



LATROBE CITY COUNCIL

MINUTES OF THE ORDINARY COUNCIL MEETING

HELD IN THE
NAMBUR WARIGA MEETING ROOM,
CORPORATE HEADQUARTERS, MORWELL
AT 7:00 PM ON 16 NOVEMBER 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
Michael Edgar, Acting Chief Executive Officer
Paul Holton, Acting General Manager Recreational Liveability
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

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NIL

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NIL

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NIL

CHIEF EXECUTIVE OFFICER

NIL

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NIL

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NIL

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NIL

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TEA BREAK

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CLOSED

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

Paul Buckley, Chief Executive Officer
Grantley Switzer, General Manager Recreational and Cultural Liveability
Seona Conway, General Manager Organisational Excellence

3. Declaration of Interests

Cr Kam declared a direct interest under Section 77B and an indirect interest under Sections 78 and 78B of the *Local Government Act* 1989 in Item 7.5 – Moe Rail Precinct Revitalisation Project – Interim Advice on Draft Master Plan and Item 11.3.2 – Consideration of Planning Panel Report Latrobe Planning Scheme Amendment C62 – Municipal Strategic Statement Review Stage 3.

Cr Vermeulen declared an indirect interest under Section 78B of the *Local Government Act* 1989 in Item 11.3.7 – Federal Government Regional and Local Community Infrastructure Program.

Cr Gibson declared a direct interest under Section 77B of the *Local Government Act* 1989 in Item 11.3.2 – Consideration of Planning Panel Report Latrobe Planning Scheme Amendment C62 – Municipal Strategic Statement Review Stage 3.

Cr White declared a direct interest under Section 77B of the *Local Government Act* 1989 in Item 11.3.2 – Consideration of Planning Panel Report Latrobe Planning Scheme Amendment C62 – Municipal Strategic Statement Review Stage 3.

Cr Price declared an indirect interest under Section 78 of the *Local Government Act* 1989 in Item 15.4 – ITT 12724 Pavilion Upgrade at Ted Summerton Reserve, Moe.

4. Adoption of Minutes

Moved: Cr Gibson
Seconded: Cr White

That Council adopts the Minutes of the Ordinary Council Meeting held on 2 November 2009 (CM 306), relating to those items discussed in open Council.

CARRIED UNANIMOUSLY

PUBLIC QUESTION TIME

5.1 TIMBER CARTAGE ROUTES AT JUMBUK AND YINNAR SOUTH

Mr Gary Matthews of Jeeralang Junction asked the following question:

Question

As will be evident from the following questions, a reluctance by Council to share information is a recurring theme, and one of the frustrations against which residents within Jumbuk/Junction Safety Action Group have to contend, in their campaign to preserve the safety of our community.

In this regard, will Council advise the date and venue for the stakeholders meeting, as was foreshadowed at the Council Meeting of 2 November?

Additionally, will Council advise the name of the facilitator, the services of whom we understand may be used at such meeting?

Answer

The Acting Chief Executive Officer paraphrased the question and responded that letters have been posted to all stakeholders today containing this information.

Our Ref:
LP:DM

25 November 2009

Dear Mr Matthews

QUESTIONS ASKED DURING PUBLIC QUESTION TIME AT THE ORDINARY COUNCIL MEETING OF 16 NOVEMBER 2009

Thank you for your question asked at the Ordinary Council Meeting of 16 November 2009. The replies to your questions are set out below.

Question Number 1:

As will be evident from the following questions, a reluctance by Council to share information is a recurring theme, and one of the frustrations against which residents within the Jumbuk/Junction Safety Action Group have to contend in their campaign to preserve the safety of our community.

In this regard, will Council advise the date and venue for the stakeholders meeting as was foreshadowed at the Council meeting of 2 November?

Additionally will Council advise the name of the facilitator, the services of whom we understand may be used at such meeting.

Latrobe City Council via letter dated 11 November 2009 provided the date and venue and the name of the facilitator to each of the three groups involved in the planned mediation session. Following a resolution of Council on the 16 November 2009 the venue has now changed. Following consultation with all groups it is proposed to hold the 2 December 2009 meeting at the Churchill Football & Netball Club, Gaskin Park in Manning Drive, Churchill.

The facilitator will be Steve Fisher.

Question Number 5:

Have all Councillors fully acquainted themselves, including with detailed on site visits, with all of the safety concerns and arguments outlined by the Jumbuk/Junction Safety Action Group in relation to Jumbuk and Junction Roads and Vaggs Creek Track?

This question can only be answered by each individual councillor and your group will have the opportunity to ask this question at the mediation meeting planned for Wednesday 2 December 2009.

Question Number 6:

- A. *Members of the Jumbuk/Junction Safety Action Group in noting the "Declaration of Interest" at the Council meetings of 19 October, 2 November and at this meeting, ask, in the interests of full disclosure and transparency, as provided in the Local Government Act, whether any Councillor, or Council officer with involvement in the matters described in this agenda item, knowingly has a close member of his or her family who is an employee of HVP Pty Ltd, and if so, in what capacity?***
- B. *If this is the case, is not the impartiality of such councillor or Council officer seriously compromised in any dealings he or she may have in this matter?***

The *Local Government Act* 1989 imposes various obligations on Councillors and Council staff who have a conflict of interest in an agenda item. It is the responsibility of each Councillor and staff member to comply with these conflict of interest provisions. Latrobe City Council has no reason to think that any Councillor or staff member has not complied with his or her obligations.

Question Number 7:

In October 2007, Council relaxed the 12 tonne load limit on Jumbuk Road to 23 tonne. This has led to the ability of renegade log truck drivers, as is currently occurring, to drive on Jumbuk & Junction Roads, without jinker retracted, without permit and without signage, against all the safety fears and concerns of residents. Numerous serious accidents have been narrowly avoided in the past few weeks.

The instances of this unauthorised use of the roads for logging are constantly reported, but with no effect. This only reinforces the community's belief that their safety has little or no importance.

Will Council confirm that it will act, in consultation with residents, to provide effective protection for residents against such renegade logging activity?

Latrobe City Council encourages any resident or community member who believes that a traffic infringement has occurred to contact the Victorian Police.

Latrobe City Council will take action by reporting to the appropriate authorities if it is aware of any illegal logging or load limits being deliberately exceeded. No illegal logging activity in this area has been reported to Latrobe City Council.

If you require further information please contact Dean Morahan, Manager Infrastructure Operations on (03) 5128 5558.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Lisa Price', with a stylized flourish at the end.

CR LISA PRICE

Mayor

5.2 TIMBER CARTAGE ROUTES AT JUMBUK AND YINNAR SOUTH

Mr Keith Bartlett of Jeeralang Junction asked the following question:

Question

Having regard to the requirement under the Local Government Act for Council actions and deliberations to be according to best practice and, more particularly, transparent to the community, when can members of the Jumbuk/Junction Safety Action Group expect an answer to the question “taken on notice” by the General Manager Built and Natural Environment Sustainability, at a meeting held on 26 October 2009. This question requested a copy of the provision of a copy of the legal opinion that Council had obtained in relation to a “potential contract” between Council and HVP Pty Ltd for the use of certain roads for timber harvesting purposes.

Answer

The Acting Chief Executive Officer paraphrased the question and responded that the question will be taken on notice with the answers provided in writing.

Our Ref:
LP:DM

25 November 2009

Dear Mr Bartlett

QUESTIONS ASKED DURING PUBLIC QUESTION TIME AT THE ORDINARY COUNCIL MEETING OF 16 NOVEMBER 2009

Thank you for your question asked at the Ordinary Council Meeting of 16 November 2009. The replies to your questions are set out below.

Question Number 2:

Having regard to the requirement under the Local Government Act for Council actions and deliberations to be according to best practice and, more particularly, transparent to the community, when can members of the Jumbuk/Junction safety action group expect an answer to the question “taken on notice” by the General Manager Built & Natural Environment Sustainability, at a meeting held on 26 October 2009? This question requested provision of a copy of the legal opinion that Council has obtained in relation to a “potential contract” between Council and HVP Pty Ltd for the use of certain roads for timber harvesting purposes.

As was stated in the meeting of 26 October 2009, if the material being sought was not confidential then it would be supplied.

The legal opinion sought by your group has been designated as confidential under Section 77 of the *Local Government Act* 1989 and will not be provided. It is also protected by legal professional privilege.

Question Number 3:

Having regard to the requirement under the Local Government Act for Council actions and deliberations to be according to best practice and, more particularly, transparent to the community, have all councillors been given a formal briefing regarding the legal status of the so-called "potential contract" with HVP Pty Ltd concerning timber cartage routes, and if so, by whom, in what form, and what date was this briefing conducted?

Councillors have been provided with the legal opinion sought in this matter.

Question Number 4:

Having regard to the requirement under the Local Government Act for Council actions and deliberations to be according to best practice and, more particularly, transparent to the community, when will members of the Jumbuk/Junction Safety Action Group be provided with a copy of the so-called "potential contract" between Council and HVP Pty Ltd, concerning proposed timber cartage routes?

The legal opinion provided in this matter is confidential under Section 77 of the *Local Government Act* 1989 and the Jumbuk/Junction Safety Action Group will not be provided a copy of the opinion nor will the other parties involved. This opinion is also privileged.

If you require further information please contact Dean Morahan, Manager Infrastructure Operations on (03) 5128 5558.

Yours sincerely



CR LISA PRICE
Mayor

5.3 TIMBER CARTAGE ROUTES AT JUMBUK AND YINNAR SOUTH

Mr Keith Bartlett of Jeeralang Junction asked the following question:

Question

Having regard to the requirement under the Local Government Act for Council actions and deliberations to be according to best practice and, more particularly, transparent to the community, have all Councillors been given a formal briefing regarding the legal status of the so-called "potential contract" with HVP Pty Ltd concerning timber cartage routes, and if so, by whom, in what form, and what date was this briefing conducted?

Answer

The Acting Chief Executive Officer paraphrased the question and responded that Councillors have been briefed on this issue.

5.4 TIMBER CARTAGE ROUTES AT JUMBUK AND YINNAR SOUTH

Mr Keith Bartlett of Jeeralang Junction asked the following question:

Question

Having regard to the requirement under the Local Government Act for Council actions and deliberations to be according to best practice and, more particularly, transparent to the community, when will members of the Jumbuk/Junction group be provided with a copy of the so-called 'potential contract' between Council and HVP Pty Ltd, concerning proposed timber cartage routes?

Answer

The Acting Chief Executive Officer paraphrased the question and responded that the question will be taken on notice with the answers provided in writing.

5.5 TIMBER CARTAGE ROUTES AT JUMBUK AND YINNAR SOUTH

Mr Gary Matthews of Jeeralang Junction asked the following question:

Question

Have all Councillors fully acquainted themselves, including with detailed on site visits, with all of the safety concerns and arguments outlined by the Jumbuk/Junction Safety Action Group in relation to Jumbuk and Junction Rds, and Vaggs Creek Track?

Answer

The Acting Chief Executive Officer paraphrased the question and responded that each Councillor has been given the opportunity to fully acquaint themselves in regards to this matter but he could not comment on the extent to which individual Councillors have acquainted themselves.

5.6 TIMBER CARTAGE ROUTES AT JUMBUK AND YINNAR SOUTH

Mr Gary Matthews of Jeeralang Junction asked the following question:

Question

- A. Members of the Jumbuk/Junction Safety Action Group in noting the "Declaration of Interest" at the Council Meetings of 19 October, 2 November and at this meeting, ask, in the interests of full disclosure and transparency, as provided in Local Government Act, whether any Councillor, or Council Officer with involvement in the matters described in this agenda item, knowingly has a close member of his or her family as an employee of HVP Pty Ltd, and if so, in what capacity?
- B. If this is the case, is not the impartiality of such Councillor or Council Officer seriously compromised in any dealings he or she may have in this matter?

Answer

The Acting Chief Executive Officer paraphrased the question and responded that the Conflict of Interest process is very clear.

5.7 TIMBER CARTAGE ROUTES AT JUMBUK AND YINNAR SOUTH

Mr Gary Matthews of Jeeralang Junction asked the following question:

Question

In October 2007, Council relaxed the 12 tonne load limit on Jumbuk Rd to 23 tonne. This has led to the ability of renegade log truck drivers, as is currently occurring, to drive on Jumbuk and Junction Roads, without jinker retracted, without permit and without signage, against all the safety fears and concerns of residents. Numerous serious accidents have been narrowly avoided in the past few weeks.

The instances of this unauthorised use of the roads for logging are constantly reported, but with no effect. This only reinforces the community's belief that their safety has little or no importance.

Will Council confirm that it will act, in consultation with the residents, to provide effective protection for residents against such renegade logging activity.

Answer

The Acting Chief Executive Officer paraphrased the question and responded that the question will be taken on notice with the answers provided in writing.

5.8 EXPRESSION OF INTEREST, LEASE OF AIRLIE BANK HOMESTEAD

Mr Merv Geddes of Morwell asked the following question:

Question

1. When was the current lease last evaluated by Council?
2. When can Gippsland Resource Group Inc. have the opportunity to put its case for the lease to Council?

Answer

The Acting Chief Executive Officer paraphrased the question and responded that the question will be taken on notice with the answers provided in writing.

20 November 2009

Dear Mr Geddes

PUBLIC QUESTION TIME - EXPRESSION OF INTEREST LEASE OF AIRLIE BANK HOMESTEAD

Thank you for your questions during public question time at the Ordinary Council Meeting on Monday, 16 November 2009.

Your questions and responses are as follows:

Questions

1. *When was the current lease last evaluated by Council?*

Council staff assessed the continuing occupancy of the Airlie Bank Homestead when Advance Morwell exercised the option available under the lease for a further three year term commencing 1 April 2008.

2. *When can Gippsland Resource Group Inc have the opportunity to put its case for the lease to Council?*

The current lease provides the tenant with the option of a further three year extension to the term of the lease. The option date is 1 January 2011 and the lease would then end 31 March 2014.

A decision on the future use of the Airlie Bank Homestead, which may include inviting expressions of interest in leasing of the homestead, is not anticipated to occur until prior to the end of the lease or earlier in the event Advance Morwell does not exercise the option and request a further three year term.

In the interim, the Gippsland Resource Group Inc may wish to contact Advance Morwell Inc and explore the possibility to sublet part of the homestead.

If you require further information please contact Henry Morrison on (03) 5128 5641 or via email henrymol@latrobe.vic.gov.au.

Yours sincerely



CR LISA PRICE
Mayor

Suspension of Standing Orders

Moved: Cr Lougheed

Seconded: Cr Gibson

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 7.14 pm

Ms Lin Reibelt, addressed Council in relation to Item 7.2 – Amendment to Planning Permit Application (00048/A) – Use of Existing Stables on the Land for Dog Breeding and Keeping Purposes.

Mr Adrian Terranova, addressed Council in relation to Item 11.3.5 – Planning Permit Application 2009/189 – Construction of Five Dwellings on a Lot, 8 Bemm Drive, Morwell.

Mr Doug Caulfield, addressed Council in relation to Item 11.3.7 – Federal Government Regional and Local Community Infrastructure Program.

Mr Phillip Marshall, addressed Council in relation to Item 11.3.1 – Consideration of Submissions to Amendment C14 (Proposed Heritage Overlay) and request Planning Panel.

Ms Yvonne Wood, addressed Council in relation to Item 7.3 – Planning Permit Application S08/315 – Thirty Seven (37) Lot Subdivision at 25 Junction Road, Churchill.

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

Resumption of Standing Orders

Moved: Cr Gibson

Seconded: Cr Lougheed

That Standing Orders be resumed.

CARRIED UNANIMOUSLY

Standing Orders were resumed at 7.46 pm

ITEMS REFERRED BY THE COUNCIL

7.1 TIMBER CARTAGE ROUTES AT JUMBUK AND YINNAR SOUTH

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

1. PURPOSE

The purpose of this report is to seek additional time for consultation with stakeholders regarding the conditions of use for the proposed Timber Cartage routes on Jumbuk Road, Junction Road, Middle Creek Road and Upper Middle Creek Road.

2. DECLARATION OF INTERESTS

The Acting Manager Infrastructure Operations declared an indirect interest under section 78A of the *Local Government Act* 1989.

