



# Alpine Shire

**ORDINARY COUNCIL MEETING**

**MINUTES**

**M4 – 7 May 2019**

**The Pavilion at Pioneer Park, Bright**

**7:00pm**



Notice is hereby given that the next **Ordinary Meeting** of the **Alpine Shire Council** will be held at The Pavilion at Pioneer Park, Bright on **7 May 2019** commencing at **7:00pm**.

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## **1 RECORDING AND LIVESTREAMING OF COUNCIL MEETINGS**

*The CEO read the following statement:*

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

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.

## **2 ACKNOWLEDGEMENT OF TRADITIONAL CUSTODIANS, AND RECOGNITION OF ALL PEOPLE**

*The CEO 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.

## **3 CONFIRMATION OF MINUTES**

### **3.1 ORDINARY COUNCIL MEETING – M3 – 2 APRIL 2019**

*Cr Nicholas*

*Cr Keeble*

*That the minutes of Ordinary Council Meeting M3 – 2 April 2019 as circulated be confirmed*

*Carried*

## **4 APOLOGIES**

Nil

## **5 OBITUARIES / CONGRATULATIONS**

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



## **6 DECLARATIONS BY COUNCILLORS OF CONFLICT OF INTEREST**

## **7 PUBLIC QUESTIONS**

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](http://www.alpineshire.vic.gov.au); for its YouTube live-streaming recording for responses to questions.



**8 PRESENTATION OF REPORTS BY OFFICERS**

**8.1 CHIEF EXECUTIVE OFFICER – CHARLIE BIRD**

**8.1.1 Contracts approved by the CEO**

*Cr Forsyth*

*Cr Nicholas*

*That the Contracts approved by the CEO be noted.*

Contract No:	CQ19009	Process:	Request for Quotation
Title:	Porepunkah Airfield Drainage Works		
Tenderer:	Stadelmann Enterprises		
\$ (excl. GST):	\$84,921.00		

Contract No:	CQ19001	Process:	Request for Quotation
Title:	Alpine Events Park – Pump Track		
Tenderer:	Bright Trails		
\$ (excl. GST):	\$48,255.00		

Contract No:	CQ18055	Process:	Request for Quotation
Title:	Supply of 40mm crushed rock for annual gravel re-sheet program		
Tenderer:	Indigo Shire Council		
\$ (excl. GST):	\$86,400		

Contract No:	CQ18056	Process:	Request for Quotation
Title:	Hire of Truck, Trailer and Operator to cart gravel for annual gravel re-sheet program		
Tenderer:	Contracts awarded based on schedule of rates to various contractors		
\$ (excl. GST):	\$70,000		

*Carried*



## 8.2 DIRECTOR ASSETS – WILLIAM JEREMY

### 8.2.1 Ranch Road Drainage Upgrade

File Number: CT18078

#### **INTRODUCTION**

This report relates to the award of a contract for the upgrade of drainage infrastructure on Ranch Road and the Kiewa Valley Highway in Tawonga South. The scope of work involves the replacement of the existing table drain on the northern side of Ranch Road with a system of underground drainage pipe and pits and the removal of open corrugated pipe on the Kiewa Valley Highway.

*Cr Keeble*

*Cr Pearce*

*That Council awards Contract No. 1807801 for "Ranch Road Drainage Upgrade" to Hutchinson Civil for the lump sum price of \$148,668 + GST.*

*Carried*

#### **BACKGROUND**

The lower portion of Ranch Road in Tawonga South is situated within a steep catchment fed by a number of stormwater sources. Most of the existing drainage infrastructure servicing Ranch Road is open table drain and during periods of heavy rain, two private properties receive a significant volume of overland flow through an existing open drain running through the two properties.

A drainage design was completed in 2017 which formed the basis of this tender.

The tender was advertised in January 2019. However, only one response was received which significantly exceeded the allocated budget.

The tender was subsequently readvertised in the local newspapers on 23 February and appeared on the Alpine Shire Council website and tenders.net from 22 February to 8 March 2019.

The tender was downloaded by eight companies and two conforming responses were received by the closing date.

#### **EVALUATION**

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

The tenders were evaluated according to the key selection criteria contained in the Invitation to Tender as follows:

- Price
- Qualifications & Previous Experience
- Delivery
- Social



The preferred tenderer was invited to clarify aspects of their tender and provide further detail on their proposed methodology, program and the experience of the nominated personnel proposed to undertake the works. Through this evaluation process it was determined that the tender from Hutchinson Civil best met the selection criteria.

### **ISSUES**

The need for additional drainage works not included in the Request for Tender was identified following a storm event in March 2019. The most cost-effective way for Council to deliver these additional works is for them to be included into the scope of the contract. Inclusion of the relatively minor additional works does not impact on the outcome of the tender evaluation process.

### **POLICY IMPLICATIONS**

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

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

- Incredible places for our community and visitors.

### **FINANCIAL AND RESOURCE IMPLICATIONS**

The total budget for the project is \$110,000. The project is partially funded by VicRoads' Kiewa Valley Highway Road Safety Program (\$40,000) and the balance is funded by Council.

Acceptance of the tender from Hutchinson Civil will result in a budget overspend of \$38,668.

### **CONSULTATION**

The two major stakeholders affected by the project are the owners of two properties which take a significant proportion of the current stormwater flow through to the Kiewa Valley Highway. Council will continue to liaise with these affected residents, as well as the surrounding properties throughout the implementation of the works.

### **CONCLUSION**

Following a comprehensive tender evaluation assessment, the Tender from Hutchinson Civil 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 Manager



### **8.3 DIRECTOR CORPORATE – NATHALIE COOKE**

#### **8.3.1 Audit Committee Meeting No. 2018/19-4, 22 March 2019**

File Number: 0900.06

#### **INTRODUCTION**

The purpose of the report is to present the minutes and recommendations of the Audit Committee meeting held on 22 March 2019.

Key items presented to and considered by the Committee at this meeting included:

- VAGO report on delivering local government services
- Business systems review
- Financial systems migration audit
- Audit Committee Charter review
- Health and safety report

The Committee also received updates on a number of ongoing action items as well as the 2019/20 budget process and timeframe.

*Cr Forsyth*

*Cr Knappstein*

*That Council:*

- 1. Receive and note the minutes of the 22 March 2019 Audit Committee Meeting No.2018/19-4;*
- 2. Revoke Audit Committee Charter, Version 2.0, 2017;*
- 3. Adopt the updated Audit Committee Charter, Version 3.0, 2019 and sign and seal the Charter at the appropriate stage of the meeting; and*
- 4. Adopt the confidential 2018/19 Quarter 2 Health and Safety Report.*

*Carried*

#### **BACKGROUND**

Council's Audit Committee is established under section 139 of the *Local Government Act 1989*. The Committee's Charter requires it to report to Council its activities, issues and related recommendations. This report relates to Audit Committee Meeting No. 2018/19-4 held on 22 March 2019.

#### **ISSUES**

##### **VAGO report on delivering local government services**

The Victorian Auditor General (VAGO) report on Delivering Local Government Services examined whether councils effectively plan for and deliver cost-efficient services that meet community needs. It also benchmarks councils' expenditure on



corporate services and examines how councils look for and achieve efficiencies in corporate services.

The Committee considered VAGO's recommendations and Council's level of compliance and note that Council's approach to ensuring the efficient and effective delivery of services that meet community needs is sound and fit-for-purpose.

### **Business systems review**

Council engaged Corporate Strategic Systems consultancy to undertake a review of its business systems needs including broader considerations such as strategic direction and systems architecture. This review responds to the identification by VAGO in its 2018 Final Management Letter, that Council has no formal ICT strategy, and no ICT steering committee directing ICT actions as well as providing a holistic approach to the implementation of improved systems to support the efficient and effective operation of Council's functions.

Council's current business systems comprise an enterprise system and a number of dedicated systems handling specialist functions.

The Committee noted that the review delivers a roadmap of systems initiatives with key objectives of reducing manual effort and risk, and improving customer and community outcomes. The implementation of recommended initiatives, prioritised on the basis of cost, benefit and risk, will be monitored by the Committee.

### **Financial systems migration audit**

During FY17/18, Council conducted a financial systems migration to enhance the efficiency, accuracy and compliance of payment processes, including the use of cloud based systems, Xero for accounting and accounts payable functions, and ApprovalMax for digitising purchase orders and goods receipting.

Council engaged Crowe Horwath to undertake an internal audit of this systems migration to review the efficiency and effectiveness of risk controls and payment processes.

The Committee noted that the audit found that Council's accounts payable process is functioning adequately. The implementation of the identified risks and associated recommendations will be monitored by the Committee.

### **Audit Committee Charter Review**

The current Audit Committee Charter was reviewed in March 2017 and updated then to generally improve the structure and wording and provide greater clarity in sections relating to authority, recruitment, appointment, remuneration and meetings. The current 2017 and revised 2019 Charter are aligned with Local Government Victoria's Audit Committees: A Guide to Good Practice Guide for Local Government, January 2011.



The Health, Safety and Risk Officer has reviewed the charter ensuring continued alignment with Local Government Victoria's guidelines and benchmarking against recently reviewed charters from eight other councils. The review also considered the recommendations of the Victorian Auditor-General's report Audit Committee Governance August 2016 which made recommendations for state government department audit committees on committee governance and operations (composition, capability, induction, effective operational support and performance evaluation), overseeing risk management and internal audit, and monitoring implementation of audit actions.

The Charter has been updated by making minor modifications to most sections of the Charter to provide improved clarity without changing the intent including the use of new section or sub-section headings.

More significant changes proposed are the inclusion of new sections relating to:

- Liability indemnity;
- Induction;
- Resignation, retirement or termination of appointment;
- Voting rights;
- Closed meetings; and
- Fraud, corruption and misconduct.

The Committee endorsed the updated Charter for Council adoption.

### **2018/19 Quarter 1 Health and Safety Report (Confidential)**

The Committee reviewed the confidential 2018/19 Quarter 2 Health and Safety Report. The 2018/19 Quarter 2 Health and Safety Report highlights that: employee hazard, incident, injury and near-miss reporting was down on the previous quarter and all 2017/18 reporting; the one injury during the quarter was superficial and did not progress to a WorkCover claim; and a broad range of mandatory and discretionary health and safety training was undertaken during the quarter.

The Committee endorsed the 2018/19 Quarter 1 Health and Safety Report for Council adoption.

### **POLICY IMPLICATIONS**

Council complies with the following sections of the *Local Government Act 1989*.

- Section 136: Requires Council to implement the principles of sound financial management.
- Section 139: Requires Council to have an Audit Committee and act within the guidelines made by the Minister for Audit Committees.

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

- A responsible and sustainable organisation.



## **CONCLUSION**

The Audit Committee, being satisfied with the detail provided in its agenda, the officer reports, and the revised Charter, recommends Council adopt the detailed resolutions.

## **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.

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

## **ATTACHMENT(S)**

- 8.3.1 (a) Audit Committee Meeting No. 2018/19-4 Minutes 22 March 2019;
- 8.3.1 (b) Audit Committee Charter, Version 3.0, 2019; and
- 8.3.1 (c) 2018/2019 Quarter 2 Health and Safety Report (CONFIDENTIAL).



### 8.3.2 Instruments of Delegation

File Number: Delegations Register

#### INTRODUCTION

Instruments of delegation and authorisation are an important means of Council delegating its powers duties and functions under the *Local Government Act 1989* and other legislation, to the Chief Executive Officer (CEO), and to members of staff.

Previous instruments of delegation were approved by Council in October 2017.

*Cr Keeble*

*Cr Roper*

1. *Council exercise the powers conferred by section 98(1) of the Local Government Act 1989, and the other legislation referred to in the attached instrument of delegation, so that:*
  - a. *There be delegated to the person holding the position, acting in or performing the duties of Chief Executive Officer the powers, duties and functions set out in attachment 8.3.2(a) "S5 - Instrument of Delegation to the Chief Executive Officer" (instrument S5), subject to the conditions and limitations specified in that instrument;*
  - b. *Instrument S5 be signed and sealed at the appropriate stage of this meeting;*
  - c. *Instrument S5 comes into force immediately the common seal of Council is affixed to the instrument;*
  - d. *On the coming into force of instrument S5 the previous delegation "S5 – Instrument to the Chief Executive Officer" signed on 3 October 2017 be revoked;*
  - e. *It is noted that instrument S5 includes a power of delegation to members of Council staff, in accordance with section 98(3) of the Act; and*
  - f. *The duties and functions set out in instrument S5 must be performed, and the powers set out in the instruments must be executed, in accordance with any guidelines or policies of Council that it may from time to time adopt.*
2. *Council exercise the powers conferred by section 98(1) of the Local Government Act 1989 and the other legislation referred to in the attached instrument of delegation, so that:*
  - a. *There be delegated to the members of Council staff holding, acting in or performing the duties of the offices or positions referred to in attachment 8.3.2 (b) "S6 - Instrument of Delegation to members of Council staff" (instrument S6), the powers, duties and functions set out in that instrument, subject to the conditions and limitations specified in that instrument;*



- b. Instrument S6 be signed and sealed at the appropriate stage of this meeting;*
- c. Instrument S6 comes into force immediately the common seal of Council is affixed to the instrument;*
- d. On the coming into force of instrument S6 the previous "S6 - Instrument of Delegation to members of Council staff" signed on 3 October 2017 be revoked; and*
- e. The duties and functions set out in instrument S6 must be performed, and the powers set out in the instruments must be executed, in accordance with any guidelines or policies of Council that it may from time to time adopt.*

*Carried*

## **BACKGROUND**

Section 98 of the *Local Government Act 1989* provides for Council to delegate to a member of its staff any power, duty or function of a Council. Council can delegate the majority of its powers to the CEO via the "S5 - Instrument of Delegation to the Chief Executive Officer". This allows the CEO to further sub-delegate duties and authorise staff for the vast majority of Acts that Council operates under. However, some Acts do not allow for sub-delegation, requiring Council to delegate duties directly to staff via the "S6 – Instrument of Delegation to members of Council staff".

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

## **ISSUES**

Council's CEO and staff require current and accurate delegations and authorisations to fulfil their duties. Keeping up to date with legislative changes as well as changes in roles within the organisation is essential to ensuring that staff are appropriately delegated and authorised.

Once the "S5 – Instrument of Delegation to the Chief Executive Officer" is approved by Council, all other delegations and authorisations will be presented to the CEO for approval. Therefore, Council's entire suite of delegations and authorisations will be up to date.

### **Council to Chief Executive Officer Delegation**

There have been no changes to the content of the "S5 – Instrument of Delegation to the Chief Executive Officer" however the re-signing of the instrument is part of best practice to coincide with updated delegations to staff, as recommended by Maddocks.



### **Council to Staff Delegation**

The addition or removal of provisions in the “S6 – Instrument of Delegation to members of Council Staff” has been made in line with advice from Maddocks. It is important to note that some new provisions are not yet in operation and will commence at a later date. These situations have been noted in the instrument of delegation, so that once the provisions are in place, there are staff delegated to undertake those duties.

### **POLICY IMPLICATIONS**

Section 98(6) of the *Local Government Act 1989* (the Act) requires councils to review all delegations in force within 12 months of a Council election. This review of delegations is part of a best practice review to ensure that Council staff have appropriate delegations in order to fulfil their duties.

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

- A high performing organisation.

### **FINANCIAL AND RESOURCE IMPLICATIONS**

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

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

### **CONSULTATION**

The relevant directors and managers have been consulted throughout the review of the instruments of delegation, and clarification has been sought from specific staff where required. No additional consultation is required.

There is no requirement to involve the community in the preparation of the instruments of delegation.

### **CONCLUSION**

The instruments of delegation to the CEO and members of Council staff allow staff to fulfil their duties, and should therefore be supported. The instruments come into force immediately the common seal of Council is affixed to the instrument, and will remain in force until Council determines to vary or revoke them.



### **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
- Director Assets
- Manager Asset Development
- Manager Asset Maintenance
- Manager Economic and Community Development
- Manager Facilities
- Manager Building and Amenity
- Governance Officer

### **ATTACHMENT(S)**

- 8.3.2 (a) S5 - Instrument of Delegation to the Chief Executive Officer
- 8.3.2 (b) S6 - Instrument of Delegation to members of Council staff



### 8.3.3 Revocation of Employee Leave Policies

File Number: Policy Register

#### **INTRODUCTION**

Council is in the process of undertaking a holistic review of its policies. A review of employee leave policies has been completed and a new Leave Management Policy has been developed which will be the key instrument in the management of employee leave balances.

The Leave Management Policy incorporates the provisions of several other Council policies that now need to be revoked before the new policy can be approved.

*Cr Roper*

*Cr Nicholas*

*That Council:*

- 1. Revoke Alpine Shire Council Staff Absences to Attend Emergency Call Outs by Response Agencies Policy No. 34, amended 4 April 2006.*
- 2. Revoke Alpine Shire Council Annual Leave Policy No. 37, amended 4 April 2006.*
- 3. Revoke Alpine Shire Council Defence Force Reserve Leave Policy No. 59, 4 October 2005.*

*Carried*

#### **BACKGROUND**

Over time Council has developed a number of policies governing the management of employee leave entitlements and balances including:

- Staff Absences to Attend Emergency Call Outs by Response Agencies Policy No. 34;
- Annual Leave Policy No. 37;
- Defence Force Reserve Leave Policy No. 59;
- Rostered Day Off Policy No. 69; and
- Flexible Working Time and Leave Arrangement Policy No. 78.

