



MINUTES
of the
ORDINARY MEETING OF COUNCIL
held on
WEDNESDAY 27 JANUARY 2016
in the
THORNTON HALL
commencing at
6.00 pm

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1. PRAYER, OATH & RECONCILIATION STATEMENT

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

2. APOLOGIES AND REQUESTS FOR LEAVE OF ABSENCE

REF: SF/306

There were no apologies or requests for leave of absence tendered.

Present:

Crs M Rae (Chair), A Derwent, C Challen, J Kennedy, J Walsh, E Lording, C Healy

In attendance:

Chief Executive Officer: Margaret Abbey

General Manager Corporate and Community Services: Michael Chesworth

General Manager Infrastructure and Development: Elaine Wyatt

Manager Business Services: Andrew Bond

Manager Communications Library & Customer Services: Jacqui Rabel

Manager Development Services: Shivaun Brown

Statutory Planning Co-ordinator: Karen Girvan

Coordinator Communications, Media & Digital Services: Trudi Ackerman

Governance Officer: Audrey Kyval

3. CONFIRMATION OF MINUTES

➤ Minutes of the Ordinary Meeting of Council held on 16 December 2015.

Officer Recommendation:

That the Minutes of the Ordinary Meeting of Council held on 16 December 2015 be confirmed.

RESOLUTION:

Cr J Kennedy / Cr C Challen

That the Minutes of the Ordinary Meeting of Council held on 16 December 2015 be confirmed.

CARRIED

4. DISCLOSURES OF INTEREST OR CONFLICT OF INTEREST

REF: SF/783

Nil

The Chairperson declared Public Participation Time open and invited questions from the Gallery.

5. PUBLIC PARTICIPATION TIME**5.1 QUESTIONS OF COUNCIL**

Two questions were received from Jack Russell.

Question 1 By what means does Council distribute my correspondence to all councillors?
Such as:

- a) email
- b) pigeon hole
- c) hand delivered
- d) on view in Mayor's Office (or in combination)

Note - Council confirmed that my requests marked cc to all Councillors was being undertaken at August 2015.

Question 2 What has my riding Councillor, Mr John Kennedy, received as my cc in the past month?

The Chief Executive Officer responded:

Question 1 All of the correspondence from Mr Russell is made available to Councillors in various means including at meetings and briefings.

Question 2 All of Mr Russell's correspondence has been made available to the ward councillor.

5.2 OPEN FORUM

REF: SF/130

Jack Russell spoke about the contract status of the Murrindindi Shire Council's Chief Executive Officer. Mr Russell claims that there are insufficient communications between the Murrindindi Shire Council officers, Councillors and the community. Mr Russell spoke against the intention to make an variation application to the rate cap (Item 6.5 on the agenda).

Ken Millar spoke about concerns that the intensive farming practices in Hall Flat Road may still be occurring/or may occur in the near future. The Chief Executive Officer advised that responses would be provided to Mr Millar's questions.

Richard Stevenson spoke in support of the proposed rezoning and subdivision in Yarck (Item 6.2 on the agenda).

5.3 PETITIONERS SPEAKING TO PETITIONS

REF: SF/132

Nil

The Chairperson closed Public Participation Time.

6. OFFICER REPORTS

6.1 2015/148 – DOVE LANE DWELLING

Ref: 2015/148
 Land: 23 Dove Lane KORIELLA 3714
 Proposal: Construction and use of a dwelling, carport, farm shed and associated earthworks
 Applicant: H E Moss
 Zoning: Rural Living
 Overlays: None
 Attachments: 1/2015/148/1 – 23 Dove Lane KORIELLA 3714 – Application Documents (*refer Attachment 6.1 – TRIM 15/66469*)
 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, carport, farm shed and associated earthworks at 23 Dove Lane, Koriella.

Officer Recommendation:

That Council issue a notice of decision to grant a permit for the construction and use of a dwelling, carport, farm shed and associated earthworks at 23 Dove Lane, Koriella (Lot: 1 PS: 718580B, Parish of Alexandra), subject to the following conditions:

1. Prior to the commencement of any earthworks three (3) copies of a plan or plans and report shall be submitted and approved by the Responsible Authority. Such plans must be in accordance with the updated Internal Road Construction Plans submitted with the application, but amended to show:
 - a. Geotechnical report confirming that the 1:1 batter slope is appropriate and whether stabilisation works need to be carried out to maintain this proposed batter slope
 - b. Information on how the batters will be finished and stabilised
 - c. Passing lanes at appropriate locations in accordance with CFA standards
 - d. Cut and fill areas of all sections of the driveway
 - e. Curvature of the driveway (i.e radius)
 - f. An extended plan view to incorporate all affected buildings located on the lower side in order to assess the impact of stormwater concentration and possible erosion
 - g. A minimum 5.0 m width for the driveway in the bends
 - h. Cut off drain on the eastern boundary of the adjacent properties at 80 & 100 Edwards Road
 - i. Sediment control measures, both during construction and post construction.When approved these plans shall be endorsed and form part of this permit.
2. The layout of the site and the size and type of the proposed buildings, including the materials of construction as well as driveway works as shown on the endorsed plans shall not be altered or modified without the consent in writing of the Responsible Authority.
3. 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.
4. 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.
5. All sewage and sullage waters shall be treated in accordance with the requirements of the Environment Protection Authority and 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.
6. Prior to the commencement of any works, including site works, the applicant shall obtain a septic tank permit from Council.
7. At the time of the development all onsite wastewater and stormwater management shall be in accordance with the recommendations outlined within the Land Capability Assessment prepared by Paul Williams and Associates (Report No. A110803).

8. Appropriate steps must be taken to retain all silt and sediment on site during the construction phase to the satisfaction of the Responsible Authority, in accordance with the sediment control principles outlined in *Construction Techniques for Sediment Pollution Control* (EPA, 1991) and to the satisfaction of the Responsible Authority.
9. 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.
10. The proposed shed must not contain facilities that will allow the building to be used for the purposes of accommodation.
11. Before the start of the use allowed, the area set aside for landscaping, as shown on the endorsed plan, must be planted with trees and shrubs native to the local area. This planting must be done in a manner that will ensure that the visual impact of the driveway is screened from adjoining properties. The planting and regeneration areas must then be maintained to the satisfaction of the Responsible Authority, and must not be used for any other purpose except with the prior written approval of the Responsible Authority.
12. Before building construction work commences the driveway access works must be completed to the satisfaction of the Responsible Authority.

NOTATIONS:

1. This permit does not authorise the commencement of any building construction works. Before any such development may commence, the applicant must apply for and obtain appropriate building approval.
2. A site assessment for determining the bushfire attack level (BAL) in relation to the construction of a building has not been considered as part of this planning permit application.

Proposal:

This application is for the construction and use of a dwelling, carport, farm shed and earthworks associated with the construction of a driveway at 23 Dove Lane, Koriella. The dwelling and shedding are to be located on the western side of the property. The driveway is to come from Dove Lane in a north/south direction for approximately 400 metres before winding back around the hill to the house site.

The Land & Surroundings:

The land is 5.9 hectares in area and accesses from Dove Lane. This lot is stage one of a five stage Rural Living Zone subdivision with the other four lots in stage two being recently completed. The formation of Dove Lane and also a crossover into the property have been upgraded as part of the subdivision works.

The lot consists of a narrow neck of land that contains the driveway and the lot then opens up with a hill being located in the centre of the larger area. The land slopes from the top of the hill to a gully on the western side of the lot, slopes down to the east towards the two adjacent dwellings located on Edwards Road and levels out on Edwards Road. The contour of the hill is 254 metres with the abutting houses being located at 211 metres and 217 metres which is a height difference of 43 and 37 metres. The boundary fence between the two house lots and the subject land is on a contour approximately 15 metres above the height of the dwellings and approximately 60 metres distance.

There is some mature existing vegetation on the land and an area of regeneration between the proposed driveway and the boundary fence.

Referrals:

The application was referred internally to Council's Environmental Health Unit and Development Engineer. No objections were received.

Consultation:

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

- the location of the driveway is on unstable land (2 submitters);
- the driveway will concentrate flow of runoff from the property to adjoining properties (2 submitters);
- the cut will be unsightly and will affect their view lines (1 submitter);
- adjoining dwellings will be subject to vehicle noise from the driveway (1 submitter);
- light spill from vehicles will impact on amenity at night (1 submitter);
- dust and dirt will travel from the site to adjoining properties (1 submitter);
- removal of existing vegetation will further destabilise the hill (1 submitter);
- the driveway should go up the existing track (2 submitters);
- the house site will be overlooking the adjoining house (1 submitter); and
- the nature corridor should be protected (1 submitter).

The submissions were provided to the applicant who advised that:

- the driveway plans provided were not as accurate as they could be, and new plans were provided;
- the driveway will not require the removal of vegetation;
- the driveway will be approx 7m higher and 100 metres away from the adjoining house, so light spill and dust will be negligible and screened by native vegetation;
- additional screen planting is proposed along the boundary;
- the nature corridor will be retained and additional plantings undertaken;
- the driveway will be constructed by appropriately qualified people, with water drainage and erosion being considered appropriately with the design;
- cuts and batters will be graded and stabilised to minimise movement and erosion; and
- the objector has misunderstood the location of the dwelling, and it is located on the other side of the ridge and will not overlook.

