



AGENDA
of the
ORDINARY MEETING OF COUNCIL
to be held on
WEDNESDAY 18 DECEMBER 2013
in the
ALEXANDRA COUNCIL CHAMBERS
commencing at
6.00 pm

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1. PRAYER & RECONCILIATION STATEMENT**2. APOLOGIES AND REQUESTS FOR LEAVE OF ABSENCE**

TRIM: SF/306

3. CONFIRMATION OF MINUTES

➤ Minutes of the Ordinary meeting of Council held on Wednesday 27 November 2013

4. DISCLOSURES OF INTEREST OR CONFLICT OF INTEREST

TRIM: SF/783

5. OPEN FORUM

TRIM: SF/130

6. PETITIONS RECEIVED BY COUNCIL

TRIM: SF/132

7. REPORTS BY ADVISORY COMMITTEES OR SPECIAL COMMITTEES**7.1 ECONOMIC DEVELOPMENT ADVISORY COMMITTEE**

(Refer Encl 7.1 – Minutes – Economic Development Advisory Committee held on 11 November 2013)

7.2 MURRINDINDI ENVIRONMENT ADVISORY COMMITTEE

(Refer Encl 7.2 - Minutes – Murrindindi Environment Advisory Committee Meeting held 8 October 2013)

Councillors have previously received background information relating to this motion. From an officer's perspective it may be premature for Council to be forming an in-principle position as outlined by the Committee, without a more thorough understanding of the study report, its status and the consequences of its implementation. Council may prefer to simply acknowledge the Committee's advice and agree to remain vigilant for further developments on the issue before considering any particular position on the matter.

Motion:

That it be recommended that Council:

- a) Supports in principle the concept of an expanded Central Ranges National Park, and
- b) Supports in principle new prescriptions for logging to conserve Leadbeaters Possum released by the Australian National University.

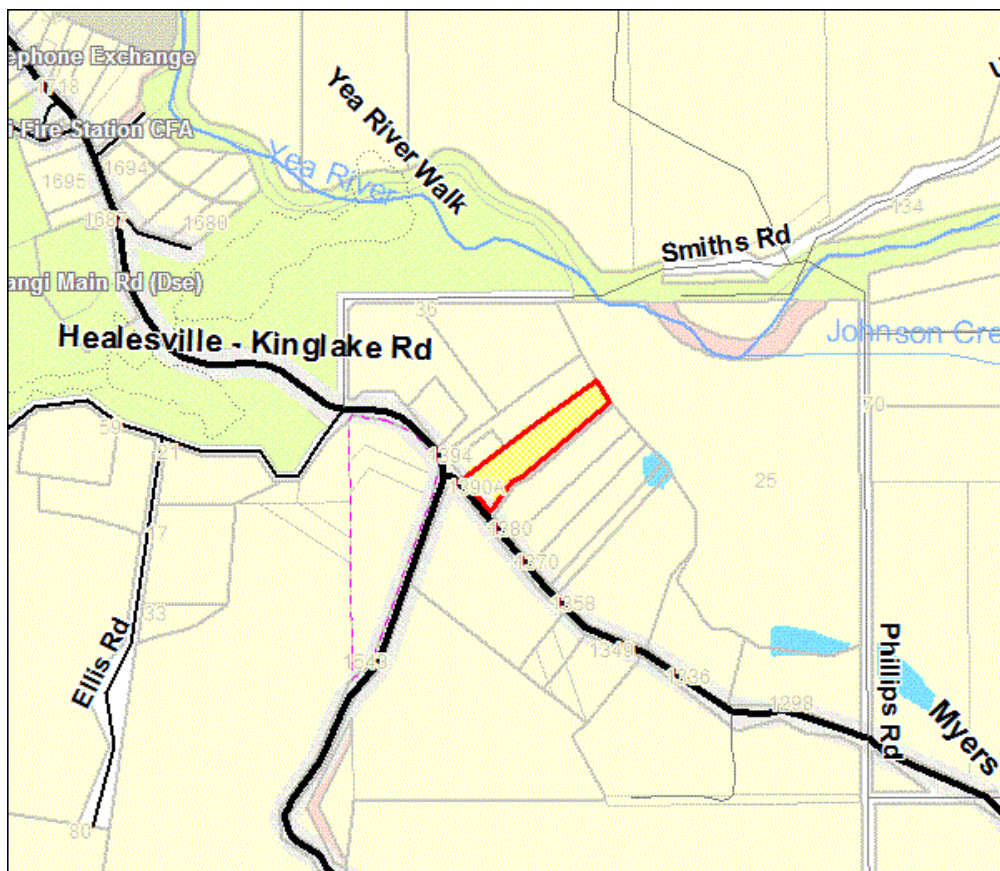
8. OFFICER REPORTS

8.1 DEVELOPMENT & ENVIRONMENT

8.1.1 Toolangi Tavern Helicopter Landing Site

File No: 2013/145
 Land: 1390 Myers Creek Road Toolangi
 Proposal: Helicopter landing site
 Applicant: J H Marshall & M C Owen
 Zoning: Farming
 Overlays: Environmental Significance Overlay
 Attachments: Application details (*refer Encl 8.1.1*) (aerial photograph and submissions distributed separately)

Locality Plan



Purpose:

The purpose of this report is to recommend that a Refusal to Grant a Permit be issued for a helicopter landing site at 1390 Myers Creek Road, Toolangi.

Recommendation:

That Council issue a Refusal to Grant a Permit for a helicopter landing site at 1390 Myers Creek Road, Toolangi (LOT: 6 LP: 54942, Parish of Tarrawarra North), on the following grounds:

- 1. The proposal is not in accordance with the decision guidelines of Clause 52.15 *Heliport and Helicopter Landing Sites* and Clause 65.01 *Approval of an application or a plan* as it will have a detrimental impact on the amenity of the area.**
- 2. The use is not in accordance with the purpose of the Clause 35.07 *Farming Zone*, as it is not compatible with adjoining and nearby land uses.**

Proposal:

The application is for a helicopter landing site at the rear of the Toolangi Tavern. The proposal is to have up to 16 flight movements (being 8 landings and 8 take offs) per week, with flexible operation hours of 10am – 7pm, 7 days per week. The landing site is located 150m from all surrounding dwellings, and will not accommodate any helicopters greater than 2 tonnes in weight. The landing site is approximately 250 metres from the front of the property, approximately 10 metres from the northern boundary and 5 metres from the south western boundary.

The Land & Surroundings:

The property is bounded by Myers Creek Road to the south west, and by private properties in all other directions. The subject land contains the Toolangi Tavern and car park. The area is generally characterised by dwellings and associated shedding on large lots. There are no dwellings within 150 metres of the helicopter landing site, but there are 15 dwellings within 500 metres of the site, which is the permit requirement trigger.

The land is generally clear, with some trees scattered towards the rear of the property and along the boundaries.

Referrals:

No referrals were undertaken as part of this application.

Consultation:

The application was notified to 17 neighbours and nearby owners, within a 500 metre radius of the proposed landing site. As a permit is required for a landing site within this distance, it was determined appropriate to notify all potentially affected properties. A sign was also placed on the site. Six objections have been received with five from nearby owners and one from the Tall Trees Trail Committee. In addition one letter of support has been received.

The objections can be summarised as follows:

- Sound of helicopter distressing following Black Saturday (2 submitters)
- Noise impacts and echo of surrounding valley (3 submitter)
- Agricultural and domestic animals may be scared by the noise (5 submitters)
- Too close to houses (3 submitters)
- Hazard to the tall trees trail riders (1 submitter)
- Detrimental to property values as places properties in a flight path (2 submitters)
- Risk of pollution (3 submitters)
- Is likely to create dust, wind and noise, which is a disturbance (3 submitters)
- Flight path compromises privacy (2 submitters)
- Site too close to trees, fences, etc and would be dangerous (1 submitter)

- Concerned that pilots may decide to land elsewhere if they think the site is too dangerous (1 submitter)
- Proximity of trail to tavern will create issues with horses being startled with loud and unexpected noise (1 submitter)
- Proposed landing site is small and may be considered unsafe by pilots (1 submitter)
- Smell from engines permeates into house (1 submitter)
- Landing pad too close to neighbouring land (1 submitter)
- Lack of detail on application (2 submitters)
- Environmental issues with potential impact from fuel spill and impact on local fauna (1 submitter)

The letter of support can be summarised as follows:

- Good for tourism.
- A great asset for the Shire.
- Will promote Toolangi and Murrindindi Shire.
- More visitors means more money spent, which is better for the township.

Notification was done by:

Newspaper / Other	Publishing/Consultation Date(s)
Consultation:	
Notice of Application sign on site	12 October 2013 – 4 November 2013
Mail out:	
Notice of Application to adjoining and nearby owners	9 October 2013

Planning Considerations:

Under Clause 52.15 *Heliport and Helicopter Landing Site* of the Murrindindi Planning Scheme, a planning permit is required for a helicopter landing site if it is within 500 metres of a sensitive use (dwellings) and a minimum distance of 150 metres from a sensitive use (dwellings) and is not used for helicopters of greater than 2 tonnes all-up weight. The site itself is constrained with 15 dwellings within 500 metres of the landing site, and the proposed location does comply with the minimum distance required to allow a permit to be applied for.

