



Alpine Shire

ORDINARY COUNCIL MEETING

AGENDA

M11 – 13 November 2018

Bright Council Chambers

7:00pm



Notice is hereby given that the next **Ordinary Meeting** of the **Alpine Shire Council** will be held in the Council Chambers, Great Alpine Road, Bright on **13 November 2018** commencing at **7:00pm**.

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1 INTERIM CHAIRPERSON

Under section 72(2) of the *Local Government Act 1989*, 'the office of Mayor becomes vacant at 6 a.m. on the day of a general election'.

Division 2 of Council's Local Law No.1 Council Administration provides that 'the Chief Executive Officer is to preside at the election of Mayor'.

The Chief Executive Officer will assume the role of Interim Chairperson to deal with Items 2 to 9.1.3 of this Agenda.

2 RECORDING AND LIVESTREAMING OF COUNCIL MEETINGS

The CEO will read the following statement:

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

Video is focused on a specific area however audio from the entire room is captured.

By speaking during question time, or at any time during the meeting, you consent to your voice and any comments you make 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.

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.

3 ACKNOWLEDGEMENT OF TRADITIONAL CUSTODIANS, AND RECOGNITION OF ALL PEOPLE

The CEO will read the following statement:

The Alpine Shire Council acknowledges the traditional owners of the land we are now on.

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.

4 CONFIRMATION OF MINUTES

4.1 ORDINARY COUNCIL MEETING – M10 – 2 OCTOBER 2018

RECOMMENDATION

That the minutes of Ordinary Council Meeting M10 held on 2 October 2018 as circulated be confirmed



5 APOLOGIES

6 OBITUARIES / CONGRATULATIONS

7 DECLARATIONS BY COUNCILLORS OF CONFLICT OF INTEREST

8 PUBLIC QUESTIONS ON AGENDA ITEMS

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

Questions on Notice can be written or from the floor.

Refer to Alpine Shire Council's website www.alpineshire.vic.gov.au for its YouTube live-streaming recording for responses to questions.



9 PRESENTATION OF REPORTS BY OFFICERS

9.1 CHIEF EXECUTIVE OFFICER – CHARLIE BIRD

9.1.1 Mayoral Term

INTRODUCTION

The *Local Government Act 1989* (the Act) sets out several requirements for the election of Mayor including the timing of the election of Mayor and the length of the term.

The Mayor must be elected after the fourth Saturday in October but not later than 30 November each year.

Council may resolve to elect a Mayor for a term of two years under section 71(2) of the Act. If Council does not choose a two-year option, Section 71(3) of the Act determines that the election of Mayor must occur 'each year'. Therefore Council must determine a one or two year term for the Mayor.

The Chief Executive Officer will call for a motion to set the term of the Office of the Mayor (one year or two years).



9.1.2 Election of Mayor

INTRODUCTION

The *Local Government Act 1989* sets out the requirements for the election of Mayor.

Section 71(1) of the Act requires the Mayor to be elected at a meeting that is open to the public.

Any Councillor is eligible for election or re-election to the office of Mayor under section 72 of the Act.

Precedence and Functions of Mayor

Section 73 of the Act sets out the precedence of the Mayor:

- The Mayor of a Council takes precedence at all municipal proceedings within the municipal district.
- The Mayor must take the chair at all meetings of the Council at which he or she is present.
- If there is a vacancy in the office of Mayor or the Mayor is absent, incapable of acting or refusing to act, the Council must appoint one of the Councillors to be the acting Mayor.
- An acting Mayor may perform any function or exercise any power conferred on the Mayor.

Section 73AA of the Act specifies that the functions of the Mayor may include:

- providing guidance to Councillors about what is expected of a Councillor including in relation to the role of a Councillor, and the observation of the Councillor conduct principles and the Councillor Code of Conduct by Councillors; and
- acting as the principal spokesperson for the Council; and
- supporting good working relations between Councillors; and
- carrying out the civic and ceremonial duties of the office of Mayor.

The Chief Executive Officer will call for nominations and a seconder for the Office of Mayor in accordance with Council's 'Election to the office of Mayor and Deputy Mayor' procedure.

MAYORAL RESPONSE

The Chief Executive Officer will invite the newly elected Mayor to address the meeting.

The Interim Chairperson vacates the Chair and the Mayor assumes the Chair.



9.1.3 Election of Deputy Mayor

The *Local Government Act 1989* only requires Council to elect a Mayor. There is no requirement under the Act to elect a Deputy Mayor.

The position of Deputy Mayor is determined by each council. Historically Alpine Shire Council has elected a Deputy Mayor.

Section 73(3) of the Act stipulates that *'if there is a vacancy in the office of Mayor or the Mayor is absent, incapable of acting or refusing to act, the Council must appoint one of the Councillors to be the acting Mayor'*. Council has traditionally appointed the Deputy Mayor to be the councillor to act on behalf of the Mayor.

Council has also historically aligned the length of the term of the Deputy Mayor to that of the office of the Mayor.

The Mayor will call for a motion to determine if Council wishes to appoint a Deputy Mayor for the purposes of Section 73(3) of the Local Government Act 1989, to act if the Mayor is absent, incapable of acting or refusing to act.

In the event that Council wishes to appoint a Deputy Mayor, the Mayor will call for motions to:

- 1. set the term of office of the Deputy Mayor; and***
- 2. call for nominations and a seconder for the position of Deputy Mayor in accordance with Council's 'Election to the office of Mayor and Deputy Mayor' procedure.***



9.1.4 Contracts approved by the CEO

RECOMMENDATION

That the Contracts approved by the CEO be noted.

Contract No:	CQ18070 Havilah Road Culvert Crossing	Process:	Public Quotation
Title:	Havilah Road Culvert Crossing		
Tenderer:	James Excavations		
\$ (excl. GST):	\$118,395		



9.2 DIRECTOR ASSETS – WILLIAM JEREMY

9.2.1 Mount Buffalo Business Case Assessment and Activation

File Number: 150.02

INTRODUCTION

The purpose of the report is to present the Mount Buffalo Business Case Assessment and Activation Report and outline Alpine Shire Council's (Council) next steps in relation to the project.

RECOMMENDATION

That Council:

- 1. Notes the Mount Buffalo Business Case Assessment and Activation Report and the assessment of the seven concepts identified in the 'Vision for Mount Buffalo' document;*
- 2. Endorses the food and beverage concept (café in the Chalet) as the critical first step to realising the 'Vision for Mount Buffalo'; and*
- 3. Commits to continued facilitation and advocacy of the food and beverage concept (café in the Chalet).*

BACKGROUND

The Mount Buffalo Destination Advisory Group (MBDAG) was established in March 2016 to work collaboratively with Parks Victoria and provide strategic recommendations about the future of Mount Buffalo. MBDAG engaged with the local community and interested parties and developed a concept plan entitled 'Vision for Mount Buffalo'. This concept plan includes ideas to re-invigorate Mount Buffalo's major visitor hubs – The Gorge and Chalet Village, Lake Catani, Dingo Dell, Cresta Valley and the Gateway.

In December 2017, Parliamentary Secretary for Tourism, Major Events and Regional Victoria, MP Danielle Green announced that the Victorian Government would provide Alpine Shire Council with \$200,000 for the Mount Buffalo Business Case Assessment and Activation project. The purpose of the project was to determine the feasibility of concepts identified by MBDAG and work with investors to realise feasible concepts. The Victorian Government also established a Taskforce to oversee the project.

On 3 April 2018 Council, as the lead agency of the Taskforce, awarded the consultancy contract to PricewaterhouseCoopers (PwC) to assess the feasibility of the seven tourism concepts identified in the *Vision for Mount Buffalo* document and explore activating feasible concepts.



ISSUES

The report prepared by PwC (included in Attachment 9.2.1) provides an assessment of the following seven concepts and determines their potential commercial and economic return:

- Gorge skywalk tourism attraction
- Mount Buffalo Chalet and Village
- Food and beverage offering
- Glamping and wilderness eco-pods
- Enhancement of activity and event offering
- Dingo Dell outdoor education centre of excellence
- Mountain gateway.

The assessment shows that the food and beverage concept (café in the front rooms of the Chalet) returns the highest net present value (NPV). It will reconnect the people to the Chalet and build confidence with the community, business operators and potential investors. It is a prudent and logical step towards achieving the full reinvigoration of the Chalet.

To this end, the Taskforce, Council and PwC have been working together and engaging with relevant Ministers' offices, government departments and the Parks Victoria Board to realise this concept. Feedback has been positive from all stakeholders about establishing a café in the Chalet, however the two main challenges relate to planning and funding.

The Mount Buffalo Chalet is located in a Public Conservation and Resource Zone. The time period for prior use rights has now lapsed, and previous activities at the Chalet are no longer permitted under the current zoning. Council has been working closely with the Department of Environment, Land, Water and Planning and Parks Victoria to determine the most appropriate way to amend the Planning Scheme to enable a café to be operated in the front rooms of the Chalet.

PwC has worked with consulting engineers, business operators, Parks Victoria and Council to determine a comprehensive cost estimate to establish a café in the front rooms of the chalet - \$2 million. Council and other Taskforce members have advocated strongly for funding from the Victorian Government to realise the food and beverage concept (café in the Chalet).

POLICY IMPLICATIONS

This report is consistent with the following strategic objective in the Council Plan 2017-2021:

- A thriving and connected community.



FINANCIAL AND RESOURCE IMPLICATIONS

The budget for the Mount Buffalo Business Case Assessment and Activation project is \$270,000, comprising \$200,000 from Regional Development Victoria's Regional Tourism Infrastructure Fund, and \$70,000 from Parks Victoria. There has been no cash contribution to the project from Council.

Council's Executive Team has managed the delivery of the project on behalf of the Mount Buffalo Activation Taskforce. As responsible land manager for Mount Buffalo National Park, Parks Victoria is responsible for managing development and operations in the Park.

It has been estimated that it will cost \$2 million to establish a café in the front rooms of the chalet, which includes the implementation of environmentally sustainable technologies for power generation, heating and wastewater management, as well as the provision of facilities enabling universal access (compliant with the requirements of the *Disability Discrimination Act*).

CONSULTATION

The Mount Buffalo Business Case Assessment and Activation project has been led by the Taskforce, which has met regularly since its establishment in December 2017. The Taskforce comprises representatives from both state and local government, and local community groups, including:

- Parliamentary Secretary for Tourism, Major Events and Regional Victoria - Danielle Green MP (Chair)
- Regional Development Victoria
- Parks Victoria
- Department of Environment, Land, Water and Planning
- Tourism North East
- Taungurung Clans Aboriginal Corporation
- Mount Buffalo Destination Advisory Group
- Community Action for the Chalet
- Alpine Shire Council.

Council, Taskforce representatives and consultants PwC have also met and engaged with interested members of the community throughout the project upon request.

Council, Taskforce representatives and consultants PwC have presented the food and beverage concept (café in the Chalet) to the following stakeholders:

- Parks Victoria Board
- Office of the Minister for Environment
- Office of the Minister for Regional Victoria
- Member for Ovens Valley - Tim McCurdy MP.

Feedback has been positive.



Council has engaged with the Office of the Minister for Planning, Department of Environment, Land, Water and Planning and Parks Victoria to address the Planning Scheme anomaly to allow previous uses at the Chalet.

Council and PwC have presented an overview of the report to the:

- Office of the Minister for Environment
- Office of the Minister for Regional Victoria.

The Taungurung Clans Aboriginal Corporation has recently been formally recognised by the Victorian Government as the traditional owners of land that includes Mount Buffalo. The Taungurung Clans Aboriginal Corporation is a member of the Taskforce and has provided in-principle support for the seven concepts assessed in this project.

CONCLUSION

Mount Buffalo is an incredible asset for our community and beyond – from an environmental, heritage, tourism and economic perspective. This has been a positive project and Council has been pleased how well the Taskforce has worked together. The PwC report provides an assessment of seven concepts identified in the community-led '*Vision for Mount Buffalo*, and we now have a greater understanding of the cost of these concepts and their economic benefit. It is public information, available for anyone to explore and deliver concepts.

Council's current focus is to see a café opened in the Chalet – it will reconnect the people to the Chalet, and build confidence with the community, business operators and potential investors. It is a prudent and logical step towards achieving the full reinvigoration of the Chalet. Council has been advocating strongly for investment in this concept (café in the Chalet) and looks forward to it becoming reality in the near future.

DECLARATION OF CONFLICT OF INTEREST

Under Section 80C of the *Local Government Act 1989*, the following officers declare that they have no interests to disclose in providing this report.

- Chief Executive Officer
- Director Assets

ATTACHMENT(S)

- 9.2.1 Mount Buffalo Business Case Assessment and Activation Report, September 2018



9.2.3 Building Better Regions Fund - Bright to Harrietville Shared Trail

File Number: 01766.21

INTRODUCTION

An opportunity exists for Council to seek significant funding to deliver the remaining section of the Bright to Harrietville shared trail. This report outlines the project and details of the proposed funding application and seeks Council's financial commitment to the project.

RECOMMENDATION

That Council authorises the submission of a grant application for the completion of the Bright to Harrietville shared trail with a Council commitment of no more than \$1,300,000 + GST.

BACKGROUND

The Australian Government has recently announced the commencement of round 3 of the Building Better Regions Funds (BBRF). The BBRF is an initiative to create jobs, drive economic growth and build stronger regional communities into the future. \$200 million of funding is available, with up to \$45 million earmarked to support tourism related infrastructure projects.

Grants of between \$20,000 and \$10 million will be provided to support projects which involve the construction of new infrastructure, or the upgrade or extension of existing infrastructure that provide economic and social benefits to regional and remote areas. Grant funding of up to 50% of eligible project costs is available, and projects funded under this program need to be completed by 31 December 2021. The closing date for applications is 15 November 2018.

Construction of a shared trail from Bright to Harrietville has been a long-term community aspiration that is envisaged to have a significant impact on the local economy through enabling increased participation in cycle tourism. In response to the January 2013 Harrietville bushfires, the Victorian State Government provided \$1.0m of grant funding which enabled the following two sections of the shared trail to be completed:

- Pioneer Park, Harrietville to Stoney Creek (Harrietville Trout Farm) - 5km.
- Centenary Park, Bright to Germantown - 5.5km.

Since their completion in 2014, the local communities has been campaigning for the remaining section of shared trail to be delivered, linking Harrietville to Bright through Smoko and Freeburgh along a combined trail length of approximately 24km. A petition received by Council in February 2016 listed 468 signatures and requested completion of the next planned section of trail from Germantown to Freeburgh.

