



# LATROBE CITY COUNCIL

## MINUTES OF THE ORDINARY COUNCIL MEETING

HELD IN THE  
NAMBUR WARIGA MEETING ROOM,  
CORPORATE HEADQUARTERS, MORWELL  
AT 7:00 PM ON 07 SEPTEMBER 2009

**PRESENT:**

*Cr Lisa Price, Mayor - Farley Ward*  
*Cr Kellie O'Callaghan, Deputy Mayor - Burnet Ward*  
*Cr Rohan Fitzgerald - Dunbar Ward*  
*Cr Sharon Gibson - Merton Ward*  
*Cr Sandy Kam - Galbraith Ward*  
*Cr Bruce Lougheed - Tanjil Ward*  
*Cr Graeme Middlemiss - Rintoull Ward*  
*Cr Ed Vermeulen - Gunyah Ward*  
*Cr Darrell White - Firmin Ward*  
*Paul Buckley, Chief Executive Officer*  
*Seona Conway, General Manager Organisational Excellence*  
*Michael Edgar, General Manager Community Liveability*  
*Katie Garlick, Council Operations Administration Officer*  
*Carol Jeffs, General Manager Governance*  
*Allison Jones, General Manager Economic Sustainability*  
*Tom McQualter, Manager Council Operations and Legal Services*  
*Peter Quigley, General Manager Built and Natural Environment Sustainability*  
*Grantley Switzer, General Manager Recreational and Cultural Liveability*

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**NIL**

## **PRESENTATION OF PETITIONS**

**NIL**

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NIL

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NIL

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**ORGANISATIONAL EXCELLENCE**

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NIL

**URGENT BUSINESS**

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NIL

**TEA BREAK**

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**CLOSED**

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**1. Opening Prayer**

The Opening Prayer was read by the Mayor.

**Recognition of Traditional Landholders**

The Recognition of Traditional Landholders was read by the Mayor.

**2. Apologies for Absence**

NIL

**3. Declaration of Interests**

NIL

**4. Adoption of Minutes**

**Moved:** Cr Lougheed

**Seconded:** Cr Gibson

**That Council adopts the Minutes of the Ordinary Council Meeting held on 17 August 2009 (CM 301), relating to those items discussed in open Council.**

**CARRIED UNANIMOUSLY**

# **PUBLIC QUESTION TIME**

**5.1 WAIVER OF CAR PARKING– 50 GREY ST, TRARALGON**

Mr Bruce Bremner, Traralgon City and Rural Community Development Association asked the following question:

**Question**

Background:

(Extract from previous and current agenda)

*“Engagement Methods Used:*

*Notification:*

*The application was advertised pursuant to the following Sections of the Planning and Environment Act 1987:*

*S. 52(1)(a): Notices to adjoining property owners and occupiers*

*S. 52(1)(d): Sign on land*

*No objections were received to the application.”*

*(The question relates to the weight which can be attached to “No objections”)*

Question:

Was the Planning Permit Application, including Parking Waiver Request advertised in The Express? If so, when?

**Answer**

The Chief Executive Officer paraphrased the question and responded that no the planning permit was not advertised in The Express it was advertised as required under the *Planning and Environment Act 1987* and it is not Council’s practice to advertise all planning permit applications.

**Suspension of Standing Orders**

**Moved:** Cr O'Callaghan

**Seconded:** Cr Middlemiss

**That Standing Orders be suspended to allow members of the gallery to address Council in support of their submissions.**

**CARRIED UNANIMOUSLY**

Standing Orders were suspended at 7.03 pm

Mr Bob McKee, Ms Bronwyn Pulis, Mr Dennis Pulis, Mr Geoffrey Murray and Ms Marjorie Murray, addressed Council in relation to Item 11.3.6 – Planning permit application 2009/90 - use and development of land for animal keeping (up to 10 racing dogs).

The Mayor thanked all for addressing Council and for their submissions.

**Resumption of Standing Orders**

**Moved:** Cr Lougheed

**Seconded:** Cr Gibson

**That Standing Orders be resumed.**

**CARRIED UNANIMOUSLY**

Standing Orders were resumed at 7.27 pm

# **NOTICES OF MOTION**



**6.1** 2009/11 - NOTICE OF MOTION - MUNICIPAL ELECTORAL HEARING

**CR FITZGERALD**

**MOTION**

1. That the Chief Executive provides Council with a report in relation to the Municipal Electoral Hearing case no. X03577266 the report should outline the following and be presented to open Council:
  - The reasons for Council to distribute the Moe Activity Centre Plan Newsletter Issue 1, November 2008;
  - When the decision was made to release the Moe Activity Centre Plan Newsletter Issue 1, November 2008;
  - The reasons Council did not believe it was in breach of the *Local Government Act 1989*; and
  - The Governance processes in place to prevent this from occurring in the future.
2. That in addition to point 1; that Council engages an independent third party agreed to by Council to undertake an investigation into the breach of Section 55D of the *Local Government Act 1989*.
3. That a full accounting of the legal costs incurred at the Municipal Electoral Hearing be provided to open Council.

**Moved:** Cr Fitzgerald

**Seconded:** Cr Kam

**That the Motion be adopted.**

**For the Motion**

Councillors Gibson, Kam, Fitzgerald and O'Callaghan

**Against the Motion**

Councillors White, Middlemiss, Vermeulen, Price and Loughheed

**The Mayor confirmed that the Motion had been LOST**

**6.2 2009/12 - NOTICE OF MOTION - TRARALGON V/LINE SERVICES****CR KAM****MOTION**

1. That Council calls upon the Brumby Government to continue to have all Traralgon V/Line services stop at Southern Cross Station.
2. That the petition requesting that the Legislative Assembly of Victoria retain all current Traralgon V/Line services to Southern Cross Station be made available in all our library and service centres.

**Moved:** Cr Kam**Seconded:** Cr Gibson**That the Motion be adopted.****For the Motion**

Councillors Gibson, Kam, Fitzgerald and O'Callaghan

**Against the Motion**

Councillors White, Middlemiss, Vermeulen, Price and Lougheed

**The Mayor confirmed that the Motion had been LOST****Moved:** Cr Gibson**Seconded:** Cr Lougheed**That Council requests the Minister for Transport to meet a delegation of Latrobe City Council on this matter to have all Gippsland V/Line services stop at Southern Cross Station.****CARRIED UNANIMOUSLY**

# **ITEMS REFERRED BY THE COUNCIL**

**7.1 PLANNING PERMIT APPLICATION 2009/50 - USE OF LAND FOR THE PURPOSE OF A RESTAURANT AND LICENSED PREMISES, ADDITIONS TO AN EXISTING BUILDING, WAIVER OF CAR PARKING REQUIREMENT, DISPLAY OF BUSINESS IDENTIFICATION SIGNAGE, ALTERATION OF ACCESS ONTO A ROAD ZONE CATEGORY 1 AT 50 GREY STREET, TRARALGON**  
**AUTHOR: General Manager Built and Natural Environment Sustainability (ATTACHMENT - YES)**

**1. PURPOSE**

The purpose of this report is to determine Planning Permit Application 2009/50, relating to use of land for the purpose of a restaurant and licensed premises, additions to an existing building, waiver of car parking requirement, display of a business identification sign, and alteration of access to a road in a Road Zone Category 1, for the property at 50 Grey Street in Traralgon.

**2. DECLARATION OF INTERESTS**

No officer declared an interest under the *Local Government Act* 1989 in the preparation of this report.

**3. POLICY IMPLICATIONS**

The provisions of the *Planning and Environment Act* 1987 and the Latrobe Planning Scheme apply to this application.

This report is consistent with Council's Latrobe 2021 vision document and the Council Plan 2009-2013.

**Latrobe 2021 and Council Plan 2009-2013**

*Strategic Objective – Sustainability*

To promote the responsible and sustainable care of our diverse built and natural environment for the use and enjoyment of the people who make up the vibrant community of the Latrobe Valley. To provide leadership and to facilitate a well connected, interactive economic environment in which to do business.

*Community Outcome – Built Environment Sustainability*

By developing clear directions and strategies through consultation with the community ensuring sustainable and balanced development.

*Strategic Action – Built Environment Sustainability*

Strive to ensure all proposed developments enhance the liveability and sustainability of the community.

**4. BACKGROUND**

This application was first presented to Council for consideration at the Ordinary Council Meeting held on 17 August 2009 (item number 11.3.6). The Council resolution was as follows:

*That Council defers consideration of this item until the Ordinary Council Meeting to be held on 7 September 2009.*

**4.1 SUMMARY**

Land: 50 Grey Street, known as L11 Block LP4864  
Proponent: J P Flewin and R M Flewin  
C/- Beveridge Williams & Co Pty Ltd  
PO Box 684  
Traralgon VIC 3844  
Zoning: Business 5 Zone  
Overlay N/A

A planning permit is required to use the site for the purpose of a restaurant under Clause 34.05-1 of the Scheme.

A planning permit is required for buildings and works on the subject site, under Clause 34.05-4 of the Scheme.

A planning permit is required pursuant to Clause 52.27 of Scheme to operate an on-site liquor licence.

A planning permit is required to waive the car parking requirements of Clause 22.03 of the Scheme.

A planning permit is required for a business identification sign, pursuant to Clause 52.05-9 of the Scheme.

A planning permit is required to alter access to a road in a Road Zone Category 1 (Grey Street), pursuant to Clause 52.29 of the Scheme.

**4.2 PROPOSAL**

The proposal involves the following:

Additions and Alterations to an Existing Building

The proposal seeks to construct an extension at the rear of the existing building, to replace a sunroom of approximately 12.5 square metres in area with a kitchen.

The extension is proposed to be approximately 32 square metres in area, with a length of approximately of 6.36 metres and a width of approximately 5 metres. The extension is to be constructed in facebrick, with a zincalume skillion roof. The extension is to accommodate the proposed restaurant kitchen.

It is also proposed to undertake internal alterations to the existing building (including the removal / rearrangement of walls, new amenities etc), external alterations (new windows and external doors, rendering of brickwork and architectural columns), landscaping and to construct a front fence.

#### Use of Land for the Purpose of a Restaurant, with an 80 Seat Capacity

It is proposed to use the subject land for the purpose of an 80-seat fine-dining restaurant. The restaurant is to be accommodated within the existing building on site and within the proposed extension, which will comprise a dining area, kitchen, bar and servery, cloak room, amenities and office. A small paved outdoor area is proposed at the rear of the building, but this outdoor area is not to be used for dining purposes.

The total floor area of the restaurant is to be approximately 200 square metres in area. The existing shed at the rear of the building is to be retained and used for food storage purposes.

#### Use of a Licensed Premises

It is proposed that the restaurant be operated as a licensed premises, allowing for the sale, serving and consumption of alcohol in conjunction with meals.

#### Waiver of Car Parking Requirement associated with the Restaurant Use

Approval is also sought for the waiver of 20 car spaces on site. No car parking is proposed on site. The existing three car parking spaces located within the frontage area are to be removed and replaced with landscaping.

#### Alteration of Access to a Road Zone Category 1

It is proposed to remove the existing concrete driveway crossover, located in the southwest corner of the site, and to reinstate the kerb and channel and grassed naturestrip.

Display of a Business Identification Sign

The proposal also involves the display of a sign of approximately 1.8m x 0.9m (1.62 square metres in area). This sign is not to be illuminated. Details on the sign include the restaurant's name, contact details and trading hours. The sign is to be erected on the new front fence.

**Subject Land:**

The subject site is located at 50 Grey Street (north side of Grey Street, between Breed Street and Church Street), Traralgon.

The subject site is rectangular in shape, with a total area of approximately 809 square meters. It has a frontage of 20.12 metres to Grey Street, and a depth of approximately 40.23 metres.

The site is currently occupied by a single storey brick-veneer building with tiled roof, which is set back approximately 9 metres from Grey Street. A galvanized iron storage shed is also situated at the rear of the site.

The buildings on site have been vacant for approximately two years, and were previously used as an office.

The frontage setback area is mainly occupied by a small paved concrete parking area (for three car spaces), and garden beds with a number of mature trees. The site frontage is unfenced.

Vehicular access to the site from Grey Street is currently provided via a single crossover.

The site is relatively flat.

**Surrounding Land Use:**

**North:** Single storey dwellings. The land to the north of the site is zoned Residential 1.

**South:** Opposite side of Grey Street is the Traralgon service centre and the Traralgon Little Theatre. Associated public car parking areas are located within the service centre site. The land to the south and southwest of the subject site is zoned Public Use – Category 6.

**East:** 48 Grey Street is occupied by a health clinic (chiropractor and massage therapist) with parking at the rear. This site is zoned Business 5.

West: 52 Grey Street is a single storey office complex used as an allied health centre and office. This site is zoned Business 5.

#### **4.3 HISTORY OF APPLICATION**

The planning permit application was received on 2 March 2009.

Council requested further information pursuant to Section 54 of the Planning and Environment Act 1987 (the Act) on 28 March 2009. Council requested clarifications regarding the proposed signage dimensions, bicycle parking provisions, as well as materials and finishes of the proposed alterations to the existing building on site.

Council received a completed set of information from the applicant on 20 April 2009.

The applicant requested a minor amendment to the planning permit application (prior to notice of the application) on 29 April 2009, to slightly increase the proposed extension area and to amend the details of the proposed outdoor area.

#### **4.4 LATROBE PLANNING SCHEME**

##### **State Planning Policy Framework**

##### **Clause 14.01 - Planning for Urban Settlement**

The objectives of this Clause are *'to ensure a sufficient supply of land is available for residential, commercial, industrial, recreational, institutional and other public uses; and to facilitate the orderly development of urban areas'*.

##### **Clause 17.01 - Activity Centres**

The objective of this clause is identified as being *'to encourage the concentration of major retail, commercial, administrative, entertainment and cultural developments into activity centres (including strip shopping centres) which provide a variety of land uses and are highly accessible to the community'*.

##### **Clause 17.02 - Business**

The objective of this Clause is *'to encourage developments which meet community's needs for retail, entertainment, office and other commercial services and provide net community benefit in relation to accessibility, efficient infrastructure use and the aggregation and sustainability of commercial facilities'*.



Clause 18.02 - Car Parking and Public Transport Access to Development

The objective of this Clause is *'to ensure access is provided to developments in accordance with forecast demand taking advantage modes of transport and to minimise impact on existing transport networks and the amenity of surrounding areas'*.

Clause 19.03 - Design and Built Form

Some of the objectives of this Clause relevant to the proposal are: *'to achieve high quality urban design and architecture that reflects the particular characteristics, aspirations and cultural identity of the community; and to promote attractiveness of towns and cities within the broader strategic contexts'*.

**Local Planning Policy Framework**

Municipal Strategic Statement (Clause 21)

Clause 21.01 - Municipal Profile

Clause 21.01-9 states that the Traralgon Central Activity District *'provides community benefits in terms of access, equity and sustainability due to the dynamic mix of retail, office, civic, community, service and entertainment facilities'*.

Clause 21.02 - Key Influences

There are no key influences that relate specifically to this application.

Clause 21.03 - Vision Strategic Framework

This clause states the aim of Latrobe City to become *'the "capital" of the region in terms of shopping, health, education, culture, public administration, business, sport and a wide range of other employment and social and cultural activities.'*

Clause 21.04 - Objectives/Strategies/Implementation

As per the Traralgon Strategic Land Use Framework Plan included in Clause 21.04 of the Scheme, the subject site is located within an area which is identified as *'consolidate retail, commercial and entertainment uses'*.

One of the objectives under Element 2 (Containment) of Clause 21.04-1 that is of relevance to the proposal is *'to contain urban development within district boundaries in order to reinforce, strengthen and increase the attractiveness of the existing urban settlements and the activity centre pattern and to maximise the use of existing infrastructure'*.

Some of the objectives under Element 1 (Consolidation and Land Use Mix) of Clause 21.04-6 are relevant to the proposal as follows:

- *To provide the flexibility for commercial development to occur within each urban settlement in response to market forces.*
- *Ensure development occurs in an orderly and proper manner having regard to the Latrobe Retail Policy, the Latrobe Strategy Plan, structure plans and planning controls.*
- *To strengthen and reinforce existing major activity centres and prevent development outside of those centres which could undermine their ongoing operation.*
- *Continue to develop CAD activity centres as multi-function centres comprising retail, office, community, cultural, entertainment and leisure activities.*

Element 2 (Major Commercial Centres) under Clause 21.04-6 of the Scheme is also of relevance to the proposal. One of the objectives under Element 2 is to '*recognize and reinforce the community benefits of grouping most retail activity together with the office, civic, community, service and entertainment functions of the CADs*'.

### **Local Planning Policy (Clause 22)**

#### Clause 22.03 - Car Parking Policy

This clause applies to all applications for use and development within Latrobe City.

Clause 22.03 states that car parking provisions shall be determined in accordance with Clause 52.06, except for those uses identified in the Table under Clause 22.03, in which case the lesser car parking requirement shown in the Table can be considered.

Under the Table at Clause 22.03 of the Scheme, the requirements for car parking for a restaurant is 0.25 car spaces per seat, the requirement for the proposed 80 seats results in a requirement of 20 car spaces.

The proposal however does not seek to provide any car parking spaces on site. The existing car parking area within the front frontage setback of the site will be removed. Approval for the waiver of 20 car parking spaces is therefore sought as part of this planning permit application.

Clause 22.03 of the Scheme states that in relation to the reduction or waiving of car parking requirements the responsible authority may consider the following:

- *Credit for car parking spaces for existing buildings. This should be considered in the context of past provision, taking into account previous land use activity as against the proposed land use activity and generation of parking demand.'*
- *Any car parking precinct plan*
- *The availability of car parking in the locality.*
- *The availability of public transport in the locality*
- *The effect of time sharing of car parking demand among the uses in the locality.*
- *The reductions in car parking demand associated with shared car parking provision.*
- *The actual car parking demand of the use*
- *The existing car parking deficiencies associated with existing use of the land.*
- *The provision of any local car parking policy*
- *Local traffic management*
- *Local amenity including pedestrian amenity.*

These matters are considered in Section 6 of this report.

## **Zoning**

### **Business 5 Zone**

The subject site is located within a Business 5 Zone. Purpose of this zone is as follows:

- *To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *To encourage the development of offices or multi-dwelling units with common access from the street.*

Pursuant to Clause 34.05-1 of the Scheme, a planning permit is required to use the subject land for the purpose of a restaurant (i.e. any other use not in Section 1 or 3). A restaurant is nested under the broader land use term of 'food and premises', and a restaurant is defined under Clause 74 of the Scheme as follows:

*'Land used to prepare and sell food and drink, for consumption on the premises. It may include:*

- a) *entertainment and dancing; and*
- b) *the supply of liquor other than in association with the serving of meals, provided that tables and chairs are set out for at least 75% of patrons present on the premises at any one time.*

*It does not include the sale of packaged liquor.'*

Pursuant to Clause 34.05-4 of the Scheme, a permit is required to construct a building or construct or carry out works.

Pursuant to Clause 34.05-6 of the Scheme, the advertising sign requirements relevant to a Business 5 Zone are at Clause 52.05 – Category 3.

### **Particular Provisions**

#### Clause 52.05 - Advertising Signs

The objectives of this Clause are as follows:

- *To regulate the display of signs and associated structures.*
- *To provide for signs that are compatible with the amenity and visual appearance of an area, including the existing or desired future character.*
- *To ensure signs do not contribute to excessive visual clutter or visual disorder.*
- *To ensure signs do not cause loss of amenity or adversely affect the natural or built environment or the safety, appearance or efficiency of a road.*

The advertising sign requirements relevant to the subject site are at Clause 52.05-9 – Category 3 (High amenity areas). The purpose of Category 3 is to *'ensure that signs in high amenity areas are orderly, of good design and do not detract from the appearance of the building on which a sign is displayed or the surrounding area'*.

Pursuant to Clause 52.05-9 of the Scheme, a planning permit is required for a business identification sign.

#### Clause 52.27 - Licensed Premises

The objectives of this clause are stated as:

- *To ensure that licensed premises are situated in appropriate locations.*
- *To ensure that the impact of the licensed premises on the amenity of the surrounding area is considered.*

The decision guidelines of this clause state the following must be considered, as appropriate:

- *The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *As discussed above.*
- *The impact of the sale or consumption of liquor permitted by the liquor licence on the amenity of the surrounding area.*
- *The sale and consumption of liquor at the premises is to be in conjunction with meals (and to be served wholly within the premises). It is reasonable to consider that it would not significantly detract from the amenity of the area.*
- *The impact of the hours of operation on the amenity of the surrounding area.*
- *The proposal seeks to operate between the hours of 10am to 11pm. It is considered reasonable that the hours of operation is appropriate and unlikely to have any detrimental impact on the amenity of the area, in consideration that the site is located within the Traralgon Central Activity Centre.*
- *The impact of the number of patrons on the amenity of surrounding area.*
- *The patronage likely to be generated from an 80 seat restaurant is considered reasonable given the site is located within the Traralgon Central Activity Centre.*
- *The cumulative impact of any existing and the proposed liquor licence, the hours of operation and number of patrons, on the amenity of the area.*
- *The subject site is located within the Traralgon Primary Activity Centre, where there are not too many licensed premises. It is considered that the use of the land and the granting of a liquor licence would unlikely to detract from the amenity of the area.*

Clause 52.29 - Land Adjacent to a Road Zone, Category 1, or a Public Acquisition Overlay for a Category 1 Road.

The objective relevant to the proposal is as follows:

- *To ensure appropriate access to identified roads.*

The proposal does not seek to create any new access, but only seeks to remove the existing driveway crossover on site, which is currently abutting a Road Zone, Category 1. The kerb, channel and grassed naturestrip are to be reinstated.

**Decision Guidelines** (Clause 65):

Clause 65 outlines decision guidelines for an application. The appropriate guidelines have been considered in the above discussion, including:

- *The matters set out in Section 60 of the Act.*
- *The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *The purpose of the zone, overlay or other provision.*
- *Any matter required to be considered in the zone, overlay or other provision.*
- *The orderly planning of the area.*
- *The effect on the amenity of the area*

All of the above decision guidelines under Clause 65 of the Scheme have been considered as part of the assessment of this application (refer to Section 6 of this report below), and it is considered the proposal generally complies with the decision guidelines of Clause 65 of the Scheme.

**Incorporated Documents** (Clause 81):

Australian Standard AS2890.3-1993 Parking Facilities  
Part 3: Bicycle parking facilities, Standards Australia 1993  
The Traralgon Civic Precinct Plan, Latrobe City, 5 July 2004

**Planning Scheme Amendment C62**

The draft municipal strategic statement is a seriously entertained planning scheme amendment pursuant to Section 60(1A)(c) of the Act.

It should be noted a Traralgon Structure Plan is included in the draft municipal strategic statement, in which the subject site has been identified as locating within the Traralgon Primary Activity Centre, as well as within the Traralgon Transit City area.

The policies contained within C62 that are most relevant to the consideration of this application are at Clause 21.04-5 (Specific Town Strategies). The following objectives relate to Traralgon specifically:

- *Encourage the development of new retail, office and residential mixed use developments within Traralgon Activity Centre and Argyle Street.*
- *Encourage increased densities and vertical growth of Traralgon town centre to support the growth of the office sector.*
- *Support the development of the land generally bounded by Grey Street, Franklin Street and the Traralgon Creek for mixed use purposes.*

## 5. INTERNAL/EXTERNAL CONSULTATION

### Engagement Methods Used:

#### Notification:

The application was advertised pursuant to the following Sections of the *Planning and Environment Act 1987*:

- S. 52(1)(a): Notices to adjoining property owners and occupiers
- S. 52(1)(d): Sign on land

No objections were received to the application.

#### External:

Referral Authorities	Date Referred	Response Received	Comments
VicRoads	6/5/2009	9/6/2009	No objection, subject to standard conditions

#### Internal:

Council's Internal Department	Date Referred	Response Received	Comments
Transit Cities	6/5/2009	9/6/2009	Use is consistent with the Transit Cities Principles

Council's Internal Department	Date Referred	Response Received	Comments
Building	6/5/2009	6/5/2009	<p>Building permit is required for both the extension (kitchen) and the change of use of the dwelling</p> <p>Access must be provided for people with disability</p> <p><i>Planning Officer's response: a note will be included in the permit, to ensure that the applicant is to obtain all relevant permits (including but not limited to a building permit) prior to commencement of use / development, as well as the relevant Australian Standard relating to disability access must be met.</i></p>
Health	6/5/2009	7/5/2009	<p>Applicant is required to make application for plans approved plus provide two(2) scaled 1:100 floor plans showing all internal fitout before consideration is given for Food Act Regulations</p> <p><i>Planning Officer's response: a note will be included in the permit, to ensure that the applicant is to obtain all relevant permits (including but not limited to a food and health permit) prior to commencement of use / development.</i></p>
Project Services	6/5/2009	22/5/2009	<p>No objection, subject to standard conditions.</p> <p><i>Planning Officer's response: The draft conditions provided by Project Services have been included in the permit, refer to attached recommended conditions under the heading 'project services' for details.</i></p>



## 6. ISSUES

### Strategic direction of the State Planning Policy Frameworks:

It is considered reasonable that the proposal is consistent with the objective of Clauses 14.01(Planning for Urban Settlement), 17.01 (Activity Centres) and 17.02 (Business), by facilitating a restaurant use and development, through re-using an existing vacant commercial property within the Traralgon Central Activity District / Traralgon Transit City.

The proposal only seeks approval for minor alterations and extension to the existing building on site. It is reasonable to consider proposal satisfactorily meets the objectives of Clause 19.03 (Design and Built Form) of the Scheme.

### Strategic direction of the Local Planning Policy Frameworks:

The proposal is consistent with Clause 21.01-9 (Municipal Profile) of the Scheme, by supporting the growth of the Traralgon Central Activity District area, through the provision of a licensed restaurant to service the residents of Traralgon and surrounding towns.

It is also reasonable to consider that the proposal satisfactorily supports the aim of Clause 21.03 (Vision-Strategic Framework) and 21.04 (Objectives/ Strategies/Implementation) through the provision of a licensed restaurant which will strength and reinforce and increase the attractiveness of the existing Traralgon Central Activity District, and result in community benefits.