The cleared area further toward Myers Creek Road has been used in the past as the preferred landing area for helicopters, and there are at least three dwellings within 150 metres of this area, which would effectively prohibit the application for a site on this part of the property. The *Guidelines for the establishment and use of helicopter landing sites (HLS)* (Civil Aviation Safety Authority, 1996) outline the standards to which a landing site should comply. The application has addressed the size of the site, being large enough to accommodate the helicopter safely, has a suitable surface and will only be used during the day. In relation to the approach and departure path for the helicopters, the guidelines state that from the edge of the landing site the path should be obstacle free for a gradient of 7.5 degrees (1:8 vertical to horizontal). The trees around the boundary and on the property must be considered to ensure that the flight path is clear of obstructions in accordance with the guidelines. These parameters determine the suitability of the site for a helicopter landing site. The height of the trees may raise issues in the future with the ability for pilots to land safely on the designated landing site.

Specific conditions can be placed on the use in relation to the frequency of flights, designated hours for flights, compliance with the *Noise Control Guidelines* (Environment Protection Authority, 2008), the standard to which the landing site must be kept or to even require the permit holder keep a log book on how the landing site is used. In relation to the noise impacts of the helicopter landing site, the *Noise Control Guidelines* state that the maximum noise level

for the nearest dwelling should not exceed 82 dB(A), and that it will generally be met by a separation between the landing site of 150 metres for helicopters of less than 2 tonnes all-up-weight. Any variation in this distance will mean that the noise level at the residential dwellings will be above the approved maximum level.

Even at the distance of 150 metres from the nearest dwelling, the adverse impact on residential amenity is a predominant concern in the assessment of this application. As outlined by the EPA *Noise Control Guidelines* (refer above), the noise level for a dwelling at 150 metres from helipad is likely to still be 82 dB(A). The submissions have stated that the use of the land for a helicopter landing site is detrimental to the amenity of the area. This was detailed with specific examples of how the property has previously been used as a landing site, with motor noise both upon landing and prior to take off, sometime for extended periods of time while engines cool down or warm up. The amenity impacts raised by objectors also extend to vibrations, dust and wind created by the rotors, and the resultant impact and drift onto adjoining properties.

Planning Practice Note 75 *Planning requirements for heliports and helicopter landing sites* advises that for sites not in controlled airspace, as is the case here, "The operator must adhere to Visual Flight Rules and Civil Aviation Regulations which are based on safety." The practice note further states:

"Safety may be considered a relevant matter (s.60(1A) of the *Planning and Environment Act 1987*) if there is an obvious or suspected safety issue or obstacle within the immediate vicinity of the helicopter landing site."

The response to the objections provided by the applicant makes the following statements:

"The proposed landing site is located on the lower reaches of the property to ensure a 150m setback from all residencies. There is no reason why this location would not be a safe landing site as suggested by the objectors."

And also states:

"The responsibility lies with the pilot to ensure safety of landing and take-off, it is not governed by the planning scheme."

As detailed above, it is clear that the decision to land in a particular spot will be at the discretion of the pilot, and if it is determined that the dedicated landing site is not safe (due to the proximity to trees and fences in the proposed location, or wind on any particular day) then it is likely that helicopters would land less than 150 metres from adjoining dwellings, which would contravene the Murrindindi Planning Scheme. This consideration has been supported by photos provided with one of the submissions, which shows helicopters landing in the cleared area of land closest to the tavern.

The surrounding land within 500 metres of the landing site, while in the Farming Zone, is predominantly rural lifestyle in nature with lots ranging in size from 4000 square metres to 5 hectares and primarily residential in nature.

In relation to the farming practices in the area, it has been raised by a number of submitters that the noise associated with the helicopter landing site will affect both stock and domestic animals. The area has been identified as high quality agricultural land, and while the application does not remove land from agricultural use, the impact of the use of adjoining and nearby agricultural practices should not be discounted.

The application must be assessed on its merits and the previous use of the land for a helicopter landing site, while without a permit, does allow a clearer and more defined understanding of the impacts of the use on both the adjoining and nearby houses and agricultural enterprises.

Council officers have considered the potential impacts of the proposal, and have determined that the approval of a helicopter landing site will be detrimental to amenity of the area.

Conclusion:

Clause 52.15 *Heliport and Helicopter Landing Site* has two decision guidelines – whether the site can achieve a suitable separation distance, and if the use will have an impact on the amenity of the area. Due to the extent of existing development in close proximity to the proposed landing site and the potential amenity impact from the proposed use it is reasonable that this application be refused.

Legal/Policy Issues:**State Planning Policy Framework**

13.04-1 Noise abatement

Objective: To assist the control of noise effects on sensitive land uses.

Strategy: Ensure that development is not prejudiced and community amenity is not reduced by noise emissions, using a range of building design, urban design and land use separation techniques as appropriate to the land use functions and character of the area.

17.03-1 Facilitating Tourism

Objective: To encourage tourism development to maximise the employment and long-term economic, social and cultural benefits of developing the State as a competitive domestic and international tourist destination.

Strategies: Encourage the development of a range of well designed and sited tourist facilities.

Local Planning Policy Framework

21.04 Agriculture and rural land strategies

Strategies and objectives:

- Ensure that the use and development of rural land is both compatible with and complementary to agricultural activities and protect agricultural potential.
- Identify and protect high quality agricultural land.
- Facilitate diversification and development of rural land when it can be demonstrated that the economic base of the Shire will be enhanced.

21.06 Tourism Strategies

Strategies and objectives:

- Facilitate tourist uses and developments that are linked to the natural environment.
- Facilitate recreational and tourism activities that attracts tourist year round.

22.01-5 High Quality Agricultural Land

Objectives:

- Identify and recognise the importance of high quality agricultural land.
- Discourage the conversion of land to uses incompatible with productive agriculture.

Zoning

35.07 Farming

Purpose:

- To encourage the retention of productive agricultural land.
- To ensure that non-agricultural uses do not adversely affect the use of land for agriculture.
- To encourage the retention of employment and population to support rural communities.

Decision Guidelines:*General Issues*

- Whether the site is suitable for the use or development and whether the proposal is compatible with adjoining and nearby land uses.

Agricultural issues and the impacts from non-agricultural uses

- Whether the use or development will support and enhance agricultural production.

Environmental Issues

- The impact of the use on the flora and fauna of the site and its surrounds.

A planning permit is required for the use of land for a helicopter landing site in the Farming Zone.

Particular Provisions**52.15 Heliport and Helicopter Landing Site**

Purpose: To ensure the amenity impacts of a heliport and a helicopter landing site on surrounding areas is considered.

Decision Guidelines:

- Whether the proposal achieves a suitable separation distance from a nearby sensitive use, having regard to the Noise Control Guidelines (Environment Protection Authority, 2008).
- The effect of the proposal on nearby sensitive uses in terms of the proposed frequency of flight movements and hours of operation.

A permit is required to use land for a helicopter landing site as the site is located less than 500 metres from a building used for a sensitive use (dwellings).

General Provisions**65.01 Approval of an application or plan**

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

- The State Planning Policy Framework and the Local Planning Policy Framework.
- The purpose of the zone, overlay or other provision
- The orderly planning of the area
- The effect on the amenity of the area

8.1.2 *Removal of Vegetation*

File No: 2013/165

Land: 128 Falls Road Marysville

Proposal: Removal of vegetation

Applicant: Alternate Dwellings Pty Ltd

Zoning: Residential 1

Overlays: Vegetation Protection Overlay

Attachments: Application details (*refer Encl 8.1.2*) (aerial photograph and submissions distributed separately)

Locality Plan



Purpose:

The purpose of this report is to recommend that a Notice of Decision to Grant a Permit be issued for the removal of vegetation at 128 Falls Road Marysville.

Recommendation:

That Council issue a Notice of Decision to Grant a Permit for the removal of vegetation at 128 Falls Road Marysville 3779 (SEC: 5 C/A: 19, Parish of Steavenson), subject to the following conditions:

1. The layout of the site and the size and type of the proposed vegetation removal, as shown on the endorsed plan shall not be altered or modified without the consent in writing of the Responsible Authority.
2. This permit shall expire if the vegetation removal hereby permitted has not been completed within two (2) years of the date hereof, or any extension of such period the Responsible Authority may allow in writing. A request for an extension of time may be made before or within 6 months after the permit expiry date, where the vegetation removal allowed by the permit has not yet commenced, or within 12 months where the vegetation removal allowed by the permit lawfully commenced before the permit expired.

Department of Environment and Primary Industries

3. In order to offset the removal of 0.52 hectares of Medium Conservation Significance and 32 large trees, approved for removal as part of this permit, the applicant must provide for:
 - i) The permanent protection for conservation purposes of 2.08 hectares and 64 large trees (40cm diameter or greater) within EVC Damp Forest or alternative to the satisfaction of the Responsible Authority.
4. To provide the required offset, within 12 months of the vegetation removal the application must either:
 - Provide to the responsible authority an allocated credit extract issued by the Department of Sustainability and Environment's Native Vegetation Credit Register which satisfies the required offset.

Or

- **Have prepared an offset plan endorsed by the responsible authority. The offset plan must be prepared to the satisfaction of the responsible authority and be submitted to and approved by the responsible authority. The offset plan must include a:**
 - o **Description of the site where the offset will be provided, including a site plan.**
 - o **Methods of permanent protection for established offsets.**
 - o **Schedule of works required to achieve the offset over a 10 year period, detailing the:**
 - i) **Management actions to be performed (e.g. fencing, weed control, pest control, revegetation)**
 - ii) **Person(s) responsible for implementing the specified management actions**
 - iii) **Timelines for the implementation of the management actions**
 - iv) **Method by which the management actions will be undertaken.**
 - v) **Standard to which management actions will be undertaken.**

When approved the plan will be endorsed and will then form part of the permit.

