helicopters and gas guns, and the like, provided that their use is in accordance with any regulation, code of practice or law administered by a public authority, eg., the Alpine Shire Council policy for Control of Noise from Scare (sic) Guns under the Health Act, 1958.</i></p> <p><i>Section 173 Agreement AQ344043B – relates solely to the neighbouring Lot 1 preventing the use of the land for a dwelling.</i></p>
<i>Date received:</i>	<i>16 December 2019</i>
<i>Statutory days:</i>	<i>126</i>
<i>Planner:</i>	<i>Rhiannon Biezen</i>

*Cr Hughes*  
*Cr Nicholas*

*That a Notice of Decision to grant a planning permit be issued for the Use and Development of the Land for Group Accommodation (Development of three short term accommodation cabins) in accordance with the conditions outlined in Appendix 8.3.7.a. for the following reasons:*

- 1. The proposal generally meets the relevant provisions of the:*
  - a. State and Local Planning Policy Framework;*
  - b. Farming Zone;*
  - c. Particular provisions including clause 52.06 Car Parking, 52.29 Land Adjacent to a Road in Road Zone - Category 1 and 53.02 Bushfire Planning;*
  - d. Decision Guidelines at Clause 65.01.*
- 2. The proposal's potential to limit the operation and expansion of adjoining and nearby agricultural uses can be managed.*

*Carried*

## **PROPOSAL**

The proposal involves the Use and Development of part of the land at 490 Buckland Valley Road for Group Accommodation (in the form of three short term accommodation cabins) which is supported by the planting of an additional 900 olive trees.

### **Group Accommodation**

‘Land, in one ownership, containing a number of dwellings used to accommodate persons away from their normal place of residence’.

Each cabin will contain:

- a) a kitchen sink;
- b) food preparation facilities;
- c) a bath/shower; and
- d) a toilet and wash basin.

Therefore, each cabin is defined as a dwelling and is proposed to be used for short term accommodation.

### **Buildings and Works**

Three cabins are proposed as part of this application, two of which are to be newly constructed and located centrally. The third cabin will be located within the existing shed further south towards the dwelling. The two new cabins were originally proposed to be located towards the southern boundary however their siting was amended to the proposed central location following consultation with direct neighbour to the south who raised concerns regarding the proximity of the cabins to the shared boundary.

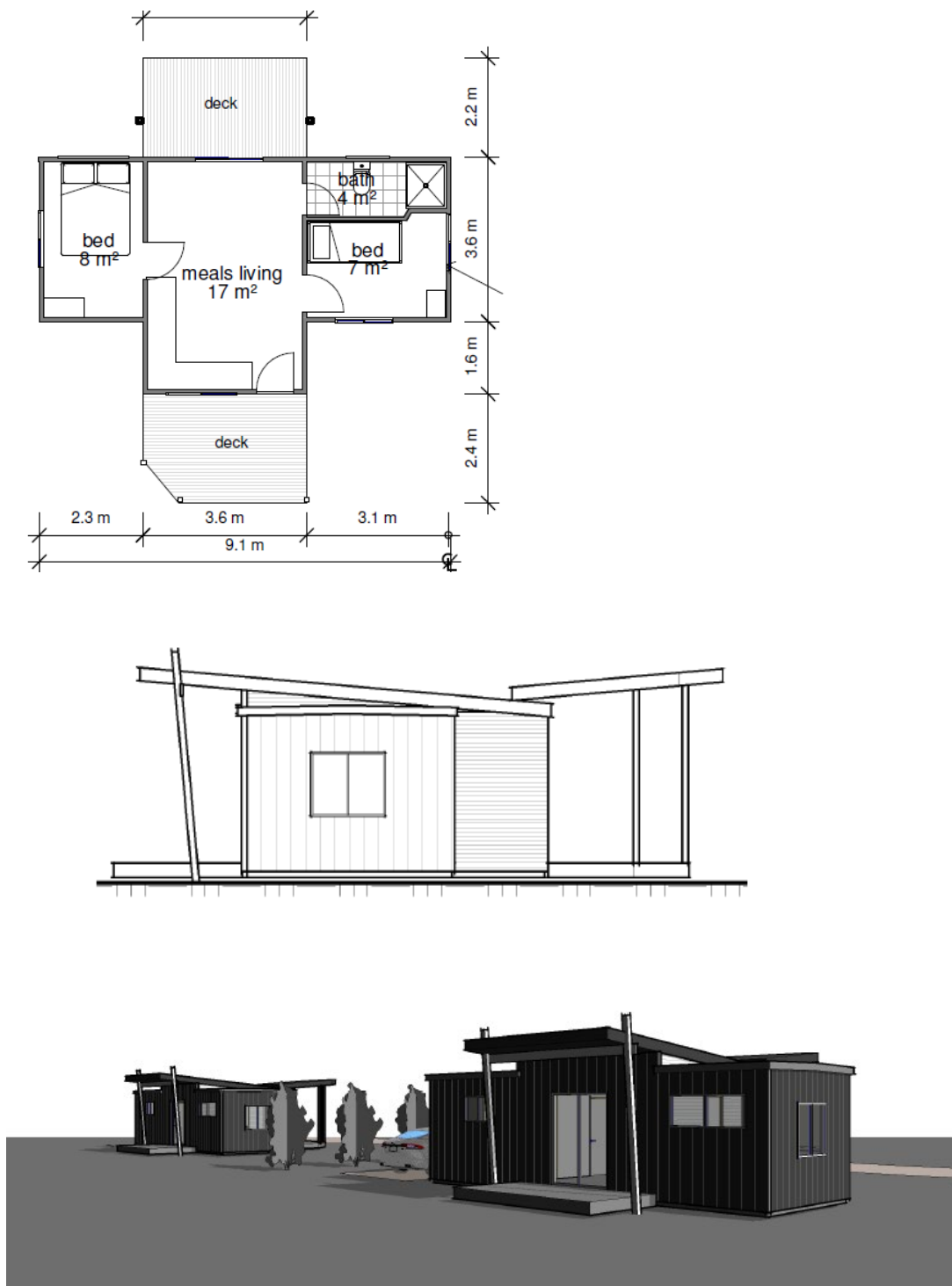
The minimum setbacks proposed are 64.6m from Buckland Valley Road, 15 metres between cabin 1 and 2 and 38 metres from the western boundary for the two newly constructed cabins. The southernmost cabin, contained within the existing shed structure, is located approximated 120m from the southern boundary.



**Figure 2: Shows the development layout on site.**

Each cabin will contain 2 bedrooms, 1 bathroom, open plan lounge/dining/kitchen, two uncovered deck areas and a single carport. Each new cabin will have a floor to ceiling height of 2.5 metres and an overall height of 3.5 metres. Each unit will have a total floor area of 56.52 sqm including the two (2) external decks. External material and colour details have been not provided. The provided images and details listed on the plans indicate the cabins will be constructed of Colorbond cladding in Monument and merbau decking for the decks. Figure 2 below shows the submitted plans.





**Figure 2 Details the proposed cabins to be constructed**

The bedsit located within the existing shed near the dwelling will be open plan, contain two (2) beds, kitchen/dining/lounge bathroom and carport. The shed is constructed of cement sheeting and Colorbond iron for the roof. The bed sit will have a total area of 41 sqm. Figure 3 below shows the submitted plans for the bedsit studio.