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 built and natural environment for the use and enjoyment of the people who make up the vibrant community of Latrobe Valley.

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

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*"; and
- VicRoads "*Traffic Engineering Manual*".

4. **BACKGROUND**

At the Ordinary Council Meeting held on 19 October 2009, when the Timber Cartage Routes at Jumbuk and Yinnar South was considered, Council resolved the following:

1. *That Council accepts in principle the need to permit timber traffic to travel on the Jumbuk Road/Junction Road route when the accepted road works identified in the Road Safety Audit are completed.*
2. *That Council submits a funding application to upgrade Jumbuk Road/Upper Middle Creek Road/Middle Creek Road as recommended in the Road Safety Audit to Better Roads Victoria Rural Local Timber Roads Program by 23 October 2009.*
3. *That Council accepts in principle the need to permit timber traffic to travel on the Upper Middle Creek Road/Middle Creek Road/Jumbuk Road route when the accepted road works indentified as "Immediate" in the Road Safety Audit are completed.*
4. *That a Jumbuk and Yinnar South Timber Traffic Reference Group is established to monitor the progress of road works and timber traffic on the Jumbuk Road/Junction Road and Upper Middle Creek Road/Middle Creek Road/Jumbuk Road routes. Membership of the Reference Group will include the Gunyah Ward Councillor, other nominated Councillors and two members each from the Jumbuk Road/Junction Road Safety Action Group, the Yinnar South Citizens Association and HVP Plantations. The Reference Group will meet twice per year until timber harvesting operations are completed or as required.*
5. *That Council continues to impose the interim 23 tonne gross load limit and associated risk control measures on Jumbuk Road from Junction Road to Healy's Road, as adopted at the Ordinary Council Meeting held on 1 October 2007, until such time as the accepted road works identified in the Road Safety Audit are completed.*

6. *That when the accepted road works identified in the Road Safety Audit are completed on Jumbuk Road from Junction Road to Healy's Road and the interim 23 tonne gross load limit is removed, that Council impose an eight tonne gross load limit from 9.00 pm to 6.30 am on Jumbuk Road from Junction Road to Healy's Road until the logging operations are completed.*
7. *That HVP Plantations implement the following risk control measures on the Junction Road/Jumbuk Road route prior to the commencement of timber harvesting:*
 - (a) *A voluntary 40 kph and 60 kph speed restriction is required to be imposed on trucks travelling along Jumbuk Road and Junction Road respectively.*
 - (b) *Curfews and voluntary speed restrictions are required to be monitored and enforced by installing GPS instrumentation in trucks. The records from these GPS devices be made available to Council on request.*
 - (c) *Fold down advisory signs are required to be erected on Jumbuk Road and Junction Road to advise motorists when timber cartage is in progress.*
 - (d) *Trucks are required to communicate their location to other drivers via 2-way radio on UHF channel 28.*
 - (e) *Trucks are not permitted to travel along Jumbuk Road and Junction Road when the school bus is using the road. Restricted times to be included in the coupe plans after negotiation with the affected bus companies.*
 - (f) *Emergency services are required to be notified in writing about the timber harvesting operation prior to the commencement of cartage operations. The coupe plans are required to include protocols which require emergency services to notify HVP Plantations of their intention to use the roads and for HVP Plantations to arrange for cartage operations to cease while emergency vehicles are using the roads.*
 - (g) *The operators of delivery vehicles such as mail, gas, water etc are required to be notified in writing about the timber harvesting operation prior to commencement of cartage. These operators will be advised to instruct their drivers to use 2-way radios.*
 - (h) *Restrict truck traffic so that there is one truck only travelling along the Jumbuk Road/Junction Road portion of the route at any one time.*
 - (i) *Timber cartage must not be undertaken during foggy conditions or when there is snow on the ground.*
 - (j) *Timber cartage must not be undertaken on weekends or public holidays.*

8. *That HVP Plantations implement the following risk control measures on the Upper Middle Creek Road/Middle Creek Road/Jumbuk Road route prior to the commencement of timber harvesting:*
 - (a) *A voluntary 40 kph and 80 kph speed restriction is required to be imposed on trucks travelling along Upper Middle Creek Road and Middle Creek Road/Jumbuk Road respectively.*
 - (b) *Voluntary speed restrictions are required to be monitored and enforced by installing GPS instrumentation in trucks.*
 - (c) *Fold down advisory signs are required to be erected on Upper Middle Creek Road, Middle Creek Road and Jumbuk Road to advise motorists when timber cartage is in progress.*
 - (d) *Trucks are not permitted to travel along Upper Middle Creek Road/Middle Creek Road/Jumbuk Road route when the school bus is using the road.*
 - (e) *Timber cartage must not be undertaken during foggy conditions.*
9. *That the Latrobe City Council Sealed Road Maintenance Team will undertake weekly inspections of the Jumbuk Road/Junction Road and Middle Creek/Jumbuk Road routes while timber cartage operations are in progress.*
10. *That Council applies for funding for an amount of \$1,300,000 from Better Roads Victoria Rural Local Timber Roads Program to upgrade Jumbuk Road/Upper Middle Creek Road/Middle Creek Road.*
11. *That the rehabilitation of Middle Creek Road from south of Jumbuk Road to south of the Yinnar South Tennis Courts is included in the road rehabilitation program.*
12. *That the accepted "Immediate" road works identified in the Road Safety Audit at the Jumbuk Road/Middle Creek Road/Upper Middle Creek Road route for an amount of \$120,000 are referred to the 2010/2011 Capital Works Program for consideration.*
13. *That Council advises HVP Plantations of the intention to renegotiate the current operational arrangements in relation to timber traffic using Jumbuk Road when the forthcoming harvesting operations are completed.*
14. *That final consideration of the conditions applicable to the proposed route be undertaken at the Ordinary Council Meeting to be held on 2 November 2009 having given regard to submissions made to the 19 October 2009 Ordinary Council Meeting.*

Further to this, at the Ordinary Council Meeting held on 2 November 2009, Council resolved the following:

1. *That Council defers final consideration of the conditions applicable to the proposed cartage routes at Jumbuk and Yinnar South to enable the final details of the conditions to be determined.*
2. *That a meeting of stakeholders be called and details be determined within 7 days.*
3. *That Council considers this matter at the Ordinary Council Meeting to be held on 16 November 2009.*

It was not possible to organise a meeting of the stakeholders within 7 days of the Ordinary Council Meeting of 2 November 2009 and subsequently report back to the Ordinary Council Meeting of 16 November 2009.

A meeting with representatives from the Jumbuk Road/Junction Road Safety Action Group, the Yinnar South Citizens Association, HVP Plantations, Councillors and Council Officers has now been planned for the 25 November 2009.

5. **ISSUES**

The Jumbuk Road/Junction Road Safety Action Group, Yinnar South Citizens Association and HVP Plantations do not have an agreed position on the recommendations presented at the Ordinary Council Meeting of 19 October 2009. Further consultation regarding the conditions of use of the timber roads with each group on Monday, 26 October 2009 failed to reach an agreed outcome.

6. **FINANCIAL AND RESOURCES IMPLICATIONS**

There will be a minor cost to Council for organising and holding a stakeholders meeting on Wednesday, 25 November 2009.

7. **INTERNAL / EXTERNAL CONSULTATION**

Engagement Method Used:

Following the Ordinary Council Meeting of 19 October 2009, a meeting was arranged to allow spokespersons from the Jumbuk Road/Junction Road Safety Action Group, the Yinnar South Citizens Association and HVP Plantations to make individual presentations to available councillors.

A further meeting is now proposed for Wednesday, 25 November 2009.

Details of Community Consultation / Results of Engagement:

Each of the groups raised different points as follows:

- The Jumbuk Road/Junction Road Safety Action Group opposed logging trucks using Jumbuk Road in any direction, under any circumstance and would not consider any options without more information from Latrobe City Council.
- The Yinnar South Citizens Association, requested that the ameliorative road works as identified in the Road Safety Audit be completed before timber cartage is allowed on the Jumbuk Road, Middle Creek Road and Upper Middle Creek Road route.
- HVP Plantations stated their need to log this plantation and their preference is to use two way traffic on the Jumbuk and Junction Road route following ameliorative road works as identified in the Road Safety Audit with the majority of funding sourced from the Better Roads Victoria Program.

8. OPTIONS

Council has the following options:

1. Defer consideration of conditions on the cartage routes at Jumbuk and Yinnar South to allow further consultation with stakeholders in regards to the conditions presented at the Ordinary Council Meeting of 19 October 2009.
2. Consider the conditions on the cartage routes at Jumbuk and Yinnar South as originally recommended at the Ordinary Council Meeting of 19 October 2009.

9. CONCLUSION

A viable route is required by HVP Plantations to extract timber from their logging coupes in the Jumbuk Road and Upper Middle Creek Road areas of Jumbuk and Yinnar South.

A funding application to the Better Roads Victoria Rural Local Timber Roads Program has been submitted which if successful will cover the majority of the ameliorative costs of upgrading Jumbuk Road. If the submission is not confirmed, which would include confirmation of the conditions applicable to the proposed cartage routes, VicRoads may not consider the application.

10. RECOMMENDATION

That Council defers final consideration of the conditions applicable to the proposed cartage routes at Jumbuk and Yinnar South to enable the final details of the conditions to be discussed at the stakeholders meeting arranged for Wednesday, 25 November 2009 and for a report to be presented to an Ordinary Council Meeting following this meeting.

Moved: Cr Fitzgerald
Seconded: Cr O'Callaghan

- 1. That Council defers final consideration of the conditions applicable to the proposed cartage routes at Jumbuk and Yinnar South to enable the final details of the conditions to be discussed at the stakeholders meeting arranged for Wednesday, 2 December 2009 and for a report to be presented to an Ordinary Council Meeting following this meeting.**
- 2. The location of the stakeholders meeting be agreed to by all the parties to that meeting.**

CARRIED UNANIMOUSLY

**7.2 AMENDMENT TO PLANNING PERMIT APPLICATION (00048/A) -
USE OF EXISTING STABLES ON THE LAND FOR DOG
BREEDING AND KEEPING PURPOSES**

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

1. PURPOSE

The purpose of this report is to determine an application to amend Planning Permit 00048, to increase the number of dogs permitted to be kept at Lot 5 on LP99565 (or commonly known as 60 Widows Lane in Traralgon) at any one time from the currently approved total of 20 dogs to 42 dogs.

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, as follows:

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.

Strategic Action – Built Environment

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

This report has been prepared in accordance with the provisions of the *Planning and Environment Act* 1987 and the Latrobe Planning Scheme.

4. **BACKGROUND**

4.1 **SUMMARY**

Land:	Lot 5 on LP99565 (or commonly known as 60 Widows Lane, Traralgon East or Crown Allotment 14K6 Parish of Loy Yang)
Proponent:	Ian May of 60 Widows Lane, Traralgon East Vic 3844
Zoning:	Farming Zone (FZ)
Overlay	Environmental Significance Overlay – Schedule 1 (ESO1)

Pursuant to Section 72 (1) of the *Planning and Environment Act 1987*, a person who is entitled to use or develop land in accordance with a permit may apply to the responsible authority for an amendment to the permit.

4.2 **PROPOSAL**

The application is for an amendment to Planning Permit 00048, to increase the number of dogs permitted to be kept on site at any one time from 20 to 42.

All the dogs are to be accommodated within the existing facilities on site. No buildings or works are proposed, pending the completion of the acoustic report.

Officers are aware that the subject site has been unlawfully used to keep up to 42 dogs since 2006. Accordingly, this amendment application essentially seeks retrospective planning approval of a use which has already been operating on the subject site for at least 3 years (refer to Section 4.3 for the history of this application).

The following information is also relevant to the consideration of the amendment application:

- Planning Permit 00048 was granted in 2000 to the previous owner of the subject site, mainly for dog breeding purposes.
- Additional day pens have been constructed on site (albeit without the relevant approvals from Council) since the purchase of the subject property by the current permit applicant / land owner approximately 3 years ago in 2006.

- Latrobe City Council's Local Laws Department advised that the dogs kept on site are not de-sexed (apart from 2 males that are de-sexed). However, the applicant has submitted that just 14 – 16 dogs kept on the site are suitable for breeding, and the remainder of the dogs are either show dogs, retired show dogs, or are not used for breeding.
- It is understood that pups from litters are sold to new owners before they are 3 months old.

Subject Land:

The subject site is located on the southern side of Widows Lane, between Minnedale Road and Shields Road in Traralgon East. The site has an approximate total area of 2.6 hectares and is located within a Farming Zone.

The site and surrounding properties are not used for agricultural activities.

The site and surrounding lots are a typical size of rural residential lifestyle lots that are generally located within a Rural Living Zone. Refer to the Locality Plan attachment to this report, which indicates the setbacks of the surrounding dwellings from the dog kennels.

Surrounding Land Use:

North: Directly to the north of the subject site is 65 Widows Lane, which is used for rural living purposes. The existing dwelling at 65 Widows Lane is setback approximately 194.52 metres from the dog kennels.

To the north-east of the subject site is a vacant land of approximately 26.9 hectares.

South: Directly to the south of the subject site is 60 Hourigan Drive, which is currently used for rural living purposes. The existing dwelling at 60 Hourigan Drive is setback approximately 130.60 metres from the dog kennels. A row of trees is currently provided along the rear boundary of the site at 60 Hourigan Drive.

East: To the east of the subject site is 80 Widows Lane, which is currently used for rural living purposes. The existing dwelling at 80 Widows Lane is setback approximately 150.90 metres from the dog kennels. A row of tree is currently provided along the western boundary of the site at 80 Widows Lane.

West: To the west of the subject site is 46 Widows Lane, and is used for rural living purposes. The existing dwelling at 46 Widows Lane is setback approximately 130.60 metres from the dog kennels.

These properties surrounding the site are not used for animal keeping.

Animal keeping is defined as '*land used to breed or board domestic pets; or keep, breed or board racing dogs*', and is a section 1 (i.e. no permit required use) within the zone provided that no more than 5 animals are kept on the site. Otherwise, a planning permit is required for more than 5 animals. Animal keeping includes animal boarding, dog breeding and racing dog keeping.

4.3 HISTORY OF APPLICATION

15 March 2000	<p>Planning Permit 00048 was issued under delegation by Council, allowing '<i>to use existing stables for dog breeding and keeping purposes</i>' on the subject site.</p> <p>Condition 4 of Planning Permit 00048 specifies the following:</p> <p><i>'No more than 20 adult dogs are permitted to be kept at the property at any one time unless with the written consent of the responsible authority.'</i></p>
25 January 2006	<p>The subject site was rezoned from a Rural Zone to a Farming Zone as a result of the implementation of Amendment VC24 (Rural Zone Transition) to the Scheme.</p>
20 April 2006	<p>As part of a routine inspection, a site inspection was undertaken by an officer from Council's Local Laws Department. At the time of inspection, there were 42 dogs kept on site and therefore, a breach of Condition 4 of Planning Permit 00048 was evident.</p> <p>The owner of the land was advised to contact Council's Statutory Planning Department to rectify this issue.</p>
5 May 2006	<p>An application to amend Planning Permit 00048 was made by the owner of the land, pursuant to Section 72 of the <i>Planning and Environment Act 1987</i>. The amendment request proposes to increase the number of dogs permitted to be kept on site at any one time from 20 to 42.</p>

3 July 2006 to 24 July 2006	Notification period of the amendment application.
21 July 2006	An objection to the amendment application was received from the owner of 65 Widows Lane, Traralgon East (i.e. the property across the road to the north of the subject site) Refer to Attachment 1 for location details.
28 August 2006	Planning mediation meeting held between Council Planning Officer, objector, applicant and a Councillor.
27 November 2006	Following the Planning mediation meeting, Council requested further information from the applicant. A written response was requested to be provided to demonstrate compliance of the proposal with the <i>Code of Practice for the Operation of Breeding and Rearing Establishments</i> .
19 June 2007	Response to the further information request from the applicant was received.
21 February 2008	Correspondence was sent to the objector, suggesting that a further mediation meeting be organised or confirming the latest status of the objection in writing.
27 February 2008	Council received a letter from the objector, confirming that the objection made on 21 July 2006 remained.
25 March 2008	Council officer spoke to the objector. The objector further confirmed that the objection remained.
11 April 2009	The amendment application was referred to the Department of Primary Industries for comment as a small portion of the site is affected by the Environmental Significance Overlay Schedule 1 (ESO1). A response from the Department of Primary Industries was subsequently received on 29 April 2009, advising that the Department is not in a position to provide advice as to whether the subject site can be used for dog breeding purposes.
24 April 2009	Application referred to Council's Local Laws Department for comment. Council's Local Laws team has no objection to the amendment application, subject to conditions.
20 July 2009	An on site meeting was held between the applicant, and Council Planning Officers.
29 July 2009	Further information was submitted to Council from the applicant in support of the amendment request.