5. **Within 12 months of the vegetation removal the endorsed offset site must be permanently protected to the satisfaction of the responsible authority (e.g. encumbrance on title) and a copy of the endorsed offset plan and protection mechanism (e.g. title showing encumbrance) must be lodged with DEPI.**
6. **The location of any native vegetation offset should not increase the bushfire risk to the proposed development or adjacent land.**
7. **Before works start, all persons undertaking the vegetation removal or works on site must be advised of all relevant conditions of this permit.**

Proposal:

The landowners wish to build a dwelling on the subject land and this planning permit application is for the removal of vegetation to allow a dwelling to be constructed. A planning permit is not required for the use and construction of a dwelling on the subject land, due to the Residential zoning. A planning permit is required for the removal of vegetation under the Vegetation Protection Overlay and Clause 52.17 *Native Vegetation*. The proposal is to clear undergrowth that is within 35 metres of the proposed house location, and only trees in this area that are in proximity to the proposed dwelling that will create a safety risk. All other trees are to be retained. The removal of the undergrowth and the trees close to the house is for a BAL 19 construction standard to be achieved for the proposed dwelling. As the property is currently vegetated, the applicant has suggested the vegetation removal may be offset by protecting the remaining vegetation on the land, an area of approximately 0.6 - 0.8 hectares.

The Land & Surroundings:

The subject land is the last privately owned land on the south western side of Falls Road, Marysville. An unmade road reserve adjoins the property immediately to the south east, and Crown Land lies beyond the road reserve and also adjoins the property to the west. The subject land is vacant, did not have a house on it prior to the bushfires in February 2009, and is fully treed. This vegetation was badly burnt in the bushfires. The property is approximately 1.12 hectares in size and has frontage to Falls Road.

Referrals:

The application required a statutory referral to the Department of Environment and Primary Industries ('DEPI'). DEPI have provided conditional consent to the issuing of a Planning Permit with requirements relating to vegetation offsets.

Consultation:

Notice of the application was given to the two closest landowners to the north of the subject land. The landowner sharing the property boundary to the north west has objected, on the following grounds:

- The proposed tree clearing area falls over their property at 122 Falls Road
- The proposed tree clearing area falls over the council's nature strip
- There is a vegetation protection overlay in place which restricts removal of trees over a certain size
- The area for tree removal seems too big for one private dwelling

The objection was forwarded to the applicant who provided a response to the issues raised. This response was forwarded to the submitter, but no further correspondence has been received.

Table 1 – Notification of application

Newspaper / Other	Publishing/Consultation Date(s)
Mail out:	30 August 2013

Planning Considerations:

The subject land is in the Residential Zone and as such, use of this land for a dwelling is as of right. There is an expectation of vegetation loss on residentially zoned land, and in this instance, the applicant has minimised the amount of tree removal by locating the proposed dwelling on the front portion of the property.

The applicant is not proposing to clear any vegetation from the adjoining land, nor from the road reserve. Any vegetation that is proposed to be removed is from the subject land only. The Vegetation Protection Overlay does not prohibit the removal of vegetation, but rather triggers the requirement for a planning permit for removal of trees over a certain size.

The application was accompanied by an arborist's report which states that the trees in the general area are either dead or in poor health, however, this report is 4 years old and lacks detail. The trees and undergrowth that are proposed to be removed are to create both a cleared house site and a buffer around the dwelling to reduce the fire risk. The house is to be located on the property in a position that minimises the amount of vegetation to be removed.

The proposed amount of vegetation proposed to be removed is considered reasonable. The impact of reducing the amount to be removed would result in the requirement for a higher standard of construction of the dwelling and a reduction in the amount of vegetation offsetting required, all of which could still be considered reasonable. On the other hand, the location of this land on the outskirts of Marysville with an abuttal to forest on two boundaries increases the fire risk and the removal of undergrowth on the property to a distance of 35 metres from the proposed dwelling will assist in minimising that risk.

The purpose of Clause 52.17 of the Murrindindi Planning Scheme is to protect native vegetation and when it needs to be removed, to ensure that appropriate offsetting occurs, having regard to the conservation significance of the vegetation. In this instance DEPI accepts the need for removal but has assessed the vegetation removal offsetting to be far in excess of that

nominated in the planning permit application by the applicant. DEPI is a determining referral authority and its conditions must be incorporated into any planning approval issued.

The DEPI conditions are listed in the recommendation as conditions 3 to 7 and in accordance with current legislation require the permanent protection of 2.08 hectares of vegetation which must include 64 large trees of 40cm diameter or greater. This can be done through the DEPI native vegetation register by payment of a fee or an alternative method that must be endorsed by the Responsible Authority (Council).

Conclusion:

The subject land is in the Residential Zone, and the allowable uses of the zoning need to be balanced with the retention and protection of native vegetation. In this case, it is deemed appropriate to support residential development in a residential area, where the removal of native vegetation has been minimised to an acceptable standard.

Legal/Policy Issues:

State Planning Policy Framework

15.01-1 Urban Design

Objective: To create urban environments that are safe, functional and provide good quality environments with a sense of place and cultural identity.

Strategies:

- Promote good urban design that make the environment more liveable and attractive.
- Ensure new development or redevelopment contributes to community and cultural life by improving safety, diversity and choice, the quality of living and working environments, accessibility and inclusiveness and environmental sustainability.

Local Planning Policy Framework

21.03 Issues affecting the shire

- Rebuilding bushfire affected communities. The level of devastation of Marysville and surrounding communities necessitates commitment and support for the return of high quality, sustainable development.

21.07 Serviced Townships Strategies

Strategies:

- Maintain the attractive physical setting and environmental values of the Marysville township.
- Protect and enhance Marysville's mountain village townscape, lifestyle and tourism values.
- Protect essential design, form and character elements of the central area of Marysville.
- Encourage new development to be built in a human scale.
- Rebuild residential, employment and business and community opportunities and services.

22.03-1 Urban Areas

Policy:

- Maintain the garden and landscape character of residential areas
- Encourage the use of architectural styles that contributes to the mountain village character of Marysville.
- Support development that provides for self catering visitor accommodation.

Zoning

32.01 Residential 1 Zone

Purpose

- To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- To provide for residential development at a range of densities with a variety of dwellings to meet the housing needs of all households.
- To encourage residential development that respects the neighbourhood character.
- In appropriate locations, to allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs.

Overlays

42.02 Vegetation Protection Overlay

Purpose

- To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- To protect areas of significant vegetation.
- To ensure that development minimises loss of vegetation.
- To preserve existing trees and other vegetation.
- To recognise vegetation protection areas as locations of special significance, natural beauty, interest and importance.
- To maintain and enhance habitat and habitat corridors for indigenous fauna.
- To encourage the regeneration of native vegetation.

Schedule 1 to the Vegetation Protection Overlay

MARYSVILLE VEGETATION PROTECTION AREA

1.0 Statement of nature and significance of vegetation to be protected

The vegetation within the township of Marysville is of historical and aesthetic significance. Marysville is a significant tourist destination within the shire. Views and native vegetation from roads leading into Marysville form an important part of the area's character and are important for tourists and residents. The devastating fire of 7 February 2009 resulted in the loss of significant indigenous, native and exotic vegetation. The surviving remnant trees are of value in recreating the landscape character of Marysville.

2.0 Vegetation protection objective to be achieved

- Maintain remnant native trees and bushland in and around the township of Marysville
- Protect the aesthetics and character of gateways into Marysville
- Integrate future development of the town in a way that will not detract from the town's unique urban landscape

Particular Provisions

52.17 Native Vegetation

Purpose

- To protect and conserve native vegetation to reduce the impact of land and water degradation and provide habitat for plants and animals.
- To achieve the following objectives:
 - To avoid the removal of native vegetation.
 - If the removal of native vegetation cannot be avoided, to minimise the removal of native vegetation through appropriate planning and design.
 - To appropriately offset the loss of native vegetation.
- To provide for the management and removal of native vegetation in accordance with a property vegetation plan.

- To manage vegetation near buildings to reduce the threat to life and property from bushfire.

8.1.3 Domestic Animal Management Plan 2013-2017

File No: 01/01/09

(Refer Encl 8.1.3a - Draft Domestic Animal Management Plan 2013 – 2017 and Encl 8.1.3b - Summary of Submissions – Domestic Animal management Plan)

Purpose:

The purpose of this report is to provide Council with an overview of the submissions received during the public exhibition of the Domestic Animal Management Plan 2013 -2017 and to seek Council adoption of the plan.

Recommendation:

That Council:

1. **Notes the submissions from the public exhibition of the draft Domestic Animal Management Plan (October – November 2013).**
2. **Adopts the Domestic Animal Management Plan 2013 – 2017 with minor adjustments.**

Background:

Council developed the Murrindindi Shire Domestic Animal Management Plan (DAMP) in June 2008, in accordance with Section 68A of the *Domestic Animals Act of 1994* (the Act). The Act requires a review of the DAMP every four years.