#### **ISSUES**

The content of these policies has been reviewed taking into account the provisions of the Alpine Shire Council Enterprise Agreement 2016, Victorian Local Authorities Award 2001 and Nurses (ANMF Victorian Local Government) Award 2015 and for compliance with relevant legislation.

It is proposed that the various policies governing the management of employee leave are combined into the Leave Management Policy.



As the CEO is responsible for the management of staff under s94A(3) of the *Local Government Act 1989* the Leave Management Policy is deemed an operational policy and will be approved by the CEO.

Before the CEO can approve the Leave Management Policy, the policies it supersedes must be revoked. In this instance the CEO will revoke the Rostered Day Off Policy No. 69 and Flexible Working Time and Leave Arrangement Policy No. 78 as these were CEO approved. Council must revoke the previous policies it has adopted being the Staff Absences to Attend Emergency Call Outs by Response Agencies Policy No. 34, Annual Leave Policy No. 37 and Defence Force Reserve Leave Policy No. 59.

### **POLICY IMPLICATIONS**

The policies have been reviewed in accordance with the *Local Government Act 1989*.

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

- A responsible and sustainable organisation.

### **CONSULTATION**

The proposed new operational Leave Management Policy and the revocation of existing policies have been consulted with the relevant Council officers and the Staff Consultative Committee.

### **CONCLUSION**

The review of employee leave policies and the development of the proposed Leave Management Policy is complete. To facilitate the approval of the Leave Management Policy by the CEO, the superseded policies must now be revoked.

### **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.

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

### **ATTACHMENT(S)**

- Nil



### 8.3.4 Proposed Installation of a Memorial Stone in Apex Park, Bright

File Number: 220:15

#### **INTRODUCTION**

The purpose of this report is to recommend that Council approve a request to install a memorial stone in Apex Park, Bright.

Under Policy 57: Place, Road and Memorial Naming Policy 2005 any request for a memorial bench or stone must go to Council for approval.

*Cr Nicholas*

*Cr Pearce*

*That Council approve the installation of the Memorial Stone for Stuart Hargreaves in Apex Park, Bright.*

*A vote was taken.*

*Motion lost.*

*Cr Roper moved an alternate motion:*

*Cr Roper*

*Cr Forsyth*

*That Council:*

- 1. Approves the installation of the Memorial Stone for Stuart Hargreaves in Apex Park, Bright, for a period of ten years, following which it will be returned to the Hargreaves family.*
- 2. Revises the relevant policy to incorporate a time limit of ten years following which memorials are to be removed and returned to the custodian.*

*A vote was taken.*

*Motion lost.*

*Cr Pearce abstained.*

*Cr Roper moved a further alternate motion:*

*Cr Roper*

*Cr Nicholas*

*That Council defers the item.*

*Carried*

#### **BACKGROUND**

Council received a request from the Rotary Club of Bright for a memorial stone and plaque for Stuart Hargreaves. Stuart Hargreaves was a member of the Bright community his entire life and made a significant contribution to the community



through his involvement with service clubs, volunteer organisations and various other entities. This work included:

- Fundraising for the purchase of an ambulance for Bright and as a voluntary driver of the ambulance, responsible for garaging and maintenance of the vehicle.
- Member of the Bright Fire Brigade. Captain on two occasions. Country Fire Authority Honorary Life Member 1992 and a 60 Year Long Service Award 2014.
- Foundation member of the Apex Club of Bright. President; Board member; Life member 1976; Major contribution to the securing of the Youth Club Hall (Bright Community Entertainment Centre) and its relocation from Mount Beauty to its current location in Bright. Establishment of Apex Park; Formalisation of the river pools at Centenary Park, and Riverside Park, Porepunkah and the annual car races.
- Shire Councillor - Shire of Bright; Shire President; Member of the Bright Water and Sewerage Board.
- Member of various advisory and management committees including, Pioneer Park; Bright Youth Club Hall; Murray to the Mountain Rail Trail;
- Member of the Rotary Club of Bright; President; Board member; Project involvements include Bright Community Centre, Rotary Park; Information shelter; Rail Trail; Waterslide. Awarded as a Paul Harris Fellow in 1989 and a Sapphire Pin in 2012.
- Foundation member of the Alpine Probus Club.
- Chairman of the organising committee for the Bendigo Bank, Bright. Director of the Bank since its inception.
- Was also a member of the Bright Autumn Festival Committee, Bright and District Car Club and Bright Cricket Club.
- Stuart built the Bright Sports Centre and Swimming Pool.

Letters of support have been provided from Rotary, Apex and the CFA.

Rotary and Stuart's family have requested that a stone be placed in Apex Park, adjacent to a young tree that Stuart hand watered until his death in 2017.



**Figure 1: Apex Park, Gavan Street, Brighton - Proposed location of Memorial Stone.**

The plaque is included as attachment 8.3.4 and will read:

*Rotary Club of Brighton*

*We commemorate Stuart Hargreaves for his contribution to the Brighton and District Community.*

*His inspiring legacy of service has been a source of pride to many.*

*1935 - 2017*

### **ISSUES**

Council is asked to make a decision based on information presented by the Rotary Club, Stuart's family and those of supporting organisations within the community.

The Memorial Policy does not require Council to advertise memorial requests.

The policy supports the memorial for Stuart as the necessary supporting letters have been obtained. The stone will be placed in such a manner that it does not interfere with the regular mowing and other maintenance within the park.



### **POLICY IMPLICATIONS**

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

- A well planned and safe community.

This request is also consistent with Policy 57: Place, Road and Memorial Naming Policy 2005.

### **FINANCIAL AND RESOURCE IMPLICATIONS**

The stone and plaque will be purchased by the Rotary Club of Bright. The installation of the stone will be carried out by Council staff or contractors and will come from existing maintenance budgets.

### **CONSULTATION**

Consultation has taken place with select family members. Letters of support have been provided from Rotary, Apex and the CFA (noting that only the Rotary logo will be used on the plaque).

### **CONCLUSION**

Rotary's request to install a memorial stone and plaque in memory of the late Stuart Hargreaves is supported based on the information received.

### **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 Building and Amenity

### **ATTACHMENT(S)**

- 8.3.4 Rotary Club of Bright – proposed wording of plaque.



### 8.3.5 Planning Application 5.2018.210.1 - 68 Delany Avenue

Application number:	5.2018.210.1
Proposal:	Construction of fifteen dwellings for the purpose of group accommodation
Applicant's name:	Mountain Planning
Owner's name:	Gedamy Pty Ltd
Address:	68 Delany Avenue
Land size:	7976.9 square meters
Current use and development:	9 Dwellings
Site features:	Site is used as a short term holiday rental establishment with the 9 dwellings already existing onsite, 8 of which sit in the South-Western pocket of the site. Site is also occupied by a large open lawn area and swimming pool.
Why is a permit required?	Pursuant to Clause 32.08 of the Alpine Shire Planning Scheme a planning permit is required to construct a building or carry out works in relation to a Section 2 Use of the land. Group accommodation is a Section 2 use in the General Residential Zone - Schedule 1 (GRZ1). Pursuant to Clause 44.06 of the Alpine Shire Planning Scheme a planning permit is required to construct a building or carry out works for the purpose of accommodation in the Bushfire Management Overlay (BMO).
Zoning:	General Residential Zone - Schedule 1 (GRZ1)
Overlays:	The Bushfire Management Overlay - Schedule 2 (BMO2) covers the site whilst the adjoining road reserve land contains a Heritage Overlay (Delany Avenue Street trees)
Restrictive covenants on the title?	Section 173 Agreement AL371233L - Exemption from a planning permit against the BMO associated with a lapsed permit of subdivision.
Date received:	11-12-2018
Statutory days:	147 (27 Days from receiving Further Information response)
Planner:	Rob Wallis/Sam Porter



*Cr Keeble*

*Cr Pearce*

*That a Notice of Decision to grant a planning permit be issued for Short Term Accommodation 15 detached dwellings in accordance with the conditions outlined in Appendix A and for the following reasons:*

- 1. The proposal complies with the applicable requirements of the Alpine Planning Scheme;*
- 2. The proposal is consistent with Planning Policy Framework, and the Municipal Strategic Statement;*
- 3. The proposal is consistent with the provisions of the GRZ1 The Group Accommodation facility is a suitable use in the GRZ1 where social and physical infrastructure is available;*
- 4. The land has existing suitable access to Delany Avenue;*
- 5. The land has sufficient defensible space to classifiable vegetation to minimise bushfire risk; and*
- 6. The proposal is consistent with Council's local policy on Tourist Use and Development.*

*Carried*

## **PROPOSAL**

The proposal relates to the use and development of the land for the purpose of Group Accommodation. Buildings and works comprise of:

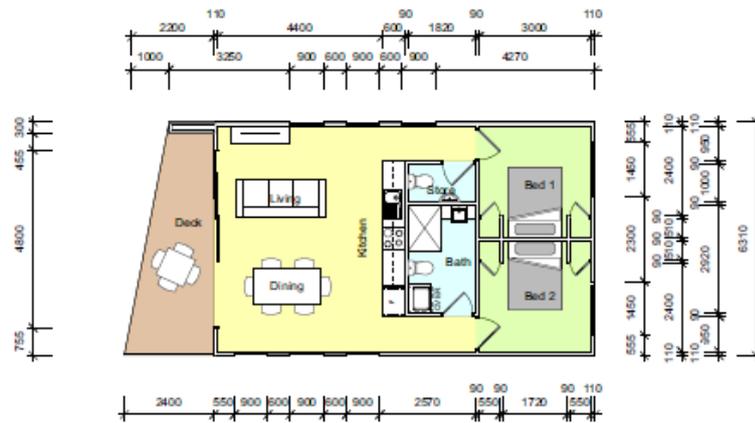
- Construction of fifteen cabins to be arranged in the available lawn area on the land. The cabins are proposed to be approximately 76 square meters in size, with a roof height of approximately 3.2m. Each cabin is to be a self-contained dwelling with two bedrooms, a bathroom and an internal kitchen space.
- The proposal also includes two additional BBQ areas which are commonly accessible by all users of the site.
- Each cabin has two car spaces attached, for a total of 30 spaces.
- The development is only required to provide 18 spaces - one space for each two-bedroom dwelling, and three visitor spaces.

The cabins are generally located along the boundaries of the site, with additional driveways provided internally to allow convenient access to each cabin. The image below shows the proposed configuration of the subject land, specifically focussing on the areas where buildings and works are proposed.

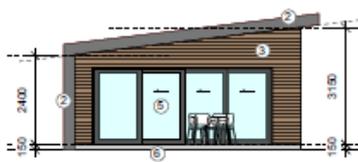
The development is further described in the Figures 1 and 2 below.



Figure 1: Development layout



1 Proposed Floor Plan  
Scale: 1:100



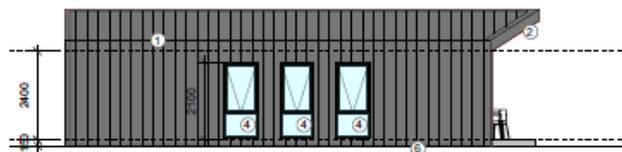
2 Front Elevation  
Scale: 1:100



3 Rear Elevation  
Scale: 1:100



4 Side Elevation  
Scale: 1:100



5 Side Elevation  
Scale: 1:100

Figure 2: Internal layout and elevation of the proposed buildings



## SUBJECT LAND AND SURROUNDS

Details of subject land and surrounds can be seen in the aerial image provided in Figure 2 below:



**Figure 3: Subject land**

The subject land comprises of two title lots commonly known as 68 Delany Avenue and more formally described as:-

- Lot 1 on LP14621;
- Lot 1 in TP232546; and
- Lot 1 on TP 160071.

The subject land is located on the southern side of Delany Avenue approximately 1km east of the Bright town centre. The land is irregular in shape and has an area of 7,976m<sup>2</sup>. The land has direct formal access from Delany Street and comprises of features:

- Motel style accommodation buildings (x2) made up of a total of eight attached dwellings. The buildings are of circa 1960's construction and are currently used for short term accommodation;
- Detached single storey dwelling with frontage to Delany Avenue;
- A BBQ shelter;
- Swimming Pool and detached change rooms;
- Detached storage shed; and
- Established landscape features.



The land surrounding the site is made up of the following features:

- North of site: Delany Avenue. To the north of Delany Avenue are detached single dwelling houses, some of which are used for short term accommodation purposes.
- South of the site: Detached single dwelling houses with separate and direct frontage and access to Alrima Court.
- East of the site: Single and multi-dwellings with separate and independent access and frontage to Delany Avenue.
- West of the site - Short term accommodation comprising multiple attached and detached holiday style accommodation options.

The sites topography is described and generally flat having only a gentle fall from the rear to the street front of less than three percent.

### **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 21 surrounding landholders and occupiers. A sign was displayed on the subject land. Five public submissions were received objecting to the development based on the below listed and summarised reasons:

- The construction of fifteen cabins represents an overdevelopment of the site.
- The additional cabins will increase the level of detrimental noise that affects the surrounding residential properties.
- The height of the cabins has visual detriment to the adjoining landowners.
- The increased traffic entering and exiting the site poses a risk to the safety of pedestrians and road users.
- The use of Alternative Measure 3.3 of Clause 53.02 will impact upon adjoining land owners maintenance of their private property.
- The development will affect the resale value of adjoining properties.
- The implementation of a fire safety management plan would be a more suitable alternative means of addressing the requirements of the Bushfire Management Overlay.
- A potential amendment to the permit to be constructed at a later date for the construction of an additional five cabins.

With regard to the matters raised in the objections received, the following responses are provided below:

- With regard to the increased traffic risk on-site, the driveway onto Delany Avenue has clear sightlines to both the East and West to allow for safe entry and exit of the site. The fence at the front of the site is approximately 1200mm in height, which does not unreasonably obstruct sightline or the vision of vehicles.



The application has also been referred to VicRoads, who provided correspondence outlined below.

- Concerns were raised regarding Alternate Measure (AltM) 3.3 in that residents showed concern this would require co-operative management of adjacent properties to maintain the required defensible space. AltM 3.3 is recognition of the surrounding land as a residential area, which in itself is a guarantee that the land will be managed in some capacity. Additionally, this aspect of concern will be addressed by the CFA, as outlined in their correspondence below.
- Concerns raised regarding the resale value of land are unable to be considered by a planning application. Case law findings from VCAT over an extended period has continually found that the subjective nature of valuation means change in property valuation is unable to be considered in the context of a planning application.
- Concerns raised regarding the amenity impact of noise generated from the use of the development. An acoustic fence along the Southern and Eastern boundaries of the site can be conditioned to better mitigate the amount of noise emanating from the site. Additional landscaping can also be used to assist in screening the buildings and works from adjoining properties.
- Additional cabins have been verbally confirmed to replace existing cabins in the future. An amendment to the planning permit in future would be required to facilitate this and it is suggested that the 9 existing dwelling would need removing to facilitate this and that a decrease in overall cabin numbers may be the net outcome of this future work. In any case this work is not proposed as part of this application, so the application is only assessing the construction of 15 cabins.

## REFERRALS

<b>Referrals / Notice</b>	<b>Advice / Response / Conditions</b>
VicRoads - Section 55:	VicRoads requested further information in the form of a Traffic impact Assessment (TIAR). This information was provided to VicRoads on 10 April 2019 and VicRoads have subsequently responded with conditional consent.
Country Fire Authority - Section 55:	The CFA have consented to the development. The use of AltM 3.3 is considered appropriate in the residential setting of Bright. As a condition of permit approval, the applicant will be required to prepare an Emergency Management Plan for the site, which dictates means of operation in high fire-danger periods.



## **PLANNING ASSESSMENT**

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

### **Planning Policy Framework (PPF)**

The proposed The following Planning Policy Framework lend support to the proposal:

- Clause 11.01-1S - Settlement: Increased density within a defined settlement should be prioritised to preserve the surrounding landscape and land uses.
- Clause 13.02-1S - Bushfire Planning: The objective for Bushfire Planning under Alpine Planning Scheme is: 'To strengthen the resilience of settlements and communities to bushfire through risk-based planning that prioritises the protection of human life'.

The proposal integrates bushfire protection measures to increase the overall community resilience against Bushfire attack. The development is proposed on a site that is located in and established urban area with suitable defensible spaces. The development site has existing and suitable access to existing urban infrastructure including reticulated water and sealed road access and accordingly is considered to be a low risk location.

The application was supported by a satisfactory Bushfire Management Statement and Plan in accordance with Clause 44.06-1.

- Clause 17.01-1S - Diversified Economy: The objective of this clause, under the Alpine Planning Scheme, is 'to strengthen and diversify the economy'. Increased tourism growth in the region will have flow-on effects for the local sector and allow for greater investment within the Alpine Shire.
- Clause 17.04-1S - Facilitating Tourism: The objective of this clause, under the Alpine Planning Scheme, is 'to encourage tourism development to maximise the economic, social and cultural benefits of developing the state as a competitive domestic and international tourist destination'. Increased development of short-term accommodation allows for additional capacity in peak travel seasons to encourage economic growth and investment that meets demand and supports growth in tourism. The development facilitates tourism through the provision of accommodation on land that is located close to the Bright township centre and access to applicable facilities and transport.