In April 2016, the new Freeburgh Bridge was opened to the public. The bridge is located on the proposed route for the shared trail and includes a shared path. It had been estimated previously that a standalone shared trail crossing would have added \$100,000 to the cost of the proposed shared trail project.



POLICY IMPLICATIONS

This report is consistent with the following strategic objective in the Council Plan 2017-2021:

- Incredible places for our community and visitors.

FINANCIAL AND RESOURCE IMPLICATIONS

The estimated cost to deliver the remaining section of the Bright to Harrietville shared trail is \$2.6 million, with \$1.3 million to be sought from grant funding and the remaining \$1.3 million from Council funds. This expenditure would be incurred over three financial years from 2018/19 and 2020/21, with the majority of the spend coinciding with the construction phase of the project in 2019/20.

Committing to the completion of the shared trail ahead of the funding deadline of December 2021 would result in a reduction in Council's cash reserves, or would require deferral of planned projects to an equivalent value.

The impact of delivering the shared trail without the deferral of other planned projects has been modelled in Council's Long Term Financial Plan, and shown to result in a reduction in the forecast working capital ratio from 3.3 to 3.1. This reduction can be accommodated without impacting significantly on Council's financial sustainability, however it does reduce Council's ability to commit to further discretionary spend on capital projects into the future.

CONSULTATION

Over a number of years, Council officers have been engaging with members of the community in relation to the completion of the shared trail. In February 2016 a petition comprising 468 signatures was received with a request to extend the shared trail from Germantown Bridge to Freeburgh.

Council officers have consulted across a broad spectrum of stakeholders with interest in the project.

Regional Development Australia (RDA) has been consulted, and is providing input to assist in preparing a strong project proposal.

Should funding be secured, then a detailed stakeholder engagement plan will be prepared and implemented throughout the delivery of the project.



CONCLUSION

There is strong community demand for the remaining section of the Bright to Harrietteville shared trail to be completed. The Building Better Regions Fund presents a significant opportunity to secure grant funding for a project which is already listed for delivery in Council's project pipeline. The completion of the shared trail fulfils the requirements for funding, and in the event that a grant funding application was to be successful, Council has the financial capacity to commit the balance of funds needed to deliver the project.

DECLARATION OF CONFLICT OF INTEREST

Under Section 80C of the *Local Government Act 1989*, the following officers declare that they have no interests to disclose in providing this report.

- Director Assets
- Manager Asset Development

ATTACHMENT(S)

- Nil



9.2.4 Contract 1805301: Resealing (2018-19) - Sprayseal

File Number: CT18053

INTRODUCTION

This report relates to the award of the Alpine Shire Council's Resealing (2018-19) - Sprayseal Tender. Council undertakes road resealing each year as part of its local roads renewal program.

RECOMMENDATION

That Council awards Contract No. 1805301 for "Resealing (2018-19) - Sprayseal" to Downer EDI Works for the lump sum price of \$332,919 + GST.

BACKGROUND

The 2018-19 resealing program is based in the lower Ovens Valley and resealing will be carried out in Myrtleford, Mudgegonga, Eurobin, Barwidgee, Merriang South, Merriang and Kancoona South.

A total road length of approximately 12km is scheduled to be resealed this year.

The Tender was advertised in the Border Mail on 22 September 2018, Herald Sun on 26 September 2018, as well as on tenders.net and Alpine Shire Council websites.

The Tender documents were downloaded by 14 prospective tenderers and four responses were received by the closing date.

EVALUATION

The evaluation panel consisted of the Director Assets, Manager Asset Development and the Project Engineer.

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

- Price
- Qualifications and Previous Performance
- Delivery
- Social

The evaluation panel assessed that the Tender from Downer EDI Works best met the selection criteria and achieved the overall highest assessment score.



POLICY IMPLICATIONS

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

This report is consistent with the following strategic objective in the Council Plan 2017-2021:

- Incredible places for our community and visitors.

FINANCIAL AND RESOURCE IMPLICATIONS

There is sufficient allocation within the project budget to deliver the resealing works through award of this Contract.

CONCLUSION

Following a comprehensive assessment, the Tender from Downer EDI Works is considered to present the best value option for Council.

DECLARATION OF CONFLICT OF INTEREST

Under Section 80C of the *Local Government Act 1989*, 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



9.2.5 Contract 1805001: Road Stabilisation and Patching (2018-19)

File Number: CT18050

INTRODUCTION

This report relates to the award of the Alpine Shire Council's Road Stabilisation and Patching (2018-19) Tender. Council undertakes pavement renewal works each year by a process of in-situ stabilisation and patching to repair and prolong the life of the road network.

RECOMMENDATION

That Council awards Contract No. 1805001 for "Road Stabilisation and Patching (2018-19)" to Szabolics Construction for the lump sum price of \$167,836 + GST.

BACKGROUND

Council conducts regular inspections across the Shire's road network. A range of road pavement defects was identified and prioritised during recent inspections under Council's asset management process. These defects require rehabilitation through in-situ pavement stabilisation followed by emulsion primer-sealing.

A list of the identified defects was included in the tender documents, which shows the location and size of the identified defects. This year's program covers a broad area including Myrtleford, Bright, Mudgegonga, Rosewhite, Kancoona, Mount Beauty, Tawonga, Upper Gundowring, Mongans Bridge and Coral Bank.

The Tender was advertised in the Border Mail on 22 September 2018, Herald Sun on 26 September 2018, as well as on tenders.net and Alpine Shire Council websites.

The Tender documents were downloaded by 19 prospective tenderers and five responses were received by the closing date.

EVALUATION

The evaluation panel consisted of the Director Assets, 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

The evaluation panel assessed that the tender from Szabolics Construction best met the selection criteria and achieved the overall highest assessment score.



POLICY IMPLICATIONS

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

This report is consistent with the following strategic objective in the Council Plan 2017-2021:

- Incredible places for our community and visitors.

FINANCIAL AND RESOURCE IMPLICATIONS

There is sufficient allocation within the project budget to deliver the road stabilisation and patching works through award of this Contract.

CONCLUSION

Following a comprehensive assessment, the Tender from Szabolcs Construction is considered to present the best value option for Council.

DECLARATION OF CONFLICT OF INTEREST

Under Section 80C of the *Local Government Act 1989*, the following officers declare that they have no interests to disclose in providing this report.

- Project Officer
- Manager Asset Development
- Director Assets

ATTACHMENT(S)

- Nil



9.3 DIRECTOR CORPORATE – NATHALIE COOKE

9.3.1 Proposed Community Local Law 2019

INTRODUCTION

This report provides for the release of the proposed Community Local Law 2019 for public comment.

RECOMMENDATIONS

That Council:

- 1. Endorses the proposed Community Local Law 2019 (as attached 9.3.1(a)) for the purpose of seeking public submissions in accordance with Section 119 of the Local Government Act 1989.*
- 2. Endorses the Community Impact Statement (as attached 9.3.2 (b)) to accompany the proposed Community Local Law 2019, for the purposes of community consultation.*
- 3. Publishes public notices of its intention to make the Community Local Law 2019 in the Victoria Government Gazette, the Alpine Observer, the Myrtleford Times, and on Council's website, inviting public submissions.*
- 4. Form a committee according to Section 223(1)(b) of the Local Government Act 1989, if required, for the purpose of hearing submissions in relation to the Community Local Law 2019.*

BACKGROUND

A Local Law is a subordinate instrument created under the authority of the *Local Government Act 1989*. Local Laws must not be inconsistent with other acts or regulations.

Council has become aware of a number of issues of concern to our local community that indicate that our existing Local Laws are not performing well in some areas. In addition, Local Laws sunset or expire after ten years, and as such a periodic renewal is required.

Council currently has seven Local Laws, which are:

- Local Law 1: Council Administration
- Local Law 2: Municipal Places
- Local Law 3: Dinner Plain
- Local Law 4: Livestock
- Local Law 5: Amenity
- Local Law 6: Streets and Roads
- Local Law 7: Murray to Mountains Rail Trail



ISSUES

Structural changes

Current 'best practice' is to consolidate and simplify local laws in order to provide greater clarity and reduce duplication that generally exists with multiple local laws. Using this principle, Council has taken this opportunity to consolidate Local Laws 2-7 into the draft Community Local Law 2019. The key structural changes are:

- Removal of duplication between Local Laws, for example in the application for permits sections;
- Removal of clauses that duplicate existing legislation or regulations; and
- Removal of prescriptive conditions and policies, which are to be kept separate from the Local Law and can therefore be changed by Council from time to time as required to respond to changing circumstances or evolving community expectations.

Response to specific issues

Council has been aware of a number of issues of concern in the community, and has undertaken targeted consultation with stakeholders and key community groups to understand these issues. The proposed Community Local Law 2019 seeks to respond to these issues, which include changes to the current Local Law in the following areas:

- Consumption of alcohol in public places;
- Portable advertising signage, footpath trading and dining;
- Dinner Plain specific matters, such as dog permits, snowmobiles and snow clearing;
- Dog on and off lead areas;
- Amenity impacts of noise;
- Recreational vehicles;
- Regulating activities on the Murray to Mountains Rail Trail; and
- Council's kerbside waste service.

The changes and proposed permit conditions are detailed in the attached *Local Law Incorporated Documents, Policies and Permit Conditions* (as attached 9.3.1 (c)). Maps for Consumption of alcohol in public places and Dogs on lead areas (as attached 9.3.1(d)).

Community Impact Statement

Council has prepared a Community Impact Statement to explain the changes to, and effect of local law.



POLICY IMPLICATIONS

The making of Local Laws is in accordance with the *Local Government Act 1989*.

This report is consistent with the following strategic objective in the Council Plan 2017-2021:

- A well planned and safe community.

FINANCIAL AND RESOURCE IMPLICATIONS

There have been no budgeted costs against this local law. The law sets out offences and fines payable.

There may be costs associated with improving compliance, for example through staff costs increased enforcement activities. Increased revenue from infringements is considered to be minor. There may also be costs associated with increased signage.

CONSULTATION

Section 119 of the *Local Government Act 1989* sets out the procedure required when making a local law. This includes giving public notice in the locally circulating newspaper and in the Government Gazette. As part of this process, a Section 223 Public Consultation process must be followed, giving the public 28 days to comment on the proposed Local Law.

Following the period of public consultation, and adoption by Council, a further public notice must be made to advise of the formal adoption of the Local Law, and its application. A copy must also be sent to the Minister for Local Government.

In addition to these requirements, Council has conducted preliminary consultation to provide insight into the issues facing our community and the performance of our current Local Laws.

A series of targeted stakeholder consultations were undertaken during September and October 2018 to test possible solutions to the known issues and check if there were other underlying issues.

Council officers consulted with:

- A total of 59 representatives from 12 different community organisations from Myrtleford, Mount Beauty and Bright representing event-organisers, agriculture, service and business groups;
- Agency stakeholder groups including, Victoria Police, Alpine Health, EPA Victoria and Mount Hotham Alpine Resort Management Board;
- Staff and contractors of Alpine Shire Council including CEO, Directors, Managers and operational staff; and
- Alpine Shire Councillors.



CONCLUSION

The draft Community Local Law 2019 reflects a significant change from the previous Local Law structure that removes a significant amount of duplication and redundant content. The new law will bring the Alpine Shire into line with current best practice, and make the law more accessible, relevant and adaptable to serve our community over the life of the law.

In approving this draft Community Local Law 2019 for exhibition, Council is complying with the processes required under the *Local Government Act 1989*.

DECLARATION OF CONFLICT OF INTEREST

Under Section 80C of the *Local Government Act 1989*, the following officers declare that they have no interests to disclose in providing this report.

- Director Corporate
- Acting Manager Building and Amenity

ATTACHMENT(S)

- 9.3.1(a) Draft Community Local Law 2019
- 9.3.1(b) Community Impact Statement
- 9.3.1 (c) Local Law Incorporated Documents Policies and Permit Conditions
- 9.3.1 (d) Maps of areas with restrictions



9.3.2 Domestic Wastewater Management Plan

File Number 1022.12.2

INTRODUCTION

This report provides for the release of the draft Domestic Wastewater Management Plan (DWMP) for public comment.

RECOMMENDATION

That Council:

- 1. Endorses the draft Domestic Wastewater Management Plan (attached as 9.3.2) for public exhibition.*
- 2. Publish public notices of its intention to adopt the Domestic Wastewater Management Plan in the Alpine Observer, Myrtleford Times and on Council's website, inviting public comment.*

BACKGROUND

Alpine Shire Council is committed to responsible and sustainable domestic wastewater management practices to protect the health of the community and the surrounding environment. Council is required to prepare a DWMP to fulfil its obligations with respect to Clause 32 of the State Environment Protection Policy (Waters of Victoria) and the *Environment Protection Act 1970*.

The DWMP deals with all domestic wastewater in the Shire, both within reticulated sewerage districts as well as areas that are serviced by onsite systems. Management of domestic wastewater is required to ensure that it does not pose a risk to human health or the environment, and that appropriate planning and design takes place for new systems or alterations to existing systems.

ISSUES

The DWMP will be implemented through an Action Plan that covers the next three years. After three years, the DWMP will be reviewed. The main objectives of the DWMP is to:

- Provide for a more consistent approach to issuing new permits for onsite wastewater systems;
- Improve our understanding of how current wastewater systems are performing, to enable Council to ensure they do not compromise health or environmental values;
- Address gaps in our understanding of older wastewater systems across the Shire; and
- Validate and refine our understanding of 'high risk' areas across the Shire.



The DWMP deals with the following key action areas:

- Existing onsite systems (identification of issues and education for occupiers);
- Future onsite systems (planning and design to best practice standards); and
- Sewer areas, ensuring connections are made to reticulated sewerage where appropriate, and supporting the establishment of clear sewerage districts.

The key action that will impact on the community is wastewater system inspections. Council will implement an inspection regime across the Shire to examine existing systems, and gather data on the location, condition and type of systems. The inspections will be targeted to improve our understanding of the 'high risk' areas across the Shire, address gaps in our current information, and provide an opportunity to improve the community's understanding of wastewater system maintenance.

The cost of these inspections will be borne by Council. In the event that an inspection identifies a wastewater system that is failing with a risk to public health or the environment, owners will be required to fix the system at their own cost. This is no different to current requirements.

POLICY IMPLICATIONS

The adoption of the DWMP is required for Council to fulfil its obligations with respect to Clause 32 of the State Environment Protection Policy (Waters of Victoria) and the Environment Protection Act 1970.

This recommendation is consistent with the following strategic objective of the Council Plan 2017-2021:

- A well planned and safe community.

FINANCIAL AND RESOURCE IMPLICATIONS

There is no allocation in the 2018-19 budget for the implementation of the DWMP. Future year implementation will be subject to budget being approved at that time, and some projects may also be eligible for state government funding.

