



Council Meeting Minutes

Bannockburn Shire Hall

**Tuesday 23 May 2017
4.00pm – 6.09pm**

Our Vision

Golden Plains Shire offers a lifestyle and opportunities that foster social, economic and environmental wellbeing.

In partnership with the community we will provide strong leadership, encourage sustainable development and ensure quality services, to continue to improve the quality of life of residents.

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.

Acknowledgement of Traditional Custodians

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.

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.

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1. PRESENT

Cr Des Phelan, Mayor
Cr David Evans
Cr Joanne Gilbert
Cr Nathan Hansford
Cr Helena Kirby
Cr Les Rowe
Cr Owen Sharkey

Rod Nicholls
Greg Anders
Jillian Evans
Richard Trigg
Mike Barrow
Jason Clissold
David Greaves
Claire Tehan
Felicity Bolitho
Matthew Sims
Tracy Simmons
Peter O'Brien
Petra Neilson (Minutes)

Chief Executive Officer
Director Assets & Amenity
Director Community Services
Director Corporate Services
Manager Executive Unit
Finance Manager
Works Manager
People & Culture Manager
Executive Unit Team Leader
Investigations Officer
Town Planner
Town Planner
Council Support Officer

Gallery

13 members of the gallery

2. APOLOGIES

Nil

3. DECLARATIONS, MINUTES & ASSEMBLIES

3.1. DECLARATIONS OF INTEREST

Councillors must disclose a conflict of interest in accordance with Section 79 of the *Local Government Act 1989*.

It is recorded that no disclosures were made.

3.2. CONFIRMATION OF MINUTES

Moved Crs Hansford/Kirby

That the Minutes of the Ordinary meeting of Council held 26 April 2017, as circulated, be confirmed.

Carried

3.3. ASSEMBLIES OF COUNCILLORS

File: 02-03-004

3.3.1 Council Briefing: Community First (26 April 2017)

Meeting type and name	Council Briefing: Community First
Meeting date and time	2.25pm Tuesday 26 April 2017
Matters discussed	Community First Continuous Improvement program
Councillor information	Nil
Councillors	Cr Des Phelan Cr David Evans Cr Joanne Gilbert Cr Nathan Hansford Cr Les Rowe Cr Owen Sharkey
Apology	Nil
Staff	Rod Nicholls, Chief Executive Officer Jillian Evans, Director Community Services Greg Anders, Director Assets & Amenity Mike Barrow, Manager Executive Unit Jason Clissold, Finance Manager Felicity Bolitho, Executive Unit Team Leader Richard Troeth, Senior Communications & Marketing Officer Petra Neilson, Council Support Officer
Guests	Nil
Declarations of Interest	Nil

3.3.2 Council Briefing: Strategic Resource Plan & Budget Communications (26 April 2017)

Meeting type and name	Council Briefing: Strategic Resource Plan and Budget Communications
Meeting date and time	2.28pm Tuesday 26 April 2017
Matters discussed	1. Golden Plains Community and Civic Centre 2. Council Strategic Resource plan and Budget Communications
Councillor information	1. Cr Evans email dated 17/4/17 and R Nicholls response 2. Notice of Amendment or Rescission 3. Workshop minutes dated 28/3/17 4. CEO email response dated 12/4/17 5. Communications Plan 6. Engagement Plan 7. Council Plan and Strategic Resource Plan
Councillors	Cr Des Phelan Cr David Evans Cr Joanne Gilbert Cr Nathan Hansford Cr Les Rowe Cr Owen Sharkey
Apology	Nil
Staff	Rod Nicholls, Chief Executive Officer Jillian Evans, Director Community Services Greg Anders, Director Assets & Amenity Mike Barrow, Manager Executive Unit Jason Clissold, Finance Manager Felicity Bolitho, Executive Unit Team Leader Richard Troeth, Senior Communications & Marketing Officer Petra Neilson, Council Support Officer
Guests	Nil
Declarations of Interest	Nil

Moved Crs Evans/Kirby

That Council notes the record of assemblies of Councillors:

- 1. Council Briefing: Community First (26 April 2017)***
- 2. Council Briefing: Council Strategic Resource Plan & Budget Communications (26 April 2017)***

Carried

3.4. **ADVISORY COMMITTEES OF COUNCIL**

3.4.1 **Audit & Risk Committee (9 May 2017)**

Richard Trigg, Director Corporate Services

File: 02-01-001

Meeting type and name	Audit & Risk Committee Meeting
Meeting date and time	9.00am Tuesday 9 May 2017
Matters discussed	<ol style="list-style-type: none"> 1. Council Policy 3.2 – Procurement Policy Review 2. Insurance Policy review and renewals 2017-2018 3. Quarterly Risk management Report 4. Internal Audit – food Act Management 5. External Audit – Interim Management Letter 2016-2017 6. Finance Report 7. Strategic Internal Audit Plan – Outstanding Recommendations
Councillor information	<ol style="list-style-type: none"> 1. Amended Procurement Policy 3.2 (with mark-up) 2. Quarterly Risk Management Report 3. Food Act Management 4. Interim Management Letter – Financial Audit 30 June 2017 5. Budget Report – 9 Months Ended 31 march 2017 6. Letter re LASF Vested Benefit Index (VBI) 31 Dec 2016 7. Summary of Outstanding Recommendations
Councillors	Peter Bollen, Independent Chairman John McDonald, Independent member Cr Des Phelan, Mayor Cr Nathan Hansford Cr Helena Kirby
Apology	Nil
Staff	Rod Nicholls, Chief Executive Officer Richard Trigg, Director Corporate Services Jill Evans, Director Community Services Greg Anders, Director Assets & Amenity Mike Barrow, Manager Executive Unit Jason Clissold, Finance Manager Tim Waller, Development Manager Asanka Jayakody, Finance Team Leader Stuart Symes, Environmental Health Officer Paul McVeigh, Risk Management Officer Petra Neilson, Council Support Officer
Guests	John Gavens, Crowe Horwarth
Declarations of Interest	Nil

Moved Crs Kirby/Hansford

That Council notes the Audit and Risk Committee meeting minutes 9 May 2017.

Carried

3.4.2 Confidential: Chief Executive Officer (CEO) Review Committee

Cr Des Phelan, Chairperson
File: 02-01-002

No meeting held.

4. REPORTS

4.1. KEY RESULT AREA – CITIZEN & CUSTOMER SERVICE

No report.

4.2. KEY RESULT AREA – CIVIC LEADERSHIP

4.2.1 Review of Council Policy 3.2 Procurement

Department	Corporate Services
Unit	Corporate Services
Senior Manager	Richard Trigg, Director Corporate Services
Responsible Manager	Jason Clissold, Finance Manager
Author	Jason Clissold, Finance Manager
File References	EDMS file: 39-01-001
Council Plan Link	Civic Leadership
Relevant Council Strategies	Civic Leadership
Relevant Policies & Legislative Frameworks	<i>Local Government Act 1989</i>
Attachments	1. Amended Procurement Policy (with mark up)

Declarations of Interest: Councillors & Officers

Richard Trigg: In providing this advice as the senior manager, I have no disclosable interests in this report.

Jason Clissold: In providing this advice as the responsible manager and author, I have no disclosable interests in this report.

Purpose

The purpose of this report is to present the amended Council Policy 3.2 - Procurement Policy to Council for adoption.

Background

The policy was tabled at the 9 May Audit and Risk committee for review and discussion. The Committee recommended '*That the Committee endorse the amended Council Policy 3.2 - Procurement Policy and recommend to Council that it be adopted.*'

Under S.186A (1) of the Local Government Act (1989), Council is required to prepare and approve a Procurement Policy. Subsection (7) also requires that the policy be reviewed at least once in each financial year. The policy was last reviewed on 24 May 2016 and is therefore due for review.

Discussion

The Act states that 'A Council must comply with its Procurement Policy', so it is important that the policy reflects current or proposed practice that does not impose requirements that may hinder compliance.

The purpose of this policy is to provide all stakeholders with a transparent and comprehensive understanding of how Council conducts its procurement process, in order to ensure ratepayers are being provided with 'Best Value'.

The policy is largely based on the Model Procurement Policy developed by the MAV, which was referred to as part of the review.

There have been some minor clarifications and rewording, but the following items should be noted:

1. Definition of 'Local' has been broadened from Golden Plains Shire (GPS) to encompass 'G21 and Ballarat regions'. Councils within the G21 region have specified the region as local. Council has suppliers whose business might be registered in the Shire and others within the G21 and Ballarat regions where their staff are drawn from within the Shire. Opening Local to a regional approach will cater for both scenarios.
2. In section 2.4.2 – Delegations; reference to 'Approval to register pre-qualified suppliers' has been removed as this is not relevant. Any officer can add a compliant supplier to the system and the delegation is relevant for any procurement after that point.

Community Engagement

A formal consultation process was not required.

Financial & Risk Management Implications

It is considered that there are no financial implications.

The policy must be reviewed at least once each financial year to comply with the Act. By reviewing and adopting the Procurement Policy it promotes transparency of Council's procurement practices and reduces any exposure to breaches of the Act.

Economic, Social & Environmental Implications

It is considered that there are no economic, social or environmental implications.

Communications

It is considered that a communication plan is not required. Under the Act the adopted Policy must be displayed on Council's website.

Conclusion

The policy is largely based on the Model Procurement Policy developed by the MAV. It provides the community, suppliers, potential suppliers and regulatory authorities with sufficient detail of Council's procurement practices. The Audit & Risk Committee recommend that Council adopt the amended policy.

Moved Crs Hansford/Sharkey

That Council adopt the amended Council Policy 3.2 Procurement.