The development encourages investment in the local economy and supports sustainable tourism and economic growth.

- Clause 18.02-4S - Car-Parking: The objective of this clause, under the Alpine Planning Scheme, is 'to ensure an adequate supply of car parking that is appropriately designed and located'. The proposal provides an oversupply of car parking entirely within the subject land ensuring that car parking does not overspill and adversely impact the surrounding street network.



In essence the application proposes an extension of the existing short term accommodation offering already occurring onsite. Short accommodation in Bright plays a significant role in local and regional tourism. Continued growth in local and regional tourism has seen fluctuating supply and shortages in accommodation at peak times. The expansion of the accommodation facility will help support continued growth in tourism and ultimately encourage growth in retail, commercial, entertainment and cultural development in the region.

### **Local Planning Policy Framework (LPPF)**

The following Local Planning Policy Framework policies are considered relevant:

- Clause 22.03-1 – Economic Activity: Tourism use and Development

According to the Alpine Planning Scheme, tourism is a major contributor to the Shire's economy. Due to the Alpine Shire's popularity as a tourist destination it is important to protect the values that attract people to the Shire both in the townships and the rural areas. The Planning Schemes objectives for Tourist use and development are:

- Support quality tourist development in association with the environmental, landscape, and the heritage values of rural and urban areas.
- Maintain existing character of towns by ensuring that township boundaries are not compromised and that linear development along major traffic routes is avoided.
- Ensure tourist facilities provide infrastructure appropriate with the scale and function of the development.
- Encourage tourist facilities to locate in areas with an adequate level of support services and facilities.
- Encourage tourism development related to agricultural and other rural based industries, while minimising the loss of rural land and potential for land use conflicts with current or potential agricultural production.
- Ensure tourist facilities are designed to complement the surrounding environment in terms of character and amenity.
- Support nature based tourism in appropriate locations across the Shire.
- Discourage linear development of tourist facilities along the major traffic routes including the Great Alpine Road, the Kiewa Valley Highway and the alpine approaches.

The proposed Short term accommodation is consistent with the above relevant objectives. Specifically the development has been designed to complement surrounding land uses, with particular regard to the proximity of the Bright town centre and the surrounding residential land uses and compatible built form.

- Clause 21.07-1 - Bright: The objectives for the Bright Local Area under this clause are:



Recognise Bright as a hub for tourist activities in the region and a vibrant place to live. Maintain and enhance the character of Bright as a vibrant tourist town in a rural setting that is well served by parklands and waterways surrounding the town centre and is predominantly pedestrian in scale.

The proposed development satisfies the objectives of Bright's Local Area strategy. The following key issues and influences are also identified as being supportive of the proposed development:

- Bright has evolved from the influences of gold mining, forestry and agriculture to that of a tourism oriented town attracting almost all sectors of the tourism market and employing around 30% of the town's population in the industry.
- Recognise Bright as a hub for tourist activities in the region and a vibrant place to live.
- Maintain and enhance the character of Bright as a vibrant tourist town in a rural setting that is well served by parklands and waterways surrounding the town centre and is predominantly pedestrian in scale.
- Ensure commercial development, including motels and tourist accommodation, is of high quality design and does not dominate the streetscape.
- Ensure future development takes into account risk of bushfire and provides reasonable levels of safety through the accessibility to roads, water, telecommunications and other reasonable infrastructure.

When assessing how the application responds to the applicable Planning Policy Frameworks, there are clear positive outcomes that result from commercial development, the facilitation of tourism and the over-supply of car parking facilities to guarantee the streets are not adversely impacted by additional parked vehicles.

The proposal does not take into consideration the impact of an intensified use on the surrounding residential land, and has directly addressed policy relating to noise abatement and mitigating potential land use conflicts. It is however acknowledged that the design response provides suitable opportunities to implement measures to mitigate potential impacts relating to noise and visual obtrusion. In response to this, and in order to address concerns raised in submissions from adjoining land owners, conditions around noise attenuation and measures aimed at minimising the impact of increased density activity on the surrounding properties are considered appropriate.



## **Zoning and land use**

### General Residential Zone (GRZ1)

The subject land is within the GR1Z. An assessment is required for both the use of the land for Group Accommodation, and the associated buildings and works.

The Purpose of the GRZ1 is:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To encourage development that respects the neighbourhood character of the area.
- To encourage a diversity of housing types and housing growth particularly in locations offering good access to services and transport.
- To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.

The proposal is judged to be generally consistent and compatible with other styles and densities of development in the locality. The developments design response includes features that minimise adverse amenity impacts upon the surrounding neighbourhood, including: onsite car parking provision that exceeds the minimum requirements, boundary setbacks and single storey build form that respect the character and built form in the surrounding neighbourhood and architectural interest and diversity in the build design of the dwellings.

The proposal is considered to be consistent with the desired character and development trends in Bright. The development facilitates increased and diverse accommodation choices and economic benefits to the region, which in-turn will foster increased rates of growth and positive social outcomes.

## **Traffic management**

The application was been referred to VicRoads based upon the additional traffic movements through the site, and how this is expected to impact upon the existing crossover. VicRoads subsequently required the applicant to have prepared a Traffic Impact Assessment Report (TIAR) for further consideration. A TIAR was prepared and concludes:

1. The provision of 28 car spaces is considered satisfactory to accommodates [sic] the parking demands from 15 x two-bedroom holiday units.
2. The site layout plan is subject to design and detail and is to be consistent with the dimensional requirements as set out in the Alpine Shire Planning Scheme and/or Australian/New Zealand Standards for Off Street Car Parking (AS/NZS2890.1:2004 and AS/NZS2890.6:2009) as per the recommendations in this report.
3. The site is expected to generate an additional 6 staff [sic] movements in any peak hour and up to 45 movements over an entire day.



4. There is adequate capacity in the surrounding road network to cater for the traffic generated by the proposed development.

The TIAR was submitted to VicRoads on 10 April 2019 who subsequently granted condition consent; see VicRoads Condition in Appendix A.

### **Noise pollution**

Concerns have been raised from objectors in regards to the amount of additional noise that will be generated as a result of the additional cabins.

The application proposes nine (9) dwellings adjacent to the southern and eastern perimeter of the site. The southern and eastern boundaries of the site are currently bound by an existing 1.8m high colorbond fence. The fence is in fair to good condition and is proposed to be retained. It is acknowledged that the fence is not a complete barrier to all noise and visual aspects of the proposed development however it does provide a physical barrier that positively contributes to mitigating any visual and acoustic impacts generated by the development.

The accommodation units are proposed to be setback 2.4m from the colorbond boundary fences. This setback provides physical separation to the boundary fence, and the adjoining properties to the south and the east. This separation also affords the development opportunity to provide additional landscaping to further offset any visual or acoustic impacts.

Similarly, this setback is considered to be 'back of house' where no direct access is proposed from the dwellings. The setback area does not create a space that is considered to be of a size that is encouraging of designated and functional private open space areas where people are likely to congregate and generate noise.

All of the dwellings are orientated internally to the subject site where the sole access and entrance is located. In this regard the use of the dwellings will direct most noise generating activities internally to the site and away from the dwellings to the south and the east. Furthermore the dwellings themselves will act as a physical barrier to the noise projecting to the adjoin properties to the south and the east.

These measures combined with the orientation of the dwellings, and the central siting of the communal areas, all combine to increase the acoustic qualities of the development and mitigate noise to a level that will not be inconsistent with the existing residential amenity and desired future character of the areas.

Subsequently, the following conditions will be included on any Planning Permit issued to suitably mitigate and manage any noise impacts as follows:

- Revised Landscaping Plan proposing a higher density of landscaping adjacent to the southern and eastern boundaries; and
- Preparation of a Site Management Plan that addresses noise management, security and hours in which noise levels must be kept at a minimum and management by site management according. The Plan submitted to Alpine Shire Council for approval.



### **Accommodation in a Residential Area**

Bright is made up of many and varied tourism uses and accommodation options which nestle in amongst surrounding residential areas and uses. The provisions of the planning scheme give some weight to the suitability of a short term residential uses in a residential area, and this is exemplified by many other properties along Delany Avenue, including the adjoining property to this proposal at 64-66 Delany Avenue. It should also be noted that 64-66 has objected to the proposal based on increased tourism development in the area.

### **Overlays**

The following Overlays are applicable to the subject site:

#### **Bushfire Management Overlay**

The subject site is located on land that is shown on the Planning Scheme Map as Bushfire Management Overlay 2 (BMO2).

The Purpose of the BMO is:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To ensure that the development of land prioritises the protection of human life and strengthens community resilience to bushfire.
- To identify areas where the bushfire hazard warrants bushfire protection measures to be implemented.
- To ensure development is only permitted where the risk to life and property from bushfire can be reduced to an acceptable level.

The developments design response and minimise the vulnerability to bushfire attached and is consistent with the purpose of the BMO.

The application has satisfactorily addressed the objectives of the BMO and Clause 53.02 Planning for Bushfire. The application submitted:

- A bushfire hazard landscape assessment;
- A bushfire hazard site assessment;
- A bushfire management statement; and
- A bushfire management plan.

The application was referred to CFA who had no objection to the proposal subject to planning permit conditions.

- In summary the development satisfies the BMO in the following ways:
- The proposal satisfies the Landscape siting and design objectives and Approved Measures (AM) 2.1, 2.2 and 2.3. The bushfire risk to the proposed development will also be mitigated through the BAL 12.5 construction standard for the cabins and maintenance of vegetation to the property boundary;
- Access is obtained directly from Delany Avenue;



- The development is located in and established urban area;
- Surrounding vegetation is predominantly upslope of the development;
- Satisfactory defensible space is provided using AltM3.3 which means the surrounding properties and their managed yards are able to be relied upon for the defensible space distance calculation (Note: no vegetation management is required to be undertaken offsite as a result of this permit application should it be granted); and
- Satisfactory provision of a dedicated water supply is to be provided.

Overall the proposal satisfies the applicable provisions of the MPS and the PPF and is therefore consistent with the decision guidelines of the Clause 44.06.

The application was referred to the CFA under Section 55 of the *Planning and Environment Act 1987*. The CFA have consented to the grant of a permit subject to the standard mandatory conditions of the Planning Scheme are included in the permit.

### **Particular Provisions**

The following Particular Provisions are applicable to the subject site:

#### **Car Parking**

According to the Alpine Planning Scheme the purpose Clause 52.06 for car parking is:

- To ensure that car parking is provided in accordance with the Municipal Planning Strategy and the Planning Policy Framework.
- To ensure the provision of an appropriate number of car parking spaces having regard to the demand likely to be generated the activities on the land and the nature of the locality.
- To support sustainable transport alternatives to the motor car.
- To promote the efficient use of car parking spaces through the consolidation of car parking facilities.
- To ensure that car parking does not adversely affect the amenity of the locality.
- To ensure that the design and location of car parking is of a high standard, creates a safe environment for users and enables easy and efficient use.

The application complies with the car parking requirements under this clause. Overall the layout and accessibility of the car parking spaces is efficient and safe and does not adversely impact the amenity of the area.

Table 1 in Clause 52.06 of the Alpine Planning Scheme calculates the car parking requirements applicable to the development. In this regard, the most appropriate land use definition for the purpose of determining the multiplier and the calculation of car parking spaces is a 'Motel'.

A motel requires the following number of car parking spaces:

- 1 space per unit; and



- 1 space for each Managers Residence.

It is noted that there are no ancillary uses on the site.

The existing development currently requires, and provides 9 car spaces with 8 existing motel-style accommodation units and one manager's residence. The addition of the proposed units requires additional 15 spaces equating to a total demand of 24 spaces.

According to the application the proposed development has provision for 37 car spaces.

The provision of these spaces exceeds the minimum requirements and satisfies Clause 52.06-5.

The car parking spaces and access way comply with the applicable dimension and construction standards.

### **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 2. The application is considered to be consistent with the Alpine Planning Scheme and should be approved for the following reasons:

- The development of accommodation services is appropriate with regard to the constraints of the site.
- The fifteen units are appropriately designed as self-contained dwellings
- Sufficient car parking has been included on site
- The relevant referral authorities have consented to the proposed development
- Conditions can be added to the planning permit to suitably address objectors' concerns.

### **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 Director Corporate
- Senior Planning Officer

### **APPENDICE(S)**

- 8.3.5 (A) - Conditions 5.2018.210.1.
- 8.3.5 (B) – Policy and decision guidelines.



## **APPENDIX A – Conditions**

### **GENERAL CONDITIONS**

1. Before the use and/or development start(s), amended plans to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions. The plans must be generally in accordance with the plans submitted with the application but modified to show:
  - a. Details of the proposed waiting bay/check in area included any associated office buildings.
2. The use and development as shown on the endorsed plans must not be altered without the written consent of the responsible authority.
3. 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; and
  - d. presence of vermin.
4. Occupants of the group accommodation buildings must only use the premise on a short term basis. Any occupant of the approved premise must not reside onsite for any more than 60 days in a calendar year unless without the written permission of the responsible authority.
5. Each of the approved accommodation facilities must be let as one individual unit as opposed to being let by individual beds/rooms.
6. No less than twenty four (24) car spaces must be provided on the land for the use and development
7. All car parking spaces and driveways must be designed to allow all vehicles to drive forwards both when entering and leaving the property.
8. A sign / signs to the satisfaction of the responsible authority must be provided directing drivers to the area(s) set aside for car parking and must be located and maintained to the satisfaction of the responsible authority. The area of each sign must not exceed 0.3 square metres.



9. Any metal cladding proposed to be used in the construction of the building/s hereby approved, must be:
  - a. Galvanised or natural colour bonded metal cladding (not zincalume); and/or
  - b. Treated metal cladding painted in muted tones, provided such painting is completed prior to the occupation of any building/s hereby approved, to the satisfaction of the Responsible Authority.
10. Construction must be in accordance with sediment control principles as outlined in "Construction Techniques for Sediment Pollution Control" EPA 1991.
11. No external sound amplification equipment or loudspeakers are to be used for the purpose of announcement, broadcast, playing of music or similar purpose.
12. All external plant and equipment must be acoustically treated or placed in soundproof housing to reduce noise to a level satisfactory to the responsible authority.
13. 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.
14. The land manager 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 this property. 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.
15. 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 and shops 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.
16. External lighting must be designed, baffled and located so as to prevent any adverse effect on adjoining land to the satisfaction of the responsible authority.
17. Before the issue of a building permit, a landscape plan must be submitted to and approved by the responsible authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and three copies must be provided. The plan must show:
  - a. A survey (including botanical names) of all existing vegetation to be retained and/or removed.
  - b. Buildings and trees (including botanical names) on neighbouring properties within three metres of the boundary.
  - c. Details of surface finishes of pathways and driveways.



- d. A planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.
- e. Landscaping and planting within all open areas of the site.
- f. 8 canopy trees (minimum two metres tall when planted).
- g. The means of watering/irrigation proposed to be used.
- h. Higher density of planting of suitable screen plants along the southern and eastern boundary.

All species selected must be to the satisfaction of the responsible authority.

18. Before the use/occupation of the development starts 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.
19. 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.
20. A solid fence no less than 1.8m in height must be constructed along the sections of the eastern and southern boundaries to the satisfaction of the responsible authority
21. Before the use starts, a noise and amenity plan/patron management plan must be submitted to and approved by the responsible authority. When approved, the plan will be endorsed and will then form part of the permit. All activities forming part of the use must comply with the endorsed plan. The plan must include:
  - a. staffing and other measures which are designed to ensure the orderly arrival and departure of patrons
  - b. signage to be used to encourage responsible off-site patron behaviour
  - c. the training of staff in the management of patron behaviour
  - d. staff communication arrangements
  - e. measures to control noise emissions from the premises
22. Before the development starts, a tree protection fence must be erected around the two street trees either side of the access to define a 'Tree Protection Zone'. The fence must be constructed to the satisfaction of the responsible authority. The tree protection fence must remain in place until construction is completed.
23. The existing street tree(s) must not be removed or damaged.
24. Prior to the commencement of works, the applicant must submit a Construction Site Management Plan (CSMP) to the Responsible Authority for approval. Once endorsed by the Responsible Authority the CSMP will form a part of this permit.



The CSMP must be implemented prior to any construction works commencing and a copy of the endorsed plan must be kept on site and available for inspection by any person working at the site at all times. The CSMP must include the following information:

Vehicle access and car parking areas

- a. Vehicle access to the site must be clearly delineated to ensure the potential for soils disturbance is minimised. Areas for car parking must be clearly displayed on the site or the adjacent roadway. Vehicle access to the site via adjacent properties including public reserves is not permitted without the prior consent of the land owner. Vehicle access and car parking areas must be clearly displayed on the CSMP.

Materials storage areas

- b. Suitable areas for the storage of building materials and equipment are to be clearly delineated on site. Materials must not be placed on areas of vegetation to be retained.

Waste storage area

- c. A suitable area must be clearly delineated on site for the placement of all building debris including, packaging and all other waste generated by the development. Waste must be appropriately contained by bunting or bin or other means approved by the responsible authority. Waste storage area must be clearly described on the CSMP.