CONSULTATION

Extensive consultation has occurred with key stakeholders in the preparation of the DWMP, namely Goulburn-Murray Water and North East Water. These agencies will continue to be integral to the successful implementation of the DWMP, and ongoing consultation and liaison will be required.

Internal consultation has also been undertaken with Council's Planning, Local Laws, Building and Asset Maintenance departments.



CONCLUSION

The DWMP is required for Council to fulfil its statutory and regulatory obligations under Clause 32 of the State Environment Protection Policy (Waters of Victoria) and the *Environment Protection Act 1970*.

Importantly, the DWMP will, over time, provide Council with a clear understanding of the condition of onsite wastewater systems in the Shire, and validate our understanding of any risks posed to the environment or human health as a result of domestic wastewater.

DECLARATION OF CONFLICT OF INTEREST

Under Section 80C of the *Local Government Act 1989*, the following officers declare that they have no interests to disclose in providing this report.

- Director Corporate
- Acting Manager Building and Amenity

ATTACHMENT(S)

- 9.3.2 Draft Domestic Wastewater Management Plan



9.3.3 Airport Services Lease for Hangar at Porepukah Aerodrome

File Number: 1500.01

INTRODUCTION

A lease has been prepared for the hangar on land contained in Lot 1 Plan of Subdivision PS612929, 266 Buckland Valley Road Porepukah for a 10 year term, with a second 10 year option. An existing hangar at the aerodrome has been sold and a new lease has been prepared for one of the new hangars. The purpose of this report is to seek approval to execute one of the new leases at the Porepukah Aerodrome.

RECOMMENDATION

That Council:

1. *Approve and execute one lease forming part of Lot 1 PS612929, 266 Buckland Valley Road Porepukah for Aircraft Hangar; and*
2. *Sign and Seal the lease in favour of Ian and Catherine King at the appropriate stage of the Council meeting.*

BACKGROUND

The Porepukah Aerodrome Master Plan was presented to Council at the Ordinary Council Meeting June 2006. One of the recommendations of the Master Plan was that Council negotiate with the airfields adjoining land owner with regard to acquisition of additional land for potential hangar relocation and new hangar.

At the Ordinary Council meeting July 2007 Council approved the Acting CEO be authorised to proceed with the acquisition of an adjoining strip of land at the Porepukah Aerodrome.

The land was acquired in 2008 and is contained in Lot 1 of Plan of Subdivision PS612929, 266 Buckland Valley Road Porepukah. A new entrance to the airfield was created on this land with the remaining land set aside for hangars and taxi way.

Lease documentation has been developed for the purpose of entering into long term hangar leases on this land. The length of the leases is 10 years, plus a 10 year option, lease charges for the attached two leases are approximately \$900 (plus GST) per annum calculated based on the square meterage for each site.

ISSUES

Under Section 5(2)(d) of the *Local Government Act 1989* (the Act), Council is able to acquire, hold, deal with or dispose of the property (including land) for the purpose of performing its functions and exercising its powers.

Prior to entering into a Lease of 10 years or more, Section 190 of the Act requires Council to:

- At least four weeks before the lease is made, publish a public notice of the proposed lease (Section 190(3b)).
- Allow interested persons to make submissions under Section 223 on the proposed sale or exchange (Section 190(4)).



Council has met the requirements under Section 190 and Section 223 of the Act.

POLICY IMPLICATIONS

This process is in accordance with obligations under the *Local Government Act 1989* and the *Local Government Best Practice Guidelines for the Sale, Exchange and Transfer of Land*.

This recommendation is consistent with the following strategic objective of the Council Plan 2017-2021:

- Highly utilised and well managed community facilities.

FINANCIAL AND RESOURCE IMPLICATIONS

The commencement annual lease income for the hangar is approximately \$900 (plus GST). Forward lease charges are indexed to CPI annually and subject to a market review after the first 10 years of the lease. Income collected from hangar rentals at the airfield is paid to the Porepunkah Aerodrome Association to assist it in fulfilling its responsibilities to operations and day to day maintenance of the airfield.

CONSULTATION

In accordance with Section 190 of the Act public notices were posted in September 2018 notifying of the proposed leases and inviting submissions in accordance with Section 223 (Section 190(3b)& (4)). No submissions were received regarding either of the proposed leases.

CONCLUSION

Having met Council's obligations under the *Local Government Act 1989* Council may enter into the lease with one of the owners of the land by executing one of the attached lease documents.

DECLARATION OF CONFLICT OF INTEREST

Under Section 80C of the *Local Government Act 1989*, the following officers declare that they have no interests to disclose in providing this report.

- Director Corporate
- Manager Facilities

ATTACHMENT(S)

- Nil



9.3.4 Contract 1802401 - Operation and Management of the Myrtleford, Porepunkah and Mount Beauty Transfer Stations

File Number: CT1802401

INTRODUCTION

The purpose of this report is to recommend the award of a contract for the operation and management of the Myrtleford, Porepunkah and Mount Beauty Transfer Stations.

A tender was conducted in June 2018 for the operation of Council's three Transfer Stations and Council has prepared a contract for their operation and management commencing 1 January 2019 for a period of three years, with one option to extend for a further period of three years.

RECOMMENDATION

That Council award Contract No. CT1802401 for the Operation and Management of Myrtleford, Porepunkah and Mount Beauty Transfer Stations to Cr8tve Waste Management Pty Ltd for a three year term at an estimated contract value of \$495,444 (plus GST) plus an option to extend for a further three years.

BACKGROUND

Council directly operates and manages Transfer Stations in Porepunkah and Mount Beauty. Porepunkah Transfer Station has operated solely as a transfer station since 2008 when landfill activity ceased at the site, Mount Beauty Transfer Station has operated solely as a transfer station since approximately 1990 and Myrtleford Transfer Station ceased operations as a landfill site in May 2017. Both the Porepunkah and Mount Beauty facilities are operated and managed by Council.

The Myrtleford facility currently operates under a contract held by Cr8tve Waste Management. Which was awarded at a Special Council Meeting held on 16 May 2013 the contract was for a period of five years commencing 1 July 2013 and provided for two extension options. Council has exercised one of these options and the current contract ends on 31 December 2018.

With the cessation of landfill operations at Myrtleford Transfer Station and in line with Council's organisational review, a tender has been undertaken to ascertain the market for the operation of the three transfer stations and inform future operations decision making.

As a result of the tender process a contract has been prepared for the operation of the three facilities commencing 1 January 2019 for a period of three years, with one option for an additional three years.



The tender was released in June 2018 and closed 5 July 2018. It was structured in separable parts and invited submissions for:

- The operation and management of the Myrtleford Transfer Station;
- The operation and management of the Porepunkah and Mount Beauty Transfer stations; and
- The operation and management of all three sites.

The tender was advertised in local papers, the Border News, the Herald Sun and listed on tenders.net. Fifteen parties downloaded the tender documentation, however only one submission was received with Cr8tve Waste Management submitting a conforming tender and a non-conforming tender.

EVALUATION

The conforming tender provides a schedule of rates in separable parts for the staffing, site vehicles and day-to-day operations of each of the transfer stations. This includes all customer service functions; site stockpile management; the handling and loading of kerbside waste received at Myrtleford Transfer Station and minor site works. Under this contract Council would retain responsibility and costs for the transportation and disposal of waste and other materials from the site; major site works; provision of heavy equipment; key infrastructure including staff amenities; utilities; licences and any onsite processing of stockpiles such as green waste and concrete.

The non-conforming tender provides an annual fee for the management of the three transfer stations (not separable) with the key variances from the tender request being that Council provides staff to support the operation of the three sites to an agreed rostered level. The contractor provides staff to manage the bulk waste at Myrtleford Transfer Station as well as a proportion of rostered shift coverage at Porepunkah and Mount Beauty Transfer Stations; a vehicle at both Mount Beauty and Myrtleford, and the supervision and management of site operations including rostering; customer service; stockpile management; site inspections and compliance checks.

When assessing the non-conforming bid consideration has also been given to the following additional factors:

- A vehicle be provided by the contractor to be located at the Mount Beauty transfer station. The site does not currently have a vehicle on site and the presence of a vehicle will assist staff with end of day site checks and managing minor stockpile contamination issues.
- The presence of an experienced waste management facility operator onsite at each facility on at least one day per week. This provides an improved level of supervision of site operation and should improve consistency of operations and customer service standards across all three sites.
- The development of standard operating procedures across all three sites.



- Cr8tve Waste Management has extensive experience operating a licenced landfill and an understanding of key infrastructure such as leachate management systems, monitoring infrastructure and compliance and reporting requirements and standards. With both Myrtleford and Porepunkah operating under EPA required licences, monitoring and/or aftercare management programs this experience is considered of significant value in ensuring Council's obligations are met.

The evaluation panel consisted of the Manager Facilities and Director Corporate. The tenders were evaluated according to the key selection criteria listed in the Invitation to Tender:

- Price
- Qualifications and Previous Performance
- Delivery
- Social

Following the initial assessment of the offers, the tenderer was invited to clarify aspects of their tender; this included information regarding the planned management of the sites, the contractor provided resourcing, supervisory hours split across the sites and the oversight of kerbside waste and recycling waste management. Following this, it was determined that the non-conforming tender from Cr8tve Waste Management addressed all the requirements of the selection criteria and presented the best value for Council.

ISSUES

Key elements of the proposed contract are:

- Contract Term – The proposed contract term is for three years, with one option of an additional three years. The initial term allows sufficient time for Council to complete the review of the possible introduction of a third kerbside collection bin for food organics/green organics. Any implications on this potential change on the operations of the transfer stations will be able to be assessed before the end of the initial contract period and will help inform the decision on enacting the available option.
- Annual Increases - Rates associated with the contract may be reviewed and varied annually based on a Consumer Price Index (CPI) calculation contained within the contract, rates are expressed in January 2019 values. CPI will be equal to the Melbourne All Groups CPI figures for the September quarter of the year in question.
- Staffing - In the non-conforming offer Council would provide a maximum of 74 hours per week of rostered staffing. Any other staffing required under the contract would be provided by Cr8tve Waste Management. Council staff would be supervised directly by Cr8tve Waste Management under the terms of the contract, however remain managed by Council. Retaining Council staff at transfer stations will also mitigate the risk associated with any failure of the contractor to be able to meet the terms under the contract.



- Site Operations - All decisions regarding fees, site operating hours, service and operating conditions and guidelines would continue to be determined by Council not the contractor. The Contractor would be responsible for complying with the conditions of any EPA Licence or Notice that may apply to the site during the period of this contract, the *Guide to Best Practice at Resource Recovery Centre*, and all relevant documents and requirements as contained within the contract.

POLICY IMPLICATIONS

The tender was advertised and evaluated in accordance with Council's Procurement Policy and is in accordance with obligations under the *Local Government Act 1989*.

Current temporary staffing arrangements at Porepukah and Mount Beauty Transfer Stations will be reviewed with a view to formalising staffing for the three year contract term. Staff would be supervised directly by Cr8tve Waste Management under the terms of the contract, however remain under Council management.

This report is consistent with the following strategic objective of the Council Plan 2017-2021:

- Highly utilised and well managed community facilities.

FINANCIAL AND RESOURCE IMPLICATIONS

There is sufficient provision within the overall 2018-19 Budget to deliver this contract. Whilst it would result in an increase in Council staff rostered hours from approximately 54 hours per week to 74 hours per week, this increase in wages costs would be offset by the lower costs of the contracted service provided by Cr8tve Waste Management compared to the current contract. This contract would result in a small annual saving of approximately \$450 per annum compared to the current total cost operating all three transfer stations.

The proposed contract would also free up management and officer resourcing within Council to allow greater focus on strategic initiatives within the waste area, such as Food Organics/Green Organics waste management.

CONSULTATION

The staff have been consulted on the proposal to tender the operations of the three Transfer Stations.

CONCLUSION

It is recommended that Council award the contract for the Operation and Management of the Myrtleford Transfer Station, Porepukah Transfer Station and Mount Beauty Transfer Station, contract number CT1802401 to Cr8tve Waste Management.



DECLARATION OF CONFLICT OF INTEREST

Under Section 80C of the *Local Government Act 1989*, the following officers declare that they have no interests to disclose in providing this report.

- Director Corporate
- Manager Facilities

ATTACHMENT(S)

- Nil



9.3.5 Planning Application 5.2018.20.1 - Development of a Second Dwelling

Application number:	5.2018.20.1
Proposal:	Buildings and works for the construction of a second dwelling
Applicant's name:	Eaz Build
Owner's name:	R M Hall
Address:	22 Showers Avenue, Bright
Land size:	799 square metres
Current use and development:	Land has been developed with a single storey dwelling with carport and shedding
Site features:	Site is well vegetated with a domestic garden and has a slope from the front to the rear.
Why is a permit required?	A planning permit is required to develop the land with a second dwelling pursuant to Clause 32.08-6 General Residential Zone Schedule 1, and for buildings and works associated with accommodation pursuant to Clause 44.06-2 Bushfire Management Overlay
Zoning:	General Residential Zone Schedule 1
Overlays:	Bushfire Management Overlay Proposed Land Subject to Inundation Overlay Proposed Floodway Overlay
Restrictive covenants on the title?	Nil
Date received:	Initial application received 17 January 2018 Amended application received 15 August 2018
Statutory days:	90
Planner:	Sam Porter

RECOMMENDATION

That a Notice of Refusal be issued for buildings and works for the construction of a second dwelling at 22 Showers Avenue, Bright in accordance with the grounds outlined in Appendix A.

PROPOSAL

It is proposed to construct a second dwelling on the site. The dwelling would be located at the rear of the existing dwelling and would be two storey. It would comprise a kitchen, living area and laundry on the ground floor, and two bedrooms and two bathrooms on the first floor. A double garage with a dividing wall would be located on the eastern side of the dwelling, and would have one space designated for the existing dwelling and the other space designated for the proposed dwelling. Private open space for the proposed dwelling would be located at the front and rear of the dwelling as well as on a balcony on the first floor level. The dwelling would be



contemporary in design with a sloping skillion roof. Proposed materials have not been specified.

The existing dwelling would be modified by the removal of the carport attached to its eastern side. Private open space would be located at the rear and front of the dwelling, and car parking would be at the rear of the site as discussed.

