

# **AGENDA**

## **Ordinary Council Meeting**

---

**6.00pm Tuesday 27 November 2018**

**VENUE:**  
**Bannockburn Shire Hall**  
**Council Chambers**  
**12 High Street, Bannockburn**

NEXT ORDINARY COUNCIL MEETING  
6.00pm Tuesday 18 December 2018

Copies of Golden Plains Shire Council's Agendas & Minutes  
Can be obtained online at [www.goldenplains.vic.gov.au](http://www.goldenplains.vic.gov.au)

## Code of Conduct Principles

### WORKING TOGETHER

We Councillors will:

- acknowledge and respect that a diversity of opinion exists among us;
- recognise that each of us has different life experience, knowledge and values, and that all of these contribute collectively to our discussions;
- behave with courtesy towards each other, Council officers and our citizens;
- conform to the policy and precedents that guide the conduct of meetings;
- attend punctually and participate in all relevant meetings, workshops and briefings;
- share reasonably in the representation, ceremonial and hosting tasks of the full Council; and
- honour the majority decisions made by the Council, irrespective of our own position, and explain these decisions frankly to the community, once made.

### BEHAVING WITH INTEGRITY

We Councillors will:

- identify our financial and personal interest, or potential interest, in any matter that comes before the Council;
- be honest and truthful;
- comply with laws and the regulations deriving there from;
- respect Council property and be frugal in its use, where allowed;
- avoid using our position for personal gain or to achieve advantage over others or to obtain preferential treatment;
- be sympathetic to the legitimate concerns of our citizens;
- act impartially when making decisions and have due regard to the needs of the community as a whole, rather than that of narrow vested interest; and
- acknowledge the role of Council officers in providing advice to us and in implementing Council decisions.

### MAKING COMPETENT DECISIONS

We Councillors will:

- without diminishing the short term focus, approach decisions with due regard to the long term needs of the municipality;
- form policies with regard to the needs of the entire Shire;
- direct our attentions to the strategic and statutory needs of the municipality rather than short term, transient, operational issues;
- seek to fully inform ourselves on the issues before Council before making a decision;
- take all reasonable steps to improve our knowledge of matters relevant to our municipal duties; and
- use and respect the professional knowledge of Council officers and other advisers to Council.

## Order Of Business

<b>1</b>	<b>Opening Declaration</b> .....	<b>5</b>
<b>2</b>	<b>Acknowledgement of Country</b> .....	<b>5</b>
<b>3</b>	<b>Apologies and Leave of Absence</b> .....	<b>5</b>
<b>4</b>	<b>Confirmation of Minutes</b> .....	<b>5</b>
<b>5</b>	<b>Declaration of Conflict of Interest</b> .....	<b>5</b>
<b>6</b>	<b>Business Reports for Decision</b> .....	<b>6</b>
6.1	Planning application P17-071 - Stone extraction (sand quarry), 223 Maude-She Oaks Road, She Oaks .....	6
6.2	Planning Application P18-080 - Development of land for Racing dog keeping and training, 2874 Midland Hwy, Lethbridge.....	20
6.3	Planning Application P18-085 - The development of land for a five (5) lot subdivision. Spratlings Rd, Ross Creek.....	31
6.4	Planning Application P18-113 - For the development of land for a dwelling, Plant Nursery, shed and earthworks associated with a dam, 394 Lacys Rd, Ross Creek .....	40
6.5	Planning Application P18-077 - Variation of restrictive covenant AE002849S, 158 Tarraford Way, Batesford .....	49
6.6	Planning Application P18-193 - For the use of land for a shop (pharmacy), 29 High St, Inverleigh.....	55
6.7	Inverleigh Streetscape Draft Master Plan .....	65
6.8	Sons of the West (SOTW) Program Review .....	69
6.9	GPS-RFT20-2018 - Supply of Motor Graders x 2 - Awarding of Tender .....	71
6.10	GPS-RFT25/2018 Design & Construct Smythesdale Regional Skate Park Upgrade - Awarding of Tender .....	74
6.11	Gender Equity .....	79
6.12	Quarterly Finance Report .....	81
6.13	Councillor Expenses Report - 3 months ended 30 September 2018.....	84
6.14	Assembly of Councillors .....	86
6.15	Delegates Report - 24 October 2018 to 26 November 2018.....	89
<b>7</b>	<b>Notices of Motion</b> .....	<b>90</b>
	Nil	
<b>8</b>	<b>Petitions</b> .....	<b>90</b>
<b>9</b>	<b>Confidential Items</b> .....	<b>91</b>
9.1	Bannockburn Children's Service 2019 Daily Child Care Fee .....	91



**1 OPENING DECLARATION****Our Vision**

A healthy, safe, vibrant, prosperous and sustainable community supported by strong leadership, transparent governance and community partnerships - Our Community, Our Economy and Our Pride.

**Opening Prayer**

Almighty God, Help us to undertake our duties impartially and honestly, in the best interests of the people of the Golden Plains Shire. We make this prayer through Jesus Christ Our Lord. Amen.

**2 ACKNOWLEDGEMENT OF COUNTRY**

Council acknowledges the traditional Wadawurrung owners of this land. Council pays its respects to Wadawurrung Elders both past and present and extends that respect to all Aboriginal and Torres Strait Islander People who are part of Golden Plains Shire.

**3 APOLOGIES AND LEAVE OF ABSENCE****4 CONFIRMATION OF MINUTES**

That the minutes of the meetings of council held 23 October 2018 and 7 November 2018, as circulated, be confirmed.

**5 DECLARATION OF CONFLICT OF INTEREST**

## 6 BUSINESS REPORTS FOR DECISION

### 6.1 PLANNING APPLICATION P17-071 - STONE EXTRACTION (SAND QUARRY), 223 MAUDE-SHE OAKS ROAD, SHE OAKS

**File Number:**

**Author:** [REDACTED] Town Planner

**Authoriser:** [REDACTED] Director Assets and Amenity

**Applicant:** [REDACTED]

**Owner:** [REDACTED]

**Proposal:** Use and develop the land for stone extraction (sand quarry) and roadside native vegetation removal

**Location:** Lot 1 on Title Plan 855273F, 223 Maude-She Oaks Road, She Oaks

**Attachments:**

1. Recommended conditions
2. Locality map (under separate cover)
3. Copy of application documents and plans PART 1 (under separate cover)
4. Copy of application documents and plans PART 2 (under separate cover)
5. Copy of application documents and plans PART 3 (under separate cover)
6. Copy of application documents and plans PART 4 (under separate cover)
7. Objections PART 1 (under separate cover)
8. Objections PART 2 (under separate cover)
9. Objections PART 3 (under separate cover)
10. Objections PART 4 (under separate cover)
11. Objections PART 5 (under separate cover)
12. Objections PART 6 (under separate cover)
13. Objections PART 7 (under separate cover)
14. Objections PART 8 (under separate cover)
15. Objections PART 9 (under separate cover)
16. Objections PART 10 (under separate cover)
17. Referral responses (under separate cover)

#### RECOMMENDATION

That Council resolve to issue a Notice of Decision to Grant a Permit for the use and development of land for stone extraction (sand quarry) and roadside native vegetation removal at 223 Maude-She Oaks Road, She Oaks (Lot 1 on Title Plan 855273F), subject to the conditions contained in the attachment to this report.

---

#### EXECUTIVE SUMMARY

This report relates to a planning permit application for the use and development of land for stone extraction (sand quarry) and roadside native vegetation removal at Lot 1 in Title Plan 855273F, 223 Maude-She Oaks Road, She Oaks. This report provides a background to the application and a summary of the relevant planning considerations.

#### PURPOSE

The application has been referred to the Council Meeting for determination because there are unresolved objections to the application.

## DECLARATIONS OF CONFLICT OF INTEREST

In accordance with Section 80B of the *Local Government Act 1989*, the Officers preparing this report declare no conflict of interest in regard to this matter.

## COUNCIL PLAN

Managing natural and built environments.

## BACKGROUND INFORMATION

### The subject land

The subject land is situated at 223 Maude-She Oaks Road, She Oaks and is formally described as Lot 1 on Title Plan 855273F. The land is located in the rural locality of She Oaks, approximately 4km north-west of the Maude township (refer to Attachment 2 – locality map).

The total area of the land is 23.06ha. Access is from Maude-She Oaks Road which is a sealed road managed by Council. The site and adjoining land is zoned Farming and is subject to the Bushfire Management Overlay (BMO - in part) and the Environmental Significance Overlay 3 (ESO 3 -Mt Misery Creek, Surface Hill – Smythesdale, Klein and Swanston Road Area, Dereel, Swamp Road – Dereel, Yarrowee Creek, Teesdale Reserve, Moorabool Valley, Sutherland Creek, Meredith, Steiglitz). The site and surrounds are predominately used for agricultural purposes such as grazing and cropping though it is noted that there are other extraction industries in the area

The wider area surrounding the site contains areas of bushland located to the east and south that are zoned Rural Conservation Zone and Public Conservation & Resource Zone and used for rural residential and public recreation purposes. The Moorabool River is located approximately 1km west of the site.

### The proposal

The application proposes the use and development of the land for a sand quarry and removal of roadside native vegetation (refer to Attachment 3-6 – copy of application and plans).

As per Clause 73.03 of the Golden Plains Planning Scheme, Land use terms, Stone extraction is defined as: *Land used for the extraction or removal of stone in accordance with the Mineral Resources (Sustainable Development) Act 1990*. Stone extraction is nested under the broader definition of Earth and energy resources industry, as per Clause 73.04-8 of the Golden Plains Planning Scheme.

The total proposed extraction area of the quarry is 11ha in two stages. The first stage consists of 9.6ha and has a volume of 625,000m<sup>3</sup>. Stage 2 is 1.4ha with a volume of 51,000m<sup>3</sup> but this stage is dependent on the relocation of the Barwon Water pipeline at the cost of the applicant.

The total depth of extraction is 13m. The production method involves the stripping and stockpiling of topsoil, then the removal of sand using an excavator. The sand will be screened for rocks and sold unwashed. Rehabilitation of the quarry will be carried out progressively with the quarry face battered, surfaces top-dressed with topsoil and then sown to pasture. Rehabilitation is required to meet the requirements of the Department of Economic Development, Jobs, Transport and Resources.

The proposed operating hours are 7am to 6pm Monday to Friday. The original application documents stated that the quarry would operate on Saturdays however the applicant has indicated that they are willing to not operate on weekends.

The application will require the removal and lopping of roadside native vegetation along Maude-She Oaks Road in order to meet recommended conditions related to road widening and improvement works. There is no native vegetation proposed to be removed on the subject land. The excavation area avoids the existing native vegetation on the land.

In regard to truck traffic, the Traffic Report submitted with the application proposes that all trucks travel to the site via Steiglitz-She Oaks Road and Steiglitz Road. The Traffic Management Plan states that there will be 5 truck movements to and from the site daily and the private vehicles of 3 employees.

## CONSULTATION

Notice of the application was given in accordance with Section 52(1)(a) & (d) of the Planning and Environment Act 1987 ('the Act'). Notice was sent by mail to adjoining and neighbouring owners and occupiers within 1km of the site. Notice was also provided by placing a sign on the site and a notice in the Geelong Advertiser newspaper.

As a result of the public notice 86 objections were received. It is noted that 12 of the objecting parties submitted more than one submission. \*These figures are correct at the time of writing the report. A copy of the objections are provided in Attachment 7-16. The main grounds of objection are summarised as follows:

**Traffic and roads.** The principal concern of objectors relates to heavy vehicle traffic (quarry trucks) associated with the proposed quarry. Concerns relate to the inadequacy of the existing road network for heavy vehicles including narrow roads and bridges, damage to roads from heavy vehicles and ongoing maintenance issues, safety risks to other road users including cyclists, horse riders and pedestrians, and that the location of the access point to the quarry is hazardous.

**Environment.** Objectors have raised concerns regarding the impact on the natural environment, including degradation of watercourses, spread of weeds and fungus, and adverse impacts on native flora and fauna.

**Dust.** Objectors are concerned that dust from the proposed quarry will cause a general nuisance and health impacts through the contamination of domestic rainwater tanks.

**Noise.** Concerns relate to noise impacts on the amenity of the area caused by the quarry operations and traffic movements.

**Tourism.** Concerns are held that the proposed quarry will have an adverse effect on tourism associated with established recreational activities in the area, thereby resulting in social and economic impacts.

**Visual impact.** Concerns have been raised regarding the visual impact of the quarry activities on the landscape of the area.

**Lighting.** Objectors are concerned that lighting of the quarry will impact the amenity of the surrounding area.

**Devaluation.** Objectors are concerned that the value of their properties will decrease as a result of the quarry.

**Rehabilitation.** Objectors have raised concerns that rehabilitation of the quarry has not been adequately addressed and will not be carried out in a timely manner.

**Impact on agriculture.** An objection was received from an adjoining farmer, regarding the impact of the quarry on their existing farming operations, including farm access and potential contamination of wool from dust particles.

An information meeting was held for objectors on 14 June 2018. There was no resolution of objections at this meeting.

## ASSESSMENT

The application was received by Council on 27 March 2017 and a preliminary assessment of the application was undertaken. On 1 June 2017 Council requested further information in the form of a detailed Traffic Impact Assessment Report. The Traffic Report was submitted to Council on 12 April 2018.

The application was referred under Section 55 of the Act to AusNet Services (Clause 66.02-4 – works on land within 60m of a major electricity line or easement) and DELWP (Clause 66.02-2 removal of native vegetation on Crown land (i.e. roadside native vegetation removal). Advice on the application was sought from the EPA, Heritage Victoria, CCMA, Southern Rural Water and Barwon Water. The application was also internally referred to Council's Works department regarding road access. These parties had no objection to the issue of a permit subject to conditions being placed on a permit (refer to Attachment 17 – referral responses).



VicRoads are not a referral authority under the provisions of the planning scheme because access to the land is from a local Council managed road (Maude-She Oaks Road) and the expected traffic increase at the intersection of the declared VicRoads road (Steiglitz Road) is less than 10%.

## **Planning Scheme**

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

#### Clause 12.05 Significant environments and landscapes

The objective of the Landscapes policy (Clause 12.05-2S) is to protect landscapes that contribute to character, identity and sustainable environments. This is to be achieved by recognising the natural landscape for its aesthetic value and ensuring natural key features are protected and enhanced.

#### Clause 13.05 Noise

The State Policy for Noise Abatement (Clause 13.05-1S) aims to assist the control of noise effects on sensitive land uses. This is to be achieved by ensuring that community amenity is not reduced by using land use separation techniques as appropriate to the land use functions and character of the area.

#### Clause 13.06 Air quality

The objective of the State Policy for Air Quality Management (Clause 13.06-1S) is to assist the protection and improvement of air quality. The policy seeks to ensure, wherever possible, that there is suitable separation between land uses that reduce amenity and sensitive land uses.

Planning must consider the *Recommended separation distances for industrial residual air emissions* (EPA, March 2013) in assessing the separation between land uses that reduce amenity and sensitive land uses. The EPA guidelines provide advice on recommended separation distances between industrial uses that emit dust, and sensitive land uses (i.e. dwellings). In accordance with the guidelines, a separation distance of 500m is applicable to the proposal.

#### Clause 14.03-1S Resource exploration and extraction

The objective of the policy for resource exploration and extraction is to encourage exploration and extraction of natural resources in accordance with acceptable environmental standards. This will be achieved by protecting the opportunity for exploration and extraction of natural resources where this is consistent with overall planning considerations and application of acceptable environmental practice and to develop and maintain buffer areas around mining and quarrying activities.

#### Clause 18 Transport

The policy for the Road System (Clause 18.02-3S) aims to manage the road system to achieve integration, choice and balance by developing an efficient and safe network and making the most of existing infrastructure.

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

#### Clause 21 Municipal Strategic Statement (MSS)

Clause 21.01-2 of the MSS identifies as managing residential growth, protecting and enhancing the natural and built environment, maintaining and encouraging viable agricultural industries and enhancing economic growth as key land use and planning issues affecting the Shire.

The Golden Plains Strategic Framework Plan (Figure 21.01-1A) sets out the key land use planning directions for the Shire. The subject land is shown within the 'Moorabool Valley Tourism Area' on the Framework Plan.

### Clause 21.05 Economic development

The local policy for industry (Clause 21.05-3) seeks to support sustainable value adding industries and service industries, particularly those which relate to the agricultural base, forestry and natural resources. The local policy for tourism (Clause 21.05-4) seeks to support and improve tourism opportunities in the Shire which will be achieved in part by locating tourism accommodation in the RAZ1 around the Moorabool Valley and other locations.

### Clause 21.06 Transport and infrastructure

The local policy for transport (Clause 21.06-1) aims to ensure the transport network supports economic opportunities. This will be achieved by protecting the efficiency and safety of the Shire's transport infrastructure to support economic activities and recognising the impacts of heavy vehicles on road infrastructure.

## **Zone and overlays**

### Clause 35.07 Farming Zone

The site and surrounding area is in a Farming Zone (FZ). The purpose of the Farming Zone is, among other things, to provide for the use of land for agriculture, to ensure that non-agricultural uses do not adversely affect the use of land for agriculture, and to encourage the retention of employment and population to support rural communities. Stone extraction is a "Section 2 – permit required" use in the Farming Zone.

Before deciding on an application to use and develop land, Council must consider the decision guidelines contained in the Farming Zone, which include the following matters:

- Whether the site is suitable for the use or development and whether the proposal is compatible with adjoining and nearby land uses.
- Whether the use or development will permanently remove land from agricultural production and the potential to limit the operation and expansion of adjoining and nearby agricultural uses.
- Whether the use and development will require traffic management measures.

### Clause 42.01 Environmental Significance Overlay – Schedule 3

The Environmental Significance Overlay – Schedule 3 (ESO3) seeks to protect the environmental attributes of the Moorabool Valley, Sutherland Creek, Steiglitz areas which includes remnant vegetation, unspoiled habitats, scientific importance, natural beauty, natural heritage and unique geological formations. A permit is required to develop land under the provisions of the ESO3. There are no referral authorities specified in the ESO3. The decision guidelines of the ESO3 require Council to consider the following matters:

- The preservation of the natural environment including natural environmental processes, any important landscape or conservation characteristics of the area;
- The need to protect the general environs of any natural vegetation or objects or features from development which would detract from their setting.
- The necessity of undertaking landscaping works.

## **Particular provisions**

### Clause 52.09 Stone extraction and extractive industry interest areas

The purpose of this clause includes to ensure that use and development of land for stone extraction does not adversely affect the environment or amenity of the area during or after extraction and to ensure that excavated areas can be appropriately rehabilitated. An application for stone extraction

must be accompanied by a work plan that has received statutory endorsement under Section 77TD of the *Mineral Resources (Sustainable Development) Act* 1990 by the Department of Economic Development, Jobs, Transport & Resources (DEDJTR).

Before deciding on an application Council must consider, among other things:

- The effect of the proposed stone extraction on any native flora and fauna on and near the land.
- The impact of the stone extraction operations on sites of cultural and historic significance, including any effects on Aboriginal places.
- The effect of the stone extraction operation on the natural and cultural landscape of the surrounding land and the locality generally.
- The ability of the stone extraction operation to contain any resultant industrial emissions within the boundaries of the subject land in accordance with relevant regulations.
- The effect of vehicular traffic, noise, blasting, dust and vibration on the amenity of the surrounding area.
- The ability to rehabilitate the affected land to a form or for a use which is compatible with the natural systems or visual appearance of the surrounding area.

Clause 52.09-7 contains requirements for the use and development of land for stone extraction including boundary setbacks, screen planting and car parking.

### **General provisions**

The decision guidelines contained in Clause 65 of the planning scheme require Council to consider the following matters, as appropriate:

Before deciding on an application or approval of a plan, the responsible authority must consider, as appropriate:

- The matters set out in Section 60 of the Act.
- The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- The purpose of the zone, overlay or other provision.
- Any matter required to be considered in the zone, overlay or other provision.
- The orderly planning of the area.
- The effect on the amenity of the area.
- The proximity of the land to any public land.
- Factors likely to cause or contribute to land degradation, salinity or reduce water quality.
- Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site.
- The extent and character of native vegetation and the likelihood of its destruction.
- Whether native vegetation is to be or can be protected, planted or allowed to regenerate.
- The degree of flood, erosion or fire hazard associated with the location of the land and the use, development or management of the land so as to minimise any such hazard.
- The adequacy of loading and unloading facilities and any associated amenity, traffic flow and road safety impacts.

## DISCUSSION

### Planning Scheme

The application is considered to satisfy the relevant provisions of the planning scheme including State and Local planning policies, the Farming Zone, Environmental Significance Overlay – Schedule 3 (ESO3), and Clauses 52.09 and 65 of the Victoria Planning Provisions. State policies and planning provisions encourage the use and development of land for resource extraction in accordance with acceptable environmental standards and where the amenity of the area is not adversely affected.

The proposal satisfies State policies related to noise abatement and air quality because there are adequate separation distances to neighbouring sensitive uses and conditions of the permit will control the hours of operation, dust, and noise. The application satisfies the EPA's *Recommended separation distances for industrial residual air emissions* which recommends a separation distance of 500m to neighbouring dwellings. The proposed quarry is approximately 650m from the nearest neighbouring dwelling.

The application is supported by the Local Policy for Industry which encourages value adding industries related to natural resources. The application satisfies the provisions of the ESO3 which seek to protect the biodiversity, natural beauty and unique landscape of the Moorabool Valley, Sutherlands Creek and Steiglitz areas. The proposed quarry is located on cleared farmland and avoids existing native vegetation. A small area of native vegetation (0.042ha) along Maude-She Oaks Road will need to be removed to provide for road improvement works associated with the quarry. Requirements of the planning permit and work authority in relation to screening landscaping and rehabilitation will ensure there is no impact on the landscape. The proposed quarry is not located within the Moorabool Valley and the site does not contain any particular landscape features identified for protection. The Significant Landscape Overlay (SLO), which covers a large swathe of land to the east of Steiglitz Road, does not apply to the subject land.

### Objectors Concerns

**Traffic and roads.** Subject to the recommendations of the Traffic Report submitted with the application it is considered that the traffic associated with the quarry will not have a detrimental impact on the existing traffic network and road safety. The Traffic Report recommends restrictions on the number of heavy vehicle movements to and from the site to 12 a day and that all heavy vehicles access the site from the south via Maude-She Oaks Road and Steiglitz Road and that road widening works be undertaken along the Maude-She Oaks Road from Steiglitz Road to the quarry entrance. The location and the design of the proposed quarry access point meets Australian Road Safety Standards subject to conditions for road widening works and the provision of advisory signage. In respect to concerns regarding damage and ongoing maintenance of the roads this is the responsibility of Council and VicRoads as the respective road management authorities.