Sediment controls

- d. Sediment controls must be placed sufficiently around the disturbed area of the site to reduce the potential for impacts on and adjacent to the site generated by polluted stormwater or run off. Suitable controls include silt fencing or certified weed free straw or any other means approved by the responsible authority. Sediment controls must be clearly displayed on the CSMP.

Construction Methods

- e. Provision of the construction methods to be employed for the approved works. If offsite construction (modular) methods are to be employed, details shall be provided which include the transportation methods to site, unit storage on site (modules, cranes and transportation vehicles), site assembly and location of any associated lifting machinery.



## **ENGINEERING CONDITIONS**

25. Prior to issue of a building permit, detailed construction plans must be submitted to and approved by the Alpine Shire Council. Construction detail shall be generally in accordance with Council's Infrastructure Design Manual ([www.designmanual.com.au](http://www.designmanual.com.au)). When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions, and shall include proposed construction detail, further information or modifications to:
- a. vehicular crossings detail to Delany Ave;
  - b. all access and parking areas; and
  - c. appropriate traffic calming measure throughout the internal roadway and prior entering and exiting the property.
26. Prior to issue of a Building Permit, a properly prepared drainage discharge plan with computations must be submitted to, and approved by, Alpine Shire Council. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions. The information submitted must show the details listed in Council's Infrastructure Design Manual and be designed in accordance with the requirements of that manual.
- The information and plan must include:
- a. details of how the works on the land are to be drained and/or retarded;
  - b. Underground drainage system, with supporting computations;
  - c. underground pipe drains conveying stormwater to the legal point of discharge for the property;
  - d. stormwater retention; and
  - e. a maximum discharge rate from the site is to be determined by computation to the satisfaction of Council.

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

## **COUNTRY FIRE AUTHORITY CONDITIONS**

Bushfire Management Plan endorsed

27. The Bushfire Management Plan (prepared by Mountain Planning, Ref" 68 Delany Ave, Bright BMP. VO, dated 11/12/2018) must be endorsed to form part of the permit and must not be altered unless otherwise agreed in writing by the CFA and the Responsible Authority.

Bushfire Emergency Management Plan Required

28. Given the proposed use of the development (Group Accommodation) in an extreme bushfire risk landscape a Bushfire Emergency Management Plan will need to be developed and address the following:



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



iii. Evacuation

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

iv. Shelter-in-place

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

**VICROADS CONDITIONS**

29. Prior to the commencement of hereby approved, the existing crossover must be removed, and a new crossover and driveway are to be constructed to the satisfaction of the Roads Corporation and/or the Responsible Authority and at no cost to the Roads Corporation.
30. Prior to the endorsement of plans to form part of the permit, a functional layout plan showing the proposed access points to Delany Avenue, including features such as pavement, kerb / shoulders, line marking, power poles, trees and other road furniture within 20 metres of the proposed access. The functional layout plan must also demonstrate how all the proposed accesses fits into, operates and interacts with Delany Ave including:
  - a. any required turning movements into or out of the proposed entry road.
  - b. The suitability of the proposed crossover in relation to any existing significant street trees.
  - c. Distance of the proposed reception area to Delany Ave to cater for queuing of vehicles entering the site which could impact on the safe operation of Delany Avenue as a Main Road.
  - d. Alignment of the existing crossover in Delany Ave with the entry road.
  - e. The length of passing facility at the entry to cater for check in parking, vehicles entering and vehicles exiting at the same time.



31. The Functional Layout Plan required by condition 2 must be submitted to and approved by the Roads Corporation. When approved by the Roads Corporation, the plans may be endorsed by the Responsible Authority and will then form part of the permit. The plans must be drawn to scale with dimensions and two copies must be provided.

**EXPIRY CONDITION**

32. This permit will expire if one of the following circumstances applies:
  - a. The development is 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.
  - c. The use has not commenced 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 if the development has not lawfully commenced prior to the expiry of the permit, or within 12 months afterwards if the development has lawfully commenced prior to the expiry of the permit.



## **APPENDIX B**

### **Planning Policy Framework**

Applicable planning policy can be found in the Planning Policy Framework (PPF) section, the relevant clauses to this application are listed below:

Clause 11.01-1S Settlement

[http://planning-schemes.delwp.vic.gov.au/schemes/vpps/11\\_01-01S.pdf](http://planning-schemes.delwp.vic.gov.au/schemes/vpps/11_01-01S.pdf)

Clause 13.02-1S Bushfire planning

[http://planning-schemes.delwp.vic.gov.au/schemes/vpps/13\\_02-1S.pdf](http://planning-schemes.delwp.vic.gov.au/schemes/vpps/13_02-1S.pdf)

Clause 17.01-1S Diversified economy

[http://planning-schemes.delwp.vic.gov.au/schemes/vpps/17\\_01-01S.pdf](http://planning-schemes.delwp.vic.gov.au/schemes/vpps/17_01-01S.pdf)

Clause 17.04-1S Facilitating tourism

[http://planning-schemes.delwp.vic.gov.au/schemes/vpps/17\\_04-01S.pdf](http://planning-schemes.delwp.vic.gov.au/schemes/vpps/17_04-01S.pdf)

Clause 18.02-4S Car parking

[http://planning-schemes.delwp.vic.gov.au/schemes/vpps/18\\_02-4S.pdf](http://planning-schemes.delwp.vic.gov.au/schemes/vpps/18_02-4S.pdf)

### **Local Planning Policy Framework**

Applicable local planning policy can be found in the Local Planning Policy Framework (LPPF) section, the relevant clauses to this application are listed below:

Clause 22.03-1

[http://planning-schemes.delwp.vic.gov.au/schemes/alpine/ordinance/22\\_lpp03\\_alpi.pdf](http://planning-schemes.delwp.vic.gov.au/schemes/alpine/ordinance/22_lpp03_alpi.pdf)

Clause 21.07-1 Bright

[http://planning-schemes.delwp.vic.gov.au/schemes/alpine/ordinance/21\\_mss07\\_alpi.pdf](http://planning-schemes.delwp.vic.gov.au/schemes/alpine/ordinance/21_mss07_alpi.pdf)

### **Zone**

The subject land is zoned GRZ1 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](http://planning-schemes.delwp.vic.gov.au/schemes/vpps/32_08.pdf)

### **Overlays**

The planning permit application must address the BMO, the relevant provisions can be found at the following links:

[http://planning-schemes.delwp.vic.gov.au/schemes/vpps/44\\_06.pdf](http://planning-schemes.delwp.vic.gov.au/schemes/vpps/44_06.pdf)

[http://planning-schemes.delwp.vic.gov.au/schemes/vpps/53\\_02.pdf](http://planning-schemes.delwp.vic.gov.au/schemes/vpps/53_02.pdf)



### **General Provisions**

Clause 65 of the Alpine Planning Scheme provides the decision guidelines please see the following link:

[http://planning-schemes.delwp.vic.gov.au/schemes/vpps/65\\_01.pdf](http://planning-schemes.delwp.vic.gov.au/schemes/vpps/65_01.pdf)



### 8.3.6 Planning Application 5.2018.150.1 - Use and Development of Land for Stone Extraction

Application number:	5.2018.150.1
Proposal:	Use and development of the land for stone extraction
Applicant's name:	Mountain Planning
Owner's name:	J Bentley
Address:	Lots: 1, 2 & 4 TP: 902516 Great Alpine Road, Freeburgh CA 35A, CA 35B & CA 35C Parish of Freeburgh Great Alpine Road, Freeburgh
Land size:	7.201 ha
Current use and development:	Vacant
Site features:	The land is extremely undulating and contains plantation debris, stones and weeds. The land is unfenced and currently not used for any purpose due to its degraded state.
Why is a permit required?	A planning permit is required: - to use and develop the land for stone extraction pursuant to Clause 35.07-1 and Clause 35.07-4 respectively of the Farming Zone - to use and develop land for earth and energy resources industry pursuant to Clause 52.08-1 of Clause 52.08 Earth and Energy Resources Industry
Zoning:	Farming Zone
Overlays:	Bushfire Management Overlay
Restrictive covenants on the title?	No
Date received:	30 April 2018
Statutory days:	123
Planner:	Sam Porter

*Cr Pearce*

*Cr Keeble*

*That a Notice of Decision to grant a planning permit be issued for the use and development of the land for stone extraction in accordance with the conditions outlined in Attachment (a) and for the following reasons:*

- 1. The proposed use and development is consistent with the relevant provisions of the Planning Policy Framework and Local Planning Policy Framework.*
- 2. The proposal is consistent with the purpose and decision guidelines of Clause 35.07 Farming Zone as the proposed use and development would not adversely affect the use of the land and nearby land for agriculture, and would result in the land being rehabilitated and returned to agriculture.*



3. *The proposal has adequately addressed the purpose of Clause 52.08 Earth and Energy Resources Industry.*
4. *With appropriate conditions imposed, the amenity of the rural residential settlement of Freeburgh will be able to be managed and protected.*
5. *The application is generally consistent with the general decision guidelines Carried*

Cr Roper called for a division:

For: Cr Keeble, Cr Roper, Cr Forsyth, Cr Nicholas and Cr Pearce

Against: Cr Janas and Cr Knappstein

### **PROPOSAL**

It is proposed to use and develop the land for stone extraction. The main points of the proposal are as follows:

- The work area is proposed to encompass 4.95 hectares of the overall 7.2 hectares of the site with the northern end of the site to provide a buffer between the works area and the dwellings to the north.
- Approximately 77,000 cubic metres of material would be extracted from the site. Of this it is expected that 50,000 cubic metres would be stone with the remaining being soils and sand which would be stockpiled on the site and redistributed across the land to facilitate pasture production.
- The average cut depth across the land would be 0.62 metres. When extraction is completed it is proposed that the finished surface levels of the site would match the existing surface levels to the south, north and east.
- Stone would be extracted from the site using a front end loader.
- Stone would be sorted on the land using a screen. It is anticipated that the screen would be operational for a period of 4 to 8 weeks per year. The applicant has advised that the use of the screen would be undertaken on days suitable to minimise dust and noise impacts on surrounding residents, with screening not undertaken during holiday periods, on hot days or long dry periods.
- A sedimentation pond would be constructed in the centre of the land along the north eastern boundary with all drainage from the site directed here.
- The stone would be stockpiled on the site and would be placed to form acoustic bunds approximately 4 metres high to minimise noise impacts to the north and south.
- Planting along the north-western boundary is proposed in order to screen the site from adjoining dwellings to the north.
- Initial proposal was an average of two (2) to six (6) truck movements per day, a revised proposal on the overall timeframe of the development could see the number increase to 12 per day. Typical trucks would be a Class 3 heavy vehicle 19 metre truck and dog trailer combination.



- A crossover from Great Alpine Road permitted by Planning Permit 5.2016.91.1 would provide access to the site.
- The stone extraction would occur for 45 weeks per year.
- The operating hours at the site would be 8:00am to 6:00pm Monday to Friday and 9:00am to 1:00pm Saturdays.
- At the completion of the approved level of stone extraction, soil would be redistributed across the site, seeded for pasture, and fenced to create paddocks for a future agricultural use.
- The stone extraction and rehabilitation of the site are proposed to be completed within two years.

See Figure 1 below of a site plan showing the layout of the proposed use and development.

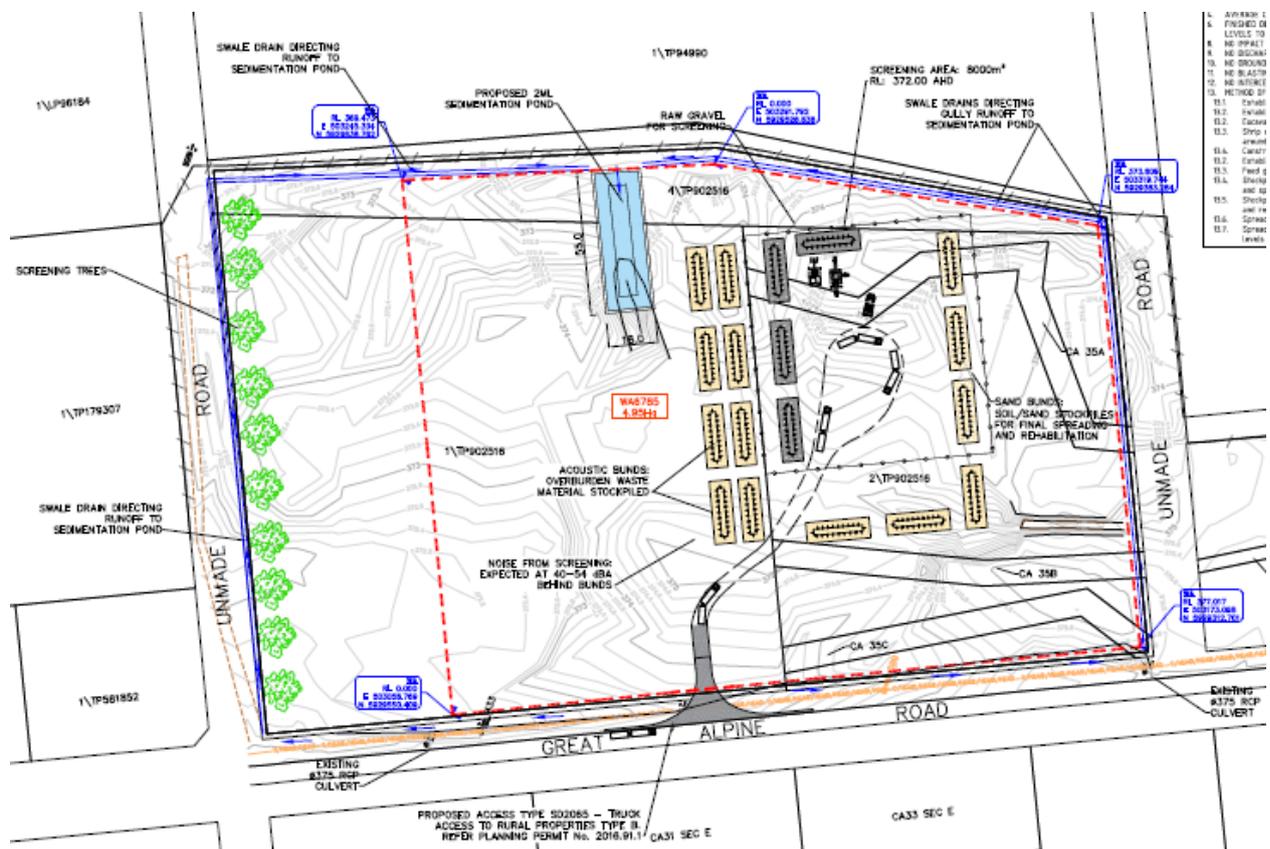


Figure 3: Development layout

### SUBJECT LAND AND SURROUNDS

The subject land is located on the eastern side of the Great Alpine Road in Freeburgh. It has a frontage of approximately 342 metres, a depth of approximately 175 metres and a total area of 7.201 hectares. It is made up of six (6) titles.

The land is extremely undulating and contains plantation debris, stones and weeds. It recently contained a softwood pine plantation and historically has been dredged.



The land is unfenced and currently not used for any purpose due to its degraded state.

The site is located to the south of the rural residential settlement of Freeburgh with dwellings in the settlement located directly to the north of the site. To the south of the site is a further row of dwellings on rural residential sized lots which front Great Alpine Road. To the east is grazing land which abuts the Ovens River and to the west is vacant Farming Zone land and heavily treed Crown land.

The landscape is defined by a narrow, open and cleared valley, with steep forested hills on either side.

Great Alpine Road is a Road Zone Category 1 and is managed by VicRoads.



**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 33 surrounding landholders and occupiers. A sign was displayed on the subject land and a notice was published in the local newspaper (Alpine Observer). Eleven objections and a petition containing 40 signatories were received. The reasons for objecting are as follows:

- Support the site being rehabilitated but by other means not involving a quarry.
- Will set a precedent for Freeburgh
- Traffic



- Noise
- Dust - in and around homes, crop loss
- Impact on tourism
- Visual impact
- Hours of operation
- Enforcement
- Spread of weeds from the site due to soil disturbance
- Stone extraction is not a farming activity
- Property values

Two submissions of support were received.

### **SUBMISSION OF FURTHER INFORMATION**

Following completion of the notification period and an objection to the application from EPA based on a lack of information around noise impacts on sensitive land uses, Council sought advice from an acoustic engineer which included a site visit. This investigation determined that further documentation was required from the applicant which addressed the potential noise impacts on surrounding residential uses based on the EPA guideline "Noise from Industry in Regional Victoria" (NIRV) 2011.

The applicant was also requested to review the amount of material proposed to be removed from the site and consequently the length of time needed for the proposed use and development.

In response, the applicant submitted "Lot 1 to 3, TP902516 Great Alpine Road, Freeburgh Acoustic Engineering Report" prepared by Cogent Acoustics Pty Ltd (Dec 2018)(Applicant Acoustic Report), and an amendment to the quantity of materials to be processed and period of time to process those materials.

A summary of the recommendations from the Applicant Acoustic Report is as follows:

- 4m high noise control bunds required around northern and southern edge of screening/processing area. Bunds should remain in place until screening works are completed and the bunds are required to be removed for final site levelling / rehabilitation.
- Processed product stockpiles should be located within the bounds of the noise control bunds to avoid mobile plant movements in areas that are not acoustically screened from nearby residences by the noise control bunds.
- Broadband movement warning alarms should be used in lieu of tonal reversing / movement beepers on mobile plant on site.
- Selection of plant and equipment to comply with specified maximum sound power levels.
- Operation during only the 'Day' period defined by NIRV - 7am-6pm Mon-Fri and 7am-1pm Saturday.