14 October 2009 to 27 October 2009	To ensure that all relevant parties were provided with an opportunity to consider the latest version of the proposal, Notice of the application was given for a second time, as the original notice of the application was given in 2006.
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At times, historical applications can experience some delays when being progressed. This may be due to issues such as changes in policy and controls affecting the land. As mentioned in the table above, the zoning of the subject site was amended, resulting in a change of controls affecting the land. This results in a change to the decision guidelines to be considered by the Responsible Authority.

A number of other factors may also result in delays in the processing of the application, such as, in this case a number of further information requests were made during the processing of the planning permit application, which resulted in some time delays that are detailed in the above table. During this time, the Planning Officer liaised with the permit applicant regarding the application.

The time in the above table from July to October 2009 was due to the need to ensure that all relevant parties were provided with an opportunity to consider the latest version of the proposal. To ensure this, notice of the application was given for a second time, as the original notice of the application was given in 2006.

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 documents:

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

Clause 17.05 relates to agriculture. The objective of this clause is to ensure that the State's agricultural base is protected from the unplanned loss of productive agricultural land due to permanent changes of land use and to enable protection of productive farmland which is of strategic significance in the local or regional context.

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.

Environmental considerations in the Latrobe City also relate to the protection and management of the resource base of agricultural, forestry and coal areas for ongoing production.'

Clause 21.01-12 (Agriculture) of the Scheme states that:

'the municipality has a strong agricultural base which provides an important contribution to the local economy. The agricultural areas provide attractive backdrops and contrast to the urban and industrial architecture of Latrobe City. They add to its amenity, attractiveness and lifestyle opportunities.'

Clause 21.02-6 of the Scheme relates to rural assets, and identifies that rural industries within the region are undergoing continual structure change to maintain or enhance their viability due to the increasing competition for land resources from other sectors.

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 Traralgon Structure Plan is located at Clause 21.04 of the Scheme. It should be noted that the subject site is located outside of the Traralgon 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 protect high quality agricultural land and encourage it to be used primarily for farming purposes except where the land supports significant vegetation of local provenance.'*
- *To encourage land development and use that are compatible with agricultural activity.'*
- *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 maintain the land resources for agriculture, conservation and timber production purposes.'*
- *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).'*

Local Planning Policy (Clause 22)

Clause 22.05 (Protection of Stone Resources) of the Scheme applies to all land in the Farming Zone; however it is not of direct relevance to the proposal.

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

Zoning

The subject site is located within a Farming Zone pursuant to Clause 35.07 of the Scheme.

The Purpose of the Farming Zone is:

- *'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 the use of land for agriculture.*
- *To encourage the retention of productive agricultural land.*
- *To ensure that non-agricultural uses, particularly dwellings, do not adversely affect the use of land for agriculture.*
- *To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.*
- *To protect and enhance natural resources and the biodiversity of the area'.*

Pursuant to Clause 35.07-1 of the Scheme, a planning permit is required to use the land for the purpose of animal boarding and animal keeping of greater than 5 animals.

It should be noted that pursuant to Clause 74 (Land use terms) of the Scheme:

Animal keeping is defined as 'land used to breed or board domestic pets; or keep, breed or board racing dogs', and is a section 1 (i.e. no permit required use) within the zone provided that no more than 5 animals are kept on the site. Otherwise, a planning permit is required for more than 5 animals. Animal keeping includes animal boarding, dog breeding and racing dog keeping.

Overlay

A minimal section of the southeast corner of the subject site is affected by Schedule 1 to the Environmental Significance Overlay (ESO1).

The purpose of this overlay is:

- *'To implement the State Planning Policy Framework and the Local Planning Policy*
- *Framework, including the Municipal Strategic Statement and local planning policies.*
- *To identify areas where the development of land may be affected by environmental constraints.*
- *To ensure that development is compatible with identified environmental values'.*

Pursuant to relevant Environmental Significant Overlay provisions, a planning permit is not required for the use of land for dog keeping or breeding purposes.

Particular Provisions

The particular provisions of the Scheme are of not of direct relevance to the planning permit amendment 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*

Relevant Planning Scheme Amendments

Amendment C62 is a seriously entertained planning scheme amendment pursuant to Section 60(1A) (c) of the Act.

Amendment C62 to the Scheme proposes to incorporate new provisions into the Latrobe Planning Scheme that are relevant to the proposal. Objective 5 of Clause 21.04-3 – Rural Living Overview, is:

‘To minimise conflict between agricultural activities and rural lifestyle’.

The strategy to achieve this objective is stated to be:

‘Discourage animal keeping facilities in rural living areas’.

Further discussion in relation to this proposed objective and strategy is provided in Section 6 of this report.

5. ISSUES

Strategic direction of the State and Local Planning Policy Frameworks:

It should be noted that the current Latrobe Planning Scheme does not have any specific planning policies dealing with the use and development of land for animal keeping or boarding. The policies outlined under Section 4.4 of this report above mainly relate to the general environment and rural land, which are only of some relevance to the proposal.

Of the most direct 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 Authority. Refer to the ‘objection’ section below for detailed discussion relating to these relevant guidelines.

To 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 land or agricultural 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 surrounding area, particularly in terms of noise or odour (also refer to 'noise' discussion below for details). It is unlikely that the proposal will unreasonably compromise the use of land for agriculture purposes in the adjoining and surrounding area, or the amenity expectation in a Farming 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, pending the outcome and recommendations of a completed acoustic report.

'Purpose' and 'Decision Guidelines' of the Farming Zone:

The proposal is considered to be generally consistent with the objective of a Farming Zone. The proposed activities to be carried out on site are considered reasonable in a rural setting, and the associated amenity impact is unlikely to adversely affect on the quality of agricultural land in the adjoining and surrounding area.

The proposal has been assessed against the decision guidelines of the Farming Zone as follows:

General Issues: As discussed above, whilst the Scheme does not have any specific planning policies dealing with the use of land for animal keeping, the proposal is unlikely to be inconsistent with the more general SPPF & LPPF policies having some relevance to the proposal.

Agricultural Issues: It is considered reasonable that the overall area does not lend itself to prime agricultural use. The characteristics of the site and surrounding properties (i.e. such as the size of the site, and the use) are typical of land generally located within a Rural Living Zone. It can be said, that the adjoining and surrounding land uses are predominately for rural living purposes, rather than relating to agricultural purposes.

The site has been used for dog breeding / keeping purposes since the issue of Planning Permit 00048 in March 2000, which was before the land was zoned 'Farming Zone' in January 2006. Consideration of the impact of the proposal on the amenity of the area will be discussed later in the report.

Environmental Issues: The proposal seeks to increase the number of dogs, to be accommodated within the existing facilities on site. The proposed amendment will not have a detrimental impact on the appearance of the surrounding area. In relation to potential increased environmental impacts on soil, and the potential impact of the proposal caused by emission of noise and odours, pending an acoustic report being prepared. Refer to the 'objection' section below for details.

Design and Siting Issues: No external works are proposed as part of the current amendment application.

'Purpose' and 'Decision Guidelines' of the Environmental Significant Overlay (Urban Buffer):

It should be noted that the subject site is only marginally affected by the Environmental Significant Land. No works are proposed to be located within the area affected by this overlay.

Clause 65 (Decision Guidelines):

The decision guidelines of the Scheme have been considered as part of the assessment of this application, and it is considered that the proposal generally meets the decision guidelines (where appropriate) of the Scheme.

Amendment C62:

Amendment C62 to the Scheme proposes to incorporate new provisions into the Latrobe Planning Scheme that are relevant to the proposal. Objective 5 of Clause 21.04-3 – Rural Living Overview, is:

- *'To minimise conflict between agricultural activities and rural lifestyle'.*

The strategy to achieve this objective is stated to be:

- *'Discourage animal keeping facilities in rural living areas'.*

The surrounding properties are not used for agricultural activities.

The site and surrounding lots are a typical size of rural residential lifestyle lots that are generally located within a Rural Living Zone.

Planning Permit 00048 for dog breeding and keeping land use on the site was issued in 2000. The site was rezoned to a Farming Zone in January 2006 as part of Amendment C43.

Council provided permission for dog breeding and keeping on the land when the land was a rural living area. The site was zoned a Rural Zone before the rezoning amendment in January 2006.

Objections:

The application received two submissions in the form of objections. Issue(s) raised by submitter(s):

1. Nuisance noise associated with barking dogs

Comment:

The Environment Protection Authority (EPA) produced Noise Control Guidelines for dog kennels (Refer to Section 4, page 4, of Attachment 4 for additional information).

These Guidelines are not mandatory in nature, and should only be used as a guideline in assessing applications. The Guidelines do not form part of the Latrobe Planning Scheme.

A response to each of the criteria has been provided below:

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

This is not a requirement of the Latrobe Planning Scheme. Nevertheless, a response is provided to this Guideline below.

The site and surrounds have characteristics of a rural living area. Refer to Attachment 2 for further information in relation to the surrounding land zones.

The table below provides an overview of the approximate setbacks of the dwellings on the surrounding properties from the existing dog enclosures.

Direction of Dwelling	Setback
North	194.52 metres
South	130.60 metres
East	150.90 metres
West	130.60 metres

Latrobe City Council's Local Laws Department have not received any complaints from the surrounding property owners/occupiers regarding the existing dog keeping use of the land.

Notice of the amendment request was sent to the owners/occupiers of the surrounding properties as part of the processing of the application. No submissions/objections were received from the owners/occupiers of the properties located to the east, west or south of the site.

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

This criteria recommends that for every 15 animals, there should be one fully enclosed or acoustically baffled kennels available on the site.

From the recent inspection of the subject site, it was found that the existing kennels are not fully enclosed and do not appear to be acoustically baffled.

It is considered reasonable to require the provision on site of either fully enclosed or acoustically baffled kennels to minimise the potential transmission of noise from barking dogs. This can be done via a condition to the permit.

Planning Permit 00048 is for the 'use' of the land for dog breeding and keeping, and the amendment request seeks to increase the number of dogs on site. As the intensity of the use is proposed to be increased, it is considered appropriate to require an upgrade to the existing facilities, should this be required to address any potential noise problems associated with barking dogs. Accordingly, 'what the permit allows' should also be amended to reflect the 'development' component of the proposal.

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

A condition will be included on the planning permit to ensure that barking is controlled in an appropriate manner to reduce any negative impacts on the amenity of neighbouring properties. A condition of permit will require a report to be prepared by an acoustic consulting firm or person that is a member

of the Association of Australian Acoustics Consultants. This consultant is to provide measures in which to appropriately address noise impacts. The recommendations of this report are to be followed. This may include the use of electronic masking noise devices.

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

From the recent inspection of the subject site, it is considered that the existing kennels are well setback from the boundaries of the site. With the existing landscaping and dwelling on site, the kennels are satisfactory screened from stimuli such as other dogs, animals, traffic or passers-by. The site is well landscaped along the side and front title boundaries, which reduces visual stimuli reaching the dogs.

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

This guideline can be addressed via a permit condition.

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

This guideline can be addressed via a permit condition.

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

This guideline can be addressed via a permit condition.

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

This guideline can be addressed via a permit condition.

- *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.*

It is recommended that further advice be obtained from an acoustic consulting firm that identifies noise control measures required to achieve compliance with relevant State Environment Protection Policies.

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

The subject site is relatively flat, and the location of the existing kennels are generally well set back from the boundaries of the site, and are located to the rear of the dwelling, and are located at an appropriate location in terms of reducing noise where possible in context to the features and constraints of the site.

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 Methods Used:

Notification:

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

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

One objection was received by Council on 21 July 2006.

External:

This amended application was referred to the Department of Primary Industries (the Department) for comment on 11 April 2009 as a minor portion of the site is affected by the Environmental Significance Overlay Schedule 1 (ESO1), and the DPI are a Section 55 referral authority.

A response was received from the Department on 29 April 2009, advising that the Department is not in a position to provide advice as to whether the subject site can be used for dog breeding purposes.

The Department stated that an establishment of this type must be registered with Council under the provisions of the *Domestic (Feral and Nuisance) Animals Act 1994* and must be operated in accordance with the mandated Code of Practice for the Operation of Breeding and Rearing Establishments.

Internal:

This amendment application was referred internally to Council's Local Laws Unit on 24 April 2009.

Local Laws have no objection to the amendment application, provided that the operators comply with the *Domestic Animal Act 1994* and Code of Practice for the operation of a Breeding Establishment, and that:

- Annually apply to register the business and pay a registration fee (currently \$170) to Council.
- The property is audited annually by Local Laws staff to ensure compliance.

Details of Community Consultation following Notification:

Two submissions in the form of objections to the amendment application were received by Council, from the owners of the properties located to the north of the site, across Widows Lane. Refer to Attachment 5 for details of the objections, and to Attachment 1 for the location of the objectors in relation to the site.

One of the objections was received on 21 July 2006. The second objection was received following notice of the application being given for a second time, on 27 October 2009.

A planning mediation meeting was held on 28 August 2006 with the first objector.

As significant time has lapsed since the application was lodged with Council, it is not considered appropriate to hold a second planning mediation meeting. Furthermore, the applicant has had discussions with the second objector, as stated in their correspondence received 27 October 2009, and a consensus was not reached.

Consensus was not reached between the objectors, 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. Approve the application to amend Planning Permit 00048 with conditions as proposed;
2. Approve the application to amend Planning Permit 00048, subject to additional conditions; or
3. Refuse the application to amend Planning Permit 00048.

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 'Purpose' and 'Decision Guidelines' of the Farming Zone;
- Consistent with the 'Purpose' and 'Decision Guidelines' of the Environmental Significance Overlay Schedule 1;
- Consistent with Clause 65 (Decision Guidelines); and
- The objection received has been considered against the provisions of the Latrobe Planning Scheme and the relevant planning concerns have been considered and relevant permit conditions addressing these issues will be required.

10. RECOMMENDATION

That Council decides to approve the amendment request pursuant to Section 74 of the *Planning and Environment Act 1987*, to amend Planning Permit 00048 at 60 Widows Lane (lot 5 LP 99565) in Traralgon East, to allow the use and development of land for animal keeping and boarding purposes, as follows:

1. **The development and use as shown on the endorsed plans must not be altered without consent of the responsible authority.**
2. **The owner and/or occupier must take all reasonable steps to ensure that no noise or other disturbance emanates from the premises which would be likely to cause nuisance to the adjoining occupiers or a detriment to the amenity of the neighbourhood to the satisfaction of the Responsible Authority.**

3. All sewerage from any dog kennel must be treated and disposed of within the cartilage of an approved effluent disposal field in a septic tank system designed and constructed in accordance with the Septic Tank Code of Practice to the satisfaction of the responsible authority.
4. No more than 42 adult dogs are permitted to be kept at the property at any one time unless with the written consent of the responsible authority.

Note 1: All buildings erected on this site must comply with the requirements of the Building Regulations Act 1994, the Building Code of Australia and the Building Act 1993 and the relevant municipal local laws.