A condition will be placed on the permit to ensure that trucks do not park at the quarry entrance or on roadsides in the morning prior to the quarry opening time. Concerns were also raised that sand will be extracted from the site and washed at the neighbouring Mountain View Quarry however Mountain View Quarry does not have a planning permit to process materials from external sources and would need to apply to Council to do so.

**Environment.** The subject land consists of cleared farmland and avoids areas of existing native vegetation. A small amount of native vegetation along Maude-She Oaks Road will need to be removed to meet permit conditions for road improvement works associated with the quarry. In respect to the protection of watercourses the authorities concerned with the protection of water catchments including the CCMA, SRW and DELWP have supported the issue of a permit and it is recommended that conditions be placed on the permit related to sediment control and catchment protection. A condition can also be placed on the permit in regard to weed control however there is no proven method of preventing the spread of cinnamon fungus.

**Dust.** The EPA *Recommended separation distances for industrial residual air emissions* must be considered in assessing the separation between land uses that reduce amenity and sensitive land uses. The EPA guidelines provide advice on recommended separation distances between industrial uses that emit dust and sensitive land uses (i.e. dwellings) and are designed to protect human health and wellbeing, local amenity and aesthetic enjoyment. In accordance with the guidelines, a separation distance of 500m is applicable to the proposal. The proposed quarry achieves the minimum separation distances, with the nearest neighbouring dwelling located 650m to the north.

It is recommended that conditions will be placed on the permit to ensure that the use and development meets appropriate environmental standards in relation to air quality and in the event that dust causes an unacceptable nuisance to surrounding properties the operator will be required to cease work and implement dust suppression measures immediately.

**Noise.** The EPA publication *Noise from Industry in Regional Victoria (NIRV)* specifies recommended maximum noise levels for different land use zones and at different times of the day. The recommended levels provide a lesser degree of amenity protection for the day, and a higher degree of protection for the evening, night, weekends and public holidays. The applicant has agreed to limit quarry operations to 7am to 6pm Monday to Friday with no activities on weekends or public holidays which will ensure that the amenity of surrounding residents is protected during the evening, at night and on weekends. Permit conditions will also control noise levels during daytime hours to ensure that the amenity of neighbouring residents is not reduced. It is also noted that the proposal does not involve the blasting or breaking up of rock by explosives or other means.

**Tourism.** The proposed quarry is not considered to have an adverse effect on tourism due to its relatively small size (11ha) and location approximately 4km from the main visitor attractions of Steiglitz Historic Park and Brisbane Ranges National Park. Conditions of the permit will also prohibit quarry operations on weekends and public holidays and control noise and dust to ensure there is no detriment to the amenity of the area.

**Visual impact.** It is not possible to completely screen the quarry from adjoining properties however planting of screening trees together with the topography of the area and existing vegetation will assist in reducing the visual impact on the surrounding area. The rehabilitation of the site will ensure there are no long-term visual impacts.

**Lighting.** The applicant has advised that there will be no lighting at the quarry and a condition can be placed on the permit to this effect.

**Devaluation.** Property devaluation is not a material planning consideration and Council can only consider matters that may affect them such as amenity issues as addressed above. VCAT has consistently dismissed property devaluation per se as a valid ground of refusal.

**Rehabilitation.** The rehabilitation plan submitted with the application proposes that the land be returned to grazing farmland once extraction is complete. This will involve the battering of quarry faces, top-dressing surfaces with topsoil and sowing the land to pasture. DEDJTR regulate quarries under the Mineral Resources Act and are responsible for ensuring that quarries meet their rehabilitation requirements.

**Impact on agriculture.** The proposed quarry is not considered to affect the use of adjoining land for agriculture. A condition of the permit will require that the proposed quarry entrance is located and designed to ensure it does not impede the access of adjoining landowners. In respect to the contamination of sheep fleeces, permit conditions will require the implementation of dust suppression measures and landscaping to ensure that adjoining land uses are not adversely affected by dust.

## CULTURAL HERITAGE IMPLICATIONS

This proposal does not require the preparation of a Cultural Heritage Management Plan under the *Aboriginal Heritage Regulations 2007* because the subject land is not located in an Area of Cultural Heritage Sensitivity.

**FINANCIAL & RISK IMPLICATIONS**

The officer's recommendation does not present any financial or risk management implications for Council.

**CONCLUSION**

The application satisfies the provisions of the Planning Scheme, including the State and Local Planning Policy Frameworks, the Farming Zone, Clause 52.09 and the decision guidelines of the Planning Scheme (Clause 65). The proposal has adequate separation distances to neighbouring dwellings and the placement of conditions on the permit including those regarding truck routes and road safety improvements will ensure the proposed use has no impact on the amenity of surrounding residents and safety of road users and does not cause material detriment to any person.

**PLANNING APPLICATION P17-071 FOR STONE EXTRACTION (SAND QUARRY) & ROADSIDE NATIVE VEGETATION REMOVAL AT 223 MAUDE-SHE OAKS ROAD, SHE OAKS****RECOMMENDED CONDITIONS FOR A NOTICE OF DECISION TO GRANT A PERMIT****Commencement**

- 1 The use and development must not commence until the Work Authority is granted in accordance with the requirements of the Mineral Resources (Sustainable Development) Act 1990.

**Endorsed plans/approvals and layout**

- 2 The use and development as shown on the endorsed plans must not be altered without the written consent of the responsible authority.
- 3 There must be no alteration made to the natural condition or topography of the land, including the processing of materials and placement of stockpiles, within 20 metres of the boundary of the land.
- 4 The use and development must not commence until such time that a Work Authority including an approved Work Plan is issued pursuant to the Mineral Resources (Sustainable Development) Act 1990.
- 5 The use and development must at all times operate in accordance with the Work Authority and approved Work Plan issued pursuant to the Mineral Resources (Sustainable Development) Act 1990.

**Hours of Operation**

- 6 The use hereby permitted must only operate between the hours of 7:00am – 6:00pm Monday to Friday and must not operate on public holidays.

**Limit on output**

- 7 The total output of the quarry in any single financial year must not exceed 50,000 tonnes without the written consent of the responsible authority. The quarry operator, on reasonable request from the responsible authority, must provide the responsible authority with any relevant information required to verify the level of output in any particular financial year.

**Heavy vehicle access, roadworks and maintenance**

- 8 Trucks must only enter and exit the site within the operating hours specified under condition number 5 of this permit. No heavy vehicles may park or stand at the entrance gate or on Maude-She Oaks Road at any time.
- 9 All heavy vehicles accessing the site should be no greater than 20 metres in length and consist of a truck and dog trailer combination (3- or 4-axle rigid truck towing a 3- or 4-axle dog trailer) with a General Mass Limit of 42.5 tonnes similar to a PBS Level 1 vehicle.

- 10 All heavy vehicle access to and from the quarry must be from a southerly direction via Maude-She Oaks Road and Steiglitz Road (C142). All heavy vehicles that have an origin/ destination towards Ballarat must use Steiglitz Road (C142), Geelong-Ballan Road (C141), and the Midland Highway (A300).
- 11 The total number of fully laden heavy vehicles exiting the site must not exceed 6 heavy vehicles per day except with the written consent of the responsible authority. The quarry operator must keep a logbook of daily truck movements and at the reasonable request from the responsible authority, must provide the responsible authority with a copy of the logbook to verify the number of daily truck movements.
- 12 Before the use commences the following road construction works must be carried out and completed to the satisfaction of the responsible authority:
  - a) Provision of vehicle access point in accordance with Infrastructure Design Manual Standard Drawing SD 265.
  - b) Lane widening to accommodate heavy vehicles turning left to access the site will be required to be provided in accordance with Council's Infrastructure Design Manual if such heavy vehicle movements are allowed in the future.
  - c) Installation of Warning Sign W2-9(L) – Side Intersection on a curve be placed on the eastern and western approach to access point.
  - d) Installation of Advisory Speed Signs (80km/h) and chevron alignment markers be placed on the eastern and western approach to access point.
  - e) Provision of a minimum four (4) car parking spaces with the site.
  - f) Provision of a turnaround facility to accommodate largest vehicle entering the site so that all vehicles enter and exit site in a forward direction.
  - g) Provision of at least one (1) truck waiting bay within the site measuring minimum 20 metres long and 2.5 metres wide to allow for situation where more than one heavy vehicle visits the site.
  - h) Provision of an internal circulation access roadway within the site measuring minimum 6.5 metres in width.
  - i) Widening of the existing carriageway along Maude-She Oaks Road to achieve the following minimum carriageway widths:
    - i) On Straight sections – A 6.2 metre wide sealed carriageway, and two 2.0 metre wide unsealed shoulders on either side of the sealed carriageway;
    - ii) On Horizontal curves with a 200-250 metre radius – A 6.8 metre wide sealed carriageway and two 1.7 metre wide unsealed shoulders on either side of the sealed carriageway;
    - iii) On Horizontal curves with a 250-500 metre radius – A 6.6 metre wide sealed carriageway and two 1.8 metre wide unsealed shoulders on either side of the sealed carriageway.
- 13 Before any road widening works commence, the gate to the property directly opposite the quarry access point must be replaced with an indented gate and fencing to the satisfaction of the property owner in order to ensure there is a safe place to park while the gate is opened and closed.
- 14 Works are to be generally in accordance with Traffic Impact Assessment Report prepared by Transport and Traffic Solutions Pty Ltd dated 1st March 2018 and to the satisfaction of the responsible authority.
- 15 Before any construction works associated with the development start, detailed construction plans, drainage computations and specifications to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. Construction plans must be



to Golden Plains Shire standards and specifications as detailed in the current Infrastructure Design Manual (IDM).

- 16 Before the use commences, a Traffic Management Plan must be prepared to the satisfaction of the Responsible Authority. When approved by the responsible authority, the Traffic Management Plan must be endorsed and then form part of the permit. The Traffic Management Plan must include, but not necessarily limited to:
- a) Details of briefings given to all quarry workers, drivers and subcontractors about the Traffic Management Plan and enforcement of its requirements, including a recording system of when such briefings are given and to whom.
  - b) All heavy vehicles accessing the site should be no greater than 20 metres in length and consist of a truck and dog trailer combination (3- or 4-axle rigid truck towing a 3- or 4-axle dog trailer) with a General Mass Limit of 42.5 tonnes similar to a PBS Level 1 vehicle.
  - c) All heavy vehicle access to and from the quarry must be from a southerly direction via Maude-She Oaks Road and Steiglitz Road (C142). All heavy vehicles that have an origin/destination towards Ballarat must use Steiglitz Road (C142), Geelong-Ballan Road (C141), and the Midland Highway (A300).
  - d) Truck movements limited to 12 vehicles per day.
  - e) Operating Hours limited to 7:00am – 6:00pm Monday to Friday.
  - f) A requirement to implement workplace procedures so that heavy vehicles drivers communicate to each other as they approach proposed entry to site, so that drivers can yield and allow approaching vehicles to pass so as to manage passing conflicts where sufficient width is unavailable.

**Note: A works within road reserve permit must be obtained from the responsible authority prior to the carrying out of any vehicle crossing works.**

- 17 After the commencement of the use, the owner/quarry operator must provide to the responsible authority an annual road maintenance contribution. The contribution is due on 31 March of each year. Unless otherwise agreed between the owner/quarry operator and the responsible authority, the annual contribution at the date of this permit is \$3,500 plus GST, with the amount of the contribution to be annually adjusted on 31 December by the CIPPI rate or a suitable alternative index to the satisfaction of the responsible authority.

#### **Dust**

- 18 Nuisance dust must not be discharged beyond the boundaries of the premises.
- 19 The use and development must at all times comply with the standards of the State Environment Protection Policy (Air Quality Management). Any failure to meet the standards must be brought to the attention of the Environment Protection Authority and actions specified by that Authority to bring the use into compliance must be carried out to the satisfaction of the responsible authority.
- 20 Roadways, storage areas, stockpiles and vacant land must be maintained to avoid dust nuisance to surrounding land to the satisfaction of the Responsible Authority
- 21 Dust control measures must be implemented to the satisfaction of the responsible authority to avoid dust nuisance to properties in the surrounding area. If in the opinion of the responsible authority dust resulting from the use and development is causing an unacceptable nuisance to

surrounding properties the operator must immediately cease work and implement appropriate dust control measures to the satisfaction of the responsible authority.

**Environment**

- 22 The use and development hereby permitted must not cause any nuisance or loss of amenity in any adjacent or nearby land by reason of the discharge of drainage.
- 23 No polluted and/or sediment laden run-off is to be discharged directly or indirectly into any drains or watercourses.
- 24 A contaminants spill kit is to be made available on-site at all times to the satisfaction of the responsible authority to ensure that the approved use does not impact groundwater as a result of accidental fuel spillage.
- 25 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.
- 26 No environmental weeds as defined by the Department of Environment, Land, Water & Planning may be planted on or allowed to invade the site through the transport and/or replacement of soil as a result of the stone extraction to the satisfaction of the responsible authority.
- 27 Topsoil removed during earthworks must be stockpiled and maintained in a weed free condition, respread on disturbed ground after completion of earthworks and revegetated to prevent erosion, to the satisfaction of the responsible authority.

**Noise**

- 28 Noise emitted from the premises must not exceed the recommended levels as set out in Noise from Industry in Regional Victoria (NIRV; EPA Publication 1411, 2011).
- 29 No broadcast or loudspeaker system, telephone ringer or other external alarm may operate on the site without the written consent of the responsible authority.

**General**

- 30 No external lighting is permitted.
- 31 Areas of the subject land occupied by the use and development must be maintained in a clean and tidy manner to the satisfaction of the responsible authority.
- 32 No advertising signs are permitted to be erected, painted, or displayed on the subject land.
- 33 Any fuel and chemicals required for the use and development must be stored in a safe and secure location to the satisfaction of the responsible authority.
- 34 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; or
- d) Presence of vermin and use of chemicals to eradicate pest animals and plants.

**Expiry**

- 35 This permit will expire:
- a) If the use and development has not commenced within two (2) years of the date of this permit;
  - b) If the Work Authority for the use issued under the provisions of the Mineral Resources (Sustainable Development) Act 1990 is cancelled in accordance with Section 770 of the Act.
- The responsible authority may extend the period referred to in part a) if a request is made in writing before the permit expires, or within six months afterwards.

**DELWP CONDITIONS**

- 36 To offset the removal of 0.042 hectares of native vegetation the permit holder must secure a native vegetation offset, in accordance with the Guidelines for the removal, destruction or lopping of native vegetation (DELWP 2017) as specified below:
- a) A general offset of 0.023 general habitat units:
  - b) located within the Corangamite Catchment Management Authority boundary or Golden Plains Shire Council municipal district
  - c) with a minimum strategic biodiversity score of at least 0.320
- 37 Before any native vegetation is removed evidence that the required offset has been secured must be provided to the satisfaction of the Responsible Authority. This evidence is one or both of the following:
- a) an established first party offset site including a security agreement signed by both parties, and a management plan detailing the 10 year management actions and ongoing management of the site; and/or
  - b) credit extract(s) allocated to the permit from the Native Vegetation Credit Register.
- 38 A copy of the offset evidence will be endorsed by the Responsible Authority and form part of this permit. Within 30 days of endorsement of the offset evidence by the Responsible Authority, a copy of the endorsed offset evidence must be provided to the Department of Environment, Land, Water and Planning.

## 6.2 PLANNING APPLICATION P18-080 - DEVELOPMENT OF LAND FOR RACING DOG KEEPING AND TRAINING, 2874 MIDLAND HWY, LETHBRIDGE

**File Number:**

**Author:** [REDACTED] Statutory Planning Team Leader

**Authoriser:** [REDACTED] Director Assets and Amenity

**Applicant:** [REDACTED]

**Owner:** [REDACTED]

**Proposal:** The use and development of the land for Racing dog keeping and Racing dog training (5 greyhounds)

**Location:** Lot 1 PS603667, Parish of Wabdallah, 2874 Midland Highway, Lethbridge 3332

**Attachments:**

1. Recommended Conditions
2. Application Information (under separate cover)
3. Submissions (under separate cover)

### RECOMMENDATION

That Council resolves to issue a Notice of Decision to Grant a Permit for the use and Development of the land for racing dog keeping and racing dog training (5 greyhounds) at 2874 Midland Highway, Lethbridge (Lot 1 on Plan of Subdivision PS603667, Parish of Wabdallah), with conditions as shown on Attachment 1.

---

### EXECUTIVE SUMMARY

This report relates to a planning permit application which proposes the Use and development of the land for Racing dog keeping and Racing dog training (5 greyhounds) at 2874 Midland Highway, Lethbridge. This report provides the background to the application, a summary of the relevant planning considerations and an officer recommendation which supports the issue of a planning permit.

### PURPOSE

This application has been referred to Council meeting for determination as there are two (2) outstanding objections to this planning permit application.

### CONFLICT OF INTEREST

In accordance with Section 80B of the Local Government Act 1989, the Officer preparing this report and any authorisers declare no conflict of interest in regards to this matter.

### COUNCIL PLAN

We will work to promote and protect the natural environment and ensure that growth and change in the Shire will be managed for the benefit of all of the community.

### BACKGROUND INFORMATION

The subject site is known as Lot 1 on Plan of Subdivision 603667, Parish of Wabdallah, which is located at 2874 Midland Highway, Lethbridge. The site is zoned Low Density Residential (LDRZ) and is subject to Design and Development Overlay Schedule 5 (DDO5) – Low Density Residential Zone Setbacks. The site is irregular in shape with approximately 50 metres of frontage to the Midland Highway, 260m on the northern boundary and 230m on the southern boundary with a total area of 1.01 hectares. The site is directly accessible from the Midland Highway which is a Road Zone Category 1, VicRoads road. No alteration to the existing access point, located near the middle of the allotment frontage, is proposed.

The site contains an existing single story dwelling, owned and occupied by the applicant. The dwelling is setback approximately 28 metres from the front (western) property boundary which fronts the Midland highway. To the rear of the dwelling, located approximately 5 metres from the southern boundary is an existing outbuilding which includes attached dog infrastructure; directly north of this, approximately 2m off the northern boundary is a small area of dog pens; this area is not continually occupied.

Approximately 15 metres east of the main outbuilding on site, is more dog infrastructure in the form of pens and x3 side-by-side exercise runs which are 84m in length and 3m wide (each); these run/exercise areas are situated 2 metres off the southern boundary.



The site is modestly landscaped around the dwelling and some trees and shrubs have been planted along the mid-section of the northern boundary though these are very immature plantings at this stage.

All adjoining land is in the Low Density Residential Zone with this property being located on the eastern side of the Midland Highway and slightly north-west of the town centre. Land immediately to the north is in two separate ownerships though it is noted that the middle portion is more recently created as a result of a two (2) lot subdivision P15-165 which has had title release, though has not been developed (this is owned by one of the objectors).

The nearest dwelling to the north is approximately 45m from the existing dwelling and no longer shares a property boundary with the subject site on account of the previously mentioned subdivision. The adjoining property to the south contains a dwelling which sits opposite the dog run exercise area. This dwelling is currently unoccupied. This property to the south also has approval for a two (2) lot subdivision which has had certification and statement of compliance.

This application proposes the Use and development of the land for Racing dog keeping and Racing dog training (5 greyhounds). The lodgement of this application came about as a result of an inspection by one of the Council Community Protection Officers where a number of dogs (Greyhounds) were found to be on site without a planning permit for the 5 racing dogs; this application was subsequently lodged.

The application proposes to keep and/or train 5 racing dogs (Greyhounds).

The dogs proposed to be kept on site consist of the following:

- 3year old racing male
- 3 year old racing male
- 4 year old racing female
- Pup (approximately 4 months of age) to race from 2 years of age
- Pup (approximately 4 months of age) to race from 2 years of age

Neither Racing dog keeping nor Racing dog training are defined as per Clause 73.03 of the Golden Plains Planning Scheme. These land use terms are nested under Animal keeping and Animal training respectively which are nested under the broader heading of Animal husbandry, which is defined as follows:

*Animal husbandry: Land used to keep, breed, board, or train animals, including birds.*

There are currently 8 dogs on site. Three (3) are retired and are kept as pets. Three (3) are current racing dogs and a further two (2) are pups (at the time of writing approximately 4 months of age). In time, the two pups will also be trained as racing dogs. It is a condition of Animal keeping in the LDRZ that no more than 5 animals are kept on site.

All of the dogs are kept in secure kennels on site, adjoining the main outbuilding which is centrally located on site. The racing dogs are exercised in the secure dog run/exercise area which is 84m in length, located near the southern boundary. The dogs are exercised in this area for half an hour each morning and afternoon. The kennel and exercise areas are said to be as per Greyhound Racing Victoria's requirements.

All dogs are fed twice daily; approximately 8am and 5pm.

Waste is collected daily from all secured areas, placed in plastic bags and disposed of in the household waste collection which is collected fortnightly as part of Council's household waste collection service. Disinfectant as approved by Greyhound Racing Victoria is used with warm water to wash down pen/kennel areas as required.

The dogs are secured on the subject site at all times whether inside or out of the kennel areas and in addition, the subject site is fenced all the way around. Shade and shelter is available to the dogs.

No new buildings or works are proposed.

## **CONSULTATION**

Notice of the application was given in accordance with Section 52(1) (a) and (d) of the *Planning and Environment Act 1987*. Notice was provided by mail to eight (8) nearby owners and/or occupiers and one (1) sign was placed on site.

As a result of the public notice, two (2) objections were received and one (1) submission of support.

A consultation meeting was not convened as it was not considered appropriate in this instance on account of unsatisfactory landowner/neighbour interactions. The matters raised by these objectors are examined in more detail later in the report.

## **ASSESSMENT**

### ***Golden Plains Planning Scheme***

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

Clause 13 Environmental risks and amenity

- Planning should strengthen the resilience and safety of communities by adopting a best practice environmental management and risk management approach.
- Planning should aim to avoid or minimise natural and human-made environmental hazards, environmental degradation and amenity conflicts
- Planning should identify and manage the potential for the environment and environmental changes to impact on the economic, environmental or social wellbeing of society
- Planning should ensure development and risk mitigation does not detrimentally interfere with important natural processes
- Planning should prepare for and respond to the impacts of climate change

## Clause 13.05-1S Noise abatement

## Objective

- To assist the control of noise effects on sensitive land uses

## Clause 13.06-1S Air quality management

## Objective

- To assist the protection and improvement of air quality

## Clause 13.07-1S Land use compatibility

## Objective

- To safeguard amenity while facilitating appropriate commercial, industrial or other uses with potential off-site effects.

