



AGENDA  
of the  
ORDINARY MEETING OF COUNCIL  
To be held on  
WEDNESDAY 22 JULY 2015  
in the  
ALEXANDRA CHAMBERS  
commencing at  
6.00 pm

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**1. PRAYER, OATH & 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 24 June 2015

***Officer Recommendation:*****That the Minutes of the Ordinary meeting of Council held on 24 June 2015 be confirmed.****4. DISCLOSURES OF INTEREST OR CONFLICT OF INTEREST**

TRIM: SF/783

**5. PUBLIC PARTICIPATION TIME****5.1 QUESTIONS OF COUNCIL****5.2 OPEN FORUM**

TRIM: SF/130

**5.3 PETITIONERS SPEAKING TO PETITIONS**

TRIM: SF/132

Council has received a petition, signed by 117 people in support of Item 6.2 on the agenda. It reads as follows:

This Petition is to inform Murrindindi Shire that the proposed off road Motorcycle track and subsequent usage of, located at 7498 Maroondah Highway, Kanumbra Vic does not impose visual or audible issues for the residents surrounding the above stated address.

The applicant, Barry Brudenell, has successfully passed CFA, EPA and VicRoads approval for the motorcycle track.

The proposed motorcycle track will bring many advantages to the local community including:

- It will allow people a legal, safe and controlled environment to ride their dirt bikes, keeping them out of our state and national parks.

- There will be social and economic growth for the area through purchases of fuel, food and accommodation
- A safe and valuable area of recreation for off road motorcycle riders.

**Officer Recommendation:**

**That the listed petition be received and that:**

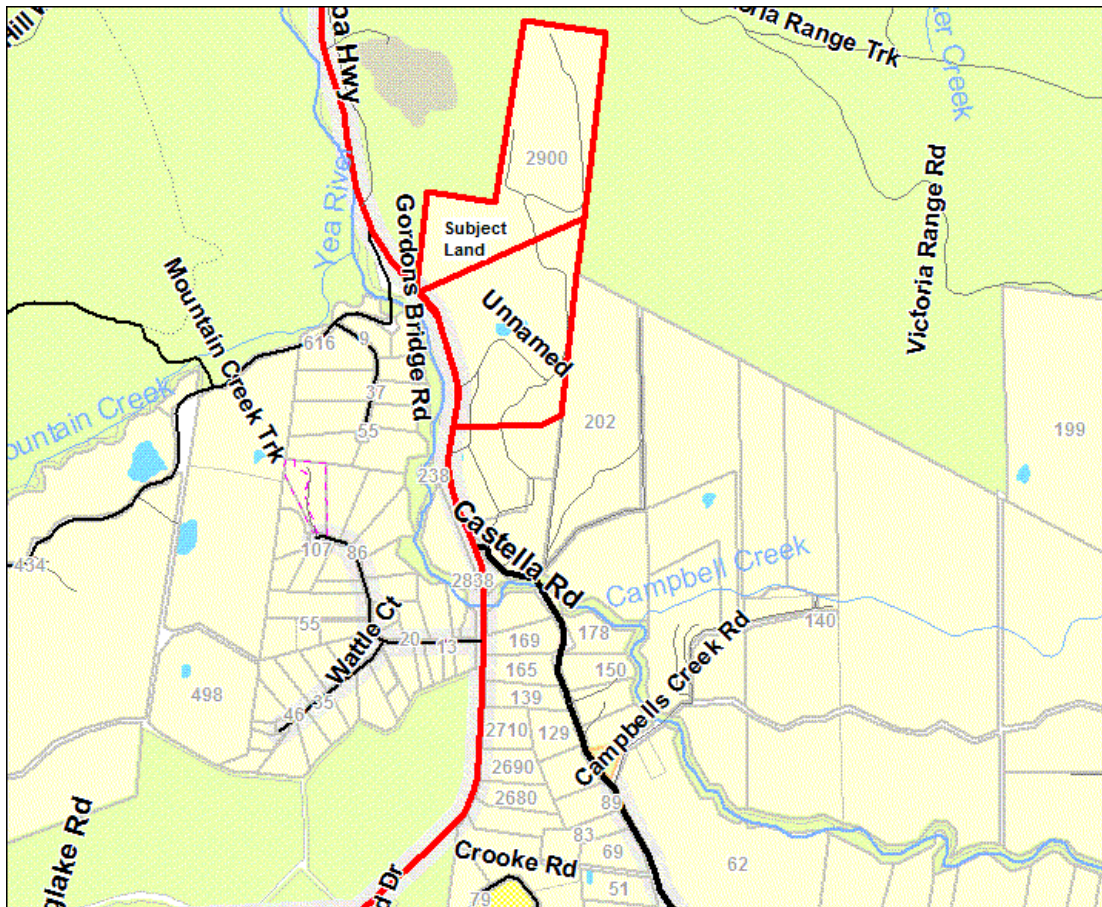
1. It be noted that the petition relates to Item 6.2 on the agenda.
2. The lead petitioner (the applicant) be notified in writing of Council’s decision.

**6. OFFICER REPORTS**

**6.1 CASTELLA QUARRY – PROPOSED EXTENSION OF HOURS**

REF: 1999/75  
 Land: 2900 Melba Highway Castella  
 Proposal: Extension of hours  
 Applicant: Filja Pty Ltd  
 Zoning: Farming  
 Overlays: Bushfire Management Overlay  
 Attachments: 6.1a Application letter (15/22585)  
 6.1b WMG Noise Assessment (15/22583)  
 (aerial photograph and submissions distributed separately)

**Locality Plan**



**Purpose:**

This report recommends that a request for an extension of hours under condition Q of planning permit 1999/75 not be supported.

**Officer Recommendation:**

**That Council refuses to allow an extension of hours under Condition Q of Planning Permit 1999/75 on the grounds that the extended hours will adversely impact on the amenity of the nearby low density residential zoned land with an unreasonable level of noise during the night period prior to 7.00am.**

**Background:**

The quarry operates under planning permit 1999/75 which was issued by the Minister for Planning as part of the approval of the consolidated Murrindindi Planning Scheme. At the time that the consolidated scheme was approved, any existing use that had specific conditions of use built into the relevant planning scheme was translated into a planning permit. In this instance the quarry operation was approved by the Shire of Healesville and the operating conditions were contained within the Healesville Planning Scheme.

The conditions that were placed on the quarry when it was approved in 1994 generally relate to the need to comply with development and management requirements of the quarry as well as protecting neighbourhood amenity with the limitation of hours that were included in the Ministers approval of the amendment.

At that time of the the original application the quarry requested hours from 6am to 6pm Monday to Friday and 6am to 4pm on Saturdays. It was noted at the time that the start of 6am was based on a 7am start with the rationale that the first hour would be spent assessing and preparing for the days work with the starting of plant and heavy machinery not commencing until 7am. It was also noted that the noise levels predicted from the quarry would comply with the day period but it was less certain whether the noise level for the afternoon period (Saturday afternoon) would be achieved.

The proposed hours of operation were altered through the amendment process and by the time the matter went to a panel hearing the proposed hours were 7am to 6pm Monday to Friday and 7am to 4pm on Saturdays for quarry and cartage operations.

Amendment L42 to the Healesville Planning Scheme was approved by the then Minister for Planning, The Honourable Ian Maclellan with three changes as follows:

- Reduced the operating hours on Saturdays to 7am to 1pm – condition Q
- Included a condition requiring that the proposed access road must be screen planted with locally indigenous vegetation - condition Eii
- Changed the condition relating to noise emissions to clarify that noise levels including those from quarry trucks using the internal access road must comply with the relevant noise policies of the EPA – condition F

As part of the consolidation of the seven original planning schemes into the Murrindindi Planning Scheme all particular developments that were approved via a planning scheme amendment were given a planning permit with the conditions of use being transferred into that permit. The approval is then treated as a normal planning permit and the wording of Condition Q in the permit allows a change to the hours of use as a 'secondary consent' and can be done with the written approval of the Responsible Authority.

Council resolved at the Ordinary Council Meeting, 24 April 2013, to allow the Quarry to operate from 6am for a temporary period of six months. This temporary provision has since been extended and is still operational, whilst this matter has been under consideration

An application was lodged for extended hours and considered at the Ordinary Council Meeting of 25 March 2015. During open forum the applicant for Castella Quarry presented new information relating to a driveway realignment option to the quarry suggesting that this may potentially reduce noise levels. Officers were not privy to this new information and were unable to assist Council in any further consideration of this option at the meeting. No decision was made on the matter at that time.

The current application sets out similar information as that previously before Council with emphasis on the economic imperative of commencing carting material from 6am with trucks proposed to access the quarry from 5.30am. The ability to use the discretion allowed by the Noise from Industry in Regional Victoria (NIRV) guidelines is being sought, which provides flexibility to allow non-compliance providing best practice, as adopted in minimising noise generation.

As flagged in open forum at the March Ordinary Meeting of Council the quarry also advised of their intent to realign the steepest middle section of the quarry access road to achieve a flatter grade and thereby reduce noise levels. This realignment is predicated on achieving permission for the earlier starting times.

**Proposal:**

The proposed hours will allow trucks to access the quarry from 5.30am Monday to Saturday and all other quarry operations including egress of loaded trucks from 6am Monday to Saturday.

The condition relating to hours of operation is currently worded as:

*Q The operator must ensure that unless authorised otherwise in writing by the responsible authority, no operation including excavation, drilling, blasting, loading, crushing and cartage of stone or other material or access to the site by cartage trucks shall take place outside the hours of 7.00am and 6.00pm Monday to Friday inclusive, and 7.00am and 1.00pm on Saturdays and no works, other than essential maintenance, shall occur outside the hours of 6.00am and 6.00pm Monday to Friday inclusive, and 6.00am and 4.00pm on Saturdays, or on a Sunday or a Public Holiday.*

The application states that the effective noise level has reduced from 50dB(A) in mid 2012 (to 42dB(A) measured in March 2014 (AECOM), although this compares a day period with a night period assessment. The application also stated that there have been no complaints about pre 7am operations. It was also stated that the previous noise testing demonstrated that the quarry operated within the Noise from Industry in Regional Victoria (NIRV) guidelines provided there were no more than 2 truck movements per half hour and that there were no more than 6% of possible working days where this occurred.

The NIRV guidelines also provide some leeway for locational constraints for land uses such as quarries with flexibility to allow non compliance subject to 'best practice' in relation to noise attenuation. Accordingly the proposal includes the realignment of the steepest section of roadway which will reduce the grade from 18% to 13%, which, it is claimed, will give a resultant reduction in effective noise of 1 – 2 dB(A) for both day and night periods.

The application also details the important economic contribution that it makes to the local economy with 11 permanent direct employees and between 5 to 12 subcontract drivers with two million dollars going into the local and regional economy each year.

The request for the extended hours are based on the need to compete in the market place as there is a continuing need for quarry products to be on site by 7am.

**The Land & Surroundings:**

The quarry is situated on a site of 92 hectares on the eastern side of the Melba Highway. The excavation area is approximately 20 hectares and is located at an elevation 280 metres above the Melba Highway with the driveway leading into the quarry being more than 2km in length.

The land is surrounded by the Toolangi State Forest to the west, north and east with Farming zoned land to the south and an area of Low Density Residential zoned land to the south west on the western side of the Melba Highway. Thirteen Low Density Residential lots are located within 500 metres of the quarry property boundary with the majority in Moore Court and three in Wattle Court. All of the objections received are from occupants of Moore Court which is the closes area to the quarry and access road.

**Referrals:**

The application was not referred to any authorities. The Work Authority for the site allows for the same hours of use as the planning permit.

**Consultation:**

This application does not have third party rights, however given the importance of this application the amended proposal was notified to all owners that previously lodged a submission with Council on this matter.

<b>Newspaper / Other</b>	<b>Publishing/Consultation Date(s)</b>
<b>Mail out:</b>	23 June 2015

Two further submissions have been received from previous submitters and these are précised below:

- Economic benefits only benefit the owner and if competitiveness was an issue the quarry would have closed long ago
- Trucks can be loaded the previous day and delivered in the morning
- Dispute the claim that there are few noisy trucks and have submitted a log of these noisy vehicles on occasions in the past
- Still ring quarry when particularly noisy truck is heard but action not necessarily taken by quarry
- Squealing brakes have become a bigger issue and this may be the result of drivers trying to use their engine brakes less than previous
- The noisier trucks that use the quarry were not tested.
- Minor noise reduction claimed by the consultants would be offset by the increase in distance travelled by the vehicles resulting in excessive noise from problematic trucks lasting a longer time
- Should look at a new access road onto Castella Road.
- House located higher up the hill, noise wakes them up.
- Took noise tests in bedroom that show background noise level about 34dB(A) and noise levels of 70 to 80dB(A) of trucks ascending the quarry road.
- Exhaust brakes are not the problem, it is vehicles going up the quarry road that are louder than those descending due to increased engine noise as the vehicles struggle with the climb.
- Noise impact significant on family with young children being woken at early hours

The previous four objections still stand and are précised below:

- Believe that Council is disregarding their concerns
- Noise levels remain high all day but particularly in the early morning due to
  - Frequency of trucks
  - Quieter road noise
  - Wanting to sleep prior to 7.30am

- Quarry noise is constant and creates an amenity issue to nearby residents
- Truck noise wakes children and it is unacceptable that this occur at 5.30am
- Complaints to quarry about noise have no impact
- Believe the noise levels are outside the “*Noise from Industry in Regional Victoria, - Recommended Maximum Noise Levels (NIRV or RMNL)*”
- Worst noise is from loaded quarry trucks descending with engine brakes applied
- Noise extends for some time due to the length of the access road while highway traffic passes quickly
- All of the noise reports show that the guidelines have been exceeded and there is no basis for an exception to compliance due to locational constraints
- Mitigation measures undertaken have not stopped noisy trucks
- Does not believe that there is community benefit as their operations impact adversely on the community
- Noise should not be permitted within sleep time.