### Traffic and Car Parking

In response to Clauses 18.02 (Car Parking and Public Transport Access to Development) and 22.03 (Car Parking Policy) of the Scheme, it should be noted that the proposal seeks approval for the waiver of 20 car parking spaces.

Clause 52.06 of the Scheme does not relate to this proposal as the Scheme contains car parking requirements for a restaurant use within Clause 22.03.

The proposal does not seek to provide any car parking spaces on site, and the existing informal car parking area (which currently accommodates approximately 3 car spaces) within the front setback of the site will be removed.

The removal of the existing car parking area is requested by the applicant in order to facilitate fencing and landscaping improvements within the frontage setback of the site. Given the siting of the existing building (which is built almost boundary to boundary), there is virtually no opportunity to provide car parking at the rear of the site, as the rear of the site is unable to be accessed by vehicles.

A traffic engineering assessment has been submitted as part of this application. As part of the traffic engineering assessment, a survey was undertaken.

There is no Australian Standard that specifies minimum days or times for which traffic studies / surveys must be undertaken.

Surveys undertaken at activity centres in regional Victoria generally indicate that peak traffic generation and parking demand is usually greatest on Friday afternoon's and early evenings, when traffic generated by office and retail components of the precinct combine with the peak commuter volumes to produce the greatest total volume on the adjacent road network.

The survey which forms the basis of the Traffic Engineering Assessment Report, prepared by Traffix Group (November 2008) was undertaken on Friday 10 October 2008 from 12.00pm to 3.00pm and from 6.00pm to 10.00pm, to correspond with the proposed opening times of the restaurant. Refer to Section 4.2 of the Traffic Engineering Assessment Report for a summary of the survey results.

In summary, the Traffic report found that there was sufficient car parking capacity of approximately 80-100 car spaces (available at any one time) in the vicinity of the subject site during the surveyed period (i.e. around lunch time and dinner time on a Friday).

We note that following the notification period of the application, no objections have been received to the proposed waiver of car parking spaces.

Council's Project Services team undertook a site traffic survey on 22/5/2009 at 13:50, and it was found that 22 on street and 18 off street parking spaces were available on Grey Street between Breed and Church Streets, adjacent to the subject site.

It is considered that the waiver of car parking spaces should be supported for the following reasons:

- The subject site is located within the Traralgon Central Activity District, where commercial/retail activities should be supported and encouraged. The restaurant use and development on site will strengthen and reinforce and increase the attractiveness (by incorporating additional landscaping on the site) of the existing Traralgon Central Activity District.
- As per the traffic engineering assessment and findings from Council's Project Services team, there appears to be capacity within the existing parking supply in the vicinity of the subject site to accommodate the potential car parking demand of 20 spaces associated with the proposed restaurant.
- On-street car parking spaces are provided along the southern side of Grey Street, directly opposite the subject site. Off-street car parking (public car park located within the Traralgon Civic Centre) is also available almost directly opposite the subject site.
- Public transport is generally available in the area.
- Due to the physical constraints of the subject site, there is limited opportunity for the provision of on-site car parking.
- The removal of the existing car parking area within the frontage area (with the installation of a new front fence and further landscape treatment to this area) can potentially improve the visual amenity of the Grey Street streetscape. The submission of a detailed landscape plan should be required as a condition to the planning permit to ensure that the landscaping treatment within this frontage area is of a high quality and will result in a good landscape design to make the subject area more liveable and attractive.
- The removal of the existing car parking area within the frontage area and the removal of the existing vehicular access can potentially improve safety of the pedestrians, and assist in creating a more pedestrian-friendly area within the Traralgon primary central activity district .
- It is unlikely that the waiver of car parking requirement would have any detrimental impact upon residential amenity, as the site is generally located within a commercial / business district.

A landscape plan will be required via a condition of the permit, to ensure that the removal of the existing car parking area will be landscaped and result in an improvement to the Grey Street streetscape.

Purpose' and 'Decision Guidelines' of the Business 5 Zone:

It is considered reasonable that the proposed use of land for the purpose of a restaurant is appropriate in a Business 5 Zone, where economic growth and commercial businesses are encouraged. The proposed restaurant use is likely to complement the various other uses (including but not limited to office and health services) within the area.

Whilst the proposed restaurant use is unlikely to have any detrimental impact upon the amenity of the neighbourhood, a standard condition will be included in the permit to ensure that the use and development must be managed so that the amenity of the area is not detrimentally affected, through the transport of materials, appearance of the building, as well as emission of noise, artificial light, smell...etc.

The proposed alterations and additions to the existing building are appropriate for a restaurant use, and are generally of a good design. It is reasonable to consider that the proposal can potentially enhance the visual interest of the Grey Street streetscape. Appropriate provisions have been made on site for the storage of rubbish and materials for recycling.

Compliance with Clause 52.05 (Advertising Signage)

The proposal only seeks to erect one business identification sign (with the proposed restaurant's name and contact details on it), to be attached to the new front fence on site. This proposed signage is to be 1.8m in length x 0.9m in height, with a total area of 1.62 square metres. The sign is not to be illuminated.

It is considered that the sign is of a reasonable size, and is appropriate, in context to the proposed land use on site, the Grey Street streetscape, and the character of the area in general.

It is unlikely that the sign would have any detrimental impact upon the amenity of the area, or the road safety of Grey Street.

The proposal is considered to meet the objectives of Clause 52.27 of the Scheme.

Compliance with Clause 52.27 (Licensed Premises)

In response to Clause 52.27 of the Scheme, the area is considered to be suitable for the licence as the site is within the primary activity area of Traralgon.

No objections to the application have been received to date, on grounds relating to amenity concerns associated with the proposal. It is reasonable to consider that the amenity of the subject area would not be compromised from the granting of permit for a licensed premise.

A standard condition will be included in the permit to restrict the trading hours of a licensed premise.

Compliance with Clause 52.29 (Land Adjacent to a Road Zone, Category 1)

The proposal seeks approval for the removal of the existing crossover along the Grey Street frontage. Grey Street is a Road zoned Road Category 1.

As per the VicRoad's referral response (dated 9 June 2009) pursuant to Section 55 of the *Planning and Environment Act 1987*, VicRoads does not object to the granting of a permit for the proposal, subject to standard conditions (refer to the attached draft conditions under the heading 'VicRoads' for details).

It is considered reasonable that the removal of the existing access will not have any detrimental impact on the operation of Grey Street and on public safety.

A condition should be included in the permit, to ensure the reinstatement works to be undertaken to the satisfaction of Council's Project Services Team (the Responsible Authority).

**7. FINANCIAL AND RESOURCES IMPLICATIONS**

Additional resources or financial cost will only be incurred should the planning permit application require determination at the Victorian Civil and Administrative Tribunal (VCAT).

**8. OPTIONS**

Council has the following options in regard to this application:

1. Issue a Planning Permit; or
2. Issue a Refusal.

Council's decision must be based on planning grounds, having regard to the provisions of the Latrobe Planning Scheme.

## 9. CONCLUSION

The proposal is considered to be:

- Consistent with the strategic direction of the State and Local Planning Policy Frameworks;
- Consistent with the objectives of Clause 22.03 - Car Parking;
- Consistent with the 'Purpose' and 'Decision Guidelines' of the Business 5 Zone; and
- Consistent with Clause 65 (Decision Guidelines).

The relevant planning issues have been considered, and relevant permit conditions addressing these issues will be required.

## 10. RECOMMENDATION

That Council DECIDES to issue a Planning Permit, for the use of land for the purpose of a restaurant and licensed premises, additions to an existing building, waiver of car parking requirement, display of a business identification sign, and alteration of access to a road in a Road Zone Category 1, at 50 Grey Street in Traralgon, with the following conditions:

General Conditions:

1. The use and development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.
2. Except with the prior written consent of the Responsible Authority, the consumption of alcohol on the licensed premises permitted by this permit must operate only between the following times:
  - Good Friday and Anzac Day 12 noon - 11 pm;
  - Sunday 10 am - 11 pm; and
  - Any other day 10 am - 12 midnight.
3. The predominant activity carried out on the premises, must be the preparation and serving of meals for consumption on the premises.
4. The owner and/or occupier and the manager shall take all necessary steps to ensure that no noise or other disturbances emanates from the premises which may cause a nuisance to adjoining occupiers or detriment to the amenity of the neighbourhood, in the opinion of the Responsible Authority.
5. No more than 80 seats may be made available at any one time to patrons on the premises, without the written consent of the Responsible Authority.

6. The location and details of the sign(s), including those of the supporting structure, as shown on the endorsed plans, must not be altered without the written consent of the Responsible Authority.
7. The sign(s) must not contain any flashing light.
8. The sign(s) must not be illuminated by external or internal light except with the written consent of the Responsible Authority.
9. The sign(s) must be constructed and maintained to the satisfaction of the Responsible Authority.
10. Before the development starts, a landscape plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and three copies must be provided:
  - a) a survey (including botanical names) of all existing vegetation to be retained and/or removed;
  - b) buildings and trees (including botanical names) on neighbouring properties within three metres of the boundary;
  - c) details of surface finishes of pathways;
  - d) a planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant;
  - e) landscaping and planting within the open area at the front of the site.All species selected must be to the satisfaction of the Responsible Authority.
11. Before the use starts or by such later date as is approved by the Responsible Authority in writing, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.
12. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.
13. The use and development must be managed so that the amenity of the area is not detrimentally affected, through the:
  - a) transport of materials, goods or commodities to or from the land;
  - b) appearance of any building, works or materials;
  - c) emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil;

- d) Presence of vermin.
- 14. No external sound amplification equipment or loudspeakers are to be used for the purpose of announcement, broadcast, playing of music or similar purpose.
- 15. All waste material not required for further on-site processing must be regularly removed from the site. All vehicles removing waste must have fully secured and contained loads so that no wastes are spilled or dust or odour is created to the satisfaction of the Responsible Authority.

Engineering Conditions:

- 16. Prior to the issue of Statement of Compliance, the following works must be constructed to the satisfaction of the Responsible Authority:
  - a) Removal of the driveway to the property, replacement with kerb and channel and reinstatement of the nature strip.
- 17. Construction works on the land must be carried out in a manner that does not result in damage to existing Council assets and does not cause detriment to adjoining owners and occupiers, to the satisfaction of the Responsible Authority.

VicRoads Conditions:

- 18. The Owner/Applicant must comply with the following conditions from VicRoads:
  - a) VicRoads, in responding to this permit application, is not deemed to have been notified of, or to have given consent to undertake any works within the road reserve proposed in this permit application.
  - b) The proponent must meet the requirements of the Road Management Act 2004 with respect to notifying and/or seeking consent from VicRoads to undertake works in the road reserve.
- 19. This permit will expire if one of the following circumstances applies:
  - a) The development and use are not started within two years of the date of this permit.
  - b) The development is not completed within four years of the date of this permit.

The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires or within three months afterwards.

- 20. The approval contained in this permit for the sign(s) shown on the endorsed plans expires 15 years from the date of this permit.

(NOTE: This is a condition requirement of the State Government).



- Note 1: Prior to the commencement of works, the Council's Asset Protection Unit must be notified in writing, of any proposed building work (as defined by Council's Local Law No.3 (2006)) at least 7 days before the building work commences, or materials or equipment are delivered to the building site by a supplier; and unless otherwise exempted by Council, an Asset Protection Permit must be obtained.
- Note 2: The applicant must ensure that all relevant Permits have been approved prior to commencement.
- Note 3: The entrances and external areas must ensure disability access for both persons entering the site or using the footpath in accordance with relevant Australian Standards including AS 1428.2.
- Note 4: Applicant required to make application for plans approval plus provide two (2) sealed 1-100 floor plans showing all internal fit out before consideration is given for Food Act Registration.

**Moved:** Cr Fitzgerald  
**Seconded:** Cr Kam

#### **For the Motion**

Councillors Gibson, Middlemiss, Kam, Fitzgerald, Lougheed and O'Callaghan

#### **Against the Motion**

Councillors White, Vermeulen and Price

#### **ALTERNATIVE RECOMMENDATION**

**That Council DECIDES to issue a Planning Permit, for the use of land for the purpose of a restaurant and licensed premises, additions to an existing building, waiver of car parking requirement, display of a business identification sign, and alteration of access to a road in a Road Zone Category 1 at 50 Grey Street in Traralgon, with the following conditions:**

##### **General Conditions:**

- 1. Before the use and development start, plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must show:**

- a) A provision of at least 3 car spaces within the front setback of the subject site. Design of car parking areas must be in accordance with Australian Standard AS2890.1 and to the satisfaction of the responsible authority;
  - b) The existing crossover nominated to be retained; and
  - c) Deletion of the notation which says 'Note: As per Traffic Engineering Assessment Report there is no requirement to provide on site car parking for restaurant patrons or loading area'.
2. The use and development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.
  3. Except with the prior written consent of the Responsible Authority, the consumption on the licensed premises permitted by this permit must operate only between the following times:
    - Good Friday and Anzac Day 12 noon - 11 pm;
    - Sunday 10 am - 11 pm; and
    - Any other day 10 am - 12 midnight.
  4. The predominant activity carried out on the premises, must be the preparation and serving of meals for consumption on the premises.
  5. The owner and/or occupier and the manager shall take all necessary steps to ensure that no noise or other disturbances emanates from the premises which may cause a nuisance to adjoining occupiers or detriment to the amenity of the neighbourhood, in the opinion of the Responsible Authority.
  6. No more than 80 seats may be made available at any one time to patrons on the premises, without the written consent of the Responsible Authority.
  7. No fewer than 3 car spaces must be provided on the land for the use and development.
  8. A sign to the satisfaction of the responsible authority must be provided directing drivers to the area set aside for car parking and must be located and maintained to the satisfaction of the responsible authority. The area of the sign must not exceed 0.3 square metres.
  9. Vehicle access to the site shall only be at the nominated crossing shown on the endorsed plan. The crossing and road pavement works are to be constructed to the satisfaction of VicRoads and the responsible authority.
  10. The location and details of the sign(s), including those of the supporting structure, as shown on the endorsed plans, must not be altered without the written consent of the Responsible Authority.
  11. The sign(s) must not contain any flashing light.
  12. The sign(s) must not be illuminated by external or internal light except with the written consent of the Responsible Authority.
  13. The sign(s) must be constructed and maintained to the satisfaction of the Responsible Authority.
  14. Before the development starts, a landscape plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and three copies must be provided:

- a) a survey (including botanical names) of all existing vegetation to be retained and/or removed;
- b) buildings and trees (including botanical names) on neighbouring properties within three metres of the boundary;
- c) details of surface finishes of pathways;
- d) a planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant;
- e) landscaping and planting within the open area at the front of the site.

All species selected must be to the satisfaction of the Responsible Authority.

15. Before the use starts or by such later date as is approved by the Responsible Authority in writing, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.
16. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.
17. The owner and/or occupier and the manager shall take all necessary steps to ensure that no noise or other disturbances emanates from the premises which may cause a nuisance to adjoining occupiers or detriment to the amenity of the neighbourhood, in the opinion of the Responsible Authority.
18. The use and development must be managed so that the amenity of the area is not detrimentally affected, through the:
  - a) transport of materials, goods or commodities to or from the land;
  - b) appearance of any building, works or materials;
  - c) emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil;
  - d) Presence of vermin.
19. No external sound amplification equipment or loudspeakers are to be used for the purpose of announcement, broadcast, playing of music or similar purpose.
20. All waste material not required for further on-site processing must be regularly removed from the site. All vehicles removing waste must have fully secured and contained loads so that no wastes are spilled or dust or odour is created to the satisfaction of the Responsible Authority.
21. Before the use or occupation of the development starts, the area set aside for the parking of vehicles and access lanes as shown on the endorsed plans must be:
  - a) constructed;
  - b) properly formed to such levels that they can be used in accordance with the plans;
  - c) surfaced with an all-weather-seal coat;
  - d) drained;
  - e) line marked to indicate each car space and all access lanes;

- f) clearly marked to show the direction of traffic along access lanes and driveways.

Car spaces, access lanes and driveways must be kept available for these purposes at all times to the satisfaction of the Responsible Authority.

**Engineering Conditions:**

22. Construction works on the land must be carried out in a manner that does not result in damage to existing Council assets and does not cause detriment to adjoining owners and occupiers, to the satisfaction of the Responsible Authority.

**VicRoads Conditions:**

23. The Owner/Applicant must comply with the following conditions from VicRoads:
- a) VicRoads, in responding to this permit application, is not deemed to have been notified of, or to have given consent to undertake any works within the road reserve proposed in this permit application;
  - b) The proponent must meet the requirements of the Road Management Act 2004 with respect to notifying and/or seeking consent from VicRoads to undertake works in the road reserve.
24. This permit will expire if one of the following circumstances applies:
- a) The development and use are not started within two years of the date of this permit;
  - b) The development is not completed within four years of the date of this permit.

The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires or within three months afterwards.

25. The approval contained in this permit for the sign(s) shown on the endorsed plans expires 15 years from the date of this permit.

(NOTE: This is a condition requirement of the State Government).

**Note 1:** Prior to the commencement of works, the Council's Asset Protection Unit must be notified in writing, of any proposed building work (as defined by Council's Local Law No.3 (2006) at least 7 days before the building work commences, or materials or equipment are delivered to the building site by a supplier; and unless otherwise exempted by Council, an Asset Protection Permit must be obtained.

**Note 2:** The applicant must ensure that all relevant Permits have been approved prior to commencement.

**Note 3:** The entrances and external areas must ensure disability access for both persons entering the site or using the footpath in accordance with relevant Australian Standards including AS 1428.2.

**Note 4:** Applicant required to make application for plans approval plus provide two (2) sealed 1-100 floor plans showing all internal fit out before consideration is given for Food Act Registration.

The Mayor confirmed that the Alternative Recommendation had been CARRIED



ATTACHMENT



## **7.2 TRARALGON COURTHOUSE CONSERVATION MANAGEMENT PLAN**

**AUTHOR:** General Manager Recreational and Cultural Liveability  
**(ATTACHMENT – YES)**

### **1. PURPOSE**

The purpose of this report is to seek Council's adoption of the Traralgon Court House Conservation Management Plan and to seek approval to undertake an Expression of Interest process to determine prospective future users of the Traralgon Court House.

### **2. DECLARATION OF INTERESTS**

No officer declared an interest under the *Local Government Act* 1989 in the preparation of this report.

### **3. POLICY IMPLICATIONS**

This report is consistent with Council's Latrobe 2021 vision document and the Council Plan 2009-2013.

#### **Latrobe 2021 and Council Plan 2009-2013**

##### *Strategic Objective – Sustainability*

To promote the responsible and sustainable care of our diverse built and natural environment for the use and enjoyment of the people who make up the vibrant community of Latrobe Valley. To provide leadership and to facilitate a well connected, interactive economic environment in which to do business.

##### *Community Outcome – Built Environment*

To promote the responsible and sustainable care of our diverse built and natural environment for the use and enjoyment of the people who make up the vibrant community of Latrobe Valley. To provide leadership and to facilitate a well connected, interactive economic environment in which to do business.

##### *Strategic Actions*

- Develop and implement asset management strategies for Latrobe City infrastructure including whole-of-life maintenance requirements.
- Develop flexibility in facilities to cater for changing demands of the community.

- Protect the area's historical character and heritage features.
- Promote and support private and public sector investment in the development and maintenance of key asset infrastructure in the municipality.

Council Plan 2008-2012 Action

Undertake a heritage conservation study and plan for the Traralgon Court House.

Latrobe City Planning Scheme

The Traralgon Court House (and Post Office) are included within the schedule to the heritage overlay which provides statutory protection to the use or development of the buildings.

*Policy – Asset Management Policy 09 POL-3*

To preserve and manage Council and community assets to ensure optimum utilisation while minimising the whole-of-life cost to the community.

**4. BACKGROUND**

At the Ordinary Council Meeting held on Monday, 15 June 2009 Council considered a report which presented a Conservation Management Plan in respect of the Traralgon Court House. The report also outlined a process for moving forward with the preparation of a brief for the future development of the Traralgon Court House, in line with the principles established in the Conservation Management Plan.

Following consideration of this report Council adopted the following resolution:

1. *That Council releases the Traralgon Court House draft Conservation Management Plan (13 April 2009 - Draft) for community consultation for a period of six weeks.*
2. *That the results of this consultation be included in a further report to be presented to Council at the Ordinary Council Meeting to be held on 7 September 2009.*
3. *That, subject to Council adopting the Traralgon Court House draft Conservation Management Plan on 7 September 2009, an Expression of Interest process be conducted to determine prospective future uses of the Traralgon Court House.*

4. *That further community consultation be undertaken following the receipt of Expressions of Interest to gauge the community's attitude towards the potential future use/s of the Traralgon Court House.*
5. *That a further report be presented to Council following the community consultation in relation to the Expressions of Interest received.*

The Traralgon Court House Conservation Management Plan was released for community consultation on 16 June 2009.

## 5. **ISSUES**

The community consultation period for the Traralgon Court House Conservation Management Plan closed on Monday, 3 August 2009. Two responses to the plan were received from the Traralgon and District Historical Society and the Traralgon City and Rural Community Development Association Inc.

The responses, which are attached to this report, are generally supportive of the Conservation Management Plan. The Traralgon and District Historical Society advocates for the building to stay in the hands of the community via a committee of management arrangement. This was a view expressed by many who attended the community consultation sessions held during the development of the plan.

The Traralgon City and Rural Community Development Association Inc. submission commends the draft plan in respect to content and its true statement of cultural heritage significance. This submission also advocates the need for an advisory committee to be formed to progress any development.

Subject to the adoption of the Traralgon Court House Conservation Management Plan, Council may now proceed to undertake an Expression of Interest process to determine prospective future uses of the Traralgon Court House. Such a process will identify opportunities for the development, management and maintenance of the Traralgon Court House in line with the recommendations of the Traralgon Court House Conservation Management Plan.

Expressions of Interest should be sought from community and/or commercial organisations which provide (where applicable):

- The proposed purpose or use of the building
- Management/business plans
- Development/restoration plans



- Maintenance plans
- Partnership arrangements

Such expressions of interest will be required to detail the proposed development and in particular, explain how it would adhere to the conservation policy, respect the statement of cultural value and deliver the conservation actions contained in the Conservation Management Plan.

The table below provides an indicative approach and timeframe for the implementation of an Expression of Interest process and subsequent reporting of the results of that process back to Council.

Action	Completion date
1. Finalise the Expression of Interest brief / specification*	14 September 2009
2. Place advertisements seeking Expressions of Interest	14 September 2009
3. Conduct information sessions for interested community and/or commercial parties, ensuring that the process and expectations regarding the Expressions of Interest are clearly understood	25 September 2009
4. Close off Expressions of Interest process	4 December 2009
5. Collate & evaluate Expressions of Interest**	February 2010
6. Report back to Council with results of Expression of Interest evaluation and seek to identify preferred option/s for future use of Court House for release to community for comment	March 2010
7. Undertake further community consultation on preferred option/s prior to formal endorsement by Council	April 2010

\* This brief/specification will clearly articulate the requirements and expectations of Council in respect to any proposals and the evaluation criteria to be utilised in the assessment process.

\*\* This phase will also include a full due diligence process to assess the suitability of potential organisations or individuals.

## 6. FINANCIAL AND RESOURCES IMPLICATIONS

The Traralgon Court House Conservation Management Plan was commissioned and funded in 2008/2009 Latrobe City Council budget.

Costs associated with implementing the expressions of interest process are minimal and can be met within existing resources. Such a process has been allowed for within the work plans of staff within the Recreational and Cultural Liveability Division.

## 7. **INTERNAL / EXTERNAL CONSULTATION**

### *Engagement Method Used:*

- Print Media
- Web Page
- Media Release
- Personal Briefings
- Public Meetings/Information Sessions

### *Details of Community Consultation / Results of Engagement:*

During the development of the Conservation Management Plan personal briefings and public information sessions were held at the Traralgon Court House on Wednesday 11 March 2009. These were attended by 20 people overall.

The sessions were advertised in the local print media and a media release resulted in an article being published in the Traralgon Journal and a radio interview being conducted by ABC Gippsland with the Heritage Consultant who was engaged to prepare the conservation management plan.

Following its consideration by Council, the Traralgon Court House Conservation Management Plan was released for public comment. Advertisements were placed in the Latrobe Valley Express advising of its release and how to obtain a copy.

The plan was available from the Latrobe City Council website and hard copies were available at Latrobe City Council Service Centres in Traralgon, Morwell and Moe.

A media release was published in the Latrobe Valley Express advising that the Traralgon Court House Conservation Management Plan was available for public comment.

One submission was received from the public expressing general support for the plan.

## 8. OPTIONS

Council has the following options:

1. Adopt the Traralgon Court House Conservation Management Plan and conduct an Expression of Interest process to determine prospective future uses of the Traralgon Court House.
2. Adopt the Traralgon Court House Conservation Management Plan and seek alternative processes to determine future uses of the Traralgon Court House.
3. Decline to adopt the Traralgon Court House Conservation Plan.

## 9. CONCLUSION

The Traralgon Court House is an iconic building located in the central business district of Traralgon. There is significant community interest in the future of the building, as demonstrated by the level of interest in the initial consultation phase and subsequent media coverage.

The Traralgon Court House Conservation Management Plan provides an overview of the Traralgon Court House historical background, including a detailed description of each room in the Court House, a condition report and a statement of cultural value. The plan also sets out a conservation policy for the Court House and details a set of conservation actions which includes a list of maintenance priorities.

The Traralgon Court House Conservation Management Plan was released for community consultation for a period of six weeks. One submission was received from the public expressing general support for the plan.

At its Ordinary Council Meeting held on Monday, 15 June 2009 Council resolved that subject to the adoption of the Traralgon Court House Conservation Management Plan an Expression of Interest process be undertaken to determine prospective future uses of the Traralgon Court House.