The response was sent to the submitters, who did not withdraw.

The applicant provided plans of the driveway, which were assessed by Council's Development Engineer and provided to the submitters.

The objections were still not withdrawn.

Newspaper / Other	Publishing/Consultation Date(s)
<i>Mail out: Notice to nearby and adjoining owners</i>	17 July 2015

Planning Considerations:

The property is in the Rural Living Zone and has no overlays on the site. The use of the land for a dwelling and associated shedding addresses the purpose of the zone for a residential use in a rural environment. The environmental gains achieved with the subdivision of the land, being the natural corridors and plantings, will be retained and expanded with the development of a dwelling on this allotment.

The house site is on the flat area on top of the hill and while it will be visible to properties to the south east, there are no main viewing points in close proximity and the house is designed to be low lying and consequently less intrusive visually.

The main issue that needs consideration for this dwelling, and is the main focus of the objections, is the location and works associated with the construction of the driveway.

The applicant has advised that their preference is the alignment shown in the application documents and has provided engineering plans detailing the extent of cut and fill, culverts and landscaping for the site. They have been assessed by Council's Development Engineer, who advised that further plans and information would be required and this has been included in proposed conditions.

When considering the landscape impact of the proposed driveway works the *Rural Living Development Guidelines, Murrindindi Shire, March 2004* require the consideration of the broader landscape. Due to the location of this allotment, being on Dove Lane, and off Edwards Road, the main views for the cut of the driveway will be from the properties below and will not be noted in the broader landscape. The height of the driveway above the dwellings to the east will reduce the impact considerably with both of the objectors' houses being approximately 80 metres distance from the proposed driveway and between 15 to 20 metres below the level of the driveway.

Landscaping proposed on the site will allow existing regeneration to be retained as well as additional plantings. The applicant has advised that they will be able to undertake these works and have provided a proposed landscape plan to support this.

Conclusion:

The use of the land for a dwelling is an appropriate proposal for the land at 23 Dove Lane, Koriella. The issue of the driveway can be addressed with an appropriate engineering response and landscaping.

Legal/Policy Issues:

State Planning Policy Framework

16.02 Rural Residential Development

Objective: To identify land suitable for rural living and rural residential development.

Strategies:

- Ensure planning for rural living avoids or significantly reduces adverse economic, social and environmental impacts by:
 - Protecting existing landscape values and environmental qualities such as water quality, native vegetation, biodiversity and habitat.

Local Planning Policy Framework

21.07 Serviced Townships Strategies

Strategies and objectives;

- Provide rural living opportunities in proximity to established townships

Implementation:

- Using the Rural Living Development Guidelines, Murrindindi Shire, March 2004 to provide sustainable rural living subdivision, design and development that implements the Goulburn Broken Regional Catchment Strategy, November 2003.

22.01-1 Rural Living

Objectives: To ensure all subdivision, use and development in the Rural Living Zone are consistent with the *Rural Living Development Guidelines, Murrindindi Shire, March 2004*.

22.03-2 Effluent Disposal and Water Quality

Policy Basis: Development that cannot be serviced by a reticulated sewerage system should be designed, sited and developed to prevent pollution of land and water resources.

Zoning

35.03 Rural Living Zone

Purpose:

- To provide for residential use in a rural environment
- To protect and enhance the natural resources, biodiversity and landscape and heritage values of the area.

Decision Guidelines:

General Issues:

- The capability of the land to accommodate the proposed use or development
- Whether the site is suitable for the use or development and whether the proposal is compatible with adjoining and nearby land uses.

Environmental Issues;

- The impact on the natural physical features and resources of the area and in particular any proposal on soil and water quality and by the emission of noise, dust and odours
- The impact of the use or development on the flora, fauna and landscape features of the locality.

Design and Siting Issues:

- The impact on the character and appearance of the area or features of architectural, historic or scientific significance or of natural scenic beauty or significance.

A planning permit is required for the construction and use of a dwelling in the Rural Living Zone.

RESOLUTION:

Cr C Healy / Cr J Walsh

That Council issue a notice of decision to grant a permit for the construction and use of a dwelling, carport, farm shed and associated earthworks at 23 Dove Lane, Koriella (Lot: 1 PS: 718580B, Parish of Alexandra), subject to the following conditions:

- 1. Prior to the commencement of any earthworks three (3) copies of a plan or plans and report shall be submitted and approved by the Responsible Authority. Such plans must be in accordance with the updated Internal Road Construction Plans submitted with the application, but amended to show:**
 - a. Geotechnical report confirming that the 1:1 batter slope is appropriate and whether stabilisation works need to be carried out to maintain this proposed batter slope**
 - b. Information on how the batters will be finished and stabilised**
 - c. Passing lanes at appropriate locations in accordance with CFA standards**
 - d. Cut and fill areas of all sections of the driveway**
 - e. Curvature of the driveway (i.e radius)**
 - f. An extended plan view to incorporate all affected buildings located on the lower side in order to assess the impact of stormwater concentration and possible erosion**
 - g. A minimum 5.0 m width for the driveway in the bends**
 - h. Cut off drain on the eastern boundary of the adjacent properties at 80 & 100 Edwards Road**
 - i. Sediment control measures, both during construction and post construction.**

When approved these plans shall be endorsed and form part of this permit.

2. The layout of the site and the size and type of the proposed buildings, including the materials of construction as well as driveway works as shown on the endorsed plans shall not be altered or modified without the consent in writing of the Responsible Authority.
3. 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.
4. 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.
5. All sewage and sullage waters shall be treated in accordance with the requirements of the Environment Protection Authority and 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.
6. Prior to the commencement of any works, including site works, the applicant shall obtain a septic tank permit from Council.
7. At the time of the development all onsite wastewater and stormwater management shall be in accordance with the recommendations outlined within the Land Capability Assessment prepared by Paul Williams and Associates (Report No. A110803).
8. Appropriate steps must be taken to retain all silt and sediment on site during the construction phase to the satisfaction of the Responsible Authority, in accordance with the sediment control principles outlined in *Construction Techniques for Sediment Pollution Control* (EPA, 1991) and to the satisfaction of the Responsible Authority.
9. 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.
10. The proposed shed must not contain facilities that will allow the building to be used for the purposes of accommodation.
11. Before the start of the use allowed, the area set aside for landscaping, as shown on the endorsed plan, must be planted with trees and shrubs native to the local area. This planting must be done in a manner that will ensure that the visual impact of the driveway is screened from adjoining properties. The planting and regeneration areas must then be maintained to the satisfaction of the Responsible Authority, and must not be used for any other purpose except with the prior written approval of the Responsible Authority.
12. Before building construction work commences the driveway access works must be completed to the satisfaction of the Responsible Authority.

NOTATIONS:

1. This permit does not authorise the commencement of any building construction works. Before any such development may commence, the applicant must apply for and obtain appropriate building approval.
2. A site assessment for determining the bushfire attack level (BAL) in relation to the construction of a building has not been considered as part of this planning permit application.

CARRIED

6.2 PROPOSED REZONING AND SUBDIVISION – YARCK – C58

REF: SF/2067

Attachments: Explanatory Report (refer to Attachment 6.2a – TRIM 16/735), Site Analysis Plan (refer to Attachment 6.2b – TRIM 16/734), Planning Report (refer to Attachment 6.2c – TRIM 16/733), Proposed Permit (refer to Attachment 6.2c – TRIM 16/560), Proposed Subdivision (refer to Attachment 6.2d – TRIM 16/548).

Locality Plan:***Purpose:***

The purpose of this report is to seek a Council resolution to:

1. Request authorisation from the Minister for Planning to prepare Amendment C58 and proposed planning permit as a combined amendment and permit.
2. When authorised, exhibit the amendment and proposed planning permit to:
 - rezone land from Rural Living to Low Density Residential;

- alter the schedule of the Low Density Residential Zone in order to limit minimum subdivision size to 1 hectare;
- alter the schedule of the Rural Living Zone to a minimum lot size of 2 hectares; and
- concurrently approve a planning permit for an eight lot subdivision in the proposed Low Density Residential land.

Officer Recommendation:

That Council:

1. Request under Section 8A (2) and (3) of the *Planning and Environment Act 1987* that the Minister for Planning authorise Murrindindi Shire Council to prepare Amendment C58 to the Murrindindi Planning Scheme as a combined permit and amendment under Section 96A of the *Planning and Environment Act 1987*;
2. Notify the Minister for Planning that when it exhibits Amendment C58 and proposed planning permit, Murrindindi Shire Council intends to give full notification of the amendment under Section 96C of the *Planning and Environment Act 1987* for a minimum statutory exhibition period of one month; and
3. When authorised by the Minister for Planning, exhibit Amendment C58 and proposed planning permit to the Murrindindi Planning Scheme under Section 96C of the *Planning and Environment Act 1987*.
4. Instruct Council officers to investigate the use and future management of the land shown on site as Linton Lane.