Amendment 'A' Conditions:

5. Within two months of the date of the approval of Amendment A to this permit, 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. Location of the existing dwelling on the site, including setbacks of the dwelling from the front and side title boundaries;
 - ii. Location of the dog kennels and day pens, including the setbacks from title boundaries and other buildings on the site;
 - iii. Internal layout of the dog kennels, including internal dimensions and number of dogs to be kept in each kennel;
 - iv. Elevation plans of the dog kennels, including the location of doors and windows;
 - v. Location and fencing details of all outdoor areas of the dogs;
 - vi. The provision of some fully enclosed or acoustically baffled kennels be provided to house some of the dogs at a ratio of 1:15
 - vii. Acoustic treatment of the existing kennel buildings in accordance with the recommendations of the acoustic report as required by Condition 6 of this permit.
6. A report prepared by an acoustic consulting firm or person that is a member of the Association of Australian Acoustics Consultants (AAAC) must be submitted to and approved by the Responsible Authority. The report must:

- i. Identify all potential noise sources associated with the use allowed by this permit that will impact on the adjoining noise sensitive premises; and
 - ii. Recommended acoustic measures to prevent the escape of noise from the kennel buildings; and
 - iii. Provide details of all noise control measures required to achieve compliance with relevant State Environment Protection Policies.
7. Within 2 months of the Responsible Authority approving the acoustic report prepared in accordance with Condition 6 of this permit, the operator of the permit must implement the recommendations of the acoustic report to the satisfaction of the Responsible Authority.
8. Within 2 months of the completion of the implementation of the recommendations of the acoustic report prepared in accordance with Condition 6 of this permit, the operator of the permit must submit to the Responsible Authority a second acoustic report prepared by an acoustic consulting firm or person that is a member of the Association of Australian Acoustics Consultants (AAAC) that confirms and demonstrates that the works have been completed and installed appropriately, and that the recommendations of the acoustic report have been met.
9. No more than 42 dogs over the age of 3 months must be kept on the land at any one time. This condition does not prevent a visiting dog remaining occasionally overnight.
10. The use and development allowed by this permit must comply with the Code of Practice for the Operation of Breeding and Rearing Establishments (prepared by the Department of Primary Industries, dated June 2004), all to the satisfaction of the Responsible Authority.
11. 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.
12. The operator of the premises must take all necessary steps to ensure that no noise including the unreasonable barking of dogs or other disturbance emanates from the premises which may cause a nuisance to adjoining occupiers or livestock or detriment to the amenity of surrounding agricultural uses or the neighbourhood to the satisfaction of the Responsible Authority. To this end the operator will take all steps to ensure dogs are not unnecessarily stimulated to ensure no persistent barking occurs.

13. Access to kennels must be restricted solely to staff or the operator of the permit.
14. Exercise of the dogs must only be performed within the hours of 9am - 5pm seven days a week, to the satisfaction of the Responsible Authority. The operator of the permit can request to extend these hours during the summer months, by lodging a written request for secondary consent to the Responsible Authority.
15. Feeding hours must only be performed within the hours of 7am – 6pm seven days a week.
16. The permit holder or a nominated responsible person must be resident on the subject land and be reasonably available to ensure that the property is maintained and that the kennels are controlled to the satisfaction of the Responsible Authority.

Expiry of Permit:

17. This permit will expire if one of the following circumstances applies:
 - (a) The use is discontinued for a period of more than 2 years;
 - (b) Mr I. May and Mrs L. Reibelt of 60 Widows Lane, in Traralgon East ceases to be the permit holder(s) or the occupier(s) of the subject land.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.

Moved: Cr Gibson

Seconded: Cr White

That the Recommendation be adopted.

CARRIED UNANIMOUSLY

ATTACHMENTS

7.3 **PLANNING PERMIT APPLICATION S08/315 - THIRTY SEVEN (37) LOT SUBDIVISION AT 25 JUNCTION ROAD, CHURCHILL**
AUTHOR: General Manager Built and Natural Environment Sustainability
(ATTACHMENT - YES)

1. PURPOSE

The purpose of this report is to determine Planning Permit Application S08/315 for a thirty seven (37) lot subdivision at 25 Junction Road, Churchill.

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 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.

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

4. **BACKGROUND**

4.1 **SUMMARY**

Land:	25 Junction Road Churchill (known as CA 39 TP792113 Sect A, CA 39C TP 770344 Sect A, L 1 TP 853290)
Proponent:	Peart Investments Pty Ltd PO Box 5308 Warrnambool VIC 3280
Zoning:	Part Rural Living Zone 3 (RLZ3) & Part Rural Living Zone 4 (RLZ4)
Overlay	None

A planning permit is required to subdivide land in accordance with Clause 35.03-3 of the Scheme.

4.2 **PROPOSAL**

The application is for the subdivision of a large block of rural living property on the south side of Glendonald Road Churchill, north side of Jeeralang West Road, between Monash Way and Wongan Crescent / Farley Road.

The subject land is in three titles and has a total area of approximately 106.8ha. The land is clear and is gently undulating. An existing farmhouse and outbuildings are situated in the south-west section of the site.

It is intended to subdivide the northern portion of the site that fronts Glendonald Road into eleven lots of approximately four hectares in area each. The southern portion of the site will be subdivided into 26 lots each approximately two hectares in area. This will give a total yield of 37 large sized residential lots.

The subdivision is designed to gain access to Junction Road, Wongan Crescent and Roberts Road.

Surrounding Land Use:

North:	Land zoned Residential 1. Typical development in this area is a single dwelling on an average size block of land (approximately 600 square metres).
South:	Land zoned Rural Living 3 consisting of rural / low density residential development. The lot sizes in this area range from approximately three to five hectares.

- East: Land zoned Rural Living 3 consisting of rural/low density residential development. The lot sizes in this area range from approximately half a hectare to two hectares.
- West: Land zoned Rural Living 3 consisting of rural/low density residential development. The average lot size in this area is approximately one and a half hectares. Land located to the west of Monash Way and Junction Road is located within a Farming Zone.

4.3 HISTORY OF APPLICATION

The application was received on 2 October 2008.

The application was referred to the following authorities on 24 October 2008:

- Country Fire Authority;
- Gippsland Water;
- APT O&M Services Pty Ltd;
- Telstra;
- SP Ausnet Electricity;
- Department of Primary Industries;
- VicRoads;
- Department of Sustainability and Environment; and
- Gasnet.

A response from the Department of Sustainability and Environment (DSE) was received on 3 December 2008, and DSE requested further information to be provided by the applicant.

Further information was provided by the applicant to Council on 24 April 2009. The additional information provided to Council involves minor amendments to the subdivisional layout.

The application (with the further information lodged on 24 April 2009) was re-referred to DSE on 13 May 2009.

At its Ordinary Meeting held 20 July 2009, Council resolved:

'That Council defers consideration of this item for four weeks to obtain further traffic flow information and undertakes consultation with local residents.'

At the Ordinary Council Meeting held on 17 August 2009, Council resolved:

'That Council defers consideration of the Planning Permit Application S08/315 – Thirty Seven (37) Lot Subdivision at 25 Junction Road, Churchill, for a further eight weeks, with a report to be presented to Council at the Ordinary Council Meeting to be held on 19 October 2009, or earlier should all the relevant traffic information be available and consultation with local residents completed.'

The applicant was requested on 23 July 2009 to prepare a traffic impact assessment report that would form part of the planning permit application.

A traffic impact assessment report was submitted to Council on 8 September 2009, and is attached to this report.

A copy of the traffic impact assessment was sent to each objector to the application on 1 October 2009.

To ensure that all relevant parties were provided with an opportunity to consider the latest version of the proposal, Council gave notice of the application for the third time on 6 October 2009 and extended the date that submissions may be lodged to Council prior to a decision being made. This date was extended until 22 October 2009.

On 19 October 2009 a holding report was put to Council that sought to enable appropriate time to be provided for the submission of comment on the traffic investigation report and considerations of submissions by Council's Statutory Planning Team. Council unanimously deferred consideration of the planning permit for four weeks, with a report to be presented to Council at the Ordinary Council Meeting to be held on 16 November 2009.

4.4 LATROBE PLANNING SCHEME

State Planning Policy Framework

The State Planning Policy Framework of the Latrobe Planning Scheme has several policies relevant to this application, namely:

Clause 16.03 – 'Rural Living and Rural Residential Development', in which the objective is to identify land suitable for rural living and rural residential development.

Clause 17.05 – 'Agriculture', in which the objective is to ensure that the State's agricultural base is protected from the unplanned loss of productive agricultural land due to permanent changes of land use and to enable protection of protective farmland which is of strategic significance in the local or regional context.

Clause 19.01 – ‘Subdivision,’ in which the objective is to ensure the design of subdivisions achieves attractive, liveable and sustainable neighbourhoods; and to control the subdivision and consolidation of land and the removal and variation of easements and restrictions through planning schemes, within the framework of the Planning and Environment Act 1987 and the Subdivision Act 1988.

The general implementation clause states that in the development of new residential areas and in the redevelopment of existing areas, subdivision should be designed to create liveable and sustainable communities by, amongst other things:

- *Providing a range of lot sizes to suit a variety of dwelling and household types to meet the needs and aspirations of different groups of people.*
- *Contributing to an attractive built environment by creating neighbourhoods that emphasise existing cultural heritage values, well designed built form and landscape character.*
- *Protecting and enhancing native habitat and discouraging the spread and planting of noxious weeds.*

Local Planning Policy Framework

Municipal Strategic Statement (Clause 21)

Clause 21.01-5 (Environment) of the Scheme states that a key aspiration for environmental management in the Latrobe City and for all land uses within the municipality is sustainability. 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 21.01-7 (Housing) of the Scheme highlights that the diversity in housing type (including but not limited to low density residential and rural farms) 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 21.02-2 relates to key housing influences within the municipality. It is identified 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 relates to the strategic land use framework plan. This Clause includes (amongst other things) the following urban and rural settlement strategy that is relevant to the proposal:

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

The Churchill Strategic Land Use Framework Plan is located at Clause 21.04-1 (Settlement and urban form) of the Scheme. The subject site is identified as being located just outside the urban/ rural boundary of Churchill.

In Clause 21.04-2 'Environment' in Element 4 'Rural land management' one of the objectives is:

- To support rural living or low density residential development in appropriate locations, taking into account current supply and demand for these types of subdivisions.

In Clause 21.04-4 'Housing' in Element 3 'Rural living and low density residential development' one of the objectives is:

- To ensure that proposals for additional rural living and low density residential subdivisions proceed only in appropriate locations.

Zoning

The subject land is contained within two zones; the Rural Living Zone 3 and Rural Living Zone 4.

The purpose of the Rural Living Zone is:

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.

According to Clause 35.03-3 a permit is required to subdivide land. Each lot must be at least the area specified for the land in a schedule to this zone.

In Schedule 3 to the Rural Living Zone (RLZ3) the minimum area is prescribed as 2 hectares.

In Schedule 4 to the Rural Living Zone (RLZ4) the minimum area is prescribed as 4 hectares.

Overlay

The subject site is not affected by any overlays.

Particular Provisions

Clause 52.01 of the Scheme relates to Public Open Space Contribution and Subdivision. It is stated under this Clause 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. It should be noted that whilst no amount is specified under the schedule, a contribution for public open space may still be required under Section 18 of the *Subdivision Act* 1988.

There is public open space located within walking distance from the site (i.e. within 500 metres from the site). However, the subdivision will increase the density of persons utilising this public open space area as a result in the rise in population of the neighbourhood. Therefore, it is reasonable to require a public open space contribution, as there will be a need for more open space, having regard to Section 18(1A) (a-f) of the *Subdivisions Act* 1988.

Clause 52.17 relates to Native Vegetation. A planning permit is required to remove, destroy or lop native vegetation. The applicant confirmed in writing on 1 April 2009 that the proposal does not seek to remove any native vegetation. The existing native vegetation on site is to be protected via a Section 173 agreement at the request of DSE and Council's Environmental Planner.

Clause 52.29 relates to Land Adjacent to a Road Zone, Category 1, or a Public Acquisition Overlay for a Category 1 Road. The proposal does not seek to create or alter access to Boolarra-Churchill Road (Monash Way).

Decision Guidelines (Clause 65):

Clause 65 'Decision Guidelines' relates to the proposal. Before deciding on an application or approval of a plan, 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.
- Whether, in relation to subdivision plans, native vegetation can be protected through subdivision and siting of open space areas.

The proposal is consistent with and meets the decision guidelines of Clause 65.

Relevant Planning Scheme Amendments

Amendment C62 is a seriously entertained planning scheme amendment pursuant to Section 60(1A) (c) of the Act. The proposal is consistent with the relevant objectives and strategies of Amendment C62.

5. ISSUES

Strategic direction of the State and Local Planning Policy Frameworks:

It is considered reasonable that the proposal is consistent with the strategic direction of the State and Local Planning Policy Frameworks as follows:

- The proposal is consistent with Clause 16.03 of the Scheme, as the subject site is located within a Rural Living Zone, in which the objective is to identify land suitable for rural living and rural residential development. The proposed lot sizes ranging from 2 – 4 hectares appear to be suitable for such purposes.
- Whilst in its current size, the subject site may be suitable for agricultural purposes. However, it should be noted that the site is generally surrounded by land that has already been developed for rural living or low density residential purpose, it appears that rural living / low residential living is also an appropriate response to the context of the site. It is considered reasonable that the proposal is generally consistent with Clause 17.05 of the Scheme, as there will not be any significant loss of prime productive agricultural land.
- In response to Clause 19.01 (Subdivision) of the Scheme, the proposal seeks to provide a range of lot sizes to suit a variety of dwelling and household types.
- In response to Clauses 21.01-5 and 21.04-1, the proposal seeks to minimise its impact on the environment where possible. The proposal does not seek to remove any native vegetation and building envelopes (through a Section 173 agreement) will be required as condition to the permit for the proposal, to permanently protect the remnant native vegetation on site.
- The proposal is consistent with Clauses 21.01-7 and 21.02-2 and 21.04-4 of the Scheme, by contributing to the diversity in housing type within the municipality, through the provision of appropriately sized lots for rural living purposes.
- The proposal is generally consistent with the Churchill Strategic Land Use Framework Plan under Clause 21.03-3 of the Scheme. It is anticipated that the subject site is to remain rural living / low scale in nature.

'Purpose' and 'Decision Guidelines' of the Rural Living Zone:

It is considered reasonable that the proposal is consistent with the 'Purpose' and 'Decision Guidelines' of Schedules 3 and 4 to the Rural Living Zone. The proposed subdivision will provide for residential use in a rural environment. The subject site is not adjacent to any prime agricultural land, but located within an area which is rather developed. It is unlikely that the proposed subdivision will have any detrimental impact upon the amenity of the adjoining or surrounding agricultural land uses. The proposed subdivisional areas satisfactorily meet the provisions under both Schedules and 4 of the Rural Living Zone.

Clause 65 (Decision Guidelines):

The relevant matters under Clause 65 have been considered as part of the assessment of the proposal.

It is considered the land is suitable for subdivision, in context of the zoning of the site, and its adjoining and surrounding development. The proposed subdivision layout is considered to be appropriate, in terms of its density, area and dimensions. Subject to appropriate conditions to the permit for the development, it is reasonable to expect that the proposal will not have any significant detrimental impact upon its adjoining and surrounding road network, the environment in general.

Others:

The application received six submissions in the form of objections. Issues raised by submitter(s):

1. Riga Court is inadequate to cater for the anticipated traffic increase and will result in increased detriment to landowners in the court.

Officer comment:

The latest revised subdivision layout (dated April 2009) does not propose any access to Riga Court. A condition will be required in the permit, for the provision of a court bowl at the end of Riga Court, to ensure safe vehicle turning for this area.

2. The access to the development from Junction Road will cause detriment to the nearby landowners.

Officer comment:

It is proposed that access to lots 27 to 37 will be provided from Junction Road.

Council's Project Services has no objection to the proposed access arrangement to the development from Junction Road.

It is reasonable to consider that the additional traffic generated from the 10 rural living lots will be minimal, and will not have a detrimental impact upon the function and capacity of Junction Road.

3. Roberts Road and Wongan Crescent are inadequate to cater for the anticipated traffic increase and this will result in increased detriment to landowners in those streets.

Officer comment:

Similar to the above comment, Council's Project Services has no objection to the proposed access arrangement to the development from either Roberts Road or Wongan Crescent.

The traffic impact assessment report concludes that:

- The additional vehicle trips per day on Roberts Road and Wongan Crescent will have a negligible impact on the operations of these streets (page 2);
- The abutting streets have been designed to provide for their continuation into the subject site to provide access for this development (page 3);
- The subdivision has been designed with multiple accesses, to distribute traffic to a number of abutting streets, and the impact of the additional traffic generated by the development will be minimal (page 3); and
- There are no traffic related grounds that would prevent the proposed subdivision from proceeding.