### ***Planning Considerations:***

The main issue with the submissions relates to noise, both from trucks entering and exiting the quarry via the access road. Nearly all of the complaints that have been received in the past are about trucks driving down the access road and using brakes. As part of the trial period only trucks that have been individually tested and below a specific requirement have been approved to use the access road prior to 7am. A log was kept by one of the objectors between the period of April 2013 and November 2014 with none of the stated problem times in reference to pre 7am vehicle movements.

The effective noise level readings are determined by the measured noise level, the duration of the noise and tonality adjustment. This means that the number of truck movements can impact on compliance outcomes. For example, using the AECOM readings as set out below the allowable number of truck movements to achieve compliance with the noise criteria is 16 per half hour during the day period and 2 per half hour during the night period. The table below compares the effective noise level readings undertaken in 2012 and 2014 and the impact of the predicted noise reduction of the proposal, compared to the RMNL.

	<b>Day period</b>	<b>Night period</b>
<b>WGM</b> effective noise level readings 2012	52dB(A)	n/a
<b>AECOM</b> effective noise level readings 2014	46dB(A)	42dB(A)
Potential noise decrease of 1dB(A)	45dB(A)	41dB(A)
Potential noise decrease of 2dB(A)	44dB(A)	40dB(A)
<b>Recommended maximum noise level (RMNL)</b>	<b>47dB(A)</b>	<b>38dB(A)</b>

The overall noise levels have already been reduced when taking the 2012 and 2014 noise testing into account, with a reduction from 52dB(A) down to 46dB(A) for the day period, which is below the RMNL from the NIRV guidelines before the predicted reduction is taken into account. The night period, even with a projected 2dB(A) decrease at 40dB(A), is still above the RMNL.

The WGM report (acoustic consultant) (Attachment 6.1b) dated 19 April 2015 states that established traffic noise prediction methods are designed for a traffic stream and are not suitable for this case where it is one truck at a time. Therefore the assumptions made are based on advice from the quarry operator on the likely impact of the reduced gradient on the use of the exhaust brake, taking into account information from their drivers. The report estimated a reduction of 1 to 2 dB(A) from the proposed road realignment, noting that the subjective benefit would likely be higher than the figures indicated due to the reduction in exhaust brake usage. However, the estimation is based on assumptions from the operator and does not take into account that the extended length of the road of about 120 metres may extend the timeframe of the noise.



The applicant acknowledges that noise levels do not comply with the RMNL but argues that they be exempted from the noise requirements due to 'locational constraints' which allows for an alternative application approach that applies best practice. In this instance the quarry has put in place measures to reduce noise impacts, such as a code of practice implemented for drivers, signage placed on the access road reminding drivers of their obligations to reduce noise, a direction to replace exhaust and muffler systems provided to some trucks and only noise tested trucks have been allowed to access the quarry prior to 7am.

While the noise levels have reduced over time there is still an obvious impact on residential amenity, as can be seen from ongoing discussions regarding this matter and submissions received. Discussions with residents has generally raised the point that the day period truck noise creates ongoing issues however they understand that these comply with the RMNL's and accept that the quarry exists and there will be some noise impacts. The detrimental impact is also seen to be exacerbated with the type of occupancy e.g. young children, retired adults, where there is more likelihood of being home during the day period and also sleep time during the night period is important.

An extension of hours to 5.30am will mean that the quarry is operating for 12½ hours per day. Even with the quieter trucks operating prior to 7am there is still an issue due to the extended time frames. The impact of noise is cumulative and nuisance value is about exposure having regard for the time of day and the extended time frame. In the last 5 months, during the trial period, the quarry only operated prior to 7am on 66% of days and that use varied from 1 to 6 trucks. If the extension is approved there is a strong probability that this use would further increase hence exacerbating the existing impact on the residents.

***Conclusion:***

The Castella Quarry commenced operation in close proximity to a low density residential area and conditions on operating times were placed on the quarry to protect the amenity of nearby residents. To extend the hours of operation will adversely impact on those properties and in particular potentially interfere with sleep time.

***Legal/Policy Issues:***

**State Planning Policy Framework**

14.03 Resource Exploration and Extraction

Strategy        Protect the opportunity for exploration and extraction of natural resources where consistent with overall planning considerations and application of acceptable environmental practice

Provide for the long term protection of natural resources in Victoria

Policy Guideline        To consider as relevant any policy guideline relating to State Environment Protection Policy

Particular Provisions

52.09 Stone Extraction and Extractive Interest Areas

Purpose        To ensure use and development of land for stone extraction does not adversely affect the environment or amenity of the area during or after extraction

To ensure that sand and stone resources, which may be required by the community for future use, are protected from inappropriate development

Decision Guidelines        The effect of vehicular traffic, noise, blasting, dust and vibration on the amenity of the surrounding area

Other

Noise from Industry in Regional Victoria (NIRV – EPA publication 1411)

- Planning Scheme requires document to be considered as relevant

- Document used for assessment of noise outside Melbourne Metropolitan area. Is a guideline only and needs to be applied through a statutory instrument such as a notice or a permit
- Requirement in permit that noise must comply with the relevant noise emission policy of the EPA to the satisfaction of the Responsible Authority

## 6.2 2014/163 – KANUMBRA MINI BIKE TRACK

REF: 2014/163

Land: 7498 Maroondah Highway KANUMBRA 3719

Proposal: Mini bike track

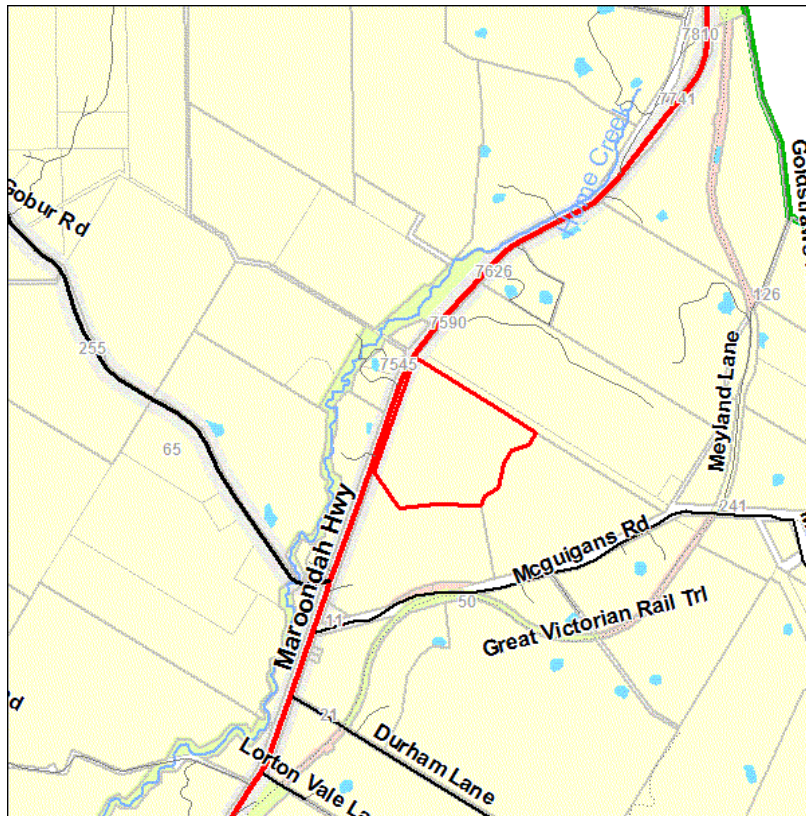
Applicant: B M Brudenell

Zoning: Farming

Overlays: None

Attachment: 6.2 Application details (15/35229) (aerial photograph and submissions distributed separately)

### Locality Plan



### Purpose:

This report recommends that a refusal to grant a permit be issued for the mini bike track at 7498 Maroondah Highway, Kanumbra.

### Officer Recommendation:

That Council issue a refusal to grant a permit for a mini bike track at 7498 Maroondah Highway Kanumbra (Lot: 1 PS: 623977, Parish of Yarck), on the following grounds:

1. The proposal is not in accordance with Clause 13.04 *Noise and Air* in that it will reduce community amenity with the emission of noise from the premises.

2. **The proposal is not in accordance with Clause 21.04 *Agriculture and Rural Land Strategies* in that it is not compatible with or complementary to agricultural uses.**
3. **The proposal is not in accordance with Clause 35.07 *Farming Zone* in that it does not provide for the use of the land for agriculture and it is not compatible with nearby and adjoining land uses.**
4. **The proposal is not in accordance with Clause 65.01 *Decision Guidelines* in that it will have a detrimental impact on the amenity of the area.**

***Proposal:***

An application was received for a mini bike track in the northern section of the property at 7498 Maroondah Highway, Kanumbra. The track is existing on the site and it is proposed to run both motorcycle races and training sessions on the property. It is anticipated that there would be an event on the site every two months, with the track being used on the other weekends for training and practice. The mini bikes are 50cc up to 190cc capacity. Events and training will be on weekends, with hours of operation proposed to be between 9.30am and 5.30pm. The track will be watered during the events to minimise dust. It is intended to be for younger riders, with all required safety checks being undertaken prior to using the site. Portable toilets are proposed to provide facilities for the use.

When an event is being run, it is anticipated that there would be up to 200 people on the site. The training and practice days are anticipated to be on a small scale of up to 20 people. The applicant describes the location of the track as being in the northern gully on the site with steep hills to the south, east and north which act as an amphitheatre. The applicant further advises that the hills to the south, east and north will naturally protect the houses in these directions from the noise generated by the bikes.

***The Land & Surroundings:***

The subject land currently contains a dwelling and associated shedding, is used for grazing of cattle and has an existing motor bike track in the northern section of the property. The property is accessed from the Maroondah Highway, and is undulating to steep in topography. There are two dams on the site.

The surrounding area is generally characterised by larger properties with scattered dwellings and associated shedding. These properties are used for agricultural purposes such as animal grazing and crop raising.

***Referrals:***

The application was referred to the Country Fire Authority and VicRoads, who had no objections to the application. The application was also referred internally to Council's Assets and Development, Environmental Health, Building and Economic Development Units, who had no objections to the application.

***Consultation:***

The application was notified to all properties within 5 kilometres of the site, by way of a sign on the site and with a notice in the Alexandra Standard. 11 objections and 1 supporting petition were received. The objections can be summarised as follows:

- Purchased land for peace and quiet (3 submitters)
- Has heard the track used in the past and it is intrusive (1 submitter)
- Will disrupt the character of the area (7 submitters)
- Noise testing does not clearly show the difference between bikes operating for extended periods of time, and the occasional truck on the highway (4 submitters)
- It is a commercial venture (2 submitters)

- Management of waste is not clear (3 submitters)
- Fire prevention and control not adequately addressed (2 submitters)
- Create no real benefit for the community (1 submitter)
- Hills not properly described by the applicant – especially to the southwest (1 submitter)
- Pitch of the bikes is high (1 submitter)
- Continuous noise would be intrusive (4 submitters)
- The site itself is a natural amphitheatre to the western range and will be very noisy (4 submitters)
- Testing is erroneous and misrepresents the actual levels (1 submitter)
- Will affect the rail trail users (3 submitters)
- Concerned with traffic management on event days (5 submitters)
- Noise report suggests that the EPA guidelines be relaxed to allow the proposal and this should not be supported (3 submitters)
- Not in character with the farming area (3 submitters)
- Could run it on the existing motorcycle track in the municipality (4 submitters)
- Will affect wildlife with the noise (1 submitter)
- Will devalue adjoining and nearby properties (3 submitters)
- Will destroy the amenity of adjoining and nearby properties (1 submitter)
- Extensive hours of operation are ludicrous (1 submitter)
- Public address system will be required and will be louder than the bikes (1 submitter)
- Self regulation is not appropriate, and will need to be enforced by Council officers (1 submitter)
- 18 houses in close proximity to track (1 submitter)
- Will create dust (1 submitter)
- Will affect the livestock with noise and dust (1 submitter)
- Other properties are used for recreational motor bikes and they are loud and intrusive already (1 submitter)

The applicant was forwarded a copy of all submissions, and the following response was provided:

- Events may occur only every second month (6 per year), but this is dependent on securing an event.
- Remaining use will be on a small scale only.
- Noise report provided that establishes the impact on adjoining and nearby houses will not be intrusive.