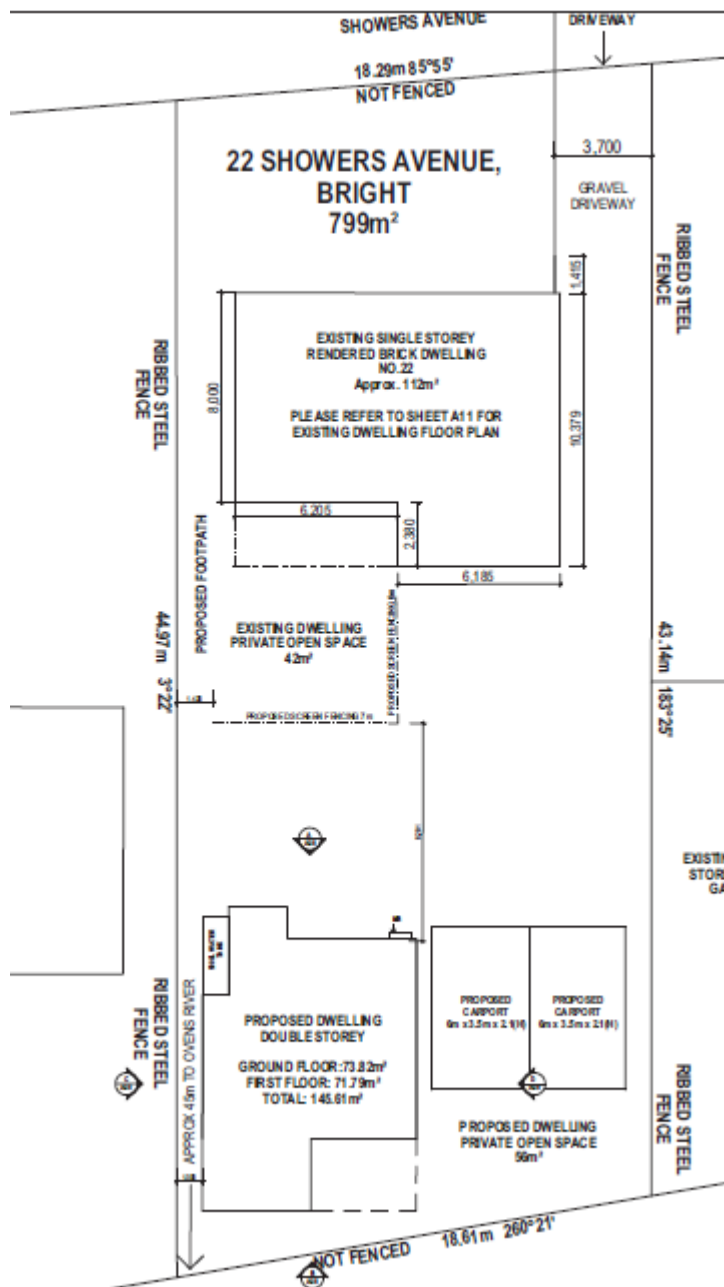


Figure 1: Shows the development layout on site.

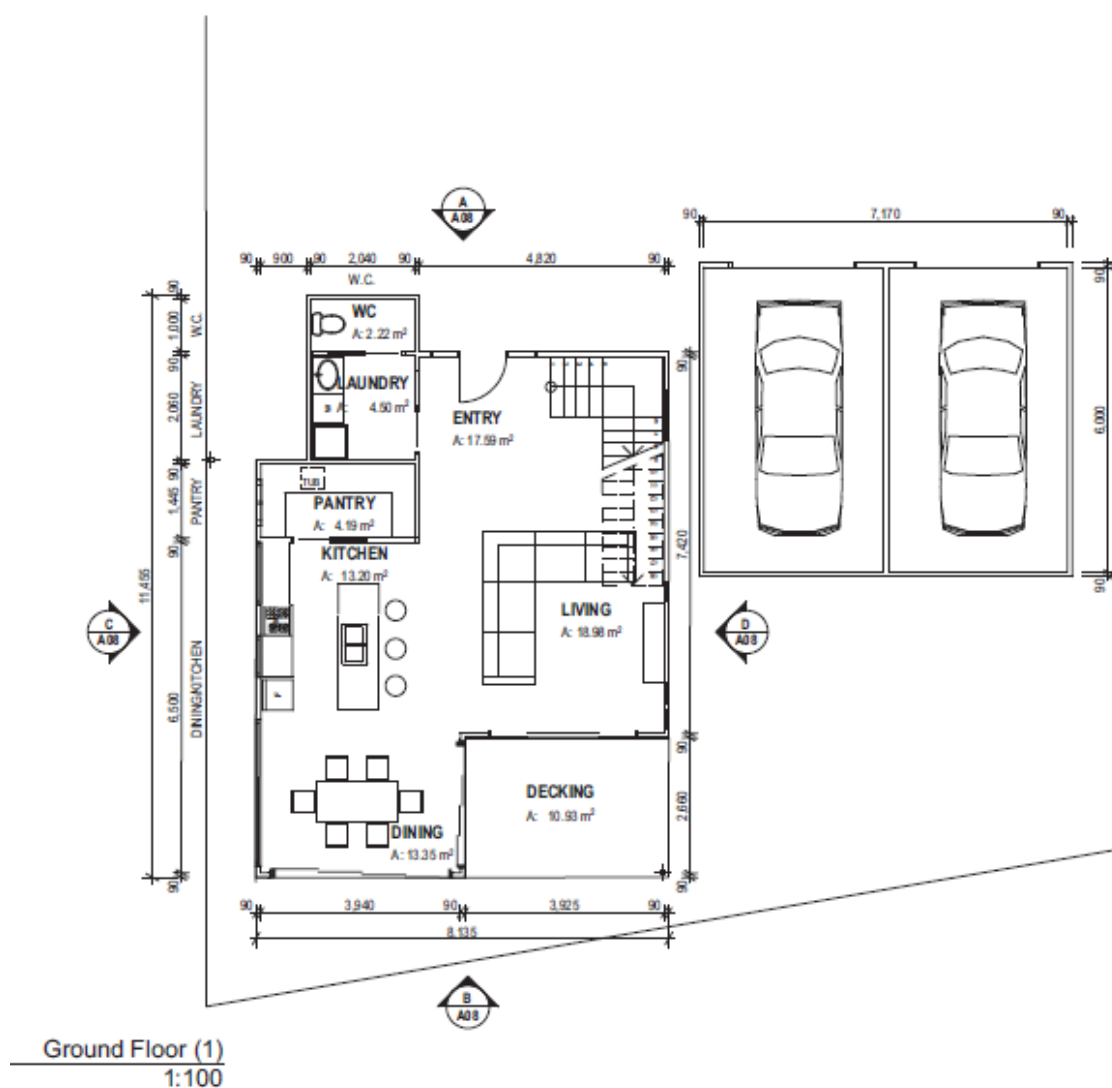


Figure 2: Ground floor of the proposed dwelling.



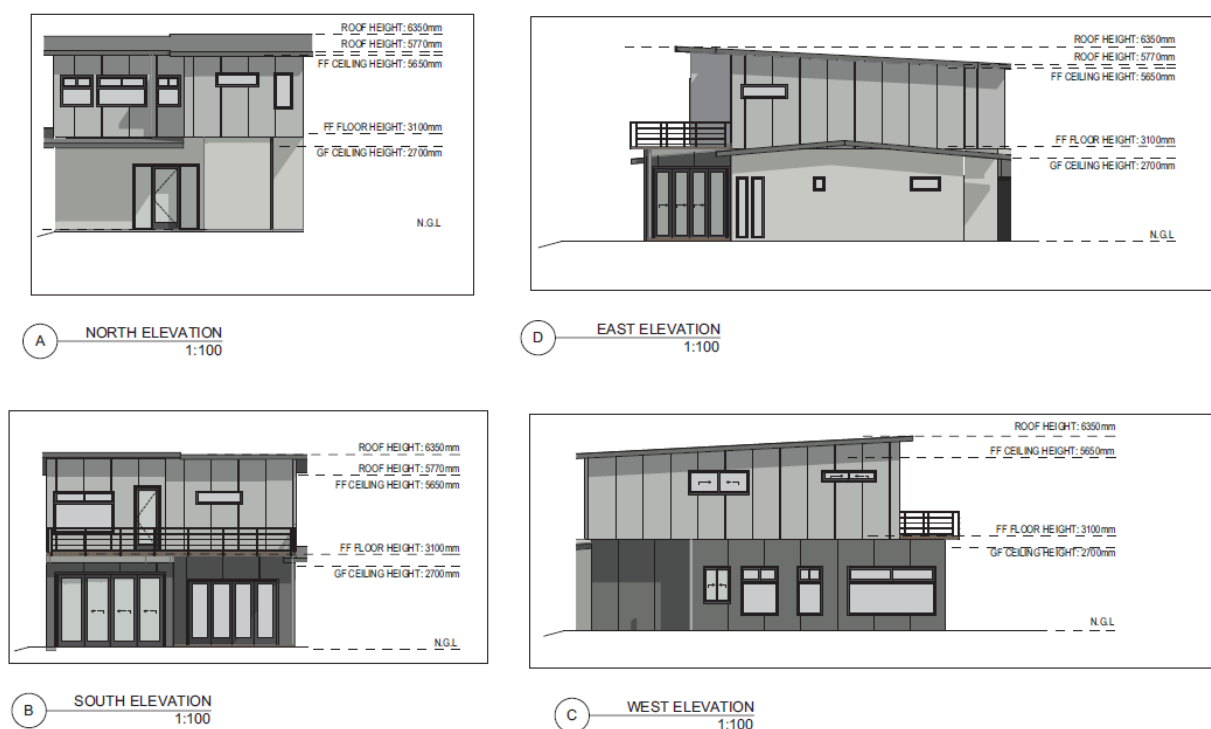


Figure 4: Elevations of the proposed dwelling

SUBJECT LAND AND SURROUNDS

The subject site is regular in shape and is located on the southern side of Showers Avenue in Bright. The rear of the site backs onto the Ovens River and Canyon Walk. The site has a frontage of 18.29 metres, a depth of 44.97 metres, and an overall area of 799 square metres. It has a slope from the front to the rear.

The site has been developed with a single storey dwelling which is currently used for short-term holiday accommodation. The dwelling is located at the front of the site and a garage is located in the rear south-eastern corner. The remainder of the site contains an extensive garden that is open to the rear to provide access to the river.

The site is located in the Bright Township to the north-west of the commercial centre. Land surrounding the site to the north, east and west has generally been developed with single dwellings. To the south of the site is the Ovens River with its associated reserve which includes the Canyon Walk.

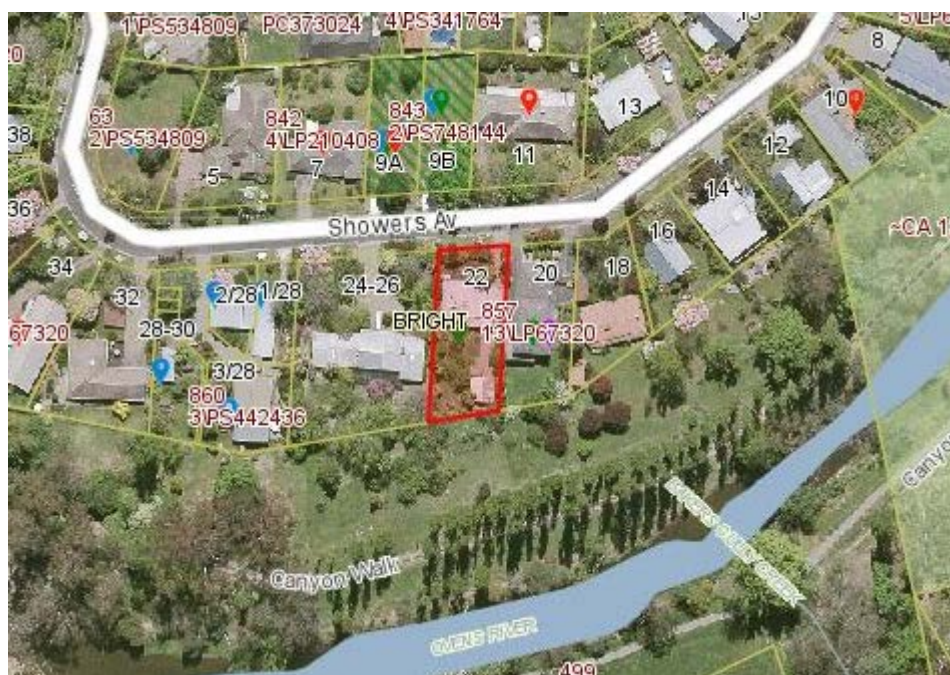


Figure 5: Subject land.

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 four surrounding landholders and occupiers. A sign was displayed on the subject land for 14 days. One objection was received; the reasons for objecting are as follows:

- Proposed dwellings close proximity to side and rear boundary
- Two story building
- Loss of views towards nearby Farrington Poplars
- Noise
- Overlooking from proposed second storey balcony

REFERRALS

Referrals / Notice	Advice / Response / Conditions
Section 55 referrals:	CFA - no objection subject to planning permit conditions
Internal / external referrals:	NECMA - objection on the following grounds: 1. Development of the site is not consistent with the objective of VPP Clause 13.02-1 (Floodplain Management) and the purpose of the proposed Floodway Overlay and Land Subject to Inundation Overlay at the site. 2. Development of a second residential dwelling on the lowest part of the site is not consistent with the flood hazard as access will be impeded in times of flooding, resulting in a



	<p>risk to life, health and safety for residents and emergency services personnel.</p> <p>Engineering - no objection subject to planning permit conditions.</p>
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PLANNING ASSESSMENT AND RESPONSE TO GROUNDS OF OBJECTION

All applicable policy and decision guidelines can be found in Appendix (B).

Planning Policy Framework (PPF) and Local Planning Policy Framework (LPPF)

The proposal is considered to be appropriately located within the Bright Township as it would support the PPF by increasing residential densities to help consolidate urban areas. It would provide housing in an established urban area that has good access to services, employment, transport and infrastructure. The proposal also adequately addresses bushfire risk.

However the proposal does not adequately address flooding or the on and off-site amenity impacts the proposed design would generate.

Clause 13.03-1S Floodplain Management has the objective:

To assist the protection of:

- Life, property and community infrastructure from flood hazard.
- The natural flood carrying capacity of rivers, streams and floodways.
- The flood storage function of floodplains and waterways.
- Floodplain areas of environmental significance or of importance to river health.

The site is located in an area identified by North East Catchment Management Authority (NECMA) as being affected by flooding. NECMA has advised that it objects to the proposal as it is likely the majority of the site would be subject to inundation from the Ovens River in a 1 in 100 year flood event, with the proposed dwelling to be located in an area subject to the deepest flooding with depths varying from 0.6 to 1.2 metres. Given this information, the proposal does not adequately address Clause 13.03-1S as it would not assist in the protection of life and property with regard to floodplain management.