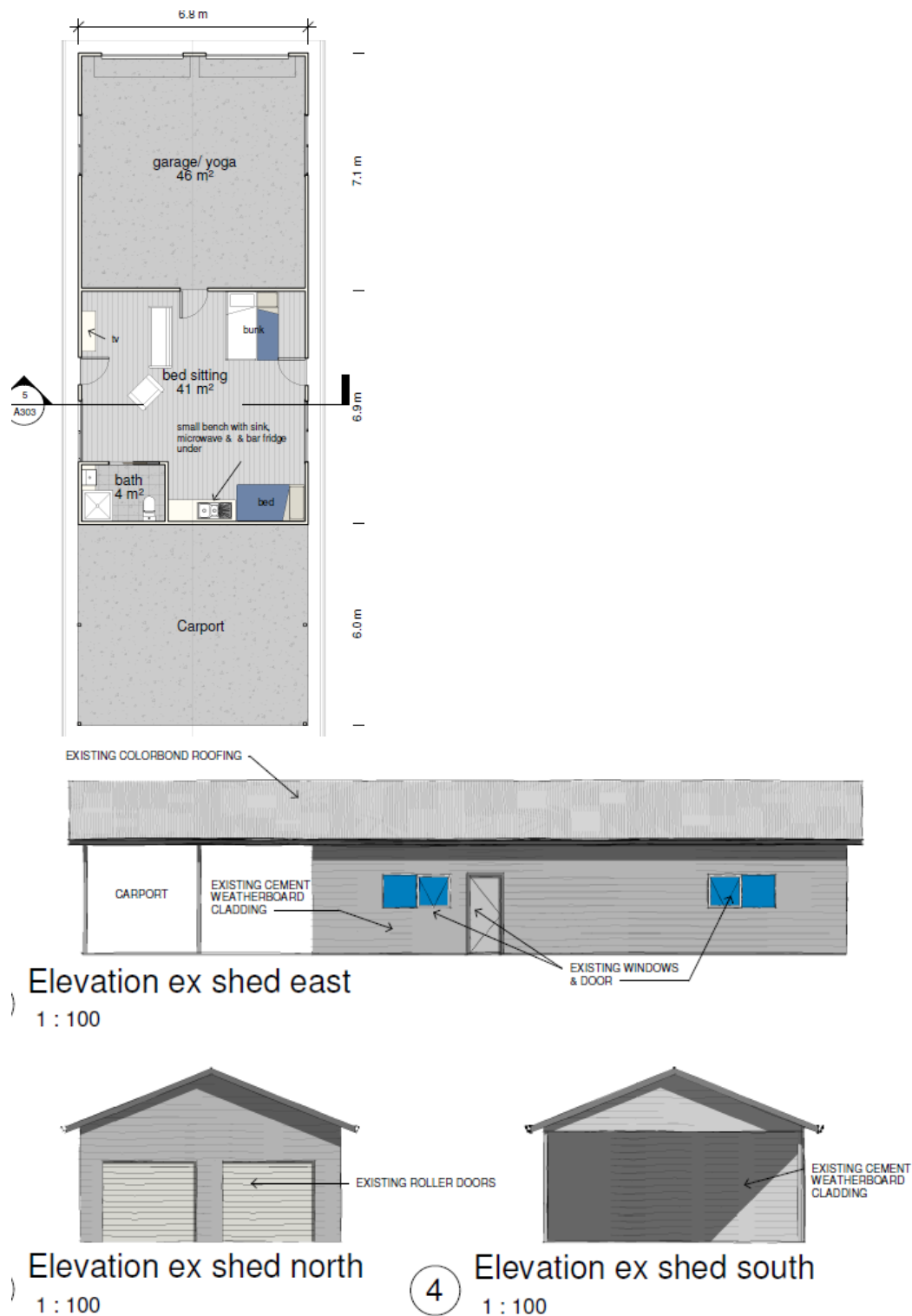


Figure 3 Details the proposed bedsit plans

## SUBJECT LAND AND SURROUNDS

The subject site is located on the western side of Buckland Valley Road. North and south of the subject land are land holdings currently under grape, apple and nut production.

East of the site is currently grazed and west is the Buckland River with Mount Buffalo National Park beyond it.

The site has a total area of 9.967 hectares and currently contains a single storey dwelling and garage/shed/carport with part of the site used for the growing of olives with a secondary use for horse grazing. Access is afforded to the site via an existing crossover located on Buckland Valley Road, and an all-weather driveway.



**Figure 4 Show the subject land**

Adjoining and surrounding lots are all located within the Farming Zone. Lots surrounding the site are all of a varying sizes compared to the subject site. The predominant land use in the area is agriculture, Figure 5 show the broader surrounding area context.

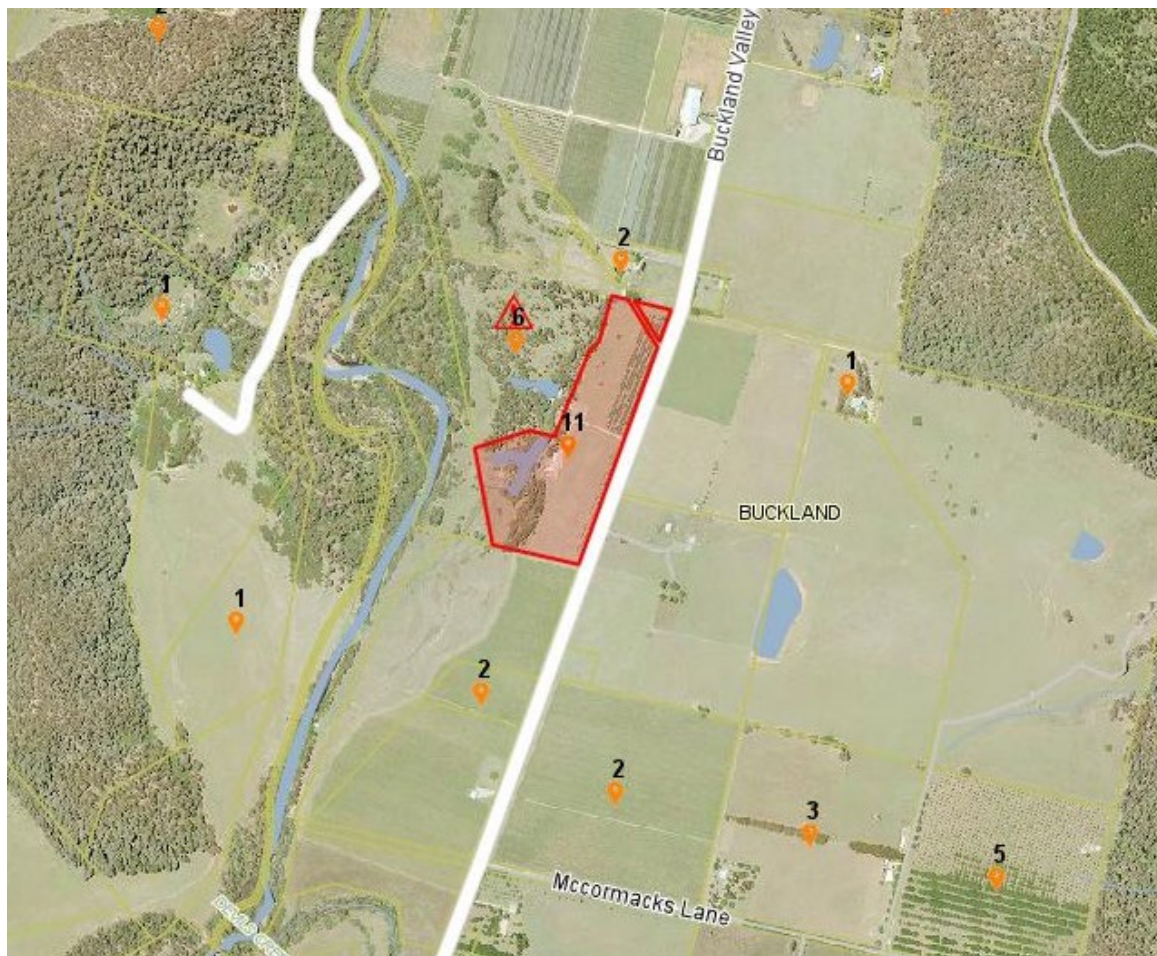


Figure 5 Shows the surrounding context of the subject land

## PUBLIC NOTIFICATION

The application was advertised in accordance with Section 52 of the *Planning and Environment Act 1987*. Notice of the application was sent to eight (8) surrounding landholders and occupiers. A sign was displayed on the subject land.

The application was publicly notified for 14 days with letters and a sign onsite. One (1) objection was received and maintained.

A summary of the matters raised on the objection is provided below:

The objector identified agreement AJ534698A is registered under Section 173 of the Planning and Environment Act on the title of the subject site and it states:

The owner covenants and agrees that the land that surrounds the land the subject of this agreement is zoned Farming under the Scheme and accepts that the owners of the adjoining and surrounding land retain a right to farm, and as such may be subject to the seasonal agricultural practices of the adjoining agricultural land such as noise, odours, spray drift, etc, that may impinge on the Land the subject of this Agreement. Such usages on the adjoining land may include the use of helicopters and gas guns, and the like, provided that their use is in accordance with any regulation, code of practice or law administered by a public authority, eg., the Alpine Shire's policy for Control of Noise from Scare Guns under the Health Act, 1958."

Alpine Shire Local Law states that any scare gun must be positioned a minimum of 300m away from any dwelling on adjoining property without a permit.

Concern was raised by the applicant that this will lead to conflicts between landowners due to the placement of scare guns in relation to the cabins and the ability for the objector to farm his vineyard and is inconsistent with various provisions within the Alpine Planning Scheme.

The applicant's response to matters in the objection is provided below:

The applicant for the permit (Mountain Planning) proposed locating the scare gun on the applicants land therefore removing any potential local law compliance issues as well as assisting with keeping birds off the vineyard property. The condition on the issued permit would read as follows:

"The land owner must allow the location of bird scare guns on the subject land when reasonably required to assist with agriculture in accordance with any applicable local law to the satisfaction of the Responsible Authority."

The assessing officer's response to matters in the objection is provided below:

Whilst, on the whole, the Planning Department is supportive of the proposed use and development of the subject site the potential conflict between the non agricultural use and productive farm land is a significant consideration. The condition suggested by the permit applicant is however not considered suitable given the owner of the adjoining vineyard would have minimal control and access to the equipment. It is considered that a more suitable approach would be to issue the owner of the vineyard with a permit to allow scare guns across the full extent of the property, this would be supported by the current S173 agreement on the title of the subject site which recognises the location of the site within an active agricultural area and lawful agricultural practices are to be expected.