**Municipal Strategic Statement**

## 21.08 Local areas – Small towns

Town structure plans have been prepared for most settlements and establish a basis for future strategic planning decisions in each town. The areas for which the town structure plans apply area identified on the Golden Plains Strategic Framework Plan (Clause 21.01-1) and address:

- The preferred layout of residential, commercial, community and other land uses based on a ten-year outlook
- Infrastructure servicing
- Desired future character
- Environmental sustainability

**Local Planning Policies (LPP)**

Not applicable.

Zone and overlay provisions

## Clause 32.07 Low Density Residential Zone (LDRZ)

The site and surrounding land is included in the Low Density Residential Zone (LDRZ). The purpose of the Low Density Residential zone is to:

- Implement the Municipal Strategy and the planning Policy framework; and
- To provide for low-density residential development on lots which, in the absence of reticulated sewerage, can treat and retain all wastewater.

## Clause 43.02 Design and development overlay

- The site and surrounding land is covered by Design and development overlay Schedule 5 - Low density residential zone setbacks. The purpose of the DDO is to:
- Implement the Municipal Planning Strategy and the Planning policy Framework; and
- To identify areas which are affected by specific requirements relating to the design and built form of new development.

The specific design objectives of schedule 5 are:

- To ensure that the siting and design of buildings creates an attractive low density residential environment
- To ensure that development has regard to the low density residential character of the area
- To ensure that a high level of amenity is maintained in the low density residential areas.

The purpose of this policy is:

- To ensure the use and development of land for racing dog keeping and racing dog training is consistent with orderly and proper planning.

### General Provisions

The decision guidelines as per Clause 65 of the Golden Plains Planning Scheme requires Council to consider matters as appropriate. Before deciding on an application or approval of a plan, the responsible authority must consider as appropriate:

- Matters set out in Section 60 of the Act
- The Municipal Planning Strategy and the Planning Policy Framework
- The purpose of the zone, overlay and other provisions
- Any matter required to be considered in the zone, overlays or other provisions
- The orderly planning of the area
- The effect on the amenity of the area
- The proximity of the land to any public land
- Factors likely to cause or contribute to land degradation, salinity, or reduce water quality
- Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site
- The extent and character of native vegetation and the likelihood of its destruction
- Whether native vegetation is to be or can be protected, planted or allowed to regenerate
- The degree of flood, erosion or fire hazard associated with the location of the land and the use, development or management of the land so as to minimise any such hazard
- The adequacy of loading and unloading facilities and any associated amenity, traffic flow and road safety impacts

## DISCUSSION

### Planning scheme

The Low Density Residential Zone, as the name suggests, provides for a low-density form of residential development which can treat and retain all wastewater on site in the absence of reticulated sewerage. Although there are a variety of uses permissible via planning permit, there are no decision guidelines in the zone itself which relate to use, therefore consideration of a use such as this defaults to relevant policy and the general decision guidelines of clause 65.

The condition for Animal keeping as per the LDRZ is that it must be no more than 5 animals; any more than this and the use becomes prohibited – there are currently 8 dogs on site. The three (3) retired dogs will be required to be re-homed off site.

Close consideration must be given to the potential impact on amenity in the LDRZ. Potential for noise impact is a relevant consideration in the keeping of 5 Greyhounds. Clause 13.05 of the Planning Policy Framework aims to ensure that, among other things, community amenity is not reduced by noise emissions and appropriate using of land separation techniques as appropriate to the land use functions and character of the area. This application was referred to Council's Environmental Health department who provided comment in regard to noise controls and any necessary procedures if complaints are received. The keeping of the dogs will be subject to any relevant requirements of Greyhound Racing Victoria and the EPA. General amenity conditions have been recommended which includes reference to noise.

Along with consideration of Clause 13.07-1S, Land use compatibility, it is considered particularly important that the location and layout of associated infrastructure be taken into account to provide the best possible outcome in relation to potential impact on amenity from a noise perspective.



Particular consideration has been given to the location of the dog run/exercise area which is centrally located and set back 2m from the southern boundary (refer to photo).

Dog run/exercise area located near the southern property boundary.



This area is used for approximately half an hour each morning and afternoon to exercise the dogs. This area is fenced and includes shade cloth along the southern boundary to provide a visual screen from the adjoining property to the south. It is approximately 84m in length with each of the three run areas 3m wide. Given this infrastructure is within the 5m setback from any other boundary which triggers the need for buildings and works as per Schedule 5 to the Design and Development Overlay (Clause 43.02), it is considered reasonable to require the southernmost run/exercise strip to be removed. This would then provide a 5m separation between this exercise area and the neighbouring property. This is recommended via a proposed condition of planning approval.

Dogs cannot be expected to be noise free in their particular setting. Whilst some barking may occur when the dogs are let out to exercise or periodically at other times, it is an important requirement of Greyhound Racing Victoria that they are provided with exercise opportunities. Other measures to minimise noise include regular feeding times and acoustic treatment in the form of cement sheeting inside the kennels which are located centrally on the site.

The keeping of five (5) dogs is not considered to negatively impact on air quality in a Low Density Residential Zone setting, where nearby properties have similarly sized LDRZ properties. As previously outlined, dog waste is collected daily, bagged and disposed of via the fortnightly Council collection service for household waste. In addition, kennel areas are hosed out regularly for animal health purposes and to minimise odour; these measures are deemed acceptable in relation to Clause 13.06-1S, Air quality management.

### Objector concerns

Matters raised by the objectors are summarised as follows:

*Loss of property value on account of noise from the number of dogs, potential smell created by the kennels and proximity of the runs/kennels to a dwelling.*

VCAT has repeatedly made clear in decisions in recent years, that the impact on property value as a result of planning applications is speculative and is not a valid ground for objection. However, consideration has been given to potential impact on amenity on account of noise, odour and the location of the exercise area. The consideration of these matters is addressed in the Discussion section of this report which considers the relevant areas of the Planning Scheme.

*The applicant owns more than 5 dogs. Greyhound Racing Victoria requirements state that owners/trainers are to abide by all Council laws regarding dog numbers.*

It is a condition of the Low Density Residential Zone that Animal keeping must be no more than 5 animals; any more than 5 is prohibited. This report recommends the approval of the application for the Use and development of the land for Racing dog keeping and Racing dog training (5 greyhounds). The applicant must make arrangements to ensure that there are only ever 5 greyhounds on site.

*The applicant is a registered public trainer, thus although he may restrict the number of dogs he personally owns, he could have many others on his property for training. This objection contends that the applicant will have many more dogs to make a living from the training of greyhounds.*

The planning scheme only allows 5 animals (greyhounds in this instance) to be kept for Animal keeping within the Low Density Residential Zone. Even if the applicant has other dogs located elsewhere, he would need to make arrangements if he was to bring a dog to his property, to relocate another so there is only ever a maximum of 5 dogs on site.

### *Unsightly dog kennels along our (southern) boundary*

Particular consideration has been given to the dog run/exercise area located 2m from the southern property boundary. The photo on the following page shows the 2m separation between the southernmost area of this dog exercise yard and the neighbouring property to the south. It is approximately 84m in length with each of the three run areas 3m wide. Given this infrastructure is within the 5m setback from any other boundary which triggers the need for buildings and works as per Schedule 5 to the Design and Development Overlay (Clause 43.02), it is considered reasonable to require the southernmost run/exercise strip to be removed. Although this infrastructure may not require planning approval pursuant to this overlay, it would then provide a 5m separation between this exercise area and the neighbouring property which is in keeping with the setback provisions of this overlay. This is recommended via a condition on permit.

This photo shows the 2m separation between the dog exercise area and the adjoining property on the southern boundary.



### *Noise from barking dogs*

Consideration has been given to how and where the dogs will be kept on site. The dogs are fed and exercised at routine times each morning and afternoon. Exercise is an important requirement of Greyhound Racing Victoria and will contribute to the well-being of the dogs on site. No matter the zone or setting, noise from dogs barking can occur and it is unreasonable to expect that no barking will ever occur. The other measures in place together with the limited number of dogs is considered to result in an acceptable level of amenity for adjoining or nearby parties.

### *The number of dogs in a small area would impact on the surrounding amenity*

Various aspects of amenity have been addressed via this report including noise, location of associated infrastructure, waste and odour. In summary, it is considered that the site will have the appropriate measures in place to keep any potential impact on amenity to an appropriate level.

It is also acknowledged that one (1) submission of support was received with the application from 2880 Midland Highway, Lethbridge. Refer to Attachment 3 (Submissions).

## **CULTURAL HERITAGE IMPLICATIONS**

The proposal does not require the preparation of a Cultural Heritage Management Plan (CHMP) under the Aboriginal Heritage Regulations 2007.

**CONCLUSION**

The application satisfies the provisions of the Planning Policy Framework and the Municipal Strategic Statement for animal keeping and training. The application is also in line with the provisions of the Low Density Residential Zone and accords with the relevant decision guidelines of the Planning Scheme (Clause 65).

**P18-080 Recommended conditions:****Amended plans**

1. Prior to the use commencing, amended plans 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 show:
  - a) Deletion southernmost dog run/exercise area, providing a 5m separation between the dog run/exercise area and the southern property boundary;
  - b) Plans which show the layout of all dog keeping and training areas including kennels, exercise areas and other yards where the dogs may spend time;
  - c) Existing site features, including buildings, title boundaries, adjoining road/s and any other relevant features.

**General**

2. The southernmost dog run/exercise area, including fencing must be removed within 30 days of the date of this permit.

**Number and breed of dogs**

3. This permit allows the keeping of Greyhounds only.
4. No more than 5 dogs may be kept on site at any one time.

**Endorsed plans**

5. The use and development must not be altered and must be carried out in accordance with the endorsed plan/s.

**Amenity**

6. The housing area and outdoor yard areas must be kept in a clean, tidy and sanitary condition at all times to the satisfaction of the responsible authority.
7. All waste water must be treated and disposed of within the boundaries of the land and must not drain into an adjoining property, road, watercourse or drain to the satisfaction of the responsible authority.
8. All dog waste including faeces must be regularly collected and disposed of to the satisfaction of the responsible authority.
9. Waste disposal must not occur by way of incineration.
10. The permit holder must be available to ensure that the dogs are under control at all times and to ensure that the conditions of this permit are fully complied with. At times that the owner is temporarily absent from the site, measures must be taken to ensure the dogs are suitably contained.
11. All dogs over the age of three (3) months of age must be registered with the responsible authority each year.

12. The use hereby permitted must not cause injury to or prejudicially affect the amenity of the amenity of the area by reason of wandering dogs, transportation of the dogs to or from the site or by any reason of the appearance of any building or enclosure or yard area or by reason of the emission of noise, smell, waste, or otherwise, to the satisfaction of the responsible authority.
13. Appropriate ventilation must be provided in all dog keeping facilities, with appropriate noise abatement measures, to the satisfaction of the responsible authority.
14. Offensive odours must not be discharged beyond the boundaries of the premises.

**Expiry**

15. The permit will expire if any one of the following circumstances applies:
  - a) The use is not commenced within a period of twelve (12) months from the date of issue;
  - b) The permit holder, Geoffrey Green, of 2874 Midland Highway, Lethbridge, is no longer residing on the property in a full time basis;
  - c) Geoffrey Green of 2874 Midland Highway, Lethbridge ceases to wholly or partially own the land subject to the permit at 2874 Midland Highway, Lethbridge.
  - d) The responsible authority may extend the period referred to if a request is made in writing before the permit expires, or within six (6) months afterwards.



### 6.3 PLANNING APPLICATION P18-085 - THE DEVELOPMENT OF LAND FOR A FIVE (5) LOT SUBDIVISION. SPRATLINGS RD, ROSS CREEK

**File Number:**

**Author:** [REDACTED] Town Planner

**Authoriser:** [REDACTED] Director Assets and Amenity

**Applicant:** Beveridge Williams & Co Pty Ltd

**Owner:** [REDACTED]

**Proposal:** Development of the land for a five lot subdivision (re-subdivision of existing lots) and the use and development of a dwelling and shed on proposed lots 1 to 4.

**Location:** Lots 1, 2, 3, 9, 10 & 11 on Title Plan 892942C (Spratlings Road, Ross Creek)

**Attachments:**

1. Recommended conditions
2. Copy of application and plans (under separate cover)
3. Copy of objection (under separate cover)
4. Referral authority responses (under separate cover)

#### RECOMMENDATION

That Council resolve to issue a Notice of Decision to Grant a Permit for the development of land for a five lot subdivision (re-subdivision of existing lots) and use and development of a dwelling and shed on proposed Lots 1 to 4 at Lots 1, 2, 3, 9, 10 & 11 on Title Plan 892942C (Spratlings Road, Ross Creek), subject to the conditions contained in the attachment to this report.

#### EXECUTIVE SUMMARY

This report relates to a planning permit application for the development of land for a five lot subdivision (re-subdivision of existing lots) and use and development of a dwelling and shed on proposed lots 1 to 4 at Lots 1, 2, 3, 9, 10 & 11 on Title Plan 892942C Parish of Smythesdale (Spratlings Road, Ross Creek). This report provides a background to the application and a summary of the relevant planning considerations.

#### PURPOSE

The application has been referred to the Council Meeting for determination because there is an unresolved objection to application.

#### CONFLICT OF INTEREST

In accordance with Section 80B of the *Local Government Act* 1989, the Officers preparing this report declare no conflict of interest in regards to this matter.

#### COUNCIL PLAN

We will work to promote and protect the natural environment and ensure that growth and change in the Shire will be managed for the benefit of all of the community.

#### BACKGROUND INFORMATION

##### The subject land

The subject site is known as Lots 1, 2, 3, 9, 10 & 11 on Title Plan 892942C Parish of Smythesdale. The site is zoned Rural Activity Schedule 1 and no overlays apply. Adjoining and nearby land is also zoned Rural Activity Schedule 1 (North West Area) while other land located to the west on the other side of State Forest Road is included in the Rural Living Zone. The subject site is comprised of six (6) lots with a total land area of approximately 64.8 hectares. The lots are rectangular in shape and

are directly accessible from Brays Road to the north, Spratlings Road to the south and State Forest Road to the west. The lots are currently vacant, mostly cleared and used for grazing. There is scattered vegetation which mostly occurs along the waterway corridor that traverses the north western portion of the subject site (refer to aerial image below).

### Locality map



Land parcel sizes in the immediate area vary though within the Rural Activity zoned area they are used for a mix of rural activity purposes including small scale agriculture and rural living. The land parcels to the west included in the Rural Living Zone vary in size but are mainly used for rural living purposes on small acreage hobby farms.

### The proposal

This application proposes to re-subdivide the existing six lots into 5 lots and develop a dwelling on proposed lots 1 to 4 which each have frontage to State Forest Road and have a total land area of 5.057ha. Proposed Lot 5 will comprise the balance land with a total land area of 48.56ha. A copy of the application and plans is provided in Attachment 2.

Vehicle access to each of proposed Lots 2-4 will be via State Forest Road, while vehicle access to proposed Lot 1 will be via Spratlings Road. Proposed Lot 5 has vehicle access from both Spratlings Road to the south or Brays Road to the north.

The proposed dwellings to be developed on proposed Lots 1-4 will be single storey residences each with a total floor area of 218sqm and including an associated colorbond shed measuring 10m X 8m with a height of 4.8m. The proposed dwellings each consist of four bedrooms plus study, two bathrooms, an open plan meals/family area with kitchen and a separate lounge/dining room and separate rumpus room. It is proposed to finish the dwellings in face brick walls and colorbond roofing with an overall height of 5.03 metres. Each proposed dwelling will be sited with a minimum setback of 30 metres to main road frontage and 10 metres from lot boundaries, meeting the minimum setback requirements outlined under Schedule 1 to the Rural Activity Zone.

### CONSULTATION

Notice of the application was given in accordance with Section 52 (1)(a) and (d) of the *Planning and Environment Act* 1987 ('the Act'). Notice was provided by mail to sixteen (16) adjoining and neighbouring owners and/or occupiers and a sign was placed on site fronting State Forest Road.

As a result of the public notice, one (1) objection was received. A copy of the objection is provided in Attachment 3. The objector is concerned regarding the impact of the development on views and



the character of the area, loss of privacy, devaluation and the proposed access points being a traffic safety hazard.

A consultation meeting was held with the objector, applicant and Council officers on Thursday 27 September 2018. No resolution was reached in regard to the issues raised by the objector.

## **ASSESSMENT**

The application was received by Council on 26 March 2018 and a preliminary assessment of the application was undertaken. The application was referred under Section 55 of the Act to Central Highlands Water and Powercor in accordance with Clause 66.01 of the planning scheme (subdivision of land). These authorities had no objection to the issue of a permit subject to conditions being placed on the permit.

The application was referred for comment to the Corangamite Catchment Management Authority (CCMA) in regard to the flood risk associated with the site. The subject land is not affected by a flood overlay however flood mapping available to Council indicates a known flood risk at the site. The CCMA had no objection to the issue of a permit subject to conditions being placed on the permit. The CCMA has advised that the proposed dwellings would be located at least 60m from any watercourses and outside the 1% flood extent.

The application was also internally referred to Council's Works Engineer in regard to vehicle access to the proposed dwellings. The Works Engineer deemed the proposed access points to meet safety standards and had no objection to the issue of a permit.

### ***Golden Plains Planning Scheme***

#### Planning Policy Framework (PPF)

##### Clause 14.01 Agriculture

The objective of the policy for the Protection of agricultural land (Clause 14.01-1S) is to protect the state's agricultural base by preserving productive farmland. The policy seeks to ensure that the State's agricultural base is protected from the unplanned loss of productive agricultural land due to permanent changes of land use. In considering a proposal to develop agricultural land, factors to be considered include:

- Avoiding the permanent removal of productive agricultural land from the state's agricultural base without consideration of the economic importance of the land for the agricultural production and processing sectors
- Protect productive farmland that is of strategic significance in the local or regional context
- Prevent inappropriately dispersed agricultural and primary production land from incompatible uses.

#### Local Planning Policy Framework (LPPF)

##### Clause 21.01 Municipal Strategic Statement (MSS)

The MSS identifies key land use planning and development issues which includes managing residential growth and protecting and enhancing the natural and built environment. The north-west area of the Shire is recognised as an area that reflects a rural residential character, centred on communities of interest. This is distinct from other residential areas of the shire where urban type development is focussed around townships.

## 21.02 Settlement

The Settlement policy relating to Rural areas (Clause 21.02-3) recognises that over the past two decades the Shire has continued to experience demand for rural residential development. The north-west area of the Shire contains Rural Activity and Farming zoning that is interspersed with large areas of Rural Living zoning. The policy includes objectives to control the density and overall lot sizes of land in the North West area according to environmental conditions and established character. The strategies to achieve this objective include requiring subdivision to recognise and maintain the surrounding lot configurations and lot sizes, requiring subdivision of land to provide appropriate infrastructure, including drainage, roads and on-site effluent disposal and requiring applications for subdivision to demonstrate that the clustering of lots will not limit the productive use and development of the larger lots in the subdivision or surrounding properties.

### Clause 21.05-1 Agriculture

The Agriculture policy emphasises the economic importance of agricultural industries to the Shire. The policy aims to ensure that agricultural land is protected and used as an economically valuable resource and to maintain farm size to allow for viable agriculture. This will be achieved by ensuring that the use and development of rural land is both compatible and complementary to agricultural activities.

### Clause 21.07-4 North-west area

The north-west area of the Shire contains a mix of township areas, rural residential, rural living and rural areas. The predominant characteristic of the area however is based on larger lot rural residential development. It is policy that proposed subdivisions and new development is designed and located so as to ensure recognition of existing rural amenity and character, land and environmental management and the disposal of effluent.

## Zone

### Clause 35.08 Rural Activity Zone – Schedule 1 (RAZ1)

The purpose of the Rural Activity Zone (RAZ) is, among other things:

- to provide for the use of land for agriculture
- to provide for other uses and development, in appropriate locations, which are compatible with agriculture and the environmental and landscape characteristics of the area.
- to ensure that use and development does not adversely affect surrounding land uses.

A permit is required under the RAZ1 to subdivide land and the minimum lot size is 40ha. A permit may be granted to create lots smaller than the minimum lot size where the subdivision is the re-subdivision of existing lots and the number of lots is not increased. A permit is also required in the RAZ1 to use and develop land for a dwelling.

Schedule 1 to the RAZ applies to the North West Area of the Shire and its purpose is to achieve a planned mix of small scale agricultural and rural uses that reflects the character of the area which includes rural living use of extensive areas.

## General provisions

The decision guidelines as per Clause 65 of the Golden Plains Planning Scheme requires Council to consider the following matters, as appropriate:

### 65.01 – Approval of an application or plan

- The matters set out in Section 60 of the Act

- The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies
- The purpose of the zone, overlay or other provision
- Any matter required to be considered in the zone, overlay or other provision
- The orderly planning of the area

#### 65.02 – Approval of an application to subdivide land

- The suitability of the land for subdivision.
- The existing use and possible future development of the land and nearby land.
- The availability of subdivided land in the locality, and the need for the creation of further lots.
- The effect of development on the use or development of other land which has a common means of drainage.
- The subdivision pattern having regard to the physical characteristics of the land including existing vegetation.
- The density of the proposed development. The area and dimensions of each lot in the subdivision.
- The availability and provision of utility services, including water, sewerage, drainage, electricity and gas.
- If the land is not sewered and no provision has been made for the land to be sewered, the capacity of the land to treat and retain all sewage and sillage within the boundaries of each lot.

## DISCUSSION

### Planning scheme

The application is considered to satisfy the relevant provisions of the planning scheme. State and local policies for Agriculture seek to protect productive agricultural land by ensuring that new development is compatible with agriculture and does not adversely affect existing uses on surrounding land.

Schedule 1 to the Rural Activity Zone aims to achieve a planned mix of small scale agricultural uses and rural uses that reflects the character of the area which includes extensive areas of rural living. The proposal will not result in the loss of productive agricultural land because the proposed subdivision will consolidate the majority of the land into a large farm lot which can continue to be used for primary production. The proposed residential lots and dwellings are also not considered to have any impact on adjoining agricultural activities because the adjacent land contains a number of similar sized rural residential properties and there are adequate setbacks to adjoining properties used for agriculture.

