



MINUTES
of the
ORDINARY MEETING OF COUNCIL
held on
WEDNESDAY 23 APRIL 2014
in the
ALEXANDRA COUNCIL CHAMBERS
commencing at
6.02 pm

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1. PRAYER & RECONCILIATION STATEMENT

The meeting was opened with Prayer and reading of the Reconciliation Statement.

2. APOLOGIES AND REQUESTS FOR LEAVE OF ABSENCE

REF: SF/306

A request for leave of absence was received from Crs Derwent and Kennedy.

RESOLUTION:

Cr J Walsh / Cr C Ruhr

That the request for leave of absence received from Crs Derwent and Kennedy be accepted.

CARRIED

Present:

Crs M Rae (Chair), C Challen, B Magner, C Ruhr, J Walsh

In attendance:

Chief Executive Officer: Margaret Abbey

General Manager Corporate and Community Services: Michael Chesworth

General Manager Infrastructure and Development Services: Tamara Johnson

Manager Infrastructure Assets: John Canny

Statutory Planning Co-ordinator: Karen Girvan

Online Communications Officer: Jo Simms

3. CONFIRMATION OF MINUTES

➤ Minutes of the Ordinary meeting of Council held on 26 March 2014

Recommendation:

That the Minutes of the Ordinary meeting of Council held on 26 March 2014 be confirmed with a correction in Item 4, first line, to the words “indirect financial interest” to “indirect interest because of conflicting duties”.

RESOLUTION:

Cr J Walsh / Cr C Challen

That the Minutes of the Ordinary meeting of Council held on 26 March 2014 be confirmed with a correction in Item 4, first line, to the words “indirect financial interest” to “indirect interest because of conflicting duties”.

CARRIED

4. DISCLOSURES OF INTEREST OR CONFLICT OF INTEREST

REF: SF/783

No disclosures declared.

5. OPEN FORUM

REF: SF/130

The Chairperson declared Open Forum and invited questions from the Gallery.

Mr Ivan Skok, of Kinglake West, spoke against the proposed revised Development Plan at Kinglake West (Item 8.1.1 on the agenda).

Robert Gill, of Yea, spoke about the management responsibilities of the Yea Indoor Centre with the Yea High School (not on the agenda).

The Chairperson closed Open Forum.**6. PETITIONS RECEIVED BY COUNCIL****6.1 PETITION – CLARKS ROAD, YEA**

REF: SF/132, D14/2756

Council is in receipt of a Petition signed by 15 people which reads as follows:

“We the undersigned request that Clarks Road Yea, known variously also as ‘Clarks Road’ and ‘Clark Road’ be officially known as Clarks Road. We are all residents of Clarks Road and believe that this name reflects both the history of the area and the commonly held name for the road in the wider district. Some residents have used the ‘Clarks’ variant only because of the road sign (now replaced) at one end of the road.”

Recommendation:

That the listed petition be received, noted and referred to the General Manager Infrastructure and Development Services for a report to the next Ordinary Council Meeting.

RESOLUTION:

Cr J Walsh / Cr C Ruhr

That the listed petition be received, noted and referred to the General Manager Infrastructure and Development Services for a report to the next Ordinary Council Meeting.

CARRIED**7. REPORTS BY ADVISORY COMMITTEES OR SPECIAL COMMITTEES**

No reports this meeting.

8. OFFICER REPORTS

8.1 DEVELOPMENT & ENVIRONMENT

8.1.1 *Revision of Kinglake West Development Plan*

File No: 58/07/12-9, also 14/3469

(Refer Encl 8.1.1 - Draft revised Development Plan Kinglake West)

Purpose:

This report seeks Council's adoption of the amended *Development Plan Kinglake West* which clarifies a minimum subdivision size of two (2) hectares for the development plan area.

Recommendation:

That Council approves the revised *Development Plan Kinglake West* to clarify a minimum subdivision size of two (2) hectares for the development plan area, as contained in Enclosure 8.1.1 to this report.

Background:

Land on the eastern side of Whittlesea – Yea Road, northern side of Whittlesea – Kinglake Road and south of Nichols Road is zoned Rural Living, with the existing Development Plan Overlay (DPO) 6 (Rural Living Zone, Kinglake West and Pheasant Creek) also applying to the land. The DPO requires that prior to the approval of any development for individual parcels of land, an overall development plan be approved to guide the future layout, servicing and coordination of development for the overall area.

A development plan for this Kinglake west area was approved in December 2008, with a revised plan being approved in April 2010 to make a minor adjustment to an internal temporary road layout.

Council Plan/Strategies:

The development plan review is consistent with the Our Environment goal in the Murrindindi Shire Council Plan 2013-2017 specifically in relation to the following strategic objective:

- *Implement ongoing changes and improvements to the Murrindindi Planning Scheme.*

Legal/Policy Issues:

There are no particular legal issues associated with the proposed revised development plan. The proposal would reinforce Council's existing policy position to ensure an absolute minimum subdivision size for the development plan area of two (2) hectares.

Financial/Resources/Risk

There are no financial or resources risk to Council with the proposed revised development plan.

Discussion:

A key feature of the 2008 and 2010 approved development plans was to include a minimum subdivision size of two (2) hectares. During consideration of the changes to the development plan in 2010, Council specifically considered a request from one landowner to allow 'averaging' of lot sizes to provide lots both below and above 2 hectares in area. After consideration Council declined this request, reaffirming its policy position to maintain a minimum lot size of 2 hectares.

In 2012 the same landowner who requested 'averaging' in 2010 to allow lots of below 2 hectares in size applied for a 5 lot subdivision, with lots ranging from 1.43 to 5.6 hectares in area (Application for Planning Permit No 2012/131). Council refused the application, with one of

the grounds being that the proposal was not in accordance with the approved development plan requirement for all lots to be a minimum of 2 hectares in area.