## REFERRALS

Referrals / Notice	Advice / Response / Conditions
Section 55 referrals:	Country Fire Authority - No objection, subject to conditions. Goulburn Murray Water - No objection, subject to conditions. North East CMA- No objection, subject to no conditions.
Internal / external referrals:	Alpine Shire Health Department - No objection, subject to conditions. Alpine Shire Engineering Department - No objection, subject to conditions.

## PLANNING ASSESSMENT AND RESPONSE TO GROUNDS OF OBJECTION

All applicable policy and decision guidelines can be found in Appendix 8.3.7.b.



## **State and Local Planning Policy Framework (PPF)**

Clause 13.01-1S - Natural hazards and climate change main objective is to minimise the impacts of natural hazards and adapt to the impacts of climate change through risk-based planning.'

Clause 13.02-1S - Bushfire planning has the objective to strengthen the resilience of communities and prioritise and protect human life.

Clause 14.01-1S - Protection of agricultural land has the objective to protect the state's agricultural base by preserving productive farmland.

Relevant strategies

In considering a proposal to use, subdivide or develop agricultural land, consider the:

- Impacts on the continuation of primary production on adjacent land, with particular regard to land values and the viability of infrastructure for such production.
- Compatibility between the proposed or likely development and the existing use of the surrounding land.
- Balance the potential off-site effects of a use or development proposal (such as degradation of soil or water quality and land salinisation) against the benefits of the proposal

As discussed earlier the application received an objection on behalf of the vineyard operator to the immediate south of the subject site. The objection raised concerns that the operation of the vineyard will be detrimentally affected through the restrictions contained in the Alpine Shire Local Law requiring a permit to use scare guns within 300m of a dwelling.

It is considered that this concern can be managed through the issuing of a scare gun permit and the acceptance through the inclusion of a S173 agreement that the proposed use is located within an active agricultural area and lawful farm practices are to be expected.

***Clause 14.01-2S - Sustainable agricultural land use of the PPF objective is to encourage sustainable agricultural land use.***

The existing agricultural component of the site will be retained and strengthened through the planting of an additional 900 olive trees. The proposed cabins will be located away from the activities to ensure the land remains productive and can carry on and expand these agricultural activities. As discussed, earlier concerns from the adjoining land owner regarding potential impacts on the operating of their scare gun can be controlled through the issuing of a local laws permit and the existing S173 agreement on the subject land which recognises the agricultural operations within the area.

***Clause 14.02-1S - Catchment planning and management of the PPF aims to assist the protection and restoration of catchments, water bodies, groundwater, and the marine environment.***

The subject site is located within the located within declared water supply catchment (Ovens River – Wangaratta). The application was referred to North East CMA who consented to the application although did note that Councils Environmental Health

Department ensure that the onsite wastewater management system is suitably designed, located and sized to comply with the EPA Victoria's Code of Practice Onsite Wastewater Management, Publication number 891.4, July 2016, inclusive of Table 5 recommended setback distances from the waterway. The application included an LCA, prepared by SJE Consulting dated May 2021. The application was also referred to Councils Environmental Health Department who conditioned the permit for the applicant to undertake the recommendations set out in the LCA prepared by SJE Consulting dated May 2021.

***Clause 15.01-6S - Design for rural areas of the PPF aims to ensure development respects valued areas of rural character.***

The design and siting of the cabins is considered appropriate for the subject site and will have minimal impact upon the surrounding landscape due to the significant setbacks from boundaries. In addition the existing screening provided by the existing olive groves combined with the small footprint and height, being a maximum of 2.9 metres, proposed colours and materials of a muted tone and colours will ensure that the development will blend into the existing landscape and environment.

***Clause 17.04-1S - Facilitating tourism of the PPF objective is to encourage tourism development to maximise the economic, social and cultural benefits of developing the state as a competitive domestic and international tourist destination.***

The proposed use facilitates an additional offering to the tourism industry in the area whilst protecting the environmental and landscape values of the land and surrounding area. Rural based tourism is encouraged in this area through the Rural Land Strategy. The proposed use will increase visitation and length of stay for visitors to the area whilst value adding to the existing agriculture venture.

## **Local Planning Policy Framework**

***Clause 21.04-4 Environmental Risk of the MSS further notes that Alpine Shire has a unique landscape with a number of environmental risks that need to be considered when planning for growth. It states that development should be managed in areas at risk from bushfire.***

The site is located within a Bushfire Management Overlay and bushfire risk has been considered as part of the application. A Bushfire Management Statement has been prepared which has assessed the risk and includes ongoing mitigation measures set out within Bushfire Management Plans for the proposed development. The Country Fire Authority has also conditioned for the development to prepare a Bushfire Emergency Plan which will include requirements to close during days of Fire Danger Rating of Code Red and Extreme.

***Clause 21.04-6 - Catchments and waterways aims to ensure development does not have a detrimental impact upon the quality of the Alpine Shire's catchments and waterways.***

See comment above under Clause 14.02-1S.

***Clause 21.05-1 – Tourism aims to:***

- Enhance and expand the tourism industry, while protecting the environmental, landscape and cultural values of the Shire and the lifestyle of its residents.

- Facilitate the growth of rural based tourism in a manner that builds on and complements the agricultural industry and environmental assets.
- Encourage a diverse range of tourist activities and facilities in appropriate locations to meet changing visitor needs.
- Generate increased visitation, yield, length of stay, and visitation dispersal, both geographic and seasonal
- Ensure that the stimulation of tourism by development and promotion is carried out within the constraints of public land management objectives to preserve and protect the natural environment, and conserve flora and fauna.
- Minimise the negative impact that tourism can have on the built and natural environment within the Shire.

***21.05-3 – Agriculture aims to:***

- Maintain a viable and sustainable agricultural industry to support the municipal economy and wellbeing.
- Maintain and protect strategically significant agricultural land for production.
- Facilitate rural industries and value adding in rural areas that support the agricultural sector.
- Support rural based/agri-tourism in appropriate locations.
- Support value adding and rural dependent enterprises.
- Encourage alternative forms of sustainable agriculture that increase farm viability.
- Recognise the mineral potential within the Shire and its impact on the environment and community.
- Recognise the agricultural importance of the highly productive valley floors and to protect such land from inappropriate development and land use especially residential expansion.
- Recognise the environmental significance of remote rural areas and to protect such land from inappropriate development and land use.
- Acknowledge the various rural precincts identified across the Shire and that a one-size-fits-all approach will not necessarily deliver preferred land use outcomes.

The proposal is considered to support agriculture through the planting off an additional 900 olive trees along with the retain of the original trees. The cabins will be located away from the proposed use to ensure the land remains productive and can carry on these agricultural activities. Any issued permit will include a condition requiring the planting of the 900 olive trees prior to the accommodation use commencing on the site. Figure 6 below shows the proposed Olive Grove expansion.





**Figure 6 shows the submitted farm plan proposing to expand the existing olive orchard**

***Clause 22.02-3 - Landscapes - this policy applies to all applications for buildings and works within significant landscapes and view sheds including land on significant hilltops and ridgelines.***

**Policy basis**

- The natural landscape of the Shire is an important asset that requires protection from inappropriate use and development. Apart from extensive views across pastoral landscapes to the treed slopes and hilltops beyond, there are also many views of significance from numerous various scenic lookouts and vantage points across public land to the valley floors stretched out below. A number of these landscapes have been classified by the National Trust of Victoria while the Australian Alps are one of ten recognised National Landscapes. The visual and environmental implications of inappropriate development along these natural features can readily destroy the significance, attractiveness and environmental qualities of the area.'

It is considered that due to the location on site combined with the scale of the proposed cabins there will be minimal. The materials used in the construction of the cabins will be a combination of Colorbond and timber, it is considered the appearance will sit comfortably within the existing landscape. The location of the cabins is considered appropriate for the subject site as the site is relatively flat, they are well setback within the boundaries.

**Clause 22.03-1 - Tourist use and development, contains the following relevant objectives:**

- *Encourage tourist facilities to locate in areas with an adequate level of support services and facilities.*
- *Encourage tourism development related to agricultural and other rural based industries, while minimising the loss of rural land and potential for land use conflicts with current or potential agricultural production.*

The proposal originally sought to locate all the new buildings south of the existing dwelling. Following the identified concern with this location and the potential conflict due to operation of the neighbouring vineyard the application was amended to locate the new builds centrally on the subject land. This adjustment has seen the mitigation against future potential conflicts with surrounding land uses whilst still ensuring the agricultural direction of the subject land isn't affected.

**22.03-2 - Agriculture**

**The relevant policy and objectives of this policy are:**

- Prevent land use conflicts between agricultural uses and sensitive uses and ensure that use and development in the Shire is not prejudicial to agricultural industries or the productive capacity of the land.
- Use and development of agricultural lands will ensure the long term sustainable management of the natural resources and environment that support the agricultural use of land

The existing agricultural use relating to the growing of olives within the subject site will still occur and strengthened further through the planting of an additional 900 olive trees. A condition will be included on any issued permit requiring the planting of the trees prior to the issuing of a building permit for the proposed use to ensure that the agricultural output of the subject land benefits from the proposal.