This was forwarded to all submitters, and no objections were withdrawn.

<b>Newspaper / Other</b>	<b>Publishing/Consultation Date(s)</b>
<b><i>Newspaper: Alexandra and Eildon Standard</i></b>	18 March 2015
<b><i>Consultation: Sign of Site</i></b>	17 March 2015
<b><i>Mail out: Nearby and Adjoining Owners</i></b>	6 March 2015

***Planning Considerations:***

When considering the application, the purpose of the zone is to support the use of the land for agriculture, with the ability to consider alternative uses such as this as long as they could adequately address the decision guidelines of the zone. While the applicant advised that the remainder of the land will continue to be grazed, the permanent use of this part of the property for a mini bike track will remove that section from future agricultural use. The main issues raised in this application relate to non-agricultural uses in the Farming Zone, and the effect of the use on the amenity of the area.

The application was supported by a noise assessment of the proposed use. The noise assessment advises that the dominant ongoing source of background noise for the site is traffic on the Maroondah Highway. The report advises the following:

“The mini-motorcycle exhaust noise has a distinctive frequency and can be distinguished by ear from the normal traffic noise.”

The report also noted that quieter bikes would be considered non-intrusive, but that bikes such as Pitster Pro and the Honda CRF were clearly audible and may be considered intrusive. The recommendations of the report include the following:

- Mini-motorbikes with a maximum stationary noise test level of up to 98 dB(A) should only be allowed on the track.
- Any bikes with a stationary noise test level above 101 dB(A) should not be allowed to operate on the site.
- In the hours between 12.00pm and 2.00pm on days of operation, there should be a period of at least 45 minutes where the bikes are not run.
- In any period of 6 consecutive weeks, there should be at least one weekend where bikes are not operated.

The report did make the following statement in relation to these recommendations:

“As with any activity that has the potential to generate intrusive noise, willingness on the part of the Operator to implement and police these recommendations is essential if compliance is to be achieved and maintained.”

In responding to the submissions, the applicant provided further noise assessments. An assessment of the received noise at some of the submitter's dwellings was provided. The response advised that the minimum separation distance between the track and the nearest dwelling is 350 metres. With an exhaust noise of 96dB(A), the received noise at this dwelling would be 39.1dB(A). The EPA recommend that the maximum noise level received at a site in the Farming Zone should not exceed 46dB(A) on Saturdays, and 41dB(A) on Sundays and public holidays. While this level is under the EPA level, it is quite close to the limit, and enforcement of the limitations required to achieve this level would be difficult. The response also addressed the concerns about constant noise, in that traffic noise is actually constant, and the nature of the mini-bike track would result in intermittent noise due to the change of competitors between races, etc. However a number of the submissions have noted that the noise of the highway is actually intermittent, and that they generally only hear larger vehicles, but have experienced the noise of the motorbikes when the site has been used for personal purposes.

The Environment Protection Authority has some publications that relate to the impacts of noise. EPA Publication 1254 *Noise Control Guidelines*. These guidelines are intended to be used by municipal officers to help avert possible noise nuisance. In these guidelines, section 14 addresses the use of mini-motorcycle circuits. These guidelines do not specifically apply to this proposal, as they are designed for non-profit organisations running circuits in metropolitan Melbourne. However, the guidelines specify the following:

- Only bikes of less than 100cc should be permitted on the track.
- All bikes must be fitted with an exhaust system capable of reducing the noise emissions to a level of 96 dB (A) or less, when tested in accordance with the motor cycle provisions of the *Environment Protection (Vehicle Emissions) Regulations 2003* made under the *Environment Protection Act 1970*.
- No more than 15 motorcycles are to be ridden on the track area at any one time.
- Engines at the starting line are not to be operated for more than 2 minutes.

- Engines in the pits should not be operated for any extended periods of time.
- Activities should be restricted to Saturday, Sundays and Public Holidays.
- Hours of operation should be 9am to 6pm Saturdays, and 10am to 6pm Sundays and public holidays.
- A break of 45 minutes should occur between the hours of 12pm and 2pm.
- In a period of 4 weeks, there should be at least one weekend which no bikes operate on the circuit.

When compared to the report from C.G Consulting Pty Ltd, the proposed recommendations for this track are in excess of the recommendations of the EPA.

A second publication for the EPA that has considerations for noise is EPA Publication 1411 *Noise from Industry in Regional Victoria*. These guidelines can be used for industrial and commercial premises, and allows for the noise from motorsports to be considered under this guideline. In this case, the application can be considered as a commercial premises. In the guidelines, the EPA makes the following statements:

- Rural areas in Victoria are typically quiet. New industrial uses in these contexts will often be audible and can change the local soundscape.
- Some types of noise are not subject to the recommended levels but also need to be considered in approvals and compliance decisions.
- In quiet rural environments, industry noise meeting the recommended levels might not match the expectations associated with some types of current uses — for example, bed and breakfast accommodation where tranquillity is an asset. Accordingly, approving a use that meets the recommended levels might also reduce the range of viable options for future sensitive land-use development in the area.
- The recommended levels are intended to provide reasonable protection in a situation of land-use change, but there may be some rural areas where such change is inappropriate and the acoustic environment should be preserved.

When considering the guidelines in line with the proposal, it is the opinion of Council officers that the rural amenity of the area would be significantly affected by the proposal, and that any measures that could be put into place to manage these impacts would be difficult to monitor and enforce. The nearby and adjoining properties are predominantly used for agricultural and dwelling purposes, and the impacts of the sound and traffic of the mini bike track is not compatible with these adjoining and nearby uses.

While the applicant advised that the remainder of the land will continue to be grazed, the permanent use of this part of the property for a mini bike track will remove that section from future agricultural use and this is not in accordance with the purposes of the Farming Zone. Clause 21.04 of the Murrindindi Planning Scheme does support alternative uses on properties within the Farming Zone, but this is intended to support new farming enterprises not commercial uses such as the proposal. Commercial uses like a mini bike track should only be supported when off site impacts are not evident. The previous personal use of this site has enabled nearby and adjoining owners to understand the impacts of this proposal, and the number of submissions received clearly shows that these impacts are considered unacceptable.

**Conclusion:**

The proposed use of the land for a mini motorcycle track will have a detrimental impact on both the use of the nearby and adjoining land for agriculture and the general amenity of the area. As such, the application should not be supported.

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

## 13.04 Noise and Air

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.

## 14.01 Agriculture

Objective: To protect productive farmland which is of strategic significance in the local or regional context.

Strategies:

- In considering a proposal to develop agricultural land, the following factors must be considered:
  - The desirability and impacts of removing the land from primary production, given its agricultural productivity.
  - The impact of the proposed development on the continuation of primary production on adjacent land, with particular regard to land values and to the viability of infrastructure for such production.
  - The compatibility between the proposed or likely development and the existing uses of the surrounding land.

Local Planning Policy Framework

## 21.04 Agricultural 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.
- Ensure that agricultural land is not developed for primarily residential purposes.
- Encourage agricultural diversity and promote opportunities for new farming enterprises.
- Develop the agricultural base through the attraction of value adding agricultural industries.
- Facilitate diversification and development of rural land when it can be demonstrated that the economic base of the shire will be enhanced.

Zoning

## 35.07 Farming Zone

Purpose:

- To provide for the use of land for agriculture
- To encourage the retention of productive agricultural land
- To ensure that non-agricultural uses, including dwellings, do not adversely affect the use of land for agriculture

Decision Guidelines:

*General Issues*

- How the use or development relates to sustainable land management
- 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.
- Whether the use or development will adversely affect soil quality or permanently remove land from agricultural production.
- The potential for the use or development to limit the operation and expansion of adjoining and nearby agricultural uses.
- The capacity of the site to sustain the agricultural use.

A planning permit is required to for the use of the land for a mini bike track in the Farming Zone.

General Provisions

65.01 Decision Guidelines

Before deciding on an application, the Responsible Authority must consider as appropriate:

- The orderly planning of the area
- The effect on the amenity of the area

**6.3 2014/213 – PINE RIDGE ROAD DWELLING**

REF: 2014/213  
 Land: 30 Pine Ridge Road KINGLAKE WEST 3757  
 Proposal: Construction and use of a dwelling  
 Applicant: Drake Brothers Homes Pty Ltd  
 Zoning: Farming  
 Overlays: Restructure  
 Attachments: 6.3a Application details (15/35191)  
 6.3b Bushfire Management Statement (15/35185)  
 (aerial photograph and submissions distributed separately)

**Locality Plan**





**Purpose:**

This report recommends that a notice of decision to grant a permit be issued for the construction and use of a dwelling at 30 Pine Ridge Road, Kinglake West.

**Officer Recommendation:**

That Council issue a notice of decision to grant a permit for the construction and use of a dwelling at 30 Pine Ridge Road, Kinglake West (LOT: 17 LP: 55006, Parish of Kinglake), subject to the following conditions:

- (1) Prior to the commencement of any buildings or works three (3) copies of a plan or plans shall be submitted and approved by the Responsible Authority. Such plans must show the nature of all external materials and finishes, siting and dimensions of all buildings and structures, details of water storage tanks and any proposed excavations. When approved these plans shall be endorsed and form part of this permit.
- (2) This permit shall expire if the development hereby permitted is not completed and the use commenced within two (2) years of the date hereof, or any extension of such period the Responsible Authority may allow in writing, on an application made before six months after such expiry.
- (3) All external cladding including the roof and trims of the building allowed must be coloured or painted in muted shades of green, brown or charcoal, or in a colour approved in writing by the Responsible Authority.
- (4) On the construction of the dwelling a combined water system shall be provided to accommodate a total minimum of 55,000 litres of which 45,000 litres shall be for domestic purposes and 10,000 litres for fire fighting purposes, the latter being in the lower portion of the tank. All outlets from the lower tank shall be fitted with 63 mm 3 thread, 25 mm CFA round thread male coupling.
- (5) Prior to commencing of any residential building works, any new or otherwise vehicular entrance to the subject land from the road must be constructed at applicant's expense to provide ingress and egress to the site at a location and of a size and standard satisfactory to the Responsible Authority. Refer to Council's Infrastructure Design Manual Section 12.9.2 - Rural Vehicle Crossings and standard drawing SD 255. An appropriate rural road number plaque must be placed at the access point to development to the satisfaction of the Responsible Authority.
- (6) Prior to the commencement of use, the property must be connected to the Yarra Valley Water reticulated sewer to the satisfaction of the Responsible Authority.
- (7) Stormwater shall be disposed of in an approved manner to the satisfaction of the Responsible Authority.
- (8) Prior to the commencement of development a Section 173 Agreement must be entered into at no cost to Council, which ensures the following:
  - CFA requirements per condition (10) below.

The Section 173 agreement must be prepared by Council's solicitors, to the satisfaction of the Responsible Authority and must be registered at the Office of Titles pursuant to Section 181 of the Planning and Environment Act 1987.

Council will undertake to have the agreement prepared upon written notification from the applicant. All fees associated with the documentation must be fully paid prior to execution and registration of the document by Council.

### **Country Fire Authority**

#### **(9) Bushfire Management Plan**

Before the development starts, a bushfire management plan which is generally in accordance with the Bushfire Management Statement (prepared by Heath Design Group Pty Ltd, dated 01/05/15, Revision C) must be submitted to and endorsed by the Responsible Authority. The plan must show the following bushfire mitigation measures, unless otherwise agreed in writing by the CFA and the Responsible Authority:

##### **(a) Defendable space**

Show defendable space area for a distance of 50 or to the property boundary around the proposed dwelling, where vegetation (and other flammable materials) will be modified and managed in accordance with the following requirements:

- Grass must be short cropped and maintained during the declared fire danger period.
- All leaves and vegetation debris must be removed at regular intervals during the declared fire danger period.
- Within 10 metres of a building, flammable objects must not be located close to the vulnerable parts of the building.
- Plants greater than 10 centimetres in height must not be placed within 3m of a window or glass feature of the building.
- Shrubs must not be located under the canopy of trees.
- Individual and clumps of shrubs must not exceed 5 sq. metres in area and must be separated by at least 5 metres.
- Trees must not overhang or touch any elements of the building.
- The canopy of trees must be separated by at least 2 metres.
- There must be a clearance of at least 2 metres between the lowest tree branches and ground level.

##### **(b) Construction standards**

Nominate a minimum Bushfire Attack Level of BAL – 40 building design and construction with enhancements to include:

- Provision for wind loading in excess of 120 km/h
- No timber to be exposed on the outside of the building
- Shutters or screens of corrosion resistant steel or bronze to protect against flying debris in fire event.

##### **(c) Water supply**

Show 10,000 litres of effective water supply for fire fighting purposes which meets the following requirements:

- Is stored in an above ground water tank constructed of concrete or metal.
- All fixed above-ground water pipes and fittings required for fire fighting purposes must be made of corrosive resistant metal.
- Incorporate a ball or gate valve (British Standard Pipe (BSP) 65mm) and coupling (64 mm CFA 3 thread per inch male fitting).
- The outlet/s of the water tank must be within 4m of the accessway and be unobstructed.
- Be readily identifiable from the building or appropriate identification signage to the satisfaction of CFA must be provided.