Such a process will identify opportunities for the development, management and maintenance of the Traralgon Court House in line with the recommendations of the Traralgon Court House Conservation Management Plan.

**10. RECOMMENDATION**

- 1. That Council adopts the Traralgon Court House Conservation Plan.**
- 2. That Council conducts an Expression of Interest process to identify and determine prospective future users of the Traralgon Court House that comply with the requirements of the Conservation Management Plan and clearly articulate the business model that will be implemented.**

**Moved:** Cr Vermeulen

**Seconded:** Cr Fitzgerald

**That the Recommendation be adopted.**

**CARRIED UNANIMOUSLY**

**ATTACHMENTS****ATTACHMENT 1 - SUBMISSIONS**

**TRARALGON AND DISTRICT HISTORICAL SOCIETY INC.**

POSTAL ADDRESS PO BOX 697 TRARALGON 3844.

**President**  
**Jim F Hood jp.**  
 25 Canfield Crescent  
 Traralgon 3844  
 PH 03 51743797 Mob 0428 743797  
 Email [jfhoodjp@bigpond.com](mailto:jfhoodjp@bigpond.com)

**Secretary**  
**Thelma Mayze**

**Mob 0429 901948**

**Mr. Paul Buckley**  
**Chief Executive Officer**  
 Latrobe City  
 Commercial Road  
 Morwell 3840

21<sup>st</sup> July 2009.

Dear Sir.

**Members of the Traralgon and District Historical Society Inc in reference to the Historic Traralgon Court House. Should stay in the hands of the public under a Committee of management.**

**We support the consultant report in reference to uses made by him for community uses.  
 1/meetings 2/ activities such as display, Forum facility.**

**Plus Maintance and retaining court furnishings with self contained kitchen and improved toilets for disable and male and female.**

**Some of the smaller rooms could be used for small groups that find it difficult to hire rooms for their meetings. Perhaps a small coffee Garden is setup on the south side to help with running cost.**

**The exterior needs attention to the roof and painting. This building attracts many visitors to our City and is an important land mark for visitors.  
 We support the consultants report to be presented to council 17<sup>th</sup> August 2009.**

Yours Sincely  
 Jim F Hood jp

President Traralgon Historical Society Inc



Latrobe City	
Doc No:	
Action Of:	
Disposal:	
Comments:	



**TRARALGON***"one of the great cities of Victoria"****Traralgon City & Rural*****Community Development Association Inc***Inc. No. A6043180C**ABN: 20 408 248 015*

PO Box 719 Traralgon Vic 3844

Phone: 03 5174 9358 Fax: 03 5174 9368

E-mail: bruce@scribex.net

August 25, 2009

Mr Paul Buckley  
 Chief Executive Officer  
 Latrobe City Council  
 P O Box 264  
 MORWELL Vic 3844

Dear Mr Buckley,

## Traralgon Court House Management Plan

Our association writes to commend the commissioning of consultant, Ivar Nelson, to prepare a Conservation Management Plan for the Court House and Post Office at Traralgon. The document is a very definitive work on this historically important public office precinct and it will form a much needed public record of the historical background of this site.

Whilst much of the material could be sourced from the Traralgon Historical Society, heritage registers and the National Trust, this plan puts all known facts, drawings and photos into the one document and adds the knowledge and exceptional expertise of the consultants, so it will become a true statement of cultural heritage significance.

We, along with our members, say a sincere 'thank you' for this work and trust that it will be treated with reverence by the Council as they deliberate the next steps, but particularly the next steps of the adoption of the recommendations for conservation policy and action.

On the subject of the next steps, our association wants to remind you of the hurt felt by our members of the abrupt dismissal of the committee formed to address the issues of the future use of the Court House. We still believe many of the items put forward by this group remain relevant and compliment the eloquent report prepared by Ivar Nelson.

Latrobe City	
27 AUG 2009	
Doc. No:	
Action Officer:	
Disposal Code:	
Comments:	

August 25, 2009  
Page 2

We remain strong in the belief for the need for an advisory committee to be formed, made up from the community, performing and visual arts and others, and chaired by a councillor, to progress the requirements of the Council. It would also be useful to ensure that Australia Post has a place at the table of such an advisory committee.

We would welcome the opportunity to have input into the future use of the Court House and to play a part in ensuring the community has access to this historic site.

Yours faithfully,



Peter Wood  
Association Project Officer

**ATTACHMENT 2 – TRARALGON COURT HOUSE  
CONSERVATION MANAGEMENT PLAN**



**7.3****GABO WAY, MORWELL - PROPOSED TRAFFIC CALMING**

**AUTHOR:** General Manager Built and Natural Environment Sustainability  
**(ATTACHMENT – YES)**

**1. PURPOSE**

The purpose of this report is to provide Council with the findings of an investigation into traffic issues along Gabo Way, Morwell.

**2. DECLARATION OF INTERESTS**

No officer declared an interest under the *Local Government Act* 1989 in the preparation of this report.

**3. POLICY IMPLICATIONS**

This report is consistent with Council's Latrobe 2021 vision document and the Council Plan 2009-2013.

*Latrobe 2021 and Council Plan 2009-2013*

*Strategic Objective - Liveability*

To promote and support social, recreational, cultural and community life by providing both essential and innovative amenities, services and facilities within the municipality.

*Community Outcome - Community*

By enhancing the quality of residents' lives, by encouraging positive interrelated elements including safety, health, education, quality of life, mobility and accessibility, and sense of place.

*Strategic Action - Community Liveability*

Support government agencies, non-government agencies and the community in reducing crime, violence and antisocial behaviour, by implementing ongoing actions to reduce family violence, drug and alcohol abuse, improve road safety and enhance safety at home.

### *Policy*

Council does not currently have a specific policy dealing with traffic management matters. The following documents were used as the basis for assessing this matter and providing advice to Council for consideration:

- Latrobe City Council's "*Design Guidelines for Subdivisional Developments, Urban & Rural Road and Drainage Construction, and Traffic Management Projects*";
- Austroads "*Guide to Traffic Engineering Practice*";
- VicRoads "*Traffic Engineering Manual*", and
- The ResCode provisions of the Victorian Planning Provisions.

#### 4. **BACKGROUND**

The following table summarises the process that has been undertaken to investigate traffic issues along Gabo Way and Nindoo Drive, Morwell.

18 June 2007	A petition signed by 81 residents representing 60 percent of the occupied properties along Gabo Way, requesting that works be carried out to reduce vehicle speeds along Gabo Way, was tabled. Council resolved at its Ordinary Meeting:  <i>1. That the petition requesting that works be carried out to reduce the speed at which vehicles travel along Gabo Way, Morwell, lay on the table until the Ordinary Council Meeting on 16 July, 2007.</i>
16 July 2007	Following consideration of a report on this matter Council resolved at its Ordinary Meeting:  <i>1. That Council agree in principle for the need to install traffic calming devices along Gabo Way, Morwell to generally reduce traffic speeds along the street to an appropriate level.</i> <i>2. That consultation regarding the installation of traffic calming devices along Gabo Way be undertaken with all premises along the street.</i>
March - July 2008	Consultants HDS investigate and suggest options for calming traffic along Gabo Way and recommend that works also be undertaken in Nindoo Drive.

March 2009	Survey undertaken of residents along Gabo Way and Nindoo Drive and all courts off Gabo Way and Nindoo Drive to gauge support for a number of different traffic calming options.
15 June 2009	<p>Following consideration of the results of survey and advice from the Department of Transport, Council at it's Ordinary Meeting resolved:</p> <ol style="list-style-type: none"> <li>1. <i>That further consultation be undertaken with the owners and occupiers of all premises located along Gabo Way and Nindoo Drive, Morwell and all the courts located off Gabo Way and Nindoo Drive explaining the change in the preferred traffic calming treatment along Gabo Way and seeking an indication of support for the installation of road cushions with kerb extensions along Gabo Way and the installation of two additional road humps in Nindoo Drive.</i></li> <li>2. <i>That a further report be presented to Council following the completion of consultation with the residents of the area regarding the type of traffic calming treatments to be installed along Gabo Way and Nindoo Drive.</i></li> </ol>
June-July 2009	Survey undertaken of residents along Gabo Way and Nindoo Drive and all courts off Gabo Way and Nindoo Drive to gauge support for the preferred traffic calming option using road cushions. Results of survey are discussed in section 7 of this report.

## 5. ISSUES

Gabo Way is classified as a Major Access Street under Council's road hierarchy. This means that the street should only provide for local residential access and that local amenity should be more important than the traffic function of the street.

Under Latrobe City's Design Guidelines, to provide an acceptable level of amenity along a major access street, the street should conform to the following characteristics:

- traffic volumes should be less than 2000 vehicles per day;
- the average vehicle speed along the street should be no more than 40 km/h; and
- have a road pavement width of 7.0 metres (7.5 metres if there are barrier type kerbs or for a bus route).

To provide accessibility, safety and convenience for all residential street users, ResCode requires that vehicles must be slowed to 20 km/h or less every 100 to 140 metres along a major access street to ensure vehicle speeds are appropriate for the type of street.

The current road width is 11.0 metres wide and Gabo Way is therefore wider, longer and relatively more open than is considered appropriate for its classification. There are also few vehicles parked on-street to deflect and slow the path of vehicle's moving along the street.

Traffic counts revealed that the average mid-block vehicle speeds along Gabo Way were generally 5 to 7 km/h higher than desirable. The surveys also found that along some sections of Gabo Way over 40 percent of all vehicles were exceeding the 50 km/h speed limit and that 20 percent of all vehicles exceed 56 km/h at these locations. A summary of the traffic count results is shown on the plan attached.

Initial consultation with the residents of the area regarding the type of traffic calming treatments that should be installed was based upon advice that Gabo Way was not part of a bus route now and unlikely to be in the future. The recommended treatment along Gabo Way was also founded upon this advice.

Information was subsequently received from the Department of Transport that Gabo Way is part of a school bus route. VicRoads guidelines specifically advise that Major Traffic Control Items, including road humps and road cushions, cannot be installed along a road forming part of a public commercial passenger route without the written approval of the Public Transport Corporation or the relevant bus company.

The Department of Transport have advised that road cushions are the only acceptable traffic calming device for installation along routes where they operate bus services. Wider vehicles such as buses are able to straddle the road cushion minimising the inconvenience, discomfort and the potential for injury to bus passengers. This is even more desirable on school bus routes where passengers are less likely to be restrained (such as by seat belts) than on town bus routes.

At the Ordinary Council Meeting held on 15 June 2009, Council agreed that in the interests of improving safety for all road users, the use of road cushions with kerb extensions should now be the preferred traffic calming treatment for Gabo Way. A plan of this preferred treatment is attached.

Although there was support for the previously recommended traffic calming treatment of road humps with kerb extensions from the respondents to the first survey, it was noted that no response was received from 74 percent, or 222 premises in the area.

Council therefore resolved that further consultation be undertaken with the residents of the area.

## 6. FINANCIAL AND RESOURCES IMPLICATIONS

There are no funds specifically allocated for works in this area. If further works are determined to be required, such works shall need to be referred for consideration in future capital works programs.

Expenditure on traffic and pedestrian safety capital works projects for the past two financial years, and budget provision for the current financial year is detailed in the following table:

Period	Expenditure
2007/08	\$ 563,807 (actual)
2008/09	\$ 399,735 (actual)
2009/10	\$ 423,000 (budget)

The following information details traffic and pedestrian safety projects that have been approved by Council, and are to be considered for funding in future budget processes.

These projects are subject to prioritisation and funding on an annual basis, given consideration of factors such as risk and available budget resources.

Location	Cost
Morwell Park Primary School	\$58,000
Shakespeare & Maskrey Street, Traralgon	\$48,000
Main Street, Yinnar	\$110,000
Mid Valley Road, Morwell	\$18,000
Coalville Road, Cemetery Road, Moe	\$20,000
Liddiard Road, Glenview Drive, Traralgon	\$60,000
Dinwoodie Drive, Newborough	\$240,000
Churinga Drive & Glendonald Road Churchill	\$90,000
Amaroo Drive, Churchill	\$160,000
Ikara Way, Churchill	\$35,000
Euroka Crescent, Churchill	\$95,000
Traralgon East Neighbourhood Renewal Area	\$27,000
<b>Total</b>	<b>\$961,000</b>

## 7. INTERNAL / EXTERNAL CONSULTATION

### *Engagement Method Used:*

Correspondence

### *Details of Community Consultation / Results of Engagement:*

Following Council's resolution at the Ordinary Council Meeting held on 15 June 2009, letters and forms were sent to the owners and occupiers of all properties along Gabo Way and Nindoo Drive and all properties located in the courts off Gabo Way and Nindoo Drive. The letter explained the reason for the change in the preferred traffic calming treatment along Gabo Way and included a plan of the preferred option.

A summary of the responses received is shown below. A total of 135 responses were received representing 36 per cent of the properties in the area investigated (a 10 per cent increase in the percentage of responses from the previous survey). The total responses included 44 from Gabo Way and 38 from Nindoo Drive.

ALL STREETS	YES	Neutral/ Nil Response	NO	Total Responses	Number of occupied properties	No Reply	% responses
Remove existing splitter islands and install road cushions with kerb extensions at eight locations along Gabo Way	85	3	47	135	316	201	36%
Install two additional road humps in Nindoo Drive	90	4	41				

*Note that multiple responses were received from some properties. As the letters were sent to all owners and occupiers, multiple responses may result if the owner is not also the occupier of a property or may also result where there may be more than one owner listed for a property.*

It is also important to note that of the 44 responses received from the properties along Gabo Way (49 percent response rate), 32 were in favour of the preferred traffic calming works proceeding along Gabo Way.

29 of the 38 responses from the owners/occupiers of properties in Nindoo Drive and the courts off Nindoo Drive (34 percent response) approved the installation of two additional road humps along Nindoo Drive to slow vehicles travelling along Nindoo Drive.

It is clear from the responses that a majority of the respondents agree with the preferred traffic calming works along Gabo Way and Nindoo Drive.

## **8. OPTIONS**

Council's options on the matters raised in this report include:

1. Take no further action on this matter; or
2. Approve the recommendations to improve road safety in the area and to refer the proposed works for funding consideration in future Capital Works Programs.

## **9. CONCLUSION**

From the traffic counts undertaken, the vehicle speeds recorded along Gabo Way were found to be higher than desirable and at the Ordinary Council Meeting held on 16 July 2007, Council agreed "in principle" that traffic calming works should be installed along Gabo Way to reduce vehicle speeds to an appropriate level.

In view of the support from the resident responses it is recommended that Council should now approve the installation of road cushions and kerb extensions along Gabo Way and the installation of two additional road humps in Nindoo Drive, as shown on the plans attached to this report, as the means to reduce vehicle speeds and improve road safety along Gabo Way and Nindoo Drive.

## **10. RECOMMENDATION**

- 1. That Council approves the installation of road cushions with kerb extensions at eight locations along Gabo Way and the installation of two additional road humps in Nindoo Drive to improve road safety along these streets.**
- 2. That the installation of road cushions with kerb extensions at eight locations along Gabo Way and the installation of two additional road humps in Nindoo Drive be referred for funding consideration in future Capital Works Programs.**
- 3. That Council advises the owners and occupiers in writing of all properties along Gabo Way and Nindoo Drive and in all courts off Gabo Way and Nindoo Drive and also the Department of Transport and Latrobe Valley Bus Lines of Council's decision to;**

- (a) install road cushions with kerb extensions at eight locations along Gabo Way and the installation of two additional road humps in Nindoo Drive to improve road safety along these streets and;
- (b) refer the cost of these works for funding consideration in future Capital Works Programs.

**Moved:** Cr Middlemiss

**Seconded:** Cr Lougheed

**That the Recommendation be adopted.**

**For the Motion**

Councillors White, Middlemiss, Vermeulen, Price, Kam, Fitzgerald, Lougheed and O'Callaghan

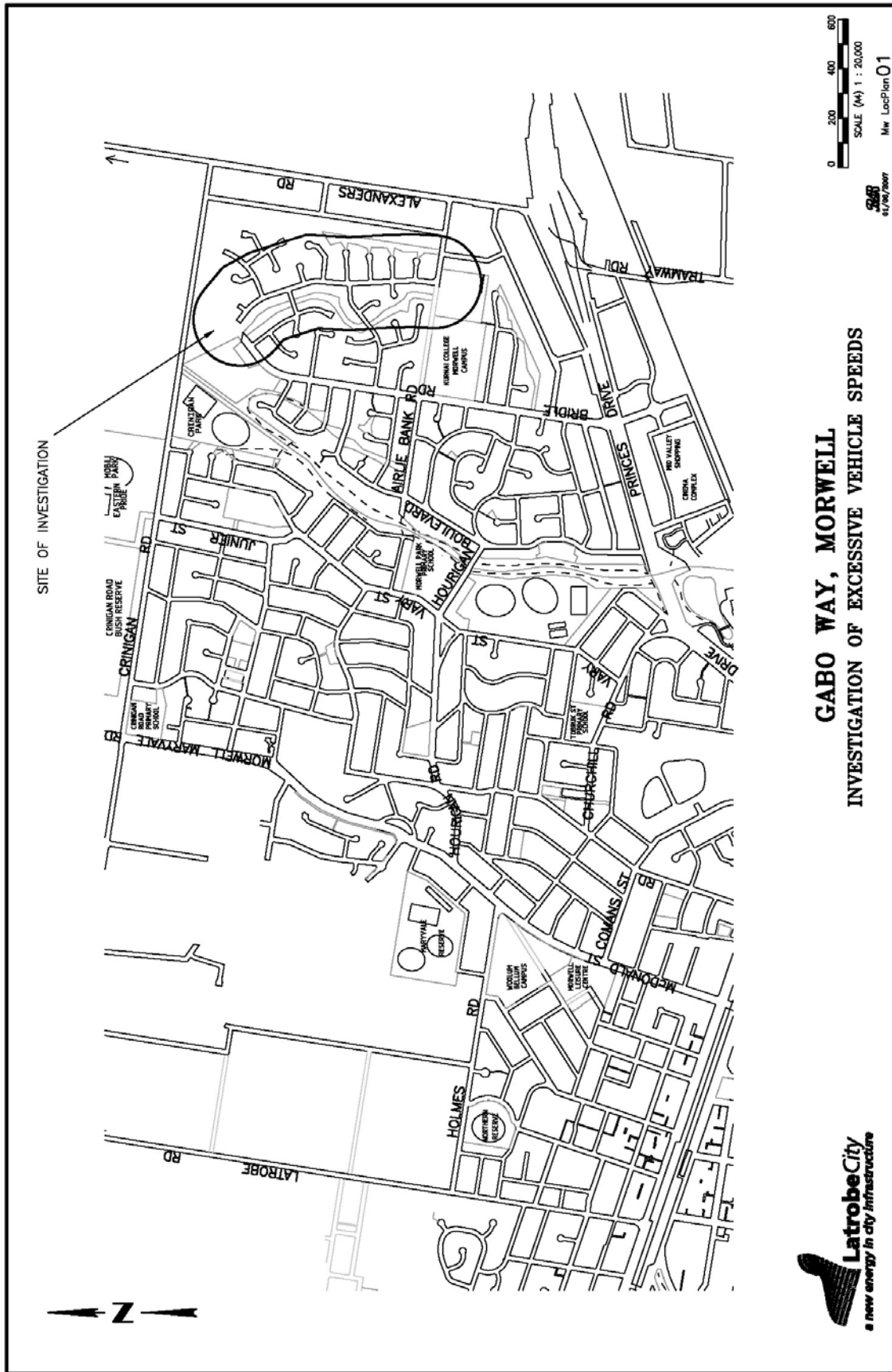
**Against the Motion**

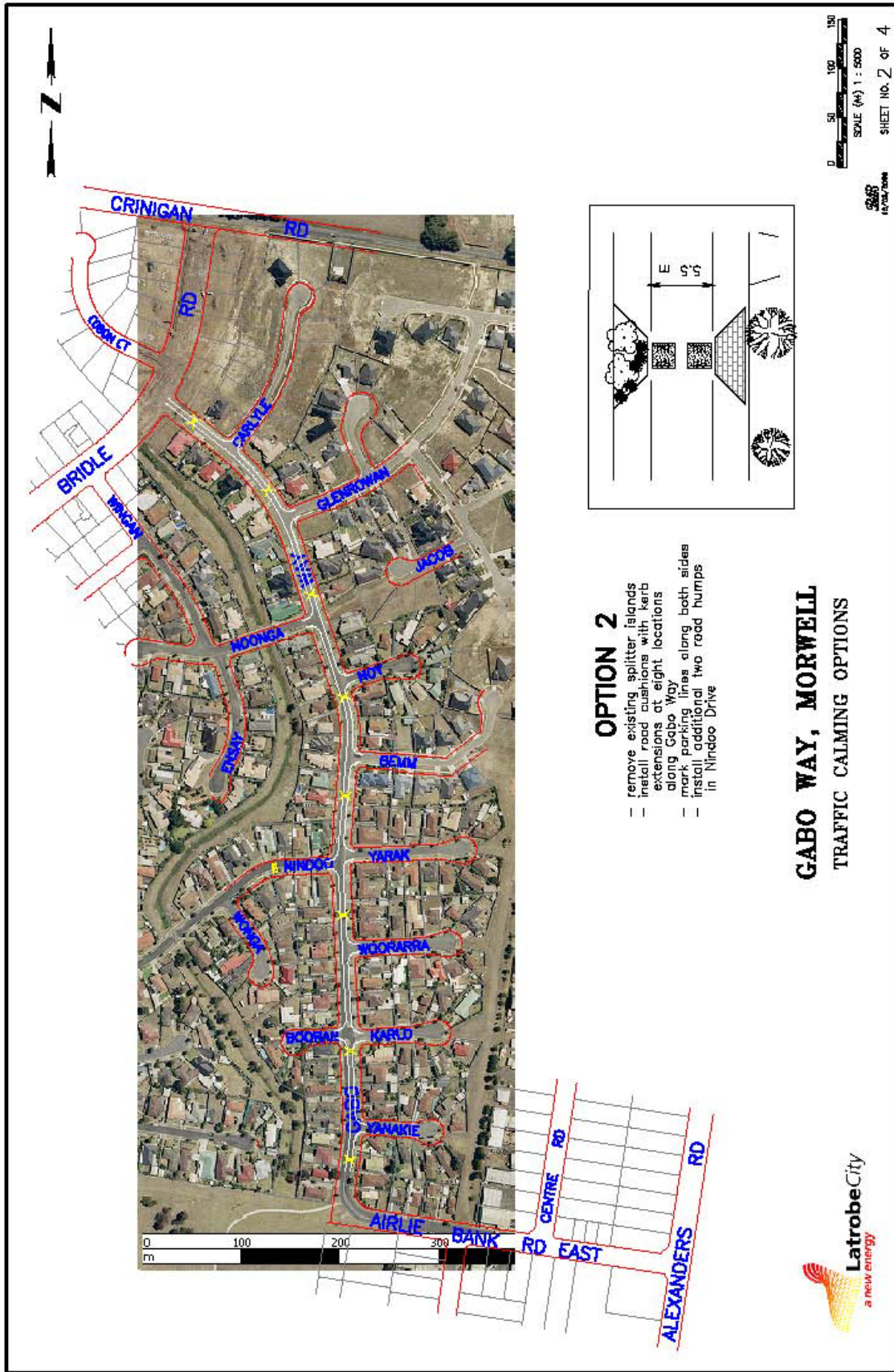
Councillor Gibson

**The Mayor confirmed that the Recommendation had been CARRIED**



**ATTACHMENT**



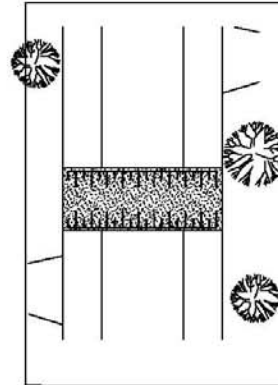
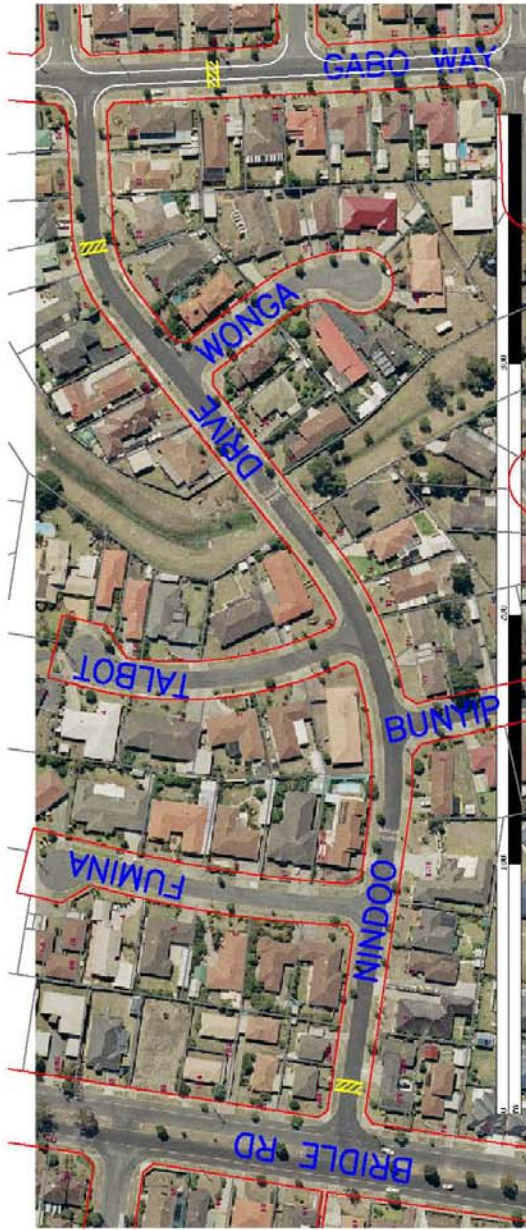


**OPTION 2**

- remove existing splitter islands
- install road cushions with kerb extensions at eight locations along Gabo Way
- mark parking lines along both sides
- install additional two road humps in Nindoo Drive