**Zoning**

The subject land is zoned Farming Zone. The purpose of the zone as relevant to the application is:

- To provide for the use of land for agriculture.
- To encourage the retention of productive agricultural land.
- To ensure that non-agricultural uses, including dwellings, do not adversely affect the use of land for agriculture.

The provision and retention of agricultural land is at the heart of the purpose of the farming zone along with ensuring that non agricultural uses do not adversely affect the use of land for agricultural. The group accommodation is sufficiently integrated into the working olive production farm, this association with the agriculture conducted onsite supports the proposal. Furthermore, the development is ancillary in scale to the agriculture (olive production) being the conducted onsite which is also set to be further expanded ensuring agriculture remains the dominate land use. This outcome is supported by the direction of the Farming zone.

In considering the subject application it is considered that an ability to manage the use of scare guns through the issuing of a local law permit when required combined with the planting of the additional 900 olive trees will ensure future amenity concerns or land use conflicts are managed.

### **Significant Landscape Overlay – Schedule 4**

The proposed cabins will be located behind the increased number of olive trees which will provide screening from the road and surrounding properties. The cabins are approximately 2.9m in height with a flat roof. As discussed earlier the scale, design and location of the cabins will allow the proposal to sit comfortably within the Natural Trust listed landscape.

### **Bushfire Management Overlay**

The land is covered entirely by the Bushfire Management Overlay. There is a planning permit trigger for the proposal at clause 44.06-2. The application was referred to the Country Fire Association (CFA) for comment. Consent was provided. The application is considered to meet the relevant requirements of the Bushfire Management Overlay.

### **Particular Provisions**

#### **Clause 52.06 - Car Parking**

The car parking requirements of Clause 52.06 do not include a requirement for the proposed use therefore the provision of car parking spaces must be to the satisfaction of responsible authority. Each cabin includes two bedrooms and is provided with a single carport which is considered generally sufficient however should the situation arise the site is of sufficient size to allow additional car parking.

### **General Provisions**

Clause 65.01 of the Alpine Planning Scheme provides the general decision guidelines that must be considered before deciding on an application. A detailed assessment of the proposal against the provisions of Clause 65.01 is contained on the planning file – reference no. P.2019.169. The proposal is generally in accordance with the decision guidelines.

### **CONCLUSION**

The application is considered to be consistent with the Alpine Planning Scheme and should be approved for the following summarised reasons:

1. The proposal generally meets the relevant provisions of the:
  - a. State and Local Planning Policy Framework;
  - b. Farming Zone;
  - c. Significant Landscape Overlay – Schedule 4 and the Bushfire Management Overlay.
  - d. Particular provisions including 52.06 Car Parking and 53.02 Bushfire Planning;

- e. Decision Guidelines at Clause 65.01.
- 2. The proposal is compatible with adjoining and nearby land uses and has minimal potential to limit the operation and expansion of adjoining and nearby agricultural uses, subject to conditions.

## **DECLARATION OF CONFLICT OF INTEREST**

In accordance with section 130 of the *Local Government Act 2020*, and Chapter 7 section A6 of Council's Governance Rules, the following officers declare that they have no interests to disclose in providing this report.

- Director of Asset Development
- Manager of Planning and Amenity
- Statutory Planning Coordinator
- Planning Officer

## **APPENDICIES**

- 8.3.7.a Conditions
- 8.3.7.b. Policy and decision guidelines

### **Appendix 8.3.7.a. Conditions**

#### **1. Endorsed Plans**

The layout of the site and the size, levels, design and location of buildings and works shown on the endorsed plans must not be modified for any reason without the prior written consent of the Responsible Authority.

#### **2. Establishment of Orchard**

Prior to the issue of a building permit for the construction of the two new cabins the proposed olive orchard expansion must be established in accordance with the endorsed plan.

#### **3. Section 173 Agreement Required**

Prior to the comment of use the owner must enter into an Agreement with the Responsible Authority under Section 173 of the *Planning and Environment Act 1987* to provide the following:

- a. The 500 Koroneiki and 400 Kalamata trees shown on the Site Master Plan dated 24 May 2021 have been planted prior to commence of use for group accommodation.
- b. The planted trees referred to in 3a. are thereafter maintained to the satisfaction of the responsible.
- c. The owner acknowledges that the subject land is located in a rural area where there is agricultural activity where there may be adverse amenity impacts from noise, odour, dust, chemicals, light, etc. from time to time.
- d. In the event that the owner makes the cabins authorised by this permit available to accommodate persons away from their normal place of residence, the owner is obliged to notify any occupier of the cabin/s as far as is reasonably possible, that the property is located in a rural area where agricultural activity takes place from time to time and that adverse amenity impacts may be experienced.

The cost of the preparation and review of the Section 173 Agreement and its registration on the title of the land must be borne by the owner of the land.

#### **4. Development Use**

Occupants of the approved Group Accommodation approved under this permit must only use the premise on a short-term basis. Any occupant of the approved premises must not reside onsite for any more than 60 days in a calendar year unless otherwise approved by the responsible authority.

#### **5. External Building Colour Reflectivity**

The external materials of the building(s) including the roof must be constructed of materials of muted colours to enhance the aesthetic amenity of the area. No materials having a highly reflective surface shall be used. For the purpose of this clause "highly reflective" shall include unpainted aluminium, zinc or similar materials.

### **Construction Requirements**

6. Silt fencing material or straw hay bales (staked and keyed into the ground surface) must be placed at the bottom of the construction area prior to the commencement of construction to prevent storm water runoff entering a drainage line. Batters steeper than 2:1 (horizontal: vertical) must have a layer of straw over the entire batter to retain the topsoil.
7. An area for the storage of construction materials must be designated prior to the arrival of equipment and materials onsite. Wherever possible, disturbed areas should be used rather than areas of good quality indigenous vegetation and significant stands of trees. At the completion of construction all excess materials must be removed and the site should be regenerated to the satisfaction of the Alpine Shire.

### **Car Parking**

8. Car parking areas must be well lit and clearly signed to the satisfaction of the responsible authority.
9. No less than 2 car space(s) must be provided on the land for the use and development, including spaces clearly marked for use by disabled persons (if required).
10. Areas set aside for car parking, and movement of vehicles as shown on the endorsed plans must be made available for such use and must not be used for any other purpose.
11. Prior to the commencement of use authorised by this permit, the area(s) set aside for the parking of vehicles and access lanes as shown on the endorsed plans must be:
  - constructed to an appropriate standard, and treated to prevent dust generation;
  - properly formed to such levels that they can be used in accordance with the endorsed plans;
  - drained;
  - line marked to indicate each car space and all access lanes;
  - clearly signed directing drivers to the area(s) set aside for car parking. (Such signs are to be sited and maintained to the satisfaction of the responsible authority, and not exceed a display area of 0.3 square metres);

all to the satisfaction of the responsible authority.

### **Noise**

12. No external sound amplification equipment or loudspeakers are to be used for the purpose of announcement, broadcast, playing of music or similar purpose.

### **Garbage**

13. Provision must be made on the land for the storage and collection of garbage and other solid waste. This area must be graded, drained and screened from public view to the satisfaction of the responsible authority.

### **External Lighting**

14. All external lighting provided on the site must be suitably baffled so that no direct light is emitted beyond the boundaries of the site and no nuisance is caused to adjoining properties, to the satisfaction of the responsible authority.

### **Security Alarms**

15. 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.

### **Mandatory Bushfire Condition**

16. The bushfire mitigation measures forming part of this permit or shown on the endorsed plans, including those relating to construction standards, defensible space, water supply and access, must be maintained to the satisfaction of the responsible authority on a continuing basis. This condition continues to have force and effect after the development authorised by this permit has been completed.

### **Environmental Health Conditions**

17. An application must be made for a Permit to Install a Septic Tank System to the satisfaction of Council's Environmental Health Officer prior to a building permit being issued in accordance with the requirements of the Building Act 1993. The septic system must comply with the Code of Practice – onsite Wastewater Management Publication 891.4 and AS1546.1 to 1546.4 and generally be in accordance with the Land Capability Assessment (Project. 400052) Revision 1 - May 2021 from SJE Consulting.

-End of Environmental Health Conditions-

### **Engineering Department Conditions** **Drainage**

#### *Rural Drainage Works*

18. Prior to occupation of the buildings, all stormwater and surface water discharging from the site, buildings and works must be retained and treated on site to the satisfaction of Alpine Shire Council. No effluent or polluted water of any type will be allowed to enter council's stormwater system or the natural waterways. Once treated to the satisfaction of the responsible authority, the stormwater shall be conveyed to the legal point of discharge, the existing lagoon on the property, to the satisfaction of the Alpine Shire Council.