Carried

4.2.2 Review of Appointments & Authorisations – Planning & Environment Act 1987

Department	Corporate Services
Unit	Corporate Services
Senior Manager	Richard Trigg, Director Corporate Services
Responsible Manager	Richard Trigg, Director Corporate Services
Author	Richard Trigg, Director Corporate Services
File References	EDMS file: 02-04-001
Council Plan Link	
Relevant Council Strategies	
Relevant Policies & Legislative Frameworks	Local Government Act 1989
Attachments	2. Appointment and Authorisation – Planning and Environment Act

Declarations of Interest

Richard Trigg: In providing this advice as the senior manager, responsible manager and author, I have no disclosable interests in this report.

Purpose

The purpose of this report is to update the Appointment and Authorisation – Planning and Environment Act.

Background

Section 188(2)(c) *Planning and Environment Act* provides that councils cannot delegate the power to the CEO to authorise officers for the purposes of enforcing the *Planning and Environment Act*. Council must delegate that power directly to the officers concerned.

Discussion

The following changes need to be made to the Appointment and Authorisations – Planning and Environment Act only, under Section 224 *Local Government Act 1989*:

- Martin Roberts has been appointed as Environmental Services Team Leader and therefore needs to be added to the Authorisation.
- Dale Smithyman's title needs to revert back to Natural Resources Officer with the appointment of Martin Roberts.

The Appointment and Authorisations – Planning and Environment Act only, needs to be updated with the above changes.

Community Engagement

A formal consultation process is not required.

Financial & Risk Management Implications

It is considered that there are no financial or risk management implications.

Economic, Social and Environmental Implications

It is considered that there are no economic, social or environmental implications.

Communications

It is considered that a communication plan is not required.

Conclusion

As a result of a number of changes to staff positions, the Appointment and Authorisations under the Planning and Environment Act needs to be updated.

Moved Crs Hansford/Kirby

That Council:

In the exercise of the powers conferred by section 224 of the Local Government Act and the other legislation referred to in the attached instrument of appointment and authorisation, Golden Plains Shire Council resolves that:

- 1. The members of Council staff referred to in the instrument be appointed and authorised as set out in the instrument.***
- 2. The instrument comes into force immediately the common seal of Council is affixed to the instrument, and remains in force until Council determines to vary or revoke it.***
- 3. The instrument be sealed.***

Carried

4.3. **KEY RESULT AREA – ECONOMIC DEVELOPMENT**

No report.

4.4. **KEY RESULT AREA – ENVIRONMENT & LAND USE PLANNING**

4.4.1 **Planning Application P17-014 for a Dwelling at Lot 1 TP18800E Russell Road, Bannockburn**

Directorate	Assets and Amenity
Unit	Development
Senior Manager	Greg Anders, Director Assets and Amenity
Responsible Manager	Tim Waller, Development Manager
Responsible Team Leader	Sarah Fisher, Planning Team Leader
Author	Peter O'Brien, Town Planner
File References	Planning application P17-014
Relevant Policies & Legislative Frameworks	Golden Plains Planning Scheme
Proposal Summary	Dwelling
Land Address	Lot 1 on Title Plan TP18800E (Russell Road, Bannockburn)
Applicant	Brian O'Shannassy
Zone & Overlay Summary	<ul style="list-style-type: none"> ▪ Rural Activity Zone – Schedule 2 (RAZ2) ▪ Environmental Significance Overlay – Schedule 3 (ESO3) ▪ Part Floodway Overlay (FO) ▪ Part Land Subject to Inundation Overlay (LSIO)
Attachments	<ul style="list-style-type: none"> 3. P17-014 Copy of application and plans 4. P17-014 Locality map 5. P17-014 Copy of objection 6. P17-014 Copy of applicant's response to objection

Declarations of Interest: Councillors & Officers

Greg Anders: In providing this advice as the senior manager, I have no disclosable interests in this report.

Tim Waller: In providing this advice as the responsible manager, I have no disclosable interests in this report.

Sarah Fisher: In providing this advice as the responsible team leader, I have no disclosable interests in this report.

Peter O'Brien: In providing this advice as the author, I have no disclosable interests in this report.

Purpose

This report relates to a planning permit application for a dwelling at Lot 1 on Title Plan TP18800E Russell Road, Bannockburn. The application has been referred to the Council Meeting for determination because there is an objection to the application and Council officers do not have delegated powers to decide an application where there are objections. This report provides a background to the application, a summary of the relevant planning considerations and an officer recommendation.

Proposal

The application proposes the use and development of the land for a dwelling (refer to Attachment 3 – copy of application and plans). The dwelling is proposed to be located on the slope on the western side of Moorabool valley with setbacks of 258m from Russell Road, 512m from the Moorabool River and 11m from the north-west property boundary. The proposed dwelling is comprised of two levels with storerooms and toilet on the ground level and a single bedroom,

living area, kitchen, bathroom and balcony on the upper level. The external cladding consists of zincalume walls and roofing. The proposed dwelling is a modern box-shaped structure which is set into the hillside. The site plan submitted with the application also shows a proposed garage with a floor area of 80m².

Construction of the dwelling commenced without planning and building approval. When this matter was brought to Council's attention the applicant was directed by Council to stop work until such time that the necessary approvals were obtained. The applicant immediately stopped work and submitted an application for a planning permit. The applicant was required to pay a \$1,555 fine for a breach of the planning scheme.

Site Description

The subject land is situated on Russell Road, Bannockburn and is formally described as Lot 1 on Title Plan TP18800E. The site is located in a rural area to the east of the Bannockburn township (refer to Attachment 4 – locality map). The total area of the site is 38.23 hectares. The site is located on the western side of the Moorabool Valley. The site runs longways between Russell Road and the Moorabool River which forms the rear boundary. Access to the site is from Russell Road which is a gravel all-weather road. The surrounding area is used for a mixture of rural activities including small-scale agricultural activities and rural residential purposes. It is noted that there is a rural residential property immediately adjacent to the subject land.

History

The application was received by Council on 20 January 2017 and a preliminary assessment of the application was undertaken. There are no referral authorities specified in the planning scheme for an application of this type.

Communications

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 sent by mail to 11 adjoining and neighbouring owners and occupiers.

Summary of Objections

As a result of the public notice one objection was received. A copy of the objection is provided in Attachment 5. The grounds of objection primarily relates to the visual impact of the proposal on the amenity of the objector's property and the surrounding area. It is noted that the objector's property is not immediately adjoining the subject land however the objector has a direct line of sight to the proposed dwelling. The objector is particularly concerned regarding the reflective materials that have been used on the structure and has requested that if Council decides to grant a permit that conditions be placed on the permit requiring that external materials be non-reflective and that appropriate landscaping be established.

Council officers offered to arrange a mediation meeting with the applicant and objector however the offer was declined by the objector. The applicant subsequently provided additional information in response to the objector's concerns (refer to Attachment 6). The applicant has offered to the paint the side of the dwelling directly facing the objector's property so that it is non-reflective and establish landscaping along the western boundary to provide screening.

Golden Plains Planning Scheme

State Planning Policy Framework (SPPF)

Clause 11.07 Regional Victoria

The policy for Regional Planning (Clause 11.07-1) includes strategies that seek to maintain and provide for the enhancement of environmental health and productivity of rural landscapes by avoiding development impacts on land that contains, among other things, landscape amenity and food production capacity.

Clause 11.09 Geelong (G21)

The Geelong (G21) policy applies to the Geelong G21 region which includes Golden Plains Shire. The Environmental assets policy (Clause 11.09-4) aims to protect the region's unique environment and the Agricultural productivity policy (Clause 11.07-5) aims to protect critical agricultural land.

Clause 12.04 Significant environments and landscapes

The objective of the Landscapes policy (Clause 12.04-2) is to protect landscapes contribute to character, identity and sustainable environments. This is to be achieved by ensuring that sensitive landscape areas are protected and that new development does not detract from their natural quality and by recognise the natural landscape for its aesthetic value.

Clause 14.01 Agriculture

The objective of the policy for the Protection of agricultural land (Clause 14.01-1) is to protect productive farmland which is of strategic significance in the local or regional context. 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 the impacts of the proposed development on the continuation of primary production on adjacent land and the compatibility between the proposed development and the existing uses of the surrounding land.

Local Planning Policy Framework (LPPF)

Clause 21 Municipal Strategic Statement (MSS)

Clause 21.01-7 of the MSS identifies managing residential growth, enhancing economic growth, maintaining and encouraging viable agricultural industries, and protecting and enhancing the natural environment as the major issues affecting the Shire's land use planning and development.

The vision for the Shire contained in Clause 21.02 seeks to facilitate the development of the shire based on, among other things, the protection and enhancement of places and areas of natural heritage. Town structure plans have been prepared for most settlements including Bannockburn however the subject land is located outside the area identified in the Bannockburn Urban Design Framework (Clause 21.07-1).

The Agriculture policy (Clause 21.05-2) 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.

The South East Area policy (Clause 21.07-3) sets out the direction for future development and land use in the South East Area of the Shire. The policy objectives, among other things, are to protect identified significant landscapes and the highly productive agricultural resource. In particular the policy seeks to provide for agricultural and rural related uses, along with support for tourism uses related to, and that support agriculture and the landscape values of the Moorabool River valley.

Rural Land Use Strategy

The Golden Plains Rural Land Use Strategy (2008) is a reference document to the planning scheme and is designed to guide future land use and development and the application of rural zones across the Shire's rural areas. The strategy identifies the subject land within the Moorabool Valley area which is identified as an area containing small scale agricultural activities with the potential for tourism and other complementary activities. The rural strategy recommended that the Moorabool Valley be zoned Rural Activity Zone with a 40ha minimum subdivision area in order to achieve a mix of rural uses that reflects the current land use and development and that is compatible with, among other things, the area's dominant landscape features in particular the enclosed river valleys and escarpments.