Background:

A proposal has been received for a combined amendment to the Murrindindi Planning Scheme and a permit to:

- rezone land from Rural Living to Low Density Residential;
- alter the schedule of the Low Density Residential Zone in order to limit minimum subdivision size to 1 hectare;
- alter the schedule of the Rural Living Zone to a minimum lot size of 2 hectares; and
- concurrently approve a planning permit for an eight lot subdivision in the proposed Low Density Residential land.

A Council resolution is required to seek authorisation from the Minister for Planning to prepare the amendment, and when authorised, to exhibit the amendment and proposed planning permit.

When approval has been received and the amendment exhibited any submissions will be referred back to Council for either abandonment of the amendment, adoption of the amendment or referral to a panel hearing.

The proposed amendment covers three parcels of land as follows:

- Site 1 is 10.2 hectares in area and is currently zoned Rural Living. The proposal is to rezone this land to Low Density Residential and amend the Schedule to the zone to limit the minimum lot size to 1 hectare. This land is located at the end of Yarck Village Place and will require an extension of the road as part of any approved subdivision.
- Site 2 currently consists of two parcels of land that are zoned Rural Living. The proposal is to retain the zoning and amend the Schedule to the zone to limit the minimum lot size to 2 hectares.

The planning system allows an opportunity under Section 96A of the *Planning and Environment Act 1987* to make combined applications for both a planning scheme amendment and a planning permit. The intent of this combined permit/amendment process is to provide an integrated approach to both amending the scheme and approving a specific proposal, providing only one exhibition process and review opportunity. The combined procedure follows the planning scheme amendment process, not the application for planning permit process. The proposal is therefore exhibited as an amendment, with the review process for hearing unresolved submissions being a planning panel, not VCAT.

In this instance a permit with appropriate conditions for an eight lot subdivision of the proposed Low Density Residential land at site 1 has been drawn up after consultation with the relevant authorities and will be exhibited as part of the amendment.

A planning permit has previously been granted for the subdivision of the land at site 2 (Rural Living) into 11 lots. This subdivision is currently in progress and the road construction works have commenced. This road intersects with Yarck Village Place at the midway point of the road at an existing road reserve located between 25 and 41 Yarck Village Place. A change in the schedule will potentially allow the further subdivision of each of the 11 lots into two.

Currently the minimum lot size for Rural Living Zoned land varies throughout the shire. In Kinglake West the minimum is 2 hectares while the remainder is a minimum of 4 hectares and an average of 6 hectares. The Yea Structure Plan amendment proposes to reduce the minimum lot size of selected Rural Living land in Yea to 2 hectares.

Council Plan/Strategies:

The proposed amendment is consistent with the Our Environment goal in the Murrindindi Shire Council Plan 2013-2017 3rd Year Review, specifically in relation to the strategic objectives and directions relating to Planning for Urban Growth and implementing ongoing changes to the Murrindindi Planning Scheme.

The proposed amendment will also support the local community by facilitating further development options.

Legal/Policy Issues:

There are no legal or policy issues associated with the proposal. Amendment C58 does not propose any changes to the Local Planning Policy Framework.

Financial/Resources/Risk:

The proponent is required to pay prescribed fees for the application for the combined permit/amendment as well as any panel hearing costs, should that be required.

Discussion:

The proposed amendment land is located to the east of Yarck with access to the land via the existing road network from Wrights Road into Yarck Village Place. No extension of the road network will be required within the Rural Living area beyond the road that is currently under construction. Yarck Village Place will need to be extended into the Low Density Zone area by 250 metres to provide access to the proposed eight lots. There is a pedestrian and emergency vehicle access via the rail trail land directly to the Maroondah Highway.

The existing development at Yarck Village Place consists of 16 lots varying in size from 5,000 square metres to 1.2 hectares. These lots were created in 2004 and all of them have dwellings constructed on them with the last house being constructed in 2015.

Nine of the 11 lots currently being subdivided in the Rural Living zoned land are between 4 and 5.8 hectares in area. The remaining two lots are 10 and 11 hectares in area. The topography of these two lots would make subdivision of each into more than two lots difficult. There is therefore a potential increase in the Rural Living land of 11 lots with a change to the schedule.

The application is split into two components with one being the rezoning and schedule amendments to the lot sizes, the other component is the planning permit application documents that include a land capability assessment, traffic impact assessment report and a native vegetation assessment. These documents support the subdivision development.

Amendment C54 which updates the Local Planning Policy Framework (LPPF) is currently waiting on gazettal with the Minister for Planning and has been through a panel process and is supported by the panel report. The proposed changes to the LPPF include the objective to facilitate further housing development in and around townships with established communities and services. Specifically this includes as a strategy to *provide land and housing choice and diversity around established townships through the provision of areas zoned Low Density Residential and Rural Living in proximity to established townships and settlements.*

Consultation:

In order to obtain the appropriate conditions on the proposed planning permit, the proponent has consulted with all relevant referral authorities. There has been no consultation with the community at this stage.

Once authorised by the Minister for Planning the amendment will go on exhibition for a period of 1 month and will be extensively advertised both in the local paper and by mail out to nearby owners. The amendment will also be redistributed to all relevant referral authorities and to prescribed ministers.

Conclusion:

This amendment will facilitate further housing development in close proximity to the township of Yarck by providing varying lot sizes with easy access to an established community. Once consultation has occurred a further decision of Council will be required in order to determine whether the amendment will proceed and also whether any changes are required.

RESOLUTION:

Cr C Challen / Cr J Kennedy

That Council:

- 1. Request under Section 8A (2) and (3) of the *Planning and Environment Act 1987* that the Minister for Planning authorise Murrindindi Shire Council to prepare Amendment C58 to the Murrindindi Planning Scheme as a combined permit and amendment under Section 96A of the *Planning and Environment Act 1987*;**
- 2. Notify the Minister for Planning that when it exhibits Amendment C58 and proposed planning permit, Murrindindi Shire Council intends to give full notification of the amendment under Section 96C of the *Planning and Environment Act 1987* for a minimum statutory exhibition period of one month; and**
- 3. When authorised by the Minister for Planning, exhibit Amendment C58 and proposed planning permit to the Murrindindi Planning Scheme under Section 96C of the *Planning and Environment Act 1987*.**
- 4. Instruct Council officers to investigate the use and future management of the land shown on site as Linton Lane.**

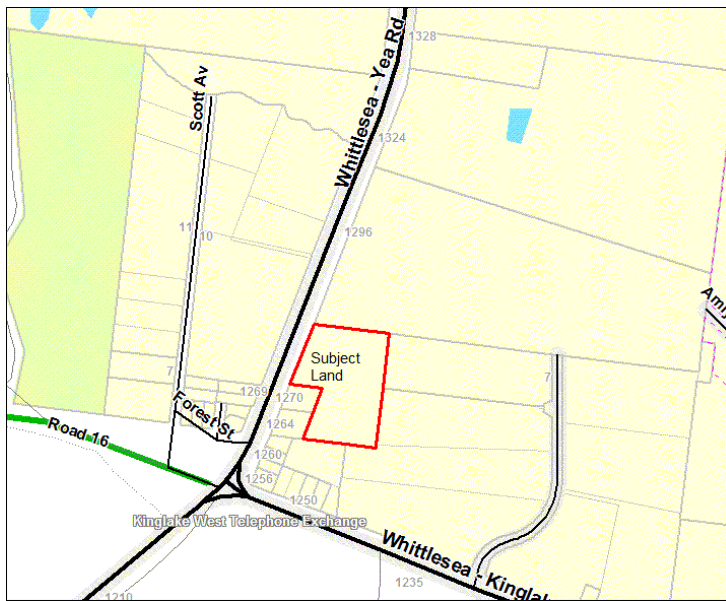
CARRIED

6.3 AMENDMENT C57, PROPOSED REZONING AND SERVICE STATION, 1274 WHITTLESEA – YEA ROAD, KINGLAKE WEST

REF: SF/2321

Attachments: Proposed C57 Explanatory Report (refer to Attachment 6.3a – TRIM 15/62670), Proposed C57 map change (refer to Attachment 6.3b – TRIM 15/52683, 15/52687), Proposed Planning Permit (refer to Attachment 6.3c – TRIM 16/1338), Plans (refer to Attachment 6.3d – TRIM 15/50576, 15/50577)

Locality Plan



Purpose:

To seek a Council resolution to:

1. Request authorisation from the Minister for Planning to prepare Amendment C57 and proposed planning permit as a combined amendment and permit.
2. When authorised, exhibit the amendment and proposed planning permit to rezone 1274 Whittlesea – Yea Road, Kinglake West to rezone the land from Rural Living to Township and facilitate the use and development of the land for a service centre and associated facilities.