Clause 15.01-1S Urban Design has the objective:

To create urban environments that are safe, healthy, functional and enjoyable and that contribute to a sense of place and cultural identity.

The design of the proposed dwelling does not adequately address the requirements of Clause 55 ResCode with regard to on and off-site amenity impacts. This will be discussed in the later part of this report.

The proposal also does not adequately address Clause 22.01-1 Battle-axe Blocks Policy. The policy requires a driveway to have a minimum width of 5 metres where a battle-axe arrangement is proposed. The driveway would have a width of only 3.7 metres thereby not satisfying the policy requirements.



Zoning

The subject land is zoned General Residential Zone Schedule 1. An application for a second dwelling on the site must be assessed against Clause 55 ResCode. The proposal has a number of areas of non-compliance with Clause 55 which are discussed later in this report.

Bushfire Management Overlay Schedule 2 and Clause 53.02 Bushfire Planning

The application has satisfactorily addressed the objectives of the BMO and Clause 53.02. The application was referred to CFA who had no objection to the proposal subject to planning permit conditions.

Proposed Floodway Overlay and Land Subject to Inundation Overlay

As discussed the site is located in an area where flooding has been identified. As a result, two proposed overlays affect the site - proposed Floodway Overlay (FO) and proposed Land Subject to Inundation Overlay (LSIO). See Figure 6.



Figure 6: Proposed FO (dark green) and LSIO (light green)



The application was referred to NECMA who has objected to the proposal as discussed. As the overlays are only proposed at this point in time and NECMA is therefore an informal referral authority, Council is not bound to refuse the application based on NECMA's objection. However it is considered prudent to take NECMA's advice and refuse the application on the grounds provided due to the risk to life and property as a result of flooding from the Ovens River.

Clause 52.06 Car Parking

The proposal would provide one car parking space per dwelling which satisfies the requirements of this clause however the location of the car parking space is not considered to appropriate as discussed below.

Clause 55 Two or More Dwellings on a Lot

The proposal has been assessed against the relevant clauses of Clause 55 and found it to be deficient in the following areas:

- Clause 55.03-5 Energy Efficiency Objectives

Buildings should be oriented to make appropriate use of solar energy with living areas and private open space located on the north side of the development, if practicable. Developments should be designed so that solar access to north-facing windows is maximised.

The proposed dwelling is not provided with any north facing windows to living areas despite the site providing plenty of opportunity for this to occur due to its size and orientation. A lack of north facing windows will have an impact on the energy efficiency and amenity of the dwelling and is considered to be a poor design outcome.

- Clause 55.03-10 Parking Location Objectives

Car parking spaces should be reasonably close and convenient to dwellings. The car parking space for the existing dwelling would be located at the rear of the site adjacent to the car parking space for the proposed dwelling. Whilst the distance to the space is not great, the location may cause management and amenity conflicts due to the proximity of the space to the proposed dwelling. It is considered that there are more practical locations for the car parking space for the existing dwelling such as at the rear of this dwelling beyond the private open space area. This would provide a car parking space that would be more connected to the dwelling.

- Clause 55.04-1 Side and Rear Setbacks Objective

A new building not located on or within 200 mm of a boundary should comply with the setbacks stipulated in this clause. The proposed dwelling would have a wall height on its western side of 6.35 metres. As such, the wall should be set back a minimum of 1.8 metres from the western boundary. A setback of only 1.0 metre is proposed which does not comply with the clause.

- Clause 55.05-4 Private Open Space Objective

Each dwelling should have 40 square metres of private open with one part of 25 square metres located at the side or rear. Both dwellings are able to achieve this



requirement although the site plan is unclear about the delineation of private open space, particularly for the proposed dwelling. It is not known if the area to the north of the dwelling would be used for private open space or for some other use such as communal open space or a vehicle turnaround area.

- Clause 55.05-6 Storage Objective

Each dwelling should be provided with 6 cubic metres of externally accessible secure storage space. This has not been provided for either dwelling.

- Clause 55.06-1 Design Detail Objective

Garages and carports should be visually compatible with the development. Elevations of the proposed garage to be used by both dwellings have not been provided. In addition, the garage would be set back less than 1.0 metre from the proposed dwelling, creating an unusable and inaccessible space as well as blocking light to the ground floor windows on the eastern elevation of the dwelling.

- Clause 55.06-3 Common Property Objectives

This clause seeks to ensure that communal open space, car parking, access areas and site facilities are practical, attractive and easily maintained, and that future management difficulties in areas of common ownership are avoided. As discussed, the proposed car parking arrangement is considered to be problematic as it has the ability to cause management and amenity issues for the future residents of the dwellings. The garage for the existing dwelling would be located in close proximity to the proposed dwelling. An improved design, as discussed, is required to ensure this conflict does not occur.

CONCLUSION

The proposal has been assessed against the relevant provisions of the Alpine Planning Scheme, including the Planning Policy Framework, the Local Planning Policy Framework, the General Residential Zone Schedule 1 and Bushfire Management Overlay. It has been determined that the proposed development is inappropriate for the site as it does not satisfactorily address the flood risk to the site or the design considerations of Clause 55. It is therefore recommended that the proposal be refused.

DECLARATION OF CONFLICT OF INTEREST

Under Section 80C of the *Local Government Act 1989*, the following officers declare that they have no interests to disclose in providing this report.

- Director Corporate
- Manager Planning
- Senior Planning Officer

APPENDIX

- 9.3.5 (A) – Grounds of Refusal
- 9.3.5 (B) – Policy and decision guidelines



9.3.5 APPENDIX (A) GROUNDS FOR REFUSAL

1. The proposal is inconsistent with Clause 11.01 Settlement, Clause 12.03 Water Bodies and Wetlands, Clause 13.03 Floodplains, Clause 14.02 Water, Clause 15.01 Built Environment and Heritage and Clause 16 Housing of the Planning Policy Framework.
2. The proposal is inconsistent with Clause 21.03 Settlement, Built Form and Heritage, Clause 21.04-4 Environmental Risk, Clause 21.04-6 Catchments and Waterways and Clause 22.01-1 Battle-axe blocks policy of the Local Planning Policy Framework.
3. The proposal is inconsistent with the Purpose and Decision Guidelines of Clause 32.08 General Residential Zone Schedule 1.
4. The proposal does not adequately address the following Clause 55 requirements:
 - Clause 55.03-5 Energy Efficiency Objectives
 - Clause 55.03-10 Parking Location Objectives
 - Clause 55.04-1 Side and Rear Setback Objective
 - Clause 55.05-4 Private Open Space Objective
 - Clause 55.05-6 Storage Objective
 - Clause 55.06-1 Design Detail Objective
 - Clause 55.06-3 Common Property Objective
5. The proposal is inconsistent with Clause 65 Decision Guidelines.
6. The proposal is contrary to the orderly and proper planning of the area.

NORTH EAST CATCHMENT MANAGEMENT AUTHORITY

7. Development of the site is not consistent with the objective of VPP Clause 13.02-1 (Floodplain Management) and the purpose of the proposed Floodway Overlay and Land Subject to Inundation Overlay at the site.
8. Development of a second residential dwelling on the lowest part of the site is not consistent with the flood hazard as access will be impeded in times of flooding, resulting in a risk to life, health and safety for residents and emergency services personnel.



9.3.5 APPENDIX (B) POLICY AND DECISION GUIDELINES

Planning Policy Framework

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

Clause 11.01 Settlement

Clause 11.01-1R Settlement - Hume

Clause 12.03 Water Bodies and Wetlands

Clause 12.05 Significant Environments and Landscapes

Clause 13.02 Bushfire

Clause 13.03 Floodplains

Clause 14.02 Water

Clause 15.01 Built Environment and Heritage

Clause 16 Housing

Clause 19.03 Development Infrastructure

Local Planning Policy Framework

Applicable local planning policy can be found in the Local Planning Policy Framework (LPPF) section as follows:

Clause 21.03 Settlement, Built Form and Heritage

Clause 21.04-4 Environmental Risk

Clause 21.04-6 Catchments and Waterways

Clause 21.07-1 Bright

Clause 22.01-1 Battle-axe blocks policy

Clause 22.04 Infrastructure

Zone

The subject land is zoned General Residential Zone Schedule 1 pursuant to the Alpine Planning Scheme. The purpose of the zone and applicable decision guidelines can be found at the following link: http://planning-schemes.delwp.vic.gov.au/schemes/vpps/32_08.pdf

Overlays

The planning permit application must address Clause 44.06 Bushfire Management Overlay.

General Provisions

Clause 65 of the Alpine Planning Scheme provides the decision guidelines.



9.3.6 Planning Application 5.2018.50.1 - Three Lot Re-Subdivision

Application number:	5.2018.50.1
Proposal:	Three lot re-subdivision
Applicant's name:	North East Survey Design
Owner's name:	Naynad Investments Pty Ltd
Address:	Lot: 1 TP: 84368, 4 Sangsters Lane, Wandiligong Lot 1 TP 384856, Centenary Ave, Wandiligong CA1 SEC A, Township of Wandiligong, Centenary Ave, Wandiligong
Land size:	3.83 hectares
Current use and development:	Developed with a dwelling and outbuildings. Remainder of the site used for agriculture
Site features:	The site is used for agricultural purposes which includes stock grazing and a small orchard. There are a number of fenced paddocks, and irrigation infrastructure which draws water from Morses Creek to irrigate chestnut trees in the southern part of the site. There is scattered native and exotic vegetation across the site. The site slopes gently eastwards towards Morses Creek reserve.
Why is a permit required?	A planning permit is required for subdivision pursuant to Clause 35.07-3 (Farming Zone), Clause 43.01-1 (Heritage Overlay) and Clause 44.06-2 (Bushfire Management Overlay)
Zoning:	Farming Zone
Overlays:	Significant Landscape Overlay Schedule 3 Heritage Overlay HO83 Bushfire Management Overlay
Restrictive covenants on the title?	No
Date received:	4 April 2018
Statutory days:	50
Planner:	Scott Taylor

RECOMMENDATION

That a Notice of Refusal be issued for a three lot re-subdivision at Lot: 1 TP: 84368, 4 Sangsters Lane, Lot 1 TP 384856, Centenary Ave, and CA1 SEC A, Township of Wandiligong, Centenary Ave, Wandiligong in accordance with the grounds outlined in Appendix A.



PROPOSAL

It is proposed to re-subdivide three existing lots to create three lots as follows:

Lot 1 – would be 8523 square metres and contain the existing dwelling, shedding, wastewater disposal system and domestic infrastructure. Vehicle access would be via an existing crossover from Sangsters Lane. The lot would also have frontage to Centenary Ave.

Lot 2 – would be 2.434 hectares and contain a small chestnut orchard, fencing and irrigation infrastructure. It would have frontage to Centenary Ave.

Lot 3 – would be 5271 square metres and have frontage to Centenary Ave. The applicant has stated that this lot is proposed as a future house lot.



Figure 1: Shows the subdivision layout on site.



SUBJECT LAND AND SURROUNDS

The subject site is comprised of three allotments:

CA 1 Sec A has an area of 0.725 ha, is irregularly shaped and does not contain any structures. It appears to be landlocked and has frontage to Morses Creek on its eastern boundary.

Lot 1 TP 384856 has an area of 1.543 ha and is regular in shape. It does not contain any structures and is used for agricultural purposes. It has a frontage to and access from Centenary Ave on its western boundary.

Lot 1 TP 84368 has an area of 1.545 ha and is irregularly shaped. It is located on the south-eastern corner of Centenary Ave and Sangsters Lane and has vehicle access from Sangsters Lane.

The site is located to the west of the Wandiligong Township in an area that is zoned for farming but is highly fragmented. Many of the lots surrounding the site are used for rural lifestyle purposes.



Figure 2: 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 12 surrounding landholders and occupiers, and two signs were displayed on the subject land. Eight objections were received; the reasons for objecting are as follows:

- The application is in violation of the Farming Zone purpose.



- The proposed subdivision will destroy the natural and historical landscape setting, values, integrity and character of the Wandiligong valley.
- The proposal does not maintain the historical density of the site.
- The land is not lost to agricultural production.
- The land does not form part of the Wandiligong Township and should not be treated as if it were.
- The land is currently used for domestic farming activities which should not be discounted.
- The disposal of effluent from the site may have a detrimental impact on the environment due to the presence of a number of natural springs close to the surface which have not been identified.
- The south-eastern boundary of proposed Lot 3 is very close to a bore on the adjoining property.
- The Land Capability Assessment has not been undertaken for the entire site.
- Any future residential development would be detrimental to the intrinsic character and integrity of Centenary Ave and more widely to the Wandiligong Township.

A planning forum was held to discuss the application on 24 September 2018 at the Council offices. The applicant, one objector, four Councillors and Council officers attended. The application was discussed at length however no agreement was reached between the parties.

REFERRALS

Referrals / Notice	Advice / Response / Conditions
Section 55 referrals:	CFA - no objection and no planning permit conditions required Goulburn-Murray Water - no objection subject to conditions
Internal / external referrals:	NECMA - no objection and no planning permit conditions required DELWP - no objection and no planning permit conditions required Engineering - no objection subject to planning permit conditions Environmental Health - no objection subject to planning permit conditions



PLANNING ASSESSMENT AND RESPONSE TO GROUNDS OF OBJECTION

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

Planning Policy Framework (PPF) and Local Planning Policy Framework (LPPF)

The site is located in the Wandiligong Valley as identified in Clause 21.07-11 of the Scheme. The clause requires applications for this area to be guided by the recommendations in the Alpine Shire Rural Land Strategy (2015) (Strategy). The Strategy was adopted by Council in 2015 and is a reference document in the Scheme.

The Strategy locates the subject site in Precinct 3 – Wandiligong Valley. The Strategy states “There is an opportunity to expand nature based tourism, creating synergies with agri-tourism in Centenary Avenue, an area that is fragmented from agriculture.” (p. 33) the precinct map also includes the site in an area where rezoning should be investigated. The recommendations chapter of the Strategy contains implementation measures for the Strategy and includes, among other things, “Undertake a rural living strategy to determine supply, demand and the need for additional rural living zones and suitable locations.” (p. 52) the rural living strategy has not commenced to date.

The Strategy identifies the site as being in a location that is fragmented from agriculture. This is evidenced by the smaller lot sizes in the vicinity of the site and the high incidence of rural residential living although some lots contain small scale agricultural uses. The site is subject to the BMO, SLO3 and HO83 and is located in a Special Water Supply Catchment. There is no reticulated sewerage. Given these constraints it is considered that the most likely future zoning of the land would be more in line with the Rural Living Zone than the Low Density Residential Zone. However this remains to be determined via further strategic work.