Zone and Overlay Controls

Rural Activity Zone – Schedule 2

The site and surrounding land is in a Rural Activity Zone – Schedule 2 (RAZ2). The purpose of the RAZ is, among other things, to provide for the use of land for agriculture; to provide for other development, in appropriate locations, which is compatible with agriculture and the environmental and landscape characteristics of the area; and to ensure that development does not adversely affect surrounding land uses. The minimum subdivision area in the RAZ is 40 hectares. A permit is required for a dwelling in the RAZ regardless of the lot size. Schedule 2 of the RAZ applies to the Moorabool Valley and seeks to achieve a planned mix of small agricultural holdings used for horticulture, rural industries, tourism and recreation facilities that are compatible with, among other things, the area's dominant landscape features in particular the enclosed river valleys.

Environmental Significance Overlay – Schedule 3

The Environmental Significance Overlay – Schedule 3 (ESO3) seeks to protect the environmental attributes of the Moorabool Valley and other areas of environmental significance. The objectives of the ESO3 are to protect the conservation values of the above areas including geological formations and landscape values. A permit is required to develop land for a dwelling 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 and retaining vegetation in the vicinity of natural features, watercourses, roads, property boundaries, buildings and natural habitats.
- the need to control the siting, shape and height of any buildings or extensions and the extent to which the materials, colours and external finishes of buildings conform in appearance and character with adjacent buildings and with the character and appearance of the area generally.

Other overlays

The subject land is partly affected by a Floodway Overlay and Land Subject to Inundation Overlay however the proposed buildings and works are not located within these overlays. The proposed dwelling is located high on the hillside well outside the flood extent. Therefore a permit is not required under these overlays and the provisions of these overlays do not apply.

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.

Discussion

Planning Scheme

The application is considered to satisfy the relevant provisions of the planning scheme. State and local policies for Agriculture and the Rural Activity Zone seek to protect productive agricultural land by ensuring that new development does not impact primary production on adjacent land and is compatible with existing uses on surrounding land. The proposal will not result in the loss of productive agricultural land because the arable areas of the land will continue to be used for primary production and the dwelling will be located on the hillside which is unproductive due to the steep slope. The proposed dwelling is also not considered to have any impact on adjoining agricultural activities because the surrounding area contains a number of small farm holdings including rural residential properties and there are adequate setbacks to adjoining properties used for agriculture. The subject land is just under 40ha which is designated as the minimum subdivision area in the Moorabool Valley in order to provide for small farm holdings and other compatible activities.

The Rural Activity Zone – Schedule 2 (RAZ2) together with the Environmental Significance Overlay – Schedule 3 (ESO3) both identify the need to protect the dominant landscape features and natural beauty of the Moorabool Valley. In particular the ESO3 seeks to ensure that development does not detract from the landscape through the use of landscaping along boundaries and in the vicinity of buildings and by controlling materials, colours and external finishes of buildings so that they conform to the character and appearance of the area. The placement of conditions on the permit for landscaping along the western property boundary and in the vicinity of the buildings and requiring that the external materials of the buildings be coloured or painted so that they are muted and non-reflective will ensure that the proposed development has no visual impact on the landscape and amenity of the area.

Objector's Concerns

The grounds of objection primarily relates to the visual impact of the proposal on the amenity of the objector's property and the surrounding area. As suggested by the objector and in order to meet the requirements of the planning scheme it is recommended that conditions be placed on the permit for landscaping along the boundary and in the vicinity of the buildings and requiring that external materials of the buildings be coloured or painted so that they are muted and non-reflective. It is considered that these conditions will address the objectors concerns by ensuring that the development has no visual impact on the amenity and the appearance of the surrounding area.

Cultural Heritage Implications

It is considered there are no cultural heritage implications.

Financial & Risk Management Implications

It is considered there are no financial or risk management implications.

Economic, Social & Environmental Implications

It is considered that there are no economic, social or environmental implications.

Conclusion

The application satisfies the provisions of the State and Local Planning Policy Frameworks, the Rural Activity Zone – Schedule 2, Environmental Significance Overlay – Schedule 3 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 activities. The placement of permit conditions requiring landscaping and controlling the external materials of the buildings will ensure that the development has no visual impact on the amenity and landscape of the area and does not cause material detriment to any person.

Recommendation

That Council resolves to issue a Notice of Decision to Grant a Permit for the use and development of a dwelling and garage at Lot 1 on Title Plan TP18800E (Russell Road, Bannockburn) subject to the following conditions:

- 1 Within 30 days of the date of this permit, amended plans to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans submitted with the application (drawn by Jet Design & Drafting dated 19 January 2017) but modified to show:***
 - (a) details of all external materials and finishes of the dwelling and garage, including the roofing, all of which must be coloured or painted so that they are muted and non reflective in order to blend with the environment and preserve the character and visual amenity of the area;***
 - (b) landscaping along the western boundary and in the vicinity of the dwelling and garage in order to provide a visual screen to adjoining properties and improve the appearance of the development.***
- 2 The use and development as shown on the endorsed plans must not be altered without the written consent of the responsible authority.***
- 3 All external materials to be used in the construction of the dwelling and garage 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. All buildings and works must be brought into compliance with this condition within three (3) months of the date of this permit.***
- 4 Access to the land must be provided to the dwelling via an all-weather road with dimensions adequate to accommodate emergency vehicles in accordance with Council Infrastructure Design Manual standard drawing number 255 to the satisfaction of the responsible authority.***
- 5 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.***
- 6 The dwelling must be connected to a reticulated electricity supply or have an alternative energy source 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 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.***

9 The use and development must be managed so that the amenity of the area is not detrimentally affected, through the:

- (a) transport of materials, goods or commodities to or from the land**
- (b) appearance of any building, works or materials**
- (c) emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil**
- (d) presence of vermin**
- (e) discharge of drainage.**

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

- (a) The development is not started within two years of the date of issue.**
- (b) The use is not started and the development is not completed within four 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 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.

Moved Crs Hansford/Gilbert

That Council suspend Standing Orders to hear a submission from John O'Shannassy.

Carried

It is recorded that Council suspended Standing Orders at 4.15pm.

John O'Shannassy addressed the Council between 4.15pm and 4.19pm.

Moved Crs Hansford/Gilbert

That Council resume Standing Orders.

Carried

It is recorded that Council resumed Standing Orders at 4.19pm.

Moved Crs Rowe/Hansford

That Council resolves to issue a Notice of Decision to Grant a Permit for the use and development of a dwelling and garage at Lot 1 on Title Plan TP18800E (Russell Road, Bannockburn) subject to the following conditions:

1 Within 30 days of the date of this permit, amended plans to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans submitted with the application (drawn by Jet Design & Drafting dated 19 January 2017) but modified to show:

- (a) details of all external materials and finishes of the dwelling and garage, including the roofing, all of which must be coloured or painted so that they are muted and non reflective in order to blend with the environment and preserve the character and visual amenity of the area;***
- (b) landscaping along the western boundary and in the vicinity of the dwelling and garage in order to provide a visual screen to adjoining properties and improve the appearance of the development.***

- 2 The use and development as shown on the endorsed plans must not be altered without the written consent of the responsible authority.**
- 3 All external materials to be used in the construction of the dwelling and garage 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. All buildings and works must be brought into compliance with this condition within three (3) months of the date of this permit.**
- 4 Access to the land must be provided to the dwelling via an all-weather road with dimensions adequate to accommodate emergency vehicles in accordance with Council Infrastructure Design Manual standard drawing number 255 to the satisfaction of the responsible authority.**
- 5 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.**
- 6 The dwelling must be connected to a reticulated electricity supply or have an alternative energy source 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 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.**
- 9 The use and development must be managed so that the amenity of the area is not detrimentally affected, through the:**
 - (a) transport of materials, goods or commodities to or from the land**
 - (b) appearance of any building, works or materials**
 - (c) emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil**
 - (d) presence of vermin**
 - (e) discharge of drainage.**
- 10 This permit will expire if one of the following circumstances applies:**
 - (a) The development is not started within two years of the date of issue.**
 - (b) The use is not started and the development is not completed within four 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 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.

Carried

4.4.2 Planning Application P16-318 for a Dwelling at Crown Allotments 58, 59, 62 & 63 Jubilee Street, Inverleigh

Directorate	Assets and Amenity
Unit	Development
Senior Manager	Greg Anders, Director Assets and Amenity
Responsible Manager	Tim Waller, Development Manager
Responsible Team Leader	Sarah Fisher, Planning Team Leader
Author	Peter O'Brien, Town Planner
File References	Planning application P16-318
Relevant Policies & Legislative Frameworks	Golden Plains Planning Scheme
Proposal Summary	Dwelling
Land Address	Crown Allotments 58, 59, 62 and 63 Township of Inverleigh Parish of Doroq (Jubilee Street, Inverleigh)
Applicant	Kathryne Jursak
Zone & Overlay Summary	<ul style="list-style-type: none"> ▪ Farming Zone (FZ) ▪ Part Floodway Overlay (FO) ▪ Part Land Subject to Inundation Overlay (LSIO)
Attachments	<ul style="list-style-type: none"> 7. P16-318 Copy of application and plans 8. P16-318 Locality map 9. P16-318 CCMA referral response 10. P16-318 Copy of objections 11. Confidential attachment – P16-318 legal advice from Harwood Andrews 12. P16-318 Draft suite of conditions

Declarations of Interest: Councillors & Officers

Greg Anders: In providing this advice as the senior manager, I have no disclosable interests in this report.