The applicant appealed this decision, with VCAT affirming Council's refusal by finding that the proposed subdivision is not generally in accordance with the development plan and does not respond appropriately to the Rural Living Zone provisions. VCAT however noted in the decision that the existing drafting of the development plan provision in relation to a minimum lot size of 2 hectares is unclear.

Officers consider it appropriate to propose minor changes to the development plan to specifically exclude 'averaging' of lots and reinforce Council's policy position to maintain a minimum lot size of 2 hectares in the area. The proposed draft revised *Development Plan Kinglake West*, indicating exact proposed changes, is attached for information.

The existing development plan was approved for a ten (10) year period, to expire on 24 March 2020. Given that the area has only been partly developed, a further ten (10) year period is appropriate for the plan to apply, ie an approved development plan would now expire in April 2024.

Consultation:

Notification of the revised draft development plan has been given to affected and adjoining landowners, inviting comments within two (2) weeks.

Three submissions have been received as follows:

One submission is from a neighbouring property owner in Edenvale Crescent who is concerned about any subdivision occurring on this land due to the high fire hazard that exists in the area and in particular the increased fuel loads. Also the submitter is requesting that Council revisit the Kinglake West Development Plan.

Officer comment

All subdivision applications that are lodged in this area are referred to the Country Fire Authority who will assess fire risk as part of the assessment process. Also it is policy that any subdivision or development is managed to reduce the risk to human life.

Submission from property owner in Development Plan area that states that Council rejected his subdivision application under averaging provisions that did not apply to the development plan and he will take legal action if we use this amendment to the development plan to reject his current planning permit application.

Officer comment

Council is conducting a transparent and appropriate process to clarify wording in the Kinglake West Development Plan and have given all owners the opportunity to make a submission. Any decision by Council is based on merit.

Submission from consultant to property owner (above). Notes that there is significant bushland area on clients land and averaging would result in a better planning outcome. He argues that there is no valid reason to seek to override the averaging provisions as this will likely result in the subdivision not proceeding which may have a potentially detrimental impact on the proposed maintenance and protection of an environmentally sensitive area.

Officer comment

The minimum lot size of 2 hectares has been Council's position from the outset and the proposed amendment is a clarification of existing intent and wording. While a development plan performance measure cannot override the Rural Living Zone subdivision provisions that allow averaging, it can signify Council's position in relation to subdivision design and interpretation of

proposals. The Victorian Civil & Administrative Tribunal decision has made it clear that Council cannot refuse a subdivision permit solely on the grounds that the lots are less than 2 hectares but must also find that the subdivision design does not respond appropriately to the zoning and any other relevant criteria in the Murrindindi Planning Scheme.

In the previous Victorian Civil & Administrative Tribunal hearing the Member refused the subdivision on the grounds that the averaging that was proposed was too broad and that the proposal was not generally in accordance with the Development Plan nor responded appropriately to the Rural Living Zone provisions.

Conclusion:

The proposed changes to the development plan are relatively minor but reinforce Council's previous policy position for an absolute minimum of two (2) hectare lot sizes in the development plan area. The revised development plan is now recommended for Council approval.

RESOLUTION:

Cr J Walsh / Cr B Magner

That Council approves the revised *Development Plan Kinglake West* to clarify a minimum subdivision size of two (2) hectares for the development plan area, as contained in Enclosure 8.1.1 to this report.

CARRIED

8.1.2 2013/228 – Yarck House Lot Excision

File No: 2013/228

Land: 295 Maroondah Link Highway, Yarck.

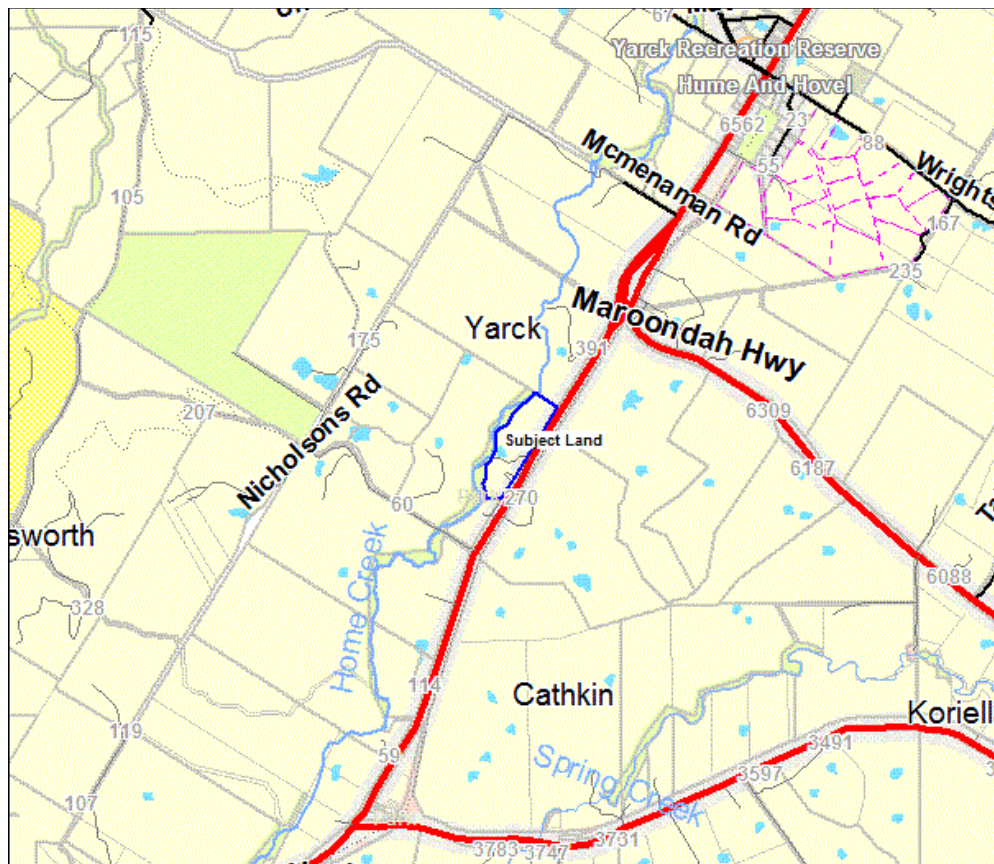
Proposal: Change of use from an Office to a House; Two (2) lot subdivision (House Lot Excision).