The Scheme states at Clause 21.03-2 Rural Residential Living that in the Rural Living Zone, lot sizes in the range of 2.0 hectares should be encouraged. The proposed lot sizes are 0.8 ha, 0.5 ha and 2.4 ha therefore two of the proposed lots are not in line with the preferred lot size for the Rural Living Zone.

By comparison, the Low Density Residential Zone requires lots to be at least 0.4 ha where reticulated sewerage is not connected. All of the proposed lots would satisfy this requirement.

Given the existing subdivision layout in the immediate area and in the absence of a Rural Living Strategy and further strategic work that identifies the most acceptable future zoning of Centenary Ave, the subdivision of the site into small lots is considered to be premature.

The proposal is also inconsistent with the current zoning of the land. The proposed lot sizes would not support the continuation of agriculture and have the ability to create land use conflicts between agricultural uses and rural residential uses. The applicant has not provided any evidence that the creation of smaller lot sizes will improve farm economics or viability, or create lots that would be capable of holding sustainable agricultural uses.

It is considered that the applicant has not provided adequate strategic justification in relation to the future rural residential zoning of the area or the benefit to agriculture under the current zoning. The proposal is therefore considered to be at odds with



the future strategic direction of the area and the current zoning of the land. The proposal is considered to be premature for this area as strategic work has not been undertaken to transition the zoning of the area to one that is more reflective of its future strategic direction.

Special Water Supply Catchment

The site is located in the Ovens River Special Water Supply Catchment Area. Pursuant to Clause 66.02-5, an application to subdivide land in a Special Water Supply Catchment Area must be referred to the relevant water board or water supply authority who is a determining referral authority. In this instance the application was referred to Goulburn-Murray Water (G-MW) who initially objected to the proposal but is prepared to reconsider their position should additional information be received. Following receipt of an amended Land Capability Assessment (LCA) for proposed Lot 3 and its increase in size from 2300m² to 5271m², an LCA for proposed Lot 2 and also an increase in size to Lot 1 G-MW has now granted conditional consent.

Zoning

The subject land is located in the Farming Zone. As discussed, the proposed subdivision is considered to be inconsistent with purpose and decision guidelines of the zone as the proposal would further fragment agricultural land into 3 small lots that would all have the potential to be used for dwellings. It would create lot sizes that would not be suitable for agriculture with respect to the two smaller lots with the potential for the larger lot to be either used for a larger residential lot and/or small scale agriculture that would have the potential to create a land use conflict with adjoining lots. As a result part of the land would be permanently lost to agriculture (the smaller lots), and the balance of the land, (the larger lot) could also be lost to agriculture if used as a lifestyle lot.

The applicant has not provided any evidence to demonstrate that a viable agricultural use could be carried out on proposed Lots 1 and 3 in particular. The creation of rural lifestyle lots has the capacity to impact on the operations on adjoining and nearby agricultural uses as farming practices can create amenity impacts which may not be tolerated by rural lifestyle residents. Overall the proposed subdivision does not provide for the use of the land for agriculture as required by the zone.

Clause 42.03 Significant Landscape Overlay Schedule 3 – Wandiligong Valley Significant Landscape Area

No planning permit is required for subdivision under the overlay requirements.

Clause 43.01 Heritage Overlay – HO83 Wandiligong

The Wandiligong Heritage Guidelines (2016) have been considered in the assessment of the application under the overlay.

The guidelines state the following with regard to subdivision and siting:

The existing irregular pattern of subdivision and building siting in Wandiligong Heritage Area illustrates the early and rapid growth of the township and contributes to Wandiligong's landscape character.



Guidelines

Potential subdivisions and building siting must reinforce the existing irregular nature of subdivision and avoid modern, suburban development patterns;

The proposed subdivision would reinforce the existing irregular nature of Wandiligong as per the guidelines however, as discussed, the proposed lot sizes are not large enough for this part of the township. In particular, proposed Lot 3 does not respond to its context as it would create a lot of 0.5 ha in an area that generally accommodates larger rural living style lots. As such it is considered that the proposed subdivision would adversely affect the heritage significance of Wandiligong.

Clause 44.06 Bushfire Management Overlay (BMO) and Clause 53.02 Bushfire Planning

The application has satisfactorily addressed the objectives of the BMO and Clause 53.02. The application was referred to CFA who had no objection to the proposal and did not require any planning permit conditions.

Clause 65.02 Decision Guidelines

The following is an assessment against the relevant decision guidelines of Clause 65.02 of the Scheme:

The suitability of the land for subdivision

The land is not considered to be suitably zoned for the proposed subdivision as it is located in the Farming Zone and the proposal seeks to create rural residential lots. Strategic work is required to be undertaken to determine the appropriate zoning of the land. The proposal is therefore premature in this regard.

The existing use and possible future development of the land and nearby land.

The site is developed with a dwelling with the remainder of the site used for agriculture. The proposed subdivision would remove land from agriculture and would create at least two rural residential allotments. This is contrary to the current zoning of the land.

The subdivision pattern having regard to the physical characteristics of the land including existing vegetation.

The proposed subdivision pattern is based on creating two residential sized lots and a larger lot that would be used for either agriculture or a dwelling or both. It is reasonably consistent with the variable "legacy" pattern of lot sizes in the locality in this respect but does not respect the potential for land use conflicts or the primary purpose of the zone.

The density of the proposed development.

The density of the proposed development is at odds with the Farming Zone provisions as well as the future Rural Living Zone provisions as the proposed lot sizes are not compatible with these zones. The density would be compatible with a Low Density Residential Zone however strategic work has not commenced at this stage to determine the best zoning for the site and surrounding area.



The area and dimensions of each lot in the subdivision.

As above.

The availability and provision of utility services, including water, sewerage, drainage, electricity and gas.

The site has water, electricity and telecommunications available to it.

Response to Grounds of Objection

- The application is in violation of the Farming Zone purpose.

The proposal does not accord with the Farming Zone requirements as it will create lots that would be too small for agriculture.

- The proposed subdivision will destroy the natural and historical landscape setting, values, integrity and character of the Wandiligong valley.

The proposal does not maintain the historical density of the site.

- The land is not lost to agricultural production.
- The land does not form part of the Wandiligong Township and should not be treated as if it were.
- The land is currently used for domestic farming activities which should not be discounted.
- Any future residential development would be detrimental to the intrinsic character and integrity of Centenary Ave and more widely to the Wandiligong Township.

As discussed, this part of the Wandiligong Valley has been identified in the Rural Land Strategy for rezoning as it is considered to be highly fragmented farmland which is a challenge to be used for commercial agricultural uses. Many lots are already developed for rural residential purposes, some with small scale agricultural uses. A Rural Living Strategy is proposed to be undertaken to determine the most appropriate zoning of the land which in turn will guide future use, development and subdivision of this area.

- The disposal of effluent from the site may have a detrimental impact the environment due to the presence of a number of natural springs close to the surface which have not been identified.
- The south-eastern boundary of proposed Lot 3 is very close to a bore on the adjoining property.
- The Land Capability Assessment has not been undertaken for the entire site.

Goulburn-Murray Water had initially objected to the proposal on the basis that the hydrology of the site has not been taken into consideration and that proposed Lots 2 and 3 in particular would not be capable of effectively disposing of waste water should each be further developed. However, as discussed above G-MW conducted a waterway determination for the subject land and are now satisfied for the provided LCA's and their ability to ensure no surface or groundwater impact.



CONCLUSION

The proposal has been assessed against the relevant provisions of the Alpine Planning Scheme, including the Planning Policy Framework, the Local Planning Policy Framework, the Farming Zone, Heritage Overlay and Bushfire Management Overlay. It has been determined that the proposed subdivision is inappropriate for the site as it does not accord with the current zoning of the land or the future strategic direction of the surrounding area. The proposal is therefore recommended for refusal.

DECLARATION OF CONFLICT OF INTEREST

Under Section 80C of the *Local Government Act 1989*, the following officers declare that they have no interests to disclose in providing this report.

- Director Corporate
- Manager Planning

APPENDIX

- 9.3.6 (A) – Grounds of Refusal
- 9.3.6 (B) – Policy and decision guidelines



9.3.6 APPENDIX (A)

1. The proposal is inconsistent with Clause 11.01 Settlement, Clause 14.01 Agriculture, Clause 14.02 Water, and Clause 15.03 Heritage of the Planning Policy Framework.
2. The proposal is inconsistent with Clause 21.03 Settlement, Built Form and Heritage, Clause 21.05-3 Agriculture, Clause 21.07-11 Rural Precincts and Clause 22.03-2 Agriculture of the Local Planning Policy Framework.
3. The proposal is inconsistent with the Purpose and Decision Guidelines of Clause 35.07 Farming Zone.
4. The proposal is inconsistent with the Purpose and Decision Guidelines of Clause 43.01 Heritage Overlay.
5. The proposal is inconsistent with Clause 65 Decision Guidelines.
6. The proposal would prevent the orderly and proper planning of the area.



9.3.6 APPENDIX (B)

Planning Policy Framework

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

Clause 11.01 Settlement

Clause 11.01-1R Settlement - Hume

Clause 12.05 Significant Environments and Landscapes

Clause 13.02 Bushfire

Clause 14.01 Agriculture

Clause 14.02 Water

Clause 15.03 Heritage

Clause 19.03 Development Infrastructure

Local Planning Policy Framework

Applicable local planning policy can be found in the Local Planning Policy Framework (LPPF) section as follows:

Clause 21.03 Settlement, Built Form and Heritage

Clause 21.04-3 Landscapes

Clause 21.04-4 Environmental Risk

Clause 21.04-6 Catchments and Waterways

Clause 21.05-3 Agriculture

Clause 21.07-11 Rural Precincts

Clause 22.03-2 Agriculture

Zone

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: http://planning-schemes.delwp.vic.gov.au/schemes/vpps/35_07.pdf

Overlays

The planning permit application must address Clause 44.06 Bushfire Management Overlay.

General Provisions

Clause 65.02 of the Alpine Planning Scheme provides the decision guidelines for subdivision.



Referral and Notice Provisions

Clause 66.02-5 Special Water Supply Catchment Area - an application to use, subdivide or consolidate land, to construct a building or construct or carry out works, or to demolish a building or works that are within a Special Water Supply Catchment Area listed in Schedule 5 of the Catchment and Land Protection Act 1994 and which provides water to a domestic supply. An application must be referred to the relevant water board or water supply authority as a determining referral authority.

Clause 66.03 - an application to subdivide land subject the BMO must be referred to the relevant fire authority as a recommending referral authority.

Operational Provisions

Clause 71.02-3 Integrated Decision Making



9.3.7 Planning Application 5.2018.98.1 - Construction of Four Dwellings

Application number:	5.2018.98.1
Proposal:	Construction of Four Dwellings
Applicant's name:	Mountain Planning
Owner's name:	Heavener Investments Pty Ltd
Address:	4 Butler Court, Bright
Land size:	876 square metres
Current use and development:	The land is vacant having recently had the single dwelling previously on site demolished
Site features:	Clear flat land
Why is a permit required?	A planning permit is required to develop the land with a multiple dwellings pursuant to Clause 32.08-6 General Residential Zone Schedule 1, and for buildings and works associated with accommodation pursuant to Clause 44.06-2 Bushfire Management Overlay
Zoning:	General Residential Zone Schedule 1
Overlays:	Bushfire Management Overlay
Restrictive covenants on the title?	Nil
Date received:	Initial application received 13 June 2018 Revised plans received 23 August 2018
Statutory days:	81
Planner:	Sam Porter

RECOMMENDATIONS

That a Notice of Decision to grant a planning permit be issued for the construction of four dwellings in accordance with the conditions outlined in Appendix (A) and for the following reasons:

- 1. The application responds to the direction of Planning Policy and Local Planning Policy.*
- 2. The application has addressed the requirements of the development code for multiple dwellings on a lot, Clause 55 ResCode of the Alpine Planning Scheme.*
- 3. The development satisfactorily addresses the car parking requirements of Clause 52.06.*
- 4. The proposal is generally consistent with the decision guidelines of Clause 65 of the Alpine Planning Scheme*



PROPOSAL

The proposal is to construct four dwellings on the site. All four dwellings are proposed to be two storey, Units 1, 2 and 3 would be two bedroom with a single garage on the ground floor and open plan living and dining on the first floor. Each dwelling has an 8m² balcony located off the open plan area for outdoor open space, whilst Unit 1 also has an additional front yard solely available for open space. Unit 4 located at the rear will contain a double garage and open plan living and dining on the ground floor accessible to the surround yard to be used for outdoor open space. The first floor will contain three bedrooms all orientated to the north.

The development will be set against eastern and southern boundaries with all the traffic movements contain to the westerly side. The driveway area is shaped to allow for the necessary vehicle movements and also to provide for complimentary landscaping space. The built form of the development will see a 25degree hip and gable end roof finished in the colorbond colour 'Basalt'. The elevations feature ground to first floor articulation finished with two brick colours, a darker ash coloured brick will have a lighter grey brick used for contrast. Feature cladding will also incorporate section of shale grey render, shale grey vertical cladding and natural stone around entrances. All garage doors will be timber finishes to soften their impact on the overall design.



Figure 1: Shows 3D perspective and the development layout on site and first floor layout.