- General work practices to keep noise to a minimum should be implemented e.g. trucks not to stand idling when not in use.
- The name and mobile phone number of the contact person for the site should be publicly displayed on signage at the site entrance.
- Prior to commencing works, residents within 500 metres of the project site should be informed of the nature of the activities, the work stages and duration, and the noise reduction measures being put in place .

With respect to the quantity of material required to be processed, the applicant advised that around 70,000 cubic metres of material is required to be screened to produce 17,500 cubic metres of topsoil need to rehabilitate the site.

The project would be able to be completed within two (2) years with six (6) truck movements per day, and within one year with 12 truck movements per day.

The Applicant Acoustic Report was peer reviewed by an acoustic engineer engaged by Council and a report was submitted by Harwood Acoustics in association with Ray Walsh Acoustics, Noise and Sound titled "Technical Peer Review of an Acoustic Engineering Report For Proposed Extraction Works At Lot 1 to 3, TP902516, Great Alpine Road Freeburgh, VIC 3741" (February 2019) (Peer Review).

The Peer Review concluded that "providing that the noise control recommendations made by Cogent Acoustics can be implemented and adhered to then the site should be able to be approved and operate in such a way that the acoustical requirements of EPA Victoria's NIRV guidelines are satisfied" (p. 7). The Peer Review also made some recommendations with regard to planning permit conditions.

Both the Applicant Acoustic Report and the Peer Review were circulated to all submission makers and to EPA. EPA has consequently written a letter of response which does not object to the proposal based on the acoustic recommendations.

### **PLANNING FORUM**

A planning forum was held to discuss the application on 20 March 2019 in the Pavilion meeting room at Pioneer Park Recreation Reserve, Bright. The applicant, 15 objectors, three Councillors and Council officers attended. The application was discussed at length which ensured a more complete understanding of the proposal was established. Whilst no agreement was reached between the parties an emphasis on making the duration of the use as short as feasible provided some improved comfort amongst the objectors.



**REFERRALS**

<b>Referrals / Notice</b>	<b>Advice / Response / Conditions</b>
Section 55 referrals:	Goulburn Murray Water - no objection subject to conditions VicRoads - no objection and no planning permit conditions required Department of Economic Development, Jobs, Transport and Resources - no objection and no planning permit conditions required
Internal / external referrals:	EPA - no objection subject to conditions Department of Environment Land Water and Planning - no objection and no planning permit conditions required North East Catchment Management Authority - no objection subject to conditions Country Fire Authority - no objection and no planning permit conditions required

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

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

**Planning Policy Framework and Local Planning Policy Framework**

The Planning Policy Framework (PPF) and Local Planning Policy Framework (LPPF) give support to the proposal. Clause 14.03-1S Resource Exploration and Extraction and Clause 14.03-1R Resource Exploration and Extraction - Hume encourage the exploration and extraction of natural resources in accordance with acceptable environmental standards. With regard to quarrying, clearly defined buffers between extractive activities and sensitive land uses must be established and maintained.

Clause 13.05-1S Noise seeks to "*[e]nsure that development is not prejudiced and community amenity is not reduced by noise emissions, using a range of building design, urban design and land use separation techniques as appropriate to the land use functions and character of the area*". EPA guideline NIRV should be considered in the assessment of an application where noise from industry may affect sensitive land uses.

Clause 13.06-1S Air Quality Management seeks to "*[e]nsure, wherever possible, that there is suitable separation between land uses that reduce air amenity and sensitive land uses*". State Environment Protection Policy (Air Quality Management) and Recommended Buffer Distances for Industrial Residual Air Emissions (Environment Protection Authority, 1990) should be considered in decision making.

Clause 14.01-1S Protection of Agricultural Land aims to preserve and protect productive farmland, and Clause 17.03-2S Industrial Development Siting requires "adequate separation and buffer areas between sensitive uses and offensive or dangerous industries and quarries to ensure that residents are not affected by adverse environmental effects, nuisance or exposure to hazards".



The proposed use and development of the land for stone extraction is considered to be an appropriate use of the site taking into account the above policy considerations. The site contains a resource that is able to be extracted relatively easily and efficiently over a short time frame with the end result being the rehabilitation of the land so that it is suitable for agriculture. In doing so, the amenity of the surrounding area is able to be reasonably protected through the use of physical buffers by way of bunding around the work area as well as the use of operational tools to ensure noise from the site is kept to a minimum. These have been outlined in the Applicant Acoustic Report as discussed and can be made conditions of any approval issued.

With respect to air quality, the Recommended Buffer Distances for Industrial Residual Air Emissions (Environment Protection Authority, 1990) sets out that a quarry with the activities of quarrying, crushing, screening, stockpiling and the conveying of rock with no blasting activity should have a recommended separation distance from sensitive land uses of 250 metres. The proposal does not comply with this distance as the closest dwelling to the site to the south-east is 230 metres away from the works area. However it is noted that this distance is 'recommended' and that EPA has not objected to the proposal. EPA has requested a condition of any approval issued that the permit holder must ensure that nuisance dust/airborne particles are not discharged or emitted beyond the boundaries of the premises. To this end, the applicant has advised that the screen would not be used on hot days or during long periods of dry weather. During dry conditions, a water cart will be present onsite and will distribute water across the works area and internal roads to minimise dust. These undertakings can be made conditions of any approval issued in the form of a dust mitigation plan and should ensure the discharge of dust from the site is kept to a minimum.

In addition, the operator of the use will be required to appoint a contact person to handle any community queries, with their contact details publicly displayed on signage at the site entrance. The applicant will also be required to keep a complaints register which must be made available to Council upon request.

It is noted that the proposed use and development is proposed to operate over a short time frame of a maximum of 24 months after which the site will be rehabilitated and returned to agriculture.

The LPPF seeks to protect agricultural land, preserve landscapes along Great Alpine Road and promote tourism. It is largely silent on stone extraction activities in the Shire. The proposed use and development would result in the rehabilitation of Farming Zone land which will enable it to be returned to agriculture. The rehabilitation would also improve the appearance of the site as viewed from Great Alpine Road which in turn will have a positive impact on Freeburgh and tourism.

Overall it is considered that the proposed use and development of the site has both State and local planning policy support.



## **Zoning**

The subject land is located in the Farming Zone. A planning permit is required for the use and development of the land for stone extraction. The use and development is consistent with the Farming Zone purpose and decision guidelines as:

- with emissions of noise and dust from the site kept at levels as recommended by EPA guidelines, the extraction of stone from the site should not impact on the operations of nearby agricultural uses. In addition, the applicant will be required to submit a dust mitigation plan and a weed suppression plan as conditions of permit. As such, the Farming Zone is considered to be an acceptable location for the proposal.
- the development of land with bunding and a sedimentation pond would be temporary in nature as the stone extraction use is proposed to operate for 18 months. A condition of any approval issued will permit the use for up to 18 months with one extension of 6 months if required. Therefore the use must cease and the land remediated within a maximum 24 month timeframe following the commencement of the use and development. The land will then be returned to agriculture as per the zone purpose.
- the number of vehicle movements, the amount of material to be removed from the site, and the timeframe within which to undertake the works are interrelated, with the shorter timeframe of 18 to 24 months to complete the stone extraction requiring vehicle movements of 10 per day (20 in total per day). This level of vehicle movements is considered to be acceptable within the Farming Zone.
- the proposal is considered to be in the interests of sustainable land management as the outcome will be a rehabilitated site suitable for agriculture.
- no vegetation removal is proposed therefore the proposal will not have an impact on the biodiversity of the area.
- the Freeburgh residential settlement is an anomaly in the Farming Zone. The purpose and decision guidelines of the zone aim to protect agriculture from non-agricultural uses and the protection of the amenity of rural residential uses in the zone is not contemplated. However, as discussed, the amenity of these sensitive land uses has been taken into consideration in the assessment of this proposal with regard in particular to the off-site impacts of noise and dust from the use. With the imposition of rigorous planning permit conditions regarding, among other things, noise levels, dust suppression, hours of operation, vehicle movements, weed suppression and permit expiry, it is considered that the amenity of the surrounding quasi rural living area will be adequately protected.

## **Overlay**

The site is subject to the Bushfire Management Overlay however there is no permit requirement for the use and development under the overlay provisions.



### **Clause 52.06 Car Parking**

Where a use of land is not specified in Table 1 to Clause 52.06-5, car parking spaces must be provided to the satisfaction of the responsible authority before a new use commences. Stone extraction is not listed in Table 1 therefore car parking must be provided to Council's satisfaction. As no car parking has been shown on the submitted plan, a condition of any approval issued will require the applicant to submit an amended plan showing three car parking spaces on site.

### **Clause 52.08 Earth and Energy Resources Industry**

A planning permit is required to use and develop land for the earth and energy resources industry under this clause. Stone extraction is a use associated with this industry. The clause has a purpose but no decision guidelines for stone extraction. The proposal is considered to be consistent with the relevant clause purpose as:

- the land would be used and developed for the extraction of earth and energy resources in accordance with acceptable environmental standards.
- the proposal would be consistent with other legislation governing stone extraction. In this instance the Code of Practice for Small Quarries (Code) is applicable.

### **Code of Practice for Small Quarries**

The Code applies to small-scale quarries that are less than five hectares in area and less than five metres in depth where no blasting or no native vegetation clearance is proposed. A small quarry meeting these requirements is exempt from the Work Plan requirements of the Mineral Resources (Sustainable Development) Act 1990 (MRSD Act) and must comply with the Code.

A small quarry operator must hold a Work Authority under the MRSD Act. The Work Authority will specify that the operator is bound by the requirements of the Code.

The Code sets out objectives, requirements and recommended practice for issues such as control of noxious weeds, drainage and erosion control, noise, dust control, visual management, rehabilitation, and community relations.

A condition of any approval issued will require the permit operator to comply with the Code.

### **Response to Grounds of Objection**

Support the site being rehabilitated but by other means not involving a quarry

Council must assess what has been applied for which in this instance is a quarry.

Will set a precedent for Freeburgh

Freeburgh is located in the Farming Zone where stone extraction is a permit required use and development. Any further applications for stone extraction will be assessed on their merits.



### Traffic

The proposal would result in 10 trucks per day totalling 20 vehicle movements per day. These would be conducted during the hours of operation of 8:00 am to 6:00 pm Monday to Friday and 9:00 am to 1:00 pm Saturdays over an 18 to 24 month time frame. The site has direct access to Great Alpine Road which is a Road Zone Category 1 which would be capable of handling the proposed movements and types of vehicles. Traffic would be marginally increased on this road during these hours as a result of the proposal.

### Noise

Appropriate noise mitigation methods will be required to be undertaken by the applicant in order to minimise noise emissions from the site. A condition of any approval issued will require the applicant to comply with the recommendations of the Applicant Acoustic Report.

### Dust - in and around homes, crop loss

A dust mitigation plan will be required to be submitted to Council for approval which outlines measures that will be undertaken to ensure that dust is not being discharged or emitted beyond the boundaries of the premises.

### Impact on tourism

The proposal may have a short term impact on tourism but will benefit it in the long term as the site will be rehabilitated and returned to agriculture.

### Visual impact

The visual qualities of the subject site are currently poor and the outcome of the proposal will be a rehabilitated site that will be returned to farmland. It is considered that whilst the visual appearance of the stone extraction works may not be ideal, this will be for a period of up to 24 months with the end result being an overall improvement of the visual qualities of the site.

It is also noted that the applicant proposes to plant screening vegetation along the north-western boundary of the site to screen the proposal from adjoining properties.

### Hours of operation

The hours of operation are considered to be reasonable and are less than the 'day' hours of the EPA NIRV requirements. The quarry would commence operations at 8:00 am Monday to Friday and 9:00 am on Saturday whilst NIRV allows operations to commence at 7:00 am Monday to Saturday.

### Enforcement

Council will be responsible for the enforcement of planning permit conditions and the Department of Jobs, Precincts and Regions - Earth Resources Regulation will monitor and audit compliance with the MRSD Act including the Code.



Spread of weeds from the site due to soil disturbance

A dust mitigation plan and a weed suppression plan will be made conditions of any approval issued and will aim to ensure that weeds from the site will not spread as a result of the proposal.

Stone extraction is not a farming activity

Whilst stone extraction is not defined as an agricultural activity in the Alpine Planning Scheme, it is a use within the Farming Zone that is permitted with a planning permit.

Property values

Property values are not considered to be a valid ground of objection for a planning permit application and cannot be considered as part of the assessment of the application.

**CONCLUSION**

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

- The proposed development is generally consistent with the relevant provisions of the Planning Policy Framework and Local Planning Policy Framework.
- The proposal is consistent with the purpose and decision guidelines of Clause 35.07 Farming Zone as the proposed use and development would not adversely affect the use of the land and nearby land for agriculture, and would result in the land being rehabilitated and returned to agriculture.
- The proposal has adequately addressed the purpose of Clause 52.08 Earth and Energy Resources Industry.
- With appropriate conditions imposed, the amenity of the rural residential settlement of Freeburgh will be able to be managed and protected.

**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 Director Corporate
- Senior Planning Officer

**APPENDICE(S)**

- 8.3.6 (A) - Conditions
- 8.3.6 (B) - Policy and decision guidelines



## **APPENDIX A**

### **AMENDED PLANS CONDITION**

1. Before the use and development starts, amended plans to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans submitted with the application but modified to show:
  - a. the location of acoustic bunds as per Figure 4 of "Lot 1 to 3, TP902516 Great Alpine Road, Freeburgh Acoustic Engineering Report" prepared by Cogent Acoustics Pty Ltd (Dec 2018) (the Acoustic Report).
  - b. Location of site amenities for workers and how waste water is to be handled.
  - c. Provision of car parking for the use (3 spaces).

### **GENERAL CONDITIONS**

2. The layout of the site and the size of the proposed use and buildings and works must be generally in accordance with the endorsed plans which form part of this permit. The endorsed plans must not be altered or modified (whether or not to comply with any statute statutory rule or local law or for any other reason) without the consent of the responsible authority.
3. The use and development of the subject land must not commence until the Work Authority is issued pursuant to the Mineral Resources (Sustainable Development) Act 1990 unless with the written consent of the Responsible Authority and the Department of Jobs Precincts and Regions.
4. The use and development must not commence until the access approved under planning permit 5.2016.91.1 is constructed to the satisfaction of VicRoads.

### **CODE OF PRACTICE CONDITION**

5. The use and development hereby approved must be undertaken in accordance with the Code of Practice for Small Quarries (2010).

### **OUTPUT CONDITION**

6. Output from the quarry must not exceed 70,000 cubic metres of material to the satisfaction of the Responsible Authority.

### **NOISE MANAGEMENT CONDITIONS**

7. Noise management of the use and development must be in accordance with the recommendations of the Acoustic Report to the satisfaction of the Responsible Authority.
8. The 4m high bund on the northern and southern side of the extraction area must be constructed to the satisfaction of the Responsible Authority prior to the processing and removal of any material from the site.



9. All vehicle loading and stockpiling of extracted material must be undertaken within the extraction area.
10. Prior to the commencement of any activity on site, a noise verification report must be prepared and submitted to the Responsible Authority to demonstrate that every item of plant and equipment to be used at the site achieves the recommended maximum allowable noise levels contained in the Acoustic Report. The noise verification report shall:
  - a. be prepared by a suitably qualified acoustical consultant (for example, a member of the Australian Acoustical Society or member firm of the Association of Australasian Acoustical Consultants);
  - b. be approved by Council prior to the commencement of any works;
  - c. demonstrate that the location, design and operation of all plant and equipment can achieve the recommendations made in the Acoustic Report;
  - d. if necessary, recommend additional measures to improve noise controls on-site to ensure the NIRV noise limits will be met at all receptor locations; and
  - e. Include a detailed copy of the proposed Noise Management Plan including community relations management as recommended in the Acoustic Report for approval by Council prior to commencement of any works.
11. Within two months of the use commencing a noise validation assessment must be prepared and submitted to the responsible authority demonstrating that the approved use is consistent with the recommendations and requirements of the Acoustic Report.
12. In the event of non-compliance with the specified acoustic requirements of Conditions 10 and 11 of this permit the approved use must cease.

#### **ENVIRONMENTAL MANAGEMENT PLAN CONDITION**

13. Unless otherwise approved in writing by the Responsible Authority, prior to the use and development commencing, an Environmental Management Plan (EMP) must be prepared by a suitably qualified person and submitted to the Responsible Authority for approval. The EMP must be to the satisfaction of the Responsible Authority. The EMP must provide for, but not be limited to:
  - a. Water balance calculations including water sources, storage, internal drainage lines and sediment repositories;
  - b. Measures to be undertaken to control sediment-laden water being discharged from the site;
  - c. Emergency response procedures to be implemented and other measures required to control the discharge of sediment-laden water in flood events;
  - d. Management of grey water and sewage generated on site; and



- e. Management of storage of fuels and other materials to prevent interaction with surface waters.

When approved, the EMP will be endorsed and will then form part of this permit.

- 14. The use and development must be undertaken in accordance with the approved EMP to the satisfaction of the Responsible Authority.