Council's Project Services agrees with the conclusions of the traffic report and there is no detrimental impact to the road network arising from the development.

4. The density of the development is too high for the area and as such will not respect the established pattern of development.

Officer comment:

The subject site is located within an area, where the average lot sizes are generally 600square metres to the north, 3-5 hectares to the south, 0.5-2 hectares to the east, and approximately 1.5 hectares to the west.

The proposal seeks to subdivide land into eleven (11) lots of approximately 4 hectares in area each, and twenty-six (26) lots of approximately 2 hectares in area each.

A section 173 agreement will be included as a condition to the permit of the development, to ensure that no further subdivision will be allowed on the subject site, unless the site is rezoned in the future.

It is considered reasonable that the proposed subdivision layout is generally consistent with the density of the adjoining and surrounding area.

5. Impact on Water Catchment.

Officer comment:

It is considered that the proposed subdivision will not have a detrimental impact on water catchments in the surrounding area. The decommissioning of dams on privately owned land are at the discretion of the landowner and this practice cannot be policed by Council.

6. Lack of the provision of services.

Officer comment:

This application was referred to the relevant service providers who provided consent to the proposed subdivision.

The application was also referred internally to the Health Services and Project Services teams who both provided conditional consent.

7. Access to Lot 27 does not seem to be finalised.

Officer comment:

It is proposed that vehicle access to Lot 27 is to be provided via the new court created off Junction Road, through either a carriageway easement alongside an adjacent lot or an alternative internal access arrangement.

8. The existing farming operations abutting the properties are noisy and will negatively impact on the proposed residential development.

Officer comment:

Prospective purchasers of lots have a duty of care to assess the property they are to purchase and to consider possible amenity impacts such as noise.

9. The subdivision will result in an increase in the population of local cats and dogs which may chase and injure animals on neighbouring farms.

Officer comment:

Future residents of lots are responsible for their pets. If pets are found to be out in the public realm or on private property not owing to that of their owner, Council's Local Laws Officers may detain the animals at the municipal pound.

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 Methods Used:

Notification:

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

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

A total of 7 submissions in the form of objections were submitted to Council following the original notification of the application.

Following Council's resolution on 20 July 2009, which stated that Council is to 'undertake further consultation with local residents', notice of the application was given for a second time following Council's receipt of the traffic impact assessment report. Notice was given pursuant to the following Sections of the *Planning and Environment Act 1987*:

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

No additional submissions were received following the second round of notification of the application.

A copy of the traffic impact assessment report was forwarded to each objector on 1 October 2009.

To ensure that all relevant parties were provided with an opportunity to consider the latest version of the proposal, Council gave notice of the application for the third time on 6 October 2009 and extended the date that submissions may be lodged to Council prior to a decision being made. This date was extended until 22 October 2009.

Following this third round of Notification one objection was withdrawn and two additional submissions in the form of objections were received.

External:

Shortly after the application was lodged, it was referred under Section 55 of the *Planning and Environment Act 1987*, as follows:

Country Fire Authority	Response received on 3 November 2008. No objection, subject to conditions
Gippsland Water	Response received on 2 March 2009. No objection, subject to conditions.
APT O&M Services Pty Ltd	Response received on 29 October 2008. No objection.
Telstra	Response received on 30 October 2008. No objection, subject to conditions
SP Austnet Electricity	Response received on 12 December 2008. No objection.
Department of Primary Industries	Response received on 3 November 2008. No objection, subject to the inclusion of a Section 173 agreement on title.
VicRoads	Response received on 13 November 2008. No objection, subject to conditions.
DSE	Response first received on 3 December 2008. DSE requested further information to be provided for detailed consideration. Upon receipt and review of the requested further information, DSE advised on 4 June 2009 that it has no objection to the granting of a permit for the proposal, subject to a number of conditions. As no native vegetation is now proposed to be removed. DSE only provided response under Section 52 of the Planning and Environment Act.
Gasnet	Response received on 30 October 2008. No objection.

Internal:

Health Services	Response received on 1 December 2008. Council's Environmental Health Officer is of the opinion that there are suitable areas on each of the proposed lots for the disposal of all wastewaters generated from a dwelling of not more than five bedrooms subject to conditions.
Environment	Response first received on 3 December 2008. Council's environmental planner first requested further information to be provided for detailed consideration. Upon receipt of the requested further information, Council's environmental planner advised on 21 May 2009 that conditions relating to the protection of native vegetation be included as condition to the planning permit for the proposal.
Project Services	Response received on 22 January 2009. No objection subject to standard conditions. Council's Project Services team also advised that it does not object to the revised subdivision layout (dated April 2009). The traffic impact assessment was referred to Project Services on 11 September 2009. On 14 September 2009, Project Services advised that they agree with the conclusions of the traffic report and there is no detrimental impact to the road network arising from the development.

Details of Community Consultation following Notification:

Advertising of the proposal resulted in six objections being received.

A Planning Mediation meeting was held on 13 January 2009. The meeting was attended by the applicant; Council's planning officers and a number of the objectors.

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. Resolve to issue a Notice of Decision to Grant a Permit.
2. Resolve to issue a Refusal to grant a planning 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:

- 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 and 4;
- Consistent with Clause 65 (Decision Guidelines); and
- The objection(s) received has been considered against the provisions of the Latrobe Planning Scheme and the relevant planning concerns have been considered (and relevant permit conditions addressing these issues will be required/the objections do not form planning grounds on which the application should be refused).

(Note: the asterisk (i.e. '*') located within Conditions 1.c., 14.d., 14.e., 15 and 17 of the Recommendation, refers to the definition of the term 'buffer zone', which is defined in Note 1 located at the end of the Recommendation).

10. RECOMMENDATION

- A. That Council decides to issue a Notice of Decision, for the thirty-seven (37) lot subdivision at 25 Junction Road, Churchill, with the following conditions:

Amended Plans

1. Before the plan of subdivision is certified under the *Subdivision Act* 1988, amended plans to the satisfaction of the Responsible Authority must be submitted and approved by the Responsible Authority. When approved, the plans will be endorsed and then form part of the permit. The plans must be accurately drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans submitted with the application but modified to show:

- a. The location of all existing remnant native trees and other vegetation to be retained and permanently protected. This must include, but not limited to, the row of mature blue gums along the driveway access.
 - b. Lot boundaries realigned to occur outside the drip line of all existing remnant native trees and other vegetation to be retained.
 - c. Building envelopes specified on lots containing all existing remnant native trees and other vegetation to be retained. Building envelopes must be situated to provide for a permanent 'buffer zone' of at least twice the diameter of the canopy of all existing remnant trees and other vegetation to be retained. The 'buffer zone' is delineated as a circular area encompassing any native vegetation that is at least the diameter of the canopy or projected vegetation cover as measured from the centre of the trunk of a tree or area of vegetation.
 - d. Dimensions of the native buffer area.
 - e. The removal of any non-native trees.
 - f. Road pavement widths in accordance with the requirements of both Council's Project Services and CFA as specified under Conditions 4 and 21 of this permit.
 - g. Revised lot sizes to show at least 4 hectares in area for each of the lots in the northern portion of the site (i.e. north of the native buffer area) and at least 2 hectares in area for each of the lots in the southern portion of the site (i.e. south of the native buffer area).
 - h. No direct access is allowed from Boolarra Churchill Road.
 - i. No direct access is allowed from Glendonald Roads to Lots 1 – 3.
 - j. No direct access is allowed from Farley Road to Lots 12 – 15.
- In preparing the above amended plans, the subject site must be surveyed by a suitably qualified land surveyor.
2. The layout of the subdivision as shown on the endorsed plan must not be altered without the permission of the Responsible Authority.
 3. Once works have commenced they must be completed to the satisfaction of the Responsible Authority.

Council's Project Services Conditions:

4. Prior to commencement of works the following documents must be submitted and approved by the Latrobe City Council:
 - a. Plans and specifications for road and drainage works detailing:
 - i. Construction of new roads in accordance with the Council's Design Guidelines for Subdivisional Developments (Low Density Residential Zone Standards) including traffic management works as required to create the appropriate speed environment.
 - ii. Full and detailed calculations including the provision of geotechnical reports supporting all aspects of pavement design must be provided with road designs submitted to Council for approval. Investigation must be undertaken to determine existing site conditions to determine road and pavement design requirements.
 - iii. Construction of a drainage system approved by the Responsible Authority accepting stormwater discharge from the roads and each lot in accordance with Council's subdivisional guidelines for Low Density Residential Zones.
 - b. An Environment Management Plan (EMP) detailing techniques for erosion prevention and control measures during the construction phase and post construction in accordance with EPA Publication 960 "Doing it Right on Subdivisions". The EMP must include:
 - i. Contours (existing and final);
 - ii. Existing site drainage;
 - iii. Limit of clearing, grading and filling (location of earthworks including roads, areas of cut and fill);
 - iv. Locations and design criteria of erosion and sediment control structures;
 - v. Site access;
 - vi. Location of critical areas (drainage lines, water bodies);
 - vii. Proposed techniques for stabilisation of disturbed ground;
 - viii. Procedures for maintenance of erosion controls;
 - ix. Details of staging works; and
 - x. Techniques for dust control.

5. Prior to certification, Plans and specifications for road and drainage works must be submitted and approved by Council's Co-ordinator Project Services.
6. The plan submitted for certification under the Subdivision Act must show:
 - a. Easements for drainage purposes to the satisfaction of the Responsible Authority; and
 - b. Street names to the satisfaction of the Responsible Authority.
7. Driveway crossover to be constructed to Council Design Guidelines – Rural Standards. Access to lot 27 must meet VicRoads Design Guidelines for Sight Distances.
8. The following conditions of the Latrobe City Council must be met prior to the issue of a Statement of Compliance:
 - a. The subdivision may be completed in stages. Each stage must be to the satisfaction of the Responsible Authority. The stages may include or require drainage or other works outside the physical bounds of any lots in any stage.
 - b. The following works and items must be provided in accordance with plans and specifications approved by the Responsible Authority:
 - i. Road works.
 - ii. Construction of temporary vehicle turning areas at the end of all streets to be continued in later stages.
 - iii. Drainage works.
 - iv. Street lighting and underground electricity supply for roadways at intersections, bends in roads and court bowls.
 - v. Street signs and road pavement line marking.
 - vi. Amenity control during construction, including the control of dust, and measures preventing silt and litter entering the drainage system.
 - vii. As constructed information, in accordance with Latrobe City Council Design Guidelines for infrastructure development.
9. Prior to the issue of Statement of Compliance for any stage, the owner must pay to the Council:
 - a. the sum of \$5,887 per hectare as a contribution to drainage headwork's, or other such arrangement or contribution which the Responsible Authority agrees to in writing;

- b. engineering fees of 3.25% of construction costs;
 - c. the sum of \$175 per frontage for street trees; and
 - d. the sum equal to 5% of the value of the land for which the Statement of Compliance applies, as a contribution in lieu of the provision of any Public Open Space reserve, under Section 18 of the *Subdivision Act* 1988. The cost of the land valuation will be borne by the developer.
10. Environmental amenity must be controlled during construction, including the control of dust, and measures preventing silt and litter entering the drainage system.
 11. 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.
 12. All the construction works on the roads affected by these works must be in accordance with Standards Australia "Field Guide for Traffic Control at Works on Roads".
 13. No polluted and/or sediment laden run-off is to be discharged directly or indirectly into Council's or Gippsland Water's drains or watercourses. To this end, pollution or litter traps must be provided on site.

DSE Conditions:

14. Prior to the issue of a Statement of Compliance pursuant to the *Subdivision Act* 1988, the owner must enter into an agreement with the Latrobe City Council made pursuant to Section 173 of the *Planning and Environment Act* 1987, and make application to the Register of Titles to have the agreement registered on the title to the land under section 181 of the Act, which provides that for lot numbers 1-3, 7-9, 12-16, 21, 26, 27, 33, 34, 36 and 37:
 - a. Native Vegetation identified to be retained in accordance with the endorsed plans must not be removed, lopped or destroyed
 - b. Native Vegetation identified to be retained in accordance with the endorsed plans must not be cleared for the installation or provision of services to the subdivision
 - c. All development is to be sited so that the native vegetation as identified to be retained on the endorsed plans are not disturbed or damaged

- d. There must be no temporary or permanent storage of any materials, vehicles or equipment within the buffer zone* around native vegetation identified to be retained in accordance with the endorsed plans
- e. There must be no earthworks or excavation within the buffer zone* around native vegetation identified to be retained in accordance with the endorsed plans.

The owner/applicant must pay the reasonable costs of the preparation, execution and registration of the agreement.

Prior to Statement of Compliance issued the Applicant/Owner must provide Council with a copy of the dealing number issued by the Titles Office. Once titles are issued Council requires the Applicant or its legal representative to provide either:

- a. a current title search; or
 - b. a photocopy of the duplicate certificate of Title as evidence of registration of the section 173 agreement on title.
15. No temporary or permanent storage of any materials, vehicles or equipment is to occur within the buffer zones* of native vegetation that is identified to be retained in accordance with the endorsed plans. All storage areas must be restricted to existing cleared areas close to existing roads and tracks, and must not adversely impact upon native vegetation, including the root zones of existing trees to be retained. Such sites must not be located on or near erodible surfaces, surface water runoff areas or areas infested with weeds.
16. The area shown as "Native Buffer Area" must be planted using species from the Ecological Vegetation Class (EVC) Lowland Forest to the satisfaction of the Responsible Authority, and should be planted in accordance with the Revegetation Planting Standards - Guidelines for establishing native vegetation for net gain accounting (Department of Sustainability and Environment, 2006).
17. The row of mature blue gums along the driveway access are to be retained and any impacts on the trees during construction or upgrades of the access way must be minimised, particularly any disturbance around the drip line of the trees*. Any pruning of these Blue Gums must be carried out by a qualified arborist.

Department of Primary Industries Conditions & Section 173 Agreement

18. Before the Statement of Compliance is issued under the Subdivision Act 1988, the owner must enter into an agreement with the Responsible Authority made pursuant to section 173 of the *Planning and Environment Act 1987*, and make application to the Registrar of Titles to have the agreement registered on the title to the land under section 181 of the Act which provides the following:
- a. The land to which this permit applies is identified in the Latrobe Planning Scheme as containing a stone resource which has the potential to support extractive industry in the future. Extractive industry operations can generate ground and air vibration, dust, noise, traffic and changes to the topography and landscape. Should you require any additional information please contact DPI on 136186.
 - b. The land may not be further subdivided so as to increase the number of lots (unless the land is rezoned to be a zone other than a Rural Living Zone).

The owner must pay the reasonable costs of the preparation, execution and registration of the section 173 agreement.

Prior to Statement of Compliance issued the Applicant/Owner must provide Council with a copy of the dealing number issued by the Titles Office. Once titles are issued Council requires the Applicant or its legal representative to provide either:

- a. a current title search; or
- b. a photocopy of the duplicate certificate of Title as evidence of registration of the section 173 agreement on title.

VicRoads Conditions:

20. The Owner/Applicant must comply with the following conditions from VicRoads:
- a. Direct access from Boolarra Churchill Road will not be permitted.
 - b. Existing guardrail adjacent to lot 27 must be retained and not altered or interfered with.

CFA Conditions:

21. The Owner/Applicant must meet the requirements of CFA in that, prior to the issues of Certification/Statement of Compliance, they:
Access

- a. Constructed roads must be a minimum of 3.5 metres trafficable width with no parking and 0.5 metres clearance to structures on either side; or 5.4 metres in trafficable width where cars may park on one side only; or a minimum of 7.3 metres in trafficable width where cars may park on both sides.
- b. Roads must be constructed to a standard so that they are accessible in all weather conditions and capable of accommodating a vehicle of 15 tonnes for the trafficable road width.
- c. Constructed roads more than 60 metres in length from the nearest intersection must have a turning circle with a minimum radius of 8 metres (including roll-over curbs if they are provided). Other solutions using T or Y heads meeting CFA specified dimensions are also appropriate.
- d. The average grade must be no greater than 1 in 7 (14.4%) (8.1 degrees) with maximum of no more than a 1 in 8 (12.5%) (7.1 degree) entry and exit angle.