Applicant: Home Creek Pty Ltd

Zoning: Farming

Overlays: Land Subject to Inundation (Part)

Attachments: Application details (*Refer Encl 8.1.2*) (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 change of use from an office to a house and a two (2) lot subdivision (house lot excision) at 295 MaroonDAH Link Highway, Yarck.

Recommendation:

That Council issues a notice of decision to grant a permit for the change of use from an office to a house and a two (2) lot subdivision (house lot excision) at 295 MaroonDAH Link Highway, Yarck (LOT: 6 LP: 143565, Parish of Molesworth), subject to the following conditions:

- (1) The subdivision must be in accordance with the endorsed plan. This endorsed plan can only be altered or modified with the prior written approval of the Responsible Authority, or to comply with statutory requirements.
- (2) This permit shall expire if all stages of the plan of subdivision hereby permitted are not certified 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 or within six months after such expiry.
- (3) The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities, electricity and gas services to each lot shown on the endorsed plan in accordance with the authority's requirements and relevant legislation at the time.
- (4) All existing and proposed easements and sites for existing or required utility services and roads on the land must be set aside in the plan of subdivision

- submitted for certification in favour of the relevant authority for which the easement or site is to be created.
- (5) The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to the relevant authority in accordance with Section 8 of that Act.
- (6) The owner of the land must enter into an agreement with:
- A telecommunications network or service provider for the provision of telecommunications services to each lot shown on the endorsed plan in accordance with the provider's requirements and relevant legislation at the time; and
 - A suitably qualified person for the provision of fibre ready telecommunications facilities to each lot shown on the endorsed plan in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.
- (7) Before the issue of a Statement of Compliance for any stage of the subdivision under the Subdivision Act 1988, the owner of the land must provide written confirmation from:
- A telecommunications network or service provider that all lots are connected to or are ready for connection to telecommunications services in accordance with the provider's requirements and relevant legislation at the time; and
 - A suitable qualified person that fibre ready telecommunication facilities have been provided in accordance with any industry specifications or any standards set by the Australian Telecommunications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.
- (8) Prior to Certification of the Plan of Subdivision, a report on the effluent disposal system must be prepared by a suitably qualified plumber, and must be submitted to and approved by the Responsible Authority. This report must detail the following:
- (a) Type and location of existing effluent disposal system (s) on site, including tanks and effluent fields.
 - (b) Any works required to upgrade the system(s) to comply with the current Environment Protection Authority requirements.
- (9) Prior to the issue of a statement of compliance the effluent disposal systems must be upgraded in accordance with the approved report. Prior to any works for any required upgrades, a Septic Tank Permit must be obtained.
- (10) Prior to the issue of a Statement of Compliance a Section 173 Agreement must be entered into at no cost to Council, which ensures the following:
- The land may not be further subdivided so as to create a smaller lot for an existing dwelling.
 - The balance lot, being proposed Lot 1 on Plan No 18337 (27th November 2013) prepared by Rodney Aujard and Associates, must not be used for the purposes of accommodation and no buildings for accommodation may be constructed on the lot.

The Section 173 Agreement must be either prepared or checked 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.

All fees associated with the preparation or checking of the documentation must be fully paid by the applicant.

VicRoads

- (11) Prior to the issue of a Statement of Compliance the following must be undertaken to the satisfaction of and at no cost of the Roads Corporation (VicRoads):
- (a) The access to Lot 1 must be upgraded in accordance with standard drawing SD2065 Truck Access to Rural Properties Type B
 - (b) The informal service road between the accesses of Lot 1 and Lot 2 to reinstate the road reserve.

Proposal:

An application was received from Home Creek Pty Ltd to change the use of the existing office building on the property to a dwelling, and for a two lot subdivision, being a house lot excision. The proposed lots will be 6.17 hectares and 12.33 hectares in size respectively. The 6.17 hectare allotment will contain the existing Valley Seeds complex, and the 12.33 hectare allotment will contain the house (former office).

The Land & Surroundings:

The subject land currently contains the Valley Seeds office and warehouse. The land to the south is used for trial plots, and the northern portion of the land is vacant pasture. The property is bounded by the Home Creek to the west, by the Maroondah Link Highway to east, and by private property to the north and south. The area surrounding the property is used for primarily agricultural purposes, with scattered dwellings and associated shedding.

Referrals:

The application was referred to VicRoads and the Goulburn Broken Catchment Management Authority. It was referred internally to council's Assets and Infrastructure Department and Environmental Health unit. No objections were received subject to various conditions.

Consultation:

The application was notified to 4 adjoining and nearby owners, by way of sign on the site and with a notice in the Alexandra Standard. 1 objection has been received. The objection can be summarised as follows:

- The proposed subdivision is inconsistent with the Zone and the Policy, that is the proposed subdivision:
 - Contemplates the creation of two small lots of less than 40 hectares
 - Will materially reduce the capacity of Lot 1 to sustain agricultural use.
 - Will have an adverse impact on and reduce the potential for agriculture and other rural uses on Lot 1
 - Will change the character of the surrounding rural area and limit the productive capacity of Lot 1.
- The proposed subdivision is inconsistent with the purpose and decision guidelines of the Zone and the objectives of the Policy, that is, the proposed subdivision:
 - Will affect the productive agricultural capacity of Lot 1.
 - Will materially limit the productive agricultural and rural use of Lot 1.
 - Will prejudice primary production activities on Lot 1 and
 - Has the potential to lead to a concentration or proliferation of dwellings in the area which may impact on the use of Lot 1, adjoining properties and the area for agriculture.