Tim Waller: In providing this advice as the responsible manager, I have no disclosable interests in this report.

Sarah Fisher: In providing this advice as the responsible team leader, I have no disclosable interests in this report.

Peter O'Brien: In providing this advice as the author, I have no disclosable interests in this report.

Purpose

This report relates to a planning permit application for a dwelling at Crown Allotments 58, 59, 62 and 63 Jubilee Street, Inverleigh. The application has been referred to Council for determination because there are objections to the application and because Council officers' are of the opinion that the application does not satisfy the provisions of the planning scheme and should be refused. This report contains additional information and advice that has been received since Council deferred consideration of this application for planning permit at the April 2017 Ordinary Meeting.

Proposal

The application proposes the use and development of the land for a dwelling (refer to Attachment 7 for a copy of application and plans). The dwelling is proposed to be located on Crown Allotment 59 with a setback distance of 57.6m from the front boundary (Jubilee Street) and 85m from the northern property boundary. Professionally drawn plans of the dwelling were not submitted with the application. The plans submitted with the application show a two storey dwelling with a footprint of 135.7m². The external materials of the dwelling consist of weatherboard walls and colourbond roofing. Access to the dwelling is proposed from Jubilee Street which is currently an unmade road.

The application originally proposed to open the property to the public for farm visits however the applicant has since removed this from the application in response to objectors' concerns. Instead the applicant intends to operate a mobile petting farm (not on site), and use the land for animal keeping, horticulture and a registered kitchen.

Site Description

The subject land is situated on Jubilee Street, Inverleigh and is formally described as 58, 59, 62 and 63 Parish of Doroq. The site is located in a farming area to the south of the Inverleigh township (refer to Attachment 8 – locality map). The total area of the site is approximately 6.1ha. The site is currently used for grazing and there is an existing farm shed. The site is located on the Barwon River floodplain. The land is mostly cleared except for planted trees. Access to the site is from Jubilee Street which is an unmade road. Surrounding land is predominately used for farming purposes however the site adjoins the Inverleigh township and adjoining land to the north is used for residential purposes.

History

The application was received by Council on 30 November 2016. The applicant was advised by Council officers prior to lodging the application that it was unlikely that Council would support the application due to the flood risk associated with the site.

The application was referred under Section 55 of the Planning & Environment Act to the Corangamite Catchment Management Authority (CCMA) in accordance with the provisions of the Floodway Overlay and Land Subject to Inundation Overlay. The CCMA objected to the issue of a permit due to the flood risk associated with the site. A copy of the CCMA referral response is provided in Attachment 9.

The application was also internally referred to Council's Works Engineer. The Works Engineer has raised concerns regarding the flooding issues associated with access to the site. The engineer has advised that if a permit is issued the applicant must provide all-weather access to the site by designing and constructing Jubilee Street so that it is compatible with the flood hazard and at the applicant's cost.

For this proposed development "all-weather" access is a floodway crossing which has a water depth of not more than 300mm in the event of a 1% rainfall event. The Works Engineer has estimated that the costs associated with the design and construction of such a floodway is in the order of \$200,000.

Council's Environmental Health Officer (EHO) has advised that the land is considered to be capable of the treatment and retention of wastewater. The EHO originally requested further information in the form of a Land Capability Assessment however this request was later withdrawn when the applicant removed the farm visit business from the application.

Communications

Notice of the application was given in accordance with Section 52(1)(a) and (d) of the Act. Notice was sent by mail to 16 adjoining and surrounding owners and occupiers. Notice was also provided by placing a sign on the site.

Summary of Objections

As a result of the public notice three objections were received from neighbouring landowners. A copy of the objections are provided in Attachment 10. The main grounds of objection are summarised as follows:

- Traffic. Objectors are concerned that increased traffic to the site will result in adverse impacts such as noise, dust, road damage and create a safety risk to pedestrians.
- Noise. Objectors are concerned that as the property is not connected to mains power, generators will be used on the site and that this will create excessive noise.
- Other concerns. One of the objectors, whose property adjoins the site, is concerned about the loss of privacy and damage to fencing. This objector also raised concerns regarding the flood risk associated with the site.

A consultation meeting with the objectors and the applicant was held on 14 March 2017. There was no resolution or agreement reached at the meeting however following the meeting the applicant decided to amend the application by removing the farm visit business in order to address the objectors concerns regarding traffic impacts.

Golden Plains Planning Scheme

State Planning Policy Framework (SPPF)

Clause 11.05 Regional development

The policy for Melbourne's hinterland areas (Clause 11.05-2) seeks to manage growth in the area within 100km of Melbourne. This policy includes strategies to strengthen and enhance the character and identities of towns, prevent dispersed settlement and site and design new development to minimise risk to life and property from natural hazards such as flooding. The objective of the policy for Rural Productivity (Clause 11.05-3) is to manage land use change and development in rural areas to promote agriculture and rural production. The policy seeks to prevent inappropriately dispersed housing development in rural areas by directing housing growth into existing settlements and by discouraging development of isolated small lots in the rural zones from use for single dwellings.

Clause 11.07 Geelong (G21) regional growth plan

The Geelong (G21) regional growth plan identifies the site within a productive agricultural area. The policy for agricultural productivity (Clause 11.07-5) aims to protect critical agricultural land by focussing development to existing township areas.

Clause 13.02 Floodplains

The objective of the State Policy for Floodplain management (Clause 13.02-1) is, among other things, to assist the protection of life, property and community infrastructure from flood hazard. The policy seeks to identify land affected by flooding, including floodway areas, as verified by the relevant floodplain management authority, in planning scheme maps, and avoid intensifying the impacts of flooding through inappropriately located uses and developments.

Clause 14.01-1 Protection of agricultural land

The objective of this policy is to protect productive farmland which is of strategic significance in the local or regional context. 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 the impacts of the proposed development on the continuation of primary production on adjacent land, with particular regard to land values.

Local Planning Policy Framework (LPPF)

Clause 21 Municipal Strategic Statement (MSS)

According to the Municipal Profile (Clause 21.01) the main use of land in the shire is for primary production including grazing and broad acre cropping. Agricultural industries generate approximately \$44 million worth of product and 14% of the workforce is employed in primary industry. The Golden Plains Shire has three water supply catchment basins including the Barwon/Leigh river system. Flooding is recognised as one of the important issues that must be managed in the Barwon/Leigh catchment.

Clause 21.01-7 identifies managing residential growth, economic growth and maintaining and encouraging viable agricultural industries as major issues affecting the Shire's land use planning and development. The policy states that the Shire contains a relatively large number of small townships and that Council seeks to focus residential development within the boundaries of these townships. It is recognised that there is pressure for development outside these townships particularly for hobby farm development therefore the urban-rural interface needs to be managed appropriately. The policy also recognises that the Shire relies on the strength of its grazing and cropping industries as its economic base therefore it is vitally important to maintain a viable agricultural sector.

The vision for the Shire contained in Clause 21.02 includes, among other things, recognising a prosperous agricultural industry. This will be achieved in part by focusing urban development into existing townships, sustainable management and protection of natural resources, facilitating productive agricultural activities, and protecting rural areas. Town structure plans have been prepared for most settlements and establish a basis for future strategic planning decisions in each town.

The Settlement policy (Clause 21.03) states that the Shire is characterised by a number of small towns located in the midst of productive agricultural areas and the maintenance of a clear distinction between urban and rural areas is essential to continued agriculture. The policy contains strategies which seek to direct residential development to township areas provided with water, sewerage and social infrastructure, establish an urban edge to all settlements by using zoning to provide a clear urban growth boundary, and protect land in agricultural production from adjoining uses and development inconsistent with normal farming practices.

The Environment and Natural Resources policy identifies flooding as a particular problem in the Shire (Clause 21.04-2). It states that the most significant flooding in the Shire occurs in Inverleigh where the Barwon and Leigh Rivers meet. The policy seeks to ensure the protection of the environmental attributes of floodplains through minimising the impact of development through the preparation of floodplain management plans.

The Agriculture policy (Clause 21.05-2) emphasises the economic importance of agricultural industries to the Shire however this is potentially threatened by the fragmentation of land for non-agricultural purposes, including rural residential development and conflict between sensitive uses and agricultural practices. 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 and by avoiding the fragmentation of land for non-agricultural purposes, including rural residential development.

The Inverleigh Town Structure Plan (Clause 21.07-5) seeks to contain development within the identified growth area of and actively discourages residential development in the floodway and floodplain as identified in the Structure Plan. Growth areas identified in the Structure Plan are located outside of the floodplain to the west and the north of the town. The Structure Plan shows the subject land in a rural area outside the township boundary and in the identified floodplain area.

Clause 22.11 Local policy for Floodplain Management

This policy applies to all land affected by the Floodway Overlay (FO) or the Land Subject to Inundation Overlay (LSIO). The policy states that sound floodplain management in Golden Plains Shire is critical because the municipality includes areas of flood prone land where flooding has historically caused substantial damage to the natural and built environment. The policy makes particular mention of the town of Inverleigh which is most affected by flooding due to the confluence of the Leigh and Barwon Rivers. The objectives of the policy include, among other things, to minimise flood risk, to ensure land use and development on the floodplain is compatible with flood risk and to discourage the intensification of land use and development in the floodplain. It is policy to discourage any new buildings and works in the Floodway Overlay and to discourage new dwellings in the Land Subject to Inundation Overlay.