**GABO WAY, MORWELL**  
**TRAFFIC CALMING OPTIONS**





**NINDOO DRIVE**

- install additional two road humps

**GABO WAY, MORWELL**  
TRAFFIC CALMING OPTIONS

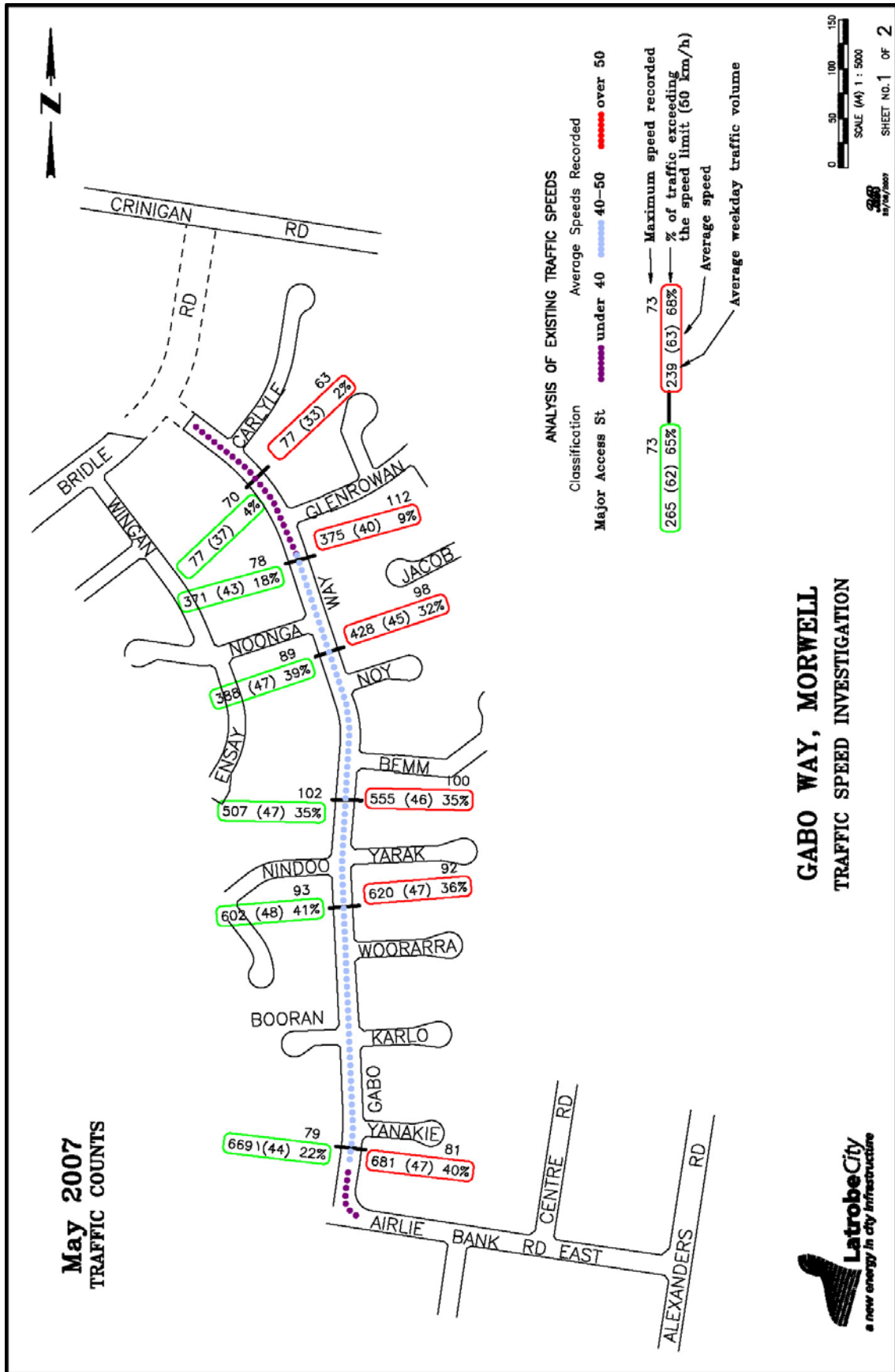


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SHEET NO. 4 OF 4





# **CHIEF EXECUTIVE OFFICER**

**11.1.1**      **S5. INSTRUMENT OF SUB-DELEGATION - DELEGATION TO  
THE ACTING CHIEF EXECUTIVE OFFICER**

**AUTHOR:** Chief Executive Officer  
**(ATTACHMENT - YES)**

**1.    PURPOSE**

The purpose of this report is to seek Council's approval to appoint Mr Michael Edgar as the Acting Chief Executive Officer for the period from Tuesday, 22 September 2009 to Sunday, 11 October 2009 inclusive.

**2.    DECLARATION OF INTERESTS**

No officer declared an interest under the *Local Government Act* 1989 in the preparation of this report.

**3.    POLICY IMPLICATIONS**

This report is consistent with Council's Latrobe 2021 vision document and the Council Plan 2009-2013.

*Strategic Objectives – Governance*

To ensure governance and leadership through a strong commitment and adherence to democratic processes and legislative requirements.

*Community Outcome – Legislative Compliance*

By ensuring adherence to legislative requirements.

*Strategic Action*

Ensure compliance with the Local Government Act.

*Legislation*

The Council is required, pursuant to the *Local Government Act* 1989, to appoint a Chief Executive Officer. Section 94 of the *Local Government Act* 1989 enables the Council to appoint an acting Chief Executive Officer for a period of less than 12 months.

#### 4. **BACKGROUND**

Due to the temporary absence of the Chief Executive Officer, Mr Paul Buckley, between the period Tuesday, 22 September 2009 to Sunday, 11 October 2009 inclusive, Council is asked to approve the appointment of an Acting Chief Executive Officer.

To allow the Council to undertake its usual powers, duties or functions it is necessary for Council to approve the appointment.

The Council, by resolution on the 4 September 2006, delegated:

*There be delegated to the person holding the position, acting in or performing the duties of Chief Executive Officer the powers, duties and functions set out in the attached Instrument of Delegation to the Chief Executive Officer, subject to the conditions and limitations specified in that Instrument.*

#### 5. **ISSUES**

The Instrument of Delegation, resolution and appointment is prepared pursuant to section 98 of the *Local Government Act* 1989 which states:

##### **98. Delegations**

- (1) A Council may by instrument of delegation delegate to a member of its staff and power, duty or function of a Council under this Act or any other Act other than:
  - (a) this power of delegation;
  - (b) the power to declare a rate or charge;
  - (c) the power to borrow money except as provided in section 149;
  - (d) the power to approve any expenditure not contained in a budget approved by the Council;
  - (e) any power, duty or function of the Council under section 223; and
  - (f) any prescribed power.
- (2) The Chief Executive Officer may by instrument of delegation, delegate to the member of the Council staff any power, duty or function of his or her office other than this power of delegation unless sub-section (3) applies.
- (3) The instrument of delegation to the Chief Executive Officer may empower the Chief Executive Officer to delegate a power of the Council other than the power of delegation to a member of the Council staff.

6. **FINANCIAL AND RESOURCES IMPLICATIONS**

There is no effect to budget allocations.

7. **INTERNAL/EXTERNAL CONSULTATION**

*Engagement Method Used:*

The proposed arrangements have been discussed at Executive Team level.

*Details of Community Consultation / Results of Engagement:*

Not applicable.

8. **OPTIONS**

The appointment of an Acting Chief Executive Officer is required to enable the day-to-day operation of the organisation to proceed during the absence of the Chief Executive Officer, Mr Paul Buckley.

9. **CONCLUSION**

This is a procedural report and the delegation of functions, duties and powers to Mr Michael Edgar (during the period Tuesday, 22 September 2009 to Sunday, 11 October 2009 inclusive) is required to cover the period of absence of the Chief Executive Officer, Mr Paul Buckley.

A copy of the Instrument of Sub-Delegation to the Acting Chief Executive Officer to be signed on 8 September 2009 from Mr Paul Buckley to Mr Michael Edgar is attached.

10. **RECOMMENDATION**

**That Council approves the appointment of Mr Michael Edgar as Acting Chief Executive Officer during the period Tuesday, 22 September 2009 to Sunday, 11 October 2009 inclusive, and authorises the delegation of Chief Executive Officer powers, functions and duties in accordance with the Instrument of Delegation dated 4 September 2006.**



**Moved:** Cr Middlemiss

**Seconded:** Cr Lougheed

**That the Recommendation be adopted.**

**CARRIED UNANIMOUSLY**

**ATTACHMENT**

Maddocks Delegations and Authorisations

***S5. Instrument of Delegation to Chief Executive Officer*****Latrobe City Council****Instrument of Sub-Delegation****to****The Acting Chief Executive Officer**

[09 DEL-1]



**LATROBE CITY COUNCIL****APPOINTMENT OF ACTING CHIEF EXECUTIVE OFFICER AND INSTRUMENT  
OF DELEGATION PURSUANT TO SECTION 98(2) OF THE LOCAL  
GOVERNMENT ACT 1989**

I **PAUL BUCKLEY**, Chief Executive Officer of the Latrobe City Council **HEREBY APPOINT MICHAEL EDGAR**, General Manager Community Liveability as Acting Chief Executive Officer and, pursuant to and in the exercise of the power conferred by section 98(2) of the *Local Government Act 1989* (the Act), I **HEREBY DELEGATE TO MICHAEL EDGAR**, General Manager Community Liveability, all those powers duties or functions of my office as provided for by legislation and the Instrument of Delegation dated 5 September 2006.

**AND HEREBY DECLARE THAT:**

1. Such appointment and delegation shall have force and effect from 22 September 2009, and shall remain in force until 11 October 2009 inclusive, or such time as I shall determine either to vary or revoke the delegation.
2. The powers duties and functions so specified shall be exercised and performed in accordance with:
  - (a) any policies of the Council that may be adopted from time to time;
  - (b) this Instrument of Sub-Delegation and subject to any conditions and limitations specified herein.

.....  
CHIEF EXECUTIVE OFFICER – PAUL BUCKLEY

.....  
GENERAL MANAGER COMMUNITY LIVEABILITY – MICHAEL EDGAR

DATE: .....

## SCHEDULE

The power to:

1. determine any issue;
2. take any action; or
3. do any act or thing

arising out of or connected with any duty imposed, or function or power conferred on Council by or under any Act.

### Conditions and Limitations

The delegate must not determine the issue, take the action or do the act or thing

4. if the issue, action, act or thing is an issue, action, act or thing which involves:
  - 4.1 awarding a contract for goods and services exceeding the value of \$150,000, (GST inclusive) or awarding a contract for construction works exceeding the value of \$200,000 (GST inclusive);
  - 4.2 making a local law under Part 5 of the Act;
  - 4.3 approval of the Council Plan under s.125 of the Act;
  - 4.4 adoption of the Strategic Resource Plan under s.126 of the Act;
  - 4.5 preparation or adoption of the Budget or a Revised Budget under Part 6 of the Act;
  - 4.6 adoption of the Auditor's report, Annual Financial Statements, Standard Statements and Performance Statement under Part 6 of the Act;
  - 4.7 noting Declarations of Impartiality by Valuers pursuant to section 13DH(2) of the Valuation of Land Act 1960;
  - 4.8 determining pursuant to s.37 of the Act that an extraordinary vacancy on Council not be filled;
  - 4.9 exempting a member of a special committee who is not a Councillor from submitting a return under s.81 of the Act;
  - 4.10 appointment of councillor or community delegates or representatives to external organisations; or
  - 4.11 the return of the general valuation and any supplementary valuations;

5. if the issue, action, act or thing is an issue, action or thing which Council has previously designated as an issue, action, act or thing which must be the subject of a Resolution of Council;
6. if the determining of the issue, taking of the action or doing of the act or thing would or would be likely to involve a decision which is inconsistent with a:
  - 6.1 policy; or
  - 6.2 strategyadopted by Council; or
7. if the determining of the issue, the taking of the action or the doing of the act or thing cannot be the subject of a lawful delegation, whether on account of section 98(1)(a)-(f) (inclusive) of the Act or otherwise; or
8. the determining of the issue, the taking of the action or the doing of the act or thing is already the subject of an exclusive delegation to another member of Council staff.

# **ECONOMIC SUSTAINABILITY**

**11.2.1 LATROBE REGIONAL AIRPORT ANNUAL REPORT 2008-2009**

**AUTHOR:** General Manager Economic Sustainability  
**(ATTACHMENT – YES)**

**1. PURPOSE**

The purpose of this report is to seek Council's acceptance of the Latrobe Regional Airport Annual Report 2008-2009 on the operations for the year ended 30 June 2009.

**2. DECLARATION OF INTERESTS**

No officer declared an interest under the *Local Government Act* 1989 in the preparation of this report.

**3. POLICY IMPLICATIONS**

This report is consistent with Council's Latrobe 2021 vision document and the Council Plan 2009-2013, in that it provides information on the activities of the Latrobe Regional Airport which achieves the following objectives.

*Latrobe 2021 and Council Plan 2009-2013*

*Strategic Objective – Sustainability*

To promote the responsible and sustainable care of our diverse built and natural environment for the use and enjoyment of the people who make up the vibrant community of Latrobe Valley.  
To provide leadership and to facilitate a well connected, interactive economic environment in which to do business.

*Community Outcome – Economic Sustainability*

By providing leadership and facilitating a vibrant and dynamic economic environment in which to do business.

*Strategic Action*

Promote and support the development of existing and new industry, and infrastructure to enhance the social and economic well being of the Valley.

#### 4. **BACKGROUND**

The Latrobe Regional Airport operates as a special committee of Council under Section 86 of the *Local Government Act 1989*.

Under Section 4(b) of the Deed of Delegation from Latrobe City Council, under which the Latrobe Regional Airport Board operates, an Annual Report must be provided to Council.

The Annual Report provides an account of the Latrobe Regional Airport's operations and performance against plans and targets identified in the budget, the business plan and master plan, and other significant matters.

On 10 August 2009 the Latrobe Regional Airport Board resolved the following:

That the Annual Report of the Latrobe Regional Airport for 2008/2009 as tabled be adopted.

As a result the Latrobe Regional Airport Annual Report is now presented to Council for acceptance.

#### 5. **ISSUES**

##### *Awards and Events*

For the first time in its history the Latrobe Regional Airport was awarded the Australian Airports Association 2008/09 Rural Airport of the Year during November 2008. This award is made to the most outstanding rural airport in Australia for "Aviation Excellence" and Latrobe Regional Airport is proud to be this year's recipient.

The 50<sup>th</sup> Anniversary of the establishment of the Airport on its current site, was celebrated with an Open Day and Airshow held over the weekend of 16 and 17 May 2009. The Airshow was a spectacular event providing patrons with two and a half hours of non stop entertainment from a multitude of aircraft from both civilian and military backgrounds.

##### *Capital Works*

The Airport's Capital Works program, which has been ongoing for the past two years, was completed during 2008/2009.



The program enabled a further group of Commercial Airpark allotments to be provided with full servicing, an expansion of the Private Hangar Precinct, the relocation of the emergency access road and the construction and sealing of the main apron in front of the terminal.

#### *Latrobe Regional Airport Master Plan*

The Latrobe Regional Airport Master Plan 2009 was adopted by the Airport Board during the year. This followed an extensive consultation and discussion period with internal and external stakeholders, to develop a vision for the Latrobe Regional Airport for the next 20 years. The new master plan confirms the direction that the Board has set and adds clarity in defining the development options for the future.

#### *Fire Season*

Latrobe Regional Airport became the operational fire base for a multitude of helicopters and fire bombers used by the Department of Sustainability and Environment, and the Country Fire Authority to attack fires in several parts of the region during January and February 2009. This, and the 500 plus operations of the Helimed 1 ambulance and rescue helicopter, further underlines the importance of the Latrobe Regional Airport to the greater Gippsland community.

## **6. FINANCIAL AND RESOURCES IMPLICATIONS**

The Finance Report indicates that the Board finished the 2008/09 year with a surplus of \$5,817.

## **7. INTERNAL / EXTERNAL CONSULTATION**

There is no consultation required as this is an Annual Report on activities, as required by the Latrobe Regional Airport Deed of Delegation from Council.

## **8. OPTIONS**

Council has the following options:

1. Accept the Latrobe Regional Airport Board Annual Report as endorsed by the Latrobe Regional Board on 10 August 2009;

2. Seek further clarification in respect to the Latrobe Regional Airport Board Annual Report.

## 9. **CONCLUSION**

The 2008/09 year has been one of continued development at the Airport, and importantly, one of recognition both for the Airport of the year award, and its vital role in the provision of emergency services to the Gippsland Region.

All statutory requirements have been met, and through the Board's maintenance and upgrade programs, the airport continues to provide the Gippsland community with a strategic asset and an industrial hub which is operated both safely and securely, and is positioned well for the future.

## 10. **RECOMMENDATION**

**That Council accepts the Latrobe Regional Airport Annual Report 2008-2009.**

**Moved:** Cr Middlemiss

**Seconded:** Cr Lougheed

**That the Recommendation be adopted.**

**CARRIED UNANIMOUSLY**

ATTACHMENT

LATROBE REGIONAL AIRPORT ANNUAL REPORT 2008-2009

# **BUILT AND NATURAL ENVIRONMENT SUSTAINABILITY**

**11.3.1**      **CONSIDERATION OF SUBMISSIONS LATROBE PLANNING  
SCHEME AMENDMENT C52 MORWELL EAST INDUSTRIAL  
PRECINCT**

**AUTHOR:** General Manager Built and Natural Environment Sustainability  
**(ATTACHMENT – YES)**

**1. PURPOSE**

The purpose of this report is for Council to consider all written submissions received in response to proposed Amendment C52 and to seek Council's support to progress the amendment to the next stage.

**2. DECLARATION OF INTERESTS**

No officer declared an interest under the *Local Government Act* 1989 in the preparation of this report.

**3. POLICY IMPLICATIONS**

The provisions of the *Planning and Environment Act* 1987 (the Act) and the Latrobe Planning Scheme apply to this amendment. The discussion and recommendations of this report is consistent with the Act.

This report is consistent with Council's Latrobe 2021 vision document, Council Plan 2009-2013 and the adopted Latrobe Planning Scheme Local Planning Policy Framework (including the new MSS).

***Latrobe 2021 and Council Plan 2009-2013***

***Strategic Objective – Sustainability***

To promote the responsible and sustainable care of our diverse built and natural environment for the use and enjoyment of the people who make up the vibrant community of the Latrobe Valley. To provide leadership and to facilitate a well connected, interactive economic environment in which to do business.

***Community Outcome – Economic Sustainability***

By providing leadership and facilitating a vibrant and dynamic economic environment in which to do business.

*Community Outcome – Built Environment Sustainability*

By developing clear directions and strategies through consultation with the community ensuring sustainable and balanced development.

**4. BACKGROUND**

A request was received on 15 August 2008 from a consultant acting on behalf of the owners seeking permission to rezone land at the corner of Alexanders Road and Princes Drive, Morwell East from Farming Zone (FZ) to Industrial 1 Zone (IN1Z). The amendment also proposed to apply the Design and Development Overlay Schedule 3 (DDO3) and Development Plan Overlay Schedule 2 (DPO2) on the subject land.

The proposal affects the following allotments:

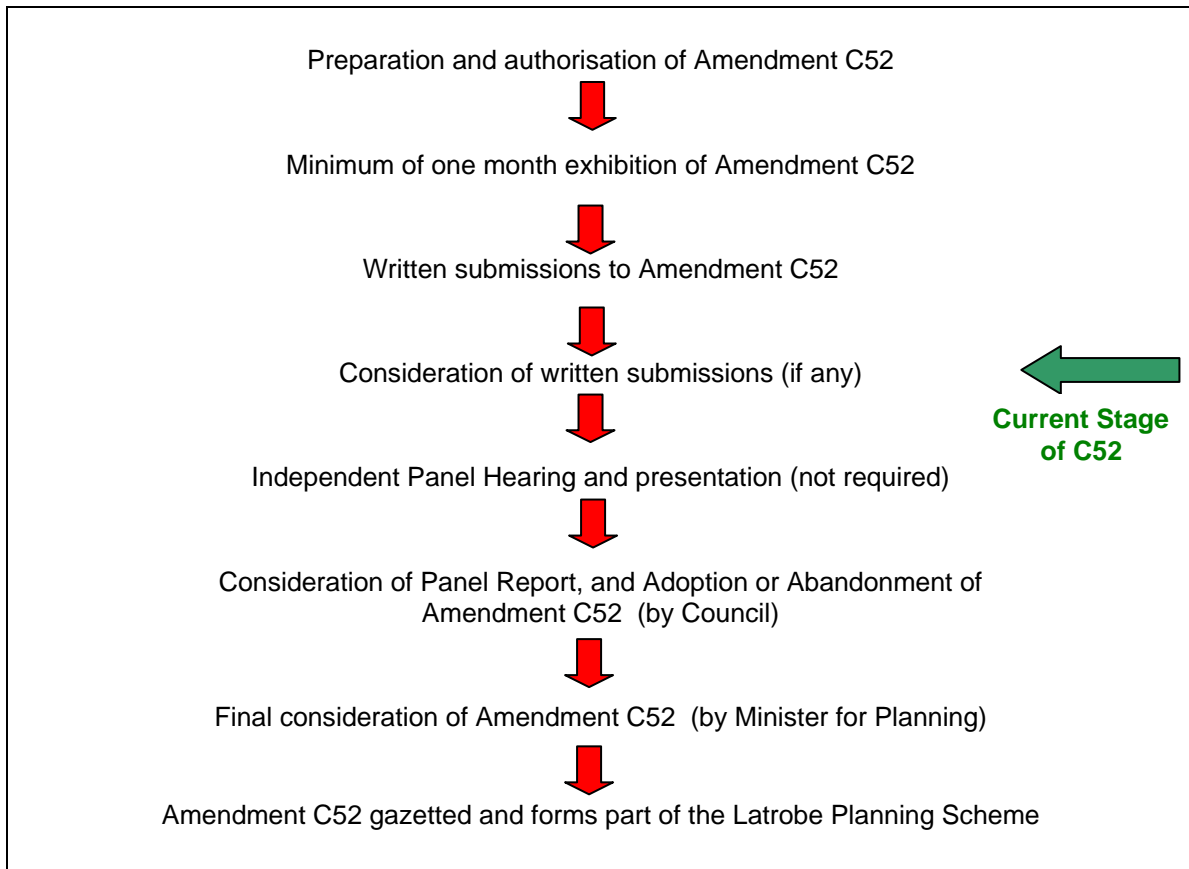
- Lot 2 on Plan of Subdivision PS412581E (Vol. 10394, Folio 422)
- Part of Lot 1 on Title on Title Plan TP173536 (Vol.09354, Folio 596)

The total site comprises an area of approximately 104 hectares (see Attachment 1 – Site Map). The amendment proposes to rezone land from Farming Zone (FZ) to Industrial 1 Zone (IN1Z), which will facilitate the use and development of the land for the purposes of an industrial estate. The Industrial 1 Zone (IN1Z) is considered an appropriate zone to apply to the subject site. This zone will offer the opportunity to create a development which is supported by a number of strategies and implementation objectives detailed in the State Planning Policy Framework and the Local Planning Policy Framework, including the current and proposed Municipal Strategic Statement and local planning policies of the Latrobe Planning Scheme.

**Statutory Requirements**

The C52 planning scheme amendment process is shown in the figure below and provides an indication of the current stage of the amendment.

## C52 Planning Scheme Amendment Process



In accordance with the *Planning and Environment Act 1987* (the Act), the municipal council, as a planning authority, has a number of duties and powers. These duties and powers are listed at Section 12 of the Act. Under Section 12 a planning authority must have regard to (inter alia):

- The objectives of planning in Victoria;
- The Minister's directions;
- The Victoria Planning Provisions;
- The Latrobe Planning Scheme;
- Any significant effects which it considers a planning scheme amendment might have on the environment or which it considers the environment might have on any use or development envisaged by the amendment.

Amendment C52 has had regard to Section 12 of the Act and is consistent with the requirements of Section 12. In addition each amendment must address the Department of Planning and Community Development (DPCD) publication Strategic Assessment Guidelines for Planning Scheme Amendments. A response to these guidelines is outlined in the attached Explanatory Report (see Attachment 2).

The proposal is consistent with the State Planning Policy Framework at Clause 12 (Metropolitan Development), Clause 14 (Settlement), Clause 15 (Environment), Clause 17 (Economic Development) and Clause 18 (Infrastructure).

It is consistent with the current Municipal Strategic Statement (MSS) at Clause 21.04 (Built Environment Sustainability), Clause 21.05 (Economic Sustainability) and the current Strategic Land Use Framework Plan at Clause 21.03-3 also explained further in the attached Explanatory Report.

#### Planning Scheme Amendment

In addition, Amendment C52 is further supported by Amendment C62 of the draft Latrobe Planning Scheme Local Planning Policy Framework (including the new MSS) endorsed at the 1 September 2008, Ordinary Council Meeting.

At the Ordinary Council Meeting held on 6 October 2008 Council resolved to seek the Minister for Planning's Authorisation to prepare and exhibit the proposed Amendment C52.

The Minister for Planning in accordance with Sections 8A (3) and 35B of the Act authorised Council to prepare and approve the proposed Amendment C52 on 6 April 2009.

Amendment C52 was placed on public exhibition during the period 4 May 2009 to 15 June 2009.

Under Section 29 of the Act, Council may adopt the planning scheme amendment with or without changes.

Section 35A of the Act prohibits the planning authority from approving an amendment unless the amendment has been certified by the Secretary to the Department as being in an appropriate form.

The recommendations of this Council Report are in accordance with Sections 29, 35, 35A and 35B of the Act.

## **5. ISSUES**

Section 6 of this Council Report provides a summary of the submissions received including a précis of the issues raised in each submission and planning consideration of each issue raised.



A total of five submissions were received as a result of the public exhibition of the amendment. All of the submissions were from the statutory agencies or service authorities and private individual. These submissions did not object or raise concerns with the amendment, and the comments received have been addressed in the table provided in section 7 of this report.