The DAMP outlines Council's domestic animal management obligations and domestic animal management practices for the municipality. The purpose of the DAMP is to:

- Document current processes and practices under Murrindindi Shire Council's animal management responsibilities;
- Increase compliance with the *Domestic Animals Act 1994*;
- Increase pet owners' knowledge of the principles of responsible pet ownership and enhancing community safety and awareness;
- Assist the Bureau of Animal Welfare to achieve its stated objectives of reducing the number of dogs and cats being euthanized;
- Maximise the number of dogs and cats that are registered in the Murrindindi Shire municipality;
- Minimise the harmful effect of domestic pets on the population of native birds, mammals and reptiles; and to
- Take into account community views on animal management matters.

Council officers have reviewed and revised the DAMP, using the new standard Department of Environment and Primary Industries (DEPI) template. The draft DAMP was advertised, with four submissions being received.

An extension of time was granted by DEPI and Council has indicated in recent correspondence on this matter that the DAMP review would be completed and reported to Council in December 2013.

Council Plan/Strategies:

The review of the DAMP aligns with the following 2013-2017 Council Plan – Our Community Goal, strategic objective: *We will actively engage with our communities to increase participation and community input.*

Legal/Policy Issues:

Section 68A of the *Domestic Animals Act of 1994*, places a statutory obligation on all Councils to prepare a Domestic Animal Management Plan.

Financial/Resources/Risk

There is no financial cost to Council to undertake a review of the Plan. Minor costs have been incurred for advertising within the current 2013/14 operating budget.

Consultation:

The revised draft DAMP was advertised from 15 October to 12 November 2013 in the following newspapers:

Newspaper/Other	Publishing Date(s)
Newspaper:	
North Central Review	15 October 2013
Yea Chronicle/Alexandra Standard	16 October 2013
Marysville Triangle	17 October 2013
Consultation:	
On exhibition (Flowerdale, Kinglake, Yea, Alexandra, Eildon, Marysville) and Council website	15 Oct – 17 November 2013
Submissions to be received	15 Oct – 17 November 2013
Other:	
Advertised on Council's Website	15 Oct – 17 November 2013

Four submissions were received to the exhibition of the Domestic Animal Management Plan.

Discussion:

The draft DAMP has been exhibited in the new DEPI format to improve accessibility, consistency and transparency of information, fulfil Council's domestic animal management obligations and work towards improved animal management practices for the municipality.

Four submissions have been received to the exhibited, revised DAMP. Submissions were received from two animal advocacy groups, Getting to Zero and Rescued with Love Inc, and two private submissions (community members). A summary of the submissions, with assessment and recommendations are outlined in Enclosure 8.1.3b.

The submissions received related to the following sections of the plan:

- S6 – Training of authorised officers
- S7 – Registration and identification
- S8 – Management of nuisance animals
- S9 – Dog Attacks
- S11 – Overpopulation and high euthanasia

Other/General

- Service enhancement/communications
- Community welfare
- Animal welfare
- Reuniting animals with owners
- Rehousing animals
- Pound performance

*Please refer to Enclosure 8.1.3b, which provides a more comprehensive description and assessment of each submission.

In general, points raised by the two animal advocacy groups are met under current Council practices and legal obligations. Under the provisions of Part 7A of the Domestic Animals Act 1994, Council has a section 84Y Agreement in place with the Victorian Animal Aid Shelter at Coldstream for transferring animals suitable for rehousing.

The two private submissions received are relating to local issues. One suggestion of tattooing cats cannot be reasonably and practically met. The other submission raises the servicing of weekend and holiday periods, which is a service that is already adequately provided through current Council operations.

In summary, officers consider that the issues raised in submissions have been reviewed and addressed. Some minor adjustments and formatting have been also been made to the plan.

Conclusion:

The review of the Domestic Animal Management Plan fulfils Council's statutory obligations, demonstrating its ongoing commitment to uphold the community's values and expectations in relation to Domestic Animal Management within the municipality.

8.2 INFRASTRUCTURE SERVICES**8.2.1 Joint Waste Services Tender Process**

File No: 24/13/0407

Purpose:

The purpose of this report is to seek endorsement from Council to participate in a joint procurement project with the municipalities of Mansfield, Mitchell, Benalla and Strathbogie for a suite of waste services including kerbside collection, sorting and processing.

Recommendation:**That Council**

1. **Endorse the participation of Murrindindi Shire Council in a joint procurement project with the municipalities of Mansfield, Mitchell, Benalla and Strathbogie for a suite of waste services including kerbside collection, sorting and processing.**
2. **Note that a further report will be presented to Council in early 2014 for the purposes of considering the Memorandum of Understanding which will formally commit Council to the joint waste tender process.**

Background:

In 2004 Council combined with the municipalities of Mansfield, Benalla and Strathbogie to collectively seek tenders for waste services contractors covering services including: Waste and Recyclables Collection, Recyclables Acceptance and Sorting, and Litter Bin Collection. The joint tendering process for waste and recycling collection was coordinated between the municipalities to:

- explore economies of scale and possible expansion of the service coverage;
- save in the cost of contract preparation and tendering of Waste and Recycling Services; and
- achieve a common completion date for all contracts for future joint tendering opportunities.

Council currently has two waste contracts covering essential kerbside waste services – 24/13/0407 Waste and Recyclables Collection, and 24/13/0405 Recyclables Acceptance and Sorting. These contracts both expire on 6 December 2014.

All other Councils considering participation in the tender have contracts that end within the same 6 month timeframe. Due to the complexity of the waste contracts it is important to begin the tender preparation process early.

The idea of a joint waste tender was discussed at the officer level in meetings and a Joint Waste Tender Working Group was formed that includes the Resource GV and NEVR Waste Regional Waste Management Group CEOs. It was determined at the working group meetings that those Councils wishing to participate should seek a formal resolution of Council endorsing participation in the project, and that a Memorandum of Understanding (MOU) be prepared. This MOU will be presented to Council in early 2014 for formal ratification via a Council resolution.

Council Plan/Strategies:

The procurement of waste services through this joint tender will contribute to achieving the following strategies outlined in the Council Plan 2013-17:

Conservation of Resources – We will use resources more efficiently and effectively.

Customer Service – We will deliver quality customer outcomes by continuing to find better ways to do things.

Financial Sustainability – We will deliver sound financial management practices.

Legal/Policy Issues:

Council's functions in relation to waste are defined under the *Public Health and Wellbeing Act 2008* (VIC) which requires Council to maintain municipal districts in a 'clean and sanitary condition' (Section 24).

The *Local Government Act 1989* further describes that Councils functions include 'planning for and providing services and facilities for the local community' as well as 'any other function relating to the peace, order and good government of the municipal district' (Section 3E).

The process of procuring waste services must comply with Councils Procurement Policy which outlines the appropriate procurement procedures to be undertaken to comply to the provision of section 186 of the *Local Government Act 1989*.

Financial/Resources/Risk

The cost to Council in 2013-14 for current kerbside waste services is approximately \$822,000.

It is anticipated that in procuring through a joint tender, the market will respond with a more favourable price that would be otherwise obtained should Council tender alone.

The cost of participating in a joint procurement process can be anticipated to be won back within the first year of the tender.

Discussion:

In the procurement of the services in 2004, the joint tender made possible savings of 10 cents per tenement per month, which equated to \$13,910 per annum for both waste and recycling (or \$131,900 over the 10 year contract period).

In the intervening years much has changed in the waste policy space, and the State Government is actively championing the diversion of organic waste from landfill. Many Councils now have a three bin system, with the third bin collecting kitchen and garden organics. Other participating Council's will be tendering for collection and acceptance of kerbside organics, and Council may consider this additional service also.

A litter bin collection was tendered for in 2004 by some Councils, however the price was not found to be competitive with their current arrangements. As part of this project Council may consider including collection of garbage and recycling litter bins.

Some Councils also intend to tender for bulk haulage of waste from transfer stations to final disposal. Council may consider including this service also.

Due to the complexities of procuring this range of services for a number of shires, the combined municipalities would engage a tender coordinator to deal with document preparation, probity issues, tender documentation, advertising, organise and facilitate pre tender information sessions, evaluate and prepare evaluation reports for each Council. Preliminary estimates have been sought and received for these services with costs expected in the order of \$7,500 to \$12,000 depending on the requirements of individual councils. This cost can be met from current budget allocations.

Once a tender coordinator has been appointed a meeting with other councils will be arranged to begin the project.

A formal report on this work is to be presented in early 2014; however given the significance of the spending interim advice was considered appropriate as well as endorsement to participate in this process.

Consultation:

Consultation to date on this project has been through the Joint Waste Tender Working Group with Senior Officers and Waste Coordinators from each Council. In addition the Executive Officers from the Regional Waste Management Groups have committed to providing support to the project.

Conclusion:

Council stands to benefit financially from participating in a joint tender for waste services, as well as benefiting from closer working relationships with neighbouring Councils to improve the quality and range of waste services offered to the community.

8.2.2 *Installation of Street Lighting in Oswald Drive, Alexandra.*

File No: 52/02/06

(Refer Encl 8.2.2 - Proposed lighting location)

Purpose:

This report provides Council with a recommendation following the mediation undertaken on 4 December 2013 regarding the installation of street lighting in Oswald Drive, Alexandra.