- Any pipework and fittings must be a minimum of 65 mm (excluding the CFA coupling).

**(d) Access**

Show the access for fire fighting purposes which meets the following requirements:

- Curves must have a minimum inner radius of 10m.
  - The average grade must be no more than 1 in 7 (14.4 per cent) (8.1 degrees) with a maximum of no more than 1 in 5 (20 per cent) (11.3 degrees) for no more than 50m.
  - Have a minimum trafficable width of 3.5m of all- weather construction.
  - Be clear of encroachments for at least 0.5m on each side and 4m above the accessway.
  - Dips must have no more than a 1 in 8 (12.5 per cent) (7.1 degrees) entry and exit angle.
- (10) Before the development starts, the owner must enter into an agreement with the responsible authority under section 173 of the Planning and Environment Act 1987 to provide for the following:**
- A dwelling constructed in accordance with the planning permit must not be occupied until a private bushfire shelter (a Class10c building within the meaning of the Building Regulations 2006) is:
    - Constructed on the same land as the dwelling.
    - Available for use by the occupants of the dwelling at all times.
    - Maintained in accordance with the requirements of the building permit issued for that private bushfire shelter.

The land owner must pay the reasonable costs of the preparation, execution and registration of the Section 173 Agreement.

**Notations:**

- (1) An application for consent to work is required to be made prior to commencing any works on the road reserve and must comply with the requirements of the Road Management Act 2004 and associated Regulations.**

***Proposal:***

An application was received for the construction of a dwelling at 30 Pine Ridge Road, Kinglake. The site is 976 square metres in size, is able to be connected to the Yarra Valley sewer system, and is in the Farming Zone and the Restructure Overlay. In the Restructure Overlay, a dwelling can be considered on this site.

Due to the high fire risk on the site, the application was supported by a Bushfire Management Statement (BMS), which was assessed by the Country Fire Authority (CFA). The CFA asked for the BMS to be amended, and the final site assessment was that the dwelling would need to be constructed to a BAL-40, and that a private bushfire shelter must be installed on the site.

***The Land & Surroundings:***

The subject land is currently vacant, and there is no record that the property has ever had a dwelling. Properties to the north and west have single dwellings. The blocks to the east are vacant land, with the property to the south containing the Macedonian Church and associated buildings. The area is generally characterised with lifestyle properties adjacent to crown land.

***Referrals:***

The application was referred to the Country Fire Authority, the Goulburn Broken Catchment Management Authority, Goulburn Murray Water, VicRoads, the Department of Environment,

Land, Water and Planning, and internally to Council's Assets and Development Unit, and no objections were received subject to various conditions.

**Consultation:**

The application was notified to nearby and adjoining owners, and one submission was received. The submission can be summarised as follows:

- Pine Ridge Road should have no more houses allowed on it as it is too dangerous.
- Thought it was a "no build" block.
- Increased traffic, especially in an emergency.
- Stormwater runs off No 30 onto adjoining property
- Street has only one way out.

The submission was sent to the applicant, who advised the following:

- It is not a "no build" block.
- The house is a single bedroom dwelling which will have minimal traffic.
- Development of the land will improve stormwater runoff.

The response was forwarded to the submitter who did not withdraw their objection.

Newspaper / Other	Publishing/Consultation Date(s)
<b>Mail out: Nearby and Adjoining owners</b>	13 February 2015

**Planning Considerations:**

The property is in the Farming Zone with a Restructure Overlay. A dwelling can be considered on the property, and must be assessed against the Murrindindi Planning Scheme. In relation to effluent disposal, the Pine Ridge Road/National Park Road area are able to connect to the Yarra Valley Water effluent system put into the area after the 2009 Bushfires, which sufficiently addresses the ability of the site to contain effluent. The submission also raised the issue of drainage from the site. At the moment, all stormwater from the site drains naturally across the contours of the property. When a dwelling is constructed, the stormwater caught from the roof will be directed into either the rainwater tanks or to the legal point of discharge. A condition is recommended in the notice of decision requiring the applicant to dispose of stormwater to the satisfaction of the Responsible Authority, which will address this issue. While the property is not in the Bushfire Management Overlay, there is an extremely high fire risk for this site. The CFA advised the following in their response to the application:

"This site lies within a broad landscape that provides an extreme bushfire risk, as was evidenced in the 2009 bushfires. The landscape surrounding Pine Ridge Road is characterised by steep slopes and gully systems that feed north towards the Hume Range and the settlement of Kinglake West. On Black Saturday 2009, the complex landscape moved some of the spot fires northward up the gully systems towards Kinglake West; some ran up to the ridge tops from north-west to south-east; and some ran up to the ridge tops from south-east to north-west. Pine Ridge Road was one of the most heavily impacted areas on Black Saturday. Every house in the street was destroyed on 7 February 2009 and ten people died as a result of the bushfires in the Kinglake West section of Pine Ridge Road. This road and the dangers associated with it were discussed by the Victorian Bushfires Royal Commission, as follows:

"In its hearings dealing with the fire-related deaths the Commission examined particular localities, all of them close to bush and posing an unacceptably high threat to human safety. For example, Pine Ridge Road in Kinglake West remains an extraordinarily high risk location: it consists of a number of small lots on top of a ridge surrounded by national park."

The Bushfire Management Statement (BMS) for this site acknowledges the forest lying in arc from south to south east as constituting a highly dangerous bushfire hazard. The BMS also acknowledges the likelihood of strong convective winds. It is also worth noting that strong winds brought power lines down on Black Saturday in the immediate vicinity of this property. The site falls within an area that has been assessed as having an extreme bushfire risk under the Victorian Fire Risk Register (VFRR) and is categorised as a broader landscape type 4 (by DTPLI Practice Note 65) where evacuation options are limited or not available and major fire events are possible with extreme behaviour and widespread damage across the landscape.

CFA notes that the revised BMS now provides for a BAL 40 construction standard in accordance with Table 2 of C.52.47, instead of the BAL 29 construction originally proposed. CFA also notes that extensive vegetation clearing (within and adjoining) Pine Ridge Road has been implemented after the 2009 bushfires. As a result, the fuel loading and extent has been significantly altered compared to the situation in 2009. Notwithstanding the mitigations noted, there remains the potential for massive ember attack and significant convective winds impacting on this site in a future fire event. In order to minimise risk to life safety in this location, the applicant should consider the installation of a personal bushfire shelter (PBS)."

The CFA have carefully considered the application, and determined that the fire risk can sufficiently be alleviated with a BAL 40 construction and a private bushfire shelter. Based on this, Council officers do believe that the risk to life from bushfire has been assessed by the recommending referral authority.

In relation to the consideration of the dwelling in the Farming Zone, the properties in the area are used for primarily residential uses, and there are no agricultural uses apparent in the nearby or adjoining properties. As such, the construction of an additional dwelling in this area is supported by the decision guidelines of the Farming Zone.

The main grounds to consider the application are in the Restructure overlay. The overlay has a range of decision guidelines, including the following:

- Appropriate measures to cope with any environmental hazard or constraint affecting the land, including slope, drainage, salinity and erosion.
- The protection and enhancement of the natural environment and the character of the area including the retention of vegetation and fauna habitats and the need to revegetate along waterways, gullies, ridge lines and property boundaries.
- The availability of utility services, including sewerage, water, drainage, electricity, gas and telecommunications.
- The relationship of the intended use and development to the existing or likely use and development of adjoining and nearby land.
- The effect on surrounding uses, especially agricultural uses and nearby public land.
- The design of buildings.

The dwelling proposed addresses all the above decision guidelines, and is in accordance with the overlay.

While the site itself is a high risk site in relation to fire, the Country Fire Authority has assessed the application and is satisfied with conditional approval. The grounds of objection raised by the submitter relate to having more dwellings in the area, drainage, the increase in traffic and the dangerous nature of the area. The dwelling is small and the road structure is capable of an additional dwelling in the area, also stormwater will need to be discharged to a legal point of discharge as part of any dwelling construction. The addition of another dwelling will not

substantially change the character of the area. The decision guidelines in the Murrindindi Planning Scheme are considered to be adequately addressed, and a permit is recommended to be issued.

**Conclusion:**

The construction and use of a dwelling on this allotment is in accordance with the decision guidelines of the Murrindindi Planning Scheme, has been considered by the Country Fire Authority and should be supported.

**Legal/Policy Issues:**

**State Planning Policy Framework**

14.01 Agriculture

Objective: To protect productive farmland which is of strategic significance in the local or regional context.

Strategies:

- In considering a proposal to develop agricultural land, the following factors must be considered:
  - The desirability and impacts of removing the land from primary production, given its agricultural productivity.
  - The impact of the proposed development on the continuation of primary production on adjacent land, with particular regard to land values and to the viability of infrastructure for such production.
  - The compatibility between the proposed or likely development and the existing uses of the surrounding land.

13.05 Bushfire

Strategies:

- Prioritise the protection of human life over other policy considerations in planning and decision making in areas at risk from bushfire.
- Assess the risk to life, property and community infrastructure from bushfire at a regional, municipal and local scale.

Local Planning Policy Framework

21.04 Agricultural 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.
- Ensure that agricultural land is not developed for primarily residential purposes.
- Encourage agricultural diversity and promote opportunities for new farming enterprises.
- Develop the agricultural base through the attraction of value adding agricultural industries.
- Facilitate diversification and development of rural land when it can be demonstrated that the economic base of the shire will be enhanced.

Zoning

35.07 Farming Zone

Purpose:

- To provide for the use of land for agriculture
- To encourage the retention of productive agricultural land
- To ensure that non-agricultural uses, including dwellings, do not adversely affect the use of land for agriculture

Decision Guidelines:

*General Issues*

- How the use or development relates to sustainable land management
- 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.
- Whether the use or development will adversely affect soil quality or permanently remove land from agricultural production.
- The potential for the use or development to limit the operation and expansion of adjoining and nearby agricultural uses.
- The capacity of the site to sustain the agricultural use.

*Dwelling issues*

- 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 or 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 land for agriculture.

A planning permit is required to construct and use a dwelling in the Farming Zone on a lot less than 40 hectares in size.

## Overlays

### 45.05 Restructure Overlay

Purpose:

- To identify old and inappropriate subdivisions which are to be restructured.
- To preserve and enhance the amenity of the area and reduce the environmental impacts of dwellings and other dwellings.

Decision Guidelines:

- The objectives of the restructure plan for the area.
- Appropriate measures to cope with any environmental hazard or constraint affecting the land, including slope, drainage, salinity and erosion.
- The relationship of the intended use and development to the existing or likely use and development on adjoining and nearby land.

A planning permit is required to construct a dwelling in the Restructure Overlay.

## General Provisions

### 65.01 Decision Guidelines

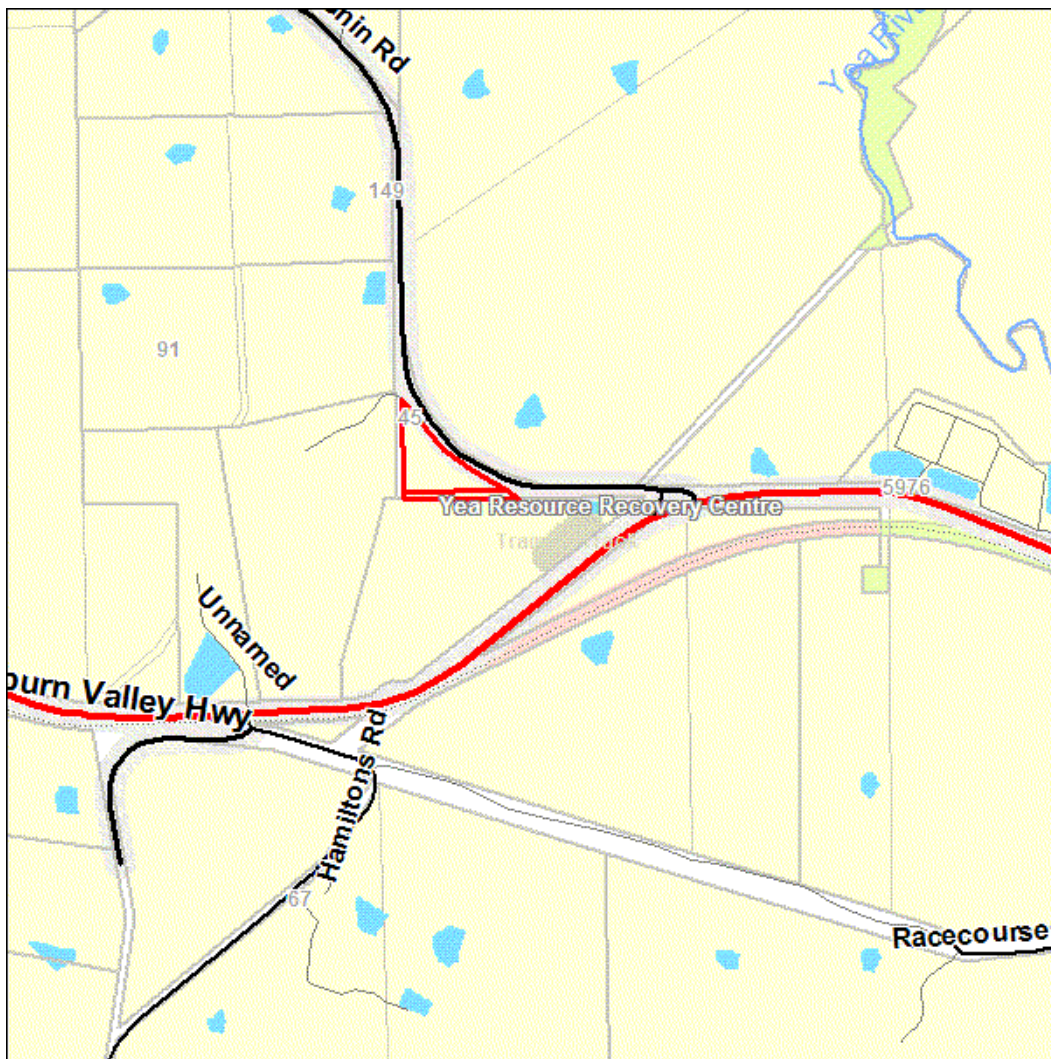
Before deciding on an application, the Responsible Authority must consider as appropriate:

- The orderly planning of the area
- The effect on the amenity of the area
- The proximity of the land to any public land.
- The degree of 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.