#### *Drainage Discharge Plan*

19. Prior to commencement of use, a properly prepared drainage discharge plan with computations must be submitted to, and approved by, Alpine Shire Council. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions. The information submitted must show the details listed in Council's Infrastructure Design Manual and be designed in accordance with the requirements of that manual.

The information and plan must include:

- details of how the works on the land are to be drained and/or retarded.
- connection points for drainage for each cabin
- drains conveying stormwater to the legal point of discharge from each cabin
- measures to enhance stormwater discharge quality from the site and protect downstream waterways

20. Prior to commencement of use, all works constructed or carried out must be in accordance with those plans - to the satisfaction of Alpine Shire Council.

### **Vehicle Crossings**

#### *Rural Crossings*

21. Prior to /commencement of use, vehicular crossings shall be constructed in accordance with the endorsed plan(s) to the satisfaction of the Alpine Shire Council, and shall comply with the following:

- standard vehicular crossings shall be constructed at right angles to the road to suit the proposed driveways, and any existing redundant crossing shall be removed and reinstated to match into the surrounding profile.
- Any proposed vehicular crossing shall have satisfactory clearance to any pit, power or Telecommunications pole, manhole cover or marker, or street tree. Any relocation, alteration or replacement required shall be in accordance with the requirements of the relevant Authority and shall be at the applicant's expense;
- crossings are to be concrete or have a bituminous seal applied where they abut a sealed road. If the road is unsealed the crossing may remain an unsealed crushed rock pavement. Dimensions and roadside drainage treatments are to be generally in accordance with IDM drawing SD255.

#### *No Mud on Roads*

22. Appropriate measures must be implemented throughout the construction stage of the development to rectify and/or minimise mud, crushed rock or other debris being carried onto public roads or footpaths from the subject land, to the satisfaction of the Alpine Shire Council.

-End of Engineering Department Conditions-

### **Country Fire Authority Conditions –**

#### *Bushfire Management Plan*

23. The Bushfire Management Plan (BMP) prepared by Mountain Planning, drawing rev B dated 24/05/2021 must be endorsed to form part of the permit and must not be altered unless otherwise agreed in writing by the CFA and the Responsible Authority.



*Bushfire Emergency Plan*

24. Before the development is occupied or the use commences, a bushfire emergency plan (BEP) to the satisfaction of the Responsible Authority and CFA must be submitted to and endorsed by the Responsible Authority. The BEP must clearly describe the proposed emergency management arrangements and should address the following matters:

- Premises details
- Describe property and business details.
- Identify the purpose of the BEP stating that the plan outlines procedures for:
  - **Closure of premises** on any day with a Fire Danger Rating of Code Red & Extreme
  - **Evacuation** (evacuation from the site to a designated safer off-site location).
  - **Shelter-in-place** (remaining on-site in a designated building).
- a. Review of the BEP*
  - Outline that the plan must be reviewed and updated annually prior to the commencement of the declared Fire Danger Period.
  - Include a Version Control Table.
- b. Roles & Responsibilities*
  - Detail the staff responsibilities for implementing the emergency procedures in the event of a bushfire.
- c. Emergency contact details*
  - i. Outline organisation/position/contact details for emergency services personnel
- d. Bushfire monitoring procedures*
  - i. Details the use of radio, internet and social networks that will assist in monitoring potential threats during the bushfire danger period.
  - ii. Describe and show (include a map) the area to be monitored for potential bushfire activity.
- e. Action Statements – trigger points for action*
  - i. Prior to the Fire Danger Period
    - A. Describe on-site training sessions and fire equipment checks.
    - B. Identify maintenance of bushfire protection measures such as vegetation management (including implementation of protection measures required by any endorsed Bushfire Management Plan).
  - ii. Closure of premise during forecast Fire Danger Rating of Code Red & Extreme days
    - A. Outline guest notification procedures and details of premises closure (including timing of closure).

iii. Evacuation

- A. Identify triggers for evacuation from site. For example, when evacuation is recommended by emergency services.
- B. Details of the location/s of the offsite emergency assembly location.
- C. Transport arrangements for staff and guests including details such as:
- D. Number of vehicles required
- E. Name of company providing transportation
- F. Contact phone number for transport company
- G. Time required before transportation is likely to be available
- H. Estimated travelling time to destination
- I. Actions after the bushfire emergency event

iv. Shelter-in-place

- A. Show the location and describe the type of shelter-in-place.
- B. Triggers for commencing the shelter-in-place option.
- C. Procedures for emergency assembly in the shelter-in-place building.

*Premises closure*

25. The use of the Group Accommodation Building approved under this permit and the use of the cabins must not operate after 10.00am on any day with a declared Fire Danger Rating of Code Red & Extreme.

-End of CFA Conditions-

**Goulburn Murray Water Conditions -**

26. All construction and ongoing activities must be in accordance with sediment control principles outlined in 'Construction Techniques for Sediment Pollution Control' (EPA, 1991).
27. All wastewater requiring disposal to land must be treated to a standard of at least 20mg/L BOD and 30mg/L suspended solids using a package treatment plant or equivalent. The system must be an EPA approved system, installed, operated and maintained in accordance with the relevant EPA Code of Practice and Certificate of Conformity. Peak and intermittent flow must be managed to the satisfaction of Council's Environmental Health Department.
28. The wastewater disposal area must be at least 100m from the nearest waterway, 60m from any dams, 20 metres from any bores and 40 metres from any drainage lines.
29. The wastewater disposal area must be kept free of stock, buildings, driveways and service trenching and must be planted with appropriate vegetation to maximise its performance. Stormwater must be diverted away. A reserve wastewater disposal field of equivalent size to the primary disposal field must be provided for use in the event that the primary field requires resting or has failed.

-End of Goulburn Murray Water Conditions-

## Expiry

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

- a. the development is not started within two (2) years of the date of this permit.
- b. the development is not completed within four (4) years of the date of this permit.
- c. the use has not commenced within four (4) years of the date of this permit.

The responsible authority may extend the periods referred to if a request is made in writing before the permit expires, or within six (6) months afterwards.

End of Conditions -

### **Planning Notes:**

1. A road opening/crossing permit must be obtained from the Alpine Shire Council prior to working in or occupying the road reserve with construction equipment or materials. Applications may be accessed via the following link [Work on Council land permit](#), or from the Alpine Shire Council website.
2. This permit does not authorise approval under the Building Act. It is the responsibility of the applicant to determine if a building permit is required for the proposed buildings and works.
3. This permit does not authorise the removal of any native vegetation from the site.
4. Unless no permit is required under the planning scheme, no sign must be displayed without a further permit.

### **Appendix 8.3.7.b.**

#### **POLICY AND DECISION GUIDELINES**

All of the below mentioned relevant planning considerations from the Alpine Planning Scheme may be viewed at the following link: <https://planning-schemes.delwp.vic.gov.au/schemes/alpine>.

#### **State Planning Policy Framework**

Clause 13.01-1S - Natural hazards and climate change  
Clause 13.02-1S - Bushfire planning  
Clause 14.01-1S - Protection of agricultural land  
Clause 14.01-2S - Sustainable agricultural land use  
Clause 14.02-1S - Catchment planning and management  
Clause 15.01-6S - Design for rural areas  
Clause 17.04-1S - Facilitating tourism

#### **Local Planning Policy Framework**

Clause 21.04-4 Environmental Risk  
Clause 21.04-6 - Catchments and waterways  
Clause 21.05-1 – Tourism  
Clause 21.05-3 – Agriculture  
Clause 22.02-3 - Landscapes  
Clause 22.03-1 - Tourism  
Clause 22.03-2 - Agriculture

The subject land is zoned Farming Zone pursuant to the Alpine Planning Scheme. The purpose of the zone and applicable decision guidelines can be found at the following link: [https://planning-schemes.api.delwp.vic.gov.au/schemes/vpps/35\\_07.pdf?\\_ga=2.10116725.1793305565.1621219198-1986562058.1620805910](https://planning-schemes.api.delwp.vic.gov.au/schemes/vpps/35_07.pdf?_ga=2.10116725.1793305565.1621219198-1986562058.1620805910)

#### **Overlays**

The planning permit application must address the objective of the Significant Landscape Overlay - these provisions plus the schedule number 4 for the Buckland Valley can be found at the following links:

[https://planning-schemes.api.delwp.vic.gov.au/schemes/vpps/42\\_03.pdf?\\_ga=2.75627733.1793305565.1621219198-1986562058.1620805910](https://planning-schemes.api.delwp.vic.gov.au/schemes/vpps/42_03.pdf?_ga=2.75627733.1793305565.1621219198-1986562058.1620805910)  
[https://planning-schemes.api.delwp.vic.gov.au/schemes/alpine/ordinance/42\\_03s04\\_alpi.pdf?\\_ga=2.120339656.1793305565.1621219198-1986562058.1620805910](https://planning-schemes.api.delwp.vic.gov.au/schemes/alpine/ordinance/42_03s04_alpi.pdf?_ga=2.120339656.1793305565.1621219198-1986562058.1620805910)