Officer Recommendation:

That Council:

1. Request under Section 8A (2) and (3) of the *Planning and Environment Act 1987* that the Minister for Planning authorise Murrindindi Shire Council to prepare Amendment C57 to the Murrindindi Planning Scheme as a combined permit and amendment under Section 96A of the *Planning and Environment Act 1987*;
2. Notify the Minister for Planning that when it exhibits Amendment C57 and proposed planning permit, Murrindindi Shire Council intends to give full notification of the amendment under Section 96C of the *Planning and Environment Act 1987* for a minimum statutory exhibition period of one month; and
3. When authorised by the Minister for Planning, exhibit Amendment C57 and proposed planning permit to the Murrindindi Planning Scheme under Section 96C of the *Planning and Environment Act 1987*.

Background:

A proposal has been received for a combined amendment to the Murrindindi Planning Scheme and a planning permit to facilitate the use and development of a service centre and associated facilities at land located at 1274 Whittlesea Yea Road.

The land, being 2 hectares in size, adjoins and lies to the north of the existing Township Zone applying to the Kinglake West township. The lot fronts the Whittlesea-Yea Road and was created as part of an eight lot Rural Living subdivision. All of the other lots are accessed via a new road from the Whittlesea-Kinglake Road.

The proposed amendment comprises:

- rezoning of land from Rural Living to Township; and
- the removal of the Development Plan Overlay from the land

The proposed planning permit comprises the use and development of:

- a service centre with fuel bowsers, convenience store, food outlets and post office

The planning system allows an opportunity under Section 96A of the *Planning and Environment Act 1987* to make combined applications for both a planning scheme amendment and a planning permit. The intent of this combined permit/amendment process is to provide an integrated approach to both amending the scheme and approving a specific proposal, providing only one exhibition process and review opportunity. The combined procedure follows the planning scheme amendment process, not the application for planning permit process. The proposal is therefore exhibited as an amendment, with the review process for hearing unresolved submissions being a planning panel, not VCAT.

The proposed explanatory report for the amendment is attached (Attachment 6.3a), as are the map changes which show the proposed zoning as Township and the deletion of the Development Plan Overlay (Attachment 6.3b).

Council Plan/Strategies:

The proposed amendment is consistent with the Our Environment goal in the Murrindindi Shire Council Plan 2013-2017 3rd Year Review, specifically in relation to the strategic objectives and directions relating to Planning for Urban Growth and implementing ongoing changes to the Murrindindi Planning Scheme.

The proposed amendment also supports business growth by creating the opportunity to broaden the range of business development opportunities and attract new business into the Shire.

Legal/Policy Issues:

There are no particular legal or policy issues associated with the proposal.

Financial/Resources/Risk:

The proponent is required to pay prescribed fees for the application for the combined permit/amendment as well as any panel hearing costs, should that be required.

Discussion:

The proposal is on land to the north and adjoining the existing Kinglake West township, proposing an extension to the existing Township Zone applying to the township. The proposal would provide a minor extension to the township and facilitate an additional commercial activity in the area.

The *Kinglake Ranges, Flowerdale and Toolangi Plan and Design Framework*, February 2014 (the 'KFT Plan') is an adopted strategic planning document of Council. An amendment is proposed to be gazetted on 21 January 2016 which will amend the Local Planning Policy Framework and also incorporate the KFT Plan and its Implementation Plan as reference documents into the Murrindindi Planning Scheme.

Section 3 of the KFT Plan specifically relates to Kinglake West/Pheasant Creek and includes written provisions as well as a plan.

The first paragraph of this section states "*The framework contemplates the growth already provided for in the Murrindindi Planning Scheme in Kinglake West/Pheasant Creek proceed with no further rezoning of land for urban development.*" The plan itself shows the existing Township and Rural Living Zones and includes a delineated activity node as an indicative circle with the subject land being partly within this area. This plan is also included in clause 21.08 figure 2 of the Murrindindi Planning Scheme proposed to be gazetted on 21 January 2016.

Notwithstanding the above, the proposal generally complies with the strategies of the KFT Plan in that it provides for economic growth, provides transitional uses and developments between urban and rural uses and supports a local community by providing for a potential core service.

There is no existing zoned land within the current Kinglake West Township or Pheasant Creek activity node areas that includes a frontage to a main road with the land capability and capacity to accommodate this proposed development. The strategic basis for this amendment relates specifically to allowing the proposed use of the land and accordingly the explanatory report includes a provision as part of the amendment for a Section 173 Agreement. This Agreement would ensure that the land can only be used as a service centre and for related purposes and also ensuring that no future subdivision of this land can occur.

The previous general store and post office was located on the corner of Whittlesea-Yea Road and Forest Street. The building was destroyed in the 2009 bushfires and has since been purchased by the State Government as part of the Bushfire Buyback Program. This land is being treated separately from other buyback lots and the future use can include a commercial development, however no accommodation can be included as part of any development. Given the limited size of the lot there is more potential to include this type of use into an integrated development than at the previous site.

The previous general store and fuel outlet on the corner of Pheasant Creek Road and the Whittlesea-Kinglake Road, approximately 4.5km from Kinglake West, has not yet been rebuilt. This land is also in the Rural Living Zone and was included in Clause 52.03 (Specific Sites and Exclusions) of the Murrindindi Planning Scheme as a Ministerial amendment in 2012. This allows redevelopment of the site subject to specific conditions without rezoning the land. This proposed use will eventually expire if the development does not occur within a reasonable time frame.

The subject land at 1274 Whittlesea-Yea Road is undulating and consequently will require a retaining wall as part of the development. The site is large enough to sustain the proposal and treat all effluent onsite. The access/egress from the Whittlesea-Yea Road has been approved by VicRoads and the site is set back enough to allow for adequate landscaping and buffering from neighbouring properties as well as from the main road where the frontage is well vegetated and screened.

The pre-application consultation with relevant referral authorities included the preparation of a Traffic Impact Assessment Report and a bushfire management statement, which have been consented to by VicRoads and the CFA respectively.

Consideration of the proposal internally included consideration of a land capability assessment which resulted in minor changes to the plans and the removal of a proposed car wash due to environmental constraints on the site.

The proposed removal of the Development Plan Overlay 6 (Rural Living Zone) (DPO6) from the land is considered to be appropriate. While the subject land has been approved in accordance with an existing approved development plan for Kinglake West, the development plan is no longer required given that the lot is existing, it will no longer be zoned Rural Living and further use and development of the land may be guided through the proposed planning permit. Once the DPO6 is removed from the land, the approved development plan will no longer legally apply to the subject land.

Attachment 6.3c sets out the draft planning permit including 42 conditions that deal with issues such as road construction, vegetation removal, landscaping and parking. Attachment 6.3d is the site plan and elevation plan of the proposed development.

The officer recommendation is in three parts, the first part is to seek authorisation from the Department of Environment Land Water and Planning (DELWP) to exhibit the amendment and permit, the second part confirms the notification that will be undertaken for the exhibition and the third part is to exhibit the amendment once it is authorised.

Consultation:

A minimum one month statutory exhibition period will be undertaken for the combined permit/amendment, comprising notice to affected landowners and relevant agencies, public notice in local press and notice to prescribed ministers. This proposed notification provides a legal right to comment on the proposed permit/amendment and have a submission considered by Council, and if Council cannot meet unresolved submissions, have a submission considered by a planning panel.

Conclusion:

Amendment C57 and the proposed draft planning permit been prepared as an integrated proposal to rezone 1274 Whittlesea – Yea Road, Kinglake West to Rural Living, remove an unnecessary overlay from the land and facilitate the use and development of a service centre and associated facilities.

The proposal is supported by pre-consultation with relevant authorities, including VicRoads. Exhibition of the proposal will allow a formal opportunity for the community and agencies to comment on the proposal. The proposal is now recommended for authorisation and exhibition.

RESOLUTION:

Cr A Derwent / Cr E Lording

That Council:

- 1. Request under Section 8A (2) and (3) of the *Planning and Environment Act 1987* that the Minister for Planning authorise Murrindindi Shire Council to prepare Amendment C57 to the Murrindindi Planning Scheme as a combined permit and amendment under Section 96A of the *Planning and Environment Act 1987*;**
- 2. Notify the Minister for Planning that when it exhibits Amendment C57 and proposed planning permit, Murrindindi Shire Council intends to give full notification of the amendment under Section 96C of the *Planning and Environment Act 1987* for a minimum statutory exhibition period of one month; and**

3. When authorised by the Minister for Planning, exhibit Amendment C57 and proposed planning permit to the Murrindindi Planning Scheme under Section 96C of the *Planning and Environment Act 1987*.

CARRIED

6.4 MARYSVILLE AND TRIANGLE TOURISM AND COMMUNITY ARTS CENTRE

REF: 16/2009

Attachments: Marysville Community Arts Projects Final Report December 2014 (*refer Attachment 6.4a - TRIM 15/27302*), Marysville Triangle Tourism and Arts Centre Review Report FINAL 2016 (*refer Attachment 6.4b - TRIM 15/61328*)

Purpose:

The purpose of this report is to seek Council's in-principle support for the concept of developing the Marysville and Triangle Tourism and Community Arts Centre utilising the building formally known as the Marysville Rebuilding Advisory Centre (RAC).