- Existing buildings, infrastructure and hardstand already cover a large area of Lot 1 (approximately one third of Lot 1). The proposed subdivision will have a material adverse effect on the future sustainability of Lot 1 uses which are compatible with productive agriculture.
- The proposed subdivision will affect the use of Lot 1 for viable alternative rural purposes to those currently conducted by Valley Seeds on Lot 1 (for which a permit is not required in the Farming Zone under section 1 of clause 35.07-1 of the Murrindindi Planning Scheme).
- Should the proposed subdivision be approved and the owner of Valley Seeds cease operating its business from Lot 1 at any time in the future, the lack of viable alternative rural purposes for Lot 1 (for which a permit is not required in the Farming Zone) will lead to pressure on the Council and the owners of adjoining properties to approve a change of permitted use for Lot 1 to one more compatible with the reduced size and limited agricultural capacity of Lot 1.

A draft permit was prepared and sent to the submitter. The draft permit did not satisfy their concerns and the submission was not withdrawn.

Newspaper / Other	Publishing/Consultation Date(s)
Newspaper: Alexandra Standard	29 January 2014 – 12 February 2014
Consultation: Sign on Site	20 January 2014 – 3 February 2014
Mail out: Adjoining and nearby owners	17 January 2014 – 12 February 2014

Planning Considerations:

The application includes two separate proposals – the change of use of the existing office building to a dwelling, and a two lot subdivision (house lot excision). These two parts must be considered separately.

As the property is less than 40 hectares, a planning permit is required to use the office building as a dwelling. Whilst the building is used as an office at this point in time, it was previously used as a dwelling, but does not have existing use rights. Existing use rights expire when the use has been discontinued for a period of two years or more, as is the case here. When considering the change of use of the office to a dwelling, Council officers have determined that this is consistent with the purposes of the zone. The ability of the office function of the business to be moved to the existing shed will allow the use of the current office building to revert to its original use as a dwelling. Further to this, the dwelling is located outside of the Land Subject to Inundation overlay, and raises no issues with the floodplain. The dwelling has more than a 30 metre setback from the Valley Seeds warehouse on the adjoining property, is supplied with appropriate effluent disposal, and has domestic water and electricity supplied. There are no issues with this aspect of the planning application.

As the property is only 18.5 hectares size, the only provision a subdivision can be considered under is a house lot excision. Whilst the property does not contain a dwelling at the moment, the change of use proposal will address this part of the provisions. The subdivision will then create the “house lot” of 12.33 hectares in size. It is intended to relocate the office facilities into the warehouse on the balance lot. The “balance lot” will contain the Valley Seeds complex on a 6.17 hectare parcel, including the packing and storage facilities, and the seed crop area.

The subdivision application must be considered in light of the provisions of the zone, overlay and the House Lot excision policy. While creating lots of less than 40 hectares is not generally

encouraged in the Farming Zone, the house lot excision policy provides parameters under which it can be considered. Essentially, the policy discourages the creation of a de-facto rural living subdivision.

Planning permits have been issued in the past with a restriction on the balance lot which requires a Section 173 Agreement be placed on that lot to not allow the construction and/or use of a building for accommodation. This restriction would be placed on the balance lot for this proposal. When considering both the existing property size (18.5 hectares), and the proposed sizes (12.33 and 6.17 hectares), it could be considered that the existing lot size is already of a size that could be considered fragmented and that further subdivision on its own will not exacerbate this issue, and as the balance lot would not be allowed a dwelling, this would not lead to the concentration or proliferation of dwellings in the area.

It must also be considered that the proposal does not comply with some sections of the house lot excision policy. Specifically, the policy requires that the maximum area for the house lot be 2 hectares, or as near as practicable and that the balance lot be vacant and a minimum of 40 hectares. In order to address this, the size of the house lot, being 12.33 hectares, was determined in part to align the new boundary with an existing drainage easement, and in part to include enough infrastructure (dam, sheds, etc) with the house lot to provide for an ongoing agricultural use. The larger size of the house lot itself, with due consideration to the soil types and water availability, supports the possibility for ongoing agricultural use on this lot.

One of the purposes of the Farming Zone is to encourage the retention of employment and population to support rural communities. The state planning policy framework also includes strategies to support processing infrastructure and rural industries in a manner that will allow enterprises to adjust flexibly to market changes. The application documents advised:

“Valley Seeds and the land...are currently for sale in part or as a whole. The company has three prospective buyers who are prepared to leave the company operating at its current location, but do not want a large piece of land with the business.”

One of the reasons behind the excision is to support a rural industry, with a goal that the sale and development of the business on its own title will potentially allow the retention of approximately 15 local employees, which is supported by the purpose of the Farming Zone. These considerations, on balance with the provisions of the local planning policies, support the approval of the house lot excision.

The existing use of the land for a rural industry would have needed a planning permit. The recent changes to the Farming Zone have allowed Council officers to consider a broader range of uses in the zone, which allows a level of flexibility with the land that otherwise would not have been available. The objector requested in their submission that a restriction be placed on any permit that would restrict the land to only the “as of right” (section 1) uses in the Farming Zone, and that any other use that could apply for a permit be prohibited via a Section 173 Agreement. Council officers have considered this, and it is not considered fair or reasonable, with questions about the legality of such a restriction, to place such a requirement in the permit. Any alternative use within the provisions of the zone would be assessed at time of application upon its merits.

Conclusion:

The established rural industry being operated on the property supports the proposal to separate the dwelling use from the business. With an appropriate restriction on this lot in relation to accommodation, the land will only be able to be used for the existing industrial use or for agricultural purposes, unless a further planning permit application which would be assessed on its merits.