#### **DUST MITIGATION PLAN CONDITION**

- 15. Prior to the use and development commencing, a Dust Mitigation Plan (DMP) must be prepared by a suitably qualified person and submitted to the Responsible Authority for approval. The DMP must detail, but not be limited to, a risk management strategy addressing measures to reduce air emissions to acceptable levels at nearby sensitive locations and to address the potential for nuisance dust off-site including details of the following:
  - a. a baseline monitoring program of nuisance dust which must be completed prior to the commencement of the use;
  - b. how activities which generate dust on site will be managed to minimise dust emissions;
  - c. the circumstances in which quarrying activities will cease on site due to weather conditions that will result in visible dust being discharged beyond the boundaries of the premises;
  - d. how dust will be monitored, such monitoring to be in compliance with the State Environmental Protection Policy (Air Quality Management) 2001 and to include use of dust deposition gauges following the receipt of complaints at locations to be determined in consultation with the Responsible Authority.
  - e. contingency measures to deal with any elevated dust conditions or upset conditions.

Once approved, the DMP will be endorsed and will form part of this permit.

- 16. The use and development must at all times be conducted in accordance with the DMP to the satisfaction of the Responsible Authority.

#### **WEED MANAGEMENT PLAN**

- 17. Unless otherwise approved in writing by the Responsible Authority, prior to commencement of works, a Weed Management Plan (WMP) for the entire site must be submitted to the Responsible Authority for approval. The WMP must be to the satisfaction of the Responsible Authority. The WMP must include, but not be limited to:
  - a. list of plant species applicable to site;
  - b. species targeted for control;
  - c. management techniques including regular weed management along the bunds and perimeter landscaping; and
  - d. monitoring and reporting.



Once approved, the WMP will be endorsed and will form part of this permit.

18. The use and development must be undertaken in accordance with the approved WMP to the satisfaction of the Responsible Authority.

#### **HOURS OF OPERATION**

19. The use must only occur between the following hours:

- Monday to Friday 8:00am to 6:00pm
- Saturday 9:00am to 1:00pm

#### **COMPLAINTS REGISTER**

20. The operator must keep a register of any complaints by the public concerning the operations and the register must be made available to the Responsible Authority on request.

#### **TRUCK MOVEMENTS**

21. The number of trucks accessing the site is limited to 10 per day (20 movement's total) day unless otherwise agreed to in writing by the Responsible Authority.
22. All trucks must be covered to minimise dust generation from the load, prior to leaving the site.
23. No truck movements may occur to or from the subject site between hours 8:00am - 9:00am and 3:30 pm - 4:30pm on any school day.

#### **REHABILITATION CONDITIONS**

24. Prior to commencement of works, a Rehabilitation Plan for the entire site must be submitted to the Responsible Authority for approval. The Rehabilitation Plan must include, but not be limited to:
  - a. existing conditions and vegetation (e.g. windrows and road plantings);
  - b. objective of the end use (i.e. agricultural);
  - c. progressive rehabilitation methodology of disturbed areas;
  - d. staging and timing of rehabilitation (must all be done within permit expiration timeframe); and
  - e. species and planting densities.

When approved, the Rehabilitation Plan will be endorsed as evidence of its approval.

25. The use and development must be undertaken in accordance with the approved Rehabilitation Plan to the satisfaction of the Responsible Authority.
26. Grazing on the property shall not be undertaken until the excavated area is fully restored, to the satisfaction of the Responsible Authority.



### **LANDSCAPING CONDITIONS**

27. Before the development starts, a landscape plan must be submitted to and approved by the responsible authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and three copies must be provided. The plan must show:
  - a. A survey (including botanical names) of all existing vegetation to be retained and/or removed.
  - b. A planting schedule of all proposed trees and shrubs, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.
  - c. Landscaping and planting along the north-western boundary of the site.
  - d. The means of watering/irrigation proposed to be used.All species selected must be to the satisfaction of the responsible authority.
28. Before the use starts 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.
29. 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.

### **GOULBURN-MURRAY WATER CONDITIONS**

30. All works associated with the stone extraction activities must be undertaken in accordance with DEDJTR, Code of Practice Small Quarries (2010).
31. Sediment control principles outlined in EPA Publication 275, Construction Techniques for Sediment Pollution Control (May 1991) must be implemented on the site to ensure that no sediment laden run-off is able to leave the site or be discharged to waterways or drainage lines. Sediment traps must be maintained to ensure their effectiveness.
32. All drainage/stormwater run-off from within the work area and any stockpile areas must be directed towards a sedimentation basin. Inlet and outlet structures must be appropriately beached to ensure that no erosion occurs and the basin must be periodically cleaned of sediment to ensure it maintains capacity and functions appropriately.
33. The sedimentation basin must have the capacity to capture run-off and drainage from the work site in a one in ten-year storm event.
34. Stormwater unaffected by the work site operations must be diverted around the site of operations as unconcentrated overland flow so as not to cause any erosion, channelling or discharge of sediment off-site.
35. Stockpiles of extracted material must be either revegetated or stored in a manner whereby any run-off containing sediment is directed towards the sedimentation basin.



36. At the completion of all extraction activities, the site must be rehabilitated to prevent erosion and sediment transport off-site.
37. All wastewater from portable toilets or handwashing facilities must be transported off-site to the satisfaction of council's Environmental Health Department.

#### **NORTH EAST CATCHMENT MANAGEMENT AUTHORITY CONDITIONS**

38. That the small quarry complies with the requirements of the Department of Primary Industries' Code of Practice for Small Quarries 2010 (as amended).
39. Prior to the commencement of works, appropriate silt control measures (swale drain) must be installed to prevent sediment laden runoff from the site. The silt control measures must be maintained at all times.

#### **EPA CONDITIONS**

40. Surface water discharge from the premises must not be contaminated with waste.
41. The permit holder must ensure that nuisance dust and/or nuisance airborne particles are not discharged or emitted beyond the boundaries of the premises.
42. Effective noise levels from the use of the premises must not exceed the recommended levels as set out in Noise from Industry in Regional Victoria (NIRV; EPA Publication 1411, 2011) or as amended.

#### **EXPIRY CONDITION**

43. This permit will expire if one of the following circumstances applies:
  - a. the development and use are not started within two years of the date of this permit. The applicant must advise the Responsible Authority in writing of the date of the commencement of the development and use.
  - b. the use and development must cease eighteen months (18) after the commencement date. The Responsible Authority may extend the permit for a further six (6) months upon receipt of a request from the applicant prior to the expiry date.

The Responsible Authority may extend the period referred to in (a) if a request is made in writing before the permit expires or within six months afterwards if the development has not lawfully commenced.



## **NOTES**

### **NORTH EAST CATCHMENT MANAGEMENT AUTHORITY NOTE**

Along the southern boundary of the site is a tributary waterway of the Ovens River, gazetted by the North East Catchment Management Authority to be a designated waterway under the Water Act 1989. Any works in, on or over designated waterways (such as access crossings, storm water outlets, etc.) will require a Works on Waterway Permit under By-Law No 2014/01 Waterways Protection from the North East Catchment Management Authority prior to commencing any works. Further information and an application form can be obtained from North East Catchment Management Authority at: <http://www.necma.vic.gov.au/About-Us/Programs-Initiatives/Undertake-Works-on-Waterways>.



## **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 13.05 Noise

Clause 13.06 Air Quality

Clause 13.07 Amenity and Safety

Clause 14.01 Agriculture

Clause 14.03-1S Resource Exploration and Extraction

Clause 14.03-1R Resource Exploration and Extraction - Hume

Clause 17.01 Employment

Clause 17.04 Tourism

Clause 18 Transport

### **Local Planning Policy Framework**

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

Clause 21.03-2 Rural residential living

Clause 21.05-1 Tourism

Clause 21.05-3 Agriculture

Clause 21.07-11 Rural Precincts

Clause 22.03-1 Tourist use and development

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



**Overlays**

The site is subject to the Bushfire Management Overlay however the proposed used and development does not trigger the need for a planning permit under the overlay provisions.

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

Clause 52.06 Car Parking

Clause 52.08 Earth and Energy Resources Industry

**General Provisions**

Clause 65 Decision Guidelines



### 8.3.7 Planning Application 5.2018.206.1 - Use and Development of the land as an outdoor recreation facility

Application number:	5.2018.206.1
Proposal:	Use and development of the land as an outdoor recreation facility
Applicant's name:	Mountain Planning
Owner's name:	Victorian Plantations Corporation
Address:	CA S23F, Parish of Bright CA 7 and 7A, Section K, Parish of Bright
Land size:	Approximately 1,200 hectares is the subject land however the area of use is around 500ha.
Current use and development:	Timber production and informal outdoor recreation
Site features:	Pine plantations within which is an extensive network of trails used for mountain biking, trail running and hiking. The land is mountainous and contains a number of waterways.
Why is a permit required?	A planning permit is required: - to use and develop the land as an outdoor recreation facility pursuant to Clause 35.07-1 and Clause 35.07-4 respectively of the Farming Zone - to construct a building and carry out works associated with leisure and recreation pursuant to Clause 44.06-2 of the Bushfire Management Overlay.
Zoning:	Farming Zone
Overlays:	Bushfire Management Overlay
Restrictive covenants on the title?	No
Date received:	27 November 2018
Statutory days:	161
Planner:	Sam Porter

*Cr Roper*

*Cr Keeble*

*That a Notice of Decision to grant a planning permit be issued for use and development of the land as an outdoor recreation facility in accordance with the conditions outlined in Appendix (a) and for the following reasons:*

- 1. The proposed development is generally consistent with the relevant provisions of the Planning Policy Framework and Local Planning Policy Framework.*
- 2. The proposal is consistent with the purpose and decision guidelines of Clause 35.07 Farming Zone as the proposed use and development would not adversely affect the use of the land and nearby land for agriculture, and would provide a use that is able to operate concurrently with agriculture.*



3. *The proposal has adequately addressed the purpose and decision guidelines of Clause 44.06 Bushfire Management Overlay and Clause 53.02 Bushfire Planning.*
4. *The proposal would formalise a current land use which in turn will ensure the use is able to be more effectively managed.*
5. *With appropriate conditions imposed, the amenity of the nearby residential area will be able to be managed and protected.*
6. *The proposed planning use of an outdoor recreation facility implemented and managed under the guidance of a planning permit is an improved land use outcome than that of the currently 'as of right use' of an informal outdoor recreation land use.*

*Carried*

## **PROPOSAL**

It is proposed to use and develop the site as an outdoor recreation facility. The main points of the proposal are as follows:

- the proposal seeks to formalise the existing use of the land for recreational purposes so that users of the site can be required to pay to use the site. This will include payment for events such as mountain bike racing, trail running racing, obstacle course racing, horse riding events, and mountain bike shuttles, as well as payment by casual users of the site.
- the primary use of the land for timber production by HVP Plantations will continue.
- the management of the outdoor recreation facility will be undertaken by Alpine Community Plantation (ACP) and revenue from the recreational use of the land will be used for the ongoing management and development of the land.
- the applicant has advised that prior to each formal event at the site, an event management plan will be required to be submitted to Council for approval.
- a masterplan has been submitted which shows all existing infrastructure, proposed trails, the area of the land that is the subject of this application; and proposed gates - see Figure 1 below.
- other than the construction of tracks and trails the only other physical works proposed include the construction of two shelters within plantation at appropriate intersection points. Plans showing the Master Plan for Rotary Pines area of Pioneer Park (Figure 2) have also been submitted as this area has an integral association with proposal.

It is noted that the proposed land use of 'outdoor recreation facility' is defined in the Alpine Planning Scheme (Scheme) as "Land used for outdoor leisure, recreation, or sport". The current land use of the site is 'informal outdoor recreation' which is defined by the Scheme as "Land open to the public and used by non-paying persons for leisure or recreation, such as a cycle track, picnic or barbecue area, playground, and walking or jogging track".

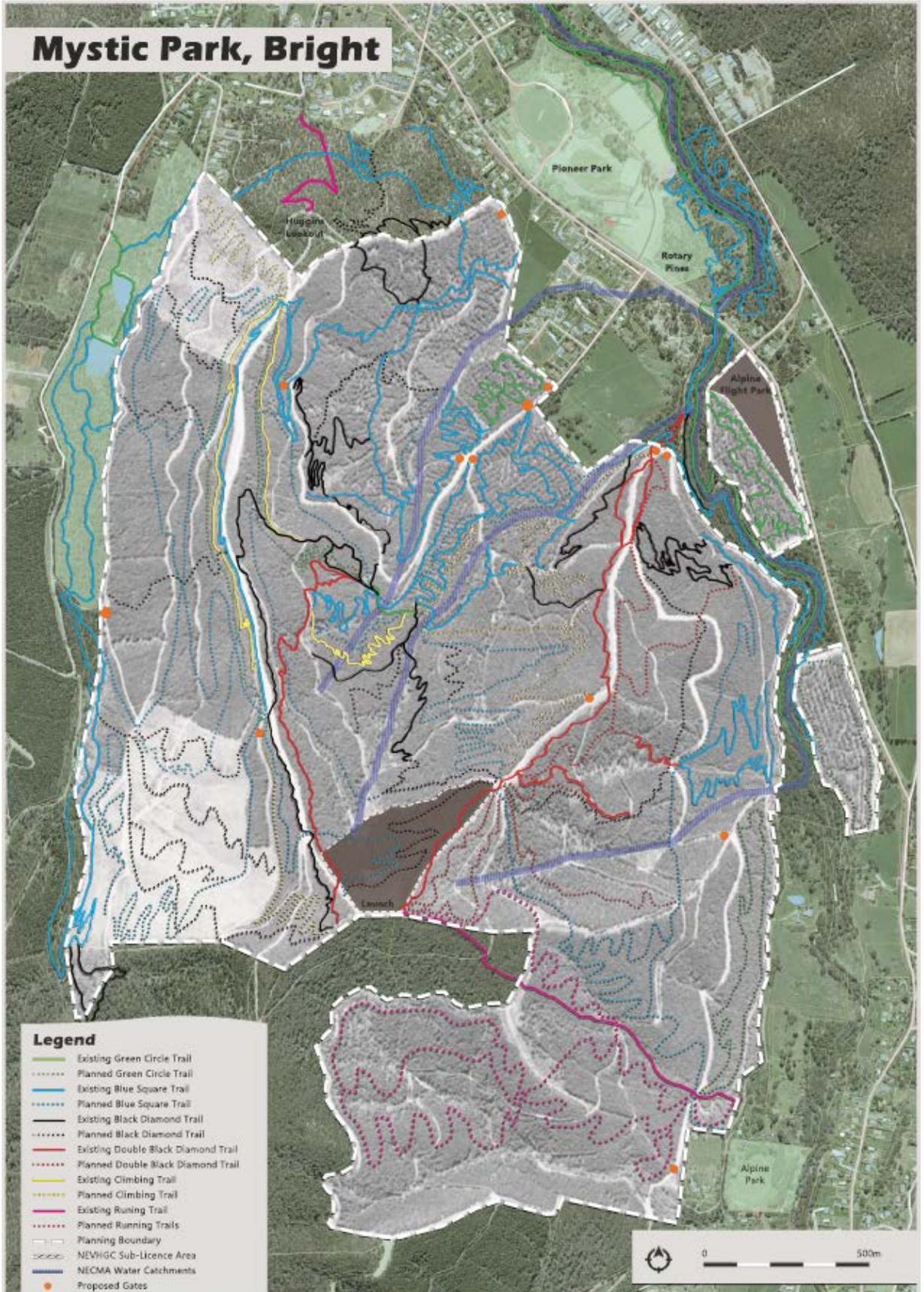


Figure 1: Master Plan



**Figure 2: Rotary Pines Master Plan**

## **SUBJECT LAND AND SURROUNDS**

The subject site is comprised of three titles:

- Crown Allotment S23F, Parish of Bright - an irregularly shaped lot of 1180 hectares located to the south of the Bright township extending most of the way south along the Morses Creek valley and is therefore accessed from a number of locations by the licence holder most notably for this application Mystic Lane and McFadyens Lane. The lot is currently used for timber production (pine plantations) and is managed by Hancock Victorian Plantations (HVP) under a perpetual licence from the State government.
- Crown Allotment 7, Section K, Parish of Bright - an irregularly shaped lot of 10.5 hectares located on the western side of Morses Creek Road. Morses Creek runs adjacent to the western boundary of the lot. The western half of the lot contains vegetation while the eastern side contains a carpark, toilet and BBQ. Vehicle access is from Morses Creek Road. This lot is known as the Alpine Flight Park or the 'Landing Paddock'.
- Crown Allotment 7A, Section K, Parish of Bright - an irregularly shaped lot of 8.4 hectares also located on the western side of Morses Creek Road to the south of CA 7. Morses Creek also runs adjacent to the western boundary of the lot. The lot contains a pine plantation.

The subject site is also used for informal outdoor recreation and contains an extensive network of trails used for mountain biking, trail running and hiking. These



trails are open to the public and are managed by Alpine Community Plantation (ACP). There is currently no fee charged for the use of the land for informal outdoor recreation by individuals.

The land is also used for fee-paying commercial events such as the Mountain Bike National Championships, local mountain bike races, the Spartan obstacle course race, Bright 24 hour mountain bike race, Bright fun run and the Buffalo Stampede. There is also a commercially conducted shuttle service which transports mountain bikers from the base of the mountain to the top of the mountain.