Officer Recommendation:

That Council provides its in-principle support for the further development of the concept to develop the Marysville and Triangle Tourism and Community Arts Centre utilising the building formally known as the Marysville Rebuilding Advisory Centre (RAC), subject to the following conditions:

1. Council approval of the final design for the building reconfiguration works.
2. Council approval of a draft agreement between Marysville and Triangle Business and Tourism Association (MTBT) and community arts groups detailing governance arrangements, detailed financial plan, budget control and dispute resolution procedures.
3. Formal recognition by MTBT and the arts groups that the Council does not intend to allocate additional funding, over and above the existing Visitor Information Centre subsidy, to support the establishment, operations and maintenance of the proposed new Centre, including covering any future operating shortfall.
4. A new lease is established with MTBT which provides for a review of the building rental after four years of operation with the prospect of introducing a rental to contribute towards building renewal costs for the additional area leased by MTBT beyond the current leased VIC area, commensurate with MTBT's capacity to pay.

Background:

The role of the arts in rebuilding communities, improving liveability and cohesion and contributing to the economic sustainability of townships has been well documented.

The Marysville and Triangle arts community has been consistent in communicating its desire for a specific space to produce and display its art. While the rebuilding of Marysville has seen a lot of new infrastructure, the Marysville and Triangle arts community is yet to benefit directly, with its needs being considered in several recovery and rebuilding projects that have not come to fruition.

In October 2012 the Marysville Arts Reference Group was established to specifically examine options to create a home for community arts in the Marysville Triangle. The group consisted of representatives of the local arts community, including the Triangle Arts Group Inc., Marysville Cultural Community Inc. and the Triangle Community Steel Bands Inc.

Donated bushfire recovery funds totalling \$850,000 have been made available to support the establishment of a community arts facility. The Victorian Bushfire Appeal Fund (VBAF) has allocated up to \$500,000 for this purpose and a further \$350,000 has been made available from donated funds held in trust by the Bendigo Bank.

The Marysville Arts Reference Group initially expressed an interest in exploring the potential to reconfigure and use the rear half of the Marysville RAC building in Marysville to create a creative work space with potential for exhibitions. The RAC building was built and gifted to Council following the 2009 bushfires and its current tenants include the Marysville Triangle Business and Tourism Association (MTBT) which operates the Marysville Visitor Information Centre (VIC) and the Upper Goulburn Community Radio Inc. The rear half of the building remains substantially underutilised. Prior to the 2009 bushfires the site was the location of the former Marysville Visitor Information Centre.

Given Council's ongoing financial concerns following the 2009 bushfires the Council advised at the time that the Reference Group would need to develop a full business plan for the proposal and be able to demonstrate a financially self-sustaining operational model that would not require ongoing financial support from Council. Ideally from a Council perspective the financial model would include a contribution from the project towards the cost of future building renewal associated with the arts space.

Consultants were engaged by Regional Development Victoria (RDV) to work with the Group to further examine options for a community arts facility in the Marysville Triangle and develop a business case. This work involved extensive consultation with the arts and broader community and consideration of alternatives to the use of the RAC building including the Marysville Community Centre, particularly for storage requirements.

A final report was provided to Council in December 2014 and is enclosed (Attachment 6.4a) which confirmed that the most feasible option was the establishment of a Marysville Triangle Tourism and Community Arts Facility at the former RAC building, with other possible sites being discounted. The concept was based on a plan for the RAC with two separate areas, one being the current VIC at the front of the building (including Upper Goulburn Radio Inc. Studio) and the other being a reconfiguration and refit of the rear of the building for occupation by the various arts/cultural groups under a proposed (parent) arts-based incorporated association. It also included zones that blend the needs and activities of the two functions. A concept plan for the required building works was provided in the report with an estimated value of \$595,000.

The MTBT which operates the VIC indicated its in-principle support for the project and expressed a desire to be involved in finalising design elements of the project.

It was presumed some form of agreement would be required between the new association and Council in relation to management of the arts space. The report did not elaborate on the form of this agreement, nor address the governance arrangements between the arts group and MTBT that would be required for the possible integration of the cultural/arts uses and tourism uses in the building. The report assumed that the proposed incorporated association would lease the cultural arts space direct from Council under a peppercorn rental arrangement.

The consultant's report provided a financial plan for the operation and maintenance of the cultural/arts space which was prepared on a cash break-even basis covering the first three years of operation, including building maintenance. The plan assumed an operating subsidy of approximately \$171,000 from the available grant funds to cover an initial establishment phase of one year and the first two years of operations. Such funds would enable the employment of an arts program co-ordinator on a part time basis to oversee the centre's establishment over this period and to generate potential future income sources. Whilst a sustainable financial position was projected to be achieved by the third year of operation, this was contingent in part on further unspecified fund raising.

On review of the report Council remained concerned that there was insufficient clarity with respect to the governance arrangements pertaining to the integration of the cultural/arts and tourism components of the facility. Further Council questioned the assumptions surrounding the financial sustainability of the Centre and whether it could achieve a self-sustaining financial position after just two years of operation.

Consequently Council has not to date been prepared to provide in-principle support for the project due to the perceived high level of risk associated with project's ongoing viability.

Given Council's support for the project would be a pre-requisite for the use of the donated funds at the RAC, a further piece of work was commissioned by RDV in 2015 for an expert analyst to re-examine the financial assumptions and proposed governance arrangements and to provide an independent review of the viability of the proposal. The remainder of this report concerns the outcome this work.

Council Plan/Strategies:

This report is consistent with the Council Plan 2013-2017 Strategic Objective of Our Community to encourage inclusive, creative and resilient communities.

Legal/Policy Issues:

This report is related to the Murrindindi Shire Council Arts and Culture Policy which describes Council's role in supporting arts and cultural activities within the Shire. The following section of the policy is particularly relevant:

5.3 Creative spaces and public places (Built and natural environment)

Although limited in number, Council understands the importance of providing creative spaces and public places to encourage and develop art and cultural experiences across our area. Our built and natural environment plays an important role in bringing the community together to create and enjoy many and varied cultural activities. Council will:

- Encourage the use of our existing Council-owned infrastructure, such as our Libraries, Town halls, Visitor Information Centres, parks and gardens, to enable a diverse range of art and cultural activities to occur
- Consider and support the facilitation of art and cultural initiatives that support innovative and creative design when planning civic spaces and places, where appropriate.

Financial/Resources/Risk:

Other than officer time in providing advice and information to the project consultants, stakeholder groups and community, the development of this project and its execution if supported by Council, does not require funding from Council. It is noted that Council currently provides an operating subsidy for the existing Marysville VIC of \$3,460 per annum. It is not intended to change this allocation as a consequence of this project, other than normal annual CPI adjustments.

The most significant risk associated with this project is the reliance of the financial plan on as yet unspecified funding sources to support the proposed Centre's operations beyond the fifth year of the project (establishment phase plus four years of Centre operations). This funding shortfall is estimated to be approximately \$42,000 per annum from the fifth year of operations. Council has indicated it is not and will not be in a financial position to provide a financial subsidy to support the Centre's operations, and as such the risk to Council is that the proposed use is not able to continue and the with the building potentially becoming partly or substantially unoccupied.

Additionally, Council's support for this project would be with the knowledge that the project is very unlikely to be able to contribute financially to building renewal costs in the short to medium term. Any additional renewal cost following the reconfiguration of the building and expansion of its footprint would be born in the first instance by the Council and funded by the broader community via rates.

Discussion:

A report on the further work undertaken to assess the viability of the operating model for a community arts facility at the Marysville RAC is contained in Attachment 6.4b. A number of refinements are suggested to the concept plan and operating model proposed in the original consultants report to maximise the viability of the project. The main changes are outlined below.

1. *The concept design be redefined to reflect a single seamless public presentation, building entrance and reception.*

The concept design in the original consultant's report was based on occupation by MTBT and the Community/Arts Association of two separate areas respectively in the RAC. It is proposed that a design that enables a single integrated tourism and arts centre, with a retail offering combining the existing VIC offering plus a new arts-related offering would be a more viable option. This would maximise the spread of costs (and resources) across the MTBT and arts-related operations and increase the financial returns for the project.

2. *A single lease for the entire refurbished facility to MTBT as a lead tenant for an initial term of four years.*

Under the proposed model, Council would lease the facility to MTBT as lead tenant. MTBT would in turn enter into arrangements with the three lead arts groups regarding the management and operation of the centre. It is proposed that MTBT would be the lead project tenant and receive the VBAF operational funding (accounting for this separately within its budget). A joint management committee with the arts groups and MTBT would be formed to develop and implement the Marysville Arts and Tourism Centre project and oversee its ongoing operation. It is proposed that this occur through a multi party Memorandum of Understanding. This option has been put forward by MTBT and the Marysville community arts groups. It is considered to be the most viable option and is broadly supported by both MTBT and arts groups.

The approach of a single lease to a head tenant would suit Council's needs to remain at arm's length from the operations of the Centre and to avoid the administrative costs that would arise when potentially administering multiple lease arrangements with a range of tenants.