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

11.05-3 Rural Productivity

Objective: To manage land use change and development in rural areas to promote agriculture and rural production.

Strategies:

- Limit new housing development in rural areas, including:
 - Discouraging development of isolated small lots in the rural zones from use for single dwellings, rural living or other incompatible uses.

14.01-2 Sustainable Agricultural land use

Objective: To encourage sustainable agricultural land use.

Strategies:

- Ensure agricultural and productive rural land use activities are managed to maintain long-term sustainable use and management of existing natural resources.
- Support effective agricultural production and processing infrastructure, rural industry and farm-related retailing and assist genuine farming enterprises to adjust flexibly to market changes.

Local Planning Policy Framework

21.04 Agriculture and rural land strategies

Issues:

- Possible incremental effect of rural subdivision and housing on productive agricultural land.
- The use of agricultural land for non-agricultural, rural living or hobby farming purposes.

Strategies and objective:

- 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
- Ensure that any existing of an existing dwelling be directly linked to and required for agricultural use of the land.
- Ensure that any excision of an existing dwelling not create “rural living” style lots, protecting productive rural land, existing rural character and existing rural uses.
- Develop the agricultural economic base through the attraction of value adding agricultural industries.
- Facilitate more intensive and diversified use of rural land for higher value products, including horticulture.
- Facilitate diversification and development of rural land when it can be demonstrated that the economic base of the Shire will be enhanced.

22.01-4 House lot excision

Objectives:

- Ensure that any excision of an existing dwelling protects and maintains the productive agricultural capacity of the land and general area.
- Discourage the fragmentation of rural land into lots that are not capable of productive agricultural and rural use.
- Ensure that small lot subdivisions do not prejudice primary production activities on the land or in the surrounding rural area.
- Ensure that any new lot is provided with an adequate level and standard of infrastructure.

Policy:

It is policy that:

- Any excision of an existing dwelling does not create “rural living” style vacant lots that are used for residential lifestyle rather than productive rural purposes.
- Any excision of land has a relationship with and is required for the continuing operation of the rural and agricultural use of the land.
- Any proposal for a dwelling lot excision be discouraged if the proposal can otherwise be met by the realignment of existing land titles.
- Any proposal for excision is compatible with and will not have an adverse impact on and not reduce the potential for farming and other rural land uses on the land, adjoining land and the general area.
- Any proposal for excision meets the principle of “right to farm” in rural areas, where existing agricultural and rural uses in the area have a right to legally continue.
- Subdivision that is likely to lead to a concentration of lots that would change the general use and character and limit the productive capacity of the rural area be discouraged.
- An adequate distance be maintained around a dwelling within any existing lot to limit impacts of agricultural activity.
- Any excision for an existing dwelling provides:
 - A maximum area of 2 hectares for the lot with the existing house located on it, or if existing buildings and dwelling infrastructure covers a large area, as near as practicable to this area.
 - An area of at least 40 hectares for the vacant balance of land.
 - A minimum setback of 30 metres from the dwelling on the land to be excised from any agricultural activity or rural industry on any adjoining land.

Zoning**35.07 Farming Zone****Purpose:**

- To provide for the use of land for agriculture.
- 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*

- The capability of the land to accommodate the proposed use or development, including the disposal of effluent.
- 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 land uses

- Whether the use or development will support and enhance agricultural production.
- The potential for the use or development to limit the operation or 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 adversely affect the operation and expansion of adjoining and nearby agricultural uses.

- To potential for the proposal to lead to a concentration or proliferation of dwellings in the area and the impact of this on the use of the land for agriculture.

In the Farming Zone, a planning permit is required for the use of the land for a dwelling if the lot is less than 40 hectares, and a planning permit is required to subdivide land, an each lot must be at least 40 hectares. A permit may be granted to create a smaller lot if:

- The subdivision is to create a lot for an existing dwelling. The subdivision must be a two lot subdivision.

Overlays

44.04 Land Subject to Inundation Overlay

Purpose:

- To ensure that development maintains the free passage and temporary storage of floodwaters.
- To ensure that development maintains or improves river and wetland health, waterway protection and flood plain health.

Decision Guidelines:

- Any comments from the relevant floodplain management authority.
- The existing use and development of the land.

In the Land Subject to Inundation Overlay, a permit is required to subdivide land.

RESOLUTION:

Cr J Walsh / Cr C Ruhr

That Council issues a notice of decision to grant a permit for the change of use from an office to a house and a two (2) lot subdivision (house lot excision) at 295 Maroondah Link Highway, Yarck (LOT: 6 LP: 143565, Parish of Molesworth), subject to the following conditions:

- (1) The subdivision must be in accordance with the endorsed plan. This endorsed plan can only be altered or modified with the prior written approval of the Responsible Authority, or to comply with statutory requirements.
- (2) This permit shall expire if all stages of the plan of subdivision hereby permitted are not certified 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 or within six months after such expiry.
- (3) The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities, electricity and gas services to each lot shown on the endorsed plan in accordance with the authority's requirements and relevant legislation at the time.
- (4) All existing and proposed easements and sites for existing or required utility services and roads on the land must be set aside in the plan of subdivision submitted for certification in favour of the relevant authority for which the easement or site is to be created.
- (5) The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to the relevant authority in accordance with Section 8 of that Act.
- (6) The owner of the land must enter into an agreement with:
 - A telecommunications network or service provider for the provision of telecommunications services to each lot shown on the endorsed plan in accordance with the provider's requirements and relevant legislation at the time; and
 - A suitably qualified person for the provision of fibre ready telecommunications facilities to each lot shown on the endorsed plan in accordance with any industry specifications or any standards set by the Australian Communications and Media

Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.