## **6. FINANCIAL AND RESOURCES IMPLICATIONS**

The prescribed fees for planning scheme amendments are detailed in the *Planning and Environment (Fees) Regulations 2000*. The costs associated with a planning scheme amendment include: considering a request to amend a planning scheme, consideration of submissions, providing assistance to a panel and adoption and approval of an amendment.

Statutory fees associated with this proposed amendment will be met by the proponent.

## **7. INTERNAL/EXTERNAL CONSULTATION**

### *Engagement Method Used:*

The amendment is subject to the prescribed process in accordance with the public notice and consultation requirements of Section 19 of the Act.

This includes advertising in the government gazette and local newspapers as well as written notification to landowners and occupiers that may be materially affected by the amendment. All statutory and servicing authorities likely to be materially affected have also been notified of the proposed amendment. Amendment C52 was placed on public exhibition during the period 4 May 2009 to 15 June 2009.

### *Details of Community Consultation / Results of Engagement:*

Following public exhibition five written submissions were received by Latrobe City Council in response to C52. Section 22 of the Act requires a planning authority consider all submissions received to an amendment.

A summary of key issues and comments raised in submissions that have been received by Council in response to Amendment C52 have been provided below:

NO.	NAME/ADDRESS	SUPPORT / OBJECT	DATE RECEIVED	COMMENTS	OFFICER COMMENT
1	SP AUSNET	Support	25 May 2009	None	N/A
2	WGCMA	Support	5 June 2009	<ul style="list-style-type: none"> <li>▪ Requirement for a works on waterway permit prior to the commencement of any development /construction;</li> <li>▪ requirement for drainage reserves or public open space for the waterways at the commencement of the development</li> <li>▪ stormwater discharge and water quality issues from industrial areas.</li> </ul>	The issues raised can be adequately catered for when the proponent lodges a planning permit application for the development of the site.
3	GIPPSLAND WATER	Support	16 June 2009	Cost of the water and sewerage infrastructure for the site	The costing for the infrastructure will be determined at the appropriate time, inline with the Essential Services Commission's guidelines.
4	KASAM SULAMAN	Support	22 June 2009	<ul style="list-style-type: none"> <li>▪ Supported the amendment but concerned that the amendment may introduce Business 4 Zone on the subject land</li> </ul>	Further rezoning of the land into Business 4 Zone is subject to a separate amendment proposal.
5	DEPARTMENT OF SUSTAINABILITY AND ENVIRONMENT	Support	1 July 2009	<ul style="list-style-type: none"> <li>▪ Any native vegetation impacts will need to be addressed in accordance with Victoria's Native Vegetation – A Framework for Action (DNRE 2002)</li> <li>▪ Proposed public open space is protected using temporary fencing during the construction phase.</li> <li>▪ The owner must apply to the Latrobe City Council to have the road declared open to enable the Department to cancel the unused road licences if the adjoining Government road is required for access.</li> </ul>	The issues raised can be adequately catered for when the proponent lodges a planning permit application for the development of the site.

## **8. OPTIONS**

The options available to Council are as follows:

1. That Council, after considering all written submissions received to Amendment C52, resolves to adopt, seek certification and approve Amendment C52; or
2. That Council, after considering all written submissions received to Amendment C52, resolve to abandon the exhibited planning scheme amendment C52 and inform the Minister for Planning.

## 9. CONCLUSION

Amendment C52 seeks to rezone land at the corner of Alexanders Road and Princes Drive, Morwell East from Farming Zone (FZ) to Industrial 1 Zone (IN1Z). The amendment also proposed to apply the Design and Development Overlay Schedule 3 (DDO3) and Development Plan Overlay Schedule 2 (DPO2) on the subject land.

It is considered that the proposed zoning and overlay of the land is appropriate for the proposed use and development of the land as an industrial precinct.

All submissions received are in favour for the amendment which enables Amendment C52 to progress to the next stage without the need for a planning panel.

## 10. RECOMMENDATION

1. That Council, after considering all written submissions received to Amendment C52, adopts the amendment as exhibited in accordance with Section 29 of the *Planning and Environment Act 1987*.
2. That Council submits Amendment C52 once adopted, to the Secretary to the Department of Planning and Community Development for certification, in accordance with Section 35A of the *Planning and Environment Act 1987*.
3. That Council approves Amendment C52 following receipt of certification from the Secretary to the Department of Planning and Community Development in accordance with Section 35B of the *Planning and Environment Act 1987*.

**Moved:** Cr Middlemiss

**Seconded:** Cr Lougheed

**That the Recommendation be adopted.**

**CARRIED UNANIMOUSLY**



**ATTACHMENT 2 - AMENDMENT C52 EXPLANATORY REPORT**

**11.3.2 FUTURE EXPENDITURE REQUIREMENTS FOR SKATE AND  
BMX FACILITIES**

**AUTHOR:** General Manager Built and Natural Environment Sustainability  
**(ATTACHMENT – NO)**

**1. PURPOSE**

This report provides Council with information regarding the current and anticipated future expenditure requirements for skate and BMX facilities across the municipality.

**2. DECLARATION OF INTERESTS**

No officer declared an interest under the *Local Government Act* 1989 in the preparation of this report.

**3. POLICY IMPLICATIONS**

This report is consistent with Council's Latrobe 2021 vision document and the Council Plan 2009-2013.

*Latrobe 2021 and Council Plan 2009-2013*

*Strategic Objective - Liveability*

To promote and support social, recreational, cultural and community life by providing both essential and innovative amenities, services and facilities within the municipality.

*Community Outcome - Recreational Liveability*

By enriching the vibrancy and diversity of community life through promoting and supporting recreational services and facilities in the municipality.

*Strategic Actions - Recreation Liveability*

- Assess and evaluate future recreational opportunities to address community aspirations;
- Encourage greater participation in all recreation pursuits;
- Increase the accessibility of Latrobe City's recreation and sporting facilities;
- Develop and maintain high quality recreation facilities in partnership with the community; and
- Promote active living and participation in community life.

*Recreation and Leisure Strategy 2006 principle #5:*

Generally, there shall be a focus on the consolidation of existing sporting facilities within the Region, and an emphasis on the provision of new (unstructured) recreational pursuits and open space use.

*Skate BMX Plan (April 2009)*

Established a hierarchy of skate and BMX facilities and identified opportunities to increase facility distribution.

**4. BACKGROUND**

The results of the community consultation on the draft Skate BMX Plan were considered by Council on 20 April 2009. At this meeting Council resolved:

1. *That Council adopts the Skate BMX Plan April 2009.*
2. *That works commence on the 2008/2009 projects identified in the Skate BMX Plan April 2009 at Glengarry and on safety and amenity issues at the existing skate and BMX facilities.*
3. *That Council authorises the Chief Executive Officer to negotiate and sign a licence agreement with the Gippsland Plains Rail Trail for the development of a skate park in Glengarry.*
4. *That the projects identified in the Skate BMX Plan April 2009 at Yallourn North and on safety and amenity issues the existing skate BMX facilities be referred for consideration in the 2009/2010 budget.*
5. *That Council agrees to not lay the petition on the table, relating to the development of a skate facility in Newborough, and agrees to deal with the petition at this Ordinary Council Meeting.*
6. *That Council notes in accordance with the hierarchy that the district level skate facility in Moe provides for the skate needs of both the Moe and Newborough communities.*
7. *That the head petitioner, Jim Connan, be advised of Council's decision in relation to the petition requesting the development of a skate facility in Newborough.*
8. *That a further report be prepared for consideration by Council on the options available for the provision of a district level facility in Morwell.*
9. *That a further report be prepared for consideration by Council identifying the anticipated future expenditure requirements for skate and BMX facilities across the municipality, by no later than 16 November 2009.*

## 5. ISSUES

Through the adoption of the Skate BMX Plan (April 2009) Council endorsed actions to improve skate and BMX facilities across the municipality. These actions can be summarised in the following categories:

- Development of local level skate facilities;
- Investigation into development of a district level facility in Morwell; and
- Safety and amenity works on existing facilities.

This report discusses the issues associated with each of these categories and presents a combined proposed program of actions to address these areas.

### **Small town skate facility development**

A key objective of the Skate BMX Plan (April 2009) is to install local skate facilities where there is demonstrated significant community support, within the seven small towns.

A two year program of works to improve local level provision was adopted with the plan. It included the development of local level facilities in Glengarry and Yallourn North due to the support for the projects demonstrated by these communities. Funding of \$60,000 was allocated by Council in the capital works program towards the development of the Glengarry skate park in 2008/09 and \$60,000 was allocated in 2009/10 towards the development of the Yallourn North skate park. In addition to this funding, metal ramps from the Churchill skate park were provided as an in kind contribution with an estimated value of \$40,000.

A local level facility is identified in the plan as having a development cost of approximately \$100,000. This figure will need to be adjusted annually to accommodate increasing material costs.

The hierarchy from the Skate BMX Plan (April 2009) identified the opportunity to develop local level skate facilities in Yinnar, Traralgon South and Tyers.

### **Morwell district level facility investigation**

The Morwell Skate Park is currently located on the Valley Christian Centre site, Haywood Street Morwell. The facility is provided for community use through an agreement between Latrobe City Council and the Valley Christian Centre. The Centre has identified their intention to subdivide the land and as such, long term community access to the site cannot be



guaranteed. Recent discussions with the Valley Christian Centre have indicated they foresee the site being unavailable within the next twelve months, creating an immediate need to commence planning for a replacement facility.

To address this issue the Skate BMX Plan (April 2009) recommended that further investigation into potential sites for the development of a district level facility in Morwell be conducted during the 2009/10 financial year.

A district level facility is identified in the Skate BMX Plan (April 2009) as having a development cost of approximately \$250,000.

This investigation will be conducted in two sections:

1. Site identification, selection and feasibility; and
2. Facility design.

The site identification process will evaluate existing open space areas and will consider their suitability for the proposed development. This evaluation will be based on accessibility to public transport, land tenure, size, proximity to residents, availability of auxiliary facilities (toilets, shops etc), amenity impacts, site restrictions and visual surveillance opportunities.

Each location will be assessed on its attributes to assist in the selection of a preferred site. A report will be presented to Council considering the assessment of each of the sites identified. This report will recommend the assessment be released for community consultation with a further report prepared for Council to consider community feedback and selection of an appropriate location.

Once the site identification process is completed, further consultation will be conducted, primarily with potential facility users, to develop concept and detailed designs for the development of a district level facility.

### **Safety and amenity works**

In accordance with the adopted Skate BMX Plan (April 2009) \$80,000 was allocated to addressing safety and amenity issues at the existing facilities.

The following table, which is consistent with the information provided in the Skate BMX Plan (April 2009), contains a summarised assessment on the location, condition and amenity of each facility and a recommendation on addressing areas of concern.

<b>Skate Parks</b>	<b>Location</b>	<b>Condition</b>	<b>Amenity</b>	<b>Recommendation</b>
Moe	GOOD	FAIR	FAIR	No action pending the Moe Activity Centre redevelopment
Morwell	POOR	FAIR	POOR	Further investigation into alternative sites 2009/10
Traralgon	GOOD	FAIR	GOOD	No action
Churchill	GOOD	GOOD	FAIR	Amenity facilities to be considered as part of the Churchill Town Centre redevelopment to ensure consistency with street scape design
Boolarra	GOOD	GOOD	GOOD	No action
Toongabbie	GOOD	FAIR	FAIR	Surface and amenity issues to be addressed in 2009/10 \$30,000

<b>BMX</b>	<b>Location</b>	<b>Condition</b>	<b>Amenity</b>	<b>Recommendation</b>
Newborough	FAIR	FAIR	GOOD	Refurbishment of facilities in 2009/10 - \$30,000
Yallourn North	GOOD	FAIR	FAIR	Minor resurfacing works to complement skate park development in 2009/10 - \$10,000
Tyers	GOOD	FAIR	FAIR	No action
Traralgon	GOOD	FAIR	FAIR	No action
Glengarry	GOOD	FAIR	FAIR	Minor resurfacing works to complement skate park development in 2009/10 - \$10,000
Morwell	FAIR	FAIR	FAIR	No action pending selection of site for district skate facility
Churchill	GOOD	FAIR	GOOD	No action

**Proposed Skate and BMX facility works program**

Based on the previous discussion in this report the table below is a summary of the current and future year actions on skate and BMX facilities.

<b>Year</b>	<b>Action</b>	<b>Budget</b>
2009/10	Develop local level skate facility in Glengarry utilising surplus ramps from Churchill Skate Park	\$60,000 Plus ramps
	Develop local level skate facility in Yallourn North utilising surplus ramps from Churchill Skate Park	\$60,000 Plus ramps
	Investigate sites suitable for the development of a district facility in Morwell	\$20,000
	Glengarry BMX resurfacing	\$10,000
	Yallourn North BMX resurfacing	\$10,000
	Newborough BMX full refurbishment	\$30,000
	Toongabbie surface and amenity works	\$30,000
2010/11	Develop district facility in Morwell	\$250,000*
2011/12	Develop local level skate facility	\$115,000*
	Traralgon BMX resurfacing	\$15,000
2012/13	Develop local level skate facility	\$120,000*
	Churchill BMX resurfacing	\$17,500
2013/14	Develop local level skate facility	\$125,000*
	Tyers BMX resurfacing	\$20,000

\* subject to demonstrated community support, suitable site selection and Council budget processes.

This works program will see a local level skate facility developed in each small town and each of the BMX tracks being refurbished.

**6. FINANCIAL AND RESOURCES IMPLICATIONS**

Funding allocations for all works identified in the 2009/10 financial year are contained within the adopted Council budget. All actions identified for 2010/11 and beyond would be subject to the annual budget process and detailed design.

The costings provided are intended to provide guidance on the level financial resources required to achieve the key objectives identified in the Skate BMX Plan April 2009.

7. **INTERNAL / EXTERNAL CONSULTATION**

*Engagement Method Used:*

Not applicable

*Details of Community Consultation / Results of Engagement:*

This report has been developed from the adopted Skate BMX Plan and the feedback received during community consultation on the draft plan. Each of the actions identified for 2009/10 and beyond will require further consultation with facility users, township associations and local residents.

8. **OPTIONS**

Council has the following options:

1. Note the report;
2. Amend the report; or
3. Reject the report.

9. **CONCLUSION**

Through adopting the Skate BMX Plan (April 2009) Latrobe City Council has supported the intention to improve and expand skate and BMX facilities across the municipality. The works program identified in this report will result in significant improvement to skate and BMX facilities for the benefit of residents and visitors to Latrobe City.

10. **RECOMMENDATION**

**That Council notes this report and considers funding for proposed skate and BMX projects as part of future budget considerations.**

**Moved:** Cr Gibson

**Seconded:** Cr Middlemiss

**That the Recommendation be adopted.**

**CARRIED UNANIMOUSLY**

**11.3.3**      **GIPPSLAND REGION SUSTAINABLE WATER STRATEGY -  
DISCUSSION PAPER**

**AUTHOR:** General Manager Built and Natural Environment Sustainability  
**(ATTACHMENT – YES)**

**1.    PURPOSE**

The purpose of this report is to seek Council's endorsement of a Latrobe City Council response submission to the Gippsland Region Sustainable Water Strategy Discussion Paper.

**2.    DECLARATION OF INTERESTS**

No officer declared an interest under the *Local Government Act* 1989 in the preparation of this report.

**3.    POLICY IMPLICATIONS**

This report is consistent with Council's Latrobe 2021 vision document and the Council Plan 2009-2013.

*Latrobe 2021 and Council Plan 2009-2013*

*Latrobe 2021*

*Strategic Objective – Sustainability*

To promote the responsible and sustainable care of our diverse built and natural environment for the use and enjoyment of the people who make up the vibrant community of the Latrobe Valley. To provide leadership and to facilitate a well connected, inter-active economic environment in which to do business.

*Community Outcomes – Natural Environment Sustainability*

To responsibly manage the natural environment, to ensure its sustainability and diversity for the community.

*Strategic Actions*

- Support regional integrated natural resource stewardship.
- To responsibly manage the natural environment, to ensure its sustainability and diversity for the community.
- Encourage greater use of recycled water to maximise the environmental flow of the waterways.
- Protect and improve water quality and river health.

- Improve the balance between multiple uses of groundwater and surface water.
- Support the partnerships and coordination across public and private sectors to improve the quality of water.

*Community Outcomes – Economic Sustainability*

By providing leadership and facilitating a vibrant and dynamic economic environment in which to do business.

*Strategic Actions*

- Promote and support the development of infrastructure to enhance the social and economic well-being of the Valley.
- Strengthen the link between tourism and economic development, promote and support the development of the tourism and events industry.

**4. BACKGROUND**

The Department of Sustainability and Environment has released for public comment the Gippsland Region Sustainable Water Strategy Discussion Paper – the first step in developing a 50 year strategy to secure water resources for the Region.

The Discussion Paper provides a snapshot of the water resources currently available in the Region, and the future risks to water availability.

It includes the potential impact of climate change and how this may impact on future water availability, using data from the past 12 years of low rainfall along with climate change scenarios.

The Gippsland Region Sustainable Water Strategy Discussion Paper is the first time that estimates of the impact of climate change on future water availability have been integrated across river systems throughout the Gippsland Region.

Submissions to the Discussion Paper will help formulate a draft strategy, expected to be completed by the end of 2009. The final strategy will be released in 2010.

Submissions for the Discussion Paper close on Friday, 18 September 2009.

In respect to water issues within Latrobe City, considerable interest and Council attention has been focussed on water availability in Lake Narracan.

In the response submission to the Central Region Sustainable Water Strategy, at the 19 June 2006 Ordinary Council Meeting, Council resolved:

*“That there be no allocation of additional water from the Gippsland area without an extensive investigation being undertaken into the current and future water needs of the whole of the Gippsland area, which will be determined through the development of a specific Gippsland Sustainable Water Strategy.”*

and that;

*“Council supports environmental research that will examine issues including the most effective combination of environmental water and river restoration works to meet river health objectives. However we seek to understand, particularly in relation to Lake Narracan, the effect on the amenity of the Lake and its recreational patronage.”*

A number of reports have been presented to Council in respect to this issue and resultant correspondence between Latrobe City and the State Government undertaken. At the 16 February 2009 Council meeting, Council resolved:

*“That Council prepares a submission to the State Government's 2009 Eastern Region Sustainable Water Strategy, highlighting the social, environmental and economic importance of Lake Narracan to the Latrobe City and requesting further investigations into the ongoing sustainability of the Lake.”*

The 2009 Eastern Region Sustainable Water Strategy has been re-named and is now referred to as the Gippsland Region Sustainable Water Strategy.

## 5. **ISSUES**

Sustainable water strategies are being undertaken at a regional level across the State.

This Discussion Paper marks the first step in the development of the Gippsland Region Sustainable Water Strategy. It outlines the region's current water resources, the emerging challenges to water availability and quality, and poses questions about what the water future in Gippsland may look like.

The release of the Discussion Paper provides the first of a number of opportunities for the wider community to have input into the development of the Strategy.

Through the Gippsland Local Government Network (GLGN) and utilising the resources allocated under the Gippsland Regional Development Strategy (GRDS) framework, a consolidated response to this discussion paper has been prepared on behalf of all Gippsland Councils.

This response is attached to this report. The GLGN commissioned this body of work in 2008 and it has been presented to the Victorian State Government and utilised in the development of the Gippsland Region Sustainable Water Strategy Discussion Paper. The GLGN has again endorsed this document as being relevant for a response to this discussion paper.

The GLGN submission covers a range of issues and places emphasis on the following:

- The importance of food growth and food production in the region.
- The reinforcement of the GRDS priority relating to the Gippsland Lakes and the environment and tourism value to the region.
- The reinforcement of the GRDS priority relating to Regional Land Use/Growth Planning and regional planning gaining momentum in Gippsland.
- Highlighting the importance of sharing the costs of water infrastructure development across the state as Gippsland - a major water resource and a future water producer – for the State of Victoria should not disproportionately carry the cost of these water developments.
- Reinforcement of the value of future water innovations such as the Eastern Treatment Plant (Recycle Plant) on major industries in the region, industries that are major consumers of water e.g. generators, food producers etc.

In addition to the above, the Latrobe City submission aims to place a focus on the issues relating to water allocations in Latrobe Valley and the impact this is having on water levels in Lake Narracan.

The prolonged drought has resulted in the power generators choosing to draw down their entitlements from Lake Narracan, in order to maximise the harvesting of water from the Latrobe River catchment.



This has resulted in Lake Narracan being reduced to low levels, which do not allow the normal boating and recreational activities to take place.

There is a significant unallocated amount of water in Blue Rock dam, and Council formally requested the Premier and the Minister for Water to make some of this available in order to maintain Lake Narracan at a level suitable for boating and recreational activities. The Minister has responded and not agreed to this proposal.

The advice provided in the most recent correspondence (December 3, 2008) from the Minister for Water, The Hon Tim Holding, concluded as follows:

*"...The Government will begin developing an Eastern Region Sustainable Water Strategy in 2009 to address water issues throughout Gippsland and I encourage you to participate in the process".*

It is therefore appropriate that Council makes strong representation in respect to the Lake Narracan issue through this discussion paper.

**6. FINANCIAL AND RESOURCES IMPLICATIONS**

There are no financial implications in respect to Council's submission.

**7. INTERNAL / EXTERNAL CONSULTATION**

This submission has been prepared utilising Council's existing adopted positions.

**8. OPTIONS**

Council has the following options in respect to the Gippsland Region Sustainable Water Strategy Discussion Paper:

1. Endorse the attached submission as presented; or
2. Make amendments to the attached submission prior to endorsement; or
3. Decline the opportunity to make a submission to the discussion paper.

9. **CONCLUSION**

The Gippsland Region Sustainable Water Strategy is one of four regional strategies being developed by the Victorian Government to secure water resources for the next 50 years. The Strategy will respond to pressures facing water resources including climate change, drought, and land use change. Ultimately the Gippsland Region Sustainable Water Strategy will aim to secure water for towns, industry, the environment and agriculture.

The submission prepared by Council officers is intended to reaffirm Council's support for the submission prepared and endorsed by the Gippsland Local Government Network.

Further to this, the Latrobe City submission focuses upon those issues associated with water allocations impacting on Lake Narracan.

10. **RECOMMENDATION**

**That Council approves the draft submission to the Gippsland Region Sustainable Water Strategy Discussion Paper for submission to the Department of Sustainability and Environment.**

**Moved:** Cr White

**Seconded:** Cr Vermeulen

**That the Recommendation be adopted.**

**CARRIED UNANIMOUSLY**

**ATTACHMENTS**

**11.3.4 PLANNING PERMIT APPLICATION 2008/400 - TWO (2) LOT  
SUBDIVISION AT 24 COOPERS ROAD, TRARALGON**

**AUTHOR:** General Manager Built and Natural Environment Sustainability  
**(ATTACHMENT - YES)**

**1. PURPOSE**

The purpose of this report is to determine Planning Permit Application 2008/400 for a two (2) lot subdivision at 24 Coopers Road, Traralgon.

**2. DECLARATION OF INTERESTS**

No officer declared an interest under the *Local Government Act* 1989 in the preparation of this report.

**3. POLICY IMPLICATIONS**

The discussions and recommendations of this report are consistent with the provisions of the *Planning and Environment Act* 1987 (the Act) and the Latrobe Planning Scheme (the Scheme), which apply to this application.

This report is consistent with Council's Latrobe 2021 vision document and the Council Plan 2009-2013.

*Latrobe 2021 and Council Plan 2009-2013*

*Strategic Objective – Sustainability*

To promote the responsible and sustainable care of our diverse built and natural environment for the use and enjoyment of the people who make up the vibrant community of Latrobe Valley. To provide leadership and to facilitate a well connected, interactive economic environment in which to do business.

*Community Outcome – Built Environment Sustainability*

By developing clear directions and strategies through consultation with the community ensuring sustainable and balanced development.

*Strategic Action – Infrastructure Development*

Strive to ensure all proposed developments enhance the liveability and sustainability of the community.

*Policy – Traralgon West Interim Infrastructure Development  
Policy 09 POL-1*

Under 'Policy Implementation – Statutory Planning and Project Services' direction is given that requires the Responsible Authority to consider the following before deciding on an application to subdivide land:

- *'The directions of this policy';*
- *'The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies';*
- *'The Decision Guidelines provided by the Latrobe Planning Scheme at Clause 32.03-3 and Clause 65';*
- *'The need to prevent the subdivision of land which may compromise future opportunities for future residential development within the precinct';*
- *'Whether the proposal will result in increased stormwater volumes being generated and whether this is likely to have an adverse impact on other property';*
- *'Whether a stormwater management plan has been submitted and that the plan is to the satisfaction of the responsible authority';*
- *'Whether each proposed lot has a legal point of vehicle access via a government road';*
- *'Consideration of any management plan or infrastructure contribution scheme being prepared for the precinct'; and*
- *'The need to include a condition requiring specified works or services to be provided or paid for in accordance with an agreement under Section 173 of the Planning and Environment Act 1987. The 173 Agreement is to be prepared to ensure':*
  - a) *'present and future landowner awareness of the possible higher density residential development occurring within the Traralgon LDRZ precinct'; and*
  - b) *'financial contributions are provided for the provision of future stormwater and road infrastructure within the Traralgon LDRZ precinct'.*

The discussions and recommendations in this report are consistent with the Traralgon West Interim Infrastructure Development Policy 09 POL-1.

*Traralgon Low Density Residential Precinct Interim  
Infrastructure Development Procedure (February 2009)*

The 'Purpose' of the Interim Infrastructure Development Procedure is to prevent further subdivision of land within the Traralgon Low Density Residential Zone precinct, pending:

- *'Resolution of agreed road and stormwater infrastructure services to be provided for the precinct'*;
- *'Mitigation of potential detriment to downstream landholders resulting from increased stormwater volumes'*; and
- *'Establishment of an appropriate framework to assure the equitable distribution and sequencing of landowner financial contributions to agreed road and stormwater infrastructure services by the preparation and adoption of a Development Plan Overlay and Development Contributions Plan Overlay within the Latrobe Planning Scheme'*.