Water Supply

- e. Where reticulated water is available, operable hydrants are to be provided. These hydrants must be identified as specified in 'Identification of Street Hydrants for Firefighting Purposes' available under Publications on the CFA website www.dva.vic.gov.au. The maximum distance between a hydrant and the rear of a building envelope (or in the absence of a building envelope, the rear of a lot) must be 120 metres.
- f. Where reticulated water is not available, a static water supply must be provided on each lot at the time of building that meets the following conditions:
 - viii. The minimum supply of 100,000 litres per lot is maintained solely for fire fighting.
 - ix. Below ground pipelines must be installed to the following depths:
 - subject to vehicle traffic: 300mm;
 - under house or concrete slabs: 70mm; and
 - all other locations: 225mm.
- g. Above ground water pipelines and fittings must be constructed of non-corrosive and non-combustible materials, or protected from the effects of radiant heat and flame.

- h. All above ground static water supply must provide at least one 64mm, 3 thread/2mm x 50mm nominal bore British Standard Pipe (SP, round male coupling). All pipe work and valving between the water supply and the outlet must be a minimum of 50mm nominal bore.
- i. The maximum distance between a static water supply outlet and the rear of a building must be no more than 60 metres and no less than 10 metres from the building.
- j. The static water supply outlet must be no more than 3 metres above the static water supply base.
- k. Fire brigade vehicles must be able to get to within 4 metres of the static water supply outlet.
- l. A safe fire truck hard standing area of 10.3 metres x 5.5 metre clear of obstructions is to be provided at least 10 metres from the building.
- m. If the water supply is not identifiable from the building, visible signage must point to the water supply.

Health Services Conditions:

- 22. No alteration is made to the existing surface level of the lot without first obtaining a permit to install a Septic Tank System from Council. All wastewaters generated on the lot must be treated in a septic tank system as specified by the Environment Protection Act 1970.

Gippsland Water Conditions:

- 23. The Owner/Applicant must meet the requirements of Gippsland Water in that, prior to the issues of Certification/Statement of Compliance:
 - a. The existing 20mm meter 07AK001169 is to be capped and 20mm meter 05AF018973 is to be removed and returned to Gippsland Water.
 - b. Please Note: If water is required the owner will need to contact a Gippsland Water Accredited Design Consultant for water availability. Lots 12 to 26 (all inclusive) can not be serviced to Gippsland Water's customer charter from the existing infrastructure. Lot 1 to 6 (all inclusive), lots 7 to 11 (all inclusive) and lost 27 to 37 (all inclusive) can be supplied water.
 - c. Please Note: If water can be made available Headwork's charges and connection costs will apply.

SPI Electricity Conditions:

24. The Owner/Applicant must meet the requirements of SPI Electricity Pty Ltd in that, prior to the issues of Certification/Statement of Compliance, they:
- a. The plan of subdivision submitted for certification must be referred to SPI Electricity Pty Ltd in accordance with Section 8 of the Subdivision Act 1988.
 - b. Enter into an agreement with SPI Electricity Pty Ltd for the supply of electricity to each lot on the endorsed plan.
 - c. Enter into an agreement with SPI Electricity Pty Ltd for the rearrangement of the existing electricity supply system.
 - d. Enter into an agreement with SPI Electricity Pty Ltd for the rearrangement of the points of supply to any existing installations affected by any private electric power line which would cross a boundary created by the subdivision, or by such means as may be agreed by SPI Electricity Pty Ltd.
 - e. Provide easements satisfactory to SPI Electricity Pty Ltd for the purpose of "Power Line" in the favour of "Electricity Corporation" pursuant to Section 88 of the Electricity Industry Act 2000, where easements have not been otherwise provided, for all existing SPI Electricity Pty Ltd electric power lines and for any new power lines required to service the lots on the endorsed plan and/or abutting land.
 - f. Obtain for the use of SPI Electricity Pty Ltd any other easement required to service the lots.
 - g. Adjust the position of any existing SPI Electricity Pty Ltd easement to accord with the position of the electricity line(s) as determined by survey.
 - h. Set aside on the plan of subdivision Reserves for the use of SPI Electricity Pty Ltd for electric substations.
 - i. Provide survey plans for any electric substations required by SPI Electricity Pty Ltd and for associated power lines and cables and executes leases for a period of 30 years, at a nominal rental with a right to extend the lease for a further 30 years. SPI Electricity Pty Ltd requires that such leases are to be noted on the title by way of a caveat or a notification under Section 88 (2) of the Transfer of Land Act prior to the registration of the plan of subdivision.

- j. Provide to SPI Electricity Pty Ltd a copy of the plan of subdivision submitted for certification that shows any amendments that have been required.
- k. Agree to provide alternative electricity supply to lot owners and/or each lot until such time as permanent supply is available to the development by SPI Electricity Pty Ltd.
- l. Ensure that all necessary auditing is completed to the satisfaction of SPI Electricity Pty Ltd to allow the new network assets to be safely connected to the distribution network.

Telstra Conditions:

25. The Owner/Applicant must meet the requirements of Telstra Corporation Ltd in that, prior to the issues of Certification/Statement of Compliance, they:
- a. That the plan of subdivision submitted for certification be referred to Telstra in accordance with Section 8 of the Subdivision Act 1988.
 - b. Telstra will not consent to the issue of a Statement of Compliance until such time as the applicant provides satisfactory evidence of compliance with the above conditions.

Expiry of Permit:

26. This permit will expire if:
- a. the plan of subdivision is not certified within 2 years of the date of this permit; or
 - b. the registration of the subdivision is not completed within 5 years of certification.

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

Note: The commencement of the subdivision is regarded by Section 68(3A) of the Planning and Environment Act 1987 as the certification of the plan, and completion is regarded as the registration of the plan.

Note 1: Approval does not cover alterations to existing Telstra Plant or Network. Locations of existing network can be obtained from Dial Before You Dig – Ph: 1100.

Note 2: For co-ordinated Telstra plant reticulation in this development, please refer to www.telstrasmartcommunity.com to Register your Development and Apply for Reticulation.

Note 3: The land to which this permit applies is identified in the Latrobe Planning Scheme as containing a stone resource which has the potential to support extractive industry in the future. Extractive industry operations can generate ground and air vibration, dust, noise, traffic and changes to the topography and landscape. Should you require any additional information please contact the Department of Primary Industries on 136 186.

Note 4: At the time a building is constructed, water supply must be provided to CFA's satisfaction.

B. That Council authorises the Chief Executive Officer to sign and seal an agreement under Section 173 of the *Planning and Environment Act 1987* in accordance with the planning permit arising from Application S08315, for the 37 lot subdivision at 25 Junction Road, Churchill.

Moved: Cr Gibson

Seconded: Cr Kam

That Council defer consideration of this application until the Ordinary Council Meeting to be held on 7 December 2009.

For the Motion

Councillors Gibson, Kam and O'Callaghan

Against the Motion

Councillors White, Middlemiss, Vermeulen, Price, Fitzgerald and Lougheed

The Mayor confirmed that the Motion had been LOST

The Original Recommendation became the Motion before the Chair.

Moved: Cr White

Seconded: Cr Lougheed

- A. That Council decides to issue a Notice of Decision, for the thirty-seven (37) lot subdivision at 25 Junction Road, Churchill, with the following conditions:**

Amended Plans

- 1. Before the plan of subdivision is certified under the *Subdivision Act* 1988, amended plans to the satisfaction of the Responsible Authority must be submitted and approved by the Responsible Authority. When approved, the plans will be endorsed and then form part of the permit. The plans must be accurately drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans submitted with the application but modified to show:**
 - a. The location of all existing remnant native trees and other vegetation to be retained and permanently protected. This must include, but not limited to, the row of mature blue gums along the driveway access.**
 - b. Lot boundaries realigned to occur outside the drip line of all existing remnant native trees and other vegetation to be retained.**
 - c. Building envelopes specified on lots containing all existing remnant native trees and other vegetation to be retained. Building envelopes must be situated to provide for a permanent 'buffer zone' of at least twice the diameter of the canopy of all existing remnant trees and other vegetation to be retained. The 'buffer zone' is delineated as a circular area encompassing any native vegetation that is at least the diameter of the canopy or projected vegetation cover as measured from the centre of the trunk of a tree or area of vegetation.**
 - d. Dimensions of the native buffer area.**
 - e. The removal of any non-native trees.**
 - f. Road pavement widths in accordance with the requirements of both Council's Project Services and CFA as specified under Conditions 4 and 21 of this permit.**
 - g. Revised lot sizes to show at least 4 hectares in area for each of the lots in the northern portion of the site (i.e. north of the native buffer area) and at least 2 hectares in area for each of the lots in the southern portion of the site (i.e. south of the native buffer area).**
 - h. No direct access is allowed from Boolarra Churchill Road.**
 - i. No direct access is allowed from Glendonald Roads to Lots 1-3.**
 - j. No direct access is allowed from Farley Road to Lots 12-15.**
- In preparing the above amended plans, the subject site must be surveyed by a suitably qualified land surveyor.**

2. The layout of the subdivision as shown on the endorsed plan must not be altered without the permission of the Responsible Authority.
 3. Once works have commenced they must be completed to the satisfaction of the Responsible Authority.
- Council's Project Services Conditions:**
4. Prior to commencement of works the following documents must be submitted and approved by the Latrobe City Council:
 - a. Plans and specifications for road and drainage works detailing:
 - i. Construction of new roads in accordance with the Council's Design Guidelines for Subdivisional Developments (Low Density Residential Zone Standards) including traffic management works as required to create the appropriate speed environment.
 - ii. Full and detailed calculations including the provision of geotechnical reports supporting all aspects of pavement design must be provided with road designs submitted to Council for approval. Investigation must be undertaken to determine existing site conditions to determine road and pavement design requirements.
 - iii. Construction of a drainage system approved by the Responsible Authority accepting stormwater discharge from the roads and each lot in accordance with Council's subdivisional guidelines for Low Density Residential Zones.
 - b. An Environment Management Plan (EMP) detailing techniques for erosion prevention and control measures during the construction phase and post construction in accordance with EPA Publication 960 "Doing it Right on Subdivisions". The EMP must include:
 - i. Contours (existing and final);
 - ii. Existing site drainage;
 - iii. Limit of clearing, grading and filling (location of earthworks including roads, areas of cut and fill);
 - iv. Locations and design criteria of erosion and sediment control structures;
 - v. Site access;
 - vi. Location of critical areas (drainage lines, water bodies);
 - vii. Proposed techniques for stabilisation of disturbed ground;
 - viii. Procedures for maintenance of erosion controls;
 - ix. Details of staging works; and
 - x. Techniques for dust control.
 5. Prior to certification, Plans and specifications for road and drainage works must be submitted and approved by Council's Co-ordinator Project Services.
 6. The plan submitted for certification under the Subdivision Act must show:

- a. Easements for drainage purposes to the satisfaction of the Responsible Authority; and
 - b. Street names to the satisfaction of the Responsible Authority.
7. Driveway crossover to be constructed to Council Design Guidelines – Rural Standards. Access to lot 27 must meet VicRoads Design Guidelines for Sight Distances.
8. The following conditions of the Latrobe City Council must be met prior to the issue of a Statement of Compliance:
 - a. The subdivision may be completed in stages. Each stage must be to the satisfaction of the Responsible Authority. The stages may include or require drainage or other works outside the physical bounds of any lots in any stage.
 - b. The following works and items must be provided in accordance with plans and specifications approved by the Responsible Authority:
 - i. Road works.
 - ii. Construction of temporary vehicle turning areas at the end of all streets to be continued in later stages.
 - iii. Drainage works.
 - iv. Street lighting and underground electricity supply for roadways at intersections, bends in roads and court bowls.
 - v. Street signs and road pavement line marking.
 - vi. Amenity control during construction, including the control of dust, and measures preventing silt and litter entering the drainage system.
 - vii. As constructed information, in accordance with Latrobe City Council Design Guidelines for infrastructure development.
9. Prior to the issue of Statement of Compliance for any stage, the owner must pay to the Council:
 - a. the sum of \$5,887 per hectare as a contribution to drainage headwork's, or other such arrangement or contribution which the Responsible Authority agrees to in writing;
 - b. engineering fees of 3.25% of construction costs;
 - c. the sum of \$175 per frontage for street trees; and
 - d. the sum equal to 5% of the value of the land for which the Statement of Compliance applies, as a contribution in lieu of the provision of any Public Open Space reserve, under Section 18 of the *Subdivision Act* 1988. The cost of the land valuation will be borne by the developer.
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12. All the construction works on the roads affected by these works must be in accordance with Standards Australia "Field Guide for Traffic Control at Works on Roads".
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14. Prior to the issue of a Statement of Compliance pursuant to the *Subdivision Act 1988*, the owner must enter into an agreement with the Latrobe City Council made pursuant to Section 173 of the *Planning and Environment Act 1987*, and make application to the Register of Titles to have the agreement registered on the title to the land under section 181 of the Act, which provides that for lot numbers 1-3, 7-9, 12-16, 21, 26, 27, 33, 34, 36 and 37:
 - a. Native Vegetation identified to be retained in accordance with the endorsed plans must not be removed, lopped or destroyed
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 - c. All development is to be sited so that the native vegetation as identified to be retained on the endorsed plans are not disturbed or damaged
 - d. There must be no temporary or permanent storage of any materials, vehicles or equipment within the buffer zone* around native vegetation identified to be retained in accordance with the endorsed plans
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The owner/applicant must pay the reasonable costs of the preparation, execution and registration of the agreement. Prior to Statement of Compliance issued the Applicant/Owner must provide Council with a copy of the dealing number issued by the Titles Office. Once titles are issued Council requires the Applicant or its legal representative to provide either:

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21. The Owner/Applicant must meet the requirements of CFA in that, prior to the issues of Certification/Statement of Compliance, they:

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- a. **Constructed roads must be a minimum of 3.5 metres trafficable width with no parking and 0.5 metres clearance to structures on either side; or 5.4 metres in trafficable width where cars may park on one side only; or a minimum of 7.3 metres in trafficable width where cars may park on both sides.**
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 - c. Please Note: If water can be made available Headwork's charges and connection costs will apply.

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 - b. Enter into an agreement with SPI Electricity Pty Ltd for the supply of electricity to each lot on the endorsed plan.
 - c. Enter into an agreement with SPI Electricity Pty Ltd for the rearrangement of the existing electricity supply system.
 - d. Enter into an agreement with SPI Electricity Pty Ltd for the rearrangement of the points of supply to any existing installations affected by any private electric power line which would cross a boundary created by the subdivision, or by such means as may be agreed by SPI Electricity Pty Ltd.

- e. Provide easements satisfactory to SPI Electricity Pty Ltd for the purpose of "Power Line" in the favour of "Electricity Corporation" pursuant to Section 88 of the Electricity Industry Act 2000, where easements have not been otherwise provided, for all existing SPI Electricity Pty Ltd electric power lines and for any new power lines required to service the lots on the endorsed plan and/or abutting land.
- f. Obtain for the use of SPI Electricity Pty Ltd any other easement required to service the lots.
- g. Adjust the position of any existing SPI Electricity Pty Ltd easement to accord with the position of the electricity line(s) as determined by survey.
- h. Set aside on the plan of subdivision Reserves for the use of SPI Electricity Pty Ltd for electric substations.
- i. Provide survey plans for any electric substations required by SPI Electricity Pty Ltd and for associated power lines and cables and executes leases for a period of 30 years, at a nominal rental with a right to extend the lease for a further 30 years. SPI Electricity Pty Ltd requires that such leases are to be noted on the title by way of a caveat or a notification under Section 88 (2) of the Transfer of Land Act prior to the registration of the plan of subdivision.
- j. Provide to SPI Electricity Pty Ltd a copy of the plan of subdivision submitted for certification that shows any amendments that have been required.
- k. Agree to provide alternative electricity supply to lot owners and/or each lot until such time as permanent supply is available to the development by SPI Electricity Pty Ltd.
- l. Ensure that all necessary auditing is completed to the satisfaction of SPI Electricity Pty Ltd to allow the new network assets to be safely connected to the distribution network.

Telstra Conditions:

25. The Owner/Applicant must meet the requirements of Telstra Corporation Ltd in that, prior to the issues of Certification/Statement of Compliance, they:
 - a. That the plan of subdivision submitted for certification be referred to Telstra in accordance with Section 8 of the Subdivision Act 1988.
 - b. Telstra will not consent to the issue of a Statement of Compliance until such time as the applicant provides satisfactory evidence of compliance with the above conditions.