- (7) Before the issue of a Statement of Compliance for any stage of the subdivision under the Subdivision Act 1988, the owner of the land must provide written confirmation from:
- A telecommunications network or service provider that all lots are connected to or are ready for connection to telecommunications services in accordance with the provider's requirements and relevant legislation at the time; and
 - A suitable qualified person that fibre ready telecommunication facilities have been provided in accordance with any industry specifications or any standards set by the Australian Telecommunications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.
- (8) Prior to Certification of the Plan of Subdivision, a report on the effluent disposal system must be prepared by a suitably qualified plumber, and must be submitted to and approved by the Responsible Authority. This report must detail the following:
- (a) Type and location of existing effluent disposal system (s) on site, including tanks and effluent fields.
- (b) Any works required to upgrade the system(s) to comply with the current Environment Protection Authority requirements.
- (9) Prior to the issue of a statement of compliance the effluent disposal systems must be upgraded in accordance with the approved report. Prior to any works for any required upgrades, a Septic Tank Permit must be obtained.
- (10) Prior to the issue of a Statement of Compliance a Section 173 Agreement must be entered into at no cost to Council, which ensures the following:
- The land may not be further subdivided so as to create a smaller lot for an existing dwelling.
 - The balance lot, being proposed Lot 1 on Plan No 18337 (27th November 2013) prepared by Rodney Aujard and Associates, must not be used for the purposes of accommodation and no buildings for accommodation may be constructed on the lot.

The Section 173 Agreement must be either prepared or checked 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.

All fees associated with the preparation or checking of the documentation must be fully paid by the applicant.

VicRoads

- (11) Prior to the issue of a Statement of Compliance the following must be undertaken to the satisfaction of and at no cost of the Roads Corporation (VicRoads):
- (a) The access to Lot 1 must be upgraded in accordance with standard drawing SD2065 Truck Access to Rural Properties Type B
- (b) The informal service road between the accesses of Lot 1 and Lot 2 to reinstate the road reserve.

CARRIED

8.2 INFRASTRUCTURE SERVICES

No further reports.

8.3 CORPORATE SERVICES

8.3.1 *Glenburn Community Centre Section 86 Committee of Management Instrument of Delegation Amendment*

REF: SF/113

(Refer Encl 8.3.1 – Glenburn Community Centre s86 CoM – Instrument of Delegation Amendment)

Purpose:

The purpose of this report is to seek Council's endorsement of amending the Instrument of Delegation for the Glenburn Community Centre Section 86 Committee of Management to facilitate the leasing of part of the land to the CFA.

Recommendation:

That Council:

- 1. Excises the section of land adjacent to the Glenburn Community Centre from the Glenburn Community Centre Committee of Management's Instrument of Delegation; and**
- 2. Endorses the amended Instrument of Delegation for the Glenburn Community Centre Committee of Management (refer Enclosure 8.3.1) coming into force immediately upon the common seal of Council being affixed.**

Background:

Under section 86 of the Local Government Act 1989 Council has appointed the Glenburn Community Centre Committee of Management to control and manage the parcel of land located at 2873 Melba Highway Glenburn. Council resolved at the Ordinary Meeting on 26 February 2014 to lease part of this parcel of land to the Country Fire Authority for the purposes of a new fire station.

The CFA and Council have entered into a lease following the resolution of Council and therefore this land is no longer required to be managed by the Committee of Management.

Council Plan/Strategies:

This issue is consistent with the Council Plan 2013-2017 "Our Environment" objective to engage with relevant communities on the development of community infrastructure and services and the "Our Council" objective to continue to improve our processes to improve efficiency and effectiveness of the organisation.

Legal/Policy Issues:

The Glenburn Community Centre site is managed by the Glenburn Community Centre Committee of Management appointed by Council under Section 86 of the Local Government Act. Council and the CFA are the two parties to the lease, therefore the Committee of Management is no longer required to manage this section of land.

Financial/Resources/Risk

There are no direct risks relating to the amendment of the Glenburn Community Centre Committee of Management Instrument of Delegation to excise the section of land now leased by the CFA.

Discussion:

The Committee of Management has supported the new CFA fire station from the initial stages of the proposal. In recognition of the potential loss of public open space Council has resolved that the CFA transfer its current site to Council ownership after removing the infrastructure on the

site. It is proposed that the land will form part of the management responsibility of the existing Glenburn Community Centre Section 86 Committee of Management.

The Instrument of Delegation outlines the powers under the Act and further powers that a Committee requires in order to manage the facility/ reserve. The Instrument of Delegation specifically maps the area that the Committee of Management is responsible for. The proposed amendment to the Instrument of Delegation at this stage is only to excise the land being leased to the CFA. Once the land currently owned by the CFA is transferred to Council then the Instrument of Delegation will be amended to include the land in consultation with the Committee of Management.

Consultation:

The Committee of Management has been consulted throughout the decision making process and are supportive of the delegation amendments.

Conclusion:

The amending of the Glenburn Community Centre Committee of Management Instrument of Delegation will ensure that the Committee of Management no longer has responsibility over the land that has been leased to the CFA.

RESOLUTION:

Cr C Ruhr / Cr B Magner

That Council:

1. Excises the section of land adjacent to the Glenburn Community Centre from the Glenburn Community Centre Committee of Management's Instrument of Delegation; and
2. Endorses the amended Instrument of Delegation for the Glenburn Community Centre Committee of Management (refer Enclosure 8.3.1) coming into force immediately upon the common seal of Council being affixed.

CARRIED

8.4 CHIEF EXECUTIVE OFFICER

No further reports.

9. SEALING REGISTER

File: 13/6325

<i>File Reference</i>	<i>Date Seal Affixed</i>	<i>Description of Documents</i>	<i>Signatures of Persons Sealing</i>
24/13/1302	8 April 2014	Restoration of the Snobs Creek Road Landslip, Snobs Creek, Vic	Margaret Abbey Margaret Rae

Recommendation:

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

RESOLUTION:

Cr J Walsh / Cr C Challen

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

CARRIED

10. COUNCILLOR PORTFOLIO REPORTS

10.1 LAND USE PLANNING PORTFOLIO

Cr Walsh advised:

- The Yea Structure Plan work under way, community consultation has begun, with a good response from the community.
- The revised Municipal Strategic Statement (MSS) is being drafted and should be available to Council early in May.