The application is also supported by the local policies for Settlement (Clause 21.02) and the North West Area (Clause 21.07-4) which require that subdivision recognises and maintains the existing rural character and surrounding lot configurations and provides appropriate infrastructure, including drainage, roads and on-site effluent disposal. The proposed dwelling lots are located adjacent to land in the Rural Living Zone and much of the surrounding area consists of small lots used for rural living purposes. The proposed dwelling lots also have adequate infrastructure including sealed road access and are of sufficient size for wastewater disposal.

### Objectors concerns

**Visual impact.** The objector has raised concerns that the proposed development will adversely affect the view from their property. There are long-established legal principles in relation to balancing the views of neighbours in respect of a view. VCAT has previously held that there is no legal right to a view and all parties should receive a reasonable share of views. Furthermore, while a development may interfere to some degree with a view the degree of interference must not be unreasonable.

In this case, while it is accepted that the proposed development may partially intrude into the views of neighbours, due to the modest size and scale of the proposed dwellings, the development will not

unreasonably impact the views of others. In regard to the visual impact of the development on the landscape, if a permit was to issue these concerns can be addressed by way of conditions controlling the appearance of the development such as the establishment of landscaping and controls on external finishes.

It is also noted that the physical lay of the land in relation to drainage, results in a level of constraint for the potential placement of a dwelling for the proposed Lot 1 when taking into account the objector concerns. However, as the applicant was not of the view to apply a building envelope to this site, it does mean that whoever builds on that lot may choose a different location to the indicative location as shown on Lot 1.

**Loss of privacy.** The proposal is not considered to result in a loss of privacy of existing residents. The setbacks between the proposed dwellings and neighbouring dwellings are adequate to ensure the protection of residential amenity.

**Devaluation.** Property devaluation is not a material planning consideration and Council can only consider the matters that may affect them. VCAT has consistently dismissed property devaluation per se as a valid ground of refusal.

**Traffic safety.** The proposal has been assessed by Council's Works Engineer and the proposed access points are considered to satisfy safety standards.

#### **OPTION ANALYSIS**

Not applicable.

#### **RISK IMPLICATIONS**

There are not considered to be any risk management implications.

#### **FINANCIAL IMPLICATIONS**

There are not considered to be any financial implications.

#### **CULTURAL HERITAGE IMPLICATIONS**

The proposal does not require the preparation of a Cultural Heritage Management Plan (CHMP) under the Aboriginal Heritage Regulations 2007.

#### **CONCLUSION**

The application satisfies the provisions of the State and Local planning policies, the Rural Activity Zone – Schedule 1, and the decision guidelines of the Planning Scheme (Clause 65). The proposal will not remove land from productive agricultural use and will have no impact on adjoining agricultural uses because much of the surrounding area is used for rural living purposes. The placement of permit conditions requiring landscaping and controlling the external materials of buildings will ensure that the development has no visual impact on the amenity and character of the area and does not cause material detriment to any person.

**PLANNING APPLICATION P18-085 FOR A FIVE LOT SUBDIVISION (RE-SUBDIVISION OF EXISTING LOTS) AND THE USE AND DEVELOPMENT OF A DWELLING & SHED ON PROPOSED LOTS 1-4 AT LOTS 1, 2, 3, 9, 10 & 11 ON TITLE PLAN 892942C, (SPRATLINGS ROAD, ROSS CREEK)**

**RECOMMENDED CONDITIONS FOR A NOTICE OF DECISION TO GRANT A PERMIT**

- 1 The development as shown on the endorsed plans must not be altered without the written consent of the responsible authority.
- 2 This permit will expire if one of the following circumstances applies:
  - a) The plan of subdivision is not certified within two years of the date of this permit.
  - b) The registration of the subdivision is not completed within five years of the date of certification.
  - c) The development of the dwellings is not completed and the use of the dwellings is not commenced within two years of the registration of the subdivision.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.

**Dwellings and sheds**

- 3 The development of dwellings and sheds must not commence until the subdivision approved under this permit has been completed.
- 4 Before the development of each dwelling and shed, a landscape plan prepared by a suitably qualified person and to the satisfaction of the responsible authority 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 the following:
  - a) Appropriate planting of trees and shrubs around the dwelling in order to minimise the visual impact of the development on the appearance of the area.
  - b) All species selected must be indigenous to the local area.
- 5 Within six months of the completion of each dwelling, the landscaping works as shown on the endorsed landscape plan must be carried out and completed to the satisfaction of the responsible authority.
- 6 All external materials to be used in the construction of the dwellings and sheds must be of muted tones and be non-reflective and must not result in any adverse visual impact on the amenity of the surrounding area.

**Subdivision**

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

- a) a telecommunications network or service provider that all lots are connected to or are ready for connection to telecommunications services in accordance with the provider's requirements and relevant legislation at the time.
  - b) a suitably qualified person that fibre ready telecommunication facilities have been provided in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.
- 9 The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities, electricity and gas services to each lot shown on the endorsed plan in accordance with the authority's requirements and relevant legislation at the time.
  - 10 All existing and proposed easements and sites for existing or required utility services and roads on the land must be set aside in the plan of subdivision submitted for certification in favour of the relevant authority for which the easement or site is to be created.
  - 11 The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to the relevant authority in accordance with Section 8 of that Act.

***Note: Prior to certification the responsible authority will require a plan showing the location of all existing and proposed vehicle crossings. The plan is required to show setback distances of existing and proposed crossovers from the closest property boundary to the satisfaction of the responsible authority. The plan is required to satisfy Regulation 29 of the Subdivision (Procedures) Regulations 2011, allowing the allocation of street numbers.***

#### **Golden Plains Shire Works department conditions**

- 12 Before the certification of the plan of subdivision under the Subdivision Act 1988, the existing waterway on the site must be wholly contained within a drainage easement which must be set aside on the plan of subdivision for this purpose.
- 13 Before the issue of a statement of compliance under the Subdivision Act 1988, separate vehicle crossings to proposed lots 1-4 must be provided at the locations shown on the endorsed plans and be constructed in accordance with the Infrastructure Design Manual (IDM) standard drawing SD 255 to the satisfaction of responsible authority.

***Note: A works within road reserve permit must be obtained from Council prior to the carrying out of any vehicle crossing works.***

***Note: Works department will not consent to the issue of a statement of compliance until such time as the applicant contact provides satisfactory evidence of compliance with the above conditions.***

#### **CENTRAL HIGHLANDS WATER CONDITIONS**

- 14 Any plan lodged for certification will be referred to the Central Highlands Region Water Corporation pursuant to Section 8(1)(a) of the Subdivision Act.
- 15 If the land is developed in stages, the above conditions will apply to any subsequent stage of the subdivision.

**CORANGAMITE CATCHMENT MANAGEMENT AUTHORITY CONDITIONS**

- 16 All new dwellings must be located outside the 1% AEP flood extent.
- 17 All buildings and works must be set back a minimum of 30 metres from the top of bank of any waterway.
- 18 Access to each lot must meet the minimum safety criteria.

**POWERCOR CONDITIONS**

- 19 The plan of subdivision submitted for certification under the Subdivision Act 1988 shall be referred to Powercor Australia Ltd in accordance with Section 8 of that Act.
- 20 The applicant shall:-
  - a) Provide an electricity supply to all lots in the subdivision in accordance with Powercor's requirements and standards, including the extension, augmentation or re-arrangement of any existing electricity supply system, as required by Powercor (A payment to cover the cost of such work will be required). In the event that a supply is not provided the applicant shall provide a written undertaking to Powercor Australia Ltd that prospective purchasers will be so informed.
  - b) Any buildings must comply with the clearances required by the Electricity Safety (Installations) Regulations.
  - c) Any construction work must comply with Energy Safe Victoria's "No Go Zone" rules.
  - d) Provide easements satisfactory to Powercor Australia Ltd, where easements have not been otherwise provided, for all existing Powercor Australia Ltd electric lines on the land and for any new powerlines required to service the lots and adjoining land, save for lines located, or to be located, on public roads set out on the plan. These easements shall show on the plan an easement(s) in favour of "Powercor Australia Ltd" for "Power Line" pursuant to Section 88 of the Electricity Industry Act 2000.
  - e) Obtain for the use of Powercor Australia Ltd any other easement external to the subdivision required to service the lots.
  - f) Provide to Powercor Australia Ltd, a copy of the version of the plan of subdivision submitted for certification, which shows any amendments which have been required.

***Note: It is recommended that, at an early date, the applicant commences negotiations with Powercor for supply of electricity in order that supply arrangements can be worked out in detail, so prescribed information can be issued once all electricity works are completed (the release to the municipality enabling a Statement of Compliance to be issued). Prospective purchasers of lots in this subdivision should contact Powercor Australia Ltd to determine the availability of a supply of electricity. Financial contributions may be required.***

#### 6.4 PLANNING APPLICATION P18-113 - FOR THE DEVELOPMENT OF LAND FOR A DWELLING, PLANT NURSERY, SHED AND EARTHWORKS ASSOCIATED WITH A DAM, 394 LACYS RD, ROSS CREEK

**File Number:**

**Author:** [REDACTED] Town Planner

**Authoriser:** [REDACTED] Director Assets and Amenity

**Applicant:** [REDACTED]

**Owner:** [REDACTED]

**Proposal:** The use and development of the land for a dwelling, plant nursery, shed and earthworks associated with a dam.

**Location:** Crown Allotment 78, 394 Lacys Road, Ross Creek

**Attachments:**

1. Copy of (recommended) Permit Conditions
2. Copy of Planning Application and Plans (under separate cover)
3. Copy of Objections (2) (under separate cover)

#### RECOMMENDATION

That Council resolve to issue a Notice of Decision to Grant a Planning Permit for the use and Development of the land for a dwelling, plant nursery, shed and earthworks associated with a dam at Crown Allotment 78, 394 Lacys Road, Ross Creek, with the conditions as shown on Attachment 1.

---

#### EXECUTIVE SUMMARY

This report relates to a planning permit application (P18-113), which seeks approval for the use and development of a dwelling, plant nursery, shed and earthworks associated with a dam on vacant land, at Crown Allotment 78, 394 Lacys Road, Ross Creek.

#### PURPOSE

The application has been referred to Council for determination, as there are two (2) unresolved objections to this application. This report provides background to the application, a summary of the relevant planning considerations and an officer recommendation.

#### CONFLICT OF INTEREST

In accordance with Section 80B of the Local Government Act 1989, the Officer preparing this report declares no conflict of interest in regard to this matter.

#### COUNCIL PLAN

We will work to promote and protect the natural environment and ensure that growth and change in the Shire will be managed for the benefit of all of the community.

#### BACKGROUND INFORMATION

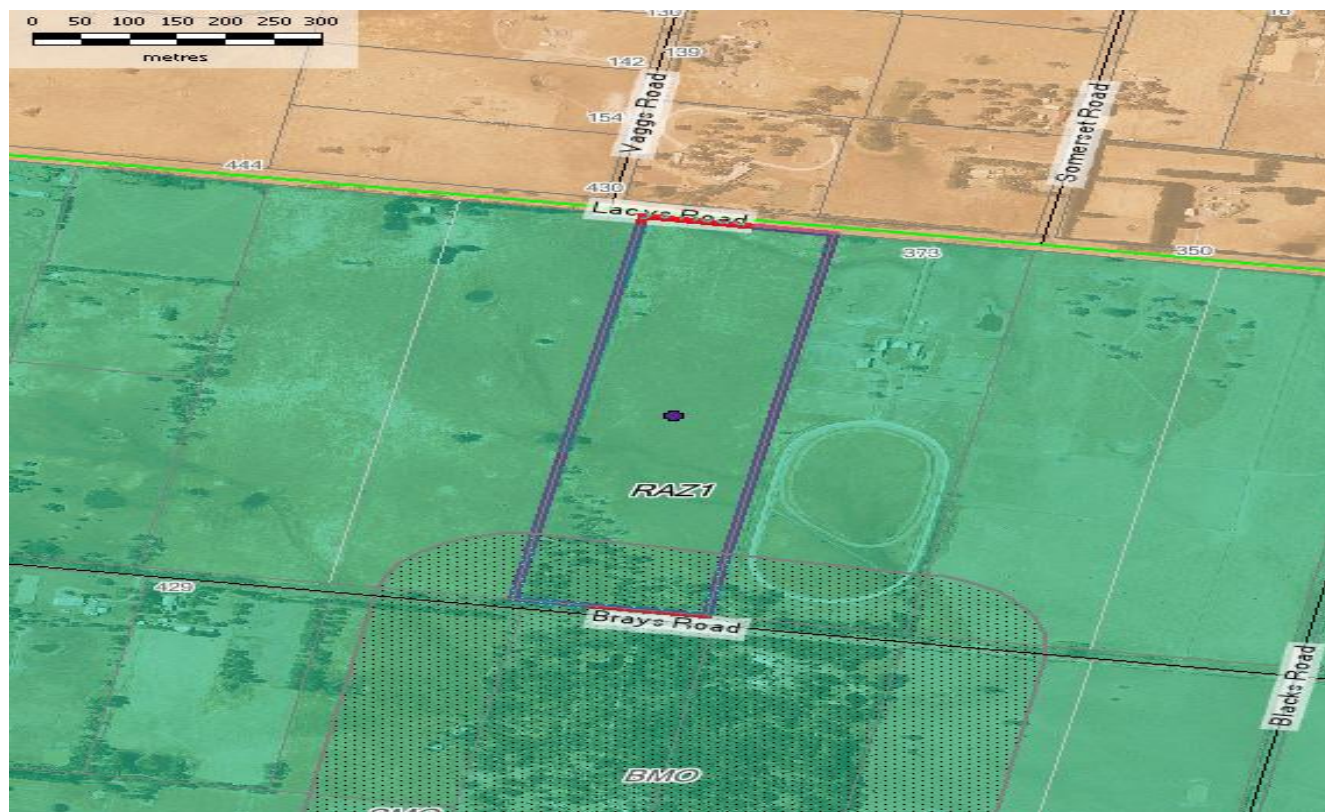
The subject site is known as Crown Allotment 78, 394 Lacys Road, Ross Creek. The site is 15.7 hectares in area and zoned Rural Activity Schedule 1 - North West Area, (RAZ1). A Bushfire Management Overlay (BMO) applies to 17% of the site, however all proposed buildings and works have been sited outside the BMO area, hence the zone is the only trigger for the planning permit.

The site is rectangular in area with approximately 200 metres of frontage to Lacys Road which is a sealed Council road. The site is generally flat with some scattered vegetation at the rear portion of the site and a watercourse running east-west across the property.



Adjoining properties to the east and west are also zoned RAZ1, and of similar land size and layout. Some lots, like the subject site are still vacant and those that have been developed generally contain a dwelling and associated outbuildings. Land on the northern side of Lacys Road is zoned Rural Living (RLZ) and majority of these smaller land parcels contain residential development (refer to aerial image).

Aerial and Planning Map of the subject site (as marked) and nearby land



The applicant proposes to live on site and operate a small scale plant nursery from, growing a selection of plants to sell online with some pick-ups as a result of online orders (possibly 1-2 per day, as conveyed by the applicant to Council).

This original proposal was advertised and four (4) objections and a petition were received. As a result of the objections and further consideration of the proposal, the applicant amended the application to scale down the nursery, specifically growing on site but rather than being open to the public 6 days per week, customers coming to site approximately 1-2 times per day to collect online orders, with some possible deliveries (by the applicant) from site.

The dwelling is proposed to be centrally located, approximately 80m from Lacys Road. The dwelling would contain 5 bedrooms, open plan kitchen/living/dining areas, a study, bathroom and laundry amenities along with an attached double garage on the eastern elevation. It is proposed to be constructed from face brickwork with a pitched tile roof.

The shed is proposed to be located 30m to the rear of the dwelling in an 'L' shape which measures 12 x 18m and 20 x 15m for a total area of 516 square metres in area. The shed is proposed to be constructed from colourbond with a pitched roof.

## CONSULTATION

Notice of the application was given in accordance with Section 52 (1) (a) & (d) of the Act. The original notice included the nursery component of the proposal, as sought by applicant.

Notice was given to eight (8) adjoining or nearby landowners and/or occupants and a notice placed on the front boundary, facing onto Lacys Road.

As a result of the notice, Council received four (4) objections. One of these objections included a petition with 28 signatures against the original proposal, which included the nursery.

The grounds of objection are summarised as follows:

1. Extra traffic on Lacys Road and ongoing operations, maintenance and safety issues of the road, which in many cases were not necessarily concerns related to the application;
2. Amenity, in particular increase in noise;
3. Local security;
4. Onsite water usage; and
5. Existing similar business within the region.

A consultation meeting was held on 6<sup>th</sup> September 2018 at the 'Well', Smythesdale. No resolution was reached, however the applicant conveyed to those in attendance that he intended to revise the application in relation to the nursery component of the proposal on account of unexpected costs of engineering requirements (entry upgrade) and workload associated with the business versus time available to the family.

Following the meeting the applicant lodged amended plans, which showed the deletion of the business signage, nursery area, growing yards, car-parking, two way access to the property as per Section 57A of the *Planning and Environment Act 1987* (Amendments to application after notice of application is given).

All objectors were notified in writing of the change with a copy of the amended plans and associated written correspondence (refer to Attachment1) provided for their information and consideration. As a result two (2) objectors withdrew their objection and two (2) remain.

## **ASSESSMENT**

### ***Golden Plains Planning Scheme***

#### Local Planning Policy Framework (LPPF)

##### Clause 21.02-1- Settlement Patterns

Relative to this application the policy acknowledges that the majority of the growth and settlement patterns to north-west of the Shire has derived from people seeking affordable housing and a country lifestyle, but still close enough to services and facilities in major regional centres, such as Ballarat, Colac and Geelong. It is recognised that the area reflects rural residential characteristics and like the subject land, has a large portion of existing crown titles of land.

The policy contains three (3) key objectives, as follows:

1. To make efficient use of the land;
2. To encourage the consolidation of existing townships areas; and
3. To lessen conflict in rural areas between agriculture and non- agricultural land uses.

#### Zone

##### Clause 35.08 Rural Activity Zone – Schedule 1 (RAZ1)

The purpose of the zone is:

To implement the MSS and PPF

To provide for the use of land for agriculture

- To provide for other uses and development, in appropriate locations, which are compatible with agriculture and the environmental and landscape characteristics of the area
- To ensure that use and development does not adversely affect surrounding land uses.
- To provide for the use and development of land for the specific purposes identified in a schedule to the zone.

- To protect and enhance natural resources and the biodiversity of the area
- To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.

### General provisions

#### Clause 65.01- Approval of an application or plan

Before deciding on an application or approval of a plan, the responsible authority must consider, as appropriate:

- The matters set out in section 60 of the Act
- The Municipal Planning Strategy and the Planning Policy Framework
- The purpose of the zone, overlays or other provision
- Any matter required to be considered in the zone, overlay or other provision
- The orderly planning of the area
- The effect on the amenity of the area;
- The proximity of the land to any public land
- Factors likely to cause or contribute to land degradation, salinity or reduce water quality
- Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site
- The extent and character of native vegetation and the likelihood of its destruction
- Whether native vegetation is to be or can be protected, planted or allowed to regenerate
- The degree of flood, erosion or fire hazard associated with the location of the land and the use, development or management of the land so as to minimise any such hazard; and
- The adequacy of loading and unloading facilities and any associated amenity, traffic flow and road safety impacts.

### **DISCUSSION**

The proposal is considered to align with the key objectives of relevant policy, in particular the purpose of the zone and relevant decision guidelines as per Clause 65.

The proposal is in line with use and development of the area which takes advantage of the close proximity to the regional centre of Ballarat, which this northern part of the Shire enjoys. The development of this land makes good use of some of the under-utilised vacant land in this area. The use and development is not expected to have any impact on adjoining land.

The zone supports uses that are suitably located, compatible to agriculture or existing agricultural activities, while preserving environmental and landscaping values. The location of the subject land and siting of the dwelling and building and works is a compatible use and appropriately located under key purposes of the zone.

The land is expected to be improved to a point as a result of occupation and there is ample room for landscaping and revegetation works. The buildings and works are sufficiently separated from the vegetation and watercourse on site. The pattern of development in this area of the RAZ shows similar situations to the one proposed here.

### Objector concerns

*I'm happy for people to do whatever they like with their land but I've had a look at the plans and they look like their proposal is still put together based on the possibility of them starting a nursery. The positioning of the buildings and their size still allows them at some stage to try and set up a nursery. We would like to know what our rights are should they somehow be able to go ahead.*

Response

The shed is proposed to be just over 500 square metres in area. This size is not unreasonable in the RAZ. The applicant provided amended information that a nursery on the scale originally presented is no longer proposed, conditions have been drafted reflecting the reduced scale of the nursery. Any amendments to the permit, if required by the applicant due to alterations or expansions of the proposed 'online' nursery, will need planning approval and notification will be given.

#### Objector concerns

The physical condition of Lacys Road and its ability carry extra traffic.

\*This objector also submitted a petition. As per Section 57(4) of the *Planning and Environment Act 1987*, is up to the organiser of the petition to convey information to the signatories.

#### Response

The application was referred to Council's Engineering department who provided detailed conditions in response to the original proposal which included the nursery on a larger scale and being open direct to the public 6 days per week. The original conditions have been revised following re-referral of the application upon receipt of the amendment to the application (online sales and limited customer visitation to site). The most recent conditions have been recommended via this report. The applicant was unable to estimate how many customers may come to site to pick up orders, though did indicate via email to Council's Works department that 1-2 visits may be anticipated. Therefore a condition has been placed on permit limiting the number of customers to site in line with this correspondence and the requirement for a log book has also been recommended.

It was made clear to the objectors at the consultation meeting that if they are concerned with the *existing* condition of Lacys Road they should make contact with Council's Engineering department.

#### **OPTION ANALYSIS**

Not applicable.

#### **RISK IMPLICATION**

It is considered that there are no risk implications associated with this application.

#### **FINANCIAL IMPLICATIONS**

It is considered that there are no financial implications associated with this application.

#### **CULTURAL HERITAGE IMPLICATIONS**

This proposal does not require the preparation of a Cultural Heritage Management Plan under the Aboriginal Heritage Regulations 2007.

#### **CONCLUSION**

The application satisfies the objectives relevant policy, zoning provisions and general decision guidelines of the Golden Plains Planning Scheme.

The proposal considered to align with adjoining and surrounding rural residential development in the area. For these reasons the issuing of a Notice of Decision to grant a planning permit is considered is recommended.