The discussions and recommendations in this report are consistent with the Traralgon Low Density Residential Precinct Interim Infrastructure Development Procedure (February 2009).

*Latrobe Regional Airport Interim Land Use and Development Controls (June 2008)*

The 'Purpose' of the Latrobe Regional Airport Interim Land Use and Development Controls is:

*'The Latrobe Regional Airport is a significant development in the Latrobe City and provides a range of important employment, transport, recreation, community and economic development opportunities.'*

*Due to the changing nature of the Latrobe Regional Airport's aviation activities, the 2005 Master Plan no longer represents or provides a clear strategic direction of the Airports operations and is therefore under review.'*

*To ensure that any detrimental effects of aircraft operations are taken into account in planning the use, development or subdivision of land, this document is introduced into the Latrobe Planning Scheme, pending the completion of the Latrobe Regional Airport Master Plan review and subsequent amendments to the Latrobe Planning Scheme during 2009.'*

The discussions and recommendations in this report are consistent with the Latrobe Regional Airport Interim Land Use and Development Controls (June 2008).

*Latrobe Regional Airport Interim Land Use and Development Controls Assessment Guidelines (September 2008)*

Before deciding on an application, the responsible authority must also consider:

- *'The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies';*
- *'The need to prevent building or structures from being built which could interfere with and cause a safety hazard to aircraft operations in the immediate vicinity of the airport';*
- *'The affect the proposal may have on the existing and likely future use and development of the airport';*
- *'The effect of the proposed development and building materials may have on the clear flight path of aircraft';*
- *'The intended use and purpose of the proposed developments which may be sensitive to the operations of the Airport';*
- *'Consideration of any approved management plans for the airport';*
- *'The need to include a permit condition requiring all vegetation on the subject land to have a mature height so as not to interfere with or cause a safety hazard to aircraft operations';*
- *'Whether the proposal will result in a significant increase in the number of dwellings and therefore potential residents affected by aircraft noise';*
- *'Whether the design of the building incorporates appropriate noise attenuation measures';*
- *'That all buildings and works are constrained within height limits specified by the Airport Manager so as to avoid creating a hazard to aircraft';*
- *'The inclusion of a Section 173 Agreement prepared to address issues of present and future landowner awareness, restrict future uses and developments on the land which may impact on the operations of the Airport or result in potential interference with airport communications and navigation devices';* and
- *'The views of the Airport Manager'.*

The discussions and recommendations in this report are consistent with the Latrobe Regional Airport Interim Land Use and Development Controls Assessment Guidelines (September 2008).

The proposal has been considered against Amendment C62 – Latrobe Planning Scheme Review. The discussions and recommendations of this report are consistent with Amendment C62.

#### 4. BACKGROUND

##### 4.1 SUMMARY

Land: 24 Coopers Road, known as Lot 3 on Plan of Subdivision 141401.  
Proponent: F K Brownlee  
C/- Beveridge Williams & Co Pty Ltd  
Zoning: Low Density Residential Zone  
Overlay: No overlays affect the subject land

A Planning Permit is required to subdivide land in the Low Density Residential Zone in accordance with Clause 32.03-3 of the Scheme.

##### 4.2 PROPOSAL

The application is for a two lot subdivision.

Proposed Lot 1 is vacant and is to have a total area of 6,524m<sup>2</sup>. The lot will front Old Melbourne Road and access is proposed to be gained via an unsealed track (gravel track) shared by the abutting allotments to the west.

Proposed Lot 2 will contain an existing dwelling and ancillary outbuildings. The total area of the lot will be 5.3 hectares. Access to the site will be gained via an existing driveway crossover to Coopers Road.

A drainage easement will also be created over the waterway that runs through the centre of the site from north to south. The easement will be in favour of Latrobe City Council and will be defined by the 100 year flood level.

Subject Land:

The site is irregular in shape. The northern boundary is 306.26 metres long and abuts Old Melbourne Road. The southern boundary extends 364.60 metres and abuts an unmade government road (Coopers Road). The western and eastern boundaries are 273.44 metres long 98.85 metres long respectively. All boundaries of the site are delineated by rural post and wire fence. The total area of the allotment is 5.956 hectares. Refer to Attachment 1 (Locality Plan) for further detail.



The land undulates towards the centre of the site from the east and west into a watercourse contained within a deep gully.

A single dwelling and three outbuildings are situated within the far eastern portion of the site, which contains minimal native vegetation. The majority of vegetation on site consists of pasture grass and cultivated gardens.

One vehicle crossover is provided to the site via a constructed portion of Coopers Road. A gravel track has been constructed adjacent to Old Melbourne Road within the road reserve. This track finishes at the boundary of the neighbouring allotment to the west and does not extend along the boundary of the subject site. The track was approved pursuant to Planning Permit 2005/5131 which allowed a five lot subdivision on the neighbouring allotment.

The gravel track does not meet the current standards required by Council and emergency service providers.

#### Surrounding Land Use:

- North: Road – sealed with kerb and channel (Old Melbourne Road). Single dwellings and ancillary outbuildings are located to the north of Old Melbourne Road on lots of approximately 4.08 hectares and 1.22 hectares in area.
- South: Unmade Government Road (Coopers Road) and a single dwelling and ancillary outbuildings on a lot of approximately 2.45 hectares.
- East: Single dwelling and ancillary outbuildings on a lot of approximately 4,000 square metres.
- West: Single dwelling and ancillary outbuildings on a lot of approximately 4.07 hectares and a vacant allotment of approximately 4,117 square metres.

### **4.3 HISTORY OF APPLICATION**

The application was received on 17 December 2008 which sought approval for a three lot subdivision. Refer to Attachment 6 for details of the original three lot subdivision plan. The application was advertised on 12 January 2009 to adjoining and adjacent landowners pursuant to Section 52(1)(a) of the Act and an A3 sign was displayed on the subject land pursuant to Section 52(1)(d) of the Act.

The application was referred on 12 January 2009 under Section 55 of the Act to Gippsland Water, Telstra, APT O&M Services, SP AusNet and the Airport Manager.

Gippsland Water, Telstra and SP AusNet gave consent to the granting of a planning permit subject to appropriate conditions. APT O&M Services and the Airport Manager gave consent without conditions.

On the 25 February 2009, following discussions with Council's Project Services Team, a letter was sent to the permit applicant informing that the application in its current form could not be supported for the following reasons:

1. The existing gravel driveway servicing a number of recently created lots to the east of the subject property is not of a suitable standard to serve as access to proposed Lot 1 and proposed Lot 2.
2. The eastern portion of proposed Lot 1 and proposed Lot 2 encompass an area of land which may be subject to significant stormwater flooding. This land is not suited to uses associated with the residential development of land, including building or works which may inhibit the flow of water from upstream properties or which may be liable to flood damage.

The letter requested the following further information:

1. Amended plans depicting a suitable alternative for the provision of vehicular access to proposed Lot 1 and proposed Lot 2.
2. Amended plans are to be submitted depicting a stormwater easement in favour of Latrobe City Council. This easement is to be located over the natural watercourse/gully which exists on all proposed lots. The easement is to be of a width suitable to accommodate a 1 in 100 year stormwater surcharge route.

An on-site meeting was held between Council officers and the permit applicant on 19 March 2009 in order to discuss the issues raised in the letter sent on 25 February 2009. Two options to resolve the issues were provided to the applicant:

1. Construct the 'service road' (gravel track adjacent to Old Melbourne Road) to Council's required standard; or

2. Extend Coopers Road from the newly established roundabout and place an easement of way over the balance lot.

*Amended Application*

The applicant amended their planning permit application on 30 April 2009. This amendment removed one of the proposed lots and amended the application form to seek approval for a two lot subdivision as opposed to a three lot subdivision. The proposed plan of subdivision was also amended to reflect this change and to also include a drainage easement over the natural watercourse/gully and 1 in 100 year stormwater surcharge route. Refer to Attachment 7 for details of the two lot subdivision plan.

The amended application was advertised on 29 May 2009 to adjoining and adjacent landowners pursuant to Section 52(1)(a) of the Act and an A3 sign was displayed on the subject land pursuant to Section 52(1)(d) of the Act.

The application was referred on 29 May 2009 under Section 55 of the Act to Gippsland Water, Telstra, APT O&M Services, SP AusNet and the Airport Manager.

Telstra and SP AusNet gave consent to the granting of a planning permit subject to appropriate conditions. Gippsland Water, APT O&M Services and the Airport Manager gave consent without conditions.

Three internal business units of Council have objected to the grant of a planning permit. These internal business units are:

- Council's Project Services Team;
- Council's Strategic Land Use Planning Team; and
- Council's Infrastructure Operations Team.

The objections relate to concerns regarding issues raised with the proposal in relation to the sub-standard construction and dimensions of the gravel track, the lack of an appropriate turning circle and the Traralgon West Interim Infrastructure Development Policy.

#### 4.4 LATROBE PLANNING SCHEME

##### **State Planning Policy Framework**

Clause 16.01 'Residential development for single dwellings' contains the following 'Objective':

- *'To encourage subdivisions in locations with access to physical and community infrastructure and providing a range of lot sizes, a convenient and safe road network, appropriate pedestrian and cycle paths, sufficient useable public open space and low vulnerability to fire'.*

Clause 18.09 'Water supply, sewerage and drainage' contains the following 'Objective';

- *'To plan for the provision of water supply, sewerage and drainage services that efficiently and effectively meet State and community needs and protect the environment'.*

Clause 19.01 'Subdivision' contains the following 'Objective':

- *'To ensure the design of subdivisions achieves attractive, livable and sustainable neighbourhoods'.*

##### **Local Planning Policy Framework**

##### Municipal Strategic Statement (Clause 21)

Clause 21.01 (Municipal Profile):

Under 'Housing' (Clause 21.01-7) it is acknowledged that:

- *'The diversity in housing types available in the municipality contributes to the lifestyle choices provided and the overall attractiveness of the municipality as a place to live and invest'.*

Clause 21.02 (Key Influences):

Under 'Housing' (Clause 21.02-2) it is stated that:

- *'Social and economic trends should increase the need for a more diverse housing stock in urban areas, with an increasing need for well designed medium density accommodation'.*

Clause 21.03 (Vision – Strategic Framework):

The Latrobe Strategy Plan (Clause 21.03-3) has been prepared under the MSS and sets out a number of strategies for 'Urban and rural settlement', one of which is to:

- *'Consolidate development within and around the existing towns and villages and avoid unnecessary urban expansion and rural subdivision'.*

Clause 21.04 (Objectives/Strategies/Implementation):

Clause 21.04-1 has a 'Containment' objective (Element 2) to encourage contained urban development within distinct boundaries and maximise the use of existing infrastructure. Strategies to implement this include:

- *'To have regard to the local structure plans which identify the development opportunities in well serviced locations within and around the existing towns and seek to avoid the pressure for inefficient and expensive to service inter town development';*
- *'Encourage consolidation of urban settlement within the urban zoned boundaries'; and*
- *'Strongly discourage urban growth outside the urban development boundaries designated in the relevant local structure plan'.*

Clause 21.04-4 has a 'Containment and renewal' objective (Element 1) to contain new residential subdivision within residential areas shown on the local structure plans for each town. Strategies to implement this include:

- *'Support new residential subdivisions within the existing zoned land provided they contribute to the integrated development of the neighbourhood or town'; and*
- *'Encourage well designed, infill residential development throughout the existing urban area, especially in locations close to activity centres, areas of open space and areas with good public transport accessibility'.*

Clause 21.04-4 has a 'Rural living and low density residential development' objective (Element 3) to ensure that proposals for additional rural living and low density residential subdivision proceed only in appropriate locations. A strategy to implement this is:

- *'Discourage re-subdivision of rural living and low density residential lots to create urban scale housing except in areas of investigation such as at the urban fringe taking into account':*
  - *'water supply, drainage and sewage treatment and related infrastructure needs';*
  - *'financing of needed services and sealed roads and relevant rating policies';*
  - *'land capability';*
  - *'the quality of the environment created as a result of consolidation'; and*
  - *'willingness of property owners to jointly meet the costs of preparing an agreed structure plan for the area in which consolidation is proposed, for approval by Council'.*

Clause 21.04-9 has a 'Latrobe Regional Airport' objective (Element 3) to ensure that non-compatible development does not encroach upon the operations of the Latrobe Regional Airport. Strategies to implement this include:

- *'Consider the need to protect the airport's buffers, potential for future airport expansion and increased air traffic';*
- *'Have regard to the Latrobe Regional Airport Obstacle Limitation Surfaces Plan'; and*
- *'Have regard to the Latrobe Regional Airport master plan'.*

#### Local Planning Policy (Clause 22)

Clause 22.04 (Latrobe Regional Airport and Environs Policy):

The policy basis and objectives identify the concepts of the MSS as outlined above, and has as a 'Policy basis':

- *'The Latrobe Regional Airport is a significant development in the City and provides a range of important employment, transport, recreation, community and economic development opportunities'.*

'Objective':

- *'To ensure the safety and efficiency of airfield operations is not prejudiced by any new use or development of land nearby'.*

'Policy':

- *'Whether the grant of a permit would detrimentally affect the operational safety of aircraft or the opportunity for reasonable future expansion of the airport'.*

### **Zoning**

The subject land is zoned 'Low Density Residential Zone'. Pursuant to Clause 32.03-3 of the Scheme, a planning permit is required to subdivide land. The proposed subdivision must also meet the requirements of Clause 65 (Decision Guidelines). The 'Purpose' of the Low Density Residential Zone is:

- *'To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies'; and*
- *'To provide for low-density residential development on lots which, in the absence of reticulated sewerage, can treat and retain all wastewater'.*

### **Overlay**

No overlays affect the subject land.

### **Particular Provisions**

Clause 52.01 Public Open Space Contribution and Subdivision:

Under Clause 52.01 it is stated that:

- *'A person who proposes to subdivide land must make a contribution to the council for public open space in an amount specified in the schedule to this clause (being a percentage of the land intended to be used for residential, industrial or commercial purposes, or a percentage of the site value of such land, or a combination of both)'.*

### **Decision Guidelines (Clause 65):**

The Responsible Authority must decide whether the proposal will produce acceptable outcomes in terms of the 'Decision Guidelines' of Clause 65. In accordance with Clause 65.02 of the Scheme, the Responsible Authority must consider, as appropriate:

- *'The suitability of the land for subdivision';*
- *'The existing use and possible future development of the land and nearby land';*
- *'The availability of subdivided land in the locality, and the need for the creation of further lots';*
- *'The effect of development on the use or development of other land which has a common means of drainage';*
- *'The subdivision pattern having regard to the physical characteristics of the land including existing vegetation';*
- *'The density of the proposed development';*
- *'The area and dimensions of each lot in the subdivision';*
- *'The layout of roads having regard to their function and relationship to existing roads';*
- *'The movement of pedestrians and vehicles throughout the subdivision and the ease of access to all lots';*
- *'The provision and location of reserves for public open space and other community facilities';*
- *'The staging of the subdivision';*
- *'The design and siting of buildings having regard to safety and the risk of spread of fire';*
- *'The provision of off-street parking';*
- *'The provision and location of common property';*
- *'The functions of any body corporate';*
- *'The availability and provision of utility services, including water, sewerage, drainage, electricity and gas';*
- *'If the land is not sewered and no provision has been made for the land to be sewered, the capacity of the land to treat and retain all sewage and sullage within the boundaries of each lot'; and*
- *'Whether, in relation to subdivision plans, native vegetation can be protected through subdivision and siting of open space areas'.*

**Incorporated Documents (Clause 81):**

No Incorporated Documents apply to this application.

**Relevant Proposed Planning Scheme Amendments:**

The proposal has been considered against Amendment C62 – Latrobe Planning Scheme Review. The discussions and recommendations contained within this report are consistent with Amendment C62.



## 5. ISSUES

### Strategic direction of the State Planning Policy Framework:

It is considered that the application does not comply with the strategic direction of the State Planning Policy Framework. Namely, the proposal does not satisfy Clause 16.01 'Residential development for single dwellings'. The proposal does not provide a convenient and safe road network to service proposed Lot 1. The gravel track provided is not constructed to Council's minimum standards or the minimum standards required by emergency service providers. No turning circle is provided at the end of the track and the sight distance at the end of the track onto Coonoc Road is also poor.

### Strategic direction of the Local Planning Policy Framework:

It is considered that the application does not comply with the strategic direction of the Local Planning Policy Framework. Namely, the proposal does not satisfy Element 3 of Clause 21.04-4 'Housing'. Taking into account the lack of appropriate access with adequate turning circles to proposed Lot 1, it is considered that the proposal for a low density residential subdivision is not in an appropriate location considering the constraints of the subject site.

### 'Purpose' and 'Decision Guidelines' of the Low Density Residential Zone:

It is considered that the proposal does not comply with the 'Purpose' and 'Decision Guidelines' of the Low Density Residential Zone. Namely, the proposal does not implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement, for the reasons outlined above.

### Clause 65 (Decision Guidelines):

It is considered that the application does not comply with the 'Decision Guidelines' of Clause 65.02 of the Scheme. Namely, the proposal does not appropriately address:

- The suitability of the land for subdivision;
- The layout of roads having regard to their function and relationship to existing roads; and
- The movement of pedestrians and vehicles throughout the subdivision and the ease of access to all lots.

The concerns mentioned above are all due to the lack of appropriate, safe and functional access to proposed Lot 1 and the lack of an appropriate turning circle at the conclusion of the gravel track.

Traralgon Low Density Residential Precinct Interim  
Infrastructure Development Procedure (February 2009):

It is considered that the proposal is inconsistent with the 'Purpose' of the Interim Infrastructure Development Procedure which states:

- *'The purpose of the Interim Infrastructure Development Procedure is to prevent further subdivision of the land within the Traralgon Low Density Residential Zone Precinct as of the 28 February 2008, pending:*
  - *Resolution of agreed road and stormwater infrastructure services to be provided for the precinct;*
  - *Mitigation of potential detriment to downstream landholders resulting from increased stormwater volumes; and*
  - *Establishment of an appropriate framework to assure the equitable distribution and sequencing of landowner financial contributions to agreed road and stormwater infrastructure services by the preparation and adoption of a Development Plan Overlay and Development Contributions Plan Overlay within the Latrobe Planning Scheme'.*

There are no agreed road and stormwater infrastructure services to be provided for the precinct and there is yet to be an establishment of an appropriate framework to assure the equitable distribution and sequencing of landowner financial contributions to agreed road and stormwater infrastructure services.

Traralgon West Interim Infrastructure Development Policy  
09 POL-1

It is considered that the proposal does not satisfy the 'Policy Implementation – Statutory Planning and Project Services' table provided in this policy. Decision framework question 1 requires all proposed lots to be accessible via a constructed government road. No constructed government road is provided to proposed Lot 1.

The application received no submissions in the form of objections, however, Council's Project Services Team, Strategic Land Use Planning Team and Acting Manager Infrastructure Operations object to the application. The issues raised were:

1. The lack of a legal point of access to proposed Lot 1. The existing gravel driveway adjacent to Old Melbourne Road that services three lots to the east of the subject site has no legal status. The construction and dimensions of this gravel driveway, in addition to the lack of an appropriate turning circle, makes this driveway sub-standard and unsuitable to serve as access to proposed Lot 1.

Comment:

When considering the State Planning Policy Framework, the proposal fails to satisfy Clause 16.01 'Residential development for single dwellings' as the proposal does not provide a convenient and safe road network to service proposed Lot 1.

Also, when considering the Local Planning Policy Framework, the proposal fails to satisfy the requirements of Clause 21.04-4 when taking into account the lack of appropriate access to proposed Lot 1. It is considered that the proposal for a low density residential subdivision is not in an appropriate location, considering the constraints of the subject site.

The proposal fails to satisfy some of the 'Decision Guidelines' of Clause 65.02 of the Scheme. In relation to the concerns raised by Council's Project Services Team, Strategic Land Use Planning Team and Acting Manager Infrastructure Operations, the movement of pedestrians and vehicles throughout the subdivision and the ease of access to all lots is of particular concern. No appropriate turning circle is provided at the conclusion of the gravel track.

The proposal also fails to satisfy the 'Policy Implementation – Statutory Planning and Project Services' table provided in the Traralgon West Interim Infrastructure Development Policy 09 POL-1. Decision framework question 1 requires all proposed lots to be accessible via a constructed government road. No constructed government road is provided to proposed Lot 1. Thus, as stated in the Traralgon West Interim Infrastructure Development Policy, if the proposal fails on any of the items mentioned in the decision framework, approval of the application is not recommended.

The proposed extension to the gravel track adjacent to Old Melbourne Road is not considered to be appropriate to provide access to a low density residential allotment as the gravel track does not meet the minimum design standards of Council or emergency service providers. The track also has no turning circle and the sight distance onto Coonoc Road is poor.

Previous planning decisions made by Council do not set a precedent and Council does not wish to extend on the existing problems created by the establishment of this gravel track. This track also fails to be recognised as a point of legal access.

## **6. FINANCIAL AND RESOURCES IMPLICATIONS**

Additional resources or financial cost will only be incurred should the planning permit application require determination at the Victorian Civil and Administrative Tribunal (VCAT).

## **7. INTERNAL / EXTERNAL CONSULTATION**

*Engagement Method Used:*

Notification:

The application was advertised pursuant to Section 52(1)(a) and Section 52(1)(d) of the Act. Notices were sent to all adjoining and adjacent landowners and occupiers and an A3 notice was displayed on site.

No submissions in the form of objections were received.

External:

The original application was referred to Gippsland Water, Telstra, SP AusNet, APT O&M Services and the Airport Manager pursuant to Section 55 of the Act. Gippsland Water, Telstra and SP AusNet gave consent to the granting of a planning permit, subject to appropriate conditions. APT O&M Services and the Airport Manager gave consent without conditions.

The applicant then amended the proposed plan of subdivision. The amended application was referred to Gippsland Water, Telstra, SP AusNet, APT O&M Services and the Airport Manager pursuant to Section 55 of the Act. Telstra and SP AusNet gave consent to the granting of a planning permit, subject to appropriate conditions. Gippsland Water, APT O&M Services and the Airport Manager gave consent without conditions.

Internal:

Internal officer comments were sought for the original application and amended application from Council's Health Services Team, Project Services Team, Strategic Land Use Planning Team and Acting Manager Infrastructure Operations. The Health Services Team gave consent to the granting of a planning permit, subject to appropriate conditions.

Council's Project Services Team, Strategic Land Use Planning Team and Acting Manager Infrastructure Operations objected to the granting of a planning permit. Each team objected to the application based on inappropriate access to proposed Lot 1, the lack of an appropriate turning circle at the conclusion of the gravel track and the recommendations out forth by the Traralgon West Low Density Residential Precinct Interim Infrastructure Development Procedure (February 2009) and the Traralgon West Interim Infrastructure Development Policy 09 POL-1.

*Details of Community Consultation following Notification:*

Following the advertising and referral of the application, no external submissions in the form of an objection were received. Therefore, no planning mediation meeting took place.

However, two on-site meetings were held with the permit applicant to discuss Council's concerns with the proposal. No resolutions came from these meetings.

**8. OPTIONS**

Council has the following options in regard to this application:

1. Issue a Permit; or
2. Issue a Refusal to Grant a Permit.

Council's decision must be based on planning grounds, having regard to the provisions of the Latrobe Planning Scheme.

## 9. CONCLUSION

The proposal is considered to be inconsistent with:

- The strategic direction of Clause 16.01 of the State Planning Policy Framework;
- The strategic direction of Clause 21.04-4 of the Local Planning Policy Framework;
- The 'Purpose' and 'Decision Guidelines' of Clause 32.03 (Low Density Residential Zone);
- Clause 65 (Decision Guidelines);
- The Traralgon Low Density Residential Precinct Interim Infrastructure Development Procedure (February 2009);  
and
- The Traralgon West Interim Infrastructure Development Policy 09 POL-1.

## 10. RECOMMENDATION

**That Council DECIDES to issue a Refusal to Grant a Permit, for a two (2) lot subdivision at Lot 3 on Plan of Subdivision 141401, more commonly known as 24 Coopers Road, Traralgon, on the following grounds:**

1. **There is no appropriate point of vehicle access to proposed Lot 1.**
2. **The proposal fails to satisfy Clause 16.01 'Residential development for single dwellings' as the proposal does not provide a convenient and safe road network to service proposed Lot 1.**
3. **Due to the lack of appropriate access to proposed Lot 1, the proposal is not in an appropriate location, and as such, the proposal fails to satisfy Element 3 of Clause 21.04-4.**
4. **The proposal fails to satisfy the 'Decision Guidelines' of Clause 65.02 of the Scheme. Namely, the proposal does not appropriately address the suitability of the land for subdivision, the layout of roads having regard to their function and relationship to existing roads or the movement of pedestrians and vehicles throughout the subdivision and the ease of access to all lots. This is due to the sub-standard construction and dimensions of the gravel driveway, in addition to the lack of an appropriate turning circle to service proposed Lot 1.**
5. **The proposal also fails to satisfy the 'Policy Implementation – Statutory Planning and Project Services' table provided in the Traralgon West Interim Infrastructure Development Policy 09 POL-1.**

**Moved:** Cr Kam

**Seconded:** Cr Middlemiss

**That the Recommendation be adopted.**

**CARRIED UNANIMOUSLY**

**ATTACHMENTS**



**11.3.5 PROPOSED SPECIAL CHARGE SCHEME TO SEAL BURNETS  
ROAD, TRARALGON EAST**

**AUTHOR:** General Manager Built and Natural Environment Sustainability  
**(ATTACHMENT – YES)**

**1. PURPOSE**

The purpose of this report is to seek Council's approval to give Notice of Intention to Declare a Special Charge Scheme for the construction of a sealed roadway in Burnets Road, Traralgon East in accordance with Section 163 of the *Local Government Act 1989* and Council's Contributory Scheme Policy 09 POL-2.

**2. DECLARATION OF INTERESTS**

No officer declared an interest under the *Local Government Act 1989* in the preparation of this report.