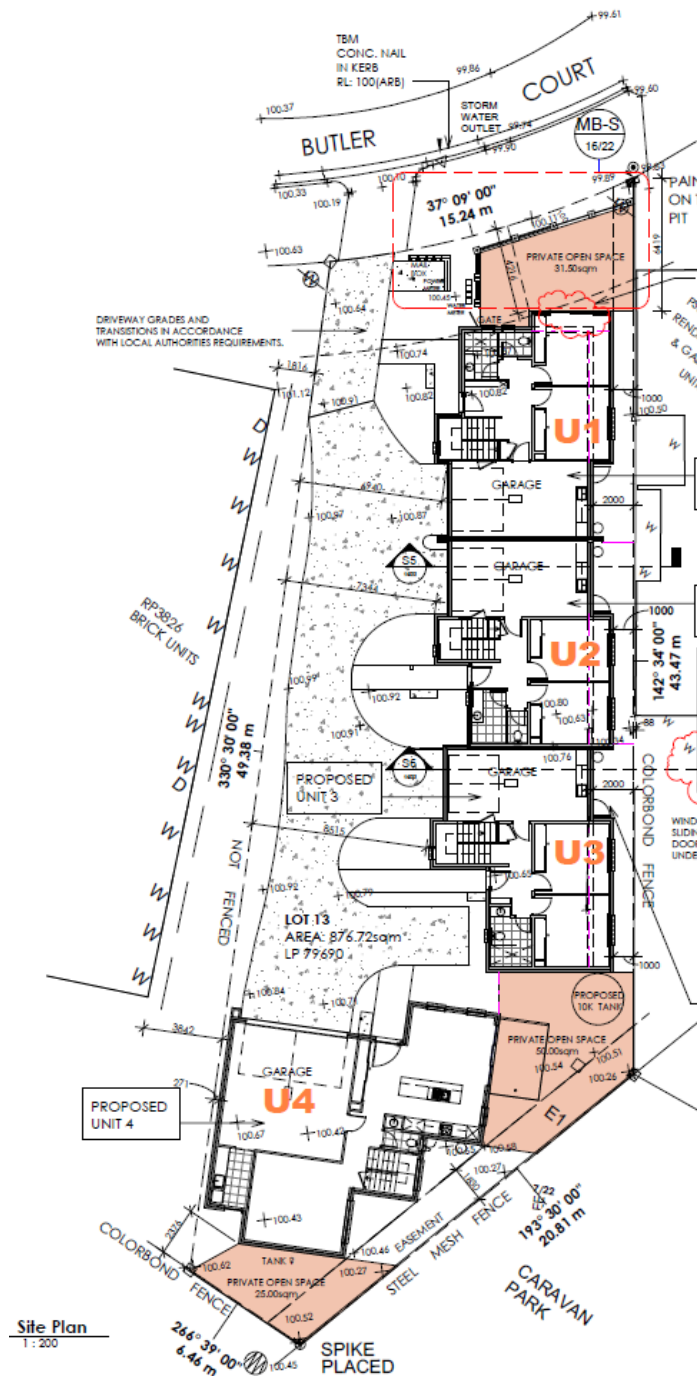




Figure 2: First floor of the proposed dwellings.

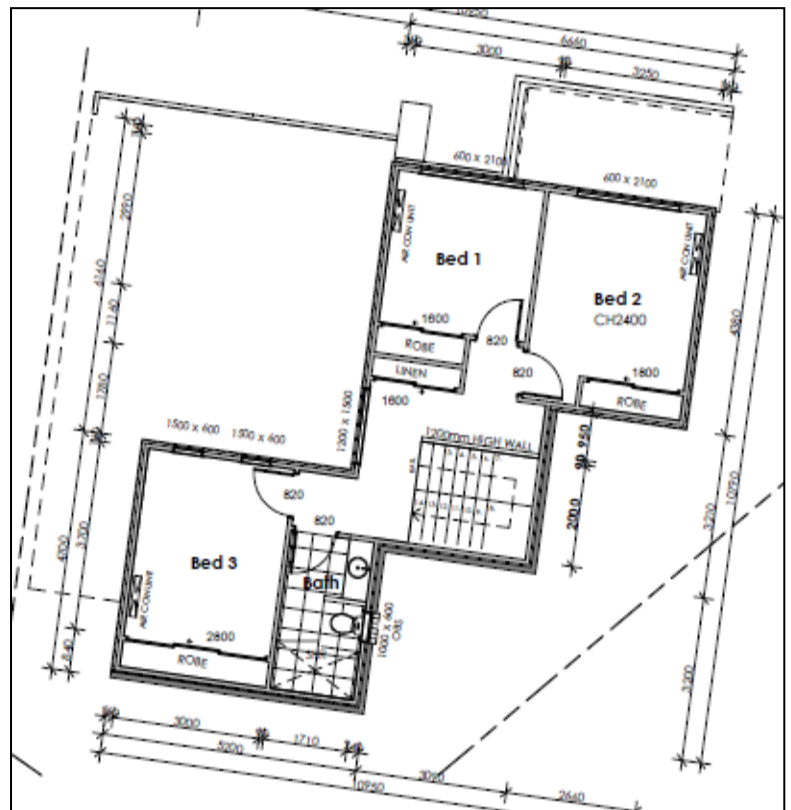
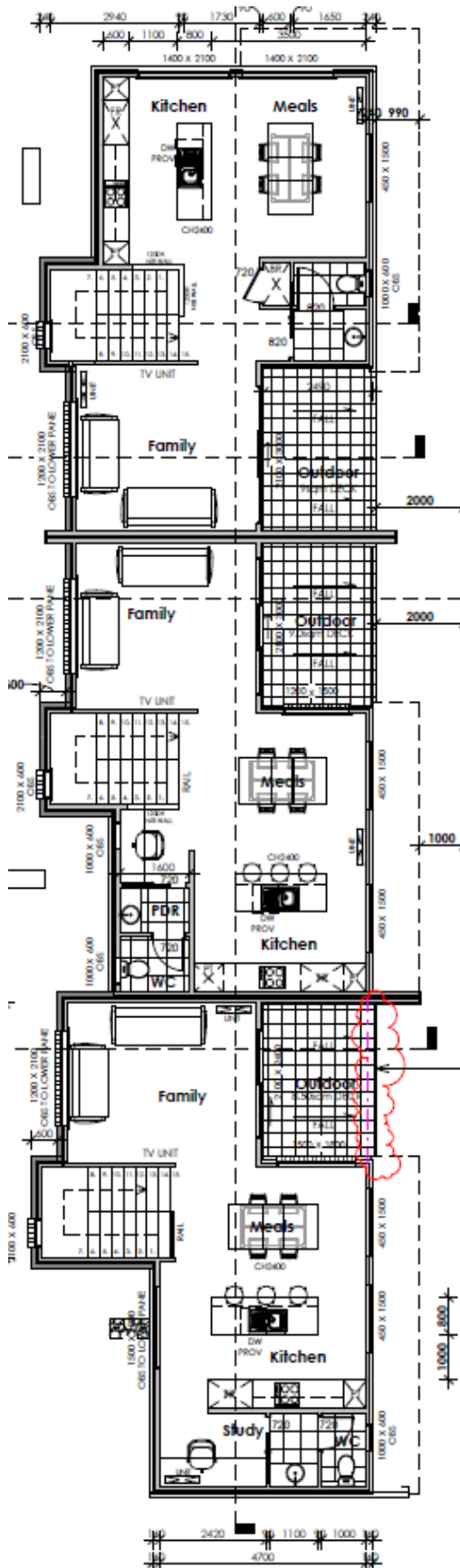
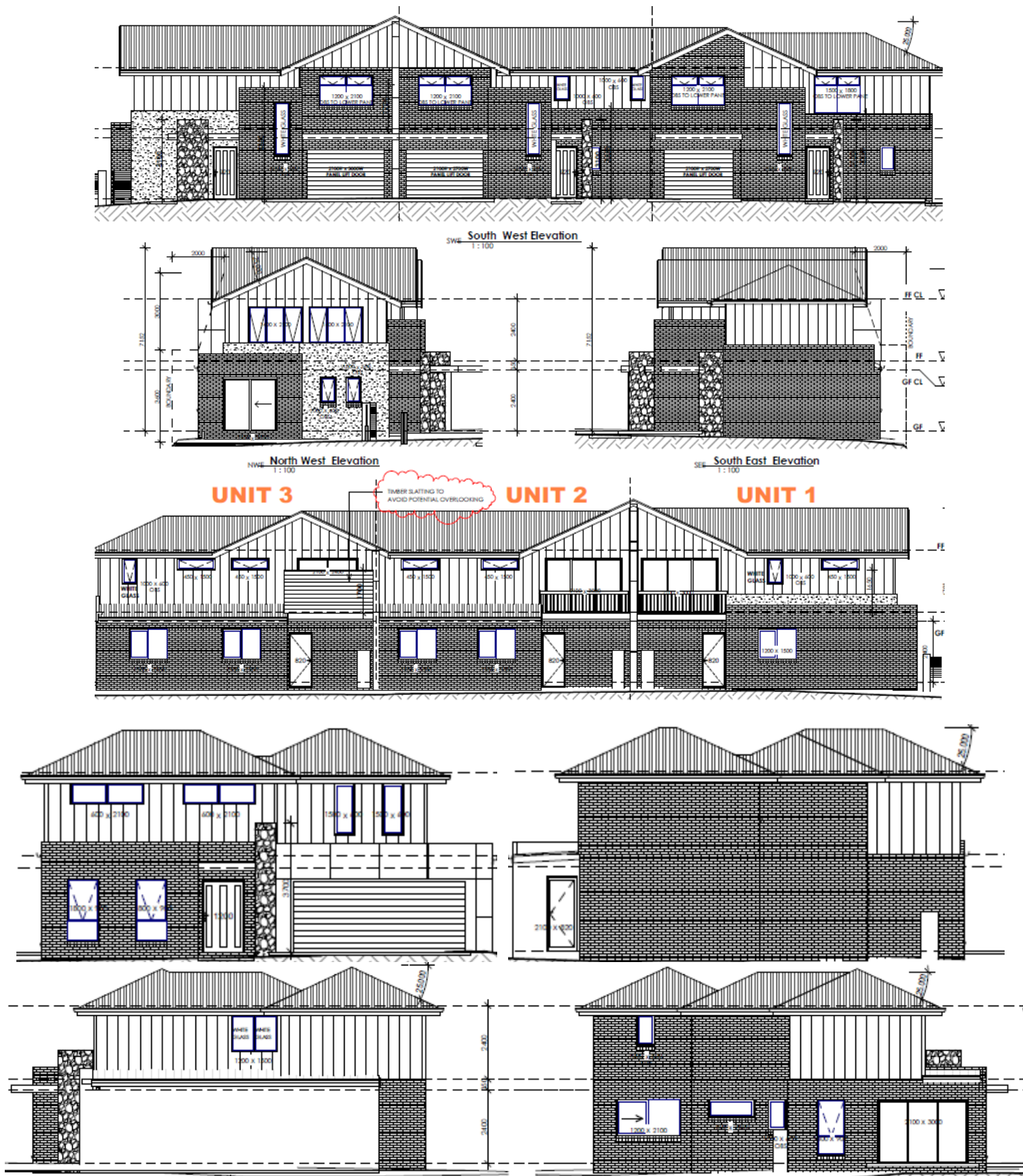




Figure 3: Elevations of the proposed dwellings





SUBJECT LAND AND SURROUNDS

The subject site is regular in shape and is located on the southern side of Butler Court in Bright. The site has a 15m frontage, a depth of 54m and an overall area of 876m². The site is flat and will drain to the rear of the site. The site previously contained a single residence; however, this has recently been demolished in preparation for redevelopment.

Butler Court is a residential zoned cul-de-sac street located off and to the west of Wills Street which forms the eastern commercially zone edge of Bright. Butler Court contains 19 properties with an average density of one dwelling to 413m². Abutting the western boundary is a six unit common property development whilst to the east is a three dwelling common property development. 1A and 1B Butler Court also form part of a six unit development whilst the remainder of the court contains single detached residences built predominately during the 1970's and 80's. The subject land and surrounds is shown below in Figure 4.

Figure 4: 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 four surrounding landholders and occupiers. A sign was displayed on the subject land for 14 days. Six objections and one petition were received; the reasons for objecting are as follows:

- Increased car movements
- Car parking pressure on street
- Elderly residents in street
- Excessive Density
- Two Storey Design
- Overshadowing
- Overlooking
- Inadequate Private Open Space
- Noise from Private Open Space areas
- Potential use of Garage Roof space for Unit 4
- Air Conditioning/Services locations and noise impacts
- Proposed fences
- Stormwater capacity
- Lack of visitor parking onsite
- Lack of strategic plan for nearby commercial area of Wills Street and associated impacts on Butler Court

Following the completion of the notification period a planning forum meeting was held at Council offices. All objectors were represented at this meeting including two Councillors and the applicant. The meeting was beneficial to all parties and ensured an improved understanding of the development and the planning requirements under which it is being considered. The meeting also resulted in the applicant tabling some minor amendments in order to address some of the listed concerns.

REFERRALS

Referrals / Notice	Advice / Response / Conditions
Section 55 referrals:	CFA - no objection subject to planning permit conditions
Internal / external referrals:	Engineering - no objection subject to planning permit conditions.



PLANNING ASSESSMENT AND RESPONSE TO GROUNDS OF OBJECTION

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

Planning Policy Framework (PPF) and Local Planning Policy Framework (LPPF)

The proposal is considered to be appropriately located within the Bright Township as it would support the PPF by increasing residential densities to help consolidate urban areas. It would provide housing in an established urban area that has good access to services, employment, transport and infrastructure. This acceptability is further strengthened by locally specific policy within the Alpine Planning Scheme that directs and encourages medium density development into a centrally mapped area. Clause 21.07-1 contains the strategy to 'direct medium density development into identified precincts' (shown yellow) as shown in Figure 5 below (Butler Court identified by arrow).

Figure 5: Bright Structure Plan



The proposal also adequately addresses bushfire risk with proposed conditions to be implemented on any permit granted that would see the risk to life and property reduced to an acceptable level.

Clause 15.01-1S Urban Design has the objective:

To create urban environments that are safe, healthy, functional and enjoyable and that contribute to a sense of place and cultural identity.



The design of the proposed dwellings adequately addresses the requirements of Clause 55 ResCode with regard to on and off-site amenity impacts. This will be discussed in the later part of this report.

Zoning

The subject land zoned General Residential Zone Schedule 1. An application for multiple dwellings on the site must be assessed against Clause 55 ResCode. In order to achieve compliance with Clause 55 a development needs to be developed site responsively taking into account not only the subject land constraints but also its surrounds, for example adjoining habitable windows and existing secluded private open space must not be impacted or overlooked. In brief the development proposed with its layout and design characteristics has ensured the both the objectives of Clause 55 are met and those of the General Residential Zone Schedule 1 by offering housing diversity to the Bright Township.

Bushfire Management Overlay Schedule 1 and Clause 53.02 Bushfire Planning

The application has satisfactorily addressed the objectives of the BMO and Clause 53.02. The application was referred to CFA who had no objection to the proposal subject to planning permit conditions.

Clause 52.06 Car Parking

The proposed four dwellings generate a total of five required car parking spaces. Each two bedroom dwelling requires one space each, with the three bedroom dwelling requiring two spaces. The development is not required to provide any additional visitor car parking onsite this requirement is only necessary at five or more dwellings. The proposed car spaces are all located in garages and therefore conveniently accessed to each dwelling. The shared common driveway area is further designed in to ensure all cars entering and exiting the site can do so in a forward direction to ensure maximum safety.