#### **Particular Provisions that Require, Enable or Exempt a Permit**

Clause 52.06 Car Parking  
Clause 52.03 Bushfire Planning

## **General Provisions**

Clause 65 of the Alpine Planning Scheme provides for the general decision guidelines applicable to all application, see: [https://planning-schemes.api.delwp.vic.gov.au/schemes/vpps/65\\_01.pdf?\\_ga=2.22109819.1793305565.1621219198-1986562058.1620805910](https://planning-schemes.api.delwp.vic.gov.au/schemes/vpps/65_01.pdf?_ga=2.22109819.1793305565.1621219198-1986562058.1620805910)

### 8.3.8 Planning Application P.2021.003 - 11 White Star Road, Wandiligong

<i>Application number:</i>	<i>P.2021.003</i>
<i>Proposal:</i>	<i>Use of land as a restaurant, sale and consumption of liquor and display of business identification signage</i>
<i>Applicant's name:</i>	<i>Nick Vlahandreas, Mountain Planning</i>
<i>Owner's name:</i>	<i>Lynne Frances O'Donnell</i>
<i>Address:</i>	<i>11 WHITE STAR ROAD, WANDILIGONG VIC 3744</i>
<i>Land size:</i>	<i>2.206 hectares</i>
<i>Current use and development:</i>	<i>Recently ceased operating a restaurant without a permit</i>
<i>Site features:</i>	<i>The subject land is the former Wandiligong Maze site, located on the south western side of White Star Road, to the west of the Wandiligong settlement. The site contains a primary building towards the south-east corner of the land, with an approximate roof area of 300sqm, with an ancillary gazebo and decking area to the north. The former hedge maze has been removed from the site in 2019. A minigolf area exists to the western boundary of the site, amongst some established vegetation.</i>
<i>Why is a permit required?</i>	<i>Clause 35.07-1 – A permit is required to use land for a Restaurant Clause 52.05-14 requires a permit for display of business identification signage in Category 4 - Sensitive areas with a total display area of up to 3 sqm. Clause 52.27 – A permit is required to use land to sell or consume liquor if the hours of trading allowed under a licence is to be increased.</i>
<i>Zoning:</i>	<i>Clause 35.07 – Farming Zone</i>
<i>Overlays:</i>	<i>Clause 42.03 – Significant Landscape Overlay – Schedule 3 Clause 43.01 – Heritage Overlay Schedule 83 Wandiligong Township Clause 44.06 – Bushfire Management Overlay</i>

<i>Restrictive covenants on the title?</i>	<i>Section 173 Agreement AG829270Y 22/10/2009 Pertains to the subdivision approved in 2009 and has no impact upon the use of the subject site.</i>
<i>Date received:</i>	<i>12 January 2021</i>
<i>Statutory days:</i>	<i>25</i>
<i>Planner:</i>	<i>Rhiannon Biezen</i>

*Cr Vincent moved an alternative motion which was seconded by Cr Hughes.*

*Cr Vincent*

*Cr Hughes*

*That Council issues a Notice of Decision to Grant a Permit with appropriate conditions.*

*Carried*

*Cr Keeble called for a division:*

*For the motion: Cr Nicholas, Cr Prime, Cr Forsyth, Cr Vincent and Cr Hughes.*

*Against the motion: Cr Keeble and Cr Janas.*

*The motion was carried.*

## **PROPOSAL**

Retrospective planning permission is sought to use the land at 11 White Star Road, Wandiligong as a restaurant, along with associated signage and to allow the sale and consumption of liquor in conjunction with the use of the site as a restaurant.

The application proposes an overall capacity of 120 patrons with seventy (70) seated within the proposed restaurant area and fifty (50) externally located seats across the outdoor decking area and within the outdoor rotunda. The application is also proposing the selling of alcohol for consumption on the premises.

The operating hours being proposed are:

- Monday to Sunday: 10.00 am to 6.00 pm
- Good Friday and ANZAC Day: 12.00 pm (noon) to 6.00 pm

The signage proposed through the application is currently in situ. One sign is located on the front fence of the subject site next to the driveway, with a further sign located at the corner of White Star Road and Grenvilles Road.

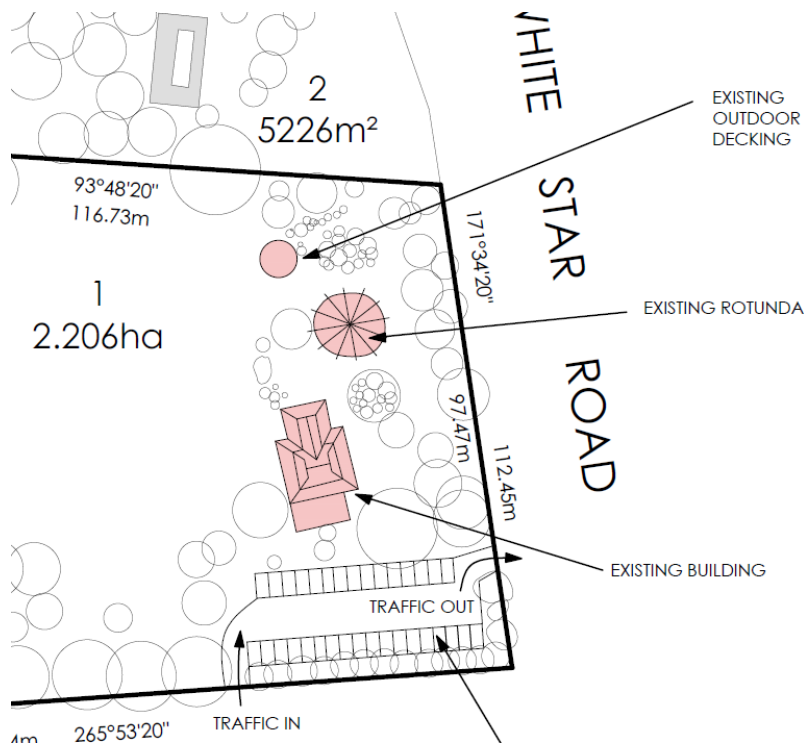


Figure 3: Proposed site layout.



Figure 4: Proposed red line plan



## **SUBJECT LAND AND SURROUNDS**

The subject site is located to the west of the Wandiligong township within other land zoned as Farming zone. The site formally the Wandiligong Maze contains an existing building in the south-east portion of the land, with an ancillary gazebo and decking areas to the north. A minigolf area exists to the western boundary of the site, amongst some established vegetation.

Land to the south across Grenvilles Road is used for animal grazing, with the wider area including a variety of land uses. The Alpine Park is located to the north of the site further along White Star Road.

## **PUBLIC NOTIFICATION**

The application was advertised in accordance with Section 52 of the Planning and Environment Act 1987. Notice of the application was sent to 11 surrounding landholders and occupiers with a sign also displayed on site. 11 objection and 17 letters/emails of support were received.

A summary of the objections is as follows:

### ***Noise***

The amplified noise levels from the subject site is an issue that has been highlighted by many of the objectors and has been a consistent issue since the property opened without planning permission in December 2020. Many of the objectors state that they have approached the operators on several occasions where the noise levels have increased above the EPA noise abatement levels. The increased noise levels have occurred after the proposed closing time of 6.00 pm and into the night. The objectors are concerned that should a permit be issued this problem will continue.

### ***Carparking/Traffic***

Since the consultation meeting between the objectors and the applicant, a revised plan has been submitted showing the amount of car parking spaces required by Clause 52.06. The originally proposed 33 spaces located in the south east corner of the site are retained along with an additional 35 spaces on the site of the former maze.

### ***Consequences of liquor consumption***

A number of objections to the application relate to the consequences of the inappropriate serving of alcohol.

### ***Operating without a permit***

The current operators have been operating their business without the appropriate planning permits. The operators were made aware on several occasions by Council's Planning Enforcement Officer that they could not operate without valid planning approvals and the required liquor licence. The operators have ignored Council's orders and have continued operations during the permit process.

**REFERRALS**

Referrals / Notice	Advice / Response / Conditions
Section 55 referrals:	Goulburn Murray Water - No objection, subject to conditions.
Internal / external referrals:	Alpine Shire Council Environmental Health Department - No objection, subject to conditions. Alpine Shire Council Engineering Department - No objection, subject to conditions.

**PLANNING ASSESSMENT AND RESPONSE TO GROUNDS OF OBJECTION**

All applicable policy and decision guidelines can be found as appendix 8.3.8.

**State Planning Policy Framework**

The following State Planning Policy Framework (SPPF) is considered of relevance to the application.

**13.07-1S - Land use compatibility**

This policy seeks to protect community amenity, human health and safety while facilitating appropriate commercial, industrial, infrastructure or other uses with potential adverse off-site impacts.

In order to manage land use compatibility the policy seeks to

- Ensure that use or development of land is compatible with adjoining and nearby land uses.
- Avoid locating incompatible uses in areas that may be impacted by adverse off-site impacts from commercial, industrial and other uses.
- Avoid or otherwise minimise adverse off-site impacts from commercial, industrial and other uses through land use separation, siting, building design and operational measures.