Recommendation:

That Council:

- 1. Notes that mediation has occurred in order to understand the issues and concerns of the residents that may be impacted by the installation of additional street lighting in Oswald Drive, Alexandra;**
- 2. Having considered the concerns and issues raised during mediation, the presentations at Council meetings, communication to Council both verbally and in writing and the presented petitions, Council agrees to install one street light on the west side of Oswald Drive on the boundary between number 6 and number 8;**
- 3. Thanks the Department of Justice mediators from the Dispute Resolution Centre for facilitating the mediation; and**
- 4. Authorises the General Manager of Infrastructure and Development Services to notify residents of Oswald Drive and Dunn Court of the Council resolution.**

Background:

Oswald Drive is a quiet street in Alexandra with twenty seven properties fronting or with sidage to the street and includes an area of undeveloped parkland. Existing street lighting consists of four lights all located on the western end of the road covering the intersections, the bend in the road and outside the parkland area. There is no lighting between Cooper Street and Dunn Court which is the area of Oswald Drive proposed for street lighting.

A request for additional street lighting was originally received in June 2008 and following representations by a number of residents objecting to the proposal the installation was put on hold. However at that time parties objecting to the installation were advised that if Council received further requests for improved lighting the matter would be reconsidered and an emphasis placed on community safety and security

In May 2012 a further request was received by Council again requesting street lighting in Oswald Drive, Alexandra between Cooper Street and Dunn Court.

In June 2012 a letter was sent to eleven residents or owners of properties in the unlit section of Oswald Drive advising that Council had received a request for the provision of street lighting in Oswald Drive on the basis that it will provide for improved safety and security for residents and visitors to the area after nightfall. The letter proposed to erect a light in the vicinity of number 5 Oswald Drive.

An order was placed with SP Ausnet for a single light outside number 5 Oswald Drive. In the interim Council was contacted by the resident of number 5 on 2 July requesting that the light be placed on the opposite side of the street to be consistent with the other existing street light locations.

Following a meeting with the residents of number 5 a further request was received for two additional lights to be installed. This proposal was costed by officers and was within the budget allocation.

Affected residents were advised in writing on 18 July 2013 of the proposal to install three street lights. Council received three written responses opposing this lighting option and four petitions relating to the matter.

Council Plan/Strategies:

Council Plan 2013-2017

Our Economy – Strategic objective: ‘We will administer sound financial and management practices’.

Our Environment – Strategic objective: ‘We will use resources more efficiently and effectively’

Our Environment – Strategic objective: ‘We will apply a whole of life approach to the management and maintenance of Council’s assets’

Legal/Policy Issues:

Under the Road Management Act, Schedule 7A, Section 2 – Power to install street lighting the following applies:

‘A responsible road authority may, at its discretion, cause to be installed street lighting on roads or parts of roads for which it is the coordinating road authority or the responsible road authority to the extent and in a manner which it considers appropriate having regard to its road management functions.’

In relation to the Australian Standard AS/NZS 1158 1.1.2005 – Lighting for roads and public spaces Section 1.2 Application - the following applies

‘Subject to the requirements of the applicable laws, the choice of whether to install a road lighting scheme in compliance with this Standard and, if so, which subcategory of lighting is appropriate, rests with the client (usually the applicable road controlling authority). This decision is typically based on factors such as night time traffic flows and other patterns of use.’

In the case of Oswald Drive, Council is the responsible road authority and therefore maintains the discretion for the decision to install street lighting.

A street lighting policy is currently under development and will be finalised in February 2014.

Financial/Resources/Risk

Council has a budget allocation \$10,000 carried forward to the 2013/2014 for road safety issues including street lighting.

The estimated cost from SP Ausnet for the installation of street lighting in Oswald Drive was \$2,967 for one light and \$10,000 for three lights excluding GST.

Council officers are unaware of any safety or security issues that have occurred in Oswald Drive as a result of the lack of street lighting in this area.

Discussion

Council received four petitions which were tabled at its 28 August 2013 Ordinary Council Meeting. Additional correspondence was received from residents in the unlit section of Oswald

Drive opposing the installation of street lighting and a letter of support for street lighting was received from a resident in Dunn Court which runs off Oswald Drive.

To this end Council resolved at its Ordinary Meeting on 25 September 2013 to seek to mediate the issue of street lighting with residents. Officers utilised a community mediation program offered by the Department of Justice through their Dispute Settlement Centre of Victoria (DSCV) and mediation was undertaken as follows:

- Further to the Council resolution all residents of Oswald Drive and Dunn Court were contacted by mail to seek their willingness to participate in mediation and to agree, in the first instance, to be contacted by phone by the mediator.
- Ten residents agreed to participate in the mediation process and were subsequently contacted by the mediators for a preliminary interview.
- A mediation session was arranged and held at the Council Chambers in Alexandra.
- All residents who agreed to participate were invited to the mediation session and seven residents indicated they would attend. However only 5 residents actually attended the session along with two mediators from the Dispute Settlement Centre and two Council Officer being the Manager Infrastructure Assets and the Coordinator Assets and Development.

At the mediation session Council officers clarified the history and status of lighting options. To facilitate the session, four options were listed as the basis for discussion and exploring issues. These included:

1. No additional street lights installed.
2. One street light installed opposite number 5 (outside 6/8)
3. Two lights installed
 - a. Outside numbers 2/6
 - b. Outside numbers 6/8
4. Three lights –as above with the third installed outside 10/12

Six agenda items were agreed upon by all attendees for discussion. These included:

1. Costs associated with installation, operation and maintenance;
2. Nature and impact on street amenity
3. Safety issues and visibility for pedestrians and vehicles after dark.
4. Lighting standards and their application to this situation
5. The impact on homes and residents
6. Preferred options

Following discussion on each agenda item, residents indicated their preferred options as follows:

- Four residents preferred option No. 1, no additional lights, with a compromise position of one light outside No.5.
- One resident preferred option No. 4, three additional lights, with a compromise position of one light outside No. 12.

Council officers confirmed with those attending the mediation that previous correspondence received by Council relating to the street lighting issue would still be considered in the development of the final officer recommendation.

The officer recommendation provided in this report is for the installation of a street light on the western side of Oswald Drive outside numbers 6 and 8 (on the boundary between the two properties - see Enclosure 8.2.2). The side of the road proposed for the street light installation is consistent with the siting of other street lights in Oswald Drive and is approximately 63 metres south of Cooper Street.

In relation to deciding the final location for the street lighting officers considered the following:

- The main objection to the street lighting was from residents in the vicinity of numbers 10 and 12 Oswald Drive. This locations is approximately 37 metres from the intersection of Dunn Court and Oswald Drive where there is an existing street light which provides adequate illumination on the road bend.
- The location for the proposed lighting is approximately 63 metres from Cooper Street where there is a streetlight close to the intersection of Oswald Drive and Cooper Street.
- The Proposed location outside number 6 and 8 (on the boundary between the two properties - see Enclosure 8.2.2) will provide illumination in the currently unlit section of Oswald Drive. This location provides an appropriate distance from each of the existing streetlights. The proposed streetlight will need to be located to align with the position of preinstalled service cabling and pits to meet the needs of SP Ausnet
- The side of the road proposed for the streetlight installation is consistent with the siting of other street lights in Oswald Drive

Consultation:

Council officers have undertaken extensive consultation including:

- Held meetings with the convenors of the petitions and conducted site visits.
- Written correspondence to affected residents
- Held discussions with SP Ausnet
- Held community mediation facilitated by the Department of Justice - Dispute Settlement Centre of Victoria.

Three residents have also presented to Council through Open Forum.

Conclusion:

After significant consultation the officer assessment and subsequent recommendation proposes one streetlight to be installed on the west side of Oswald Drive, Alexandra on the boundary between number 6 and number 8.

This is considered more appropriate that placing the light outside number 5 as it conforms to the side of the road on which all other lighting in Oswald Drive is installed and aligns with pre installed infrastructure.

8.3 BUSINESS SERVICES

8.3.1 Audit Committee 2013 Annual Report

File No: 24/03/08

(Refer Encl 8.3.1 – Audit Committee 2013 Annual Report)

Purpose:

The purpose of this report is to provide Council with the Annual Report of Audit Committee activities, as received from the Chair of the Audit Committee, Mr. Ian McKaskill.

Recommendation:

That the Audit Committee Annual Report prepared by the Audit Committee Chair (Mr. Ian McKaskill), as enclosed, be received by Council for the 2013 calendar year.

Background:

The Audit Committee, as an Advisory Committee to Council, is responsible to Council for the provision of advice and recommendations on matters relevant to its Charter in order that Council's decisions may be appropriately facilitated.

Council Plan/Strategies:

The Audit Committee report is consistent with the 2013-2017 Council Plan Goal under 'Our Council' to provide strategic leadership and effective governance that supports the aspirations of our community.

Legal/Policy /Financial/Resources/Risk Issues

An Annual Report to Council is one of the requirements per *Section 2(o) of the Charter of the Audit Committee*.

Financial/Resources/Risk

There are no financial implications with presentation of the Audit Committee Annual Report.

Discussion:

Presentation of the Audit Committee Annual Report, as per 8.3.1, is an annual reporting requirement to Council as specified in the Charter of the Audit Committee. The report, as detailed in the Enclosure, provides a summary of activities during the 2013 calendar year.

In his report, the Chair acknowledged the contributions of Mr Jeff Hunter as a long serving committee member and former Chair of the Committee. Mr Hunter retired from the Committee during the year.