**P18-113 - Recommended conditions****Engineering – Construction Plans**

1. Prior to the commencement of any construction works associated with the development, detailed construction plans, drainage computations and specifications to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. The Applicant must make enquiries with the relevant water authority regarding any necessary licenses or approvals. The plans must detail the following:
  - a) A site playout plan, drawn to a scale of 1:100 or 1:200 which includes, as appropriate:
    - i. The boundaries and dimensions of the site
    - ii. Adjoining roads including the road at the rear
    - iii. Minimum offset of 10m from and road or side boundary
    - iv. The location of all existing buildings, including the proposed shed and their proximity in relation to title boundaries
    - v. Relevant ground levels
    - vi. The location of the proposed dam and its setback from the boundaries of the site
    - vii. Show location of any earth bunds proposed, including use of surplus excavation
    - viii. The location of existing or proposed septic tanks and effluent fields including their setback from any watercourse, waterway or dam
    - ix. All external storage and waste treatment areas arising from residence and propose shed
    - x. The construction of internal access
    - xi. The construction of the required vehicle crossing
    - xii. The internal drainage required to drain the site
    - xiii. Any works considered ancillary to the above, as required by the responsible authority.
  - b) Fully dimensioned plans and sections drawn at a scale of 1:100 or 1:200 which include:
    - The length and width of the dam
    - i. The capacity of the dam in megalitres
    - ii. Width at base of dam wall
  - c) With at top of dam wall
    - i. Depth cut below natural surface level of any associated fill
    - ii. Slope of batters
  - d) Details of dam construction materials, including any bypass, spillway or overflow (it is suggested that the wall of the dam have a suitable foundation and be constructed of compacted clay material so as to be completely stable and watertight and that the spillway be constructed of rock or a similar non-erodible material).
  - e) Any water diversion mechanisms, which are not to be shaped directly into the road reserve
  - f) Any erosion or native vegetation protection measures
  - g) Any works ancillary to the above and considered necessary by the responsible authority

All to Golden Plains Shire Council standards and specifications as detailed in current Infrastructure Design Manual (IDM).

**Endorsed Plans**

2. The use and development as shown on the endorsed plans must not be altered without the written consent of the responsible authority.

**Hours of Operation**

3. The nursery may only operate within the following hours unless with the written approval of the responsible authority:
  - a. Monday-Friday: 9am-5pm
  - b. Saturday 10am-4pm

**General**

4. Before works for the shed commence, the construction of the dwelling must have commenced, to the satisfaction of the responsible authority.
5. All external materials to be used in the construction of the dwelling and shed must be of mute tones and be non-reflective and must not result in any adverse visual impact on the amenity of the surrounding area.
6. The dwelling must be connected to a reticulated potable water supply or have an alternative potable water supply with adequate storage for domestic use as well as for fire-fighting purposes to the satisfaction of the responsible authority.
7. The dwelling must be connected to reticulated sewerage, if available. If reticulated sewerage is not available, all wastewater from the dwelling must be treated and retained within the lot in accordance with the State Environment Protection Policy (Waters of Victoria) and Code of Practice – Onsite Wastewater Management under the Environment Protection Act 1970.
8. The dwelling must be connected to a reticulated electricity supply or have an alternative energy source to the satisfaction of the responsible authority.
9. All run off from the proposed buildings and works must be directed to a legal point of discharge to the satisfaction of the responsible authority.
10. This permit is also granted for a shed for domestic storage and other domestic purposes only and as such, must not be altered without the written consent of the responsible authority.
11. No human habitation of the proposed shed is permitted.

**Amenity**

12. The amenity of the area must not be detrimentally affected by the use or development for any reason to the satisfaction of the responsible authority, including the following:
  - a. Appearance of any building, works or materials
  - b. Emission of noise, vibration, smell fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil
  - c. All external lighting must be designed, baffled and located so as to prevent any adverse effect on adjoining land
  - d. Security alarms or similar devices installed on the land must be of a silent type in accordance with any current standard published by Standards Australia International Limited and be connected to a security service
  - e. Presence of vermin; and
  - f. Transport of materials, goods or commodities to or from land must be during the same hours of operation

**Engineering Conditions**

13. Prior to the use commencing or the occupation of the dwelling, a vehicle crossing to the proposed residence must be provided by the following:
14. Provision of a crushed rock drive entry, reinforced concrete pipe culvert and mountable end walls conforming to requirements of the Golden Plains Shire Council as contained in the Infrastructure Design Manual (IDM) standard drawing SD 255 and to the satisfaction of the responsible authority. The applicant is required to apply for Vehicle Crossing Permit prior to the construction of the vehicle crossing
15. No more than two (2) standard vehicle (car) movements (not trucks) are to access the site per day to pick up orders associated with the plant nursery. Any more than this may require an upgrade to the vehicle crossing and access to the site.
16. The applicant must keep an accurate log book detailing vehicle movements to and from the site each day, to the satisfaction of the responsible authority.
17. The internal access for the site must be constructed in accordance with CFA access requirements for rural developments.
18. Before the use begins, and the buildings are occupied, all stormwater and surface water discharging from the site, buildings and works must be retained on site in the proposed dam and the overflow of the dam conveyed to the legal point of discharge to the satisfaction of the responsible authority. The dam must be designed, constructed and licensed in accordance with the document "Your Dam, Your Responsibility" DEWLP 2018. No effluent or polluted water of any type is allowed to enter the stormwater drainage system.

#### **Soil Erosion**

19. All works must be undertaken in a manner that minimises soil erosion. Soil erosion control measures must be employed through the construction and post construction phase of the development and any exposed areas of soil must be stabilised to prevent soil erosion to the satisfaction of the responsible authority.

#### **Risk Assessment**

20. Prior to commencement of the earthworks of the dam, provide a risk assessment prepared by a competent professional engineer which demonstrates that the proposed dam meets Royal Lifesaving Guidelines for Water Safety in Urban Water Developments and DELWP publication "Your Dam, Your Responsibility".

**Note: A works within road reserve permit must be obtained from Council prior to the carrying out of any vehicle crossing works.**

**Note: A works on waterways permit must be obtained from the Corangamite Catchment Management Authority (CCMA) prior to the carrying out of any works on waterways.**

**Note: From 2011 in Victoria, all new or proposed alterations to domestic, stock water and lifestyle dams located on a parcel of land smaller than 8 hectares within the Rural Living Zone, Low Density Residential Zone, Residential Zone, Green Wedge or Township Zone are required to be registered with the relevant water licensing authority before the dam is constructed.**

#### **Expiry**

21. This permit will expire if one of the following circumstances applies:
  - a. The development is not started within two (2) years of the date of issue
  - b. The use is not started and the development is not completed within four (4) years of the date of issue.

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

**Note: This permit does not authorise the commencement of any building construction works. Before any such development may commence, the applicant must apply for and obtain appropriate building approval.**

**Note: All wastewater must be treated and retained within the lot in accordance with the State Environment Protection Policy (Waters of Victoria) under the Environment Protection Act, 1970.**



**6.5 PLANNING APPLICATION P18-077 - VARIATION OF RESTRICTIVE COVENANT AE002849S, 158 TARRAFORD WAY, BATESFORD****File Number:****Author:** [REDACTED] Town Planner**Authoriser:** [REDACTED], Director Assets and Amenity**Applicant:** [REDACTED]**Owner:** [REDACTED]**Proposal:** Variation of Restrictive Covenant AE002849S to allow no more than two dwelling houses to be built or erected on the Lot**Location:** 158 Tarraford Way, Batesford**Attachments:**

1. Copy of Proposed Conditions
2. Copy of Application Documents (under separate cover)
3. Copy of Objection (under separate cover)

**RECOMMENDATION**

That Council issue a Notice of Decision to Grant a Planning Permit to vary restrictive covenant AE002849S over 158 Tarraford Way, Batesford to allow two dwellings on the Lot, with the conditions shown on the attachment to this report.

---

**EXECUTIVE SUMMARY**

This report relates to a planning permit application which proposes to vary the registered restrictive covenant AE002849S, to allow two dwellings on the land at 158 Tarraford Way, Batesford. This report provides a background to the application, a summary of the relevant planning considerations and an officer recommendation which supports the issue of a planning permit.

**PURPOSE**

The application has been referred to the Council Meeting for determination as there is an outstanding objection to the issue of a planning permit.

**CONFLICT OF INTEREST**

In accordance with Section 80B of the Local Government Act 1989, the Officers preparing this report declare no conflict of interest in regard to this matter.

**COUNCIL PLAN**

Managing natural and built environments.

**BACKGROUND INFORMATION**

The application proposes a variation of the restrictive covenant AE002849S affecting the land at 158 Tarraford Way, Batesford, to allow two dwellings on the lot (see attachment 2).

The applicant is seeking to alter (i) of part (a) from

(a) Shall not at any time hereafter erect or build or cause or suffer to be erected or built on the Lot or any part thereof:

(i) any more than one single dwelling house.

To be amended to become

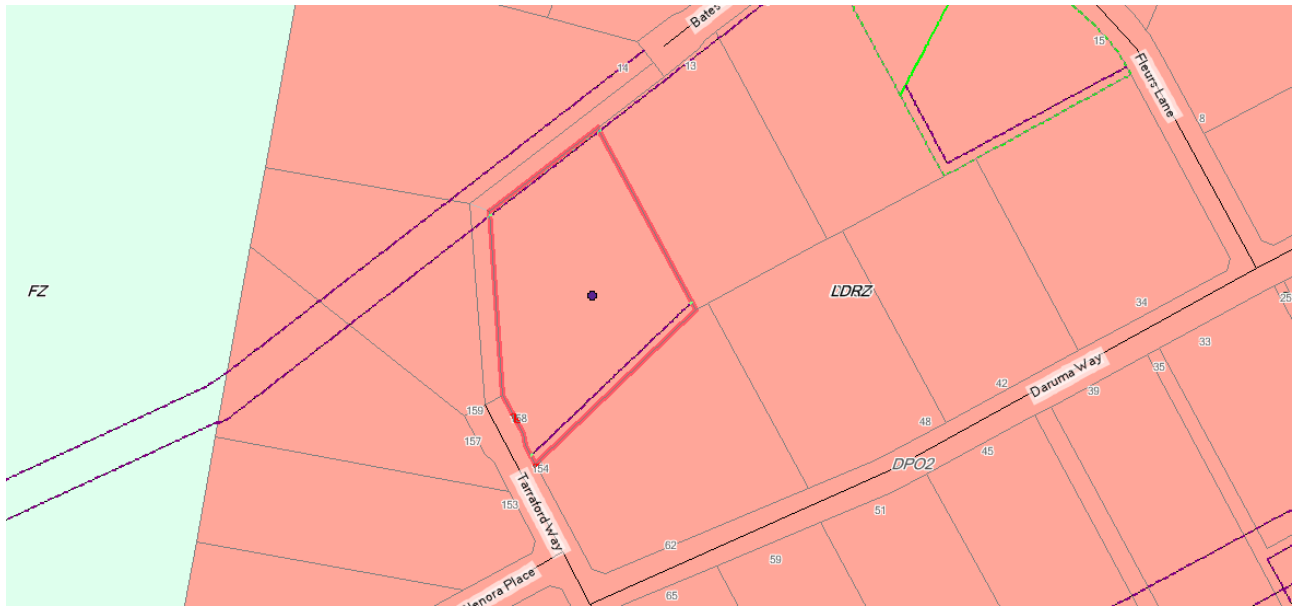
(a) Shall not at any time hereafter erect or build or cause or suffer to be erected or built on the Lot or any part thereof:

- (i) any more than two single dwelling houses

### Locality

The subject land is situated at 158 Tarraford Way, Batesford and is formally described as Lot 12 on Plan of Subdivision 525141E. The site is located within a Low Density Residential Zone (LDRZ) area of the Batesford township. Design and Development Overlay 5 – Low Density Residential Zone Setbacks (DDO5) and Development Plan Overlay 2 – Low Density Residential Development Plan (DPO2) also apply to the site.

DDO5 seeks to ensure that the siting and design of any new buildings is in keeping with the character and appearance of the area. DPO2 will only be applicable to the site if an application for planning permit to subdivide the land is received in the future.



The land parcel has an area of 1.2 hectares and it contains an existing dwelling and associated shed with the site having access from Tarraford Way.

The lots within this area of Batesford range in size from around 4,000 square metres up to 1 hectare; are predominately rectangular in shape, and contain single dwellings with associated shedding.

The application was received by Council on 21 March 2018 and a preliminary assessment of the application was undertaken. Council requested a copy of title for all 25 lots benefitted by the covenant, which were received on 26 June 2018.

### CONSULTATION

Notice of the application was given in accordance with Section 52 of the Act. Notice was provided by registered mail to all adjoining and neighbouring owners and occupiers that are beneficiaries to the covenant. A sign was placed onsite and a copy of the notice placed in a Saturday edition of the Geelong Advertiser.

As a result of the public notice one (1) objection was received (see attachment 2). The objector is not a beneficiary to the covenant. The objection related to:

- Loss of privacy
- Reduction of services
- Impact on environment
- Precedent

A telephone discussion was undertaken on Wednesday 7 November 2018 between the objector and one of Council's Town Planners to discuss the objectors concerns with the proposal. It is considered

that the objector has an in-principle objection to these covenants being varied and that no resolution would be achieved as a result of a consultation meeting. No formal consultation was conducted.

### Beneficiaries

Owners of land within the same subdivision are not all necessarily beneficiaries of a covenant shown on the title for a particular lot. The extent of nearby land owners having the benefit of the covenant is dependent upon the wording of the covenant and the date that each stage and associated lots were transferred from the parent title.

Given the varying nature of covenants, a covenant restriction may apply to every lot in the subdivision or it may only apply to a few lots, meaning the legal beneficiaries of a particular covenant may be the owners of every lot in the street or they may be scattered through a large subdivision. The determination of beneficiaries are identified on the title of the land and require a title search to establish the entitlements of each lot within the original subdivision.

## **ASSESSMENT**

### **Planning Scheme**

#### Particular Provisions

##### Clause 52.02 – Easements, restrictions and reserves

A planning permit is required under Clause 52.02 to create, vary or remove an easement or restriction.

The purpose of the clause is to enable the removal and variation of an easement or restrictions to enable a use or development that complies with the planning scheme but only after the interests of affected people are considered.

A permit is required under the *Planning and Environment Act 1987* before a person proceeds under Section 23 of the *Subdivision Act 1988* to create, vary or remove a restriction. Before deciding on an application, the responsible authority must consider the interests of affected people.

In the case of a restrictive covenant, the affected people are primarily the beneficiaries. Beneficiaries are those who own land affected by the same covenant to which a variation is sought. Non-beneficiaries can still make an objection.

#### General Provisions

The decision guidelines contained in Clause 65 of the planning scheme require Council to consider the following matters, as appropriate:

- The matters set out in Section 60 of the Act
- The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- The purpose of the zone, overlay, or other provision.
- Any matter required to be considered in the zone, overlay or other provision.
- The orderly planning of the area.
- The effect on the amenity of the area.
- The proximity of the land to any public land
- Factors likely to cause or contribute to land degradation, salinity or reduce water quality.
- Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site.
- The extent and character of native vegetation and the likelihood of its destruction.
- Whether native vegetation is to be or can be protected, planted or allowed to regenerate.
- The degree of flood erosion or fire hazard associated with the location of the land and the use, development or management of the land so as to minimise any such hazard.

#### Section 60 of the Planning and Environment Act

Section 60 of the Act specifies a number of matters that the responsible authority must consider before deciding an application. Specifically, for covenants listed post 1991, section 60(2) of the *Planning and Environment Act 1987* says that Council must satisfy itself that the owners of any land benefitted by a covenant will be unlikely to suffer detriment of any kind. Section 60(2) states the following:

*The responsible authority must not grant a permit which allows the removal or variation of a restriction unless it is satisfied that the owner of any land benefitted by the restriction will be unlikely to suffer:-*

*(a) financial loss; or*

*(b) loss of amenity; or*

*(c) loss arising from change to the character of the neighbourhood; or*

*(d) any other material detriment:-*

*as a consequence of the removal or variation of the restriction.*

Therefore if an objection is received from a person benefitting from the covenant, Council must not grant a permit unless they are satisfied that the grant of a permit is unlikely to cause detriment to the person/s benefitted by the covenant. The covenant this application seeks to vary, was registered in 2011.

## **DISCUSSION**

### ***(i) Planning Scheme***

The application seeks to vary the restrictive covenant only and therefore there are limited relevant policy provisions within the planning scheme to be considered.

It should be noted that the application is only for the variation to the restrictive covenant, and not for the subdivision of the land. The concerns raised by the objector relate to matters concerning the subdivision of the land. Currently there are no restrictions on the owner/applicant applying for a two lot subdivision of the land, however, if successful they would not be allowed to build a dwelling on the newly created lot as it would be restricted by the existing covenant.

As the application is only for a variation to the restrictive covenant, and not for the subdivision of the land, the issues raised in the objection are considered to be irrelevant to this application. The owner/applicant will be required to apply for a subdivision of the land in a separate planning application.

Clause 22.09 of the Golden Plains Planning Scheme, provides a local planning policy for low density residential subdivision. This policy encourages appropriate infill development, with the minimum lot size of the Low Density Residential Zone being smaller than it was at the time this estate was created, due to a planning scheme amendment by the State.

The proposed variation to this restriction, even if an additional dwelling is ultimately constructed, is not considered to change character of the neighbourhood or result in a loss of amenity.

### ***(ii) Planning and Environment Act 1987***

In relation to the proposed variation of the covenant, notice of the application was carried out in accordance with the Act and there were no objections to the variation of the covenant from persons benefitting from the covenant.

Therefore, in accordance with Section 60(2) of the Act, it is considered that the grant of a permit will not cause detriment to any person benefitted by the covenant. In accordance with Section 57(1)(a) of the Act, given the sole objector does not benefit from the covenant, they are not deemed to be a person affected by the recommended issue of a NOD to grant a planning permit.

It is therefore considered that under Section 57(1)(a) an objector who is not benefitting from the covenant is not deemed to be a person affected by the grant of a permit.

**CULTURAL HERITAGE IMPLICATIONS**

This proposal does not require the preparation of a Cultural Heritage Management Plan under the Aboriginal Heritage Regulations 2007.

**CONCLUSION**

A recommendation has been made to issue a Notice of Decision to Grant a Planning Permit to allow the variation to restrictive covenant AJ155743K to allow two dwellings on the land. Notice of the application was provided to all persons benefitting from the covenant and no objections were received from those benefitting from the covenant. For these reasons the issue of a permit is not considered to cause material detriment to any person.

**Proposed Conditions**

1. A plan of variation of a restriction must be submitted to the responsible authority for certification.
2. The certified plan must be lodged with the Office of Titles for registration in accordance with section 23 of the Subdivision Act 1988.
3. This permit will expire if the certified plan is not lodged at the Office of Titles for registration within two years of the issue date of this permit. In accordance with section 69 of the Planning and Environment Act 1987, an application may be submitted to the responsible authority for an extension of the period referred to in this condition.

**6.6 PLANNING APPLICATION P18-193 - FOR THE USE OF LAND FOR A SHOP (PHARMACY), 29 HIGH ST, INVERLEIGH****File Number:****Author:** [REDACTED] Town Planner**Authoriser:** [REDACTED] Director Assets and Amenity**Applicant:** [REDACTED]**Owner:** [REDACTED]**Proposal:** Use of the land for a Shop (Pharmacy), Reduction of Car-Parking requirements and the development and display of Business Identification Signage**Location:** CA 4, Section 5, Parish of Doroq, 29 High Street, Inverleigh**Attachments:**

1. P18-193 Permit (recommended) Conditions
2. P18-193 Planning Application and Plans (under separate cover)
3. P18-193 Objections (2) (under separate cover)

**RECOMMENDATION**

That Council resolve to issue a Notice of Decision to Grant a planning permit for the use of the land for a Shop (Pharmacy), reduction of car-parking requirements and the development and display of business identification signage at 29 High Street, Inverleigh. Refer to Attachment 1.

**EXECUTIVE SUMMARY**

This report relates to a planning permit application for the use of the land for a shop (pharmacy), reduction of car-parking requirements and the development and display of business identification signage at CA 4, Section 5, Parish of Doroq, 29 High Street, Inverleigh. This report provides a background to the application and a summary of the relevant planning considerations and recommended conditions to the permit.

**PURPOSE**

This application has been referred to Council for determination, because there are two (2) unresolved objections to the application.

**CONFLICT OF INTEREST**

In accordance with Section 80B of the *Local Government Act 1989*, the Officers preparing this report declare no conflict of interest in regards to this matter.

**COUNCIL PLAN**

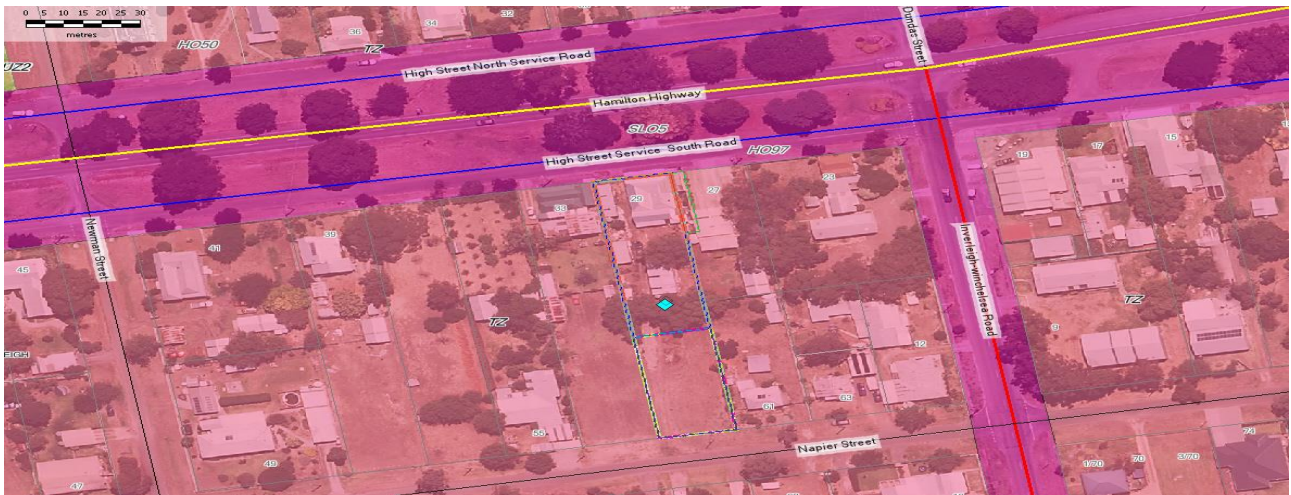
We will work to promote and protect the natural environment and ensure that growth and change in the Shire will be managed for the benefit of all the community

**BACKGROUND INFORMATION****The subject site**

The subject property is located on the south side of High Street, Inverleigh, at property number 29. High Street sits on the southern side of the Hamilton Highway, the main thoroughfare of Inverleigh. This long rectangular parcel of land is 2200 square metres in area, with approximately 25m of frontage to High Street. The site has a road frontage of 25m to Napier Street at the rear. (See aerial on following page).