**6.4 2015/63 – GHIN GHIN ROAD DWELLING**

REF: 2015/63  
 Land: 45 Ghin Ghin Road GHIN GHIN 3717  
 Proposal: Construction and use of a dwelling  
 Applicant: L E Muddyman & N S Muddyman  
 Zoning: Farming  
 Overlays: None  
 Attachment: 6.4 Application details (aerial photograph and submissions distributed separately)

**Locality Plan**



**Purpose:**

This report recommends that a notice of decision to grant a permit be issued for the construction and use of a dwelling at 45 Ghin Ghin Road, Ghin Ghin.

**Officer Recommendation:**

That Council issue a notice of decision to grant a permit for the construction and use of a dwelling at 45 Ghin Ghin Road , Ghin Ghin (LOT: 1 TP: 118891, LOT: 2 TP: 118891, Parish of Yea), subject to the following conditions:



- (1) Prior to the commencement of any buildings or works three (3) copies of a plan or plans shall be submitted and approved by the Responsible Authority. Such plans must show the nature of all external materials and finishes, siting and dimensions of all buildings, details of water storage tanks and any proposed excavations. When approved these plans shall be endorsed and form part of this permit.
- (2) This permit shall expire if the development hereby permitted is not completed and the use commenced within two (2) years of the date hereof, or any extension of such period the Responsible Authority may allow in writing, on an application made before six months after such expiry.
- (3) All external cladding including the roof and trims of the building allowed must be coloured or painted in muted shades of green, brown or charcoal, or in a colour approved in writing by the Responsible Authority.
- (4) All sewage and sullage waters shall be treated in accordance with the requirements of the Environment Protection Authority and the Council. All effluent shall be disposed of and contained within the curtilage of the land and shall not discharge directly or indirectly to an adjoining property, street or any water course, water storage or dam. Sufficient land shall be set aside and kept available for the purpose of effluent disposal.
- (5) Prior to the commencement of any works, including site works, the applicant shall obtain a septic tank permit from Council.
- (6) On the construction of the dwelling a combined water system shall be provided to accommodate a total minimum of 55,000 litres of which 45,000 litres shall be for domestic purposes and 10,000 litres for fire fighting purposes, the latter being in the lower portion of the tank. All outlets from the lower tank shall be fitted with 63 mm 3 thread, 25 mm CFA round thread male coupling.
- (7) Prior to commencing of any residential building works, any new or otherwise vehicular entrance to the subject land from the road must be constructed at applicant's expense to provide ingress and egress to the site at a location and of a size and standard satisfactory to the Responsible Authority. Refer to Council's Infrastructure Design Manual Section 12.9.2 - Rural Vehicle Crossings and standard drawing SD 255. An appropriate rural road number plaque must be placed at the access point to development to the satisfaction of the Responsible Authority.
- (8) Prior to the commencement of works, both lots, being Lot 1, TP 118891 and Lot 2, TP 118891, must be consolidated into one title.

**Notations:**

- (1) An application for consent to work is required to be made prior to commencing any works on the road reserve and must comply with the requirements of the Road Management Act 2004 and associated Regulations.

**Proposal:**

The application is for a dwelling to be constructed on a 3.03 hectare property, made up of two parcels (being 2.49 and 0.54 hectares each in size). The proposal is to support a small mixed farming enterprise, to consist of a migratory apiary and livestock farming. The hives would be used to produce honey for sale locally. The owner of the property currently undertakes apiculture on a different property, and advises it has been undertaken on this property

successfully in the past. It is proposed to convert part of the existing shed for a bee proof extraction room.

The livestock farming will include the raising of young dorper lambs, young steers or horses. The level and type of animal will be responsive to the feed and water available on the site. Animals have been kept on the property in the past, but without the ability to oversee animal welfare on an ongoing basis, the owners have removed the animals until such time as they can be on site.

Planning permit 1997/163 was issued on 24 September 1997 for a dwelling, but has since expired.

***The Land & Surroundings:***

The subject land is partly cleared, has a stock and domestic dam, scattered trees and contains a shed. The land to the north and west contain dwellings with associated shedding. The property to the south contains a horse breeding and training facility. The land to the east is used for agricultural purposes. The land in the general area is used for a mix of rural lifestyle and farming purposes.

***Referrals:***

The application was referred internally to Council's Environmental Health and Assets and Development Units. No objections were received subject to various conditions.

***Consultation:***

The application was notified to nearby and adjoining owners and three submissions were received. The submissions can be summarised as follows:

- Bee keeping already being done on adjacent property and will have a negative impact on the business. (1 submitter)
- Will conflict with existing agricultural business on adjacent property (1 submitter)
- Value of proposed dwelling will devalue adjoining property (2 submitters)
- Creating a rural lifestyle allotment (2 submitters)
- The proposed use is not in character with surrounding (1 submitter)
- Property will be overstocked (1 submitter)
- Dam is not big enough for an agricultural use (1 submitter)
- Not enough water proposed (1 submitter)
- Access will require the construction of a bridge (1 submitter)
- Inconsistent with the purpose of the farming zone (1 submitter)
- Will adversely impact on the use of land for farming purposes (1 submitter)
- Is inconsistent with the SPPF as it doesn't protect farmland (1 submitter)
- Is inconsistent with the LPPF which intends to focus development within and in close proximity to townships (1 submitter)
- Dwellings on small lots not associated with rural activity can conflict with farming uses. (1 submitter)

The applicant provided a response to the submissions, which advised the following:

- Purchased in 1992 with a permit for a dwelling.
- Obtained a new permit for a dwelling in 1997.
- The proposed use for apiculture provides a boutique/niche agricultural use, and is supported in the local policies.
- Cannot foresee how a conflict will arise with adjoining uses.
- There is a natural tree barrier on the allotment that will alleviate any dust, noise and smell issues.
- House located to minimise any adjoining use impacts.
- Water will be supplied to Council's requirements.

- Access has been upgraded recently and will be sufficient.
- Their apiculture practice is primarily for the production of honey, and is different from the adjoining owner.
- House price was an indication only, and they haven't finally decided on a design.
- The size of the property is suitable for a niche agricultural industry as proposed here.

Newspaper / Other	Publishing/Consultation Date(s)
<i>Mail out: Nearby and Adjoining owners</i>	22 April 2015

### ***Planning Considerations:***

When considering the proposal to construct a dwelling on a small lot in the farming zone, the use of that land and the surrounding land needs to be balanced. The property is in the Farming zone, and has no other overlays. The land is not identified in the Environmental Significance Overlay as high quality agricultural land. The State Planning Policy Framework requires that productive farmland of strategic significance in the local or regional context be protected. With the exception of the horse breeding facility to the south, the proposal to undertake an apiculture business and extensive animal husbandry is similar to the uses being undertaken on adjoining and nearby properties. As the dwelling is located in the northern section of the property, it could be considered that any potential conflict with the horse breeding to the south is alleviated.

The Local Planning Policy Framework requires that development is not for primarily residential purposes, and that it must be compatible with and complementary to agriculture. The policies also promote agricultural diversity and new farming enterprises, as well as facilitating use of land for higher value products.

The Farming zone itself does not support dwellings on small lots generally and would support a refusal of the permit on those grounds, however, the surrounding uses do raise the question of how extensive the agricultural uses in the area are. The farming zone considers the use of the land for a dwelling, and requires consideration of whether that use will result in the loss or fragmentation of agricultural land, whether the dwelling will be adversely affected by agricultural activities on adjacent land, whether it will inhibit the expansion of adjoining agricultural enterprises, and whether it will lead to a concentration or proliferation of dwellings in the area. While the block itself is small, the proposal is for a niche agricultural use that is not dependant on large acreage to be successful. However, the risk is that the use itself is not established, and there is no way to ensure that this sort of agricultural use is ongoing, and supports the need for a dwelling.

However, the area is generally characterised with small scale agricultural pursuits, supported by single dwellings on blocks smaller than the minimum lot size in the farming zone, which is in line with the proposal. Specifically, the area already contains a number of dwellings on smaller acreage and an additional dwelling will not change the character of the area. The parcels of land around the subject site, on the western side of Ghin Ghin Road are generally between 15 and 20 hectares in size, with some of these properties having multiple parcels. Two of these have dwellings on them and are less than 300 metres from the proposed house site, and one has a dwelling just over 500 metres from the house site. With this many houses in close proximity, it is reasonable to determine that an additional dwelling will not result in the loss of agricultural land and the topography and configuration of the land does not easily lend itself towards consolidation.

The fact that the property is not identified as high quality agricultural land further supports the use of the land for a dwelling. The proposal to have a small scale agricultural pursuit is considered sufficient to provide for the use of the land for a dwelling as well. The proximity of nearby houses further limits the ability of this land on its own to undertake a more intensive agricultural pursuit, and supports the use of the land for apiculture and animal grazing.

**Conclusion:**

The proposal is to construct a dwelling on a small parcel of land in the Farming Zone to support a small scale agricultural enterprise. The Murrindindi Planning Scheme generally does not support dwellings on small allotments, but the siting of the existing dwellings in the vicinity and the existing uses of the general area is such that this additional dwelling is unlikely to be detrimental to future agricultural use.

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

## 14.01 Agriculture

Objective: To protect productive farmland which is of strategic significance in the local or regional context.

Strategies:

- In considering a proposal to develop agricultural land, the following factors must be considered:
  - The desirability and impacts of removing the land from primary production, given its agricultural productivity.
  - The impact of the proposed development on the continuation of primary production on adjacent land, with particular regard to land values and to the viability of infrastructure for such production.
  - The compatibility between the proposed or likely development and the existing uses of the surrounding land.

Local Planning Policy Framework

## 21.04 Agricultural 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.
- Ensure that agricultural land is not developed for primarily residential purposes.
- Encourage agricultural diversity and promote opportunities for new farming enterprises.
- Develop the agricultural base through the attraction of value adding agricultural industries.
- Facilitate diversification and development of rural land when it can be demonstrated that the economic base of the shire will be enhanced.

Zoning

## 35.07 Farming Zone

Purpose:

- To provide for the use of land for agriculture
- To encourage the retention of productive agricultural land
- To ensure that non-agricultural uses, including dwellings, 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*

- How the use or development relates to sustainable land management
- 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.

- Whether the use or development will adversely affect soil quality or permanently remove land from agricultural production.
- The potential for the use or development to limit the operation and expansion of adjoining and nearby agricultural uses.
- The capacity of the site to sustain the agricultural use.

*Dwelling issues*

- 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 or 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 land for agriculture.

*Design and siting issues*

- The need to locate buildings in one area to avoid any adverse impacts on surrounding agricultural uses to minimise the loss of productive agricultural land.

A planning permit is required to construct and use a dwelling in the Farming Zone on a lot less than 40 hectares in size.

General Provisions

65.01 Decision Guidelines

Before deciding on an application, the Responsible Authority must consider as appropriate:

- The orderly planning of the area
- The effect on the amenity of the area

**6.5 AMENDMENT C54, MURRINDINDI PLANNING SCHEME - REVISION OF THE LOCAL PLANNING POLICY FRAMEWORK**

REF: SF/1887

Attachments: 6.5a Clauses 21.01-06 proposed for adoption under Amendment C54.

6.5b Amendment C54 Explanatory Report and C54 Instruction Sheet proposed for adoption.

***Purpose:***

The purpose of this report is to:

1. Advise Council of the panel report for Amendment C54 to revise the Local Planning Policy Framework (LPPF) to the Murrindindi Planning Scheme.
2. Recommend that Council adopt Amendment C54 with changes, as recommended by the C54 panel.