Conclusion:

The Annual Report on the activities conducted by the Audit Committee provides Council with assurance as to its effectiveness as an advisory committee and to meeting its prime objective to assist Council with meeting its financial and fiduciary responsibilities.

8.3.2 Instruments Of Delegations, Authorisations And Authorities

TRIM: SF/123

(Refer Encl 8.3.2 - S5, S6, S11, S11A Delegations)

Purpose:

The purpose of this report is to recommend that Council adopt the revised S5 Delegation (from Council to CEO), S6 Delegation (from Council to members of staff), S11 Instrument of Appointment & Authorisation and S11A Instrument of Appointment & Authorisation (*Planning & Environment Act 1987*) thereby meeting its obligations under the *Local Government Act 1989*.

Recommendation:

- 1. In the exercise of the powers conferred by section 98(1) of the *Local Government Act 1989* (the Act) and the other legislation referred to in the attached instrument of**

delegation (*refer Enclosure 8.3.2 - S5*), Murrindindi Shire Council (Council) resolves that:

- 1) There be delegated to the person holding the position, acting in or performing the duties of Chief Executive Officer the powers, duties and functions set out in the attached *Instrument of Delegation to the Chief Executive Officer*, subject to the conditions and limitations specified in that Instrument.
 - 2) The instrument comes into force immediately the common seal of Council is affixed to the instrument.
 - 3) On the coming into force of the instrument all previous delegations to the Chief Executive Officer are revoked.
 - 4) The duties and functions set out in the instrument must be performed, and the powers set out in the instruments must be executed, in accordance with any guidelines or policies of Council that it may from time to time adopt.
 - 5) It is noted that the instrument includes a power of delegation to members of Council staff, in accordance with section 98(3) of the Act.
2. In the exercise of the powers conferred by section 98(1) of the *Local Government Act 1989* (the Act) and the other legislation referred to in the attached instrument of delegation (*refer Enclosure 8.3.2 - S6*), Murrindindi Shire Council (Council) resolves that:
- 1) There be delegated to the members of Council staff holding, acting in or performing the duties of the offices or positions referred to in the attached *Instrument of Delegation to members of Council staff*, the powers, duties and functions set out in that instrument, subject to the conditions and limitations specified in that Instrument.
 - 2) The instrument comes into force immediately the common seal of Council is affixed to the instrument.
 - 3) On the coming into force of the instrument all previous delegations to members of Council staff (other than the Chief Executive Officer) are revoked.
 - 4) The duties and functions set out in the instrument must be performed, and the powers set out in the instruments must be executed, in accordance with any guidelines or policies of Council that it may from time to time adopt.
3. In the exercise of the powers conferred by section 224 of the *Local Government Act 1989* (the Act) and the other legislation referred to in the attached instrument of appointment and authorisation (*refer Enclosure 8.3.2 - S11*), Murrindindi Shire Council (Council) resolves that:
- 1) The members of Council staff referred to in the instrument Andrew Daly, Karen Girvan, Mark Leitinger, John Canny, Natalie Stewart, Owen Robert Evans, Michael Chesworth, Tamara Johnson, Casey Southurst, Robert Skinner, Matt Parsons, John Canny, Angelina Bell, Melissa Crane, Grant Scale, Marcus Hann and Oliver Boyd 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.

4. **In the exercise of the powers conferred by under section 147(4) of the *Planning and Environment Act 1987* (the Act) in the attached instrument of appointment and authorisation (refer *Enclosure 8.3.2 - S11A*), Murrindindi Shire Council (Council) resolves that:**

- 1) **The members of Council staff referred to in the instrument Matt Parsons, Karen Girvan, Angelina Bell, Melissa Crane and Grant Scale 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.**

Background:

Delegations and Authorisations

The Council is a legal entity composed of its members (ie the Councillors or Commissioners). It is not a "natural" person and therefore it can act in only one of two ways: by resolution, or through others acting on its behalf.

The power of a Council to act by resolution is set out in section 3(5) of the Act - "(5) Where a Council is empowered to do any act, matter or thing, the decision to do the act, matter or thing is to be made by a resolution of the Council."

Alternatively, a Council can act through others. Where this is to occur, it is recommended that the appointment be formalised through written "instruments of delegation" wherever practicable.

The Act, as well as other legislation, makes express provision for the appointment of delegates to act on behalf of Councils. There are two basic forms of delegation under the *Local Government Act 1989* –

- to a special committee. Although a special committee is not a separate legal entity (being only a "committee" of persons) as a body it can act as a "delegate" of the Council. This applies to special committees comprising councillors as well as to special committees which include officers and/or other persons;
- to an officer of the Council. If the delegation is to the Chief Executive Officer that person has power to "sub-delegate" some or all of those powers to other officers. If the delegation is to any other officer, there is no power of "sub-delegation".

Delegations are different in nature from authorisations. The decision of a delegate of Council is "deemed" to be a decision by Council. The decision by a person appointed by Council to a statutory position - for example, a Municipal Building Surveyor - is not. That person's powers and responsibilities are quite distinct from Council's. It is therefore important that the Council has in place appropriate policies and guidelines under which delegation should be exercised.

Review of Delegations

Council is required to review its delegations within 12 months of a general election. This occurred at the February 2013 Ordinary Council Meeting. It is good governance that Council review its delegations regularly to ensure recent changes to legislation, organisational structure and/or staff titles are accounted for and the appropriate delegations applied.

This report seeks Council's adoption of revised S5 Delegation (from Council to CEO), S6 Delegation (from Council to members of staff), S11 Instrument of Appointment & Authorisation

and S11A Instrument of Appointment & Authorisation (*Planning & Environment Act 1987*) thereby meeting its obligations under the *Local Government Act 1989*.

Council Plan/Strategies:

This report implements the Council Plan 2013-2017 Strategy 4.2.2 "Continue to improve our processes to enhance the efficiency and effectiveness of the organisation."

Legal/Policy Issues:

Council is required to approve Delegations in accordance with section 98 of the *Local Government Act 1989*.

Financial/Resources/Risk

Most Council decisions are not made at Council meetings. Effective functioning of local government would not be possible if they were. Instead, most decision-making power is allocated by formal delegations.

Discussion:

Legislative and organisational changes have led to the review and adaption of the S5, S6, S7 Delegations and the S11, S11A and S12 authorisations.

The three instruments of delegation are as follows:

- **S5** - Instrument of Delegation **from Council to CEO**. The Instrument of Delegation to the Chief Executive Officer empowers the Chief Executive Officer to exercise various powers of the Council, including the power to delegate powers to council officers.
- **S6** - Instrument of Delegation **from Council to members of Council staff** relating to various Acts and Regulations (or specific parts of those Acts or Regulations), which contain a specific power of delegation. These Acts include the *Cemeteries and Crematoria Act 2003*, *Domestic Animals Act 1994*, *Environment Protection Act 1970*, *Food Act 1984*, *Heritage Act 1995*, *Planning And Environment Act 1987*, *Rail Safety Act 2006*, *Residential Tenancies Act 1997*, *Road Management Act 2004*, *Cemeteries and Crematorium Regulations 2005*, *Planning And Environment Regulations 2005*, *Planning And Environment (Fees) Regulations 2000*, *Road Management (General) Regulations 2005*, *Road Management (Works And Infrastructure) Regulations 2005*.
- **S7** - Instrument of Delegation **from CEO to Council staff**. This contains most other Acts under which Councils have powers, duties or functions, which do not include a specific power of delegation.

Appointment & Authorisation's to be reviewed:

- **S11 – Instrument of Appointment & Authorisation**. This Instrument appoints a person to a specific statutory position. The Acts include the *Building Act 1993*, the *Country Fire Authority Act 1958*, the *Domestic Animals Act 1994*, the *Emergency Management Act 1986*, the *Environment Protection Act 1970*, the *Fire Services Property Levy Act 2012*, the *Food Act 1984*, the *Graffiti Prevention Act 2007*, the *Housing Act 1983*, the *Impounding of Livestock Act 1994*, the *Liquor Control Reform Act 1998*, the *Local Government Act 1989*, the *Metropolitan Fire Brigades Act 1958*, the *Public Health and Wellbeing Act 2008*, Part 14 of the *Residential Tenancies Act 1997*, the *Road Management Act 2004*, the *Road Safety Act 1986*, the *Sex Work Act 1994*, the *Shop Trading Reform Act 1996*, the *Summary Offences Act 1966*, the *Tobacco Act 1987*, the *Valuation of Land Act 1960*
- **S11A – Appointment & Authorisation (*Planning & Environment Act 1987*)**. For the purposes of the *Planning & Environment Act 1987* this relates to appointing and authorising officers to institute proceedings for offences against the Act.

Consultation:

Council utilises a delegation service provided by Council's solicitors to provide updates via templates for its various delegations and authorisations. The most recent Instruments of delegation and Authorisations & Authorities were issued to Council on 2 December, 2013.

Conclusion:

Council is required to approve delegating its powers, duties and functions, noting limitations and requirements as listed in the S5 Delegation, S6 Delegation, S11 and S11A Instrument's of Appointment & Authorisation.

8.3.3 S86 Committee of Management – Membership Endorsement

TRIM: SF/ 750

Purpose:

This purpose of this Council Ordinary Agenda item is seek Council's endorsement of the membership changes for individual Section 86 Committee's of Management resulting from the 2013 Annual General Meetings held by each committee.