3. *Rent set at peppercorn rate with no contribution to future asset renewal or corporate overheads.*

The review questioned whether it is reasonable for Council to seek to recover the cost of corporate overheads and building renewal costs from the project. Typically in lease arrangements these costs would be recouped through some form of commercial rent. The original consultant's report indicated that the community/arts groups would not have the financial capacity to contribute to renewal costs (or pay a commercial rental). This assumption has been confirmed in the review, where it was considered such costs would render the project unviable, at least in the short to medium term.

4. *A revised financial operating model utilising a larger component of the bushfire-related grant funding and extending the period of subsidy from two to four years of operations.*

The review suggested several modifications to the financial operating plan. A redefined building design concept (refer point 1 above) is likely to require a smaller building footprint than was envisaged in the original consultant's report, plus there are proposed savings in the equipment budget (which can be deferred to subsequent years) thus rendering a greater portion of grant funds available to support the ongoing operations of the Centre. It is proposed an allocation of \$276,000 be spread over an initial six month start-up phase and four years of operations (as opposed to \$171,000 over a twelve month start-up and two years of operations in the original model).

This greater level of subsidy enables the extension of the proposed Arts Program Co-ordinator position (at 0.5 EFT) across the first four years operations. It is proposed this position revert to 0.25 EFT thereafter, although this would be contingent on further (yet to be identified) funding sources.

The existing Visitor Information Centre Coordinator position would be continued by MTBT (subject to sourcing ongoing funding). A funding application for the continuation of the VIC Coordinator is currently being considered with approval pending the outcome of this review. The two positions working together will support integration of the tourism and community arts offerings and bolster the attempts to identify future grant funding or other revenue streams to support the centre's operations.

Revisions to the original financial model also include a reduction in operating costs associated with a proposed reduced cleaning regime and removal of the corporate charge by Council to cover corporate overheads, with the building-related costs being restricted to direct occupancy-related costs and charged 'at cost'.

On this basis the review presents a viable financial operating model over a five year period, where the project is fully funded (establishment plus 4 years operating). A ten year financial plan is also detailed in the appendix of the report, beyond five years operation new and replacement funding for the VIC and Arts Coordinator positions remains unfunded and further funding would need to be sourced to an approximate value of \$42,000 per annum. Whilst the report states that a lack of future funding certainty is not an unusual scenario for community groups in this situation, it nevertheless remains a significant risk for the ongoing viability of the project beyond five years.

Officer's Summary

From the Council's perspective the project as represented in the report in Attachment 6.4b has both positive and negative aspects.

From a positive perspective, the proposal provides an opportunity for Marysville and surrounds to build on a budding arts and cultural tourism industry by re-developing and fully utilising an existing and underutilised community building. The capital costs associated with the works required to best reconfigure the building for this purpose are fully covered by external grant funding, and do not require council funds.

In addition, the proposed governance arrangements provide for a single lease arrangement with a lead tenant, in this case MTBT, with MTBT taking on the responsibility, in partnership with the community arts groups, for establishing and managing the integrated tourism and community arts facility. This is a simpler and much preferred governance arrangement for Council, allowing Council to remain at 'arms-length' to the project.

Through the work of both sets of consultants there would appear to be considerable support for the project by the immediate stakeholder groups, and also the wider community. The project also meets the objectives of Council's Arts and Culture Policy with Council's role as a facilitator and supporter of community-based arts and cultural initiatives.

Finally the financial operating plan is fully funded for a minimum of five years (establishment and operating), which would provide time for the MTBT and arts groups to seek and develop funding sources (via growth in centre income and/or external grant funding). The model also achieves Council's objective in fully covering the building operating and maintenance costs.

On the negative side, whilst the recent consultant's review of the original project has resulted in a more financially sustainable model, there remains a significant level of risk associated with the dependence of the model on as yet unspecified revenues or grant funding beyond year five. Further many of the operating assumptions underlying the financial model, whilst deemed to be 'reasonable' by the consultant reviewing the model, nevertheless remained untested.

It is recognised in the consultant's report that the proposed occupants of the centre are community-based, not-for-profit and substantially volunteer driven and hence have varying capacities for ongoing self-generating revenues and varying experience in facility management. The failure to meet the operating assumptions of the financial model and securing sufficient revenues beyond year five is the most significant risk for the project.

Given the financial challenges being experienced by Council in meeting the additional costs of the new and gifted assets following the 2009 bushfires, Council has been seeking ways to recover building operating, maintenance and renewal costs from the organisations occupying these facilities. The model proposed, whilst covering operating and maintenance costs, does not have capacity to cover building renewal costs (for example, via the charging of a commercial rental) and still remain viable, at least not in the short to medium term.

Subject to how the project progressed, Council could seek a review of the financial capacity of the project to contribute somewhat towards these renewal costs at the expiry of the initial term of the lease (around year 4 – 5) and reserve the right to introduce a rental should the project be in a financial position to make such a contribution. This would apply to the additional area to be leased to accommodate the arts-related uses.

The Council would also need to review and approve the final plans for the reconfiguration of the building to ensure the works proposed do not significantly increase Council's renewal burden.

As stated in the report contained in Attachment 6.4b, "As non-avoidable 'owner costs', Council would still incur the renewal costs, maintenance costs and corporate overheads anyway in an unoccupied building and get no community benefit". It is important to note that to date there has not been an alternative use proposed to ensure full utilisation of the RAC building.

Taking these factors into consideration the Council needs to determine if the potential community benefit associated with the development of an integrated tourism and community arts facility justifies the contribution by “ratepayers” to the ongoing renewal of the facility and tolerance by Council of the potential risk of the project becoming ultimately financially unviable through lack of funding. It is noted that the Council is not in a financial position to be able to directly subsidise the operations of the proposed centre once the current external funding is exhausted. Nevertheless it is the officers view that it could be reasonably argued that the benefits of the centre in terms of increasing visitation, and supporting community participation, development and connection through arts, if realised, would support Council’s overall strategic direction for growth and viability of the communities within the Shire, and therefore the proposal is worthy of support.

If Council were to provide its in-principle support for the project to progress, it would be recommended that this support be subject to the following conditions:

- Council approval of the final designs for the building reconfiguration
- Formal recognition by MTBT that the Council does not intend to allocate additional funding to support the establishment, operations and maintenance of the proposed tourism and community arts centre once operational
- A new lease is established with MBTB, which allows for a review of the building rental after four years of operation with the prospect of introducing a rental to support building renewal commensurate with MBTB’s capacity to pay.

Subject to Council providing its in-principle support for the project, the following next steps are envisaged:

1. MTBT and community arts groups to work collaboratively to establish the Marysville Arts and Tourism Centre.
2. MTBT and community arts groups prepare a draft agreement detailing governance arrangements, detailed financial plan, budget control and dispute resolution procedures. Arrangements for other tenants (UGFM and Marysville and Triangle Community Foundation) are proposed to be determined through negotiation with Council during this time.
3. Architects engaged to revise/update the concept plans for the Centre in consultation with the user groups and to prepare updated capital cost estimates with the revised budget parameters.
4. Presentation to Council on the full project plan detailing the above to determine Council’s full and final support for the project.

Consultation:

Council officers have met with the Marysville Community Arts Reference Group to communicate Council’s concerns regarding the project and to seek agreement on what is required to build confidence going forward. Council officers have met regularly with Regional Development Victoria and other fund holders involved in this project.

Council officers have met and maintained regular contact with the consultants to assist in providing information required to undertake the review and analysis of the project model. Council officers have maintained contact with the Marysville Triangle Business and Tourism Association and the Community Arts groups to provide regular updates on the progress of the project through Council and to ascertain their support for this approach. All parties have indicated their commitment to actively pursuing this option.

Conclusion:

Subject to Council's in-principle support for the project, the Marysville Triangle Tourism and Community Arts Centre provides an opportunity to redevelop and fully utilise the Marysville RAC building and has the potential to offer significant benefits to the broader community.

MOTION:

Cr C Challen / Cr E Lording

That Council provides its in-principle support for the further development of the concept to develop the Marysville and Triangle Tourism and Community Arts Centre utilising the building formally known as the Marysville Rebuilding Advisory Centre (RAC), subject to the following conditions:

- 1. Council approval of the final design for the building reconfiguration works.**
- 2. Council approval of a draft agreement between Marysville and Triangle Business and Tourism Association (MTBT) and community arts groups detailing governance arrangements, detailed financial plan, budget control and dispute resolution procedures.**
- 3. Formal recognition by MTBT and the arts groups that the Council does not intend to allocate additional funding, over and above the existing Visitor Information Centre subsidy, to support the establishment, operations and maintenance of the proposed new Centre, including covering any future operating shortfall.**
- 4. A new lease is established with MTBT which provides for a review of the building rental after four years of operation with the prospect of introducing a rental to contribute towards building renewal costs for the additional area leased by MTBT beyond the current leased VIC area, commensurate with MTBT's capacity to pay.**

AMENDMENT:

That Council:

- 1. Amend Condition 3 to replace the words 'that the Council does not intend to allocate' to the words 'that the Council will not allocate'.**

THE AMENDMENT WAS ACCEPTED BY THE MOVER AND SECONDER

THE AMENDMENT BECAME THE MOTION:

CARRIED

6.5 FAIR GO RATES – NOTICE OF INTENTION TO MAKE APPLICATION FOR A VARIATION TO THE RATE CAP

REF: 16/2834

Attachments: Rate Capping Analysis (*refer Attachment 6.5 - TRIM 16/1149*)

Purpose:

purpose of this report is to seek Council endorsement to apply for a variation to the recently introduced rate cap for the 2016/17 financial year, due to Council's particular financial circumstances and its long term financial planning needs.