The strategies listed above ensure a commercial use such as a restaurant does not cause detrimental impact to the amenity of adjoining and surrounding land uses.

It is considered that a use of this nature result will create amplified noise, increased levels of traffic unsuitable for the location and effects of the over consumption of alcohol. This has proven the case during the period of unlawful use which has occurred on the subject site and reflected in a number of objections received to the application.

It is recognised that certain amenity impacts are to be expected with the Farming Zone however none of the issues experienced and further anticipated, should a permit be issued, are impacts associated with agriculture.

It is considered that a more suitable location for a restaurant which creates these known impacts would be a commercially zoned site in a town centre.

**14.01-1S – Protection of agricultural land**

Agricultural production is considered to be one of the most significant industries within the municipality and as such agriculturally zoned land should be protected. It is

considered that using the site for a commercial purpose which has no demonstrated link to agriculture is inconsistent with the intention of this policy.

#### 14.01-2S Sustainable agricultural land

The importance of the agricultural sector to the municipality is a common thread throughout the Alpine Planning Scheme and its maintenance and protection must be supported. The proposal is considered contrary to the objective and strategies of this policy as it will entrench a non-agricultural use with no link or benefit to agriculture within the farming zone. The application has failed to demonstrate how the proposal will lead to a sustainable agricultural outcome for the site, only creating a use which has previously demonstrated detrimental impacts for the adjoining area.

#### 17.02-1S Business

The application has provided no reasoning why this proposed use must be undertaken on the subject site. This policy directs commercial ventures such as the proposed restaurant to existing commercial centres rather than in an area zoned for farming.

#### 17.04-1S - Facilitating Tourism

This policy looks to ensure tourism facilities have access to suitable transport and are compatible with and build on the assets and qualities of surrounding activities and attractions. It is considered that the reliance on private car to access the site suggests that this is a location which does not have suitable transport provision. Given the location is in an identified farming area with a lack of alternative transport options and the past compliance issues it is considered that the proposal is not compatible with its surroundings. It is felt that a commercially zoned site within a settlement centre would be a more appropriate location for a use of this nature.

### **Local Planning Policy Framework**

The following Local Planning Policies are considered of relevance of the application.

#### 21.05-1 – Tourism

This policy recognises the benefits of tourism need to be balanced against the potential negative impacts on local communities such as loss of amenity, pressure on infrastructure as well as potential pressure on land in remote and environmentally sensitive locations which has potential to compromise the natural environment, scenic views, landscape values and agricultural activities.

The policy calls for the support of rural based tourism which can be accommodated without compromising agricultural, rural or environmental assets.

Approval of the application would entrench a non-agricultural use within the farming zone. It is considered that the proposal has demonstrated negative amenity impacts on its surroundings without having the benefit of complementing either the local environment or agriculture.

#### 21.05-3 – Agriculture

This policy identifies agriculture in the form of beef cattle, milk, fruit and nut production, cut flowers, hay production, hops and grapes is a major contributor to the economy of the municipality. The proposed restaurant will not provide for the use of land for agriculture and will formalise a currently unlawful, non-agricultural use on the site and further fragmenting the area's agricultural base. As discussed earlier, the proposed use of a restaurant with known amenity impacts would be better suited to a commercially zoned area.

### 21.07-7 – Wandiligong

This policy specific to Wandiligong aims to recognise and protect the distinct landscape setting and heritage attributes of Wandiligong as well as ensuring future development within the town leads to improved levels of infrastructure respecting the town's historic semi-rural look and feel, recreation and open space values.

It is considered that through the detrimental amenity impacts created by the unlawful use of the land as a restaurant, the proposal has demonstrated that it will adversely impact the look, feel and values previously experienced by the area.

### 22.03-1 - Tourist use and development

A key objective within this policy is to encourage tourism development related to agricultural and other rural based industries, while minimising the loss of rural land and potential for land use conflicts with current or potential agricultural production.

Whilst it is recognised that the site has previously been used a tourist establishment in the form of a maze, a use that no longer exists in the Planning Scheme, it must be recognised that the use proposed in this application is for a restaurant. It is considered the restaurant use represents a significant intensification on the site in terms of numbers, trading hours, noise, alcohol consumption to the previously permitted maze use.

The policy discusses encouraging tourism which is related to agriculture and other rural industries, this is an application which has not demonstrated any relationship to agriculture or rural industry.

## **Zoning and land use**

The subject land is located within the Farming Zone. The purpose of which is:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To provide for the use of land for agriculture.
- To encourage the retention of productive agricultural land.
- To ensure that non-agricultural uses, including dwellings, do not adversely affect the use of land for agriculture.
- To encourage the retention of employment and population to support rural communities.
- To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.
- To provide for the use and development of land for the specific purposes identified in a schedule to this zone.

The proposed use will not provide the use of land for agriculture nor encourage the retention of productive agricultural land. There has been no demonstration that the application will not impact nearby agricultural uses with all indications through the consultation process that the proposal creates non-agricultural impacts such as noise, trespassing and excessive alcohol consumption.

Whilst it is recognised that the proposal will provide employment, there has been no demonstration that these jobs support the local community or that this use and its employment opportunities could not be provided elsewhere on a more suitably zoned location.

Relevant considerations in determining the application found in the decision guidelines of the Farming Zone are:

- How the use or development relates to sustainable land management.
- Whether the site is suitable for the use or development and whether the proposal is compatible with adjoining and nearby land uses.
- How the use and development makes use of existing infrastructure and services.
- Whether the use or development will support and enhance agricultural production.

The application is not considered to be representative of sustainable land management or of an appropriate use of agricultural land. The use will neither support nor enhance agricultural production. As identified through the objections and the complaints made to Council during the unlawful use of the land, the amenity impacts caused by the use suggests the use is not compatible with adjoining land uses.

## **Overlays**

### **Significant Landscape Overlay – Schedule 3**

As no building and works are proposed, a planning permit is not required under this overlay and will no longer form part of this assessment.

#### **Heritage Overlay**

As no building and works are proposed, a planning permit is not required under this overlay and will no longer form part of this assessment.

#### **Bushfire Management Overlay**

As no building and works are proposed, a planning permit is not required under this overlay and will no longer form part of this assessment.

## **Particular Provisions**

### **Clause 52.05 – Signs**

Pursuant to Clause 52.05 14 the location of the subject site is within a 'sensitive area' which applies a maximum limitation towards signage and only allows business identification signage up to 3m<sup>2</sup>, anything over being prohibited.

One sign is located along front fence of the subject site next to the driveway and another located at the corner of White Star Road and Grenvilles Road.

Through the application, only dimensions of the sign on the White Star Road/Grenvilles Road corner have been provided. The sign measures 2metres by 98cm therefore on its own would be permissible with a permit, however given the unknown dimensions of the second sign it cannot be established whether signage meets the intention of this provision.

### **Clause 52.06 - Car Parking**

Pursuant to Clause 52.06-5 a restaurant is required to provide 0.4 car spaces per patron. As the site has a total of 120 patrons permitted, forty-eight (48) car spaces are required to be provided onsite. The applicant provided an amended plan showing 68 spaces with 35 of these spaces located on the area of the former maze. Council's Engineering Department has reviewed the proposed car parking provision and should a permit be issued, the areas identified for car parking would be required to be sealed, line marked,

drained and illuminated. Whilst these actions are considered necessary by Council's Engineering Department, further sealing and illuminating of the area would be inconsistent with the character of the area and a further illustration of the unsuitability of the proposed use in this location.

#### **Clause 52.27 – Licenced Premises**

The proposed restaurant requires a planning permit to sell and consume liquor. In order to assess this element of the application, the following decision guidelines are required to be considered:

- The impact of the sale or consumption of liquor permitted by the liquor licence on the amenity of the surrounding area.
- The impact of the hours of operation on the amenity of the surrounding area.
- The impact of the number of patrons on the amenity of the surrounding area.
- The cumulative impact of any existing licensed premises and the proposed licensed premises on the amenity of the surrounding area.

In the change from the previous use of the site as a tourist maze to the current unlawful use as a restaurant, the surrounding landowners and occupiers have experienced detrimental impacts to their amenity resulting from the unlawful use which included the consumption of alcohol. The application is proposing to accommodate up to a maximum of 120 patrons across serving hours which span Monday – Sunday 10.00 am to 6.00 pm and on Anzac Day and Good Friday 12pm (noon) – 6.00 pm. It is considered given the site's location within an identified agricultural area remote from a settlement centre and alternative transport links that the proposal is inappropriate for the surrounding area.

#### **General Provisions**

Clause 65.01 of the Alpine Planning Scheme provides the general decision guidelines that must be considered before deciding on an application. The following are considered of relevance in the subject application:

- The purpose of the zone, overlay or other provision.
- The orderly planning of the area.
- The effect on the environment, human health and amenity of the area.