**3. POLICY IMPLICATIONS**

This report is consistent with Council's Latrobe 2021 vision document and the Council Plan 2009-2013.

*Latrobe 2021 and Council Plan 2009-2013*

*Strategic Objective – Sustainability*

To promote the responsible and sustainable care of our diverse built and natural environment for the use and enjoyment of the people who make up the vibrant community of Latrobe Valley. To provide leadership and to facilitate a well connected, interactive economic environment in which to do business.

*Community Outcome – Built Environment Sustainability*

By developing clear directions and strategies through consultation with the community, ensuring sustainable and balanced development.

*Strategic Action – Infrastructure Development*

Ensure integration of roads, bike paths, footpaths and public transport options.

*Policy – Contributory Scheme Policy 09 POL-2*

This policy is to ensure an equitable and consistent approach is used to implement, administer and deliver Special Charge Schemes under Section 163 of the *Local Government Act* 1989.

*Sealing of Rural Unsealed Roads Policy 09 POL-3*

This policy provides guidance to Council and officers to manage, evaluate and prioritise requests to seal unsealed roads in rural areas.

**4. BACKGROUND**

Burnets Road, Traralgon East is an unsealed access road servicing rural residential properties and a Reception/Function Centre. The section of road that is the subject of this report is currently maintained by Council in accordance with the Road Management Plan.

Letters were received on 1 June 2009 from six of the eight property owners seeking support from Council to seal the section of Burnets Road from the intersection of Traralgon-Maffra Road to the eastern boundary of No. 140 Burnets Road. Copies of the letters are included as an attachment to this report.

Three property owners indicated their willingness to contribute \$5,000 per rateable property. One owner was not in support of the sealing proposal and was not willing to contribute to the cost of the works. One property owner sought urgent attention to seal road and already has a previous planning permit requirement to contribute \$20,000 to the project. The letter from the sixth property owner was non-committal.

It was considered that there was reasonable support from the letters indicating support to contribute to a Special Charge Scheme to seal Burnets Road and subsequently a meeting of property owners was held on 9 July 2009.

**5. ISSUES**

Two Council policies are applicable to this request. These policies are Sealing of Rural Unsealed Roads Policy 09 POL-3 and the Contributory Scheme Policy 09 POL-2.

The latter Policy requires that prior to the implementation of a Special Charge Scheme under Section 163 of the *Local Government Act 1989*, Council staff initiate Stage 1 of the public consultation process in accordance with Appendix 1 – Initial Consultative Process of the Contributory Scheme Policy.

The Stage 1 public consultation process commenced on 9 July 2009 with a meeting of property owners chaired by the Ward Councillor.

The meeting of property owners held on 9 July 2009 was attended by eight people representing six property owners. There are a total eight rateable properties that may be included in a Special Charge Scheme pending Council approval.

The meeting discussed a number of issues including the process to prepare a Special Charge Scheme, the design concept plan/design standards, timelines and the next steps in the process. A copy of the Meeting Notes is included as an attachment.

All property owners in attendance indicated their support for Council to proceed with the declaration of a Special Charge Scheme to seal Burnets Road.

The concept design presented to the meeting provided for a 5.5m wide seal on a 6.5m wide pavement and a wider seal (7.0m) over crests to improve safety aspects at these locations. The existing formation will be required to be widened to meet these design standards. A copy of the plan is included as an attachment to this report.

Following the meeting of 7 July 2009 letters and feedback forms were sent to all property owners along the section of Burnets Road that is the subject of this report seeking written confirmation or otherwise of their willingness to participate in the Special Charge Scheme (SCS).

The table below summarises the responses received:

<b>Property</b>	<b>Agreed to contribute to SCS</b>	<b>Comments</b>
Lot 1 LP 127950 No. 10 Burnets Road	Yes	
Lot 1 LP 128360 No. 55 Riverview Road	No	Property has frontage to Burnets Rd as well as Riverview Road
Lot 11 LP 128360 No. 50 Burnets Road	Yes	

Property	Agreed to contribute to SCS	Comments
Lot 3 LP 121609 Burnets Road	Yes	
PTA3, PTA6, Lot 2 LP 92800 85 Dranes Road	Yes	Issue with future contributions if other title(s) sold off.
Lot 1 LP 208979 Burnets Road	Yes	
Lot 2 LP 208979 No. 140 Burnets Road	Yes	Contribution in compliance with an earlier planning permit requirement
Lot 1 LP 92800 No. 95 Burnets Road	Yes	

One property owner owns three titles with frontage to Burnets Road which are rated as a single property and in accordance with the Policy, this owner is required to make one contribution of \$5,000 and agree to make further contributions if and when the separate titles are sold off. This owner has agreed to make the initial contribution but feels that further contributions are not necessary due to the lands being grazing properties.

One property owner has not agreed to pay the \$5,000 charge due to the fact their property has an alternative sealed road access.

It is likely that these two owners will make a submission to Council as part of the Stage 2 consultation process.

One property owner was previously required to contribute \$20,000 towards the construction of Burnets Road in accordance with a condition placed on Planning Permit No. 04286.

If Council agrees to commence Stage 2 of the consultative process there will be an opportunity for property owners who wish to object to the proposed SCS to make a submission to Council for a determination.

## **6. FINANCIAL AND RESOURCES IMPLICATIONS**

The detailed design and cost estimate has not been undertaken at this time, however an indicative cost estimate for this project is \$393,000.

The total maximum contribution from the property owners would be \$55,000.

The capital works budget allocation for the 2009/10 financial year for sealing unsealed rural road is \$500,000.

7. **INTERNAL/EXTERNAL CONSULTATION**

*Engagement Method Used:*

Meeting of property owners and correspondence

*Details of Community Consultation / Results of Engagement*

During the community consultation process to date, all property owners were provided the opportunity to express their views in relation to the proposed Special Charge Scheme and a majority of owners have indicated their willingness to enter into a Special Charge Scheme and contribute \$5,000 per rateable property towards the cost of the proposed works.

8. **OPTIONS**

The following options are available to Council:

1. Proceed with the Contributory Scheme Policy public consultation process Stage 2 – Statutory Procedure under the *Local Government Act 1989*; or
2. Take no further action.

9. **CONCLUSION**

The Stage 1 Initial Consultation process in accordance with the Contributory Scheme Policy 09 POL -2 has now been completed and having regard to the favourable response from those who attended the meeting together with the majority of positive written responses received to date, it would now be appropriate for Council to proceed to the Stage 2 Public Consultation process.

10. **RECOMMENDATION**

1. **That in accordance with section 163 of the *Local Government Act 1989*:**
  - (a) **Council declares its intention to levy a Special Charge Scheme at the Ordinary Council Meeting on 16 November 2009 for defraying expenses for the construction of a sealed roadway in Burnets Road, Traralgon East from Traralgon – Maffra Road to the eastern boundary of 140 Burnets Road; and**

- (b) Council gives public notice of its intention to make a declaration of a Special Charge Scheme; and
  - (c) Council notifies persons liable to pay the special charge by sending a notice.
2. That Council, in accordance with section 223 of the *Local Government Act 1989*:
- (a) Appoints a Committee consisting of the Ward Councillor, the Mayor and Cr Bruce Lougheed to hear and consider any submissions received in relation to the declaration of its intention to levy a special charge scheme to seal Burnets Road, Traralgon East; and
  - (b) Fixes the date for the hearing of submissions in relation to the proposed Special Charge Scheme to seal Burnets Road, Traralgon East, to be 14 October 2009.

**Moved:** Cr Vermeulen

**Seconded:** Cr Lougheed

**That the Recommendation be adopted.**

**CARRIED UNANIMOUSLY**

**ATTACHMENTS**

**11.3.6 PLANNING PERMIT APPLICATION 2009/90 - USE AND DEVELOPMENT OF LAND FOR ANIMAL KEEPING (UP TO 10 RACING DOGS)**

**AUTHOR:** General Manager Built and Natural Environment Sustainability  
**(ATTACHMENT - YES)**

**1. PURPOSE**

The purpose of this report is to determine Planning Permit Application 2009/90 for the use and development of land for animal keeping and training (up to 10 racing dogs) at Lot 2 on Plan of Subdivision 537941C, commonly known as 323 Coalville Road, Moe South.

**2. DECLARATION OF INTERESTS**

No officer declared an interest under the *Local Government Act* 1989 in the preparation of this report.

**3. POLICY IMPLICATIONS**

This report has been prepared in accordance with provisions of the *Planning and Environment Act* 1987, the Latrobe Planning Scheme (the Scheme), including all the proposed amendments.

The recommendation and discussion contained within this report is consistent with Council's Latrobe 2021 vision document and the Council Plan 2009-2013.

**Latrobe 2021 and Council Plan 2009-2013**

*Strategic Objective – Sustainability*

To promote the responsible and sustainable care of our diverse built and natural environment for the use and enjoyment of the people who make up the vibrant community of the Latrobe Valley. To provide leadership and to facilitate a well connected, interactive economic environment in which to do business.

*Community Outcome – Built Environment Sustainability*

By developing clear directions and strategies through consultation with the community ensuring sustainable and balanced development.



*Strategic Action – Built Environment Sustainability*

Strive to ensure all proposed developments enhance the liveability and sustainability of the community.

**4. BACKGROUND**

Section 4 of this report provides an overview of the following:

- Summary of the application
- The proposal
- History of application
- Relevant provisions of the Latrobe Planning Scheme

**4.1 SUMMARY**

Land: 323 Coalville Road, Moe South, known as Lot 2 on Plan of Subdivision 537941C  
Proponent: Dennis and Bronwyn Pulis  
Zoning: Rural Living 3  
Overlay: Schedule 1 to Design and Development Overlay (which relates to gas pipeline and only applies to the north-eastern corner of the subject site)

A Planning Permit is required for the use and development of land for animal keeping and training purposes (up to 10 racing dogs) in accordance with the Rural Living Provisions (Clauses 35.03-1, 35.03-4) of the Scheme.

A Planning Permit is also required for buildings and works associated with animal keeping and training (up to 10 racing dogs) in accordance with Schedule 1 to the Design and Development Overlay Provisions (Clause 43.02-2) of the Scheme.

It should be noted that the proposal is best defined as 'animal keeping and training' pursuant to Clause 74 of the Scheme.

Animal keeping is '*land used to (a) breed or board domestic pets; or (b) keep, breed, or board racing dogs*'.

Animal keeping includes 'animal boarding' (i.e. to board domestic pets, such as boarding kennels and a cattery), 'dog breeding' and 'racing dog keeping'.

Animal training is '*land used to train animals*'.

## 4.2 PROPOSAL

The application is for the use and development of land for animal keeping and training purposes (up to 10 adult racing dogs) at 323 Coalville Road, Moe South.

Details of the proposal are as follows:

- Six wire-mesh kennels (each with a wooden sleeping quarter) are to be constructed internally within an existing 18.5m x 10m colourbond shed. This existing colourbond shed is not fully enclosed and is open on one side. The proposed kennels are to be lockable and the sleeping quarters are to be insulated against sound. (It should be noted that the materials and finishes of the kennels are not specified on the submitted plans, but only stated in the planning report submitted with the application). The minimum setbacks of the existing shed from the title boundaries are approximately 40m from the east, 65m from the south, 50m from the west, and 160m from the north.
- Two 80m x 3m exercise or training areas are to be provided within the south-eastern portion of the land, to the east of the existing pup rearing yards. These training areas are to be enclosed within a secure fence. The minimum setbacks of the exercise area from the title boundaries are approximately 3m from the south, 40m from the south, 80m from the west, and 130m from the north.
- Three 6m x 6m emptying out yards are to be located within the south-eastern portion of the land, to the south of the existing pup rearing yards. These yards are to be setback approximately 2m from the eastern boundary of the land.
- Screening trees with a minimum height of 3m are proposed around the perimeter of the three exercise yard areas.

It should be noted that the existing kennelling yard for one female dog and two 50m x 10m pup rearing yards are to remain unchanged on site.

The existing access arrangement is to be unchanged and no vegetation is proposed to be removed.

Refer to attachment 2 for further details of the proposal.

**Subject Land:**

The subject land is located at 323 Coalville Road, between Ryland Way and Delbridge Drive in Moe South.

The land is irregular in shape, has a frontage of approximately 85 metres to Coalville Road, and an area of approximately 6.8 acres.

The land is currently occupied by a single dwelling which is oriented to Coalville Road, located within the southern portion of the land. There are also a number of existing dog breeding facilities on site, including the following:

- A yard area with a kennel located directly to the west of the existing dwelling on site. This kennel is currently used to accommodate one female dog on site.
- A kennel colourbond shed located to the northeast of the existing dwelling on site.
- Two (2) pup rearing yard areas measuring 50m x 10m each, located within the south-eastern portion of the site.

The land falls in a steep undulating manner from the rear of the existing dwelling to the north boundary of the land.

A 10-metre wide powerline easement runs across the site, in a north-west to south-east direction.

Vehicular access to the site is currently provided from Coalville Road via an existing gravel driveway.

Refer to attachment 1 for a locality map of the subject site.

**Surrounding Land Uses and Development:**

**North:** To the north and north-west of the subject are allotments zoned Rural Living 3. The allotment at 293 Coalville Road is approximately 20000 square metres in area, and is currently vacant. The allotment at 227 Coalville Road is approximately 57,000 square metres in area, and is developed within a single dwelling which is setback approximately 150 metres from the northern boundary of the subject site.

- South: Coalville Road abuts the southern boundary of the subject site. To the south of Coalville Road, are allotments zoned Rural Living 3, and generally used for low-scale rural living purposes. Each of the properties at 320 and 322 Coalville Road is occupied by a single dwelling, and densely covered with vegetation. The dwellings at 320 and 322 Coalville Road are at least approximately 100 metres away from the southern boundary of the subject site.
- East: Directly to the east of the subject site is a vacant allotment of approximately 199,300 square metres in area, and is zoned Farming.
- West: Directly to the west of the subject site is 317 Coalville Road, which is a vacant land of approximately 17,000 square metres.

#### **4.3 HISTORY OF APPLICATION**

Application was received on 30 March 2009.

The applicant was required to give notice of the application on 1 May 2009.

The application was referred to both external authorities and Council's internal departments for consideration.

The applicant provided a Statutory Declaration that notice of the application was given on 25 May 2009.

Four submissions objecting to the proposal were received during the notification period (refer to attachment 3 for details).

On 25 May 2009, Council received correspondence from the applicant responding to the concerns raised in the submissions (refer to attachment 4 for details).

A planning mediation meeting was held on 22 July 2009. The mediation meeting did not resolve the concerns of the objectors and as such the application must be determined by Council.

#### **4.4 LATROBE PLANNING SCHEME**

##### **State Planning Policy Framework**

Clause 15.05 (Noise Abatement) of the Scheme seeks to assist the control of noise effects on sensitive land uses.

This Clause states that planning and responsible authorities should ensure that development is not prejudiced and community amenity is not reduced by noise emissions, using a range of building design, urban design and land use separation techniques as appropriate to the land use functions and character of the area.

Decision-making by planning and responsible authorities must be consistent with any relevant aspects of the following document:

- *Interim Guidelines for Control of Noise from Industry in Country Victoria (EPA 1989).*

Clause 16.03 relates to rural living and rural residential development. The objective of this clause is to identify suitable land for rural living and rural residential development.

Clause 18.11 'High pressure pipelines' contains the following 'Objective':

- *To plan for the development of pipeline infrastructure subject to the Pipelines Act 1967 to ensure that gas, oil and other substances are safely delivered to users at minimal risk to people and the environment.*

### **Local Planning Policy Framework** Municipal Strategic Statement (Clause 21)

Clause 21.01-5 of the Scheme relates to the general environment. *It is stated under this Clause that:*

*'within the planning scheme context the main environmental issues are:*

- *balancing conflicting land uses; and*
- *ensuring that land use activity does not have an adverse impact on the environment.*

*To achieve these, land development and use should be considered in terms of the impact on the broader environment and, in particular, on air quality, water quality, biodiversity and on the protection of the productivity of the land providing the economic conditions to support beneficial land management activities.'*

Clause 21.02-2 of the Scheme relates to housing. It is stated under this Clause that *'Rural residential living has been a popular and attractive lifestyle choice in Latrobe City and continues to attract residents.'*

Clause 21.03-3 of the Scheme is the Strategic land use framework plan. Some of the environmental strategies as outlined under Clause 21.03-3 of the Scheme are:

- *'Conserve, protect and manage the natural and heritage resources of Latrobe City to create a high amenity environment.'*
- *'Protect, improve and manage the air and water quality of the municipality.'*

The Moe Structure Plan is located at Clause 21.04 of the Scheme. It should be noted that the subject site is located outside of the Moe township boundary.

Element 4 under Clause 21.04-1 of the Scheme relates to balancing conflicting land uses, and one of the objectives is *'for development to have regard and respond to the natural environmental features of the municipality'*.

Clause 21.04-2 of the Scheme relates to environmental objectives, strategies and implantation. Element 4 (Rural Land Management) of this Clause includes some objectives that are of some relevance to the proposal as follows:

- *'To support rural living or low density residential development in appropriate locations, taking into account current supply and demand for these types of subdivisions.'*
- *'To encourage use compatible with the physical capability of the land.'*
- *'To improve the landscape and environment of the rural resources of the municipality.'*

Strategies and actions for implementation under Element 4 of Clause 21.04-2 of the Scheme include the following:

- *'Evaluate development proposals on the basis of, among other things, visual amenity, land capability and exposure to natural hazards.'*
- *'Development and use applications should address their effects on attractive views or the rural or natural landscape, in particular having regard to the La Trobe Shire Landscape Master Plan (May 1997).'*

Clause 21.04-9 has a 'Pipelines' objective (Element 1) which encourages the protection of existing pipelines from encroachment of residential and other sensitive land uses. The Planning Scheme response to this objective is that:

- *'A Design and Development Overlay has been applied over the existing pipelines to control development within their immediate vicinities.'*

It should be noted that the subject site is marginally affected by Schedule 1 to the Design and Development Overlay.

#### Local Planning Policy (Clause 22)

There are no Local Planning Policies that are of direct relevance to this proposal.

#### **Zoning**

The subject site is located within Schedule 3 to the Rural Living Zone, pursuant to Clause 35.03 of the Scheme.

The objectives of this zone are as follows:

- *'To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.'*
- *To provide for residential use in a rural environment.*
- *To provide for agricultural land uses which do not adversely affect the amenity of surrounding land uses.*
- *To protect and enhance the natural resources, biodiversity and landscape and heritage values of the area.*
- *To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.'*

Pursuant to Clause 35.03-1 of the Scheme, a planning permit is required to use the land for animal keeping and training associated with three or more racing dogs. It is noted that a maximum of 2 racing dogs can be kept on the site without a planning permit.

This planning permit application proposes to use the land for animal keeping (with a maximum of 10 racing dogs).

A planning permit is also required pursuant to Clause 35.03-4 of the Scheme, for the construction and carrying out of works associated with this proposed use.

Before deciding an application to use or construct a building or construct or carry out works within a Rural Living 3 Zone, the responsible authority must consider, as appropriate, a range of general, agricultural, environmental and design and siting issues. Refer to attachment 6 for a copy of the Rural Living Zone provisions.

### **Overlay**

The subject site is marginally affected by Schedule 1 to the Design and Development Overlay DDO1 – Gas Pipeline (it only applies to a small portion of land within the north-eastern corner).

The design objective of this overlay is to *'ensure that all buildings and works and in particular buildings designed to accommodate people are sufficiently separated from high pressure pipelines to avoid a safety hazard'*.

Pursuant to Clause 43.02-2 of the Scheme, a planning permit is required to construct or carry out works. However, it should be noted that buildings and works are not proposed within the area affected by the DDO1.

In addition, it should also be noted that the eastern portion of the land is marginally affected by a cultural significant overlay, as per Council's mapping system (Latitude).

### **Particular Provisions**

The particular provisions of the Scheme are not of direct relevance to the application.

### **Decision Guidelines** (Clause 65):

Clause 65 contains decision guidelines for applications. Relevant matters to consider are:

- *The matters set out in Section 60 of the Act.*
- *The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *The purpose of the zone, overlay or other provision.*



- *Any matter required to be considered in the zone, overlay or other provision.*
- *The orderly planning of the area.*
- *The effect on the amenity of the area.*
- *The proximity of the land to any public land.*
- *Factors likely to cause or contribute to land degradation, salinity or reduce water quality.*
- *Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site.*
- *The extent and character of native vegetation and the likelihood of its destruction.*
- *Whether native vegetation is to be or can be protected, planted or allowed to regenerate.*
- *The degree of flood, erosion or fire hazard associated with the location of the land*

#### **Incorporated Documents (Clause 81)**

There are no incorporated documents that are relevant to the proposal.

#### **Relevant Planning Scheme Amendments**

Amendment C62 to the Scheme proposes changes to the municipal strategic statement. It is a seriously entertained planning scheme amendment pursuant to Section 60(1A)(c) of the Act.

There draft policies contained within C62 include general rural living and environment issues, and do not contain policies that are of direct relevance to animal keeping and training.

#### **Other Relevant Documents**

*A Code of Practice for the Greyhound Industry Dealing with Greyhound Premises and the Keeping and Welfare of Greyhounds* (dated March 2008) is a document published by Greyhound Racing Victoria. This documentation is for the Greyhound Industry to assist the development of a consistent approach to the location, management and regulation of greyhound premises in Victoria, and is generally used by Councils in the assessment of Greyhound-related applications. It should be noted however that this document is not a reference or incorporated document to the Scheme, but it is a relevant consideration pursuant to Section 60(1A)(j) of the *Planning and Environment Act 1987*.

Refer to attachment 7 for a copy of this document.

## 5. ISSUES

The application received four (4) submissions in the form of objections. The issues raised were:

1. Nuisance noise associated with barking dogs.

### Comment:

Noise from barking dogs was submitted as the primary concern by all objectors.

According to the Noise Control Guidelines produced by the Environment Protection Authority (EPA) problems caused by the perpetual barking of dogs has been known to exist at distances as far as 500 metres from the actual source. A number of criteria for dog kennels have therefore been assembled by EPA to limit both the physical stimuli to the dogs and the outbreak of noise from the kennels. It should be noted that these criteria are not mandatory in nature, but should only be used as a guideline. A recent letter (dated 26 May 2009) from EPA to the permit applicants also confirms that:

*'the (EPA Noise Control) guidelines aim at premises such as boarding kennels, lost dog homes, pounds and larger breeding facilities..... These types of facilities house dogs that are away from their own environment and most are under a stress situation being away from their owners and their usual home. This can lead to excessive barking and howling, thus conditions such as someone being on site 24 hours a day and a buffer of up to 500 metres are recommended by EPA. This is quite different to a situation where dogs are housed in their own environment and used to a set routine. In most cases, barking only occurs at these types of facilities during feed times where dogs are excited in anticipation of being fed, or when first let out to exercise and empty out. This is usually for a short period of time'.*

It should be highlighted that the proposal only seeks to use and develop the subject site for a small to medium scale establishment with up to ten adult racing dogs on site. The facility will be conducted as a hobby by the permit applicants and their immediate family.

Nevertheless, the EPA guidelines provide some relevant considerations in the assessment of the subject application. A response to each of the criteria has been provided below:

- *The kennels should be located at least 500 metres from residential areas.*

It is clear that the proposal has buffer distances of less than the 500 metres setback distance as recommended by the EPA.

However, as per the recent letter (dated 26 May 2009) from the EPA to the permit applicants, the 500-metre setback distance is not of direct relevance to the proposal, as the dogs are to be housed in their own environment, and unlikely to be under a stress situation which may lead to excessive barking and howling.

When assessing the minimum setback distance, references should instead be made to the *Code of Practice for the Greyhound Industry*, which recommends a minimum distance of 50 metres to the nearest dwelling (kennels with 6-20 dogs). In this instance the nearest existing dwelling is approximately 200m away, and the nearest objector's land is located approximately 150 metres away.

In relation to the exercise yards, the minimum setback distance as recommended under the *Code of Practice for the Greyhound Industry* is 100 metres from nearest adjoining property. In this instance, the exercise yards are to be located approximately 200m away from the nearest existing dwelling, within an area on the site furthest away from the adjoining rural living zone.

The proposed minimum distances satisfactorily meet the relevant *Code of Practice for the Greyhound Industry*.

- *Some fully enclosed or acoustically baffled kennels should be available to house particularly noisy animals, at a ratio of 1:15.*

It is commonly known that Greyhounds are generally docile animals and are not particularly noisy.

However, regardless of the docile nature of greyhounds, it is still reasonable to provide either fully enclosed or acoustically baffled kennels, as a number of objectors submitted that the noise problem is already occurring with the number of dogs currently present on the subject site (it is understood that there are currently one female adult greyhound and some pups on site) and/or in the general area.

In consideration of the existing conditions of the shed on site (being colourbond in material, and open on one side), Council officers are of the opinion that to provide six kennels within the shed is unacceptable. In order to minimise the potential transmission of noise from barking dogs, an acoustically baffled kennel should be constructed, in consultation with a suitably qualified acoustic engineer. A condition requiring the compliance of the proposal with the *Code of Practice for the Greyhound Industry* should also be included in the permit. In this way, it is anticipated that the kennels will be designed and constructed to ensure the good health and well being of the animals, whilst minimising the potential noise impacts on neighbourhood properties.

It should also be noted that whilst the proposal seeks to use and develop the land for up to ten racing dogs, only six kennels are to be provided within the existing colourbond shed. As per the *Code of Practice for the Greyhound Industry*, only one greyhound is permitted to be housed in each racing kennel. A permit condition should therefore be included for the provision of three additional kennels (it should be noted that there is currently one kennel with yard area for the existing female adult dog on site located to the west of the existing dwelling, and this arrangement is to remain unchanged).

- *Electronic masking noise devices should be provided to reduce audible stimuli to the dogs.*

It was submitted by the applicant that non-barking muzzles or the use of Citronella Collars would be fitted to individual problem barking dogs if necessary.