Officer Recommendation:

That Council advise the Essential Services Commission (“the ESC”) of Council’s intent to seek a variation to the State Government’s designated rate cap of 2.5% for the 2016/17 financial year.

Background:

Following its election in November 2014, the new Labor Government in Victoria confirmed to all Councils that it intended to introduce legislation before State Parliament that will prevent Councils from raising rates above inflation levels from 1 July 2016.

In January 2015 the Minister for Finance referred to the ESC a terms of reference requesting a review of the development of a rates capping framework for local government in Victoria.

Throughout the review and development of the framework, Council made two submissions to the ESC to inform the Commission about the financial challenges facing small rural Councils and in particular the financial burden that has been placed upon Murrindindi Shire Council following the bushfires of 2009.

The rate capping framework, now known as the Fair Go Rates System, was finally endorsed by State Parliament and became law on 2 December 2015.

On 22 December 2015, the Minister for Local Government announced a rate cap for all local governments in Victoria of 2.5% for 2016/17. Councils will have the opportunity to seek a variation to the cap via the Essential Services Commission (“ESC”), with submissions to be made prior to 31 March 2016.

The level of the rates cap has been set at the discretion of the Minister for Local Government, and has been linked to the level of the Consumer Price Index (“CPI”) for Melbourne.

The introduction of any form of rate cap is a direct contrast to one of the key assumptions contained within Council’s current long term financial plan, concerning the rating increase that is required in each financial year of the plan to meet Council’s longer term financial requirements. It is worth noting that rating revenue is the most significant component of Council’s total revenue – 58.7% of Council’s total budgeted revenue for 2015/16 is expected to come via rates revenue, with the long term financial plan forecasting that this level of approximately 60% is to be maintained over the life of the plan.

Recognising that rate capping initiatives were being reviewed by the new State Government, and being mindful of various external cost pressures that exist for ratepayers within the Shire, Council adjusted its long term financial plan during its review of the Council Plan and Strategic Resource Plan for 2015/16. Annual rate increases had been previously assumed to remain at 6% over the life of the long-term financial plan, though this has now been adjusted to reductions over the coming years, heading towards 4% by the end of the 10-Year long term financial plan. The timing of the gradual forecast decline in rate increases contained within the current plan is detailed in the following table:

	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25
Rate Inc.	5.5%	5.5%	5.5%	5.0%	5.0%	4.5%	4.5%	4.0%	4.0%

Council Plan/Strategies:

This report is consistent with the Council Plan 2013-2017 theme of Financial Sustainability. A key strategy for this theme is to continue to promote an equitable rating strategy for all ratepayers and to provide value for money through the delivery of long term financial plans.

Legal/Policy Issues:

The Budget is a statutory requirement, legislated under Section 127 of the *Local Government Act 1989* (“the Act”).

Financial/Resources/Risk:

The proposed draft budget for 2016/17 that is currently under development is conservative in its scope of discretionary spending, providing a responsible and viable financial plan for the ensuing year.

As a consequence of managing the asset renewal gap as part of the capital works program, and being mindful of the impact of the State Governments new "Fair Go Rates" amendment to the Local Government Act, Council will be undertaking minimal new initiatives, thereby limiting to some extent its short and medium term ability to provide expanded services that may be required to meet community needs, and to ensure that its current service delivery and asset management responsibilities are maintained.

A further risk for Council to consider is that should Council resolve to seek an exemption from the rate cap in 2016/17 under the variation mechanism, the outcome to such a submission may not be known until May 2016.

Council is still required to complete its statutory budget obligations by 30 June, which must include a public exhibition period of at least 28 days. Should Council be unsuccessful in an appeal to the ESC for a variation to the rate cap, it would then need to prepare a secondary budget at a lower rating level before submitting it to the public for consultation.

Essentially this will require the preparation of two budgets should Council seek a variation to the rate cap from the ESC, representing both variation and no variation scenarios.

Discussion:

Over the past few months, a number of financial scenarios have been modelled and discussed by Council in preparation for the announcement of the level of the rate cap for 2016/17 by the Minister for Local Government.

The development of the budget for 2016/17 is underway and has been built on the conservative principles discussed above and in Council's Strategic Resource Plan ("SRP"). The purpose of this report is not to pre-empt what level of increase will be endorsed by Council, but rather to consider if the announced cap provides a level of rating income that is sustainable in consideration of not only the position of the budget for 2016/17, but the longer term intentions and obligations of Council.

The full impact of the rate cap though is shown in greater detail when compared to Council's existing SRP and Long Term Financial Plan ("LTFP"). Although Council has shown a capacity and willingness to reduce the underlying increase in rates out to 2024/25, with rate increases ultimately decreasing to 4.0% by this point in time, these assumptions made last financial year are now inconsistent with the final rate cap that has been chosen by the Minister.

As detailed in Attachment 6.5, the loss of revenue that will be felt by Council over the next 10 years when compared to the current SRP and LTFP will be \$22.06 million, if the current rate cap is assumed to be applied as a constant over the life of its LTFP.

Revenue loss of this magnitude over the next decade would not be able to be absorbed by Council's current financial structure and cash reserves, and would require extensive review and consultation with the community to determine how Council would need to adapt to meet this new financial challenge over the coming decade.

To remain sustainable into the future, Council will need to find other revenue opportunities, eliminate, reduce or vary services, apply for rate cap variations, increase debt levels, or a combination of the above.

Of these options, alternate revenue opportunities are extremely limited for Council outside of increasing grant funded opportunities. These however are not under the control of Council and are generally part of a competitive bidding process to gain access to additional funding from other government bodies. Grant funding opportunities for existing services or the renewal of existing infrastructure are also uncommon, with most grant funding being linked to the development of new infrastructure or services.

It is worth noting that Council undertook an extensive services review in 2011-12. The outcome of this review resulted in substantial restructuring of operational services, redundancies and reduced working hours of numbers of staff, an enhanced asset rationalisation program, comprehensive benchmarking of fees and charges set by Council and the review of a number of Council's strategies, policies and procedures to enhance efficiency and provide greater guidelines and transparency with regard to the application of funds for the delivery of service.

As a result, operational budgets have been tightened substantially, efficiencies gained, and further reductions to operational expenditure could not be realistically introduced without a corresponding reduction in service levels to the community. Reductions to capital expenditure could also not be simply reduced without a correlating impact on the renewal of Council's existing infrastructure, which would result in the degradation of existing public assets over the coming years that are the responsibility of Council.

The models for analysis have been prepared on the basis of the continuation of all services to the community at their existing levels. Unlike previous years, the long-term financial plan cannot be simply "rolled over" into the next financial year, making adjustments for known variances in service delivery, grant funding and employee costs, as the core assumption behind Council's primary source of revenue is now unable to be controlled by Council with any certainty. The development of a long term financial plan based on the current service delivery model and approach to asset management responsibilities, whilst restricting rate revenue to the proposed rate cap, is unlikely to be achievable.

The timetable now faced by Council in conforming to the new legislation and the requirements of the ESC dictate that Councils need to notify the ESC by the end of January 2016 if they wish to seek a variation to the rate cap of 2.5% for the 2016/17. However, full details of the submission, including the level of variation requested do not need to be determined and submitted to the ESC until the end of March 2016. This will allow for further development of the capital and operating budgets for 2016/17 as well as LTFP, all of which needs to be submitted as supporting documentation for any submission made by Council to the ESC.

As per previous years, any rate increase will only be confirmed at the time of formal adoption of the 2016/17 Annual Budget, which will include the process of seeking a variation through the ESC if such a variation is sought and will include the statutory 28 day period of public consultation that is mandated under the Local Government Act prior to any budget being finalised.

Consultation:

As been discussed with the community for several years, Murrindindi Shire Council now faces exceptional financial circumstances which arose after the 2009 Bushfires. Council was given \$33 million worth of assets following the 2009 Bushfires. While this was a very generous gift, it did not take into account the ongoing costs to Council for operating, maintaining, insuring and renewing these new assets.

In conjunction with extensive community consultation and engagement around this issue, Council has advocated extensively to both current and former governments regarding the ongoing financial challenges that Murrindindi Shire Council faces in the longer term as a direct result of the 2009 bushfires.

Council also conducted an advocacy campaign in late 2014 which sought community feedback about options which would reduce Council's operating costs and potentially increase income. Council is already acting on a range of those options to reduce costs.

The recommendation to seek a variation to the State Government imposed rate cap is consistent with the message Council has been delivering to the community over the last five years regarding Council's longer term financial sustainability challenges.