Recommendation:

That Council endorse the following membership changes for the S86 Committees of Management:

Committee of Management	Annual General Meeting Date	Community Representative / User Group Representative	Membership for Endorsement
Yea Showgrounds and Recreation Reserve Committee of Management	16/09/13	Yea Football & Netball Club Representative	Tom O'Dwyer
Yea Showgrounds and Recreation Reserve Committee of Management	16/09/13	Proxy – Yea Football & Netball Club Representative	Trevor Aldous
Yea Showgrounds and Recreation Reserve Committee of Management	16/09/13	Yea Cricket Club	Brad Watts
Yea Showgrounds and Recreation Reserve Committee of Management	16/09/13	Proxy – Yea Cricket Club Representative	Graeme Chisholm
Yea Showgrounds and Recreation Reserve Committee of Management	16/09/13	Yea Tennis Club Representative	Ross Shaw
Yea Showgrounds and Recreation Reserve Committee of Management	16/09/13	Proxy - Yea Tennis Club Representative	David Stares
Yea Showgrounds and Recreation Reserve Committee of Management	16/09/13	Yea Show Committee Representative	Elaine White
Yea Showgrounds and Recreation Reserve Committee of Management	16/09/13	Proxy - Yea Show Committee Representative	Greg Garlick
Yea Showgrounds and Recreation Reserve Committee of Management	16/09/13	Red Cross Representative	Margaret Mahon
Yea Showgrounds and Recreation Reserve Committee of Management	16/09/13	Proxy – Red Cross Representative	Di Quick
Yea Showgrounds and Recreation Reserve Committee of Management	16/09/13	Community Representative	Gary Pollard

Committee of Management	Annual General Meeting Date	Community Representative / User Group Representative	Membership for Endorsement
Yea Showgrounds and Recreation Reserve Committee of Management	16/09/13	Community Representative	Russell Gouldthorpe
Gallipoli Park Precinct Committee of Management	26/11/2013 (General Meeting)	Community Representative	Jamie Fiske
Gallipoli Park Precinct Committee of Management	27/08/2013	Alexandra and District Hospital Representative	Karen Bates
Friends of Yea Railway Committee of Management	9/09/13	UGFM Representative	Rod Clue
Glenburn Community Centre Committee of Management	7/08/13	Community Representative	Viv Frogley
Yea Pioneer Reserve Committee of Management	13/08/13	Community Representative	Joan Coles

Background:

Section 86 Committees of Management (COM) are delegated by Council to manage assets and grounds owned by or under Councils Management. All formal appointments to the COM must be made by Council and that Council may in its absolute discretion decline to appoint. Community Representatives can sit on a Committee of Management for 3 years without re-election and the Committees of Management call for nominations as part of the AGM process when required.

Council Plan/Strategies:

Consistent with the Council Plan 2013-2017 goal – ‘Our Council’ – to provide effective governance that supports the aspirations of our community.

Legal/Policy Issues:

Failure to formally recognise changes in membership of Council’s Section 86 Committees of Management may inhibit the operation of committees and prevent compliance with delegated authorities.

Financial/Resources/Risk

Until Council has endorsed these memberships the individuals do not have any obligations under the Instrument of Delegation and cannot make any financial decisions.

Discussion:

Committees of Management must advertise vacant Community representative positions and call for nominations as part of the AGM process. Council advertises on behalf of the COM in the statutory required publications.

The Committee of Management then makes its recommendation for election as part of the AGM and notifies Council. The new members do not have voting privileges until Council resolves to endorse the membership.

Updated Committee of Management membership is provided in Table 1 below:

Table 1 – New Committee of Management membership

Committee of Management	Annual General Meeting Date	Community Representative / User Group Representative	Membership for Endorsement
Yea Showgrounds and Recreation Reserve Committee of Management	16/09/13	Yea Football & Netball Club Representative	Tom O’Dwyer

Committee of Management	Annual General Meeting Date	Community Representative / User Group Representative	Membership for Endorsement
Yea Showgrounds and Recreation Reserve Committee of Management	16/09/13	Proxy – Yea Football & Netball Club Representative	Trevor Aldous
Yea Showgrounds and Recreation Reserve Committee of Management	16/09/13	Yea Cricket Club	Brad Watts
Yea Showgrounds and Recreation Reserve Committee of Management	16/09/13	Proxy – Yea Cricket Club Representative	Graeme Chisholm
Yea Showgrounds and Recreation Reserve Committee of Management	16/09/13	Yea Tennis Club Representative	Ross Shaw
Yea Showgrounds and Recreation Reserve Committee of Management	16/09/13	Proxy - Yea Tennis Club Representative	David Stares
Yea Showgrounds and Recreation Reserve Committee of Management	16/09/13	Yea Show Committee Representative	Elaine White
Yea Showgrounds and Recreation Reserve Committee of Management	16/09/13	Proxy - Yea Show Committee Representative	Greg Garlick
Yea Showgrounds and Recreation Reserve Committee of Management	16/09/13	Red Cross Representative	Margaret Mahon
Yea Showgrounds and Recreation Reserve Committee of Management	16/09/13	Proxy – Red Cross Representative	Di Quick
Yea Showgrounds and Recreation Reserve Committee of Management	16/09/13	Community Representative	Gary Pollard
Yea Showgrounds and Recreation Reserve Committee of Management	16/09/13	Community Representative	Russell Gouldthorpe
Gallipoli Park Precinct Committee of Management	26/11/2013 (General Meeting)	Community Representative	Jamie Fiske
Gallipoli Park Precinct Committee of Management	27/08/2013	Alexandra and District Hospital Representative	Karen Bates
Friends of Yea Railway Committee of Management	9/09/13	UGFM Representative	Rod Clue
Glenburn Community Centre Committee of Management	7/08/13	Community Representative	Viv Frogley
Yea Pioneer Reserve Committee of Management	13/08/13	Community Representative	Joan Coles

Consultation:

The appointment of members to Committees of Management has been conducted through the Annual General meeting process for each committee and advertised appropriately as per the Committee of Management Instrument of Delegation and Governance Manual.

Conclusion:

It is important from a fiduciary and statutory perspective that Council endorses current membership of its Section 86 Committees of Management.

8.3.4 *Buxton Recreation Reserve Committee of Management Instrument of Delegation*

TRIM: SF/112

(Refer Encl 8.3.4 - Map of 10 Ballina Court, Buxton)

Purpose:

The purpose of this report is to seek Council's endorsement of the Buxton Recreation Reserve Section 86 Committee of Management's request to amend the Committee's Instrument of Delegation to include the "Meeting of the Waters Reserve" at 10 Ballina Court, Buxton.

Recommendation:

That Council amends the Instrument of Delegation of the Buxton Recreation Reserve Committee of Management to include 10 Ballina Court, Buxton

Background:

The Buxton Recreation Reserve Committee of Management (the "Committee") approached Council in September 2013 to request information in regard to the Meeting of the Waters Reserve (the "Reserve") in Buxton. The Reserve is currently owned and maintained by Council.

The Committee offered the following points in support of its request:

- The Reserve's significance in Buxton has increased since the completion of the town trail
- The community needs to be responsible for creating its own strategy and plans for the present and future uses of the reserve. The Committee believes it can lead this process.
- The Committee has good working relationships with the local community groups, including Buxton Progress Association, Buxton Hotel Social Club, Buxton Primary School and Buxton Fire Brigade, and has been able to enlist their support for working bees
- The Committee believes it can come up with solutions for the following issues and include them in a management plan for the Reserve:
 - drive-way flooding
 - investigate what remedial works are required to address the erosion of the Steavenson River bank
 - The general rubbish that is left by visitors which is already being cleaned up by local residents
- The Committee would like to look into grants to assist in implementing a management plan.

The Committee believes that a holistic approach to both this reserve and the Buxton Recreation Reserve will produce more effective outcomes for the community and for Council.

The Committee has discussed with Council Officers what responsibilities the Committee would have in terms of the day to day management and maintenance of the Reserve.

The Reserve is primarily vacant Council owned land. It is proposed that the Council would continue to undertake basic parks and gardens maintenance which includes mowing. The Committee would keep the area tidy, free of branches and sticks and report to Council any areas that need urgent attending to if were needed. The Committee would also be expected to liaise with the relevant water authority with respect to the upkeep and management of the Reserve.

Under the revised delegation is it envisaged the Committee and Council would effectively have the same cooperative approach to maintaining the Reserve as currently exists at the Buxton Recreation Reserve.

Council Plan/Strategies:

The item relates to the following Strategic Objective of the Council Plan 2013-2017:

Under the 'Our Community' Goal – we will actively engage with our communities to increase participation and community input

Legal/Policy Issues:

The Instrument of Delegation would need to be altered to reflect the inclusion of the Meeting of the Waters Reserve, 10 Ballina Court Buxton.

Financial/Resources/Risk

The Committee's intended improvements could have financial implications for Council, however the Committee is aware that any works to be carried out on Council land need the prior approval of Council.

Discussion:

The relationship between Council and the Committee has proven to be a cooperative and effective one in the management of the Buxton Recreation Reserve. It is believed by Council Officers that the extended management area would encourage a greater level community ownership and participation in the maintenance and care for the Meeting of the Waters Reserve.