- *Kennels should be constructed to visually screen stimuli such as other dogs, animals, traffic or passers-by.*

The proposal seeks to construct the kennels within an existing shed on site which is only partially enclosed. In order to ensure that the proposal will not cause undue and unreasonable noise impacts on neighbourhood properties, a permit condition requiring appropriate landscaping be provided around the perimeter of the existing shed should be included, to visually screen stimuli such as other dogs, animals, traffic or passers-by.

- *Access to kennels should be restricted solely to staff.*

*This matter can be addressed via the following permit condition:*

*'That a resident manager must be in attendance at all times and must ensure the property is maintained and that the kennels are controlled and accessed only by authorised personnel, to the satisfaction of the Responsible Authority.'*

- *Feeding of the dogs should be restricted to the daytime hours of 7am – 6pm.*

The feeding time can be controlled by a planning permit condition.

- *Exercise of the dogs may only be performed between the hours of 9am to 5pm.*

The exercise time can be controlled by a planning permit condition.

- *A responsible person must be available on site 24 hours per day.*

This matter can be addressed via the following planning permit condition:

*'That a resident manager must be in attendance at all times and must ensure the property is maintained and that the kennels are controlled and accessed only by authorised personnel, to the satisfaction of the Responsible Authority.'*

- *Kennels should be constructed of such a material so as to provide an appropriate reduction in the emission of noise. Materials such as masonry and cement sheeting would provide a suitable structural basis.*

As discussed above, a permit condition specifying an acoustically baffled kennel be constructed, in consultation with a suitably qualified acoustic engineer, should be required.

- *The kennels should be positioned so as to utilise the ability of the topography to reduce noise.*

The kennels are to be located within an existing shed on site, which is approximately 200m away from the nearest existing dwelling. In consideration of the physical constraints (that the northern portion of the site has a 10 – 20 metre fall, and that a powerline easement runs across the site) the proposed kennel is considered to be located at most appropriate location in terms of reducing noise where possible and in context to the features and constraints of the site.

2. The increase in the number of dogs on site, as a result of breeding.

Comment:

In response to this issue, a permit condition specifying no more than ten dogs over the age of 3 months on site at any time should be imposed. It is reasonable to consider that this permit condition will be sufficient to ensure the number of adult dogs will not increase as a result of breeding, or Council may take appropriate enforcement actions as required.

3. There will be issues with waste disposal, vermin and pests.

Comment:

It is proposed that all liquid waste (including waste discharged from the dogs, and other wastewater such as dog wash and disinfectants) is to be washed and then irrigated through a piped dispersal system as per the submitted plans. Solid wastes are proposed to be collected from the yards and kennels on a daily basis, and deposited in a purpose-built worm farm.

As per the written referral from the EPA (refer to attachment 5 for details), EPA Victoria had an un-announced visit of the subject site, and the response from EPA Victoria revealed that the establishment is generally well run, and that there should be no marked increase in vermin.

EPA Victoria also commented that the proposed waste management at the site is considered to be 'best practice' and should not cause any offsite impacts.

Further advice was also sought from Council's Health Services Department, it is understood whilst a worm farm is a viable method of waste disposal, a worm farm does not have the capacity to treat liquid waste, and may require a lot of maintenance. Accordingly, a stand alone septic system for the treatment of dog waste (both liquid and solid) is preferred by Council's Health Services Department.

Conditions requiring an approved waste management that complies with the relevant EPA and to the satisfaction of Council's Health Services Department should be imposed.

A general condition requiring the operator to control vermin and pests to the satisfaction of the Responsible Authority should also be included, to ensure that the amenity of the site is well maintained.

4. The proposal will detract from the value of neighbouring properties.

Comment:

In the absence of professional reports or valuations related to the surrounding area, it is difficult to support this assertion. In addition, this is not considered as a valid planning ground of objection.

5. Potential inappropriate management of the facility

Comment:

In response to the issue relating to management of the proposed animal keeping and training facility, a permit condition requiring the attendance of a resident manager be available at all times, and that the permit be granted only to the applicant who is a registered owner / trainer / breeder as licensed by Greyhound Racing Victoria is recommended to be included on any permit issued.

Strategic direction of the State and Local Planning Policy Frameworks:

It should be noted that the Scheme does not have any specific planning policies dealing with the use and development of land for animal keeping and training, the policies outlined under Section 4.4 above mainly relate to the general environment and rural living, which are of some relevance to the proposal.

Of the most relevance to the proposal is Clause 15.05 of the Scheme, which states that noise originating from dog kennels, may be assessed using Noise Control Guidelines produced by the Environment Protection Agency. These relevant guidelines have already been discussed above, under Issue 1.

To further ensure that noise impact is minimised, a condition requiring the general compliance with these guidelines should be imposed onto the planning permit.

In relation to other general rural living-related policies, subject to appropriate conditions to limit off-site amenity impacts as outlined above, it is likely that the proposal will have minimal adverse amenity impact upon the subject rural living area, particularly in terms of noise or odour. It is unlikely that the proposal will unreasonably compromise the residential amenity expectation of residents living in a Rural Living Zone.

Additionally, in consideration of the scale of the proposal, and with the inclusion of appropriate conditions, it is unlikely that the proposal will have an adverse impact on the environment, particularly on air, water and soil quality.

Purpose' and 'Decision Guidelines' of Schedule 3 to the Rural Living Zone:

The proposal is considered to be generally consistent with the objective of a Rural Living Zone. The proposed activities to be carried out on site are considered reasonable in a rural setting, and the associated amenity impact associated is not considered to be incompatible within a rural living environment.

The proposal has been assessed against the decision guidelines of Schedule 3 to the Rural Living Zone as follows:

General Issues: As discussed above, whilst Scheme does not have any specific planning policies dealing with the use of land for animal keeping and training, the proposal is unlikely to offend those more general SPPF & LPPF policies having some relevance to the proposal.



Agricultural Issues: It is considered reasonable that the overall area and topography of the site does not lend itself to prime agricultural use. The adjoining and surrounding land uses are also predominately of rural living purposes.

The proposed works associated with internal re-arrangement of an existing shed, and the construction of two additional exercise yards will have limited impact on adjoining and surrounding land.

Environmental Issues: The proposal will not result in any vegetation removal and with the proposed screening trees and works associated with the existing shed, it is reasonable to consider that the proposal will not have detrimental impact on the appearance of the surrounding area. In relation to potential environmental impacts on soil, and the potential impact of the proposal caused by emission of noise and odours, refer to the 'response to objectors concerns' above for details.

Design and Siting Issues: The majority of the works are proposed to be associated with the existing colourbond shed on site, and the exercise yards are to be screened with trees of at least three (3) metres high. It is reasonable to consider that works are appropriately located, and subject to appropriate conditions, the works will be of an acceptable quality, in context of the rural setting of the subject area.

Purpose' and 'Decision Guidelines' of Schedule 1 to the Design and Development Overlay (Gas Pipelines):

It should be noted that the subject site is only marginally affected by Schedule 1 to the Design and Development Overlay. None of the proposed works are to be located within the area affected by this overlay (or more precisely, the works are proposed to be at least 100 metres away the area affected by the overlay). In addition, the proposal only seeks to accommodate additional animals (i.e. not for human habitation) on site, and most of the proposed works associated with animal keeping and training are to be located within an existing shed.

On the above basis, it is considered reasonable that the proposal is generally consistent the objective of Schedule 1 to the Design and Development Overlay, namely to ensure that all buildings and works and in particular buildings designed to accommodate people are sufficiently separated from high pressure pipelines to avoid a safety hazard.

Clause 65 (Decision Guidelines):

The decision guidelines have been considered as part of the assessment of this application, and detailed in the previous sections of this report. It is considered that the proposal is generally consistent with the decision guidelines under Clause 65 of the Scheme.

**6. FINANCIAL AND RESOURCES IMPLICATIONS**

Additional resources or financial cost will only be incurred should the planning permit application require determination at the Victorian Civil and Administrative Tribunal (VCAT).

**7. INTERNAL / EXTERNAL CONSULTATION**

*Engagement Method Used:*

Notification:

Pursuant to Section 52 (1)(a) of the *Planning and Environment Act 1987*, notice of the application was given to adjoining properties.

Pursuant to Section 52(1)(d) of the *Planning and Environment Act 1987*, a sign was required to be displayed on site.

Following the notification process, four (4) separate submissions objecting to the proposal were received. Out of the four (4) submissions, one of them was a combined submission from owners of two different properties (21 & 27 Delbridge Drive), and two of them were from separate owners of the same property (293 Coalville Road).

In addition, five (5) separate submissions supporting the proposal were received by Council. Refer to Attachment 1 for the location of these submissions.

All the submissions are included in attachment 3 of this report.

It should be also noted that after the notification period and further to discussions at the mediation meeting held on 22 July 2009, three additional submissions were received by Council. All of the submissions were made by objectors who previously made a submission to the application during the notification period. These submissions were in response to the issues discussed at the mediation meeting.

External:

Pursuant to Section 52(1)(d) of the *Planning and Environment Act 1987*, the application was referred to the EPA for comment. A response was received from the EPA on 11 May 2009, advising that EPA does not object to the proposal, and acknowledging the high standard of the application which addresses all issues associated with this type of establishment. The EPA is satisfied that the existing kennels and runs appear to be extremely well managed and clean.

Refer to attachment 5 for a copy of the EPA's response.

Internal:

The application was also referred to the following internal departments of Council for comment:

<b>Council's Internal Departments</b>	<b>Response Received</b>	<b>Comments</b>
Health Services	5 May 2009	Need to ensure the kennel shed is sound-proofed to eliminate future noise complaints. The kennel shed to be constructed internally to address proper cleaning, odour control and collection of animal wastes.
Local Laws	6 May 2009	Due to planning approval being sought, the local laws No. 2 provisions relating to the keeping of animals do not apply. The applicant does not need to comply with the 'code of practice for the operation of a breeding and rearing establishment', or to be a registered domestic animal business, due to the animals being racing greyhounds. Racing greyhounds are regulated under legislation by Greyhound Racing Victoria.
Project Services	18 May 2009	No objection, subject to standard conditions.

*Details of Community Consultation following Notification:*

A planning mediation meeting was held on 22 July 2009. Consensus was not reached between the parties, which would have allowed the matter to be determined by officer delegation, therefore requiring a decision by Council.

## 8. OPTIONS

Council has the following options in regard to this application:

1. Issue a notice of decision to grant a planning permit; or
2. Issue a notice of refusal.

Council's decision must be based on planning grounds, having regard to the provisions of the Latrobe Planning Scheme.

## 9. CONCLUSION

Whilst no legislative requirement is specified for the siting of animal keeping and training (racing dogs) facilities, a number of guidelines do exist that provide some guidance on what could be considered acceptable or where amenity issues are likely to occur. These documents include; *Noise Control Guidelines* (produced by the EPA); and a *Code of Practice for the Greyhound Industry* (produced by Greyhound Racing Victoria).

Further to assessment of the proposal against these guidelines and the relevant planning scheme provisions, it is considered that buffer distances between the proposed kennels, outdoor activities area and adjoining and surrounding rural living properties are appropriate. The proposed use and development is suitable for the subject site, having regard to its size, physical characteristics and visual impact.

Concerns such as the potential noise from barking dogs, or management of waste can be satisfactorily managed via planning permit conditions.

Subject to appropriate conditions, it is considered that the proposal will have minimal adverse amenity impact upon the subject rural living area, particularly in terms of noise or odour. It is unlikely that the proposal will unreasonably compromise the residential amenity expectation of residents living in a Rural Living Zone.

In summary, the proposal is considered to be:

- Consistent with the strategic direction of the State and Local Planning Policy Frameworks;
- Consistent with the 'Purpose' and 'Decision Guidelines' of the Rural Living Zone 3;
- Consistent with the 'Purpose' and 'Decision Guidelines' of the Design and Development Overlay;
- Consistent with Clause 65 (Decision Guidelines); and

- The objections received have been considered against the provisions of the Latrobe Planning Scheme and the relevant planning concerns have been considered. Appropriate permit conditions addressing these issues will be required.

## **10. RECOMMENDATION**

**That Council DECIDES to issue a Notice of Decision, for the use and development of land for animal keeping and training at 323 Coalville Road Moe South, with the following conditions:**

### **Amended Plans**

- 1. Before the use and development start, plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must show:**
  - i. The existing colourbond shed to be acoustically baffled and to provide for a total of nine racing kennels, to the satisfaction of the Responsible Authority. The acoustic techniques used to satisfactorily contain the escape of noise from the kennels must be assessed by an acoustic engineer or suitably qualified person and generally meet the requirement of condition 4 of this permit. The relevant acoustic assessment must also be submitted to and approved by the Responsible Authority.**
  - ii. A landscape plan, prepared by a landscape architect or person approved by the Responsible Authority as having sufficient competence in that field, showing the retention of existing trees and shrubs (if applicable), species, locations, approximate height and spread of proposed planting around the perimeter of the exercise yard areas and the existing colourbond shed. The landscaping must be designed to visually screen stimuli such as other dogs, animals, traffic or passers-by to the satisfaction of the Responsible Authority.**
- 2. No more than ten dogs over the age of 3 months must be kept on the premises at any one time.**

3. The use and development allowed by this permit must comply with the Code of Practice for the Greyhound Industry, Greyhound Racing Victoria (revised March 2008), all to the satisfaction of the Responsible Authority.
4. The noise levels emanating from the land must comply with the requirements of the Environment Protection Authority Information Bulletin N3/89 Interim Guidelines for the Control of Noise in Country Victoria, to the satisfaction of the Responsible Authority.
5. Exercise of the dogs must only be performed within the hours of 9am - 5pm seven days a week.
6. Feeding hours must only be performed within the hours of 7am - 6pm seven days a week.
7. The animals and building forming part of this permit must be inspected by a steward or veterinary steward of the Greyhound Racing Victoria Board at least annually and a copy of the resultant report must be presented to the Responsible Authority.
8. This permit allows the use of the land for the purpose of keeping and training up to ten greyhounds of age over 3 months by Mr Dennis Pulis and Mrs Bronwyn Pulis of 323 Coalville Road in Moe South. If Mr Dennis Pulis and Mrs Bronwyn Pulis cease to use the land, this permit will expire.
9. The resident manager must ensure that the property is maintained and that the kennels are controlled to the satisfaction of the Responsible Authority.
10. All waste generated at the premises must be treated and contained on site in accordance with the Septic Tanks Code of Practice (EPA Publication 891, March 2003) and to the satisfaction of the Responsible Authority.

**Council's Project Services Conditions**

11. Downpipe water from the outbuildings (Rural Shed) must be suitably directed into water tank, soakwell, or otherwise discharged, so as not cause erosion to the subject or surrounding land, to the satisfaction of the Responsible Authority.
12. Driveway crossings must be upgraded in accordance with Council Design guidelines Rural Standards including an all-weather sealed surface from the edge of the road for at least 6 metres towards the property boundary.

13. Before the construction of any buildings the applicant shall ensure that safe intersection sight distances (SISD) as described in AustRoads Publication 'Guide to traffic Engineering Practices Part 5 – Intersections at Grade' is achieved at the point of access, to the satisfaction of the Responsible Authority.
14. Construction works on the land must be carried out in a manner that does not result in damage to existing Council assets and does not cause detriment to adjoining owners and occupiers.
15. The use and development allowed by this permit must not cause a nuisance or loss of amenity to any person or livestock. Noise from dogs must be kept to a minimum with suitable supervision of the dogs to the satisfaction of the Responsible Authority.

**Permit Expiry**

16. This permit will expire if one of the following circumstances applies:
  - i. The development and use are not started within two years of the date of this permit.
  - ii. The development is not completed within four years of the date of this permit.

The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires or within three months afterwards.

**Notes**

- Note 1:** Prior to the construction, alteration or removal of any vehicle crossing a Council Work permit is to be obtained. The issue of a planning approval for development applications that includes the construction, alteration or removal of a vehicle crossing does not obviate the requirements to also obtain a Work Permit prior to the commencement of the vehicle crossing works.
- Note 2:** Prior to the commencement of works, the Responsible Authority must be notified in writing, of any proposed building work (as defined by Council's Local Law No. 3 (2006)) at least 7 days before the building work commences, or materials or equipment are delivered to the building site by a supplier; and unless otherwise exempted by the Responsible Authority, an Asset Protection Permit must be obtained.
- Note 3:** The applicant must ensure that all relevant Permits have been approved prior to commencement.

**Moved:** Cr White

**Seconded:** Cr O'Callaghan

**That the Recommendation be adopted.**

**CARRIED UNANIMOUSLY**



**ATTACHMENT 1 – LOCALITY MAP**

**ATTACHMENT 2 – THE PROPOSAL**

**ATTACHMENT 3 - SUBMISSIONS**

**ATTACHMENT 4 – THE APPLICANT’S RESPONSE TO SUBMISSION**

**ATTACHMENT 5 – EPA REFERRAL RESPONSE**

**ATTACHMENT 6 – RURAL LIVING ZONE PROVISIONS**

**ATTACHMENT 7 – A CODE OF PRACTICE FOR THE GREYHOUND  
INDUSTRY DEALING WITH GREYHOUND AND PREMISES AND THE  
KEEPING AND WELFARE OF GREYHOUNDS**

# GOVERNANCE



**11.6.1 AUTHORISATION OF COUNCILLORS FOR CERTIFICATION OF 2008-2009 FINANCIAL STATEMENTS**

**AUTHOR:** General Manager Governance  
**(ATTACHMENT – YES)**

**1. PURPOSE**

The purpose of this report is to seek Council's approval in principle to the 2008/2009 financial, standard and performance statements and to authorise two Councillors, on behalf of the Council, to certify the financial, standard and performance statements for the year ended 30 June 2009 in their final form.

**2. DECLARATION OF INTERESTS**

No officer declared an interest under the *Local Government Act* 1989 in the preparation of this report.

**3. POLICY IMPLICATIONS**

This report is consistent with Council's Latrobe 2021 vision document and the Council Plan 2009-2013.

*Latrobe 2021 and Council Plan 2009-2013*

*Strategic Objective – Governance*

To ensure governance and leadership through a strong commitment and adherence to democratic and legislative requirements.

*Community Outcome – Legislative Governance*

By ensuring adherence to legislative requirements.

*Strategic Action*

Ensure compliance with the *Local Government Act* 1989.

*Policy – Audit Policy 09 POL-3*

The role of the Audit Committee is to assist Council in the discharge of its responsibilities for financial reporting, maintaining a reliable system of internal controls and fostering the organisation's ethical development.

*Legislation*

- *Local Government Act 1989*
- *Local Government (Financial and Reporting) Regulations 2004*

**4. BACKGROUND**

The *Local Government Act 1989* requires Council to prepare an annual report that includes a report on its operations for the completed financial year. The annual report includes audited financial, standard and performance statements. The auditor must not sign the auditor's report concerning the financial, standard and performance statements unless Council has completed the certification of the statements in the manner prescribed in the *Local Government Act 1989* and the *Local Government (Financial and Reporting) Regulations 2004*.

The annual report, including the audited financial, standard and performance statements, must be lodged with the Minister within three months of the end of the financial year, which is by 30 September 2009.

**5. ISSUES**

Under the provisions of the *Local Government Act 1989*, a Council cannot submit its financial, standard and performance statements to the Auditor-General or the Minister for Local Government (the Minister) unless a resolution has been passed by Council authorising two Councillors to certify the financial statements in their final form.

Once the auditor's report has been received by Council, public notice will be given in accordance with Section 131 (12) of the *Local Government Act 1989* and the auditor's reports will be made available for inspection at all Council offices.

Similarly, once the Annual Report has been submitted to the Minister, public notice will also be given advising that the Annual Report can be inspected at all Council offices. In accordance with Section 134 of the *Local Government Act 1989* a meeting of Council will be held as soon as practicable, to consider the annual report, within the time required by the regulations, being one month after providing the annual report to the Minister.

The table below sets out the process:

<b>Process</b>	<b>Date</b>
Draft Audited Financial Statements presented to Audit Committee	03/09/2009
Council approval for two Councillors to certify the financial, standard and performance statements in their final form	07/09/2009
Certifications signed by the two nominated Councillors	Date advised by Auditor General
Auditor General issues audit reports	Upon receipt of signed certifications
Public notice given that audit reports have been received	Following receipt of audit reports
Annual report, including financial, standard and performance reports sent to the Minister for Local Government	By 30/09/2009
Public notice give that the annual report is available for inspection and the date of the Council meeting that Council will consider the annual report	Council meeting within one month of submitting the annual report to the Minister for Local Government

## **6. FINANCIAL AND RESOURCES IMPLICATIONS**

The subject reports are in respect of the Council's financial position and operations for the year ended 30 June 2009. There are no financial or resource implications.

## **7. INTERNAL / EXTERNAL CONSULTATION**

Councillors Fitzgerald and Middlemiss were the Council representatives in attendance at the Audit Committee meeting held on 3 September 2009 where the Audit Committee reviewed and discussed the draft financial, standard and performance statements and provided their endorsement for Council approval in principle.

Staff from the Victorian Auditor General's Office, who conducted the Latrobe City audit, attended the audit committee meeting on 3 September 2009. They tabled a closing audit report to the audit committee which concluded that the financial reports of Latrobe City Council do present fairly in all material aspects.

**8. OPTIONS**

This process is a legislative requirement which Council is required to comply with.

**9. CONCLUSION**

As Councillors Fitzgerald and Middlemiss were Council's representatives in attendance at the Audit Committee meeting held on 3 September 2009 where the 2008/2009 financial, standard and performance statements were reviewed in their final form, it is appropriate that they be nominated to certify the financial, standard and performance statements, on behalf of Council.

The recommendations below are necessary to comply with statutory requirements of the *Local Government Act 1989* and the *Local Government (Financial and Reporting) Regulations 2004*.

**10. RECOMMENDATION**

1. That Council, in accordance with Section 131 (7) and 132 (6) of the *Local Government Act 1989*, gives its approval in principle to the 2008/2009 financial, standard and performance statements.
2. That Council, in accordance with Section 131 (8) and 132 (7) of the *Local Government Act 1989*, authorises Councillors Fitzgerald and Middlemiss to certify the financial, standard and performance statements on behalf of Council for the year ended 30 June 2009 in their final form.

**Moved:** Cr Gibson

**Seconded:** Cr Fitzgerald

**That the Recommendation be adopted.**

**CARRIED UNANIMOUSLY**

ATTACHMENT

**11.6.2 CONTRACT ACTIVITIES AT PREVIOUS COUNCIL MEETINGS AND BY THE CHIEF EXECUTIVE OFFICER UNDER DELEGATION**

**AUTHOR:** General Manager Governance  
(ATTACHMENT - **NO**)

**1. DECLARATION OF INTERESTS**

No officer declared an interest under the *Local Government Act* 1989 in the preparation of this report.

**2. DOCUMENT/S**

- (a) The following is a summary of contracts awarded at the Ordinary Council Meeting held on 3 August 2009:

INVITATION TO TENDER 12605  
Kerb and Channel Replacement Program

INVITATION TO TENDER 12609  
Supply, delivery and placement of asphalt products

INVITATION TO TENDER 12654  
Refurbishment of Latrobe Leisure Centre, Churchill

- (b) The following is a summary of contracts awarded at the Ordinary Council Meeting held on 17 August 2009:

INVITATION TO TENDER 12657  
Reconstruction of Old Maffra Road, Tyers

INVITATION TO TENDER 12658  
Reconstruction of Leasons Road, Traralgon East

INVITATION TO TENDER 12659  
Reconstructions of Hyland Street, Morwell

- (c) The following contracts were signed and sealed by the Chief Executive Officer under delegation on 5 August 2009:

CONTRACT NO.	DESCRIPTION	CONTRACTOR	DATE AWARDED
12670	Pavilion extension at Northern Reserve, Newborough	Hurricain Constructions Pty Ltd	20/07/2009 Item no: 14.7 Amendments: No

- (d) The following contracts were signed and sealed by the Chief Executive Officer under delegation on 12 August 2009:

CONTRACT NO.	DESCRIPTION	CONTRACTOR	DATE AWARDED
12660	Provision of consultancy services – Traralgon growth areas review	Parsons Brinckerhoff Australia Pty Ltd	Approved by the General Manager Built and Natural Environmental Sustainability
12671	Design and project management of Moe Early Learning Centre	Suters Architects Pty Ltd	20/07/2009 Item no: 14.9 Amendments: Yes

- (e) The following contract was signed and sealed by the Chief Executive Officer under delegation on 18 August 2009:

CONTRACT NO.	DESCRIPTION	CONTRACTOR	DATE AWARDED
12684	Refurbishment of Latrobe Leisure Centre, Churchill	Kirway Constructions Pty Ltd	3/08/2009 Item no: 14.7 Amendments: No

- (f) The following contract was signed and sealed by the Chief Executive Officer under delegation on 19 August 2009:

CONTRACT NO.	DESCRIPTION	CONTRACTOR	DATE AWARDED
12678	Kerb and channel Replacement Program	ACE Earthmoving Pty Ltd	3/08/2009 Item no: 14.6 Amendments: No
12677	Kerb and channel Replacement Program	Rudigore Pty Ltd, trading as O'Meara Concreting	3/08/2009 Item no: 14.6 Amendments: No
12676	Kerb and channel Replacement Program	BJ Concrete Constructions Pty Ltd	3/08/2009 Item no: 14.6 Amendments: No

**3. RECOMMENDATION**

**That Council notes this report on contract decisions made at the Ordinary Council Meetings held on 3 August 2009 and 17 August 2009 and by the Chief Executive Officer under delegation on 5 August 2009, 12 August 2009, 18 August 2009 and 19 August 2009.**

**Moved:** Cr Lougheed

**Seconded:** Cr White

**That the Recommendation be adopted.**

**CARRIED UNANIMOUSLY**



### **13. TEA BREAK**

#### **Adjournment of Meeting**

The Mayor adjourned the Meeting at 9.16 pm for a tea break.

#### **Resumption of Meeting**

The Mayor resumed the Meeting at 9.36 pm.

#### **Meeting Closed to the Public**

The Meeting closed to the public at 9.36 pm.