Aerial image identifying the site.





The site is zoned Township and no overlays apply. High Street serves as a service road to the Hamilton Highway, is zoned Road Category 1 (RZ1).

Adjoining and nearby land is similarly zoned Township. The site adjoining to the east contains the Inverleigh Country Fire Authority (CFA) shed which contains two firefighting tankers. Access for the use of the CFA shed is from High Street. The property immediately adjoining to the west contains a dwelling and associated shedding, access for this dwelling is from Napier Street.

There are several mature trees in front of the property, sitting between the Highway and High Street. Ample car parking in front of this strip of trees along the High Street is available. Car parking along most of the south side of High Street also provides sufficient on street car parking.

This site contains an old shop structure. The building is currently vacant and has not had a long term lease for many years (refer to photos below which show the building. Note no line marking for parking spaces).





## The proposal

The application proposes the use of the land for a shop (pharmacy), reduction of car-parking requirements and the development and display of business identification signage. The applicant proposes to use only a portion of the building at 29 High Street; this centrally located area of the building equates to approximately 37 square metres in area. The area as marked with red indicates the extent of the building proposed to be used for the Shop (pharmacy) see image below.



This area, as shown highlighted above, measures 5.8 metres x 6.4 metres is currently vacant as is the remainder of the shop space.

The shop is proposed to be open for the following hours of operation:

- Monday to Friday 9am -5pm
- Saturday 9am -1pm
- Sunday and Public Holidays – Closed to Public

A Business Identification sign is also proposed to be displayed on the above the parapet of this building. This is proposed to be 6.7m x 0.7m (total area of 4.69 square metres).

No parking associated with this use is to be provided on site, hence a reduction of the parking full requirement is also sought.

## CONSULTATION

Notice of the application was given in accordance with Section 52 (1) (a) & (d) of the *Planning and Environment Act 1987*. Notice was sent via mail to adjoining and surrounding owners and occupiers and a notice was placed at the front of the subject site.

As a result of the public notification, three (3) objections were received. Copies of the objections are provided in Attachment 2. The main grounds of objection are summarised as follows:

- Reduction of car parking requirement.
- Fire brigade access to their shed and associated parking.
- High risk bushfire area.

A consultation meeting was held on 5 October 2018. Two of the objectors attended this meeting. As a result of the matters discussed, advice was sought from Council's Engineering department in relation to on street parking and no standing zones/signage. Engineering findings are discussed in more detail in the assessment section of this report.

**ASSESSMENT****Golden Plains Planning Scheme****Planning Policy Framework (State)**

Clause 11.03-6R, Regional and Local Places

The key objective of this policy relates to regional and local places, such as Inverleigh, is to facilitate integrated place based planning. The policy highlights two key strategies, as noted:

- a) Integrate relevant planning considerations to provide specific direction for the planning of sites, places, neighbourhoods and towns.
- b) Consider the distinctive characteristics and needs of regional and local places in planning for future land use and development.

Clause 17, Economic Development.

The two objectives of this policy are the following:

- a) Planning is to provide for a strong and innovative economy, where all sectors are critical to economic prosperity.
- b) Planning is to contribute to the economic wellbeing of the state and foster economic growth by providing land, facilitating decisions and resolving land use conflicts, so that each region may build on its strengths and achieve its economic potential.

Clause 17.01-1R, Diversified Economy Geelong G21

A key strategy of this recently introduced policy (31/07/2018), which directly relates to the G21 region, including Inverleigh, states the following:

- a) Support new businesses that provide employment and innovation opportunities in identified employment nodes across the region.

**Local Planning Policy Frameworks**

Clause 21.05-1, Economic Development – Commercial

This policy recognises towns in the Shire, such as Inverleigh performing important local shopping and business roles.

A key objective and strategy of this policy is to “*consolidate and support commercial development in Townships*”.

Clause 21.07-5, Inverleigh Structure Plan

The Structure Plan of Inverleigh acknowledges the growing popularity of the town not only for passing tourists but also for those that wish to remain or relocate to the township and surrounds. Hence, demand has not only increased for residential development but the flow on effect and evident in recent community feedback is the need for new services and facilities to support such growth, in particular business that do not impact upon the environmental or heritage assets of the town.

A key objective of the Structure plan is to “*encourage economic activity in the township, that enhances the towns central role as community focus and meeting place*”. The plan outlines a number of strategies, for Inverleigh, specifically, but not limited to the following:

- a) Support new commercial development (and use) in the existing ‘old town’ area, in particular High Street, where in fill development can occur and effluent can be treated and retained onsite;
- b) Support employment generating activities;

- c) Support the re-use of existing (historic) buildings for commercial uses in order to retain a sense of the existing town fabric, particularly along High Street.

### **Zone and Overlays**

#### Clause 32.05-2 Township Zone (TZ)

The location of the subject property and shop site is within a Township Zone (TZ).

Pursuant to Clause 32.05-2 a planning permit is required for the use of a pharmacy (shop) under Section 2 (Land Uses) under the zone

There are no requirements outlined in the schedule of the zone.

The key purposes of the zone are as follows:

- a) To provide for residential development and a range of commercial, industrial and other uses in small towns;
- b) To encourage development that respects the neighbourhood character of the area; and
- c) To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.

Zoning Decision Guidelines specific to the proposal for use, but not limited, include:

- The objectives set out in a schedule to this zone.
- The protection and enhancement of the character of the town and surrounding area including the retention of vegetation.
- The availability and provision of utility services, including sewerage, water, drainage, electricity, gas and telecommunications.
- The need for a verandah along the front or side of commercial buildings to provide shelter for pedestrians.
- Provision of car and bicycle parking and loading bay facilities and landscaping.
- The effect that existing uses on adjoining or nearby land may have on the proposed use.
- The scale and intensity of the use and development.
- The safety, efficiency and amenity effects of traffic to be generated by the proposal.

No overlays apply to this site.

### **Particular Provisions**

#### Clause 52.05- Signs

In accordance with Clause 32.05-17 of the Township zone, the relevant sign requirements for this zone as per 52.05-13 are at Category 3 - High amenity area. In accordance with this clause, a planning permit is required for a Business identification sign proposed to be attached above a shop verandah, requires a planning permit.

Decision Guidelines include but are not limited to:

- The compatibility of the proposed sign with the existing or desired future character of the area in which it is proposed to be located.
- The proportion, scale and form of the proposed sign relative to the streetscape, setting or landscape.
- The scale and form of the sign relative to the scale, proportion and any other significant characteristics of the host site and host building

#### Clause 52.06 – Car Parking

In accordance with the requirements of Table 1 at Clause 52.06-5, 4 car parking spaces are required per 100 square metres of leasable floor area for a Shop which is the applicable definition in this instance. The application proposes to use just 37 square metres of floor area, however rounding up to the nearest 100, a requirement of 4 spaces applies. Given no spaces are able to be provided on site, a full reduction of this requirement is proposed.

Car Parking Decision Guidelines specific to the proposal for car parking reduction, include, but are not limited to:

- The availability of alternative car parking in the locality of the land;
- The practicality of providing car parking on the site, particularly for lots of less than 300 square metres;
- The variation of car parking demand likely to be generated by the proposed use over time;
- The short-stay and long-stay car parking demand likely to be generated by the proposed use;
- The convenience of pedestrian and cyclist access to the land; and
- The anticipated car ownership rates of likely or proposed visitors to or occupants (residents or employees) of the land.

### **General Provisions**

#### Clause 65.01 – Decision Guidelines

The decision guidelines contained in Clause 65.01 of the Planning Scheme require council to consider the following matters, as appropriate:

- The matters set out in section 60 of the Act.
- The State and Local Planning Policy, Municipal Strategic Statement and local planning provisions.
- The purpose of the zone, overlay or other provision.
- Any matter required to be considered in the zone, overlay or other provision.
- The orderly planning of the area.
- The effect on the amenity of the area.
- The proximity of the land to any public land.
- Factors likely to cause or contribute to land degradation, salinity or reduce water quality.
- Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site.
- The extent and character of native vegetation and the likelihood of its destruction.
- Whether native vegetation is to be or can be protected, planted or allowed to regenerate.
- The degree of flood, erosion or fire hazard associated with the location of the land and the use, development or management of the land so as to minimise any such hazard.
- The adequacy of loading and unloading facilities and any associated amenity, traffic flow and road safety impacts.

### **DISCUSSION**

The proposal is considered to align with key objectives of the State and Local Planning Policies shown in this report, the purpose of the zone, particular provisions and relevant Decision Guidelines of the Golden Plains Planning Scheme.

The proposal aims to provide a retail service by way of a shop, in particular a pharmacy in the township of Inverleigh, where currently one does not exist.

The Inverleigh Structure Plan acknowledges the growing popularity of Inverleigh, where demand for residential development has increased and hence demand for some services has also emerged. A local pharmacy would encouraging expenditure to remain in the township, hence contributing to modest economic growth of the area.

The zoning of the subject property being Township (TZ) triggers the need for a planning permit, however the zone allows for a use such as shop (pharmacy), taking into account matters such as possible parking requirements. The use of a shop in the TZ is appropriate in this location.

No external buildings or works are proposed aside from the display of a sign. This site has previously been used for a shop and will add to the activation of this area of the streetscape.

There are no specified conditions outlined for the business identification sign and in particular a sign that will be attached above the relative shop front verandah. It has been assessment that the business identification sign is an appropriate design and development, associated with the proposed pharmacy. In addition, it is considered due to the location directly above the verandah of the shop front which is a traditional location for a shop. The size is at approximately 6 square meters is acceptable and makes clear the type of use in the building. There are no heritage controls which apply to this building.

This application also seeks a full reduction to the car parking requirement (4 spaces). There is no onsite parking available for use by the applicant. There are currently no line marked car parking spaces on street in front of this site however there is clear space available. There are three (3) immediately in front of the shop and at least one further west. There is also informal parking on the north side of the service road.

This shop (pharmacy) is 37 square metres in area, and any further expansion of this would be subject to planning approval. A pharmacy of this size and limited product range will experience frequent but shorter visitations than a much larger chain store (Chemist Warehouse for example). It will also have a different length of visitation to other uses that generate a parking requirement such as restaurant for example. There is available on street parking in this location, however careful consideration has been given to ensuring that space is kept clear for the local CFA (next door) in the event of a call out and to ensure that the CFA trucks can get in and out of the shed, volunteers can readily park near the site and that adequate 'no standing' areas are made available. This matter is discussed in more detail when examining objector concerns, however the full reduction of the 4 required car parking spaces, is accepted and supported.

The main matter of consideration in relation to parking has been to ensure that there is

### **Objector Concerns**

The main grounds of objection are summarised as follows:

#### **Reduction of car parking requirement**

To reduce the required onsite (within the boundaries of the property) car parking spaces in accordance with Clause 52.06-5 (Car Parking) of the Planning Scheme from four (4) to zero. The proposal seeks to utilize the available on-street car spaces for car parking. As noted there are spaces on street that are not formally line marked. It is expected that the car-parking demand generated by this small pharmacy will be modest in volume with a quick turnover (on average 10-15 minutes per vehicle at most). The usage will also be spread across business hours without the more intense periods of use experienced with a school or café for example. The proposed trading days and hours of operation are standard business hours. There should not be an expectation that all patrons or customers can automatically park in front of a business or service.

#### **Fire brigade access to their shed and associated parking**

The application was internally referred to Council's Works department after the consultation meeting to seek their input into the pertinent issue of ensuring usage of the CFA shed in the event of a call out and that volunteers can quickly and easily park nearby. The Works department provided the following response:

*Works department will undertake the following:*

*Line marking, and an upgrade to signage in the subject area as part of our routine maintenance, and accordingly will realign the 'No Standing Signs' in favour of the CFA to their property boundaries, create a parking zone for CFA members which allows for a minimum of six vehicles on the North side of High Street South Service Road, and mark up to four (4) bays directly in front of the proposed shop as one (1) hour bays to facilitate easy access to the pharmacy".*

This response has not been applied as a condition. The Works department have committed to carry out these works and this commitment is seen as a reasonable response to valid concerns.

Properties along this section of High Street vary from commercial to residential, although the majority of properties along this section of the street have remained residential. Many properties have dual frontage and hence the ability to access their sites from Napier Street for their own on-site parking. There is ample space on street in the vicinity to cater for the needs of this use.

The concerns raised on behalf of the CFA are important and Council wants to ensure that the CFA can continue to use their site efficiently however does not consider any more than the matters committed to by the Works department is necessary.

### **High risk bushfire area**

The Bushfire Management Overlay (BMO) does not apply to this site.

### **Inverleigh Streetscape Masterplan**

There were no measure suggested by the Works department who are now managing the Inverleigh Streetscape Masterplan which is currently underway but not complete.

### **CULTURAL HERITAGE IMPLICATIONS**

This proposal does not require the preparation of a Cultural Heritage Management Plan under the Aboriginal Heritage Regulations 2007.

### **CONCLUSION**

The application satisfies the relevant provisions of the State and Local Planning Policies, Township zone, the particular provisions relating to car parking and signs and the relevant decision guidelines of the Golden Plains Planning Scheme.



**P18-193****Recommended Conditions****Proposed Conditions: 1-12 and 1 note****Endorsed plans**

1. The use and development of signage as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.
2. Signage materials to be used in the construction of the building must be of muted tones and be non-reflective and must not result in any adverse visual impact on the amenity of the surrounding area.

**Hours of operation**

3. The pharmacy may only operate within the following hours, unless written approval is first obtained from the Responsible Authority, as follows:

Monday – Friday 9 am – 5pm  
Saturday 9am -1pm  
Sunday and Public Holidays –Closed

**Amenity**

4. The amenity of the area must not be detrimentally affected by the use for any reason to the satisfaction of the Responsible Authority.

Including the following:

- a) Appearance of any building, works or materials;
  - b) Emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil;
  - c) All external lighting must be designed, baffled and located so as to prevent any adverse effect on adjoining land;
  - d) Security alarms or similar devices installed on the land must be of a silent type in accordance with any current standard published by Standards Australia International Limited and be connected to a security service;
  - e) Presence of vermin; and
  - f) Transport of materials, goods or commodities to or from the land must be during the same hours of operation
5. The loading and unloading of goods must not disrupt the circulation and parking of vehicles on the land or street
  6. The site must be kept in an ordered and tidy state and its appearance must not prejudicially affect the amenity of the area.

**Advertising Signs**

7. The location and details of the sign, including those of the supporting structure, as shown on the endorsed plans, must not be altered without the written consent of the responsible authority.
8. The sign must not contain any flashing light.

9. The sign(s) must not be illuminated by external or internal light except with the written consent of the responsible authority.
10. The sign must be constructed and maintained to the satisfaction of the responsible authority.
11. This permit for the sign expires 15 years from the date of issue.

**Expiry of Permit**

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

- a) The use is not started within two (2) years of the date of this permit
- b) The use is discontinued for a period of two years or more.

The responsible authority may extend the period for commencement of the use if a request is made in writing before the permit expires or within six (6) months afterwards.

**Note: This permit does not authorize the commencement of any building construction works. Before any such development may commence, the applicant must apply for and obtain appropriate building approval.**



## 6.7 INVERLEIGH STREETSCAPE DRAFT MASTER PLAN

**File Number:****Author:** Tony Talevski, Team Leader of Roads & Waste Services**Authoriser:** Greg Anders, Director Assets and Amenity**Attachments:**

1. Draft Streetscape Master Plan (under separate cover)
2. Have Your Say Survey Results (under separate cover)
3. VicRoads Meeting Minutes (under separate cover)
4. Petition objecting to proposed changes to one-way service road (under separate cover)

### RECOMMENDATION

That Council:

1. Notes the petition received in response to the Draft Inverleigh Streetscape Master Plan.
2. Adopts the introduction in High Street Inverleigh of one-way service roads in the final Draft of the Inverleigh Streetscape Master Plan that will be presented to Council for approval.
3. Notifies the petition submitter of the decision to transition the traffic flow in the High Street Inverleigh Service Roads from “two-way” to “one-way”.

### EXECUTIVE SUMMARY

The proposed Inverleigh Streetscape Master Plan will benefit the community by:

1. Enhancing pedestrian accessibility and safety, with particular benefits for older persons, school aged children and people with mobility challenges.
2. Supporting social life in the community by providing spaces that are more attractive and comfortable for people to stay, rest and interact.
3. Supporting local traders by providing improved environment for alfresco dining.
4. Providing more opportunities for streetscape beautification, furniture, landscaping and vehicle parking.

### BACKGROUND

Development of the Inverleigh Streetscape Master plan initiated from community concerns on the south side of the Hamilton Highway between East Street and Dundas Street. It was viewed by the community that this area was in need of urgent improvement based on the high interaction between pedestrians and traffic and poor provision for vehicle parking and pedestrians.

This area has a high number of very popular local businesses fronting this section of roadway including the Inverleigh Hotel, service station café, bakery and provedore. The verge area of the service road in front of these business is increasingly busy as it caters for the overflow parking of cars visiting the town and these businesses which is causing damage to township trees and infrastructure.

As a result of the above concerns, Council budgeted \$40,000 in its 2017/18 budget to fund the development of the Inverleigh Streetscape Master Plan in close consultation with the Inverleigh community. Council appointed MESH consulting to facilitate the development of the draft Inverleigh Streetscape Master Plan. It is proposed the physical civil works be undertaken during 2019/20 subject to a successful capital budget bid of \$450,000 for the upgrade of the Southern service road between Dundas and East Street.

It is proposed the Inverleigh streetscape be upgraded incrementally and generally in accordance with the attached draft Master Plan, Attachment 2.

## CONSULTATION

Stakeholder engagement has underpinned the development of the draft Master Plan. Key methods of engagement have included:

- 1) The project had an on-line presence through a number of channels including Have Your Say Survey, Council's website and Council's Facebook page.
- 2) Council published articles regarding consultation and updates in local community news letters.
- 3) Relevant authorities, including Regional Roads Victoria (RRV) have been involved and have contributed to the plan.
- 4) Similarly, the Inverleigh community has been informed and engaged throughout the process. A total of 81 surveys were received, followed by two listening posts providing one-on-one discussions about the draft plan with up to 70 individuals.
- 5) Consultation and development of the draft Inverleigh Streetscape Masterplan was aligned with consultation and preparation of the Inverleigh Structure Plan to ensure transparency and integration of these projects.

A summary of survey results of the community engagement demonstrated a strong interest in the Inverleigh Streetscape and a strong sense of community spirit. Most respondents chose to provide answers to the open-ended questions. The comments are wide ranging and reflect a diversity of community opinion on many issues. There were plenty of great ideas shared and are summarised as follows:

*How do Inverleigh residents typically get in to the town centre, and what do they like about High Street?*

Respondents typically travel to the Inverleigh town centre by car and walking, and particularly like the green and leafy landscape, the small country town feel and the wide roads (including the service roads).

*What could be done to improve High Street?*

When asked about improvements in High Street, most residents would like to see more landscaping, improved drainage including Water Sensitive Urban Design (WSUD), and a unique town entrance sign which is currently being undertaken by the Inverleigh Progress Association. Additional suggestions for improving the Inverleigh Streetscape included improving the drainage and formalising car parking.

*What are the main traffic and car parking issues in High Street?*

Most respondents considered that a pedestrian crossing would solve one of the main traffic issues, followed closely by the need to change ad hoc car parking under trees and in nature strips. Interestingly, the suggestions for overcoming traffic or parking issues indicated that the traffic and parking was okay, equally with the need for formalised parking bays.

*What do you value most about the trees along High Street?*

When asked what they value most about the trees along High Street most respondents liked the greening of the streetscape, followed by the significant height and thirdly the shade and shelter that the trees provide.

*What is your primary role in the Inverleigh Community, and how old are you?*

The survey revealed that the primary role in the Inverleigh Community held by most respondents was a local resident/property owner and individuals were primarily between 35 and 54 years of age.

Key issues raised during consultation and officer responses are summarised below:

Issue 1: One way service road is not supported and a petition with over 250 signatures was submitted to Council by the proprietors of 12 High Street, Inverleigh being the General Store/Post Office. Of the total number of signatories, 62 (or 23%) were not residents of Inverleigh.

Response: Council conducted a traffic survey of the existing movements within the service roads to ascertain the status of current flow; which identified the movements in the table and plan below:

North Service Road	West of West St	% ADT	West of Newman (School)	% ADT	West of Dundas St	% ADT	West of East St	% ADT	% Average Northern
<b>ADT Combined</b>	6		152		91		383		
<b>West</b>	3	50%	25	16%	20	22%	150	39%	32%
<b>East</b>	3	50%	127	84%	71	78%	232	61%	68%

South Service Road	West of West St ADT	% ADT	West of Newman	% ADT	West of Dundas St	% ADT	West of East St	% ADT	% Average Southern
<b>ADT Combined</b>	52		98		71		303		
<b>West</b>	31	60%	54	55%	45	63%	181	60%	59%
<b>East</b>	21	40%	45	46%	27	38%	122	40%	41%



The results identified across the four blocks, on average 32% of vehicles travelled West and 68% travelling East in the in the Northern Service Road. The percentage is higher 78% for traffic flow in the block West of Dundas Street, predominantly due to the Primary School enforcing a one-way movement for the safety of the school children.

For the Southern Service Road, on average 59% of vehicles are travelling West and 41% are travelling East across the 4 blocks.