Rural land use strategy

The Golden Plains Rural Land Use Strategy was adopted by Council in 2008 and is a reference document to the planning scheme. The strategy is designed to guide future land use and development across the Shire's rural areas. The strategy recognises the existence of inappropriate subdivisions containing small lots located in broad acre farming areas. These areas have limited access to social and physical infrastructure that would be required for residential development. The strategy states that although these lots can be sold individually no provision should be made for their development. The strategy recognises that the loss of agricultural land through conversion of land to rural living is a significant issue and that these changes have caused the inflation of rural land values thereby preventing farmers from purchasing land for agriculture.

Zone and Overlay Provisions

Farming Zone

The site and surrounding area is in a Farming Zone. The purpose of the Farming Zone is, among other things, to provide for the use of land for agriculture, to encourage the retention of productive agricultural land and to ensure that non-agricultural uses, including dwellings, do not adversely affect the use of land for agriculture. The schedule to the Farming Zone specifies that a permit is required for a dwelling where the lot area is less than 100 hectares.

Pursuant to Clause 35.07-2 access to the dwelling must be provided via an all-weather road with dimensions adequate to accommodate emergency vehicles. A lot used for a dwelling must meet this requirement.

Before deciding on an application Council must consider, among other things, the decision guidelines for dwellings which are as follows:

- Whether the dwelling will result in the loss or fragmentation of productive agricultural land.
- Whether the dwelling will be adversely affected by agricultural activities on adjacent and nearby land due to dust, noise, odour, use of chemicals and farm machinery, traffic and hours of operation.
- Whether the dwelling will adversely affect the operation and expansion of adjoining and nearby agricultural uses.
- The potential for the proposal to lead to a concentration or proliferation of dwellings in the area and the impact of this on the use of the land for agriculture.

Floodway and Land Subject to Inundation Overlays

The site is partly affected by a Floodway Overlay and Land Subject to Inundation Overlay. The Floodway Overlay identifies waterways, major floodpaths, drainage depressions and high hazard areas which have the greatest risk and frequency of being affected by flooding and the Land Subject to Inundation Overlay identifies land in a flood storage or flood fringe area affected by the 1 in 100 year flood. Both overlays seek to ensure that development maintains the free passage and temporary storage of floodwater, minimises flood damage and is compatible with flood hazard. A permit is required to construct a building or to construct or carry out works in the Floodway Overlay (Clause 44.03-1) and Land Subject to Inundation Overlay (Clause 44.04-1).

An application in the Floodway Overlay and Land Subject to Inundation Overlay must be referred under Section 55 of the Act to the relevant floodplain management authority (Corangamite Catchment Management Authority). The CCMA is a recommending referral authority under Clause 66.03 of the planning scheme. The decision guidelines of the Floodway Overlay and Land Subject to Inundation Overlay require Council to consider any comments of the relevant floodplain management authority before deciding on an application. The overlays also require Council to consider the potential flood risk to life, health and safety associated with the development. Flood risk factors include the frequency, duration, extent, depth and velocity of flooding of the site and accessway and the danger to the occupants of the development, other floodplain residents and emergency personnel if the site and accessway is flooded.

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.

Discussion

The relevant planning considerations for this application are addressed as follows:

Financial & Risk Management Implications

The officer's recommendation to refuse the application does not present any financial or risk management implications for Council. However if Council decides to issue a permit it will expose itself to risk of legal action being brought against it in the event that a flood causes death, injury or damage as a result of Council's decision. Advice has been obtained from Council's lawyers and insurers regarding the legal and financial risk associated with the application and both parties have advised against the issue of a permit in the strongest possible terms. Council's lawyers have advised that the issue of a permit would expose Council to legal and financial risk due to breach of statutory duty and negligence.

Council's lawyers have further advised that the use of a Section 173 agreement to absolve Council of any legal responsibility related to death, injury or damage in a flood event is not appropriate and contrary to proper planning purposes. Entering into an agreement with the owner would not indemnify Council against any legal action being brought by a third party such as an adjoining landowner or emergency services personnel. A summary of the legal advice provided by Council's lawyer is provided below and a full copy of the advice is attached (refer to confidential attachment 11):

Summary of Advice

In summary, it is our advice that:

1. 'All-weather road' access means road access in all circumstance. There is no exception for access in major and minor flood events.
2. Council should not enter into a section 173 agreement whereby the owner agrees to absolve Council of any legal responsibility related to death/injury/damage in a flood event as a result of Council's decision to issue a permit. This is primarily because such an agreement would circumvent the purpose of the relevant controls and considerations in the Scheme and would not be a proper planning outcome.
3. Council exposes itself to risk of actions being brought against it in breach of statutory duty and negligence, if it issues a permit for the Permit Application. This is notwithstanding the planning officer and CCMA recommended refusal and irrespective of whether the current owner of the Land accepts liability through a section 173 agreement.

The advice from Council's insurers is provided below:

To: Paul McVeigh <pmcveigh@gplains.vic.gov.au>

Subject: RE: Advice - Issuing a planning permit in a flood prone zone

Hi Paul,

The LMI policy covers Council in cases where Council's employees have been negligent and such negligence has led to a third party suffering a loss, either personal injury, property damage, or financial loss.

The operative word is "negligence". If there is no negligence, then the policy would not cover Council. Such a situation would arise when, for instance, someone within Council purposefully performs some act knowing full well that it could likely lead to someone suffering loss or damage.

In this case, it appears that you have competent and/or qualified Council officers, and the CMA, advising that the planning application in question should be rejected because the property in question is in a flood zone. If Council were to reject such advice, or recommendation, there would be a strong argument that Council would not receive indemnity from LMI for any claims arising from flood inundation on such property, on the basis that Council wasn't negligent, as it knowingly or deliberately approved the application, despite advice and recommendations to the contrary.

In addition, Condition 7 of the LMI policy states that Council "*shall as far as reasonably practical take all reasonable precautions to prevent personal injury and damage to property*". Once again, Council's indemnity under the LMI policy could be in jeopardy because there would be a strong argument that Council has failed to take reasonable precautions by approving such planning application against the advice of its own officers and the CMA. That would hardly seem reasonable. Let's hope it doesn't come to that.

As for liability, how could we possibly defend a claim of flood damage from owners of a property, who obtained a planning permit from Council despite their land being classified as being in Land Subject to an Inundation Overlay as well as a Flooding Overlay? There would not be any defence to such a claim.

We have had similar claims in the past, but they have all been caused by negligent approval. If the Councils had their time over they would have never approved a planning permit in the first place. Such claims have resulted in high payout of damages and, in quite a few cases, as the owners of the property couldn't do anything with it, Council finished up buying the property from them, as it had no resale value at all.

I trust this answers your queries and if you need anything else, don't hesitate to get back to me.

Regards,

Ivan Ciardullo | Manager – Claims

Jardine Lloyd Thompson | Service provider to MAV Insurance, Liability Mutual Insurance
Level 11, 60 Collins Street, Melbourne, VIC 3000 | GPO Box 4326, Melbourne VIC 3001

Flood Risk

The planning scheme identifies land subject to flooding for the purpose of minimising flood risk and avoiding the intensification of flooding through inappropriately located uses and development. The local policy for Floodplain Management (Clause 22.11) discourages the intensification of use and development in the floodplain. The Floodway and Land Subject to Inundation Overlays require Council to consider the potential flood risk to life, health and safety associated with the development.

The Corangamite Catchment Management Authority (CCMA), as the expert authority in these matters, does not support the proposal and has advised Council against issuing a permit. Flood data provided by the (CCMA) shows that whilst the dwelling site is located outside the 1 in 100 year flood extent the accessway to the site along Jubilee Street is subject to significant flooding of at least 1 metre. The serious danger presented by flooding is clearly shown by an aerial photograph submitted by the applicant which shows the site as an island surrounding by

floodwaters. The CCMA has advised that access to the property is unsafe and in the event of a flood will result in danger to the life, health and safety of the occupants and emergency services.

All-Weather Access

It is a requirement of the planning scheme that a dwelling must have access via an all-weather road with dimensions adequate to accommodate emergency vehicles (Clause 35.07-2 Farming Zone). This is a mandatory requirement. If a dwelling does not have all-weather access it is a prohibited use. VCAT has previously ruled that all-weather access means the road must be usable in all weather conditions and does not become impassable in wet weather or flooding (West Gippsland Catchment Management Authority v East Gippsland SC (2010) VCAT 1864).

The subject land does not currently have all-weather access. Jubilee Street is currently an unmade road and is not maintained by Council. If a permit is issued a condition of the permit must require that the owner provides all-weather access to the site. In order to provide all-weather access the road must be designed and constructed so that it is compatible with the flood hazard. Council's Engineer has advised that due to the depth of flooding on Jubilee Street the road construction would involve significant works to raise the road level and allow the free passage of floodwaters. In addition a flood study would be required to ensure that any works undertaken within the road reserve do not have any detrimental impact on adjoining landowners due to changes to the flow and spread of floodwaters. All of these requirements and associated costs would be the responsibility of the applicant.

Dwelling in the Farming Zone

The planning officers are firmly of the view that this application is not consistent with the purposes of the Farming Zone. State and Local planning policies related to Agriculture, the Rural Land Use Strategy and Farming Zone all recognise the importance of agriculture to State and local economies and seek to protect agricultural land from use and development that is inconsistent with existing agricultural activities, prevent inappropriately dispersed housing development in rural areas by directing housing growth into existing settlements and avoid the fragmentation of land for non-agricultural purposes, including rural residential development. The use of the land for a dwelling is considered to be inappropriate because it is inconsistent with agricultural uses in the surrounding area and may result in land use conflicts that constrain 'as of right' agricultural uses on adjacent and nearby land.