The subject land also contains infrastructure to support the ongoing recreational uses of the land, this includes:

- A carpark, toilet and BBQ in the Landing Paddock (as discussed above).
- A carpark, toilet and hang glider/paraglider launch pad on top of Mystic Hill, the "Launching Area".
- Signage.
- Entrance gates on Mystic Lane and McFadyens Lane.

Figure 3 below shows the subject land and given its vast size a white box has been added to assist in understanding the area where the proposed use will extend.



**Figure 3: Subject land.**

### **PUBLIC NOTIFICATION**

The application was advertised in accordance with Section 52 of the *Planning and Environment Act 1987*. Notice of the application was sent to 75 surrounding landholders and occupiers. A sign was displayed on the subject land and a notice was published in the local newspaper (*Alpine Observer*). Three objections were received. The reasons for objecting are as follows:

- Safety on Mystic Lane
- Traffic Volume
- Traffic Noise
- Dust
- Bike Users on Mystic Lane
- Park Users Behaviour



Three submission of support were received. One submission discussing the heritage values of the site was also received.

**REFERRALS**

<b>Referrals / Notice</b>	<b>Advice / Response / Conditions</b>
Section 55 referrals:	CFA - no objection subject to conditions Goulburn Murray Water - no objection subject to a permit note
Internal / external referrals:	North East Catchment Management Authority - no objection subject to conditions Department of Environment, Land Water and Planning - unconditional consent Engineering - no objection subject to conditions Environmental Health - no objection subject to conditions

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

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

**Planning Policy Framework and Local Planning Policy Framework**

The Planning Policy Framework (PPF) and Local Planning Policy Framework (LPPF) give support to the proposal on a range of tourism and agriculture related policy directions.

The application is consistent with relevant tourism policies by providing events that will serve to promote the Shire as a sporting destination in Victoria, providing economic and social benefits to the local and broader community. By changing the current informal recreation use to a formal outdoor recreation facility where users of the site will be required to pay will improve the overall operation of the site as more formal management arrangements will be required to be in place. These arrangements will include, but are not limited to, traffic management, dust suppression, hours of operation, a code of conduct for users, and provision of car parking.

The application is consistent with State and local policy aiming to protect the ongoing use of the land for agriculture. The ability for the use and development to coexist with the current agricultural use of the land (timber production) ensures that this Farming Zone land will remain a part of the Shire's agricultural base while providing for an alternative concurrent use.

The site is located in the Ovens River Special Water Supply Catchment. The application was referred North East Catchment Management Authority (NECMA) who did not object to the proposal subject to planning permit conditions including requiring the applicant to submit a Maintenance and Management Plan for all trails to ensure that there is a formal plan for how the trails are maintained. This approach is supported and will assist in the protection of the catchment.



The NECMA requested that their conditions to be included on any permit issued contain a condition reading:

*'that the planning permit is issued for existing trails only'.*

It is recommended that this condition be set aside for the following reasons:

- Such a condition would result in each new or amended track require either an amended planning permit or a fresh planning permit application.
- The submitted master plan has outlined approximate locations of all future tracks and trails, therefore, an appropriate set of conditions can be included on any permit issued requiring specific information to be submitted and approved prior to additional works.
- Approving amended plans that fall within the set bounds of conditions specifically put in place for that future purpose represents best planning practice in this instance.
- A track and trail construction code will be a condition of approval that will provide acceptable environmental considerations to all future works.

### **Cultural Heritage**

The site is located in an area of Aboriginal Cultural Heritage Sensitivity and the proposed use and development is classified as a high impact activity. The applicant has provided sufficient evidence of significant ground disturbance to conclude that a Cultural Heritage Management Plan is not required for the proposal in accordance with the Aboriginal Heritage Act 2006 and Aboriginal Heritage Regulations 2018.

Overall it is considered that the proposal is in accordance with the relevant policy objectives and strategies in the Scheme as it will support a tourism use that is nature based and compatible with the agricultural use of the site. Any approval issued will ensure that the use has appropriate management tools to provide relevant infrastructure and amenity management plans for events and casual users of the site.

### **Zoning**

The subject land is located in the Farming Zone. A planning permit is required for the use and development of the land for an outdoor recreation facility. The use and development is consistent with the Farming Zone purpose and decision guidelines as it will allow for the continued overarching use of the land for agricultural production. It also would not impact on the operation of adjoining and nearby agricultural uses and would create employment opportunities which will support a rural community. The proposal would be based on comprehensive and sustainable land management practices and infrastructure provision as it seeks to formalise an existing informal use through the management of matters such as patrons, traffic and dust. These issues will be discussed later in this report in the response to objections to the proposal.

### **Overlays**

The site is subject to the Bushfire Management Overlay. A planning permit is required for buildings and works associated with the proposed use of the land. The application was referred to CFA who had no objection to the proposal subject to



conditions including that the proposed shelters be constructed from non-combustible material, all future buildings on the land to be submitted to and approved by Council, and the applicant to submit a Bushfire Emergency Management Plan due to the site being in an extreme bushfire landscape. With the inclusion of CFA conditions on any approval issued it is considered that the proposal satisfactorily addresses the purpose and decision guidelines of the overlay and of Clause 53.02 Bushfire Planning.

### **Clause 52.06 Car Parking**

Where a use of land is not specified in Table 1 to Clause 52.06-5, car parking spaces must be provided to the satisfaction of the responsible authority before a new use commences. Outdoor recreation facility is not listed in Table 1 therefore car parking must be provided to Council's satisfaction.

Previously car parking took place in part along Mystic Lane that was within the Alpine Community Plantation, however, this trail head area is now relocated to offsite.

Currently car parking for events occurs in many areas

- Within the Landing Paddock - approximately 800 spaces
- At the summit of Mystic Hill
- Pioneer Park Reserve and surrounding roads

The Alpine Shire Council is currently working to develop additional car parking within the Rotary Pines area within Pioneer Park. It is envisaged that this area will serve as a new trail head location. The broader Pioneer Park Reserve area is able to cater for more event based car parking whilst the Alpine Flight Park (The Landing Paddock) if need be can cater for additional event parking if needed.

Conditions to be included on any permit issued will include and ensure that Pioneer Park is used for all parking in the first instance via Traffic Management Plans to be submitted. The Alpine Shire Council is the Public Land Manager for this area and is agreeable this parking outcome as a land manager.

### **Response to Grounds of Objection**

#### **Safety on Mystic Lane**

Council's Development Engineer has reviewed the existing sealed section of Mystic Lane along with traffic volume data and any associated incident history. Following this review changes to Mystic Lane will be required via an upgrade condition. The upgrade condition will request centreline and edgeline marking along with threshold pavement marking as a minimum. A further condition will require that during event and school holiday periods a radar boards is also present along Mystic lane.

Increases in traffic volume on a public road is commonly a reasons for Traffic Impact Assessment Report (TIAR) to be supplied. In this instance it is Council's opinion that a combination of works to Mystic Lane combined with the land manager's ambition to reduce traffic via additional controls such as a pay per use scheme warrants a deferral of such a request. Therefore, in the event that traffic usage of Mystic Lane doesn't improve as a result of the requirements of this permit being issued a further



condition still requiring a TIAR in two years' time should Council determine it is still necessary will be included.

### **Traffic Volume**

Traffic figures taking in peak period usage (Summer School Holiday Period) show an approximate usage of 800 vehicles per day. Mystic Lane is an urban Access Street and therefore has the ability to cater for between 1000-2500 vehicles per day. Therefore, the current usage doesn't warrant a discontinuation of Mystic Lane being used as subject land access.

What is important to acknowledge is that the land manager has its own desire to minimise wear and deterioration on its own roadway, therefore, with the issuing of a planning permit they would be entitled to start charging admission for vehicles and / or establish other controls and subsequently see a reduction in overall numbers. The progression of this park moving from a publically open area into a pay for usage space will ultimately be the basis for improving the traffic management in the area.

### **Traffic Noise**

Noise emission from a pre-existing roadway in a road reserve that is being used well within its designed capacity can't be directly addressed through this planning application, however, improved management into the park will provide an opportunity to influence Mystic Lane users behaviour. Further to this the traffic calming measures to be implemented on Mystic Lane should be designed to deliver a constant speed used rather than a variable speed that requires additional engine revving and braking. In addition to the changes to the roadway design, the most appropriate condition to have in place is to ensure the larger commercial vehicles proposing to offer a shuttle service within the park are only in use between 7am and 8pm.

### **Dust**

The migration of dust from the Park area downslope towards residential areas was known to be an issue with the road usage in this area prior to receiving a planning application. The application acknowledges that receipt of a planning permit would allow the land use to become more commercial, therefore, providing more opportunity to address road maintenance.

Evidence gathered by Council indicates that the dust issue is present in surrounding residential streets namely Colonial Court and the upper section of Mystic Lane. However, the dust issue dissipates before the residential area fronting Coronation Ave. Whilst conditions will be placed on the permit to ensure short term dust management, these measures are temporary and a further condition will require the sealing within two years of the internal Mystic Lane/Huggins Road up to the first westerly bend. The seal standard would be for 6m width allowing for two way traffic, meaning that around 200m of an already sealed section would need widening before a further fresh 600m section, totalling 800m of works.

A dust management and monitoring plan will be required to be submitted to Council for approval which outlines measures that will be undertaken to ensure that dust is not being discharged or emitted so as to become a nuisance offsite. In addition the



dust mitigation plan will require some measuring and monitoring. The EPA has advised that the necessary hardware to measure dust emissions is available for loan. Therefore, the permit conditions proposed will require that measuring occurs both prior and post the sealing upgrade to Mystic and Huggins Road. Structuring the conditions in this way will ensure there is clear evidence as to the changes in any dust impacts as a result of proposed road works. In the event that the additional sealing of Mystic Lane and Huggins Road is unable to deliver satisfactory dust emission results the permit if approved will further recognise the additional sealing to Huggins Road is required.

### **Park Users Behaviour and Bike Users on Mystic Lane**

A condition is proposed to be included on any permit issued requiring a code of conduct to be developed. This code of conduct would be similar to those seen in use in nearby ski fields. Once developed and approved the permit condition would specify that it must be circulated with all paying users of the park. The code would allow for much self-regulation amongst users making them aware of the surrounding residential housing and any will further outline that users of Mystic Lane in the residential area are to modify their speeds both on bikes in cars.

### **Proposed Park Access**

A further common theme from the submissions received was that the access to the park should be relocated away from Mystic Lane and away from existing residents. Considerable investigation was undertaken in reviewing two other potential access alignments, however, it was found that Mystic Lane remains the most appropriate choice and that there are insufficient planning grounds to request an alteration. Indeed, as the alternate alignments traverse third party land and would require stakeholder approvals, they are not able to be conditioned as part of a planning permit process. Nonetheless, for transparency, two alternate options were investigated at a high level through the assessment process. As can be seen from the figures below each alternative simply moves the matter from one residential area to another future residential area. A summary of each proposal is below:

### **White Star Road – Figure 4**

- 900m of Residential Zone interface
- Dust Issues
- Noise Issues
- Slope/Topography
- Crown Land Tenure
- Cultural Heritage
- Waterway proximity constraints
- Waterway crossing 2-3
- Likely reluctance of HVP to further burden forestry operations.
- Very high construction costs



- End outcome puts traffic back on Mystic Lane only 320m from existing residential land
- Dust issue likely to remain unresolved due to gravel road still in existence from Mystic intersection point continuing uphill



**Figure 4: Potential White Star Road Alignments**



### Coronation Ave – Figure 5



**Figure 5: Potential Coronation Ave Road Alignment**

- 950m of Residential Zone interface
- Dust Issues
- Noise Issues
- Slope/Topography
- Crown Land Tenure
- Cultural Heritage
- Waterway crossing
- High construction costs
- Intersection grade issues with Coronation Ave
- End outcome puts traffic back on Mystic Lane only 240m from existing residential land
- Dust issues remain unresolved due to likely gravel road still in existence from Mystic intersection point continuing uphill



### Mystic Lane – Figure 6



**Figure 6: Existing Mystic Lane/Huggins Road Access alignment proposed to be upgraded**

- 900m of Residential Zone interface
- Dust Issues are able to be resolved via achievable planning permit conditions
- Noise Issues are able to be resolved via achievable planning permit conditions
- 600m of new seal plus 200m of seal widening to upgrade road is likely resolve dust issue creates 800m+ separation from residential area
- Improved Safety outcomes able to be focused on via achievable planning permit conditions.



## **CONCLUSION**

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

- The proposed development is generally consistent with the relevant provisions of the Planning Policy Framework and Local Planning Policy Framework.
- The proposal is consistent with the purpose and decision guidelines of Clause 35.07 Farming Zone as the proposed use and development would not adversely affect the use of the land and nearby land for agriculture, and would provide a use that is able to operate concurrently with agriculture.
- The proposal has adequately addressed the purpose and decision guidelines of Clause 44.06 Bushfire Management Overlay and Clause 53.02 Bushfire Planning.
- The proposal would formalise a current land use. In turn the use will be able to be more effectively managed.
- With appropriate conditions imposed, the amenity of the nearby residential area will be able to be managed and protected and significantly improved upon from what is currently experienced.

## **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 Director Corporate
- Senior Planning Officer

## **APPENDICE(S)**

- 8.3.7 (A) – Conditions
- 8.3.7 (B) – Policy and decision guidelines



## **APPENDIX (A)**

### **GENERAL CONDITIONS**

1. Prior to commencement of use, amended Master 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. Such plan must be generally in accordance with the plans submitted but modified to include further information or modifications to:
  - The information as required by Conditions: 20, 29, 33, 40 and 42
2. The layout of the site and the size of the proposed buildings and works must be generally in accordance with the endorsed plans which form part of this permit. The endorsed plans must not be altered or modified (whether or not to comply with any statute statutory rule or local law or for any other reason) without the consent of the responsible authority.
3. The layout of the activities and uses on the endorsed plans must not be altered without the written consent of the responsible authority.

### **TRAIL HEAD**

4. No permanent Trail Head or General Information Signage Boards are to be located on the subject land.

### **APPROVAL OF TRAILS**

5. Prior to the construction of any trails within the subject land, drawn to scale and dimensioned plans must be received and approved under this condition. The plans must include the following information:
  - Trail type
  - Trail Access
  - Construction plan detail including overall sections
  - Construction Management Plan and any specific Maintenance Plan
  - Water course management detail including any required approvals
  - Any offsite amenity reducing measures to be implemented
  - Adherence to a developed track and trail construction code
6. Prior to the construction of a buildings to be erected onsite (shelters or similar) that required separate building approval drawn to scale and dimensioned plans must be received and approved under this condition. The plans must include the following information:
  - Full description of use
  - Site Plan
  - Floor plan
  - All elevations
  - Proposed finishes and materials



### **TEMPORARY STRUCTURES**

7. All temporary structures must be installed onsite no earlier than fourteen days prior to an event commencing and be removed from the subject site within 7 days after the event unless otherwise approved by the responsible authority.

### **NOTIFICATION OF EVENT TO EMERGENCY SERVICES**

8. Seven days prior to the commencement of any events the permit holder shall provide written confirmation to Emergency Services (CFA – North East Region, Bright Police, Rural Ambulance Victoria, Alpine Health and SES –North East Region) and Alpine Shire Council that the event shall be proceeding as planned.

Dates and times for the event and the name of the person or association that will supervise the event and their contact details must also be provided.

### **ACCESS AND PARKING**

9. The area set aside for parking and access as shown on the endorsed plans must only be used for the parking and movement of vehicles and for no other purpose during the event and must be maintained at all times to the satisfaction of the Responsible Authority.
10. No camping or overnight accommodation activities are approved under this permit.

### **SIGNAGE**

11. Prior to the commencement of any events, suitable signage directing traffic to the car park must be installed to the satisfaction of the Responsible Authority.
12. Advertising signs shall not be erected or displayed on the site except with the further written approval of the Responsible Authority.
13. Within two days of any event finishing, any temporary directional signage associated with the event or function must be removed.
14. Any proposed signage to be displayed on the subject land unless otherwise approved must conform to the exemption provided in Clause 52.05-10 of the Alpine Planning Scheme. The siting, design and advertising message of the signage shall be to the satisfaction of the responsible authority.

### **NATIVE VEGETATION**

15. No native vegetation shall be removed without prior written approval. A proposal to remove native vegetation must be submitted to the Alpine Shire Council as a separate application.



### **GENERAL AMENITY**

16. The amenity of the area must not be detrimentally affected by the use or development, through the:
  - a. Transport of materials, goods or commodities to or from the land.
  - b. Appearance of any buildings, 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.
  - e. Hours of operation.
17. Public address systems or the like shall only be operated during the hours of operation as approved under this permit.
18. Noise levels generated by approved use shall comply with all relevant EPA requirements relating to noise emissions from the premises to the satisfaction of the Responsible Authority and the Environment Protection Authority.
19. Appropriate garbage collection bins must be provided on the site for the duration of any events for the collection of rubbish, with the bins to be emptied at the end of the event, and part way through the event if required so as to ensure that the property is maintained and left in a neat and tidy condition, all to the satisfaction of the Responsible Authority.