***Officer Recommendation:***

**That:**

**Having prepared and exhibited Amendment C54 to the Murrindindi Planning Scheme under section 19 of the *Planning and Environment Act 1987*;**

**Having considered all submissions to Amendment C54 to the Murrindindi Planning Scheme under Section 22 of the *Planning and Environment Act 1987*;**

Having considered the report of the independent panel for Amendment C54 to the Murrindindi Planning Scheme under section 27 of the *Planning and Environment Act 1987*;

Murrindindi Council resolves to:

1. **Adopt Amendment C54 to the Murrindindi Planning Scheme in accordance with section 29 of the *Planning and Environment Act 1987*, adopting the amendment with changes to include all recommendations of the independent panel, as outlined in the attached Amendment C54 package;**
2. **Submit Amendment C54 to the Murrindindi Planning Scheme, together with the prescribed information, to the Minister for Planning in accordance with section 31 of the *Planning and Environment Act 1987*.**

**Background:**

The proposed revised Local Planning Policy Framework (LPPF) was identified and supported by an initial review (monitoring report) of the Murrindindi Planning Scheme in 2013. A draft revised LPPF was prepared in 2014 that:

- Outlines the current, relevant strategic directions, replacing current directions (most dating back to May 1999).
- Incorporates land use directions in the Council Plan and other Council corporate documents.
- Outlines a positive, growth oriented approach for future land use planning.
- Follows current proposals for the statewide review of the planning policy framework in planning schemes, using ten (10) proposed land use themes (grouped together under four major headings of economic development, housing, environment and transport and infrastructure).
- Includes Council's identified future land use strategic actions and priorities.

The revised LPPF proposes a revision of local planning strategies and policies and does not include any proposed changes to any planning zoning, overlays or other controls.

**Council Plan/Strategies:**

The revised LPPF is consistent with the Our Environment goal in the Murrindindi Shire Council Plan 2013-2017 specifically in relation to the following strategic objective and action for Our Environment:

- Objective: We will plan for the future growth that is sensitive to the constraints of our natural environment whilst considering development needs.
- Year 1 Action: Complete a review of the Municipal Strategic Statement to establish directions that align to the Council Plan.

**Legal/Policy Issues:**

There are no particular legal issues associated with the proposed amendment. The proposed amendment will amend land use policy directions for the municipality, to be included in the Local Planning Policy Framework of the Murrindindi Planning Scheme.

**Financial/Resources/Risk**

There is no particular financial resource risks to Council associated with the amendment. The draft proposed LPPF and amendment been prepared in-house by staff. The panel has charged Council \$5,116-28, with the fee for forwarding an adopted amendment to the Minister for Planning being \$798. Both fees will be funded from the existing planning operating budget.

The overall LPPF revision, proposed under C54, will assist in prioritising Council's future land use resources / budget allocations.

**Discussion:**

Four private submissions to C54 related to the implementation of the *Kinglake Ranges, Flowerdale and Toolangi Plan and Design Framework*, AECOM, 2014 (the 'KFT Plan'), questioning why C54 does not implement the plan in detail. Another private submission raised the lack of reference to the Hume Regional Growth Plan. A further submission requested the preparation of an additional policy for outdoor events that was not prepared and exhibited as part of C54. As submissions to C54 cannot be fully resolved at this stage, Council requested an independent panel will hear submissions and report to Council on the merits of the amendment and submissions.

The panel (Lester Townsend, chair) was held on 12 May 2015, with the panel report being received on 23 June. The panel report is attached. In summary, the panel:

- Agreed with the intent of the amendment.
- Agreed with submissions that the amendment does not adequately recognise Kinglake West – Pheasant Creek.
- Recognised that the *Kinglake Ranges, Flowerdale and Toolangi Plan and Design Framework* is being addressed and implemented under a separate amendment (C53).

The panel recommended that Council adopt the amendment, with the following changes:

1. Proposed changes to the exhibited amendment, as submitted by Council to the panel hearing (these changes comprises a series of minor changes to the exhibited amendment to address submissions and other suggested changes, all of which were previously outlined to Council to form part of its submission to the panel).
2. Update all reference to 'Kinglake West/Pheasant Creek' to read 'Kinglake West-Pheasant Creek'.
3. Update Clause 21.01-2 to read:
  - *The estimated residential population (ABS) for Murrindindi Shire was 13,494 as At 30 June 2013. Four towns are serviced: Alexandra, Yea, Eildon and Marysville. Other larger towns are Kinglake and Kinglake West-Pheasant Creek. Smaller towns and settlements include Buxton, Flowerdale, Glenburn, Molesworth, Narbethong, Strath Creek, Taggerty, Taylor Bay, Thornton, Toolangi and Yarck with other smaller settlements existing throughout the Municipality.*
  - *A number of towns and areas have a strong tourism functions including Eildon, Marysville and the Kinglake Ranges.*
4. Update Clause 21.02-2 to depict Kinglake West-Pheasant Creek by a single dot on the framework plan located at the town centre.

The panel further recommended:

- The amendment that implements the *Kinglake Ranges, Flowerdale and Toolangi Plan and Design Framework* include the Kinglake West-Pheasant Creek structure plan.
- The amendment that implements the *Kinglake Ranges, Flowerdale and Toolangi Plan and Design Framework* include more than just policy changes and exhibit zoning and other control changes identified in the plan.

In addition to the suggested Council changes to the exhibited amendment, all being supported by the panel, the additional changes suggested by the panel are considered minor. All the proposed changes should be included in the adopted version of the amendment. The change relating to Kinglake West – Pheasant Creek will recognise the settlement as a larger town within the municipality, a position that does not conflict with the adopted *Kinglake Ranges, Flowerdale and Toolangi Plan and Design Framework*, However as no single "town centre" can be defined for the combined settlement it is proposed that a single dot would be used in the approximate centre of the area on the framework plan.

The two additional recommendations relating to the KFT Plan are matters that cannot be implemented under C54 and must be addressed under proposed Amendment C53 that has been prepared to specifically implement the KFT Plan. As Council has requested the Minister to approve C53 as a 'Ministerial amendment' without further exhibition, these additional matters will be separately discussed with officers of the Department of Environment, Land, Water and Planning (DELWP).

**Consultation:**

The revised LPPF was informally exhibited in 2014 and then was formally exhibited between 4 December 2014 and 30 January 2015. Council exempted itself from giving notification to all landowners and occupiers (under Section 19(1a) of the Act) on the grounds that the number of owners and occupiers made it impractical to do so, taking other steps to give reasonable notice of the amendment.

A total of eleven (11) submissions were received to the formal exhibition of C54 (five from authorities and six from private submitters), all of which were referred to an independent panel for consideration. A panel hearing was conducted, allowing submitters who chose, an opportunity to have their submission independently heard.

**Conclusion:**

The proposed revised LPPF has been prepared to implement current local land use planning directions in a contemporary and useable format and has been exhibited as Amendment C54.

As submissions to C54 could not be fully resolved, Council referred submissions to an independent panel for consideration. The panel has recommended that Council adopt C54 subject to minor changes to the exhibited amendment, as either requested by Council or in accordance with several additional minor panel recommendations. A report will be prepared for the next Council meeting recommending that C54 be adopted, with changes, as recommended by the panel.

## **6.6 TAYLOR BAY WASTE SERVICE**

REF: SF/955

Attachment(s):

- 6.6a Taylor Bay Bin Compound Proposed Site Plan
- 6.6b Taylor Bay Bin Compound Upgrade – Capital Costs

**Purpose:**

The purpose of this report is to update Council on the options to improve waste services at Taylor Bay following discussions with the Taylor Bay Waste Service Community Reference Group.

**Officer Recommendation:**

**That Council;**

- 1. Approve the redesign and expansion of the Taylor Bay compound to include;**
  - a. The introduction of a recycling service**
  - b. Provision of suitable hard standing surfaces with a 2.4m perimeter colorbond fencing**
  - c. Provision of security key access to Taylor Bay ratepayers/residents**
  - d. Inclusion of upgraded signage and a community notice board**



2. **Seek VicRoads approval for the reduction in the speed zone adjacent to the Taylor Bay compound to 60kph**
3. **Authorise the release of \$55,000 from the Waste Reserve to fund the improvement works**
4. **Authorise the recovery of future costs of illegal dumping, within the Taylor Bay compound, from the waste and recycling charges levied from the Taylor Bay area**
5. **Instruct officers to review the operation of the Taylor Bay compound after 12 months of operation to consider the possible introduction of security cameras.**

***Background:***

Council has been aware for some time about the waste management issues at the Taylor Bay compound.

The key issues from Council's perspective are;

1. The illegal dumping of waste at the Taylor Bay compound.
2. Additional costs associated with the illegal dumping or inappropriate use of the Taylor Bay compound (an additional cost of \$30,000/year).
3. OHS risks to both Council staff and contractors whilst clearing the dumped or scattered waste.
4. The level of community complaints about the facility.

The Council had previously agreed to establish a community reference group (CRG) to facilitate discussion and the development of a solution for the Taylor Bay waste management problem.

The endorsed community engagement plan indicated that although there were several options open for consideration, there were three (3) items that were non-negotiable;

1. The collection day,
2. Resolution of illegal dumping issues, and
3. Council was responsible for the final decision.

The key issues to be addressed from the community perspective, as confirmed by the CRG are;

1. The introduction of a kerbside collection service is not practical due to terrain and narrow roads within the area
2. The current Taylor Bay bin compound is the preferred location for the waste service collection in Taylor Bay
3. There is an inadequate number of bins within the Taylor Bay compound to service residents' needs
4. Use of the compound by non residents of Taylor Bay
5. Use of compound by educational and commercial businesses within Taylor Bay
6. The poor state of the compound due to indiscriminate dumping of waste
7. Safety of users due to the existing 100kph speed zone adjacent to the compound
8. Importance of the enforcement process for illegal dumping of waste at the compound
9. Concern to keep the overall costs to Council of any proposed solution to a minimum

***Council Plan/Strategies:***

The Waste and Resource Recovery Strategy 2014-2019 (WRRS), which was adopted in July 2014, included actions relating to kerbside services and in particular Strategy 3.1 "Review kerbside waste and recycling services" which had a specific action to "Remove the Taylor Bay Bin Compound and replace with a kerbside service".

**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 Council's 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). Taken together these State Acts are interpreted to require a Municipal Council to provide consistent levels of waste services to the community. Although this is often interpreted to mean a kerbside service, there is no legal obligation for it to be so.

Council must endeavour to achieve the best outcomes for the local community, including having regard to providing facilities and services that are accessible and equitable (LGA 1989, Section 3A). It is important that Taylor Bay receives a similar accessibility to waste services.

**Financial/Resources/Risk**

There is no budget allowance in 2015-16 for upgrading the Taylor Bay bin compound. A summary of the estimated costs for the various options explored (as shown in Table 1 (Refer Attachment 6.6b)).

**Table 1 Summary of costs for various upgrades of the Taylor Bay Compound**

<b>Options (Recommended Option highlighted)</b>	<b>Estimated Cost</b>
Upgrade of compound incl recycling with <u>unlocked gates</u>	\$50,425
<b>Upgrade of compound incl recycling with <u>locked gates</u></b>	<b>\$54,837</b>
Upgrade of compound incl recycling with <u>unlocked turnstiles</u>	\$69,162
Upgrade of compound incl recycling with <u>locked turnstiles</u>	\$85,912
Upgrade of compound incl recycling with <u>unlocked gates with surveillance cameras</u>	\$60,305
Upgrade of compound incl recycling with <u>locked gates with surveillance cameras</u>	\$64,717
Upgrade of compound incl recycling with <u>unlocked turnstiles with surveillance cameras</u>	\$79,042
Upgrade of compound incl recycling with <u>locked turnstiles with surveillance cameras</u>	\$95,792

As the current situation is costing Council an additional \$30,000 a year, the potential payback period would be 2-3 years dependent on option, but less than two years for the recommended option.

Funding for any upgrade to the compound in 2015-16 could be released from the Waste Reserve. It is noted that the forecast balance in the Waste Reserve at 30 June 2015 is \$4,467,000. Also a formal process, under the LGA 1989, would be required to implement a compulsory recycling charge for the Taylor Bay area on a pro rata basis for 2015/2016. In addition the recovery of the costs of illegal dumped items from within the compound, if required, would be a new charge. These would all impact on the approved 2015/2016 budget. If this proposal is approved the potential impact on the budget would be included as part of the first quarterly budget review.

**Discussion:**

The CRG agreed the following recommendations and requested they be put to Council;

- Rec. 1. The waste service is to be provided in the current location, and be upgraded to a more acceptable standard.
- Rec. 2. A recycling service be introduced to the compound, with the recycling bin storage to be entirely separated from the waste bin storage area and that the bin layout be arranged so as to discourage illegal dumping of waste within the compound.
- Rec. 3. The fence to the bin compound be 2.4m high to prevent waste being thrown over the fence.