The planning scheme discourages the use of small lots in the Farming Zone for dwellings. The subject land has a total combined area of only 6.1ha. The applicants intended purpose of the land is not as a working farm or for intensive agriculture but is more akin to a 'hobby farm' type development which is strongly discouraged by the policy framework. The issue of a permit in these circumstances is likely to lead to further fragmentation of rural land in the area and a proliferation of similar proposals that will have an impact on rural land values and result in the loss of productive agricultural land.

Objectors Concerns

The main concern of the objectors relates to the increase of traffic on Jubilee Street mainly due to the proposed farm visit business. This concern was mostly addressed with the applicant deciding not to go ahead with the farm visit business and to replace it with a mobile petting farm. As a result there will be no visitor traffic to the site which will reduce potential impacts such as noise, dust and safety issues. In relation to concerns regarding noise from power generators the applicant has stated to Council that they intend to use solar power, gas and wood heating.

Cultural Heritage Implications

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

Economic, Social & Environmental Implications

It is considered that there are no economic, social or environmental implications.

Conclusion

It is considered that the application does not satisfy the provisions of the planning scheme, including the State and Local Planning Policy Frameworks, Local Policy for Floodplain Management (Clause 22.11), Farming Zone, Floodway Overlay and Land Subject to Inundation Overlay. The use and development of the land for a dwelling presents an unacceptable risk to life due to flooding and the Corangamite Catchment Management Authority, as the relevant floodplain management authority, does not support the grant of a permit. Furthermore the use of the land for a dwelling has the potential to impact existing agricultural use and lead to the loss of productive agricultural land. It is therefore recommended that the application be refused.

It is also noted that Council's lawyers and insurers have strongly argued against Council supporting the application for a planning permit because of the potential exposure to risk and litigation and the associated financial damages implications. However, if Council is of the view that a Notice of Decision to Grant a Permit should be issued, in spite of the advice to the contrary, the officers have provided in the attachments the draft of a suggested Council motion.

Recommendation

That Council resolves to issue a Notice of Decision to Refuse to Grant a Permit for the use and development of a dwelling at Crown Allotments 58, 59, 62 & 63 Parish of Doroq Jubilee Street, Inverleigh for the following reasons:

- 1. The proposal fails to accord with the State & Local Planning Policy Frameworks, in particular Clauses 13.02 & 22.11, and the Floodway Overlay and Land Subject to Inundation Overlay because the flood risk associated with access to the proposed dwelling presents an unacceptable danger to the life, health and safety of the occupants of the dwelling and emergency services.***
- 2. The proposal is contrary to the State & Local Planning Policy Frameworks, in particular Clauses 11.05-3, 11.07, 14.01-1 & 21.05-2, and the Farming Zone which seeks to protect agricultural land, by discouraging use and development that is inconsistent with agricultural activities and the development of dwellings on small lots in rural areas. The proposal also has the potential to impact the continuation of primary production on adjacent land and lead to a proliferation of dwellings in the surrounding area.***

Moved Crs Hansford/Gilbert

That Council suspend Standing Orders to hear submissions from Kathyne Jursak, Mark Dupe and Dr Geoff Taylor.

Carried

It is recorded that Council suspended Standing Orders at 4.48pm.

Kathyne Jursak and Mark Dupe addressed the Council between 4.48pm and 4.55pm.

Dr Geoff Taylor from the Corangamite Catchment Management Authority addressed Council between 4.55pm and 5.06pm.

Moved Crs Hansford/Gilbert

That Council resume Standing Orders.

Carried

It is recorded that Council resumed Standing Orders at 5.06pm.

Moved Cr Gilbert/Kirby

That Council resolves to issue a Notice of Decision to Refuse to Grant a Permit for the use and development of a dwelling at Crown Allotments 58, 59, 62 & 63 Parish of Doroq Jubilee Street, Inverleigh for the following reasons:

- 1. The proposal fails to accord with the State & Local Planning Policy Frameworks, in particular Clauses 13.02 & 22.11, and the Floodway Overlay and Land Subject to Inundation Overlay because the flood risk associated with access to the proposed dwelling presents an unacceptable danger to the life, health and safety of the occupants of the dwelling and emergency services.***
- 2. The proposal is contrary to the State & Local Planning Policy Frameworks, in particular Clauses 11.05-3, 11.07, 14.01-1 & 21.05-2, and the Farming Zone which seeks to protect agricultural land, by discouraging use and development that is inconsistent with agricultural activities and the development of dwellings on small lots in rural areas. The proposal also has the potential to impact the continuation of primary production on adjacent land and lead to a proliferation of dwellings in the surrounding area.***

Carried

4.4.3 Review of Council Policy 10.1 Planning Permit Enforcement

Directorate	Assets and Amenity
Unit	Development
Senior Manager	Greg Anders - Director Assets and Amenity
Responsible Manager	Tim Waller – Development Manager
Author	Matthew Sims – Investigations Officer
File References	N/A
Council Plan Link	Environment and Land Use Planning
Relevant Council Strategies	Encourage and facilitate sustainable land use and development and protect and enhance the natural environment
Relevant Policies & Legislative Frameworks	<ul style="list-style-type: none"> ▪ 10.1 Planning Permit Enforcement ▪ Planning and Environment Act 1987
Attachments	13. 10.1 Planning Permit Enforcement (Current) 14. 10.1 Planning Permit Enforcement (Revised)

Declarations of Interest: Councillors & Officers

Greg Anders: In providing this advice as the senior manager, I have no disclosable interests in this report.

Tim Waller: In providing this advice as the responsible manager, I have no disclosable interests in this report.

Matthew Sims: In providing this advice as the author, I have no disclosable interests in this report.

Purpose

This report presents a revised Council Policy 10.1 Planning Permit Enforcement. The report provides background to the policy, a description of the proposed changes and a brief update on emerging challenges and opportunities.

Finally the report presents a revised Council Policy 10.1 Planning Permit Enforcement for adoption.

Background

The Investigations Officer role was created in 2011 as part of a concerted effort by Council to adopt a more strategic approach to planning enforcement. Prior to the introduction of the Investigations Officer role, Council's enforcement efforts could be best described as complaint driven or reactionary. The practice of undertaking random compliance inspections was considered to be the most appropriate method for identifying major issues and for covering a large range of permit application types. However over time our records have shown that the majority of amenity complaints received by Council are related to certain types of land use and development approval. It is therefore considered that focused compliance efforts in addition to random compliance inspections will produce the best results with the current level of resources.

The practice of undertaking random inspections is an important tool for achieving Planning Permit compliance across the Shire and therefore should be maintained. Those property owners, who are responsible for permits which are selected for review, are informed of the process at the time of the inspection. It is considered that these inspections encourage self-policing behavior and reinforce the importance of permit compliance within our communities.

Another of the key benefits of random compliance inspections is the opportunity to identify emerging compliance issues. Emerging issues may result from changes in planning policy or the development of new internal procedures. Random compliance inspections can also provide our planners with the opportunity to test the effectiveness of both standard and customised permit conditions.

In the past many of the permits selected for random compliance inspections have related to straightforward use and development proposals such as sheds and extensions. Permit compliance can typically be confirmed with a simple drive-by inspection of the subject property. The Investigations Officer will conduct compliance inspections for 2% of permits issued in the preceding 5 years, representing approximately 35 applications per annum.

Focused Compliance Inspections

The Golden Plains Shire is one of the fastest growing regional municipalities in the State. Strong population growth creates new development fronts and business opportunities. Growth also places new residents on the rural interface and can result in an increase in amenity impact complaints. As previously noted the majority of planning permit amenity complaints relate to the following use and development approvals:

- Intensive Animal Husbandry
- Extractive Industries
- New Dwellings in the Farming Zone
- Accommodation in the Bushfire Management Overlay (BMO)

Due to an increase in complaints relating to extractive industries, all new and existing operations will be captured in the new policy for focused compliance inspections.

Each of these activities has their own particular impacts and therefore they require different levels of review and inspection. A summary of the focused compliance inspections for the various activities is provided below:

Intensive Animal Husbandry

Intensive Animal Husbandry includes developments such as piggeries, broiler farms and cattle feedlots. These are farms where the majority of food required to raise livestock is sourced from off-site or outside of animal enclosures. There are many potential impacts associated with Intensive Animal Husbandry operations if the correct management practices are not followed. These impacts may include offensive odours, noise, heavy vehicle movements, disease and pests.

The proposed policy will require Council's Investigations Officer to review all permits for Intensive Animal Husbandry issued by the responsible authority and to work closely with Government agencies, including EPA and groups such as the VFF Chicken Care Group.

Extractive Industry

Extractive Industry includes developments such as quarries and mining properties. Council receives complaints about noise, heavy vehicle movements and dust suppression.

The proposed policy will require Council's Investigations Officer to review all permits for extractive industries issued by the responsible authority.

Compliance assessments for Extractive Industry uses will require Council officers to work closely with Department of Development, Jobs, Transport and Resources (DEDJTR).

New Dwelling Approvals in the Farming Zone

New dwellings on properties with an area of less than 100 hectares located within the Farming Zone present a range of issues requiring compliance inspections. Council planners typically require a new dwelling application to be accompanied by a Farm Management Plan. This document justifies the need for a dwelling and outlines future farming activities to be undertaken on the land. Compliance inspections will ensure that these works occur.

The proposed policy will require Council's Investigations Officer to review ten (10) new permits for properties with an area of less than 100 hectares, issued by the responsible authority within a five (5) year period.

Accommodation in the Bushfire Management Overlay (BMO)

Bushfire provisions seek to protect lives and property in those areas of the Shire which are prone to wildfire attack. A review of permits for all dwellings and other types of accommodation will ensure that appropriate fire safety measures are implemented. Previous compliance audits have found that even the most straightforward of requirements relating to water supply and tank fittings are ignored.