10.2 ECONOMIC DEVELOPMENT PORTFOLIO

Cr Challen advised:

- She had attended the Regional Victoria Living Expo, with local business representatives, CEO and Councillors assisting staff at the stand. There were 35 enquirers who left their details and these will be followed up.
- The Destination management Plan draft has received approval from the GRVT Board and the final report will be launched on 19 May at Mitchelton Winery in Nagambie.
- She attended a Murrindindi Inc meeting on 22 April, at which our CEO gave a comprehensive and compelling presentation on the Council Plan strategies for Growing our Rate Base, developing networks for investment opportunities, changes to the Farming Zone, residential development opportunities and other initiatives undertaken by the Council to work with business and community to enhance tourism and business development.
 - The Truck memorial at Rotary Park, Alexandra, is progressing well and already attracting interest and visits.
 - An opportunity for the Visitor Information Centre at Mayrsville to remain accredited and keep its Golden 1 and discussions ensued regarding similar opportunities for the Alexandr and Yea Visitor Information Centres.
 - Anne Leadbeater gave a rundown on the ACT funded Disaster Ready Business Accreditation Program. She has been and will continue working with CFA, SES, DEPI and others and added that this program will be a model for other Shires and potentially other large organisations. It should give Murrindindi a very significant advantage when marketing our region once the project is up and running.
- A Building our Business community Event is planned for 21 May at the Plenty Ranges Arts and Convention Centre. It will be a practical and educational forum for businesses, groups and clubs in Murrindindi who should be encouraged to take up the opportunity to attend.

10.3 INFRASTRUCTURE AND WASTE PORTFOLIO

No report.

10.4 COMMUNITY SERVICES PORTFOLIO

No report.

10.5 CORPORATE SERVICES PORTFOLIO

Cr Ruhr advised:

- Business Services is working feverishly on Budget, Council plan and related documents.

10.6 NATURAL ENVIRONMENT & CLIMATE CHANGE PORTFOLIO

Cr Kennedy, although unable to attend the meeting, provided the following report:

At the latest bi monthly meeting held on April 8 and attended by myself (together with Coordinator Environmental Programs and Environment Officer) all members of the Murrindindi Environment Advisory Committee (MEAC) participated in a Strategic Planning Workshop facilitated by Anne Leadbetter.

The MEAC was founded in 2007, had a revision in December 2010 and the recent review was multi faceted and designed to set in train an Action Plan for the next three years.

Firstly the challenge was to reflect on the past, then to identify the future objectives and shared goals and to assess the available resources, including existing community and organisational resources .

An Action Plan for the future was judged as a key objective especially over the next three years

Key issues to emerge included a desire to assist in shaping the Murrindindi Shire environmental objectives wherever possible by prioritising and lobbying for key environmental projects.

Second in importance was the professional expertise, community experience and knowledge to help guide policy and procedures at a local government level, especially due to the restricted resources now in local government.

The workshop confirmed that MEAC members currently have extensive direct and indirect connections to a significant range of groups and organisations which can contribute to the preparation of a future action plan.

Some of the key issues identified for action over the next three years included the degradation caused by under resourced private and public sectors, global warming, climate change and bushfires, getting involvement by younger fresher minds and addressing the future evolution of environmental issues.

The workshop was an ideal opportunity to refocus the MEAC, to provide for possibly renewal at an organisational level and to work with Council on a diversity of environmental issues.

10.7 MAYOR AND DELEGATED COMMITTEE REPORTS

Cr M Rae provided the following report:

I was an apology for the last meeting as I was attending the Rural Councils' Summit in Nhill. This proved to be a very worthwhile event resulting in enhanced understanding of a number of issues. Our presentation by the CEO was well received. A report has been completed and circulated to Councillors separately.

Since then, as well as the normal range of meetings, I have also:

- Met with the Shadow Minister for Local Government, Richard Wynne, together with Councillor Walsh and the CEO;
- Attended the launch by the Deputy Premier, Peter Ryan, of the Regional Expo 2014 at the Melbourne Convention Centre. Our officers and Councillors were present for the

three days of the Expo in the Exhibition Centre which was very well attended with many enquiries about life in regional and rural areas. Sincere thanks to all those who gave their time and expertise over this important event;

- Conducted a Citizenship Ceremony in these Chambers - this was a very warm and happy occasion for those participating;
- Attended a community meeting to discuss the Yea Structure Plan with Councillor Kennedy, Councillor Walsh and officers;
- Attended the launch of the Mitchell Shire's Advocacy Plan with the General Manager, Infrastructure and Development Services;
- Attended the formal opening of the Flowerdale Fire Station by Minister Kim Wells together with Councillors Derwent, Ruhr and Walsh;
- Participated as part of the panel for the Alexandra Secondary College's Debutante Ball which was held very successfully in the Marysville Community Centre. The debs looked stunning and their partners brushed up extremely well too! Congratulations on a very well run event.

10.8 GENERAL BUSINESS

Nil.

11. MATTERS DEFERRED FROM PREVIOUS MEETING

No matters deferred from previous meeting.

12. MOTIONS FOR WHICH NOTICE HAS PREVIOUSLY BEEN GIVEN

Nil.

13. ASSEMBLIES OF COUNCILLORS

REF: CY13/143

Purpose:

This report presents the records of assemblies of Councillors for the 6 March 2014 to 9 April 2014, for Council to note in accordance with Section 80A of the *Local Government Act 1989 (the Act)*.

Recommendation:

That Council receives and notes the record of assemblies of Councillors for 6 March 2014 to 9 April 2014.