- Rec. 4. Access to the site be via a narrow gate for public access, and a separate wider maintenance gate, into each of the garbage and recycling areas. The gate to be constructed to allow fitting of locks, although locks not to be fitted initially.
- Rec. 5. If dumping continues to be an issue the gates can be replaced with;
- a) locked gates
  - b) unlocked turnstiles
  - c) locked turnstiles
- in that order of preference.
- Rec. 6. Prominent signage is required which includes the location and directions to the Eildon Resource Recovery Centre, as well as prices and free of charge items for disposal at the RRCs.
- Rec. 7. Surveillance of the new compound is not considered a priority initially.
- Rec. 8. Council to investigate other enforcement options for illegally dumped hard waste as well as methods to enforce, or make illegal, the inappropriate use of the site by non-residents for general waste.
- Rec. 9. The speed zone in the vicinity of the bin compound should be reduced from 100km/hr to 60km/hr.
- Rec. 10. Council clearly and sensitively communicates the rules of the use of the compound to all ratepayers in Taylor Bay, and separately to operators of properties leased for accommodation.
- Rec. 11. A smaller community notice board be included as part of the refurbishment.
- Rec. 12. Any physical works to be completed prior to Melbourne Cup Weekend.
- Rec. 13. Council should release funds from the waste reserve to resolve this longstanding issue and ensure that Taylor Bay ratepayers have a similar quality of waste service as elsewhere in the shire.
- Rec. 14. The Community Reference Group not be disbanded until the issue is resolved, which may take some time.

Council officers have reviewed the recommendations of the CRG and make the following comments on specific points in response.

#### Introduction of Recycling service (CRG Rec. No. 2)

A recycling service is not currently provided and would provide additional capacity for the disposal of recyclables. The existing compound would need to be demolished and reconstructed on a slightly larger footprint, with a more suitable hardstanding surface (concrete or asphalt) to cater for the OHS requirements of the contractor for using the larger 360L MRBs in the compound which would be required due to the size constraints. This is considered to be a reasonable solution.

#### Reduction in speed limit (CRG Rec. No. 9)

A reduction in speed limit is considered to be a sensible approach given the activity and traffic movements at the compound, and it is intended to lodge an application with Vicroads for an extension of the 60kph speed zone from the intersection of the Taylor Bay Left Arm and Taylor Bay Right Arm intersection along Taylor Bay Rd.

#### Security and Access (CRG Rec. No. 4,5 & 7)

The issue of security and access at the compound is central to the review of the service. Currently there are no estimates available of how much illegally dumped waste, enters the compound from outside of Taylor Bay but Table 2 below compares the various security and access options as discussed by the CRG.

Reviewing the options restricting access only to residents from Taylor Bay using a locked gate would ensure that accountability would rest with the community in the area and best meet the objectives for both Council and the community. Turnstiles, which were also suggested by the CRG were costed at nearly \$10,000 each, plus the cost of getting power to the site which would

be required if a locking system (e.g. swipe cards) was required. Officers have concerns regarding potential accessibility issues with turnstiles and the unknown ongoing maintenance issues which may arise (e.g. mechanism jamming).

The CRG supported the deferral of surveillance cameras until a review has been undertaken of the operation of the Taylor Bay compound after upgrade works have been completed. The resolution of illegal dumping was a key objective for Council and officers consider that locked system and/or surveillance will be required to achieve that objective but agree that the camera's could be deferred until a future review if a locked gate is installed.

**Table 2 Assessment of Security Options for the Taylor Bay Compound**

<b>Solution</b>	<b>Pros</b>	<b>Cons</b>
Unlocked public access gate (narrow)	Avoids the cost of a locking system and the hassle of managing hundreds of registered keys	No locks to stop people from outside of Taylor Bay using the service or using the compound as a dump.
	Narrow gate prevents the largest items of hard waste from being brought into the compound	Narrow gate may present accessibility issues or be ineffective in preventing access of hard rubbish
	Lowest cost option	
	Easy to use for ratepayers	
Locked public access gate	Restricts use of the site to Taylor Bay ratepayers only.	Can be defeated by ratepayers leaving gate open.
	Low cost compared to turnstiles.	Registered key system for that many properties would be difficult to manage, and some keys would almost certainly find a way into the community
		More expensive than unlocked gate. Less convenient for ratepayers.
Unlocked public access turnstile	May reduce the potential for people to carry large items of hard waste into the compound.	Does not meet Council objective stop people from outside of Taylor Bay using the service or using the compound as a dump.
		Expensive option with turnstiles costing \$10,000 each (2 required).
		Untested in practice, may be difficult for people to get regular waste through, may still be possible to bring in hard waste.
		Possible safety, accessibility and maintenance issues with turnstile use at unmanned site.
		Substantially more expensive than unlocked or locked gate.
		Less convenient for ratepayers.
Locked public access turnstile	May reduce the potential for people to carry large items of hard waste into the compound.	Untested in practice, may be difficult for people to get regular waste through, may still be possible bring in hard waste.
		Possible OHS issues with turnstile use at unmanned site.
	Restricts use of the site to Taylor Bay ratepayers only	Most expensive option, costed at nearly \$10,000 each (2 required) plus cost of power to

Solution	Pros	Cons
No surveillance initially	No capital cost.	the site and locking system. Less convenient for ratepayers.
		Not possible to hold people accountable for illegal dumping, or for the existing laws and fine system to act as a deterrent. Illegal dumping likely to continue with related costs.
Introduce surveillance to the site	Acts as a deterrent to illegal activity, including illegal dumping of waste inside and outside the compound.	The operational cost of monitoring the surveillance
	Could be used to monitor appropriate use of the recycling system.	The cameras and (if required) power system may be vulnerable to attack or theft.
	Could be used to monitor other activities such vandalism and theft e.g. wheelie bins, notice board.	
	Intense monitoring after first introduction may be able to be relaxed once a few prosecutions are publicised.	
	Operational costs should be offset by reduced cost of clearing up illegal dumping.	

Other Recommendations (CRG Rec No.s 1,3,6,8, 10 -14)

The other recommendations are supported by Officers.

**Consultation:**

Due to the negative response to the initial mail out regarding the extension of the kerbside service to Taylor Bay, a community consultation plan was developed and presented to Council. The plan included a public meeting to discuss the issue, and the formation of a community reference group (CRG) to advise Council on the development of a waste management solution for Taylor Bay.

The public meeting was held on 18 April 2015 in Eildon, and while 44 people completed the attendance register more than 60 people were counted as attending. The meeting allowed residents to raise their concerns, and officers were able to highlight Council's commitment to resolving the issue. The CRG was proposed and nominations were called with applications closing on 1 May 2015.

A sufficient number of applications were received to allow the appointment of 5 primary committee members to represent Spade Cove, Right Arm, Left Arm, Bolte Bay and permanent residents, and proxy members for each representative other than the permanent resident and Left Arm representatives.

The first meeting of the CRG, which was held on 16 May 2015, confirmed the commitment of the residents/ratepayers to maintaining a waste compound at the current location to service all of the Taylor Bay area and agreement to the inclusion of a recycling service.

At the second meeting, held on 27 June 2015 more detail about the proposal was discussed, including potential costs for major elements of the refurbishment of the compound and the agreed recommendations from the CRG to be suggested to Council were finalised.

Since the last meeting, members of the CRG have expressed their concerns about the ongoing potential for illegal dumping and believe the related costs of clean-up should remain the responsibility of Council. Officers believe that a locked gate system will control the problem inside the compound because the community will have to take accountability for the use of the compound itself. However, Council would continue to review the situation and consider further options for enforcement outside the compound, should it be required.

**Conclusion:**

The Taylor Bay community is clearly engaged on this issue and the CRG have provided the feedback on their preferred option. In accordance with the CRG Terms of Reference, the Council is responsible for the final decision on this matter. The recommendation for an expanded compound, the introduction of a recycling service, a higher fence and improved signage is fully supported by the CRG. The locked gate as an access although not the CRG's first option is also supported.

## **6.7 LAKE EILDON RECREATION BOATING FACILITIES IMPROVEMENT PLAN**

REF: SF/1444

Attachment: 6.7 Lake Eildon Recreational Boating Facilities Improvement Plan

**Purpose:**

The purpose of this report is to seek Council's endorsement of the Lake Eildon Recreational Boating Facilities Improvement Plan (LERBFIP).

**Officer Recommendation:**

**That Council:**

- 1. endorses the Lake Eildon Recreational Boating Facilities Improvement Plan as attached to this report.**
- 2. supports officers developing a process with the key stakeholders to prioritise actions from the Plan and investigate funding opportunities.**
- 3. supports, as a first step, the need to seek funding to enable the development of concept plans for the three Regional Facilities.**

**Background:**

The draft Lake Eildon Recreational Boating Facilities Improvement Plan that was presented to Goulburn Murray Water (GMW) and both Murrindindi and Mansfield Shire Councils in May 2015 provides the partner organisations with an audit of current land based facilities and water based assets including safety zones and marina facilities. It also provides recommendations on the development/renewal of facilities as well as potential commercial uses of some sites, proposed changes to planning zones to support economic development and potential changes to land tenure to facilitate commercial use of land.

Council has been briefed during the development and drafting of the Plan and input incorporated into the final version. Two public information sessions were also held to encourage

community input/feedback to the plan. One session was held in Mansfield on 27 May and one in Eildon on 28 May 2015.

**Council Plan/Strategies:**

The proposed Lake Eildon Recreational Boating Facilities Improvement Plan meets the goals, objectives and strategies of the Murrindindi Shire Council Plan 2013-17, in particular the Strategic Objective under the 'Our Economy' Goal to *increase the economic, social and cultural benefits to the Shire of a growing tourism sector.*

**Legal/Policy Issues:**

There are no specific legal or policy issues associated with the preparation of the Lake Eildon Recreational Boating Facilities Improvement Plan.

**Financial/Resources/Risk**

There are no financial or resource risks associated with the preparation of the Plan.

The Plan notes that all facilities are currently predominantly publically funded through Councils, Goulburn Murray water and through some grants for works. It notes that this creates an imbalance as more than 60% of the users of the facilities both land and on water are not from the local rate paying area.

Rather than committing either Council or Goulburn Murray Water to financial contributions to improvements to facilities, the Plan provides a comprehensive list of development/improvement options that will guide decision making for future land use planning, budgets and grant funding applications.

**Discussion:**

Lake Eildon is one of Victoria's most popular holiday and recreation destination. In recent years there has been a series of projects which aim to facilitate the planning and management of Lake Eildon. In 2012 the Lake Eildon Land and On-Water Management Plan was prepared. The Lake Eildon Recreational Boating Facilities Improvement Plan (LERBFIP) implements 15 Actions from the Management Plan and:

- Delivers a detailed audit of current facilities that provide for recreational boating;
- Identifies the shortcomings in existing facilities;
- Establishes gaps in infrastructure that future budget allocation considerations and funding applications could be directed at;
- Enables a coordinated approach by all agencies for the provision of facilities;
- Creates a greater potential to improve recreational boating safety and accessibility for all user groups.

The LERBFIP includes an extensive audit of facilities around the lake, with a focus on boat launching areas/ramps, and outlines seven key areas for consideration/attention.

They include:

1. Ramps and surrounding areas
2. Adoption and Implementation of a Hierarchy of Boat Ramp Facilities
3. Funding and User Pays Principles
4. Opportunities for Economic Development

5. Threats to Development
6. Management and Administration
7. Safety.

The Plan recognises that there is a need to develop facilities in a hierarchy and define the intention to develop facilities in accordance with a clearly articulated plan. It recommended the adoption of a hierarchy based on three categories of:

1. Regional Facilities – these facilities are proposed to attract and retain tourists, to maximise yield, provide quality value for money and are the first facilities designed for redevelopment. The three facilities nominated as regional facilities are: Hutchison's Road, Goughs Bay and Jerusalem Creek.
2. District Facilities – these are proposed to be facilities that are designed for the day tripper and would be upgraded primarily with improved amenities. The Alliance Ramp is proposed as a district facility.
3. Local Facilities – these facilities will cater for the launch of smaller water craft and will have minimal intervention except for maintenance where necessary.

A rationalisation of boat ramps is recommended in the Plan to enable a focus on developing a smaller number of high quality facilities. It also notes that any decommissioning of local ramps could be done in conjunction with the reallocation of management responsibilities. To facilitate the priorities of this Plan it is recommended that Concept Plans should commence as soon as possible for the three recommended Regional Facilities.

Whilst a detailed review of the houseboat industry was beyond the scope of this Plan, it does recognise that houseboats form an integral part of the tourism and construction economy of the Lake Eildon area. The Plan also recognises that the new regulations relating to houseboats will generally have a positive effect on the industry and that new employment will be created to service these needs. As a result, the Plan recommends that upgrades to regional facilities should incorporate ramp and road access to enable the slippage of houseboats and that slippage facilities which are co-located with maintenance and construction activities should be considered.