The proposed policy will require Council's Investigations Officer to review 25 new permits issued within a five (5) year period and ten (10) permits issued after 1995 with an issue date that is more than five (5) years old.

Discussion

The introduction of Local Law Number 2 General Public Amenity has given Development Unit staff further powers to address issues relating to residential properties including the keeping of animals.

Animal Keeping has been removed from the previous Planning Permit focused compliance inspections as the Investigations Officer and Community Protection Officers attend to these properties regularly in their duties. If a complaint is made, it is usually made to the Community Protection Officers in the first instance.

With an increase in extractive industry permits issued and a number of recent complaints, it has been identified that extractive industry permits be included in the revised Council policy.

Community Engagement

A formal consultation process was not required.

Financial & Risk Management Implications

It is considered that there are no financial or risk management implications.

Economic, Social & Environmental Implications

It is considered there are no economic, social or environmental implications.

Communications

It is considered that a communication plan is not required.

Conclusion

The pro-active approach to Planning Permit Enforcement is essential in identifying future compliance issues and to ensure that Council is efficiently administering and enforcing the Golden Plains Planning Scheme.

Moved Cr Kirby/Sharkey

That Council adopts the revised Council Policy 10.1 Planning Permit Enforcement.

Carried

4.5. KEY RESULT AREA – FINANCIAL MANAGEMENT

4.5.1 Budget Report – 9 Months Ended 31 March 2017

Directorate	Corporate Services
Unit	Finance
Senior Manager	Richard Trigg, Director Corporate Services
Responsible Manager	Jason Clissold, Finance Manager
Author	Jason Clissold, Finance Manager
File References	EDMS file: 40-01-010
Council Plan Link	Implement Strategic Resource Plan
Relevant Council Strategies	<ul style="list-style-type: none"> ▪ Strategic Resource Plan ▪ Annual Budget
Relevant Policies & Legislative Frameworks	<ul style="list-style-type: none"> ▪ Local Government Act 1989 ▪ Local Government Amendment (Fair Go Rates) Act 2015 ▪ Local Government (Planning and Reporting) Regulations 2014
Attachments	15. Budget Report – 9 Months Ended 31 March 2017

Declarations of Interest: Councillors & Officers

Richard Trigg: In providing this advice as the senior manager, I advise that I have no disclosable interests in this report.

Jason Clissold: In providing this advice as the responsible manager and author, I have no disclosable interests in this report.

Purpose

The purpose of this report is to present the Budget Report – 9 Months Ended 31 March 2017 to Council for adoption.

Background

The report was tabled at the 9 May Audit and Risk committee for review and discussion. The Committee recommended *‘That the Audit and Risk Committee recommend to Council that the Finance Report, including the Budget Report for 9 Months ending 31 March 2017 be adopted.’*

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 nine months of the 2016-17 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 six month period July 2016 to March 2017.

Discussion

The Audit and Risk Committee have reviewed the results to 31 March 2017, as detailed in the report. The overall surplus remains consistent with the original budget and maintains Council's sustainable financial position, as depicted in its Strategic Resource Plan.

The current forecast projects a surplus of \$8.4m for the year ending 30 June 2017 compared to the original surplus of \$5.2m. This positive movement of \$3.2m is primarily due to:

- \$2.4m increase in capital grants. \$2.1m from Black Spot program, \$220k Inverleigh Sports Oval Lighting and \$100k Bannockburn Soccer Pavilion Kitchen upgrade.
- \$1.6m in capital grants and contributions forecast to be received in 2016-17, that were not received in 2015-16 due to the timing of capital projects
- \$1m of expenditure rolled forward from 2015-16, to complete funded projects/programs.

It must be noted that this forecast result assumes that all projects and services are fully expended by 30 June 2017, which 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 contributions to fund capital expenditure from the result, is forecast to be a deficit of \$217k, compared to a budget surplus of \$498k. This formula is prescribed within the Local Government (Planning and Reporting) Regulations 2014.

This decrease in the 'Adjusted Underlying Result' does not represent a permanent impact on Council's financial position as the variance is primarily due to the timing of 2015-16 projects/programs. I.e. projects that were budgeted for in 2015-16 are now forecast to be delivered in 2016-17.

Total expenditure in the Statement of Capital Works is now forecast to be \$18.3m compared to the original budget of \$12.3m. This increase of \$6m is due to projects rolled forward from 2015-16 and new capital projects funded by grants.

Community Engagement

A formal consultation process was not required.

Financial & Risk Management Implications

The financial implications are explained within this agenda and the attached budget report.

It is considered that there are no risk management implications.

Economic, Social & Environmental Implications

It is considered there are no economic, social or environmental implications.

Communications

It is considered that a communication plan is not required.

Conclusion

Financial controls and regular monitoring by officers would ensure that the current forecast remains consistent with the original budget adopted by Council, after allowing for roll forwards and budget reallocations.

The financial results detailed in the attached budget report remain consistent with the objectives adopted in Council's Strategic Resource Plan and meet the principles of sound financial management as required under Section 136 of the Local Government Act. The Audit & Risk Committee recommend that the Budget report be adopted.

Moved Cr Evans/Hansford

That Council adopts the budget report for the 9 months ended 31 March 2017.

Carried

4.6. KEY RESULT AREA – HUMAN SUPPORT SERVICES

No report.

4.7. KEY RESULT AREA – RECREATION & COMMUNITY DEVELOPMENT

No report.

4.8. KEY RESULT AREA – ROADS & STREETS INFRASTRUCTURE

4.8.1 Contract GPS-T4/2017 – New Two Steer Backhoe (Loader)

Directorate	Assets and Amenity
Unit	Assets and Amenity
Senior Manager	Greg Anders, Director Asset & Amenity
Responsible Manager	David Greaves, Works Manager
Author	Janine Rowan, Fleet Technical Officer
File References	<ul style="list-style-type: none">EDMS File: 39-133-001Contract Number: GPS-T4/2017
Council Plan Link	Financial Management, 10-Year Financial Plan
Relevant Council Strategies	Strategic Planning Framework: Financial Management Annual Budget
Relevant Policies & Legislative Frameworks	<ul style="list-style-type: none">Local Government Act 1989GPSC Procurement Policy
Attachments	16. Confidential attachment – GPS-T4/2017 New 2 Steer Backhoe (Loader)

Declarations of Interest: Councillors & Officers

Greg Anders: In providing this advice as the senior and responsible manager, I have no disclosable interests in this report.

David Greaves: In providing this advice as the Works Manager, I have no disclosable interests in this report.

Janine Rowan: In providing this advice as the author, I have no disclosable interests in this report

Purpose:

This report seeks Council approval to the awarding of a tender for the supply and delivery of one new 2 Steer Backhoe (Loader), as replacement for the existing JCB Backhoe in Council's plant fleet.

Background

The existing JCB Backhoe is a major item of plant utilised for the annual road construction and drainage maintenance programs. The current JCB Backhoe is 15 years old and at the end of its life cycle. Replacement of the JCB Backhoe is in accordance with Council's Plant Replacement Schedule. The existing 15 year old unit does not meet current OHS, environmental or maintenance expectations. Ongoing maintenance requirements of this unit results in it being offline for extended periods of time creating inefficiency in delivering the works program. The cost to replace the JCB Backhoe is included in the 2016/17 budget.

As the purchase exceeds the \$150,000 (incl. GST) threshold detailed in Council's Procurement Policy it must be undertaken by way of public tender.

The specification called for a new or demonstration 2 Steer Backhoe (Loader), diesel powered with power rating of a minimum of 68 kilowatts.

This tender process was conducted utilising the MAV Procurement Plant, Machinery and Equipment contract. This contract was established in accordance with s.186 of the Local Government Act 1989.

The officers are not recommending acceptance of the lowest tender because it does not deliver a best value outcome to Council. The confidential attachment provides more detailed information in regard to this matter.

The table below summarises the tenders that were received.

No.	Tenderers	Make/Model
1	Hitachi Construction Equipment Pty Ltd	John Deere 315SL
2	JCB Construction Equipment Pty Ltd	3CX Elite T41 PB2BC2
3	JCB Construction Equipment Pty Ltd	3CX APC Classic Eco

Discussion

Further detail on pricing is included in the confidential attachment.

Tender Evaluation

Tenders were rated using the following criteria and weightings:

A	Compulsory Criteria	Weighting
	OH & S	Pass/Fail
	Insurance	Pass/Fail
B	Qualitative Assessment	
	Project Delivery	30 %
	Capacity	10 %
	Customer Service	10 %
C	Quantitative Assessment	
	Pricing	50 %

Scoring

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

Community Engagement

A formal consultation process was not required.

Financial & Risk Management Implications

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

The 2016-17 budget provides for the replacement of this item of plant as follows:

Available funding (excluding GST)		
	2 Steer Backhoe (Loader)	\$195,000
	Total	\$195,000

Anticipated Expenditure (excluding GST)		
	Contract	\$194,200
	Registration & Insurance	As determined by VicRoads
	Total	\$194,200

The tendered price from JCB Equipment Pty Ltd for the model 3CX Elite T41 PB2BC2 is less than the available budget for this purchase.

Disposal of Existing Plant and Equipment

The item of plant being replaced will be sent to auction in accordance with Council's current practice.

Economic, Social & Environmental Implications

It is considered that there are no economic, social or environmental implications.

Communications

It is considered that a communication plan is not required.

Conclusion

As per Table 2 of the confidential attachment, the tender submitted by JCB Equipment Pty Ltd is the preferred tender as it has the highest ranking of all submitted tenderers and was deemed to provide Best Value to Council with a weighted score of (88/100).