Approving this application would entrench a non-agricultural use with no demonstrable benefits to agriculture within the Farming Zone. Such an application fails to find support in the key clauses of the Alpine Planning Scheme and the State and Local Planning Policy Framework. It is considered that the approval of a commercial use of this nature, with its associated amenity impacts, in this location is not be reflective of orderly planning.

#### **CONCLUSION**

The application is considered to be inconsistent with the Alpine Planning Scheme and the planning application should be refused on the following summarised grounds:

1. The use is not consistent with the purpose of the Farming Zone;

2. The proposal is inconsistent with the Planning Policy Framework in relation to agricultural land and rural development, specifically Clauses 14.01-1S and 14.01-2S which aim to manage development in rural areas to protect and enhance agriculture;
3. The use is inconsistent with policy at Clause 13.07-1S land use compatibility;
4. The proposal is inconsistent with the Local Planning Policy Framework in relation to agricultural land, specifically Clauses Clause 21.05-3 and 22.03-2;
5. The proposal is inconsistent with the requirements of Clause 52.05 – Signs and Clause 52.27 Licensed Premises; and
6. The use does not constitute orderly and proper planning.

### **DECLARATION OF CONFLICT OF INTEREST**

In accordance with section 130 of the *Local Government Act 2020*, and Chapter 7 section A6 of Council's Governance Rules, the following officers declare that they have no interests to disclose in providing this report.

- Director Corporate Performance
- Manager Planning and Amenity
- Planning Officer

### **APPENDICIES**

8.3.8 Policy and decision guidelines

### **Appendix 8.3.8**

#### **POLICY AND DECISION GUIDELINES**

All of the below mentioned relevant planning considerations from the Alpine Planning Scheme may be viewed at the following link: <https://planning-schemes.delwp.vic.gov.au/schemes/alpine>.

#### **State Planning Policy Framework**

- 13.07-1S - Land use compatibility
- 14.01-1S – Protection of agricultural land
- 14.01-2S Sustainable agricultural land
- 17.02-1S Business
- 17.04-1S - Facilitating Tourism

#### **Local Planning Policy Framework**

- 21.05-1 – Tourism
- 21.05-3 – Agriculture
- 21.07-7 – Wandiligong
- 22.03-1 - Tourist use and development

#### **Zone**

- 35.07 - Farming Zone

#### **Particular Provisions**

- 52.05 - Signs
- 52.06 - Car Parking
- 52.27 - Licenced Premises

#### **General Provisions**

- 65.01 - Decision Guidelines



## 9. Informal meetings of Councillors

### Introduction

In accordance with Chapter 8, section A1 of Council's Governance Rules, if there is a meeting of Councillors that:

- is scheduled or planned for the purpose of discussing the business of Council or briefing Councillors;
- is attended by at least one member of Council staff; and
- is not a Council meeting, Delegated Committee meeting, or Community Asset Committee meeting;

the Chief Executive Officer must ensure that a summary of the matters discussed at the meeting are tabled at the next convenient Council meeting, and are recorded in the minutes of that Council meeting.

*Cr Keeble*

*Cr Janas*

*That the summary of informal meetings of Councillors for September 2021 be received.*

*Carried*

### Background

The written records of the informal meetings of Councillors held during the previous month are summarised below. Detailed records can be found in Attachment 9.0 to this report.

Date	Meeting
7 September	Briefing Session
14 September	Hearing of Submissions
21 September	Briefing Session
28 September	Briefing Session

### Attachment(s)

- 9.0 Informal meetings of Councillors – September 2021

## 10. General business

Refer to Alpine Shire Council's website [www.alpineshire.vic.gov.au](http://www.alpineshire.vic.gov.au); for its YouTube live-streaming recording for responses to general business.

## 11. Motions for which notice has previously been given

In accordance Council's Governance Rules, Chapter 3, Part F, Section F11 Cr Nicholas and Cr Vincent submitted the notice of motion - Climate Emergency Declaration.

Before item 11.1 was considered, Cr Janas moved an alternative motion.

*Cr Janas*

*Cr Prime*

*To set the notice of motion (item 11.1) aside for a period of one month.*

*Carried*

*Cr Nicholas called for a division*

*For: Cr Janas, Cr Hughes, Cr Prime and Cr Forsyth*

*Against: Cr Nicholas, Cr Vincent and Cr Keeble*

*The motion was carried.*

Councillors requested that officers present a report relating to recommendation 3 in the notice of motion (item 11.1) to the November Council meeting, and that the notice of motion be re-considered at that meeting.

### 11.1 CLIMATE EMERGENCY DECLARATION

#### INTRODUCTION

A climate emergency declaration is a call for immediate and urgent action to reverse global warming and we seek to add the Alpine Shire Council's voice to that global call.

Across the Alpine Shire we are witnessing the effects of climate change, for example:

- Larger, more intense, and more frequent bushfires.
- Shortened natural snow seasons, higher snow line and less accumulated snow.
- Longer and more intense drought, the Millenium Drought 1996 – 2010.
- Extreme rainfall events, flash flooding and summer flooding.

The changes that we are already experiencing have critical repercussions on living, work and play in the Alpine Shire. Agriculture, horticulture, businesses, residents, visitors, flora, fauna and ecological systems are all affected.

The Alpine Shire Council's excellent, thorough, and responsible corporate Climate Action Plan identifies the need to develop and implement emissions reduction strategies for the

wider community. This will help to engage and mobilise communities towards substantial greenhouse gas emission reduction.

This motion sanctions Alpine Shire Council to work within its legislative, financial and leadership capacity to facilitate and activate climate change mitigation strategies across the municipality and accelerate the opportunities already recognised to reduce greenhouse gas emissions. Actions that will help to keep Alpine Shire beautiful and thriving!

### RECOMMENDATION

*That Council:*

- 1. Recognises that the world is in a state of climate emergency that requires urgent and sustained action by all levels of government, including local government and that it is possible to minimise detrimental outcomes by undertaking comprehensive climate-sensitive action;*
- 2. Embeds climate-sensitive actions as described in the Alpine Shire Climate Action Plan 2021 into day-to-day operations, emergency management planning, procurement, financial processes, risk management and all future strategies and reviews, as a priority;*
- 3. Provides a report at the November Council meeting identifying the resources required to develop a roadmap for a community climate action plan. Considering the following but not limited to;*
  - a. Establish actions Council has in the pipeline as well as other actions Council can take to increase the capacity of the entire municipal community to mitigate climate change.*
  - b. Determine the requirements to develop a shire wide and community supported emissions reduction target.*
  - c. Investigate feasibility of local carbon sequestration and offsets.*
  - d. Engage and collaborate with community and other partners for the delivery of mitigation initiatives.*
- 4. Advocates to the Australian and Victorian Governments to resource Local Governments and communities to empower transition to low carbon economies.*

## 12. Reception and reading of petitions

### 12.1 PETITION - UPPER KIEWA VALLEY RECREATION AND COMMUNITY HUB

*Cr Keeble*

*Cr Prime*

- 1. That the petition to support the development of the Upper Kiewa Valley Recreation and Community Hub (UKVRCH) at Mount Beauty Golf Course be considered at this Council Meeting; and*
- 2. That Council notes the community support for the Hub, which is located on land owned by the Mount Beauty Golf Club.*

*Carried*

## 13. Documents for sealing

*Cr Vincent*

*Cr Hughes*

*That the following documents be signed and sealed.*

- 1. S5 - Instrument of Delegation from Council to Chief Executive Officer*
- 2. S6 - Instrument of Delegation from Council to members of Council Staff*
- 3. S11a - Instrument of Appointment and Authorisation - Director Corporate Performance*
- 4. S11a - Instrument of Appointment and Authorisation - Planning Officer.*
- 5. Section 173 Agreement – Jeff and Maree Anne McKee  
Lot 1 on Plan of Subdivision 203280B Volume 9684 Folio 194  
Conditions 11 and 12 of Planning Permit 2020.60 for a Two Lot Subdivision at  
82 Station Street, Porepunkah.  
The Agreement has been prepared for the purposes of an exemption from a  
planning permit under Clause 44.06-2 (Bushfire Management Overlay) of the  
Alpine Planning Scheme.  
The Agreement also provides for the floor levels of any dwelling on Lot 2 to the  
satisfaction of the responsible authority.*
- 6. Telstra Corporation Limited Lease of land contained in Certificate of Title  
Volume 10747 Folio 552 for land located at 1 Tower Road, Dinner Plain.*
- 7. Contract CQ 21074 in favour of North East Civil Construction for the Dargo  
High Plains Road - Preliminary Site Establishment.*

*Carried*

## 14. Confidential Report

*Cr Vincent*

*Cr Keeble*

*That, in accordance with the provisions of s66(2)(a) of the Local Government Act 2020, the meeting be closed to the public for consideration of confidential information defined by s3 of the Local Government Act 2020, as it deals with Council business information, being information that would prejudice the Council's position in commercial negotiations if prematurely released.*

*Carried*

The meeting was moved in camera at 7.08p.m.

There being no further business the Chairperson declared the meeting closed at 7.15p.m.

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Chairperson