In summary, the key recommendations included in the Plan are:

- Support for the user pays principles and a desire to reduce the burden on local ratepayers
- Acceptance of the concept of a facility hierarchy based on the establishment of three categories - Regional Facilities, District Facilities and Local Facilities
- The need to seek funding to develop concept plans for the Regional Facilities
- Support for the Lake Eildon Houseboat Industries Association (LEHIA), key projects and associated funding applications
- The need for authorities to deal with existing licenses and leases that require renewal
- Consideration of linking costs to new businesses, relating to leases and licenses, to water levels - making investment more attractive and viable.

As a result of the LERBFIP, Council is more aware of a range of considerations relating to Lake Eildon having regard for usage patterns, levels of importance of, and the need for upgrades to facilities and infrastructure to service higher demand assets.



Whilst it is anticipated that a regional map will need to be added to the published document, the Plan is now ready for endorsement by Council in order to enable the prioritisation of Actions and the development of grant funding applications to support their implementation.

**Consultation:**

Detailed surveys were undertaken during the project research phase of the project to gather input to the Plan from a range of user groups. The consultants surveyed people at various access points around the lake to pose questions and receive feedback on improving recreational boating safety and accessibility around the lake.

The Project Working Group, made up of representatives from Murrindindi Shire Council, Mansfield Shire Council and Goulburn Murray Water, provided input into the plan at various stages as it was developed and after the draft Plan was presented by the consultants.

The final round of consultation was completed on 19 June 2015 at the close of submissions as described in the background section of this report. The feedback received was positive in nature and supportive of the general thrust of the Plan with only minor editing required.

**Conclusion:**

The Lake Eildon Recreational Boating Facilities Improvement Plan will establish the strategic direction for boating facilities at Lake Eildon for the next decade. The Plan will enhance the potential for a coordinated approach by all agencies to the provision of facilities that improve recreational boating safety and accessibility for all user groups of Lake Eildon. The endorsed Plan will provide the strategic basis for funding applications and improve opportunities for the growing houseboat building and maintenance industry based at Lake Eildon and around the Eildon township.

## **6.8 ASSET DISPOSAL POLICY**

REF: 15/33271

Attachment: 6.8 - Asset Disposal Policy

**Purpose:**

The purpose of this report is to present the Asset Disposal Policy for consideration by Council.

**Officer Recommendation:**

**That Council adopt the Asset Disposal Policy attached to this report.**

**Background:**

Council's Asset Disposal Policy was last reviewed and adopted in December 2007. The existing policy is overdue for review and it was considered that it did not clearly set out the policy principals or provide sufficient detail on processes for sale or disposal of assets. The policy had the potential to be misinterpreted or lead to inconsistencies when disposing of assets. The policy is has been reviewed and updated to provide a systematic, transparent and accountable method for the disposal of Council owned assets in accordance with Council policies and all appropriate legislation and accounting standards.

**Council Plan/Strategies:**

This review of the policy is consistent with the 2013-17 Council Plan - Asset Management strategic objective "We will apply a whole of life approach to the management and

maintenance of Council's assets". A year 2 Action was to develop an Asset Disposal Policy.

**Legal/Policy Issues:**

Council is required to comply with Section 189 of the *Local Government Act 1989* when selling land. Compliance with Council's Conflict of Interest Policy is essential.

**Financial/Resources/Risk**

Council must apply a fair and equitable approach and aim to achieve the best value for money when disposing of assets.

**Discussion:**

The policy sets out the revised principles and processes which are to apply when Council is disposing of land and other assets or property including major and minor plant and equipment. It covers Council's requirements and obligations in the disposal process and will inform the manager of the asset and other staff of their responsibilities in the disposal process. The policy does not cover sale of library books and disposal of goods which are not owned by Council, such as abandoned vehicles and their contents. The disposal of library books will be addressed in a future Library Policy.

In reviewing the existing policy, officers have expanded the policy to include:

- Factors for consideration prior to disposing of an asset;
- Checks that must be carried out prior to sale or disposal of an asset; and
- The processes to be applied for the sale of assets.

The policy now details the process for donation of surplus or redundant assets requiring Council to explore all avenues for recouping a fair value or alternate use of an asset before considering this option for disposal.

In certain circumstances, such as emergencies or where the disposal processes will not necessarily deliver the best result and Council approval is not required, the policy provides for the Chief Executive officer to waive the application of the policy.

The policy also sets out the process to be applied to:

- Sale of Land including circumstances where the land forms part of a road that has been discontinued;
- Sale of both minor and major plant and equipment;
- Buyers risk, ensuring that no warranty is given or implied by the Council in respect of the suitability and condition of the asset disposed of;
- Circumstances where elected members or employees may be permitted to purchase assets.

The guiding principles of this policy include the following:

**(a) Open and effective competition**

Disposal of assets should be open and result in effective competition. Council must give fair and equitable consideration to all prospective purchasers.

**(b) Value for Money**

Council must aim to achieve the best value for money in disposing of assets. The concept of value for money is not restricted to price alone. The value for money assessment must include consideration, as applicable, of:

- The contribution to the Council Plan and other priorities;

- Financial considerations including all relevant direct and indirect benefits both tangible and intangible;
- Efficiency and effectiveness;
- The costs of various disposal methods;
- Internal administration costs;
- Risk exposure;
- Any associated environmental benefits.

**(c) *Ethical Behaviour and Fair Dealing***

Council is to behave with impartiality, fairness, independence, openness and integrity in all discussions and negotiations.

**(d) *Environment***

In undertaking any disposal activities Council will encourage environmentally responsible activities.

***Conclusion:***

This policy sets out the revised principles and processes and provides a systematic, transparent and accountable method for the disposal of Council owned assets in accordance with Council policies and all appropriate legislation and accounting standards.

## **6.9 SUPPLEMENTARY VALUATIONS**

REF: 15/35116

***Purpose:***

This report seeks to advise and update Council of the supplementary valuations for the 2014-2015 financial year.

***Officer Recommendation:***

**That the supplementary valuations of the Murrindindi Shire Council for the period 1 July 2014 to 30 June 2015 as contained within this report be noted by Council.**

***Background:***

This report provides a summary of supplementary valuations processed throughout the financial year, provided by rate category.

***Council Plan/Strategies:***

This report is consistent with the Council Plan Financial Sustainability strategy to provide sound financial management.

***Legal/Policy Issues:***

Supplementary Valuations are made under Section 13DF of the *Valuation of Land Act 1960*. All supplementary valuations returned are certified by the Valuer General.

***Financial/Resources/Risk:***

In 2014-15 Council budgeted for 1% growth or \$133,030 from supplementary valuations, Council has achieved \$89,709 pro-rata in rate revenue from supplementary valuations, which is \$43,321 below budget. This shortfall in revenue is offset by gains made in interest on investment income, which is estimated to exceed the revised budget by more than \$170,000 for the 2014/15 financial year.

***Discussion:***

A table of the valuation movement for rate adjustment is outlined below.

	<b>Budget 2014-2015</b>	<b>01/07/2014 - Revaluation 2014</b>	<b>Rateable CIV 30/06/2015</b>	<b>Capital Improved Valuation movement</b>	<b>Rate Revenue \$</b>
Residential	1,652,113,500	1,660,423,500	1,675,350,500	14,927,000	15,845
Commercial	175,497,000	175,756,000	195,091,000	19,335,000	39,828
Rural 1	1,247,944,000	1,245,043,000	1,237,972,000	-7,071,000	89
Rural 2	789,216,000	792,189,000	798,283,000	6,094,000	30,453
Municipal Charge					3,494
<b>Totals</b>	<b>3,864,770,500</b>	<b>3,873,411,500</b>	<b>3,906,696,500</b>	<b>33,285,000</b>	<b>89,709</b>

Achievement of the supplementary rates growth target for 2014/15 has been hampered by the significant decrease in applications for rebuilding on land affected by the 2009 bushfires, which has been the predominant driver of supplementary rates growth over the last five years. The rebuild rate of properties affected by the fires slowed substantially in 2014/15, increasing from 51% to only 54%, meaning that nearly half of all properties damaged during the fires remain undeveloped or developed to a lesser standard of Capital Improved Value ("CIV") since the events of February 2009.

**Conclusion:**

It is appropriate at the conclusion of a financial year to recognise the supplementary valuations processed throughout the 2014-2015 financial year and bring them to account.

**7. SEALING REGISTER**

File: 13/6325

<b>File Reference</b>	<b>Date Seal Affixed</b>	<b>Description of Documents</b>	<b>Signatures of Persons Sealing</b>
SF/640 D15/7767	16 June 2015	Transfer of Land Lot 1 on TP668987F, being part of the land in Volume 3084 Folio 710 from Murrindindi Shire Council to Edward Marcel Oostendorp and Jacqueline Frances Oostendoorp	Michael Chesworth Margaret Rae
D15/8116	1 July 2015	Section 17D Crown Land (Reserves) Act 1978 Lease - (Non Retail) between Murrindindi Shire Council and Marysville Cultural Community Inc. for Marysville Rebuilding Advisory Centre	Michael Chesworth Margaret Rae
D15/9079	8 July 2015	Transfer of Land - Lot 1 on TP955398B, Part of Robbins Road, Narbethong from Murrindindi Shire Council to Gerald McDonald and Bridget Miriam McIntyre	Margaret Rae Michael Chesworth
D15/8905	9 July 2015	Licence Agreement between Alexandra District Health and Murrindindi Shire Council for room rental at the Eildon Campus of Alexandra District Health Community Health building	Michael Chesworth John Kennedy

**Officer Recommendation:**

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

**8. COUNCILLOR PORTFOLIO REPORTS****8.1 LAND USE PLANNING PORTFOLIO****8.2 ECONOMIC DEVELOPMENT PORTFOLIO****8.3 INFRASTRUCTURE AND WASTE PORTFOLIO****8.4 COMMUNITY SERVICES PORTFOLIO****8.5 CORPORATE SERVICES PORTFOLIO****8.6 NATURAL ENVIRONMENT & CLIMATE CHANGE PORTFOLIO****8.7 MAYOR AND DELEGATED COMMITTEE REPORTS****8.8 GENERAL BUSINESS****9. MATTERS DEFERRED FROM PREVIOUS MEETING****10. MOTIONS FOR WHICH NOTICE HAS PREVIOUSLY BEEN GIVEN****11. ASSEMBLIES OF COUNCILLORS**

REF: CY15/110

**Purpose:**

This report presents the records of assemblies of Councillors for 24 June 2015 to 8 July 2015, for Council to note in accordance with Section 80A of the *Local Government Act 1989 (the Act)*.

**Officer Recommendation:**

**That Council receives and notes the record of assemblies of Councillors for 24 June 2015 to 8 July 2015.**

**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:**

<b>Meeting Name / Type</b>		Pre Council Meeting Discussion		
<b>Meeting Date</b>		24 June 2015		
<b>Matters discussed</b>		1. Paradiso Planning Application 2. Blackmores Intensive Animal Husbandry Planning Application 3. Safe Haven Enterprise Visa Program		
<b>Attendees:</b> Councillors – Cr Derwent, Cr Kennedy, Cr Challen, Cr Magner, Cr Walsh, Cr Rae		Staff – M Chesworth, E Wyatt, A Bond, J Rabel, K Girvan, M Crane		
<b>Conflict of Interest disclosures – Yes</b>				
<b>Matter No.</b>	<b>Councillor making disclosure</b>	<b>Was a vote taken?</b>	<b>Did Councillor leave the room?</b>	<b>When? Before / after discussion / vote?</b>
Item 2	Cr Walsh	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Before discussion

<b>Meeting Name / Type</b>		Councillor Briefing Session		
<b>Meeting Date</b>		1 July 2015		
<b>Matters discussed</b>		1. Trout Stocking Rates 2. Dindi Sawmill Representation to Council 3. Review Report – Environment Strategy 2011-2015 4. Local Government Community Satisfaction Survey 2015		
<b>Attendees:</b> Councillors - Cr Walsh, Cr Kennedy, Cr Rae, Cr Challen		Staff – M Chesworth, E Wyatt, B Elkington, A Bond, J Canny, M Leitinger		
<b>Conflict of Interest disclosures - Nil</b>				

<b>Meeting Name / Type</b>	Councillor Briefing Session	
<b>Meeting Date</b>	8 July 2015	
<b>Matters discussed</b>	<ol style="list-style-type: none"> <li>1. Goulburn Valley Highway, Yea to Molesworth speed limit- VicRoads review and update</li> <li>2. VicForests Timber Release Plan Briefing</li> <li>3. Asset Disposal Policy</li> <li>4. Drought Relief Standpipes in Alexandra and Yea</li> <li>5. Direct Recycling at Resource Recovery Centres</li> <li>6. Taylor Bay Waste Management</li> <li>7. Lake Eildon Recreation Boating Facilities Improvement Plan</li> </ol>	
<b>Attendees:</b> Councillors - Cr Challen, Cr Rae, Cr Kennedy, Cr Derwent	Staff – M Chesworth, E Wyatt, J Canny, B Elkington, M Leitinger, J Russell	
<b>Conflict of Interest disclosures - Nil</b>		

## **12.            URGENT BUSINESS**

## **13.            CONFIDENTIAL ITEMS**

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

- Sale of 23 and 25 Murchison Street
- Yea Caravan Park

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.