Clause 55 Two or More Dwellings on a Lot

As previously mentioned the proposal has been assessed against the relevant clauses of Clause 55 and found it to be consistent with its standards and objectives. As many of the points of objection directly relate to Clause 55 requirements the following is in direct response to those points already listed:

- Increased car movements

Council's Development Engineer reviewed the application and is satisfied that the proposed additional traffic movements from three additional dwellings onto Butler Court and surrounding road network is acceptable and that no infrastructure upgrades are required as a result of this proposal

- Car parking pressure on street

The curved alignment of Butler Court, the court bowl itself along with the existing driveway crossovers creates limited on street parking opportunity. Whilst car space compliance has already been discussed and shown to comply, it must be noted that additional spaces onsite would begin to compromise the developments landscaping opportunity. It is conceivable that additional housing



in the street would at times generate more parking demand; however, the large public unrestricted car park abutting the nearby Senior Citizen Centre (170m away) provides an acceptable opportunity in peak usage periods of the street.

- Elderly residents in street

With car movements entering and exiting the street in a forward direction shown to be an acceptable design outcome and representing best practice in multiple dwelling developments. Combine this with the shortness of the street and low average speed as a result ensures road users particularly in the absence of a footpath in Butler Court won't be subject to a change in risk regarding road usage as a result of this proposal.

- Excessive Density

The density average for the development is one dwelling to 219m². Whilst this is below the current average of Butler Court of 413m² it must be recognised that this land is strategically located in an area where increased density is being directed and encouraged by the planning system. The proposed density in this centrally strategically acceptable location is appropriate in future planning for the township of Bright.

- Two Storey Design

The proposed two storey design is able to be permitted in a GR1Z area and it should be noted that this zoning can also allow for buildings up to 9m in height allowing for a third level to be considered. The proposed second storey elements have been well articulated with design features further combined with a variety of finishes to be used will ensure this two storey development won't unreasonably visually dominate the area.

- Overshadowing

A development can't excessively overshadow existing secluded private open space or impact daylight to existing north facing habitable room windows. An assessment of the surrounding properties combined with the applicants supplied shadow diagrams that have been checked via the Clause 55 assessment shows the development to be compliant against the overshadowing requirements.

- Overlooking

Both existing habitable room windows and secluded private open space must be recognised when positioning new windows or areas of the same use within a 9m distance measured with a 45 degree arc (measured at ground level). In accordance with the Clause 55 requirements as needed the development suitable addresses these potential areas of conflict by incorporating screens, 1.7m window sill heights or obscured glazing which is all recognised and accepted mitigating treatments.

- Inadequate Private Open Space

The private open space requirements must be located to the side or rear of a dwelling, receive acceptable sunlight and in this instance be either 40m² at



ground level or 8m² at a balcony level. The proposed development has met all the minimum required open space area requirements.

- Noise from Private Open Space areas

The potential for unreasonable noise impacts emanating from this development onto surrounding residents isn't a planning requirement covered by Clause 55. Should future anti-social behaviour or similar occur onsite and begin to affect surrounding residents then this none-planning related matter should be handled reactively by law enforcement personnel at that time.

- Potential use of Garage Roof space for Unit 4

Whilst no development is proposed above unit 4 garage, the applicant has agreed to ensure no future thought is given to the scenario by agreeing to enter into a Section 173 Agreement should approval be granted restricting any development or use within this airspace.

- Air Conditioning/Services locations and noise impact

All services are to be located along the eastern boundaries. These air conditioning compressors and the like will be located at ground level and have a 1.8m high fence located less than 2m away creating a high barrier/buffer for any potential noise impacts on existing neighbours. EPA noise regulations given future protection to any adverse impacts that can arise for servicing noise, however, in this instance given their location no adverse impact is foreseen.

- Proposed fences

Fences required as a result of ensuring planning Clause 55 compliance will need to be constructed in conjunction with the development. The proposed front fence is setback from the front boundary in order to allow for landscaping to be located forward of it to soften its presence. Furthermore, the proposed front fence will be of a higher feature like quality and be brick pillar in design with timber horizontal slates in filled between.

- Stormwater capacity

The stormwater capacity concerns relate to the acknowledged choke point within the system located at the end of Butler Court. This proposal won't add storm water to this system but rather a separate stormwater system located at the rear of the site that separately discharge to the nearby Morses Creek.

- Lack of visitor parking onsite

As discussed previously this development complies with all planning car parking requirements.

- Lack of strategic plan for nearby commercial area of Wills Street and associated impacts on Butler Court.

This topic was discussed at the well-attended planning forum. It was conveyed that Council's Assets Department had a car parking strategy for Bright.



CONCLUSION

The proposal has been assessed against the relevant provisions of the Alpine Planning Scheme, including the Planning Policy Framework, the Local Planning Policy Framework, the General Residential Zone Schedule 1 and Bushfire Management Overlay. It has been determined that the proposed development is satisfactorily addresses the design considerations of Clause 55 and is an acceptable design outcome in the context of the surrounding and developing neighbourhood character.

DECLARATION OF CONFLICT OF INTEREST

Under Section 80C of the *Local Government Act 1989*, the following officers declare that they have no interests to disclose in providing this report.

- Director Corporate
- Manager Planning
- Senior Planning Officer

APPENIDIX

- 9.3.7 (A) – Proposed Condition
- 9.3.7 (B) – Policy and decision guidelines



9.3.7 APPENDIX (A) Proposed Conditions

DEVELOPMENT CONDITIONS

1. 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.
2. The external materials of the dwellings 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.
3. 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.
4. The use and development must be managed so that the amenity of the area is not detrimentally affected, through the:
 - a. Transport of materials, goods or commodities to or from the land;
 - b. Appearance of any building, works or materials;
 - c. Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil;
 - d. Presence of vermin;
5. The Body Corporate must provide a regular private waste collection including a regular collection of recyclable materials for the land to the satisfaction of the Responsible Authority. Council's waste collection contractor will not service the dwellings. This condition must be brought to the attention of all prospective purchasers of buildings to be constructed on the land by inclusion of a copy of the planning permit in the Vendors Statement affecting the land.
6. Prior to the occupation of any of the buildings hereby approved, a waste management plan must be submitted to the Responsible Authority for approval. Such plan must provide details of regular garbage collection service to each of the dwellings on the subject land, including information regarding the type of refuse bins, type and size of trucks, means of accessing bins and frequency of refuse collection, to the satisfaction of the Responsible Authority. The collection of waste must only occur between 8:30am and 5pm.
7. 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.



8. 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.
9. All boundary and internal fences as shown on the endorsed plans must be 1.8m high fences.
10. Any walls on the boundary of an adjoining property shall be cleaned and to the satisfaction of the responsible authority.
11. Provision must be made on the land for the storage and collection of garbage and other solid waste. This area must be graded and drained and screened from public view to the satisfaction of the responsible authority.
12. All approved stonework used must be natural stone to the satisfaction of the responsible authority.
13. The bushfire protection 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.
14. Before the use of the development starts, the owner must enter into an agreement with the responsible authority made pursuant to section 173 of the Planning and Environment Act 1987 to provide for the following:
 - a) No development or use is permitted above the garage roof area of the approved unit 4.The owner must pay the reasonable costs of the preparation, including execution and registration of the section 173 agreement.
15. All screening proposed to prevent against overlooking must comply with the requirements of Clause 55.04-6 of the Alpine Planning Scheme to the satisfaction of the responsible authority.



ENGINEERING CONDITIONS

16. Prior to issue of Statement of Compliance, plans must be submitted to and approved by the 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. Construction detail must be shown, and shall be generally in accordance with Council's Infrastructure Design Manual (www.designmanual.com.au).
17. Prior to issue of certificate of occupancy, the owner or developer must submit to the Alpine Shire Council a written report and photos of any prior damage to public infrastructure. Listed in the report must be the condition of kerb and channel, footpath, seal, street lights, 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 Alpine Shire Council's assets/public infrastructure caused as a result of the development or use permitted by this permit.
18. Prior to issue of certificate of occupancy, 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 Alpine Shire Council. 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 all stormwater generated on site is into the 375 mm stormwater pipe at the rear of the property.
19. Prior to issue of certificate of occupancy, the discharge from the site shall be retarded on site to the satisfaction of the Alpine Shire Council, to ensure a maximum discharge rate off-site as specified in the Infrastructure Design Manual.
20. Prior to issue of certificate of occupancy, 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:
 - 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 to match into the surrounding profile. The vehicle crossing must be constructed of plain grey concrete.
 - 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 concrete and be generally in accordance with IDM drawing SD240
21. 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.



The applicant must ensure that dust suppression is undertaken in the form of constant water spraying or other natural based proprietary dust suppressant to ensure that dust caused by vehicles moving along the (access road) and/or within the site does not cause a nuisance to surrounding properties to the satisfaction of the Alpine Shire Council.

22. Deliveries to and from the site for all commercial vehicles, including waste collection, must only take place between 7am and 7pm.
23. All roads/storage areas/external stockpiles/vacant or grazed areas must be covered and/or maintained to avoid dust and grit nuisance to any residential area to the satisfaction of the Alpine Shire Council.

CFA CONDITIONS

Bushfire Management Plan required

24. Before the development starts, an amended bushfire management plan which is generally in accordance with the Bushfire Management Plan submitted with the application (prepared by Mountain Planning, dated 12 June 2018) must be submitted to and endorsed by the Responsible Authority. The plan must show the following bushfire mitigation measures, unless otherwise agreed in writing by the CFA and the Responsible Authority:

Defendable space

- a) Show an area of defendable space around the proposed dwelling to the property boundary where vegetation (and other flammable materials) will be modified and managed in accordance with the following requirements:
 - Grass must be short cropped and maintained during the declared fire danger period.
 - All leaves and vegetation debris must be removed at regular intervals during the declared fire danger period.
 - Within 10 metres of a building, flammable objects must not be located close to the vulnerable parts of the building.
 - Plants greater than 10 centimetres in height must not be placed within 3m of a window or glass feature of the building.
 - Shrubs must not be located under the canopy of trees.
 - Individual and clumps of shrubs must not exceed 5 sq. metres in area and must be separated by at least 5 metres.
 - Trees must not overhang or touch any elements of the building.
 - The canopy of trees must be separated by at least 5 metres.
 - There must be a clearance of at least 2 metres between the lowest tree branches and ground level.



Construction standards for all dwellings

- b) Nominate a minimum Bushfire Attack level of BAL - 12.5 that the building will be designed and constructed.

Water supply

- c) Show 2,500 litres of effective water supply for firefighting purposes which meets the following requirements:
 - Is stored in an above ground water tank constructed of concrete or metal.
 - Have all fixed above-ground water pipes and fittings required for firefighting purposes must be made of corrosive resistant metal.
 - Include a separate outlet for occupant use.

Access

- d) Show the access for firefighting purposes which meets the following requirements:
 - Curves must have a minimum inner radius of 10m.
 - The average grade must be no more than 1 in 7 (14.4 per cent) (8.1 degrees) with a maximum of no more than 1 in 5 (20 per cent) (11.3 degrees) for no more than 50m.
 - Have a minimum trafficable width of 3.5m of all- weather construction.
 - Be clear of encroachments for at least 0.5m on each side and 4m above the access way.
 - Dips must have no more than a 1 in 8 (12.5 per cent) (7.1 degrees) entry and exit angle.

EXPIRY CONDITION

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

- a) the development and use is/are not started within two years of the date of this permit.
- b) the development is not completed within four 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 months afterwards.



9.3.7 APPENDIX (B) Policy and decision guidelines

Planning Policy Framework

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

Clause 11.01 Settlement

Clause 11.01-1R Settlement - Hume

Clause 12.05 Significant Environments and Landscapes

Clause 13.02 Bushfire

Clause 15.01 Built Environment and Heritage

Clause 16 Housing

Clause 19.03 Development Infrastructure

Local Planning Policy Framework

Applicable local planning policy can be found in the Local Planning Policy Framework (LPPF) section as follows:

Clause 21.03 Settlement, Built Form and Heritage

Clause 21.07-1 Bright

Clause 22.04 Infrastructure

Zone

The subject land is zoned General Residential Zone Schedule 1 pursuant to the Alpine Planning Scheme. The purpose of the zone and applicable decision guidelines can be found at the following link: http://planning-schemes.delwp.vic.gov.au/schemes/vpps/32_08.pdf

Overlays

The planning permit application must address Clause 44.06 Bushfire Management Overlay. http://planningschemes.dpcd.vic.gov.au/schemes/vpps/44_06.pdf

General Provisions

Clause 65 of the Alpine Planning Scheme provides the decision guidelines. http://planningschemes.dpcd.vic.gov.au/schemes/vpps/65_01.pdf



10 ASSEMBLY OF COUNCILLORS

INTRODUCTION

Section 80A of the *Local Government Act 1989* requires a written record of Assemblies of Councillors to be reported at an ordinary meeting of the Council and to be incorporated in the minutes of the Council meeting.

RECOMMENDATION

That the summary of the Assemblies of Councillor for September / October 2018 be received.

BACKGROUND

The written records of the assemblies held during the previous month are summarised below. Detailed assembly records can be found in Attachment 10.0 to this report.

Date	Meeting
26 September	Briefing Session
2 October	Briefing Session
23 October	Briefing Session

ATTACHMENT(S)

- 10.0 Assemblies of Councillors – September / October 2018



11 GENERAL BUSINESS

12 MOTIONS FOR WHICH NOTICE HAS PREVIOUSLY BEEN GIVEN

13 RECEPTION AND READING OF PETITIONS



14 DOCUMENTS FOR SEALING

RECOMMENDATION

That the following documents be signed and sealed.

1. *Section 173 Agreement – Wilson James McNally. Lot 2 on Plan of Subdivision 741933. Volume 11866 Folio 562. Conditions 6 and 16 of Planning Permit 2017.156.1 for a 2 lot subdivision at 3 Holmes Court, Porepunkah.

The Agreement is prepared for the purpose of an exemption from a planning permit activated by Bushfire Management Overlay requirements.*
2. *Alpine Shire Council lease of Lot 1 on PS 612929 being the land contained in Certificate of Title Volume 10529 Folio 040 to 041 for the private aircraft hangar located at Porepunkah Aerodrome in favour of Ian and Catherine King.*
3. *Contract No 1804301 in favour of Downer EDI Works Pty Ltd for the supply and deliver of Emulsion and Premix Asphalt to Council.*
4. *Section 173 Agreement – William George Andrews & Christine Ann Andrews Lot 1 on Plan of Subdivision 736009C. Volume 11888 Folio 761 Conditions 6, 7 and 16 of Planning Permit 2015.141.1 for subdivision of the land into two lots at 11 Porcellatos Lane, Bright.
The Agreement provides for the building envelope, driveway, planning permit exemption and implementation of bushfire mitigation measures.*
5. *Contract No CT18025 in favour of Alpine Locksmith Services Pty Ltd for the Lock Hardware Replacement.*

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

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Chairperson