Conclusion:

A well considered and prudently considered budget is essential for guiding Council's operations for the 2016/17 financial year, as well as provide the basis for which the Strategic Resource Plan and 10-year long term financial plan will be founded on.

RESOLUTION:

Cr J Walsh / Cr C Challen

That Standing Orders be suspended.

CARRIED

Standing Orders were suspended at 6.56 pm

RESOLUTION:

Cr J Walsh / Cr J Kennedy

That Standing Orders be resumed.

CARRIED

Standing Orders resumed at 7.07pm

RESOLUTION:

Cr C Challen / Cr J Walsh

That Council advise the Essential Services Commission ("the ESC") of Council's intent to seek a variation to the State Government's designated rate cap of 2.5% for the 2016/17 financial year.

CARRIED

CALL FOR A DIVISION

For: Cr J Kennedy, Cr C Challen, Cr J Walsh, Cr A Derwent and Cr M Rae

Against: Cr E Lording and Cr C Healy

6.6 MURRINDINDI ENVIRONMENT ADVISORY COMMITTEE (MEAC) MEETING MINUTES

REF: 16/2354

Attachment: MEAC Draft Minutes 08-12-2015 (*refer Attachment 6.6 – TRIM 16/2354*)

The minutes of the Murrindindi Environment Advisory Committee Meeting held on 8 December 2015 are attached for receiving.

Officer Recommendation:

That the Minutes of the Murrindindi Environment Advisory Committee Meeting held on 8 December 2015 be received.

RESOLUTION:

Cr J Walsh / Cr J Kennedy

That the Minutes of the Murrindindi Environment Advisory Committee Meeting held on 8 December 2015 be received.

CARRIED

6.7 AUDIT ADVISORY COMMITTEE MEETING MINUTES

REF: 15/64221

Attachment: 2015-12-10 Audit Committee Minutes (*refer Attachment 6.7 – TRIM 15/64221*)

The minutes of the Audit Advisory Committee Meeting held on 10 December 2015 are attached for receiving.

Officer Recommendation:

That the minutes of the Audit Advisory Committee Meeting held on 10 December 2015 be received.

RESOLUTION:

Cr J Kennedy / Cr E Lording

That:

- 1. The minutes of the Audit Advisory Committee Meeting held on 10 December 2015 be received;**
- 2. Ms Michele Sheward is re-appointed as an independent member of the Audit Advisory Committee for a further 12 months as per item 6.4 of the attached minutes of the Audit Advisory Committee Meeting of 10 December 2015.**

CARRIED

7. SEALING REGISTER

REF: 13/6325

Nil

8. COUNCILLOR PORTFOLIO REPORTS**8.1 LAND USE PLANNING PORTFOLIO**

Cr C Challen:
No report this month.

8.2 ECONOMIC DEVELOPMENT PORTFOLIO

Cr J Kennedy provided a verbal update to Council regarding various activities that occurred within the Economic Development Portfolio in the last month.

8.3 INFRASTRUCTURE AND WASTE PORTFOLIO

Cr E Lording:

There have been meetings and briefings with Murrindindi Shire Council officers leading to more robust discussions. Capital works is progressing well.

8.4 COMMUNITY SERVICES PORTFOLIO

Cr A Derwent:

No report this month.

8.5 CORPORATE AND CUSTOMER SERVICES PORTFOLIO

Cr C Healy:

No report this month.

8.6 NATURAL ENVIRONMENT & CLIMATE CHANGE PORTFOLIO

Cr J Walsh:

No report this month.

8.7 MAYOR AND DELEGATED COMMITTEE REPORTS

Cr M Rae:

Since the last meeting of Council and following various festive events, I have represented Council at the following:

- Australia Day events – I had the pleasure of attending two celebrations on Australia Day – one in Alexandra and one in Marysville and all Councillors were involved in very successful events across our shire. We also had the pleasure of conducting three citizenship ceremonies – one each at Alexandra, Kinglake and Yea, and I feel sure that becoming a citizen on Australia Day will be particularly memorable for those participants.

The Murrindindi Awards for Citizen of the Year – Paul Bannon; Young Citizen of the Year – Thomas Walters; and Community Event of the Year – the Marysville Jazz and Blues Weekend were very much focal points of the celebrations. Our congratulations go to all the recipients and our thanks to their nominees as well as to the members of the community who formed the panel of judges. These are truly community awards – nominated by community, assessed and selected by community – this is grassroots recognition of which the recipients should rightly be proud.

- Taggerty Community Project opening - this project was part of the recovery initiatives post 2009, the aims of which were to increase community activity, participation, and to contribute to the health and wellbeing of the community. Its objectives have undoubtedly been achieved with active community participation throughout – and by bringing the six key components together to provide tangible and intangible benefits for residents and visitors alike. The improved facilities will serve the community well into the future.
- The Goulburn River Constraints Strategy presentation - a number of these were conducted by the Goulburn Broken Catchment Management Authority and provided an update on current investigations and an opportunity for residents and community to provide additional feedback and comments. It was clear from the presentation I attended that there are still significant concerns held by the community with similar concerns being voiced at other forums. There is clearly still much work to be done.
- Unveiling the DIY Riparian model kit (pt 1) public artwork in the Yea Wetlands – this initiative is part of the Riparian Project which aims to provide opportunities to teach and learn about how to manage the environment better by using art as a communication tool. Unveiled by the Parliamentary Secretary for the Environment, Anthony Carbines, there is now a life size artwork of a cow in the wetlands and additional information on issues around riparian grazing in the interpretative section of the YWater Centre.
- Alexandra Traders and Tourism Committee meeting – as well as attending the monthly meeting, I also attended a farewell event on the retirement of the VIC coordinator to recognise her contribution.

I would also like to note the sad and sudden passing of Allan Fox, a valued member of the community. Our condolences go to his wife Ailsa and to his family.

8.8 GENERAL BUSINESS

Nil

9. MATTERS DEFERRED FROM PREVIOUS MEETING

No matters deferred from the previous meeting.

10. MOTIONS FOR WHICH NOTICE HAS PREVIOUSLY BEEN GIVEN

Nil

11. ASSEMBLIES OF COUNCILLORS

REF: CY16/118

Purpose:

This report presents the records of assemblies of Councillors for 16 December 2015 to 20 January 2016, 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 16 December 2015 to 20 January 2016.

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	Council Pre-Meeting	
Meeting Date	16 December 2015	
Matters discussed	<ol style="list-style-type: none"> 1. Dangerous dog declaration 2. Aged and Disability Services Review 3. Bridge renewal/refurbishment program 4. Intensive Animal Husbandry application 5. Yea saleyards 	
Attendees: Councillors – Cr Walsh, Cr Rae, Cr Healy, Cr Lording, Cr Kennedy, Cr Challen, Cr Derwent	Staff –M Abbey, M Chesworth, E Wyatt, J Canny, N McNamara, A Bond, M Leitinger	
Conflict of Interest disclosures - Nil		

Meeting Name / Type	Councillor Briefing Session	
Meeting Date	13 January 2016	
Matters discussed	<ol style="list-style-type: none"> 1. Planning application – Dove Lane 2. Marysville Tourism and Community Arts Centre 3. Draft Budget Briefing 4. Alexandra Timber Tramway 5. Yea Caravan Park 6. Memorials Project 	
Attendees: Councillors – Cr Walsh, Cr Rae, Cr Healy, Cr Lording, Cr Kennedy, Cr Challen	Staff –M Abbey, M Chesworth, E Wyatt, S Brown, K Girvan, A Bond	
Conflict of Interest disclosures - Nil		

Meeting Name / Type	Councillor Briefing Session	
Meeting Date	20 January 2016	
Matters discussed	<ol style="list-style-type: none"> 1. Eildon Structure Plan 2. Procurement Policy 2015/16 Review 3. Proposed rezoning and service station – Kinglake West 4. Proposed rezoning and subdivision – Yarck 5. Animal Industries Advisory Committee 	

	6. Draft Budget Briefing No. 2 7. Murchison Street 8. Kinglake Cultural and Community Facility
Attendees: Councillors - Cr Rae, Cr Kennedy, Cr Challen, Cr Walsh, Cr Healy, Cr Derwent, Cr Lording	Staff – M Abbey, M Chesworth, E Wyatt, S Brown, K Girvan, M Crane, A Bond, A Vogt
Conflict of Interest disclosures - Nil	

RESOLUTION:

Cr C Challen / Cr J Kennedy

That Council receives and notes the record of assemblies of Councillors for 16 December 2015 to 20 January 2016.

CARRIED

12. URGENT BUSINESS

Nil

RESOLUTION:

Cr J Kennedy / Cr E Lording

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 7.23 pm.

RESOLUTION:

Cr C Challen / Cr A Derwent

That the meeting re-opens to the public.

CARRIED

The meeting re-opened to the public at 7.54 pm.

There being no further items of Business, the Chairperson declared the meeting closed at 7.54 pm.

CONFIRMED THIS _____

CHAIRPERSON _____