Expiry of Permit:

26. This permit will expire if:
 - a. the plan of subdivision is not certified within 2 years of the date of this permit; or
 - b. the registration of the subdivision is not completed within 5 years of certification.

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

Note: The commencement of the subdivision is regarded by Section 68(3A) of the Planning and Environment Act 1987 as the certification of the plan, and completion is regarded as the registration of the plan.

Note 1: Approval does not cover alterations to existing Telstra Plant or Network. Locations of existing network can be obtained from Dial Before You Dig – Ph: 1100.

Note 2: For co-ordinated Telstra plant reticulation in this development, please refer to www.telstrasmartcommunity.com to Register your Development and Apply for Reticulation.

Note 3: The land to which this permit applies is identified in the Latrobe Planning Scheme as containing a stone resource which has the potential to support extractive industry in the future. Extractive industry operations can generate ground and air vibration, dust, noise, traffic and changes to the topography and landscape. Should you require any additional information please contact the Department of Primary Industries on 136 186.

Note 4: At the time a building is constructed, water supply must be provided to CFA's satisfaction.

B. That Council authorises the Chief Executive Officer to sign and seal an agreement under Section 173 of the *Planning and Environment Act 1987* in accordance with the planning permit arising from Application S08315, for the 37 lot subdivision at 25 Junction Road, Churchill.

For the Motion

Councillors White, Middlemiss, Vermeulen, Price, Fitzgerald and Lougheed.

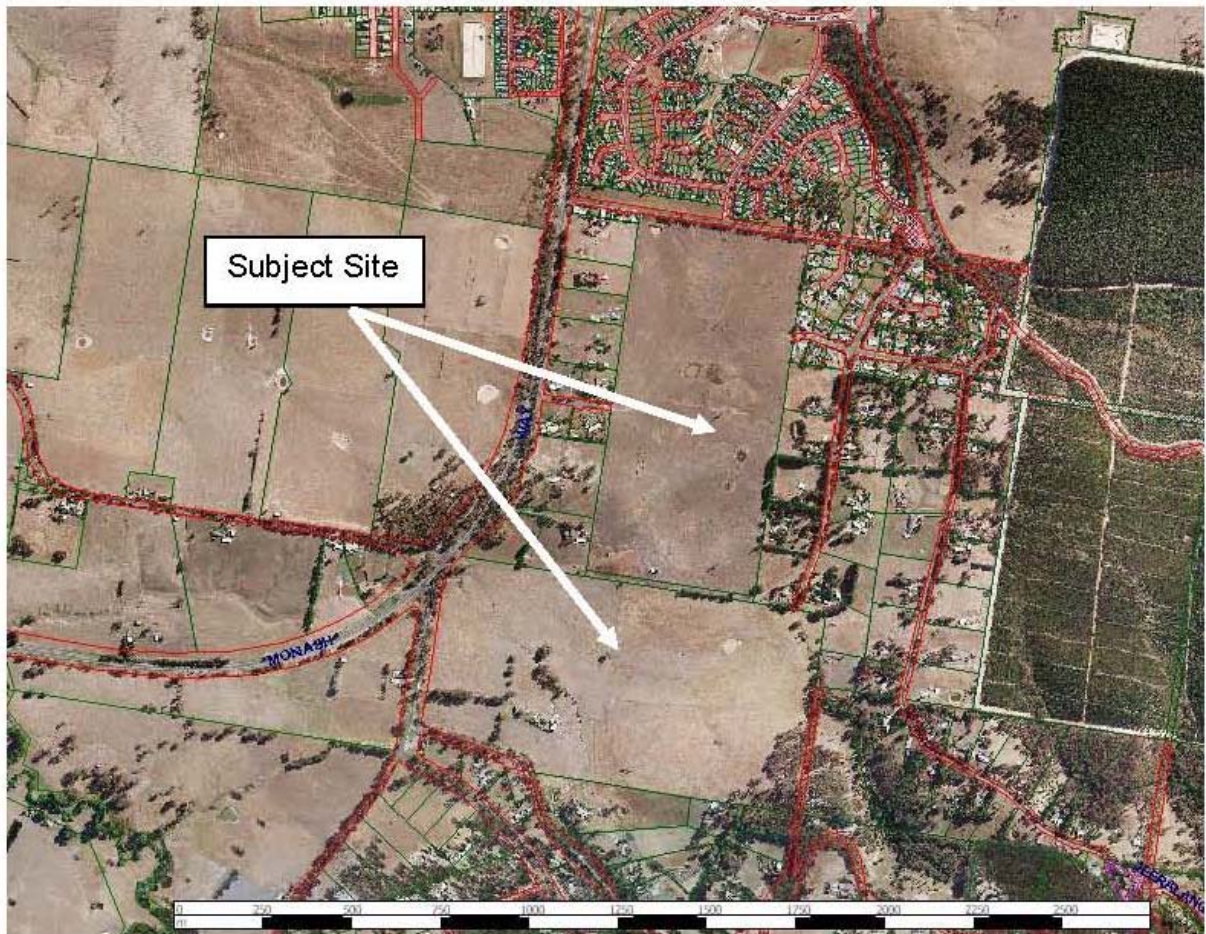
Against the Motion

Councillors Gibson, Kam and O'Callaghan

The Mayor confirmed that the Motion had been CARRIED

ATTACHMENTS

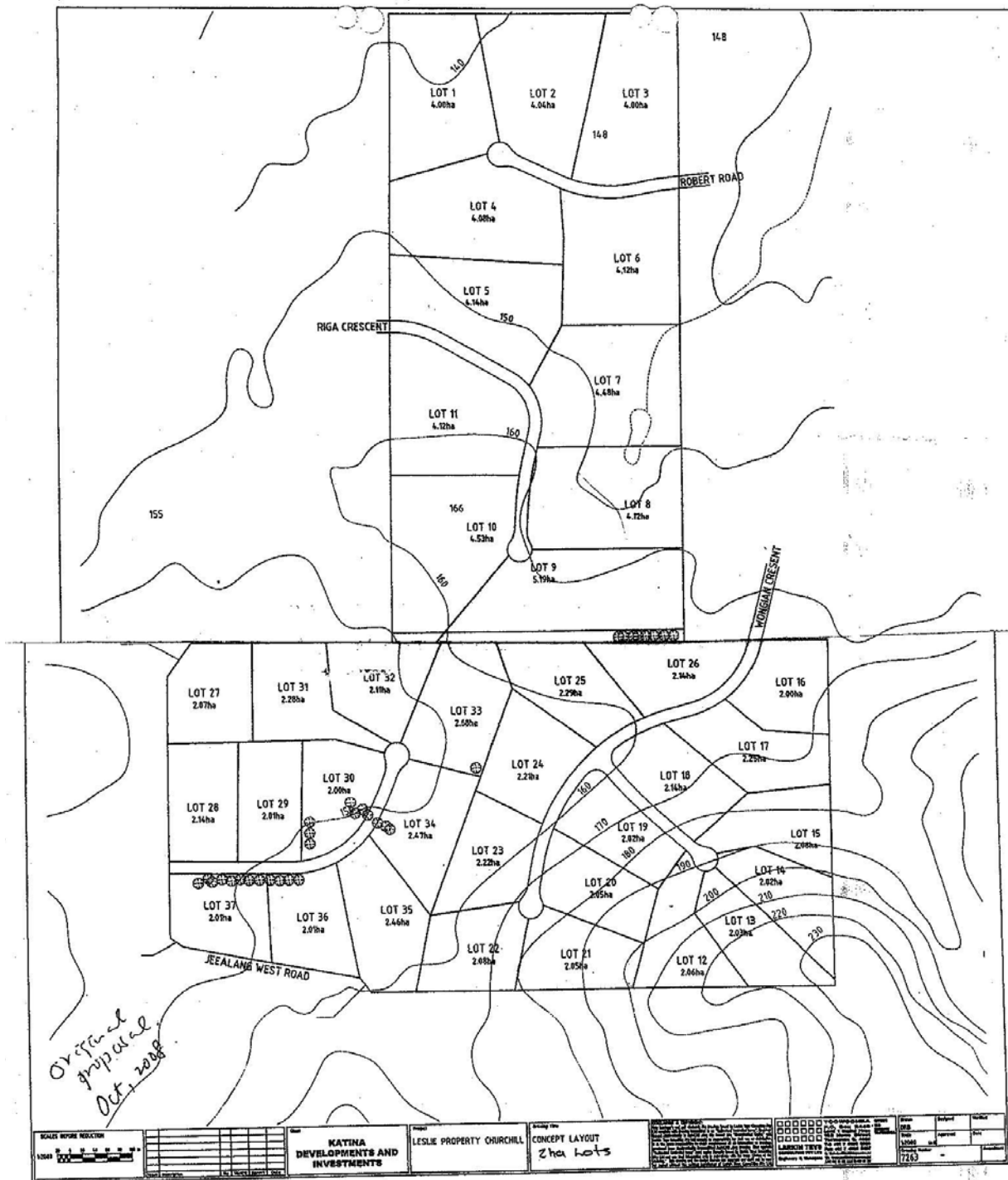
ATTACHMENT 1 - LOCALITY PLAN



ATTACHMENT 2



ATTACHMENT 3





8 September 2009

Mark Peart
PO Box 5308
WARRNAMBOOL VIC 3280

mark.peart@bigpond.com

Suite 2, 22 Gillman Street
Hawthorn East, Victoria 3123

T: (61 3) 9811 3111
F: (61 3) 9811 3131
W: obrientraffic.com

Dear Mark

Re: Proposed 37 lot residential subdivision at 25 Junction Road, Churchill

I refer to your request that we undertake a traffic engineering assessment in relation to the above subdivision to comply with a request for additional information made by Latrobe City Council in its letter to you of 23 July 2009.

Our assessment follows:

Existing Conditions

The subject site consists of two lots zoned *Rural Living Zone 3* and *Rural Living Zone 4*, covering a total area of approximately 107 hectares. The land is mostly vacant save for a single house and various outbuildings located in the south-west section of the site, accessed via a driveway to Junction Road.

Proposal

It is proposed to subdivide the land into 37 residential lots, each to be occupied by a single dwelling. The proposed vehicle access arrangements are as follows:

- Lots 1 to 11 to be accessed via Roberts Road, which would be extended in length into the subject site (Roberts Road currently terminates as a dead end at the boundary of the subject site);
- Lots 12 to 26 to be accessed via Wongan Crescent, which would be extended in length into the subject site (Wongan Crescent currently terminates as a dead end at the boundary of the subject site); and
- Lots 27 to 37 to be accessed via a new court connecting with Junction Road (at the location of the existing driveway to the property on the site).

- 2 -

We note that the submission plans of the proposed subdivision indicate that vehicle access to Lot 27 would be provided via Junction Road or Monash Way. However, it is our understanding that it is now proposed that vehicle access to Lot 27 would be provided via the new court created off Junction Road, through either a carriageway easement alongside an adjacent lot or an alternative internal access arrangement acceptable to Council.

Traffic Generation

In the calculation of traffic generation, it has been assumed that up to 10 trips would be generated per household per day, based on the rate specified by VicCode.

Applying this rate to the proposed subdivision of 37 lots translates to a maximum of 370 daily vehicle trips. This includes both trips into and out of the subdivision.

Typically, in the order of 10% of the total number of daily trips would be expected to occur in each of the morning and afternoon peak hours, equating to 37 vehicle trips in each of the peak hours.

Traffic Distribution

Figure 1 (attached) shows the distribution of traffic that would be generated on to each of the external streets providing vehicle access to the subdivision. It can be seen from this diagram that traffic would be relatively evenly distributed onto the surrounding road network given the various points of access proposed.

Two of the access roads (Junction Road and Roberts Road) would record volumes of up to an additional 110 vehicle trips per day and the other (Wongan Crescent) would record up to an additional 150 vehicle trips per day.

The traffic generated by the subdivision would be added to the existing traffic using the surrounding road network. Traffic generated by the subdivision to both Roberts Road and Wongan Crescent would use the northern section of Wongan Crescent to access Glendonald Road. This northern section of Wongan Crescent would therefore experience an increase of up to 260 vehicle trips per day compared to existing volumes.

Traffic Impact

Based on the traffic generation figures calculated above, it is concluded that:

- The addition of up to 110 vehicle trips per day (with up to 11 each peak hour) on Junction Road would have negligible impact on its operation given its collector road function and the position of the access close to an arterial road (Monash Way), to and from which the majority of trips would be generated;
- The addition of up to 110 vehicle trips per day on Roberts Road (with up to 11 trips each peak hour) and up to 150 vehicle trips per day on the southern section of Wongan Crescent (with up to 15 trips each peak hour), would have negligible impact on the operation of these streets;

- 3 -

- Taking into account that there are 42 existing lots located along Roberts Road, Wongan Crescent, Haverbrack Crescent and Denise Court, and conservatively assuming that all traffic from these lots heads north onto Glendonald Road via Wongan Crescent, this would equate to an existing volume on the northern section of Wongan Crescent of in the order of 420 vehicle trips per day. The addition of up to 260 vehicle trips per day on the northern section of Wongan Crescent would result in a total volume of in the order of 680 vehicles per day in this location. While a noticeable increase over current volumes, the total of 680 vehicles per day remains well below the 3,000 vehicles per day acceptable on local access streets under Clause 56.06 of the Latrobe Planning Scheme, and will not result in unreasonable impact on the operation of Wongan Crescent or the surrounding road network.

Discussion

It is understood that the subdivision and development of the subject site as residential has been proposed for many years. The abutting streets have been designed to provide for their continuation into the subject site to provide access for this development.

The subdivision has been designed with multiple accesses, to distribute traffic to a number of abutting streets, and the impact of the additional traffic generated by the development will be minimal.

Conclusions

It is concluded that there are no traffic related grounds that would prevent the proposed subdivision development from proceeding.

If you require any further information, please contact me on 9811-3111.

Yours sincerely
O'BRIEN TRAFFIC



Deborah Donald
Director

11991let.doc

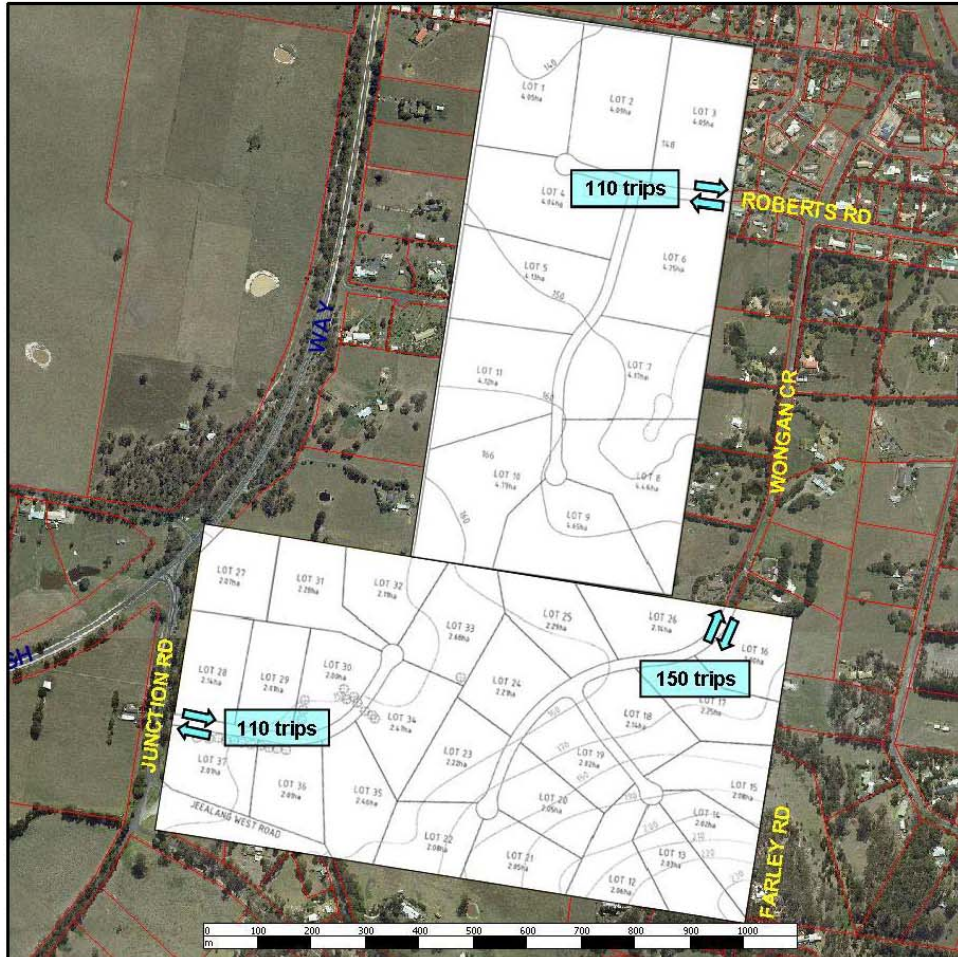


Figure 1: Maximum Daily Traffic Generation & Distribution

7.4 **SPECIAL CHARGE SCHEME FOR THE SEALING OF 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 declare a Special Charge Scheme for the construction of a sealed roadway in Burnets Road, Traralgon East.