Background:

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

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

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

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

Summary:

Meeting Name / Type	Municipal Emergency Management Planning Committee	
Meeting Date	6 March 2014	
Matters discussed	<ol style="list-style-type: none"> 1. Neighbourhood Safer Places Review 2. MEMPC Review of Plan Process 3. SES – CERA Process Tool 4. Agency Reports 5. Heatwave Plan Review / Discussion 6. Vulnerable Persons Register – Access Register 	
Attendees: Councillors –Cr Derwent	Staff – N Stewart, N McNamara, C Southurst, S McLaurin, J Canny, C Price	
Conflict of Interest disclosures - Nil		

Meeting Name / Type	Councillor Briefing Session	
Meeting Date	19 March 2014	
Matters discussed	<ol style="list-style-type: none"> 1. GRVT Destination Management Plan 2. Proposed Light Fleet Replacement Program 3. Appointment of a Panel of Providers 4. Draft Council Plan Actions 5. Draft Budget 2014-15 6. Draft Fees & Charges 2014-15 	
Attendees: Councillors – Cr Rae, Cr Ruhr, Cr Walsh, Cr Derwent, Cr Magner, Cr Challen	Staff – M Abbey, B Elkington, T Johnson, M Leitinger, M Chesworth, A Bond, M Ellis, J Canny	
Conflict of Interest disclosures - Nil		

Meeting Name / Type	Councillor Pre Meet – Prior to Ordinary Meeting of Council	
Meeting Date	26 March 2014	
Matters discussed	<ol style="list-style-type: none"> 1. Amendment C50 Murrindindi Planning Scheme 2. Community Grants Round 3. Wattle Street and Lawrences Road Development Plans 	
Attendees: Councillors – Cr Derwent, Cr Ruhr, Cr Kennedy, Cr Challen, Cr Walsh, Cr Magner,	Staff – M Chesworth, T Johnson, M Parsons, A Bond, T Carter	
Conflict of Interest disclosures – Nil		

Meeting Name / Type	Councillor Briefing Session	
Meeting Date	2 April 2014	
Matters discussed	<ol style="list-style-type: none"> 1. LGMA Challenge 2. Real Estate Forum 3. Amendment of Kinglake West Development Plan 4. Plant Review 5. Draft Budget 6. Rates – Receivable and Debt Collection 7. Council Plan Review 	

Attendees: Councillors – Cr Rae, Cr Kennedy, Cr Magner, Cr Challen, Cr Walsh	Staff – M Abbey, T Johnson, M Chesworth, B Elkington, S Coller, P Valente, Z Stephens, M Crane, M Parsons, K Girvan, M Leitinger, A Bond, S Mortensen
Conflict of Interest disclosures - Nil	

Meeting Name / Type	Councillor Briefing Session
Meeting Date	9 April 2014
Matters discussed	<ol style="list-style-type: none"> 1. Translation of Residential Zones 2. Emergency Management Processes 3. Hume Region Significant Tracks and Trails Strategy 4. Tender Providers 5. Yea Swimming Pool 6. Status of Services Review Property Sales
Attendees: Councillors –Cr Rae, Cr Kennedy, Cr Challen, Cr Walsh, Cr Magner, Cr Derwent	Staff – M Abbey, M Chesworth, J Canny, M Parsons, C Price, B Elkington, A Bond
Conflict of Interest disclosures - Nil	

RESOLUTION:

Cr C Ruhr /Cr C Challen

That Council receives and notes the record of assemblies of Councillors for 6 March 2014 to 9 April 2014.

CARRIED**14. URGENT BUSINESS**

No urgent business raised.

RESOLUTION:

Cr C Ruhr / Cr J Walsh

That the meeting be closed to the public pursuant to s.89(2)(h) of the *Local Government Act 1989* due to matters which the Council or special committee considers would prejudice the Council or any person.

CARRIED

The meeting closed to the public at 6.43 pm.

RESOLUTION:

Cr C Ruhr / Cr C Challen

That the meeting re-open to the public.

CARRIED

The meeting re-opened to the public at 6.48 pm.

In accordance with the confidential Council resolutions the Chair, Mayor Margaret Rae, released the following resolutions:

15.3 APPOINTMENT OF A PANEL OF PROVIDERS FOR ARCHITECTURAL SERVICES, MINOR CIVIL WORKS AND HUMAN RESOURCE SERVICES

REF: CONT13/3, CONT13/6, CONT13/13

RESOLUTION:

Cr J Walsh / Cr C Ruhr

That Council appoints the following suppliers to the appropriate panel of providers for Architectural Services, Minor Civil Works and Human Resource Services for 3 years from 1 July 2014.

1. Architectural Services Panel
 - Antarctica Group
 - Detail 9 Architects
 - Henderson & Lodge
 - John Traikos Architects
 - Millar & Merrigan

2. Minor Civil Works Panel
 - Diamond Valley Excavations
 - Jotomex
 - Watson Plant Hire
 - North Central Construction
 - Fineblade Concreting

3. Human Resource Services Panel
 - Horner
 - Regent Recruitment
 - Work Force Extensions

CARRIED**15.4 TENDER 14/2 KERB RECONSTRUCTION, UNDERGROUND DRAINAGE AND PAVEMENT WORKS BON STREET & GREEN STREET, ALEXANDRA**

File No: 52/03/79

RESOLUTION:

Cr C Ruhr / Cr C Challen

That Council

1. Accept the tender from Diamond Valley Excavations for the lump sum price of three hundred and twenty eight thousand and four hundred and twenty seven dollars (\$328,427.00) excluding GST.
2. Authorise the signing and sealing of contract number 14/2 Kerb Reconstruction, Underground drainage and Pavement Works Bon Street & Green Street Alexandra.
3. Affix the Council seal to this contract.

CARRIED

There being no further items of Business, the Chairperson declared the meeting closed at 6.49 pm.

CONFIRMED THIS

CHAIRPERSON