Moved Cr Hansford/Kirby

That Council resolves to award Contract GPS-T4/2017 – New Two Steer Backhoe (Loader) model 3CX Elite T41 PB2BC2 to JCB Equipment Pty Ltd for the tendered amount of \$194,200 (excluding GST).

Carried

4.8.2 Contract GPS-T3/2017 – 13,000L Water Truck

Directorate	Assets and Amenity
Unit	Assets and Amenity
Senior Manager	Greg Anders, Director Asset & Amenity
Responsible Manager	David Greaves, Works Manager
Author	Janine Rowan, Fleet Technical Officer
File References	<ul style="list-style-type: none"> ▪ EDMS File: 39-132-001 ▪ Contract Number: GPS-T3/2017
Council Plan Link	Financial Management, 10-Year Financial Plan
Relevant Council Strategies	Strategic Planning Framework: Financial Management Annual Budget
Relevant Policies & Legislative Frameworks	<ul style="list-style-type: none"> ▪ Local Government Act 1989 ▪ GPSC Procurement Policy
Attachments	17. Confidential attachment – GPS-T4/2017 13,000L Water Truck

Declarations of Interest: Councillors & Officers

Greg Anders: In providing this advice as the senior and responsible manager, I have no disclosable interests in this report.

David Greaves: In providing this advice as the Works Manager, I have no disclosable interests in this report.

Janine Rowan: In providing this advice as the author, I have no disclosable interests in this report

Purpose:

This report seeks Council approval to the awarding of a tender for the supply and delivery of one new 13,000 litre Water Truck in Council's plant fleet.

Background

Council's works staff require access to water trucks in the delivery of the annual road construction and maintenance programs. These vehicles have traditionally been outsourced from private contractors and at significant yearly cost.

In recent years there has been increasing demand from residents for grading of the gravel road network during the drier months, whilst "dry" grading of the corrugations without the use of a water cart is a treatment option, the best practice option is to utilise a water cart to achieve a longer lasting treatment and to remove the need for a return grade following the on-set of rain. The acquisition of a water truck by Council will reduce the reliance on contracted vehicles and lessen the pressure each year on the gravel road maintenance budget associated with dry season maintenance practices.

Additional beneficial uses of this water truck will be dust suppression and availability over the fire danger period for supply of water or use on fire grounds. \$210,000 has been included in the 2016/17 budget for this purchase.

As the purchase exceeds the \$150,000 (incl. GST) threshold detailed in Council's Procurement Policy it must be undertaken by way of public tender.

The specification called for a new or demonstration 13,000L Water Truck, diesel powered with power rating of a minimum of 338 kilowatts.

This tender process was conducted utilising the MAV Procurement Plant, Machinery and Equipment contract. This contract was established in accordance with s.186 of the Local Government Act 1989.

Both tenders offered to supply Isuzu GIGA CXY 455 Premium trucks to meet the specifications. This model of truck has been proven both within Council and the wider industry to be a reliable, robust and an effective plant item. The specification required the truck to be delivered with a pintal hook which allows the floating of other plant items (such as rollers) to work sites, reducing our reliance on contractors.

The Isuzu GIGA has an emissions management system that meets ADR 80/03 compliance, anti-lock braking (ABS), airbag safety systems and automatic transmission. Both tenders offered water tank systems that met all specifications identified in the tender. Option was given between steel and poly water tanks with officers deciding to select the poly water tank option as it provided several key benefits in the form of reduced weight and longer warranty.

As both tenders offered identical trucks, the officers are recommending acceptance of the lowest tender because it does deliver a best value outcome to Council. The confidential attachment provides more detailed information in regard to this matter.

The table below summarises the tenders that were received.

No.	Tenderers	Make/Model
1	Ballarat Isuzu	Isuzu Giga CXY 455 Premium with Epsom Water Tanker
2	Winter & Taylor Isuzu	Isuzu Giga CXY 455 Premium with Allquip Water Tanker

Discussion

Further detail on pricing is included in the confidential attachment.

Tender Evaluation

Tenders were rated using the following criteria and weightings:

A	Compulsory Criteria	Weighting
	OH & S	Pass/Fail
	Insurance	Pass/Fail
B	Qualitative Assessment	
	Project Delivery	30 %
	Capacity	10 %
	Customer Service	10 %
C	Quantitative Assessment	
	Pricing	50 %

Scoring

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

Community Engagement

A formal consultation process was not required.

Financial & Risk Management Implications

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

The 2016-17 budget provides for the replacement of this item of plant as follows:

Available funding (excluding GST)		
	13,000L Water Truck	\$210,000
	Total	\$210,000

Anticipated Expenditure (excluding GST)		
	Contract	\$192,812
	Registration & Insurance	As determined by VicRoads
	Total	\$192,812

The tendered price from Ballarat Isuzu for the Isuzu Giga CXY 455 Premium with Epsom Water Tanker is less than the available budget for this purchase.

Disposal of Existing Plant and Equipment

This is a new plant item.

Economic, Social & Environmental Implications

It is considered that there are no economic, social or environmental implications.

Communications

It is considered that a communication plan is not required.

Conclusion

As per Table 2 of the confidential attachment, the tender submitted by Ballarat Isuzu is the preferred tender as it has the highest ranking of both submitted tenderers and was deemed to provide Best Value to Council with a weighted score of (92/100).

Moved Cr Evans/Hansford

That Council resolves to award Contract GPS-T3/2017 – 13,000L Water Truck model Isuzu Giga CXY 455 Premium with Epsom Water Tanker to Ballarat Isuzu for the tendered amount of \$192,812 (excluding GST).

Carried

4.9. **KEY RESULT AREA – WASTE MANAGEMENT**

No report.

5. NOTICES OF MOTION

Nil

6. PETITIONS

Nil

7. OTHER BUSINESS

7.1. MAYOR'S REPORT

Cr Des Phelan, Mayor
File: 02-03-003

The Mayor reported on a range of meetings and activities that he was engaged in over the past month.

Date	Details
28/4/17	G21 Board meeting
28/4/17	Tourism Geelong & Bellarine Chairman's Luncheon
9/5/17	National Volunteers Week, Dereel
12/5/17	LG Waste Forum
18/5/17	Welcome the group participating in "The Great Walk" from Robe to Melbourne commemorating the Chinese Goldminers trek 160 th anniversary

7.2. MUNICIPAL ASSOCIATION OF VICTORIA (MAV) REPORT

Cr Nathan Hansford, MAV Delegate
File: 03-05-001

Council's MAV delegate, Cr Nathan Hansford reported that he attended the Rural Councils Victoria Forum and the State Council.

7.3. COUNCILLOR REPORTS

Cr David Evans

- The Local Environment Pilot Program is of interest to this Shire as part of the reforms to Victoria's Environment Protection Authority

Cr Helena Kirby

- National Volunteers Week, Dereel
- National Volunteers Week, Smythesdale
- Rural Financial Counselling Service, Colac Regional Advisory Group
- Corindhap Soldiers Memorial Hall Committee Inc AGM
- MAV Councillor Professional Development Understanding Council Finances
- MAV Councillor Professional Development Land Use Planning

7.4. IN CAMERA MEETING

Nil

8. ATTACHMENTS

Attachment 1	Item 4.2.1	Amended Procurement Policy (with mark up)
Attachment 2	Item 4.2.2	Appointment & Authorisation – (Planning and Environment Act)
Attachment 3	Item 4.4.1	P17-014 Copy of application and plans
Attachment 4	Item 4.4.1	P17-014 Locality map
Attachment 5	Item 4.4.1	P17-014 Copy of objection
Attachment 6	Item 4.4.1	P17-014 Copy of applicant's response to objection
Attachment 7	Item 4.4.2	P16-318 Copy of application and plans
Attachment 8	Item 4.4.2	P16-318 Locality map
Attachment 9	Item 4.4.2	P16-318 CCMA referral response
Attachment 10	Item 4.4.2	P16-318 Copy of objections
Attachment 11	Item 4.4.2	P16-318 Confidential Legal advice from Harwood Andrews
Attachment 12	Item 4.4.2	P16-318 Draft suite of conditions
Attachment 13	Item 4.4.3	10.1 Planning Permit Enforcement (Current)
Attachment 14	Item 4.4.3	10.1 Planning Permit Enforcement (Revised)
Attachment 15	Item 4.5.1	Budget Report – 9 Months Ended 31 March 2017
Attachment 16	Item 4.8.1	confidential
Attachment 17	Item 4.8.2	confidential

Attachments are available upon request.

9. CLOSE OF MEETING

Special Meeting

A Special meeting of Council will be held on Tuesday 13 June 2017 at the Bannockburn Shire Hall. The meeting is open to the public.

Assemblies of Councillors

Council is advised that an Assembly of Councillors meeting will be held on Tuesday 13 June 2017 at the Bannockburn Shire Hall. The meeting is not open to the public.

Next Ordinary Meeting

The next Ordinary meeting of Council will be held on Tuesday 27 June 2017 at the Linton Customer Service Centre. The meeting is open to the public.

Close of Meeting

It is recorded that the meeting closed at 6.09 pm.

10. CERTIFICATION

In accordance with Section 93(5) of the Local Government Act 1989, I hereby certify that the minutes of this Council meeting have been confirmed as a true and correct record.

Confirmed, Mayor, Cr Des Phelan

Date

Distribution

Agendas (total printed)	14
Councillors.....	7
CSO.....	2
Gallery.....	5
Soft copy (web, portal, intranet, box).....	0
Attachments (total printed)	2
Soft copy (web, portal, intranet, box).....	2
Minutes (total printed).....	1
Soft copy (website, portal, intranet, box)	1