### **DEGRADATION OF LAND**

20. Prior to the commencement of use a track and trail construction code must be developed and submitted for approval. The code must detail the standards all tracks and trails are to be constructed to and how best environmental practices will be followed.
21. Mud from any vehicles must not be deposited on any public road. Should mud be deposited on any public road then the road must be cleaned immediately by the owner of the land subject to this permit.
22. Care shall be taken to ensure that the use of the land hereby approved does not cause erosion or degradation of the subject or surrounding land to the satisfaction of the Responsible Authority.
23. All disturbed surfaces on the land resulting from the approved use must be revegetated and stabilised to the satisfaction of the Responsible Authority.
24. All works must be undertaken in a manner that minimises soil erosion and any exposed areas of soil must be stabilised to prevent soil erosion to the satisfaction of the Responsible Authority.
25. If any erosion or degradation of the land occurs as a result of the use hereby permitted, the owner of the land must submit to the Responsible Authority in writing, within 14 days of the event, a report describing the extent and location of the degradation to the land that has occurred, and the works that will be undertaken to rectify any degradation, including the timing of these works.



This report must be to the satisfaction of the Responsible Authority, and all works detailed in the report and any others required by the Responsible Authority in writing must be completed to the satisfaction of the Responsible Authority and in a timely manner.

26. Appropriate measures must be implemented throughout the event stage to rectify and/or minimise mud and material being carried onto public roads from the subject land, to the satisfaction of the responsible authority.

### **ENGINEERING CONDITIONS**

#### Traffic Management Works

27. Prior to commencement of an event the applicant or owner must implement any traffic management works identified by Council Officers, including provision of "Radar boards" advising drivers of vehicle speed and indicating feedback on Mystic Lane at the residential area, or contained within relevant Traffic Impact Assessment Reports, to the satisfaction of Alpine Shire Council. The cost of such works shall be fully met by the applicant.

#### Non-Council Managed Road

28. The Alpine Shire Council does not perform any routine maintenance and has no plans to upgrade Mystic Lane beyond the residential area. The future maintenance of the internal road is the responsibility of the ACP. Before the use begins a Management Plan detailing ongoing maintenance arrangements to the satisfaction of the Alpine Shire Council must be submitted and approved by Alpine Shire Council.

#### Mystic Lane Upgrading

29. Prior to the use, the developer must implement traffic calming on Mystic Lane from Coronation Ave to the south boundary of No.29 Mystic Lane to the standards outlined in the Infrastructure Design Manual for Public Roads. The works shall include but not limited to:
  - a. Centreline and Edge line marking
  - b. Threshold pavement marking
  - c. All approved works must be completed to the satisfaction of the Responsible Authority.

#### Traffic Impact Assessment Report

30. Unless otherwise approved within two years of the date of this permit the applicant shall provide a Traffic Impact Assessment Report (TIAR) in accordance with the requirements of the Infrastructure Design Manual to the satisfaction of Alpine Shire Council. The TIAR must assess if the traffic calming measures implemented under the requirements of Condition 30 and car parking egress onto Coronation Avenue are satisfactory.



31. Within two years of the date of the permit dust reduction measures on Mystic Lane/Huggins Road to the standards outlined in the Infrastructure Design Manual for Public Roads must be implemented. The work must include:
- a. 6m width seal from southern edge of No.29 Mystic Lane to west bend (approx. 800m) of Mystic/Huggins Road.
- Road widths must be in accordance with the requirements of the Infrastructure Design Manual.

#### Maintenance and Management Plan

32. Within 12 months of the permit being issued, a Maintenance and Management Plan for all tracks, trails and roadways must be submitted to and approved by the Alpine Shire Council. When approved, the plan will be endorsed and will then form part of the permit. The use must at all times be conducted in accordance with the endorsed plan.

#### Carparking

33. Prior to commencement of use, the areas set aside for parking of vehicles offsite (Pioneer Park Reserve) and access lanes as shown on the endorsed plans must be:
- a. Surfaced with an appropriate all-weather surface.
  - b. drained in accordance with an approved drainage plan;
  - c. measures taken to prevent damage to assets like but not limited to fences or landscaped areas, street trees, adjoining properties and to prevent informal vehicle access occurring from adjoining roads other than via the formal vehicle crossing;
  - d. Provision of traffic control signage and or structures as required;
  - e. Provision of signage directing drivers to the area(s) set aside for car parking. Such signs are to be located and maintained to the satisfaction of the Alpine Shire Council. This sign must not exceed 0.3 square metres.
34. All car parking must for the approved use must be located off site and generally within the Pioneer Park Reserve and it's surrounds to the satisfaction of the public land manager. CA 7 SEC K Parish of Bright (The Landing Paddock) is permitted to be used for car parking providing a traffic and parking management plan is submitted and approved by the responsible authority prior to each use.
- The plan must include:
- a. car parking areas proposed in accordance with IDM standards and how they will be delineated/marked
  - b. specification of staff numbers adequate to enable efficient operation of car parking areas on-site



- c. the means by which the direction of traffic and pedestrian flows to and from car parking areas will be controlled on-site and off-site
- d. measures to discourage patron car parking in (within 15 metres of access road)
- e. staffing and other measures to ensure the orderly departure and arrival of park users
- f. the number and location of all on-site security staff

#### Shuttle vehicle Pickup/Dropoff Areas

35. Shuttle vehicles must operate in the nominated Pickup/Dropoff areas at all times. Vehicles under the control of the shuttle operators or the operator's staff must not be parked on Mystic Lane.

#### Security Gate

36. The use of any security gate, barrier or similar device controlling vehicle access to the subject land must be located within the boundary of the subject land to the satisfaction of the responsible authority.

#### Construction Management Plan

37. Soil erosion control measures must be employed throughout any construction stage of the development to the satisfaction of the Alpine Shire Council. Management measures are to be in accordance with EPA guidelines for Environment Management, "Doing It Right On Subdivisions" Publication 960, September 2004.

#### No Mud on Roads

38. 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.

#### Generation of Dust

39. The applicant must ensure that dust suppression is undertaken in the form of water spraying or other natural based proprietary dust suppressant to ensure that dust caused by vehicles moving along the access roads and/or within the site/car park areas do not cause a nuisance to surrounding properties to the satisfaction of the Alpine Shire Council.

#### Dust Management and Monitoring

40. Prior to the commencement of use a dust monitoring plan must be prepared and approved by the Responsible Authority. The plan must include:
  - The recording of dust emission levels offsite in nearby residential areas prior to and after the sealing of Mystic Lane / Huggins Road between the existing sealed area and the 'western bend'.



Should the dust monitoring levels not be to that satisfaction of the Responsible authority and the Environment Protection Authority additional road upgrade requirements may be necessary.

41. Access to and from the site for all commercial vehicles associated with the approved use, including shuttle vehicles, must only take place between 7am and 8pm unless otherwise approved by the responsible authority.

#### Code of Conduct

42. Prior to commencement of use, a Code of Conduct to the satisfaction of the Responsible Authority must be submitted to and approved. When approved, the plan/document will be endorsed and will then form part of the permit.

The plan must include but not limited to the following:

- a. Signage to be used to encourage responsible off-site patron behaviour
  - b. Vehicles accessing the park to obey a 40km/h speed limit along Mystic Lane road reserve
  - c. Vehicles accessing the park to obey a 40km/h speed limit along Huggins Road where not sealed until the Huggins Lookout intersection
  - d. Commercial vehicles (buses, mini vans, people movers towing bike trailers) travelling along Mystic Lane road reserve and must obey a 30km/h speed limit
  - e. Riders to observe a 40km/h speed limit when riding along Mystic Lane road reserve.
43. All paying users/user members of the approved use must be provided with a copy of the Park's approved Code of Conduct at the time of becoming a paying user of the park or financial member.

#### **ENVIRONMENTAL HEALTH DEPARTMENT CONDITIONS**

44. All food and drink facilities must be of a temporary or mobile type and must not dispose of wastewater onsite.
45. All temporary sanitary amenities must be supplied off site and generally within the Pioneer Park Reserve and its surrounds to the satisfaction of the public land manager. CA 7 SEC K Parish of Bright (The Landing Paddock) is permitted to be used for additional amenities for events but must meet the following requirements:
  - a. Be supplied in amount (when combined with other offsite amenities) able to cater adequately for the number of patrons attending the event. The Building Code of Australia 2005, Volume one, Victoria Appendix, Section Vic H102.4 – Sanitary and amenity facilities in places of public entertainment must be adhered to.
  - b. No waste and/or wastewater is to be disposed of onsite and must be removed from the site by a suitably qualified professional.



- c. Holding tanks servicing any temporary amenities need to be pumped out at a frequency that minimises odour production and ensures waste in the tank is unlikely to exceed 50 per cent of the tank's useable capacity before the next scheduled service.
  - d. Not be located within 50m of a waterway whenever reasonably practicable.
  - e. Have appropriate bunding and/or a spillage control management mechanism when located within 100m of a waterway.
46. The existing effluent disposal field for the Mystic Flight Park landing pad toilet block must be adequately fenced with a minimum setback of one metre from the edges of trench lines, distribution pits, and the septic tank and/or treatment plant when likely to be impacted by activities covered within this permit including, but not limited to the following:
- The landing pad site being used for car parking
  - The landing pad site being used for temporary or mobile amenities and/or event structures

#### **COUNTRY FIRE AUTHORITY CONDITIONS**

47. The proposed Moran and Hazeldine Shelter mentioned in the Masterplan for the site must be constructed of non-combustible material and plans for these need to be submitted to Council for approval.
48. CFA does not support a broad approvals process at this point in time for any additional future buildings other than shelters mentioned above. All future buildings must be submitted and approved by Council.
49. Given the proposed use of the development (Outdoor Recreation Facility) in an extreme bushfire risk landscape a Bushfire Emergency Management Plan (BEP) will need to be developed and address the following:
  - a. Premises details
    - o Describe property and business details.
    - o Identify the purpose of the BEP stating that the plan outlines procedures for:
      - i. Closure of premises on any day with a Fire Danger Rating of Extreme and Code Red.*
      - ii. Evacuation (evacuation from the site to a designated safer off-site location).*
      - iii. Shelter-in-place (remaining on-site in a designated building).*



- b. Review of the BEP
  - o Outline that the plan must be reviewed and updated annually prior to the commencement of the declared Fire Danger Period.
  - o Include a Version Control Table.
- c. Roles and Responsibilities
  - o Detail the staff responsibilities for implementing the emergency procedures in the event of a bushfire.
- d. Emergency contact details
  - o Outline organisation/position/contact details for emergency services personnel
- e. Bushfire monitoring procedures
  - o Details the use of radio, internet and social networks that will assist in monitoring potential threats during the bushfire danger period.
  - o Describe and show (include a map) the area to be monitored for potential bushfire activity.
- f. Action Statements - trigger points for action
  - i. Prior to the Fire Danger Period
    - o Describe on-site training sessions and fire equipment checks.
    - o Identify maintenance of bushfire protection measures such as vegetation management (including implementation of protection measures required by any endorsed Bushfire Management Plan).
  - ii. Closure of premise during forecast Fire Danger Rating of Code Red and Extreme days
    - o Outline visitor notification procedures and details of premises closure (including timing of closure).
  - iii. Evacuation
    - o Identify triggers for evacuation from site. For example, when evacuation is recommended by emergency services.
    - o Details of the location/s of the offsite emergency assembly location.
    - o Transport arrangements for staff and guests including details such as:
      - Number of vehicles required
      - Name of company providing transportation
      - Contact phone number for transport company
      - Time required before transportation is likely to be available
      - Estimated travelling time to destination
      - Actions after the bushfire emergency event.



iv. Shelter-in-place

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

**NORTH EAST CATCHMENT MANAGEMENT AUTHORITY CONDITIONS**

50. The Master Plan should be updated to
  - a. remove reference to NECMA Water Catchments;
  - b. show all waterways in the Master Plan area, and be endorsed as part of the permit issued.
51. That a formal review is undertaken of all trails within 12 months of the permit being issued, to document the location and specific details of each trail, its condition, its use, and any drainage or other assets.
52. That a Maintenance and Management Plan is developed for all trails within twelve months of the permit being issued and that the Plan is endorsed as part of the permit issued.

**EXPIRY CONDITION**

53. 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.
  - c. the use is discontinued for a period of two (2) years.

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.

**NOTES:**

- Any alterations to the Mystic Flight Park landing pad toilet block will likely require connection to the town reticulated sewer system to adequately manage environmental risks.
- All food businesses that operate on the site for public sales must be registered under the *Food Act 1984* and have current statements of trade (as applicable).



## **APPENDIX (B)**

### **Planning Policy Framework**

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

Clause 11.01 Settlement

Clause 11.01-1R Settlement - Hume

Clause 13.02 Bushfire Planning

Clause 13.05 Noise

Clause 13.06 Air Quality

Clause 13.07 Amenity and Safety

Clause 14.01 Agriculture

Clause 14.02-1S Catchment planning and management

Clause 15.03-2S Aboriginal Cultural Heritage

Clause 17.01 Employment

Clause 17.04 Tourism

Clause 18 Transport

### **Local Planning Policy Framework**

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

Clause 21.04-4 Environmental risk

Clause 21.04-6 Catchments and waterways

Clause 21.05-1 Tourism

Clause 21.05-3 Agriculture

Clause 21.05-4 Timber Production

Clause 21.07-1 Bright

Clause 22.03-1 Tourist use and development

Clause 22.03-2 Agriculture

### **Zoning**

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



**Overlay**

The site is subject to the Bushfire Management Overlay. The purpose of the overlay and applicable decision guidelines can be found at the following link:  
[http://planning-schemes.delwp.vic.gov.au/schemes/vpps/44\\_06.pdf](http://planning-schemes.delwp.vic.gov.au/schemes/vpps/44_06.pdf)

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

Clause 52.06 Car Parking

**General Requirements and Performance Standards**

Clause 53.02 Bushfire Planning

**General Provisions**

Clause 65 Decision Guidelines



## 9 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.

*Cr Roper*  
*Cr Keeble*

*That the summary of the Assemblies of Councillor for March / April 2019 be received.*

*Carried*

### BACKGROUND

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

<b>Date</b>	<b>Meeting</b>
26 March	Briefing Session
2 April	Briefing Session
16 April	Briefing Session

### ATTACHMENT(S)

- 9.0 Assemblies of Councillors – March / April 2019



**10 GENERAL BUSINESS**

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

**11 MOTIONS FOR WHICH NOTICE HAS PREVIOUSLY BEEN GIVEN**

Nil

**12 RECEPTION AND READING OF PETITIONS**

Nil



### 13 DOCUMENTS FOR SEALING

*Cr Nicholas*

*Cr Pearce*

*That the following documents be signed and sealed.*

1. *Section 173 Agreement – Stephen John Grogan and Frances Mary Bentley and Goulburn Murray Rural Water Corporation. Lot 2 on Plan of Subdivision 608685. Volume 11460 Folio 546*

*Conditions 8 and 18 of Planning Permit 2017.100.1 for a Two Lot Subdivision at 9 Howmans Lane, Harrietville.*

*The Agreement is prepared for the purpose of an exemption from a planning permit for Bushfire Management Overlay purposes.*

*The Agreement ensures that any future development adheres to the building and wastewater requirements, including the design, installation and maintenance of the wastewater management system and location of the wastewater disposal field and buildings.*

2. *Section 173 Agreement – Cas-Bak Building Supplies Pty Ltd Lot 36 on Plan of Subdivision 616760 Volume 11365 Folio 265.*

*Condition 11 of Planning Permit 2019.14.1 for the Construction of Two Dwellings and Two Lot Subdivision at 17 Mountain Mist Drive, Bright.*

*The Agreement provides for the exemption from a planning permit if the dwelling is constructed in accordance with the bushfire protection measures set out in the endorsed Bushfire Management Plan.*

3. *Section 173 Agreement – Latteria Holdings Pty Ltd.*

*Lot: 3 PS: 432423, Lot: 4 PS: 432423, CA2 SEC 8 Parish of Mullindolingong and Lot: 5 LP: 51101.*

*Volume 11362 Folios 815 and 816, Volume 8341 Folio 225 and Volume 5675 Folio 868.*

*Conditions 19, 20, 21 and 24 of Planning Permit 2018.38.1 for the Four Lot Re-Subdivision of land down to Three Lots, Modification of Access to Road Zone Category 1, and Removal of Native Vegetation at 6848 Kiewa Valley Highway, Tawonga.*

*The Agreement provides for the exemption from a planning permit if the dwelling is constructed in accordance with the bushfire protection measures set out in the endorsed Bushfire Management Plan. Lot 2 is excluded from the Bushfire Management Overlay exemption. No Dwelling or building with a human habitation component is permitted to be constructed on Lot 3, nor can Lot 3 be further subdivided.*



- 4. Audit Committee Charter, Version 3.0, 2019.*
- 5. S5 – Instrument of Delegation Council to the Chief Executive Officer.*
- 6. S6 – Instrument of Delegation Council to Members of Council Staff.*
- 7. Contract No 180772 in favour of Pensar Structures Pty Ltd for Victoria Bridge Load Limit Upgrade.*
- 8. Contract No 1900501 in favour of James Civil Group for Myrtleford Fire Hydrant Services.*

*Carried*

There being no further business the Chairperson declared the meeting closed at 8.16p.m.

.....  
Chairperson