When Council consulted with Regional Roads Victoria (RRV) they responded with the following comments:

*“The key points are that we want to aim for consistency with the movements of traffic through the service roads. For one way, consideration will be needed for appropriate signage/line-marking and the arrangement of angled parking. The combination of the one way and the median island strip will also suggest an increase in turning movements to access/exit the service roads and the opposite bound roads.”*

*“RRV is more inclined with the one-way concept which could provide a future opportunity for businesses to have more room for outdoor dining. The only exception maybe to retain two-way in certain areas such as allowing access for Sacred Heart Catholic Church and a couple of properties west of it”*

Notwithstanding the views of the petition, in the interests of public safety and more opportunities for streetscape beautification etc, the officer's advice is for Council to adopt a one-way movement through the Inverleigh service roads (East direction on the northern side and west direction on the southern side) as it provides the following benefits to the community:

- 1) Safer vehicle and pedestrian movements
- 2) Widening of the nature strip by an additional 3.4m approximately to allow greater alfresco dining opportunities on the south side of High Street and more space for landscaping, street furniture and carparking
- 3) Supports social life in the community by providing spaces that are more attractive and comfortable for people to stay, rest and interact.

#### Issue 2: Pedestrian crossing of the Hamilton Highway

Response: Council responded with the inclusion of centre medium into the Draft Streetscape Master Plan providing a refuge and it encourage pedestrians to cross at set points at either ends of the medium.

When Council consulted with RRV they responded with the following comments:

*"The mix of landscaping on the median island can potentially encourage pedestrians to use the breaks in the garden beds with the granitic gravel to use as their crossing points. It would be more preferred if pedestrians as well as truck drivers at the parking bays were encouraged to use each end of the median to cross safely."*

#### Issue 3: Raised Safety Platform for Pedestrian

Response: The raised cobbled road detail being blue stone type platforms provide a set location for vehicles to slow, officers would not encourage that Council endorse pedestrians to have right of way at these locations and that appropriate signage be installed to clearly communicate this.

When Council consulted with RRV they responded with the following comments:

A couple suggestions were made in regards of providing treatments that encourage slower speeds for oncoming traffic at locations with pedestrian activity. Raised safety platforms on entry/along the service road or locations such as East St would be ideal, however there needs to be a clear indication for who has right of way as these raised crossings without the zebra line marking can be confusing for both pedestrians and drivers.

#### Issue 4: Entry and exit into the Petrol Service Station

Response: Council is to consider amendment to the Draft Streetscape Master Plan to incorporate a deceleration lane as recommended by RRV comments below.

*"With current speeds, the proposed access to the Shell station may have vehicles travelling at a high speed without slowing down to enter past the service road into the station. A deceleration lane would be a possible solution to have vehicles slow down before entering."*

### **FINANCIAL & RISK MANAGEMENT IMPLICATIONS**

There is currently no funding allocated towards the Inverleigh Streetscape Upgrade, however Council officers will be seeking funding opportunities as they arise. Stage 1 will be submitted to Council as a Budget Bid for \$450,000. Should the recommendations to generally adopt this Draft Master Plan Council officers will proceed to prepare the final draft of the streetscape master plan for presentation to Council for adoption.

## 6.8 SONS OF THE WEST (SOTW) PROGRAM REVIEW

**File Number:****Author:** Brodie Marston, Recreation Development Officer**Authoriser:** Patti Wenn, Acting Director Community Services**Attachments:** 1. SOTW 2017 Evaluation (under separate cover)

### RECOMMENDATION

That Council explore an alternate initiative to the Sons of the West (SOTW) program in order to support health and physical activity outcomes across the Shire

---

### EXECUTIVE SUMMARY

The SOTW program has been delivered in Smythesdale for the past two years by Council in partnership with the Western Bulldogs Community Foundation and Sports Central.

At a recent 2019 planning discussion with the Western Bulldogs Community Foundation, Council were notified that the program costs will increase from \$10,000 in 2018 to \$25,000 in 2019. The cost increase has been attributed to rising operational costs for the Foundation and a decrease in government funding.

Further to this cost increase, Council received confirmation from the Buninyong and District Financial Services that they would not be sponsoring the program again after two years of support.

Given the substantial increase in funding required to deliver the project and with no foreseeable external funding to offset costs, it is recommended Council withdraw support for the SOTW program and explore a Council developed initiative using local partners to fill this void.

### BACKGROUND

In 2017 Council, in partnership with the Western Bulldogs Community Foundation, delivered the highly regarded SOTW program as part of a coordinated effort to address the declining health of men, aged 18 years and over, residing or working in Golden Plains Shire.

Taking a no-nonsense approach, with easy to access local activities aimed at improving awareness and general health levels, the program avoided strenuous, rigorous activities and focused more on education, participation and light exercise. This 10 week program addressed three key areas being healthy eating, physical activity and mental health.

### POLICY CONTENT

This report aligns to Council's priorities of 'Promoting Healthy and Connected Communities' as per the 2017-2021 Council Plan.

### DISCUSSION

The SOTW program had 23 participants in year one (2017), and 19 participants in year two (2018). The total cost to Council, including staff time, was \$23,512 over the two years (refer next page for the financial report).

2017 Expenditure		2018 Expenditure	
Program Cost-Western Bulldogs Community Foundation	\$ 15,000.00	Program Cost-Western Bulldogs Community Foundation	\$ 10,000.00
Facilitator/Coordinator Cost-Sports Central	\$ 1,100.00	Facilitator/Coordinator Cost-Sports Central	\$ 1,934.00
Facility Hire	\$ 500.00	Facility Hire	\$ 500.00
Staff Costs/Resources	\$ 3,900.00	Staff Costs/Resources	\$ 3,066.00
Graduation Event Costs	\$ 275.00	Graduation Event Costs	\$ 275.00
<b>Total</b>	<b>\$ 20,775.00</b>	<b>Total</b>	<b>\$ 15,775.00</b>
2017 Income		2018 Income	
Buninyong & District Financial Services	\$ 5,000.00	Buninyong & District Financial Services	\$ 8,018.00
<b>Total Project Cost to Council</b>	<b>\$ 15,775.00</b>	<b>Total Project Cost to Council</b>	<b>\$ 7,757.00</b>

**CONSULTATION**

At the conclusion of the 2018 SOTW Program, Council facilitated an end of year program discussion with participants to better understand why they chose to participate; and if Council offered a different program, should SOTW not be available, whether they would attend. While the Western Bulldogs brand was an initial attractor, participants also mentioned that the topics covered in program sessions, the environment, and most importantly, the relationships they developed, were the key reasons they returned to participate.

Council staff have discussed the program objectives and how to support both current participants and the wider community should SOTW not continue in 2019 and beyond.

The development of “Active Golden Plains” is a proposed initiative to replace SOTW. The “Active Golden Plains” concept will focus on increasing participation in sport, recreation and physical activity across the whole Shire to promote health and wellbeing within our community. This program is currently being developed and will be presented to Council as a new initiative in the 2019/20 budget.

Council’s Recreation Team also ran a recent workshop with State sporting associations and recreation providers, where commitment to supporting physical activity in Golden Plains and providing additional support networks to establish a new, localised program was confirmed.

**CONFLICT OF INTEREST**

In accordance with Section 80B of the Local Government Act 1989, the Officer preparing this report declares no conflict of interest in regards to this matter.

**CONCLUSION/WAY FORWARD**

Given Council’s strong relationships with key local providers and the potential to reach a broader audience than the SOTW program, it is recommended Council invest in an internally developed initiative to replace this program.

Any project would engage existing SOTW participants and also target other under-represented groups across Golden Plains Shire.

**6.9 GPS-RFT20-2018 - SUPPLY OF MOTOR GRADERS X 2 - AWARDING OF TENDER****File Number:****Author:** David Greaves, Works Manager**Authoriser:** Greg Anders, Director Assets and Amenity**Attachments:** Nil**RECOMMENDATION**

That Council award contract GPS-RFT20-2018 to Hitachi Construction Machinery (Australia) Pty. Ltd. For the supply and delivery of two (2) John Deere 670GP Motor Graders for a total tendered price of \$777,900 excluding GST.

---

**EXECUTIVE SUMMARY**

This tender is part of Councils long term plant and equipment replacement program. The existing graders (12+ years old); Caterpillar 12H's, are used to maintain Councils gravel road network and sealed roads (road shoulders) as well as construction associated with the renewal and upgrading of the road network. Replacement of the graders is in accordance with Council's Plant Replacement Schedule.

**BACKGROUND**

As part of the 10 year plant replacement program, it is proposed to procure 2 Motor Graders as replacements for 2 existing Graders. Council maintains in excess of 700km of gravel (unsealed) road infrastructure across the shire as well as gravel shoulders on sealed roads. Motor graders are essential in the delivery of the gravel road maintenance program. The existing Motor Graders are 12+ years old, P302 and P303 – both of the Caterpillar 12 H2 graders, are used to maintain Councils road network and in construction associated with the renewal and upgrading of the road network.

Tenderers were asked to provide costs for one (1) and two (2) Motor Graders as separate quotes to make the pricing comparison easier for the evaluation team.

For this tender Council utilised the Municipal Association of Victoria (MAV) pre-approved suppliers list via Vendor Panel. Vendor Panel provides councils with access to supplier compliance details (e.g. insurance certificates) and reduces the cost and time associated with a public tender process.

**Scope**

Some of the requirements of the tender that needed to be met to be considered for purchase are:

- Minimum 110kw Diesel Engine
- Direct Drive, Power Shift – Grader is to have power side shift, circle turn and leaning wheels
- A braking system that acts on all four (4) wheels and is suitable for undulating conditions
- 1 Cabin Roof Mounted LED beacon with tree protection
- Front bar mounted with turn and hazards
- Cabin warning lights
- Light fixtures to enable night operations
- Air conditioning and heating to meet OH&S regulations
- Fire Extinguishers
- Suspension type driver's seat
- Sound Levels at the operators ear shall not exceed 75db (A) with the cabin doors closed at operating load.
- Installed reflective Red and Yellow give way to turning vehicle signs
- Installed set of hazard triangles to the vehicle
- Tenderers were also requested to indicate if the motor grader had joy stick or steering wheel controls or both.



Tenderers were also asked to provide a quote for an optional:

- GPS based machine monitoring system capable of providing information to Council via an internal enabled computer to assist in Fleet Management
- Advise on the capacity of the Motor Grader to carry and use Grader mounted Rollers on the rear and
- Provide pricing if the tenderer has Grader Mounted Rollers suitable to the proposed Grader.

**Evaluation Panel**

The Evaluation Team for this procurement comprised of:

	Position	Scoring/Non Scoring
1	Works Manager	Scoring
2	Works Superintendent	Scoring
3	Workshop Mechanic	Scoring
4	Grader Driver	Scoring
5	Grader Driver	Scoring
6	Fleet Coordinator	Scoring
7	Contract & Procurement / Chair	Non Scoring
8	Contract & Procurement	Non Scoring

**Tender Submissions**

A total of five (5) Tenders (two by Tender C) were submitted for evaluation with prices for both one (1) and two (2) Motor Graders. The two motor graders submitted by Tender C were both above the decibel rating that was requested in the Tender documents, however as the rating was only over by a very small margin and well under the rating of 85db averaged over an 8 hour period, as set out in The Occupational Health and Safety Regulations 2017 (OHS Regulations), it was decided to allow the submission to be assessed by the evaluation panel.

Tenderer name	Motor Grader Model Name & Number	Weighted Score (out of 90)
<b>Hitachi Construction Machinery (Australia) Pty Ltd</b>	<b>John Deere 670GP</b>	<b>80.25</b>
Tender B		55.5
Tender C		39.5
Tender C(i)		N/C
Tender D		71.25

Councillors have previously been provided with a copy of the Tender Evaluation Report.



**Evaluation Meeting and Scores**

The weighted criteria assessed by the evaluation panel included suitability, service, track record and delivery time and operator and OHS Review. The local content and price evaluations were completed by the procurement team using a standard formula. The pricing included the cost of purchase, including all extras, and the cost of servicing to 5000 hours, it did not include the optional grader mounted roller.

Evaluation Criteria	Weight %
<b>PRICE AND TOTAL COST OF OWNERSHIP</b> Preference will be given to the lowest cost of ownership that sufficiently conforms to the Specification. (Plant efficiency and Council’s estimate of achievable productivity may also be factored in)	30%
<b>SUITABILITY OF THE PLANT FOR THE PURPOSE INTENDED</b> Preference will be given to tenders fully complying with or exceeding the Specification. Failure to comply with fundamental aspects of the Specification may eliminate some tenders.	30%
<b>SERVICE, TRACK RECORD &amp; DELIVERY TIME</b> Preference will be given to a Supplier with a proven track record of vehicle/plant quality and longevity, service and warranty responsiveness and parts availability. Delivery time must be acceptable to Council.	15%
<b>OPERATOR &amp; OHS REVIEW</b> The review will include but not be limited to ergonomics, access, cabin space, height of tray and equipment operation (as applicable). Plant and equipment must meet required OHS standard to be considered.	20%
<b>LOCAL CONTENT</b> Preference will be given to a supplier defined as local under the procurement policy	5%

**CONFLICT OF INTEREST**

In accordance with Section 80B of the Local Government Act 1989, the Officer preparing this report declares no conflict of interest in regards to this matter.

**CONCLUSION**

The Tender Evaluation Panel conducted a thorough assessment of the four (4) compliant tenders using the specified tender evaluation criteria. The evaluation determined that the tender with the highest score and therefore the preferred tender is that received from Hitachi Construction Machinery (Australia) Pty Ltd for the John Deere 670GP Motor Grader for an amount of \$777,900 excluding GST for the supply of two graders. This is within the budget amount of \$810,000.

## **6.10 GPS-RFT25/2018 DESIGN & CONSTRUCT SMYTHESDALE REGIONAL SKATE PARK UPGRADE - AWARDING OF TENDER**

**File Number:**

**Author:** Emily Crosbie, Project Manager Capital and Operational Projects

**Authoriser:** Greg Anders, Director Assets and Amenity

**Attachments:** Nil

### **RECOMMENDATION**

That Council award contract GPS-RFT25-2018 for the Design and Construction of Smythesdale Regional Skate Park Upgrade to Convic Pty. Ltd for the tendered sum of \$237,500.00 excluding GST.

---

### **EXECUTIVE SUMMARY**

Council approval is required for the awarding of a tender for an experienced contractor to undertake the design and construction of an upgrade to the skate park at Smythesdale Recreation Reserve, Smythesdale.

Works will include:

- Demolition of redundant skate features including two skate rails, two quarter pipes, one skate spine and one box jump
- Refurbishment of existing steel half pipe skin and replacement with a composite, fire proof, timber material
- Grinding back and minor crack repair of existing concrete slab
- Construction of extension to existing slab
- Installation of new skate features in existing and new slab. The new features are proposed to include a cantilevered steep bank, volcano, china bank, slappy kerb, ledge, round flat bar, two new quarter pipes and a new skate spine with moguls.
- Installation of bench seating, rubbish bin and drinking fountain under existing shelter

In general, the project will see the footprint of the skate precinct increased and will involve the introduction of new elements, as well as the refurbishment of some existing elements.

### **BACKGROUND**

The Smythesdale Skate Park is being upgraded as a unique, iconic and site responsive multi-generational facility that aims to complement the existing uses and facilities of Smythesdale's recreational and public open spaces. Once developed, this facility will become a key social hub for the youth of Smythesdale and broader Golden Plains region. The Smythesdale Skate Park is located on Heales Street in the Woody Yaloak Recreational Reserve and is adjacent the existing BMX dirt track and sports oval. It has a good contextual location within the town, being in close proximity to a number of shops and amenities that will be frequented by users of the facility.

The proposed redevelopment of the Smythesdale Skate Park presents an opportunity for the Golden Plains Shire to develop a contemporary skate park within its existing recreational precinct and utilise many of the existing amenities within the precinct. The development of this facility will create an opportunity for the community to hold regional skate, scooter and BMX events and increase the public profile of the youth within the Golden Plains Shire.

The total project cost of \$250K was budgeted for in the 2018/19 cop. program, inclusive of a \$100K grant from Sports and Rec Victoria.

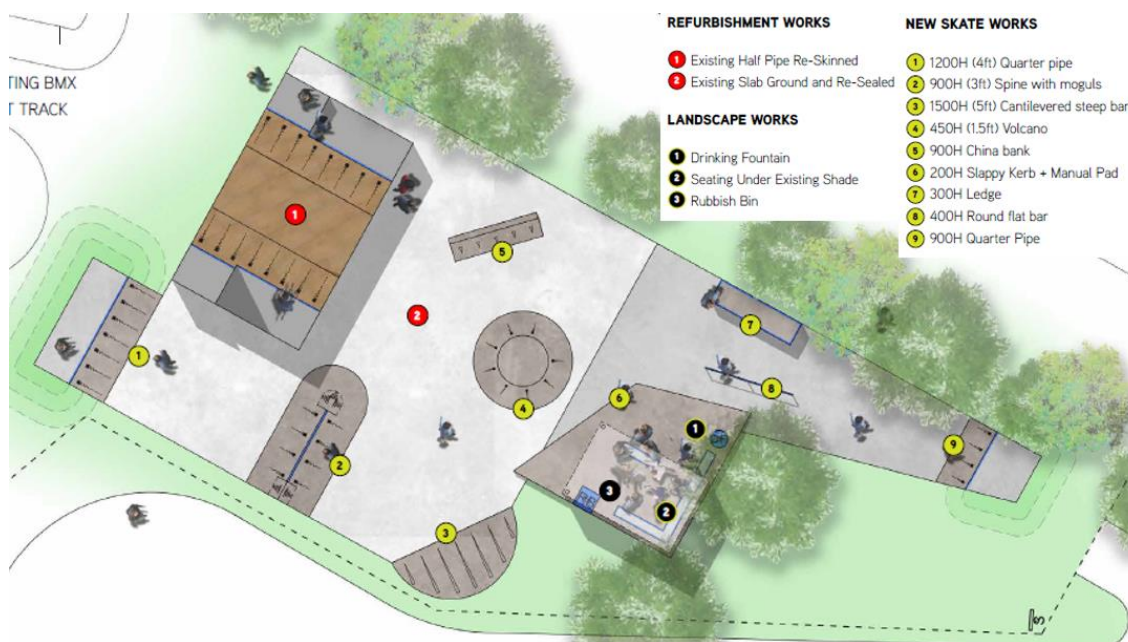


Figure 1: Proposed Skate Park Upgrade Works

**POLICY CONTENT**

The delivery of this project is in line with Council Plan 2017-2021, specifically in terms of the following strategic directions:

Promoting healthy and connected communities

- Support and enable participation in physical activity, sport and recreation.
- Build community strength, capacity and resilience through fostering opportunities for people to engage, connect and participate in community life.

Managing the natural and built environment

- Work with the community to plan and provide natural and built environments that create safe, accessible, inclusive and inviting public spaces, social infrastructure, open space and destinations for all.

**DISCUSSION**

Tender Evaluation: The tenders received were assessed for compliancy. Only two (2) submissions were successful in providing all required documentation relating to OHS, Insurances, Risk Management and Quality Control documentation. Therefore, only two (2) tenderers were compliant and assessed against the criteria listed in Table 2. The remaining, non-compliant, tender was removed from further consideration. Further detail on pricing is included in the confidential attachment.

The table below summarises the tenders that were received.

No.	Tenderers	Conforming (C) /Non-Conforming (NC)
1	Tenderer A	C
2	CONVIC Pty Ltd	C
3	Tenderer C	NC

Table 1: Tenders received

The Tender Evaluation Panel (TEP) was formed by the following personnel:

1. Community Projects Engineer Team Leader
2. Project Manager Capital and Operational Projects
3. Recreation Officer
4. Contract and Procurement Officer (non-scorer)

Chairperson: Contract and Procurement Support Officer

Tenders were rated using the following criteria and weightings:

<b>Compulsory Criteria</b>	<b>Weighting</b>
OH & S	Pass
Insurance	Pass
Risk Management Policy	Pass
Quality Policy & Management System	Pass
<b>Qualitative Assessment</b>	
<b>Capability:</b>	<b>35%</b>
Experience and capability in relation to this project	
Demonstrated understanding of project requirements	
Qualifications and experience of personnel (incl. subcontractors) allocated	
Degree of innovation and 'value-adding' items offered by tenderer	
<b>Methodology:</b>	<b>10%</b>
Quality of project methodology	
Understanding of key SQE risks and how such risks will be mitigated	
Approach to ongoing management of the contract	
<b>Capacity:</b>	<b>20%</b>
Ability to meet project deadline	
Quality of project program	
Proposed staffing levels are adequate to meet project deadline	
<b>Local</b>	<b>5%</b>
Extent of economic contribution to the local region	
<b>Quantitative Assessment</b>	<b>30%</b>
Pricing	

**Table 2: Tender assessment criteria and weightings**

**Scoring**

The tender evaluation panel conducted a thorough evaluation of all conforming tenders. The evaluation panel determined a consensus for each weighted criteria to allow an evaluation score for each tender, out of 100.

<b>Tenderer</b>	<b>Score</b>
Tenderer A	32.1
CONVIC Pty Ltd	73.2

Councillors have previously been provided with a copy of the Tender Evaluation Report.

In order to confirm the scoring panel's consensus, a referee check and site inspection was completed. Further information on the outcome of the further evaluation, including inspection and photos demonstrating the respective contractors' quality of work, can be found in the *Confidential Attachment: GPS-RFT25/2018 Tender Evaluation Report*.

### **Financial Implications**

Please note, the following figures relating to the budget are GST exclusive.

There are sufficient funds available within the project budget. The available funding is for the appointment of a suitably qualified contractor to complete the 'design and construction' phases of the Smythesdale Skate Park Upgrade. Due to the field of expertise for such a facility, the project was tendered as a 'design and construct' service rather than the traditional method of detailed design followed by tendering for the construction phase.

The available funding for the 'design and construct' contract is \$250K (\$100K SRV, \$150K Council).

Due to the contract sum being \$237,500.00 and the available funding being \$250,000.00 there are deemed to be no financial implications.

### **Risk Management Implications**

The Project Management Framework (PMF) for the Smythesdale Regional Skate Park Upgrade, approved by Sports Recreation Victoria, indicated an acquittal date of 1 December 2019. Council plans to appoint a contractor by 7 December 2018 and allowed a 25 week design and construct program, requesting tenderers to demonstrate that a practical completion date of 30 May 2019 could be achieved. Both tenderers indicated they could achieve this timeframe. This will ensure an early completion date for the project resulting in a positive outcome for both users, community and the Golden Plains Shire Council.

The engagement of Convic Pty Ltd's experienced team, which includes specialised concreters, for the delivery of these works, will mitigate the OH&S and equipment damage risks that would be posed by the inadequate execution of the technical concrete elements of the skate park by an inexperienced contractor.