The Committee's future intentions for the Reserve are based around preserving what is already there as part of the natural environment. The Committee is motivated to apply for grants to ensure its management plans for the site can be realised. The Committee is aware of the requirements to gain Council approval prior to any works being carried out or any new infrastructure installed on any of its reserves and the need to cooperate with the water authorities.

Consultation:

The Committee has been made aware of the responsibilities that the management of the reserve would place on it. The Committee resolved at its October 2013 General Meeting to request that Council review its proposal.

Conclusion:

It is important to the community that there is a sense of community ownership over the Meeting of the Waters Reserve and a delegated Committee of Management is an effective way of achieving this outcome.

9. SEALING REGISTER

TRIM: 13/6325

<i>File Reference</i>	<i>Date Seal Affixed</i>	<i>Description of Documents</i>	<i>Signatures of Persons Sealing</i>
Ass 5694 2950 Heidelberg- Kinglake Road,	25 November 2013	Transfer of Land - Lot 2 on PS714388P being part of the land formely contained in certificate of title Volume 11243 Folio 170 and Volume 11375 Folio 270	Margaret Abbey John Walsh

File Reference	Date Seal Affixed	Description of Documents	Signatures of Persons Sealing
Kinglake			
24/13/1323	25 November 2013	Formal Instrument of Agreement for the Drilling, Blasting, Hauling, Crushing & Stockpiling Works at Topsy Gully Quarry, Yarck, between Murrindindi Shire Council and Lima South Quarry Pty Ltd	Margaret Abbey John Walsh
SF/121	4 December 2013	Instrument of Delegation - Yea Showgrounds & Recreation Reserve (Special) Committee of Management	Margaret Abbey Margaret Rae
SF/113	4 December 2013	Instrument of Delegation - Glenburn Community Centre (Special) Committee of Management	Margaret Abbey Margaret Rae
SF/114	4 December 2013	Instrument of Delegation - Eildon Community Resource Centre (Special) Committee of Management	Margaret Abbey Margaret Rae
SF/115	4 December 2013	Instrument of Delegation - Kinglake Community Centre (Special) Committee of Management	Margaret Abbey Margaret Rae
SF/753	4 December 2013	Instrument of Delegation - Eildon Alliance Boat Ramp (Special) Committee of Management	Margaret Abbey Margaret Rae
SF/752	4 December 2013	Instrument of Delegation - Yea Wetlands (Special) Committee of Management	Margaret Abbey Margaret Rae
SF/112	4 December 2013	Instrument of Delegation - Buxton Recreation Reserve (Special) Committee of Management	Margaret Abbey Margaret Rae
SF/749	4 December 2013	Instrument of Delegation - CJ Dennis & Castella Public Hall Reserve (Special) Committee of Management	Margaret Abbey Margaret Rae
SF/750	4 December 2013	Instrument of Delegation - Gallipoli Park Precinct (Special) Committee of Management	Margaret Abbey Margaret Rae
SF/95	4 December 2013	Instrument of Delegation - Friends of Yea Railway (Special) Committee of Management	Margaret Abbey Margaret Rae
SF/116	4 December 2013	Instrument of Delegation - Kinglake Memorial Reserve (Special) Committee of Management	Margaret Abbey Margaret Rae
SF/117	4 December 2013	Instrument of Delegation - Mt Pleasant Reserve (Special) Committee of Management	Margaret Abbey Margaret Rae
SF/921	4 December 2013	Instrument of Delegation - Strath Creek Reserves & Hall (Special) Committee of Management	Margaret Abbey Margaret Rae
SF/751	4 December 2013	Instrument of Delegation - Yea Pioneer Reserve (Special) Committee of Management	Margaret Abbey Margaret Rae
SF/120	4 December 2013	Instrument of Delegation - Yea Saleyards (Special) Committee of Management	Margaret Abbey Margaret Rae
Ass 5694 2950 Heidelberg- Kinglake Road, Kinglake	10 December 2013	Transfer of Land Lot 1 on PS714388P being part of the land formerly contained in volume 11243 folio 170 and volume 11375 folio 270 between Murrindindi Shire Council and Rosa Cicerale of 1/20 Prospect Road, Rosanna, Vic 3084	Margaret Abbey John Walsh

Recommendation:

That the list of items to which the Council seal has been affixed be noted.

10. COUNCILLOR PORTFOLIO REPORTS

10.1 LAND USE PLANNING PORTFOLIO

10.2 ECONOMIC DEVELOPMENT PORTFOLIO

10.3 INFRASTRUCTURE AND WASTE PORTFOLIO

10.4 COMMUNITY SERVICES PORTFOLIO

10.5 CORPORATE SERVICES PORTFOLIO

10.6 NATURAL ENVIRONMENT & CLIMATE CHANGE PORTFOLIO

10.7 MAYOR AND DELEGATED COMMITTEE REPORTS

10.8 GENERAL BUSINESS

11. MATTERS DEFERRED FROM PREVIOUS MEETING**12. MOTIONS FOR WHICH NOTICE HAS PREVIOUSLY BEEN GIVEN****13. ASSEMBLIES OF COUNCILLORS**

TRIM: CY13/143

Purpose:

This report presents the records of assemblies of Councillors for the 8 October 2013 to 11 December 2013, for Council to note in accordance with Section 80A of the *Local Government Act 1989 (the Act)*.

Recommendation:

That Council receives and notes the record of assemblies of Councillors for 8 October 2013 to 11 December 2013.

Background:

In accordance with Section 80A of *the Act*, written assemblies of Councillors are to be reported at an Ordinary Council Meeting of the Council.

An assembly of Councillors includes advisory committees, where one or more Councillors were present, along with planned or scheduled meetings involving at least half of the Councillors and a Council Officer.

A Councillor who has a conflict of interest at an assembly of Councillors, must disclose the conflict of interest, and leave the meeting while the matter is being discussed.

A written record is required to be kept of every assembly of Councillors, including the names of all Councillors and staff at the meeting, a list of the matters considered, any conflict of interest disclosed by a Councillor, and whether a Councillor who disclosed a conflict left the meeting.

Summary:

Meeting Name / Type	Murrindindi Environment Advisory Committee
Meeting Date	8 October 2013
Matters discussed	<ol style="list-style-type: none"> 1. Road weed and pest animal program 2. Native vegetation removal and bushfire risk 3. Native vegetation permitted clearance regulations 4. Updates on environmental issues from members
Attendees: Councillors – Cr Kennedy	Staff – M Chesworth, S McNair, M Leitinger
Conflict of Interest disclosures – Nil	

Meeting Name / Type	Economic Development Advisory Committee Meeting
Meeting Date	11 November 2013
Matters discussed	<ol style="list-style-type: none"> 1. Agriculture Industry Transformation Project 2. Goulburn River Valley Tourism – Annual reports 3. Growing the rate base 4. Business investment prospectus 5. Toolangi Zipline 6. Investment attraction
Attendees: Councillors –Cr Rae, Cr Challen	Staff – M Abbey, B Elkington, L Wallace, Z Stephens
Conflict of Interest disclosures - Nil	

Meeting Name / Type	Councillor Briefing Session
Meeting Date	4 December 2013
Matters discussed	<ol style="list-style-type: none"> 1. Vicforest – Harvesting in Rubicon 2. Streetlighting 3. MAV proposal for Local Government Emergency Support 4. Central Ranges LLEN presentation 5. Lease of land - Glenburn
Attendees: Councillors –Cr Rae, Cr Kennedy, Cr Walsh, Cr Derwent, Cr Magner, Cr Challen	Staff – M Abbey, M Chesworth, J Canny, M Parsons, B Elkington
Conflict of Interest disclosures - Nil	

Meeting Name / Type	Economic Development Advisory Committee Meeting	
Meeting Date	9 December 2013	
Matters discussed	<ol style="list-style-type: none"> 1. Growing the rate base 2. Business investment prospectus 3. Goulburn River Valley Tourism – Destination Management Plan 4. Great Victoria Rail Trail Strategy 5. Changes to the farm zone 6. Key achievements – Economic Development department 7. Parliamentary inquiry to Heritage & Eco tourism 8. Business support 	
Attendees: Councillors – Cr Challen, Cr Derwent,	Staff – M Abbey, B Elkington, L Wallace, K Girvan	
Conflict of Interest disclosures - Nil		

Meeting Name / Type	Councillor Briefing Session	
Meeting Date	11 December 2013	
Matters discussed	<ol style="list-style-type: none"> 1. Streetlighting 2. Delegations 3. Planning applications 4. Domestic Animal Management Plan 5. Land in Eildon 6. Country football and netball program 7. Emergency management 	
Attendees: Councillors – Cr Rae, Cr Kennedy, Cr Challen, Cr Derwent, Cr Walsh	Staff – M Abbey, T Johnson, M Chesworth, J Canny, N McNamara, K Girvan, M Parsons	
Conflict of Interest disclosures – Item 1 – Cr Rae, Vote taken – No, Councillor left the room before the discussion.		

14. URGENT BUSINESS

15. CONFIDENTIAL ITEMS

It is proposed that the following items be considered in closed session.

- **LEASE OF LAND AT GLENBURN**
- **ALEXANDRA COMMUNITY LEISURE CENTRE MANAGEMENT ARRANGEMENTS**

The meeting is to be closed to members of the public as the discussion of this item is confidential pursuant to (Section 89(2)(h) of the *Local Government Act 1989*) - any other matter which the Council or special committee considers would prejudice the Council or any person.