### **Economic, Social & Environmental Implications**

The project will provide for the following economic benefits:

- The local economy will benefit during the construction phase of the project as local resources will be used
- The facility upgrade will allow the facility to host regional skate competition events

The project will provide for the following social benefits:

- Provision of a key social hub for the youth of Smythesdale and broader Golden Plains region, promoting positive youth activities
- Provision of a unique, iconic facility for all skill levels of users
- Increase in the public profile of the youth within the Golden Plains Shire
- Engagement of local youth in a construction project, providing the opportunity to turn their ideas into a reality

Other benefits the project will provide will be to:

- Accommodate the population expansion proposed for the region
- Provide a viable and sustainable community
- Create a potential opportunity for employment of local labour

- Address issues of disadvantage for families unable to afford housing or access services in regional cities

It is considered that there are no environmental implications for the project.

### **CONSULTATION**

A committee of local youth were engaged during the concept design phase to identify their needs and aspirations. A concept plan was constructed from feedback provided which will be used as a basis for the detailed design. The detailed design phase will include another round of community consultation to confirm that the local youth committee approve the 'for construction' design.

### **CONFLICT OF INTEREST**

In accordance with Section 80B of the Local Government Act 1989, the Officer preparing this report declares no conflict of interest in regards to this matter.

### **CONCLUSION**

The Tender Evaluation Panel conducted a thorough evaluation of the two (2) compliant tenders using the specified evaluation criteria. Council have experience working with Convic Pty Ltd and as a result a referee check was not conducted, however a referee check was undertaken for the non-preferred tenderer as a matter of due diligence due to the difference in tendered prices. The outcome of this referee check can be found in the Confidential Attachment: GPS-RFT25/2018 Tender Evaluation Report.

Council have been extremely satisfied with Convic Pty Ltd's quality of work and contract management capability during past projects.

## 6.11 GENDER EQUITY

**File Number:****Author:** Sharon Naylor, Executive Assistant - Chief Executive Officer**Authoriser:** Eric Braslis, CEO**Attachments:** Nil**RECOMMENDATION**

That Council acknowledge the Golden Plains Shire's commitment to creating a safe, inclusive and respectful community by preventing violence against women with the implementation of our Gender Equity Group, our Leadership Statement and creating a Gender Equity Strategy 2018-2020.

---

**EXECUTIVE SUMMARY**

To provide Council with an overview of Golden Plains Shire Councils commitment to creating a safe, inclusive and respectful community by preventing violence against women with the implementation of our Gender Equity Group, our Leadership Statement and creating a Gender Equity Strategy 2018-2020.

**BACKGROUND**

All women and men, have the right to live in a safe community free from fear of violence and crime. Council plays a pivotal role in role-modelling safe and equitable treatment of women and the rejection of assault and Family Violence.

The formation of the Golden Plains Shire White Ribbon Group in 2014 aimed to initially, raise awareness internally and long term, to have a positive influence on attitudes to violence against women both internally and in the wider Golden Plains community.

Council made a leadership commitment on the prevention of men's violence against women to creating a safe, inclusive and respectful community (see Appendix One).

The White Ribbon Group, initially worked with Women's Health Grampians and the Act@Work program (Appendix Two), and delivered a range of activities which included; promotional campaigns and raising awareness, additions and changes to Council's policies and procedures, running Bystander training, hosting White Ribbon events and much more (see Report Card Appendix Three).

The group decided it would like to change the focus from violence against women to the broader issue of gender equity. The Gender Equity Group was formed in 2017.

**POLICY CONTENT**

In accordance with the Council and Health and Wellbeing Plans, Family Violence and Gender Equity are key priorities.

**DISCUSSION**

In 2014 Golden Plains Shire commenced working as an organisation to address Gender Equity and Family Violence with some expert advice and support from Women's Health Grampians:

- CEO led initial work undertaken in 2014
- Developed and Chaired White Ribbon Group (15 staff members)
- Internal and external awareness raising activities
- Town Signage
- White Ribbon Day event for both internal workforce and community

During the last 4 years GPS has been involved in a number initiatives which have included staff training, the delivery of the 'Baby Makes 3' parenting program, development of community resources and sharing of information and messaging internally, however it has been identified by the newly formed 'Gender Equity Group', made up of 18 staff, that a more strategic and coordinated approach to embedding cultural change within the organisation is needed.

Golden Plains Shire is a member of the Communities of Respect and Equality Alliance (CORE) which is a partnership of organisations, businesses, clubs, groups and networks from across the Grampians Region that share a vision for safe, equal and respectful communities. One of the key programs of CORE is the Act@Work. Act@Work is an organisation-wide cultural-change program for workplaces. The aim is to enable workplaces to respond to violence against women while also addressing the underlying causes: beliefs and attitudes that support gender inequality, sexism and discrimination.

The Act@Work program aims to:

- Increase awareness of the extent, prevalence and causes of violence against women.
- Change behaviors and attitudes.
- Increase bystander action in the workplace and socially.
- Enable organisations to support staff members that are affected by family violence.
- Enable organisations to identify what they can do to advance and promote gender equality through their work.
- Establish systems to ensure the sustainability of this work in the longer term.

Recognising not only the skills and expertise of Women's Health Grampians in supporting workplaces, but also that Act@Work is an evidence based program, Golden Plains Shire has engaged Women's Health Grampians to work with Council's Gender Equity Group, Management and the broader staff base to implement the Act@Work program over the first 6 months of 2019.

#### **Outcomes of the initiative**

- Development of a Gender Equity Action Plan, with targeted, meaningful actions based on organisational analysis an evidence.
- Collection of data to measure change within the organisation
- All staff complete either prevention of violence against women training or intensive bystander training
- Organisational champions identified and developed.
- Increased staff awareness of organisational policies and procedures.

#### **CONSULTATION**

There is an ongoing program to involve, engage and where necessary undertake educational and training opportunities for all staff.

#### **CONFLICT OF INTEREST**

In accordance with Section 80B of the Local Government Act 1989, the Officer preparing this report declares no conflict of interest in regards to this matter.

#### **CONCLUSION**

That Council acknowledge the commitment that the organisation has in relation to Gender Equity.



## 6.12 QUARTERLY FINANCE REPORT

**File Number:****Author:** Richard Trigg, Director Corporate Services**Authoriser:** Richard Trigg, Director Corporate Services**Attachments:** 1. Budget Report - 3 Months Ended 30 September 2018 (under separate cover)

### RECOMMENDATION

That Council adopt the Quarterly Financial Report for the 3 Months ended 30 September 2018.

---

### EXECUTIVE SUMMARY

As at 30 September 2018, the Income Statement shows total operating revenue of \$26.067m and total operating expenditure of \$9.877m which results in a year to date surplus of \$16.190m.

The forecast figures in the Statements reflect the original budget adopted by Council, adjusted for income and expenditure brought forward from last year and any known permanent variances.

### BACKGROUND

Section 138 of the Local Government Act 1989 requires a statement comparing the budgeted revenue and expenditure for the financial year with the actual revenue and expenditure to date be presented to Council at least every 3 months.

Council has completed three months of the 2018-19 financial year. The attached budget report has been prepared on an operating basis and includes the following:

- Income Statement;
- Balance Sheet;
- Statement of Cash Flows;
- Statement of Capital Works; and
- Key Result Areas.

Each of the above statements show the original budget together with the current forecast and the actual results for the three month period July 2018 to September 2018.

The Audit and Risk Committee meeting has been deferred and it will now meet on 4 December 2018 to review the results to 30 September 2018.

### POLICY CONTENT

Local Government Act 1989

Local Government Amendment (Fair Go Rates) Act 2015

Local Government (Planning and Reporting) Regulations 2014

### DISCUSSION

#### Budget Report

The Senior Management Team (SMT) has met to review the results to 30 September 2018. SMT reviewed \$0.149m of operating variances and \$0.100m of capital works variances compared to the original budget. SMT is satisfied that the surplus maintains Council's sustainable financial position, as depicted in its Strategic Resource Plan.

The current forecast projects a surplus of \$4.024m for the year ending 30 June 2019 compared to the original surplus of \$3.270m. This positive movement of \$0.8m is primarily due to:

- \$1.560m in capital grants and contributions forecast to be received in 2018-19, that were not received in 2017-18 due to the timing of capital projects
- \$0.151m additional 2018-19 Financial Assistance Grant allocation from Victorian Grants Commission
- (\$0.425m) rolled forward expenditure from 2017-18, to complete funded operating projects/programs
- (\$0.232m) 2017-18 Roads to Recovery grant overpayment adjustment anticipated in 2018-19
- (\$0.175m) gravel sales no longer sold externally

This forecast result ensures that allocated budgets remain available for projects and services to be fully expended by 30 June 2019, however this is often not the case. Further detail is provided in the attached budget report.

The 'Adjusted Underlying Result', which removes any non-recurrent grants used to fund capital expenditure, non-monetary asset contributions and other capital contributions to fund capital expenditure from the result, is forecast to be a deficit of \$0.829m, compared to a budget deficit of \$0.023k. This formula is prescribed within the Local Government (Planning and Reporting) Regulations 2014.

This decrease of \$0.806m in the 'Adjusted Underlying Result' is mainly due to:

- (\$0.425m) operating projects and services budgeted in 2017-18 are now forecast to be delivered in 2017-18 (rolled forward expenditure)
- (\$0.232m) recurrent 2017-18 Roads to Recovery grant overpayment adjustment anticipated in 2018-19
- \$0.151m additional 2018-19 Financial Assistance Grant allocation from Victorian Grants Commission
- \$0.101m other favourable operating variances
- (\$0.175m) gravel sales no longer sold externally
- (\$0.215m) other unfavourable operating variances

The decrease is not anticipated to result in a permanent impact on Council's financial position at this stage. \$0.657m is due to timing differences for projects and services funded in 2017-18 and \$0.149m of forecast variances will be targeted to be recouped from savings to be identified prior to 30 June 2019.

Total expenditure in the Statement of Capital Works is now forecast to be \$19.561m compared to the original budget of \$15.097m. This increase of \$4.464m is mainly due to projects rolled forward from 2017-18 of \$4.363m, \$1.560m of which are funded by capital grants.

The capital program is 10% completed compared to the forecast, with 54% of the remaining program relating to the following major projects:

- Golden Plains Community & Civic Centre \$5.253m
- Bannockburn Heart \$2.157m
- Bridge rehabilitation – Coopers Bridge \$1.749m
- Tall Tree Road upgrade \$1.415m

**CONSULTATION**

A formal consultation process was not required.

**CONFLICT OF INTEREST**

In accordance with Section 80B of the Local Government Act 1989, the Officer preparing this report declares no conflict of interest in regards to this matter.

**CONCLUSION**

The content included in this agenda and the attached documents are consistent with the Adopted Budget and Strategic Resource Plan after taking to account the movements described above. Officers will continue to monitor variances over the remainder of the year, to ensure Councils operating sustainability is maintained.

.

**6.13 COUNCILLOR EXPENSES REPORT - 3 MONTHS ENDED 30 SEPTEMBER 2018****File Number:****Author:** Richard Trigg, Director Corporate Services**Authoriser:** Richard Trigg, Director Corporate Services**Attachments:** 1. Councillor Expenditure September 18**RECOMMENDATION**

That Council note the contents of the Councillor Expenses Report for the quarter ended 30 September 2018.

---

**EXECUTIVE SUMMARY**

The report provides a record of expenditure made on behalf of Councillors in the performance of their duties over the first quarter of the 2018-19 financial year.

**BACKGROUND**

Legislation and policy provides that Councillors must be provided with certain resources and training and may be reimbursed for eligible out of pocket expenditure on application.

**POLICY CONTENT**

Sections 75 and 76 of the Local Government Act 1989 (as amended).

Council Policy 4.14 – *Councillor Reimbursement*.

Victorian Government's policy statement on *Local Government Mayoral and Councillor Allowances and Resources*.

**DISCUSSION**

Summarised in the attached document are the figures for allowances and expenses for the Mayor and Councillors for the period 1 July to 30 September 2018.

The actual expenditure is compared to the annual budget as follows:-

Category	Annual Budget \$	Actual \$	Percentage spent
Conferences & Training Expenses	17,000	7,014	41.25%
Travel Expenses	5,000	37	0.74%
Car Expenses	6,000	1,614	26.9%
IT & Communications	5,000	878	17.56%
Childcare Expenses	-	-	-

**CONSULTATION**

A formal consultation process is not required.

**CONFLICT OF INTEREST**

In accordance with Section 80B of the Local Government Act 1989, the Officer preparing this report declares no conflict of interest in regards to this matter.

**CONCLUSION**

The report indicates that Councillors have received reimbursements and had services provided in accordance with relevant policy.

SCHEDULE OF COUNCILLOR EXPENSES - Quarter end 30 September 2018								
	Cr Helena Kirby	Cr Des Phelan	Cr Nathan Hansford	Cr David Evans	Cr Owen Sharkey	Cr Joanne Gilbert	Cr Les Rowe	TOTAL
July 2018	1,709	779	1,198	45	698	1,192	14	5,635
August 2018	296	1,215	45	45	44	15	696	2,355
September 2018	1,188	140	15	152	29	16	14	1,553
<b>TOTAL Expenses</b>	<b>3,193</b>	<b>2,134</b>	<b>1,258</b>	<b>241</b>	<b>770</b>	<b>1,223</b>	<b>723</b>	<b>9,543</b>

	Cr Helena Kirby	Cr Des Phelan	Cr Nathan Hansford	Cr David Evans	Cr Owen Sharkey	Cr Joanne Gilbert	Cr Les Rowe	TOTAL
1. Conferences & Training Expenses (Accommodation, meals) (11012)	1,419	1,817	1,207		712	1,177	682	7,014
2. Travel Expenses (11008)		37						37
3. Mayoral Car Expenses (11014)	1,614							1,614
4. IT & Communication Expenses (11010)	160	280	51	241	58	46	42	878
5. Childcare Expenses	-	-	-	-	-	-	-	-
<b>TOTAL Expenses</b>	<b>3,193</b>	<b>2,134</b>	<b>1,258</b>	<b>241</b>	<b>770</b>	<b>1,223</b>	<b>724</b>	<b>9,543</b>

**1. Conferences & Training Expenses**

This category covers registration fees & all other costs (eg accommodation, meals) associated with attendance by Councillors at local conferences, training, functions and seminars. These are normally held by Local Government related organisations, professional bodies and institutions, education institutions and private sector providers on areas and events which impact the roles of Councillors and the Shire in general. This category also includes memberships and subscriptions to bodies and organisations whose activities are relevant to the role of Councillors.

**2. Travel Expenses**

This category covers costs associated with assisting Councillors in meeting the transport costs incurred in attending meetings, functions and other commitments within and outside the municipality. This comprises use of a taxi, reimbursement for use of private vehicle while conducting Council business, car parking fees, the provision of car parking permits etc as described in the Councillor Expenses Policy. This category also comprises costs associated with accommodation and incidentals when travelling on Council business.

**3. Mayoral Car Expenses**

This category covers all car expenses for the use of the Mayor's vehicle whenever travelling to conduct Council business.

**4. IT & Communication Expenses**

This category covers ipad data plan costs, mobile telephone use and all I.T expenses associated with ensuring that Councillors are accessible and are able to communicate with constituents, stakeholders, other Councillors, Council Officers and family members while conducting Council business.

**5. Childcare Expenses**

The Council will reimburse the cost of necessary carer expenses incurred by Councillors in the course of carrying out their duties, at functions of which partners are invited. This covers childcare and other forms of care needed to support immediate family members.

**6.14 ASSEMBLY OF COUNCILLORS****File Number:** 02-03-004**Author:** Sharon Naylor, Executive Assistant - Chief Executive Officer**Authoriser:** Eric Braslis, CEO**Attachments:** 1. Assembly of Councillors**RECOMMENDATION**

That Council notes the Assembly of Councillors Record from 24 October 2018 to 27 November 2018 as attached.

---

**EXECUTIVE SUMMARY**

To present Council with written records of Assembly of Councillors in accordance with section 80A of the Local Government Act 1989 from 24 October 2018 to 27 November 2018.

**BACKGROUND**

In accordance with Section 80A of the Local Government Act 1989 a written record of assembly of Councillors must be reported at an ordinary Council meeting and minuted as soon as practicable.

**DISCUSSION**

The record must include:

- The names of all Councillors and members of Council staff attending
- The matters considered
- Any conflict of interest disclosures made by a Councillor attending
- Whether a Councillor who has disclosed a conflict of interest left the assembly

**CONSULTATION**

A formal consultation process is not required.

**CONFLICT OF INTEREST**

In Accordance with Section 80B of the Local Government Act 1989, the Officer preparing this report declares no conflict of interest in regards to this matter.

**CONCLUSION**


The information provided in this report is compliant with Section 76A of the Local Government Act 1989.



### Assembly of Councillors Record

Date of meeting:	Tuesday 20 November 2018
Time:	9.00am
Purpose of meeting:	Councillor Briefing session
Councillors present:	Cr Owen Sharkey, Mayor Cr Nathan Hansford Cr Les Rowe Cr Helena Kirby Cr Des Phelan Cr David Evans
Apologies:	Cr Joanne Gilbert
Council staff present:	Eric Braslis, Chief Executive Officer Greg Anders, Director Assets & Amenity Patti Wenn, Acting Director Community Services Richard Trigg, Director Corporate Services Louisa White, Community Development Manager Tim Waller, Development Manager David Greaves, Works Manager Felicity Bolitho, Connected Communities Team Leader Ann Card, Senior Communications and Marketing Officer Sarah Fisher, Statutory Planning Team Leader Laura Wilks, Strategic Planning Team Leader Tracey Simmons, Planner Leigh Page, Planner Alan Jones, Works Superintendent Chris Donald, Mechanic Craig Tardrew, Grader Driver Ben Grigg, Grader Driver
Other people present:	
Conflict of Interest Disclosures (Councillors)	Mayor Cr Sharkey declared an interest in Items 2.9 and 2.10 Cr Phelan declared an interest in Item 2.12
Conflict of Interest Disclosures (Officers)	Nil
Matters discussed:	<p><b>Presentations</b></p> <ul style="list-style-type: none"> <li>- GPS-RFT20-2018 - Supply of Motor Graders x 2 - Awarding of Tender</li> <li>- Restrictive Covenants</li> <li>- Golden Plains Shire Council's Brand Journey</li> </ul> <p><b>Reports</b></p> <ul style="list-style-type: none"> <li>- Inverleigh Streetscape Draft Master Plan</li> <li>- Sons of the West (SOTW) Program Review</li> <li>- GPS-RFT25/2018 Design &amp; Construct Smythesdale Regional Skate Park Upgrade - Awarding of Tender</li> <li>- Councillor Expenses Report - 3 months ended 30 September 2018</li> <li>- Quarterly Finance Report</li> <li>- Gender Equity</li> <li>- Planning application P17-071 for stone extraction (sand quarry) and roadside native vegetation removal at 223 Maude-She Oaks Road, She Oaks</li> <li>- Planning Application P18-077 for a variation of restrictive covenant AE002849S to allow no more than two dwelling houses to be built or erected on the lot at 158 Tarraford Way, Batesford</li> <li>- Planning Application P18-080 the use and development of the land for Racing dog keeping and Racing dog training.</li> <li>- Planning Application P18-193 for the use of the land for a shop (pharmacy), the reduction of car parking requirements and the development and display of business identification signage</li> </ul>



	<ul style="list-style-type: none"> <li>- Planning Application P18-113 for the use and development of the land for a dwelling, Plant Nursery, shed and earthworks associated with a dam.</li> <li>- Planning Application P18-085 the development of the land for a five (5) lot subdivision (re-subdivision of existing lots) and the use and development of four (4) dwellings</li> </ul> <p><b>Updates</b></p> <ul style="list-style-type: none"> <li>- Inverleigh Wind and Solar Farm Update</li> </ul> <p><b>Council Issues</b></p> <ul style="list-style-type: none"> <li>- SMT Only</li> <li>- Rural Councils Transformation Program</li> <li>- CEO Only</li> </ul> <p><b>Confidential Report</b></p> <ul style="list-style-type: none"> <li>- CEO Annual Review Process</li> <li>- Bannockburn Children's Service 2019 Daily Child Care Fee</li> <li>- Early Years Service Review</li> </ul>
<p>Completed by:</p>	<p>Eric Braslis, Chief Executive Officer</p> 



**6.15 DELEGATES REPORT - 24 OCTOBER 2018 TO 26 NOVEMBER 2018**

**File Number:** 78-07-002  
**Author:** Sharon Naylor, Executive Assistant - Chief Executive Officer  
**Authoriser:** Eric Braslis, CEO  
**Attachments:** Nil

**CR OWEN SHARKEY**

24 October Bannockburn Children's Week Celebration  
25 October Tourism Greater Geelong & Bellarine Annual General Meeting  
26 October A Taste Of Australia Event for Tourism Greater Geelong & Bellarine  
30 October Richard Riordan announcement  
1 November 2018 Heroes Luncheon at the Geelong Football Club  
7 November Special Council Meeting  
15 November AGM – G21 Board Meeting  
20 November Councillor Briefing Meeting  
21 November Golden Plains Business Networking Event  
23 November Active Paths Launch  
24 November Conversation Post in Napoleons

**Cr Helena Kirby**

25 October Unveiling of the Ballarat Mayoral Chains  
30 October Richard Riordan announcement  
31 October G21 Arts, Heritage & Culture Pillar meeting  
7 November Special Council Meeting  
8 November Launch of the Autonomous Vehicles at Lake Wendouree event  
8 November Disability – Access and Inclusion Advisory Committee  
20 November Councillor Briefing Meeting  
21 November Golden Plains Business Networking Event  
24 November Conversation Post in Napoleons

**Cr David Evans**

29 October G21 Health and Wellbeing Pillar/ PCP Roundtable Executive Meeting  
30 October Richard Riordan announcement  
7 November Special Council Meeting  
9 November G21 Planning & Services Pillar meeting

**7 NOTICES OF MOTION**

Nil

**8 PETITIONS**

**9 CONFIDENTIAL ITEMS****RECOMMENDATION**

That Council considers the confidential report(s) listed below in a meeting closed to the public in accordance with Section 89(2) of the Local Government Act 1989:

**9.1 Bannockburn Children's Service 2019 Daily Child Care Fee**

This matter is considered to be confidential under Section 89(2) - h of the Local Government Act, and the Council is satisfied that discussion of this matter in an open meeting would, on balance, be contrary to the public interest as it deals with Any other matter which the Council or special committee considers would prejudice the Council or any person.

---