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.

Policy – 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. This was a requirement of the Contributory Scheme Policy 09 POL-2 consultation process.

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:

Property	Agreed to contribute to SCS	Comments
Lot 1 LP 127950 No. 10 Burnets Road	Yes	
Lot 1 LP 128360 No. 55 Riverview Road	No	Property has frontage to Burnets Road as well as Riverview Road
Lot 11 LP 128360 No. 50 Burnets Road	Yes	
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 Sealing of Rural Unsealed Roads Policy 09POL-3, this owner is required to make one contribution of \$5,000 and agree to make further contributions if and when the other two 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 did not agree to pay the \$5,000 charge due to the fact their property has an alternative sealed road access.

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.

In accordance with the Contributory Scheme Policy Stage 2 Public Consultation process, a report was presented to Council on 7 September 2009 detailing the above information and consultation process.

The following resolution was adopted by Council at the Ordinary Council Meeting held on 7 September 2009:

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 Loughed 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.*

Following this Council resolution letters were sent to all property owners advising them of the above proposed Scheme Declaration.

There were no submissions received

5. **ISSUES**

Property owners initiated the preparation of a Special Charge Scheme to seal Burnets Road and have participated in a meeting to discuss aspects of the proposed Scheme and have been involved in the consultative processes required by the Contributory Scheme Policy.

One property owner owns three separate titles with frontage to Burnets Road which are rated as a single property. In accordance with the Sealing of Rural Unsealed Roads Policy 09 POL-3, this owner is required to make one initial contribution of \$5,000 and a further \$5,000 contribution per property title if sold any time in the future.

During the State 1 Consultation process this owner agreed to make the initial contribution but felt that further contributions were not necessary due to the lands being used for grazing purposes.

Following Council's decision on 7 September 2009 to give notice of its intention to declare the Special Charge Scheme on 16 November 2009, this owner was advised in writing of the above requirement for further contributions upon the sale of the other two titles. The owner did not make a submission in relation to the proposed Special Charge Scheme.

During the Stage 1 consultative process one property owner did not agree to pay the \$5,000 charge due to the fact their property has an alternative sealed road access. However this property owner also did not make a submission following the Council resolution of 7 September 2009.

All other property owners have previously indicated their agreement to participate in the proposed Special Charge Scheme.

Under the provisions of the *Local Government Act, 1989* property owners have the right to make an application to the Victorian Civil and Administrative Tribunal if they disagree with their cost apportionment or any other aspect of the proposed Special Charge Scheme.

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. The Burnets Road proposal is the only commitment from this budget at this time.

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. Adopt the proposed Special Charge Scheme without modification
2. Adopt a modified version of the proposed Special Charge Scheme.
3. Abandon the proposed Special Charge Scheme.

9. CONCLUSION

Council has complied with the Statutory requirements of the *Local Government Act 1989* for the preparation of the proposed Special Charge Scheme for the construction of a sealed roadway in Burnets Road, Traralgon East.

No submissions were received during the Stage 2 public consultation process required under Council's Contributory Scheme Policy 09 POL-2. It is therefore recommended that the Special Charge Scheme be declared without modification.

10. RECOMMENDATION

1. That Council hereby declares a Special Charge Scheme under s.163(3) of the *Local Government Act 1989* on the basis of the following criteria:
 - The wards, groups uses or areas for which the special charge is declared:
The Special Charge Scheme is declared for the properties within the area of land in Burnets Road contained from the Traralgon- Maffra Road to the eastern boundary of 140 Burnets Road, Traralgon.

- **The land in relation to which the special charge is declared:**

L 1 LP127950 Burnets Road, Traralgon	L 1 LP92800 Burnets Road, Traralgon
L 11 LP128360 Burnets Road, Traralgon	L 1 LP128360 Burnets Road, Traralgon
PTA3 Burnets Road, Traralgon	L 3 LP121609 Burnets Road, Traralgon
L 2 LP208979 Burnets Road, Traralgon	L 1 LP208979 Burnets Road, Traralgon

- **The manner in which the special charge will be assessed and levied:**
Allotments included in the above table will be liable for one apportionment unit valued at \$5,000, with the exemption of Lot 2 LP208979. This allotment will contribute \$20,000 in accordance with an earlier Planning Permit condition. The total amount to be recovered from the proposed Scheme is \$55,000.
 - **Description of the function to be performed:**
The construction of a sealed road pavement including ancillary earthworks, between the existing sealed pavement at the intersection of Traralgon- Maffra Road, through to the eastern boundary of 140 Burnets Road, Traralgon.
 - **The period for which the Special Charge remains in force:**
Payment will be requested following completion of sealing works and the Scheme will remain in force until all costs of the Scheme have been determined.
 - **How the money raised is to be used:**
The income received from contributing owners will be used to defray costs incurred by Latrobe City Council in the works to seal Burnets Road, Traralgon.
2. That all property owners in Burnets Road, Traralgon be notified in writing of the Declaration set out in Recommendation No. 1 above.
 3. That subject to no applications being made to the Victorian Civil and Administrative Tribunal, Council proceed to prepare a Section 173 Agreement over Lot PTA6 and Lot 2 LP 92800 requiring a further \$5,000 contribution to Council upon the sale of those properties in accordance with the provisions of the Sealing of Unsealed Rural Roads Policy 09 POL-3.

Moved: Cr Vermeulen

Seconded: Cr Loughheed

That the Recommendation be adopted.

CARRIED UNANIMOUSLY

ATTACHMENTS

7.5 **MOE RAIL PRECINCT REVITALISATION PROJECT - INTERIM
ADVICE ON DRAFT MASTER PLAN**

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

1. PURPOSE

The purpose of this report is to provide an update in relation to the draft Master Plan for the Moe Rail Precinct Revitalisation Project, and to advise that a further report will be presented to Council for consideration at the Ordinary Council Meeting to be held on 7 December 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.

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, inter-active economic environment in which to do business.

Community Outcome - Economic Sustainability

By providing leadership and facilitating a vibrant and dynamic 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 - Economic Sustainability

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

Strategic Actions - Built Environment Sustainability

Promote and support private and public sector investment in the development and maintenance of key asset infrastructure in the municipality.

Deliver the principle actions of the transit cities initiative.

Key Priorities and Actions - Built Environment Sustainability

Council Plan 2009-2013

Progress Phase 1 of the Moe Activity Rail Precinct Revitalisation Project from the Moe Activity Centre Plan July 2009 and June 2013.

4. BACKGROUND

Council adopted the Moe Activity Centre Plan at the Ordinary Council Meeting held on 17 December 2007.

The usage planning phase of the project was completed in July 2009 with the findings report being adopted by Council at the Ordinary Council Meeting held on 20 July 2009 with the following resolution:

1. *That Council adopts the Moe Rail Precinct Revitalisation Project: Community Engagement and Consultation Activities, Consultation Findings Report, July 2009.*
2. *That the Moe Rail Precinct contain the following function themes, consistent with the recommendations of the Moe Rail Precinct Revitalisation Project: Community Engagement and Consultation Activities, Consultation Findings Report, July 2009:*
 - a. *Transportation Hub Services*
 - b. *Car Parking*
 - c. *Library services*
 - d. *Lifestyle/entertainment facilities*
 - e. *Youth and child friendly facilities*
 - f. *Community services and facilities*

3. *That a copy of the Moe Rail Precinct Revitalisation Project: Community Engagement and Consultation Activities, Consultation Findings Report, July 2009 be provided to all people that participated in the 'Design In' workshop and made available to all community members via the Latrobe City Website and Council Service Centres.*
4. *That Council appoints consultants to prepare a Master Plan for the precinct in accordance with the recommendations contained within the Moe Rail Precinct Revitalisation Project: Community Engagement and Consultation Activities, Consultation Findings Report, July 2009.*

Consultants were appointed to prepare the Moe Rail Precinct Master Plan in accordance with the above resolution. At the 21 September 2009 Ordinary Council Meeting, Council adopted the following resolution:

1. *That Council releases the Moe Rail Precinct Revitalisation Project Draft Master Plan, including concept designs for the Community Hub to the community for a six week consultation period, commencing 22 September 2009.*
2. *That a further report detailing submissions received be presented to Council on 16 November 2009 for consideration of the final Master Plan.*

5. **ISSUES**

More than 20 submissions have been received in relation to the Draft Master Plan for the Moe Rail Precinct Revitalisation Project. In order to assess and consider each submission it has been necessary to commit significant additional time to this process.

On this basis it is recommended that the draft Master Plan report is presented to Council at the Ordinary Council Meeting to be held on 7 December 2009 for consideration.

6. **FINANCIAL AND RESOURCES IMPLICATIONS**

No finance and resource implications arise from the acceptance of this report by Council.

7. INTERNAL / EXTERNAL CONSULTATION

There has been significant community engagement and consultation associated with the Moe Activity Centre Plan and the Moe Rail Revitalisation Projects Masterplan. This consultation will be detailed fully in the report to Council at the Ordinary Council Meeting to be held on 7 December 2009.

8. OPTIONS

Options available to Council are:

1. That Council defers consideration of the draft Master Plan for the Moe Rail Precinct Revitalisation Project until the 7 December 2009 Ordinary Council Meeting; or
2. That Council adopts the draft Master Plan for the Moe Rail Precinct Revitalisation Project at this meeting.

9. CONCLUSION

It is considered reasonable to defer consideration of the draft Masterplan until the 7 December 2009 Ordinary Council Meeting to ensure a full assessment of all submissions received can be undertaken and the analysis provided to Council for decision.

10. RECOMMENDATION

That Council defers consideration of draft Master Plan for the Moe Rail Precinct Revitalisation Project, with a report to be presented at the Ordinary Council Meeting to be held on 7 December 2009 for consideration.

Cr Kam left the Council Chamber at 8.08 pm due to a direct and an indirect interest.

Moved: Cr Lougheed

Seconded: Cr White

That the Recommendation be adopted.

CARRIED UNANIMOUSLY

Cr Kam returned to the Council Chamber at 8.11 pm.

7.6 GIPPSLAND LOGISTICS PRECINCT

AUTHOR: General Manager Economic Sustainability
(ATTACHMENT – YES)

1. PURPOSE

The purpose of this report is to update Council on the progress of the Gippsland Logistics Precinct Project Plan and to seek Council endorsement to progress to the Expression of Interest stage of the Gippsland Logistics Precinct Project Plan.

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

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Community Outcome – Economic Sustainability

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

Strategic Action – Economic Sustainability

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

Council Plan – Economic Sustainability

Further the establishment of the Gippsland Logistics Precinct, including the intermodal freight terminal.

Strategy/Plans

This report is consistent with Council's adopted Economic Development Strategy (2007). This strategy outlines the key economic development actions that will be undertaken to underpin economic development, build business and community relationships, increase public and private sector investment and increase employment levels.

This report is consistent with the attached Gippsland Logistics Precinct Project Plan for the development of the site adopted at the 6 March 2009 Ordinary Council Meeting.

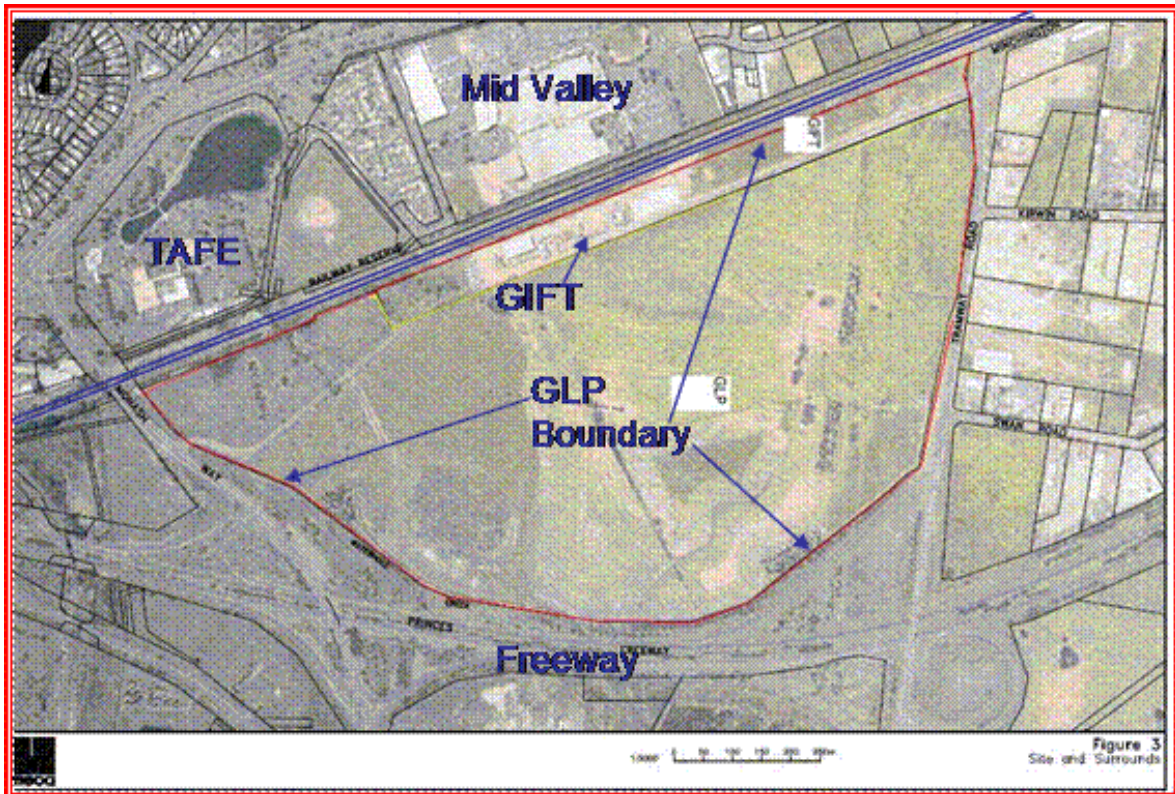
This report is also consistent with Council's adopted Morwell Logistics Precinct Masterplan 2005. The overall goal of the Masterplan is *"To create a leading and best practice Intermodal terminal and logistics precinct that actively promotes increased rail use whilst serving as a model for economic viability and sustainability"*.

4. BACKGROUND

Latrobe City Council has had a significant long term interest and involvement in facilitating an "open access" intermodal freight terminal to meet the needs of the Gippsland region. The development of the Gippsland Logistics Precinct (GLP) will establish a centre for the efficient and cost effective movement of freight to and from the Gippsland region.

The site is made up of two distinct but integrated components:

- A site immediately adjacent to the main Gippsland Rail Line between Princes Freeway and Tramway Road, Morwell known as the Gippsland Intermodal Freight Terminal (GIFT).
- A 64 hectare area of land immediately adjacent to the GIFT and also located between the Princes Freeway and Tramway Road behind the Mid Valley commercial centre.



Latrobe City Council purchased the 64 hectare site in 2002. The land is leased until 2011 and the lease agreement cites that the lessee is to receive one month's notice in order to vacate the land.

Over the last 12 months, the project has progressed significantly. A project plan for the development for the site was adopted by Council, a governance model for the operation of the site was approved and a business case completed for the site indicated sufficient demand for re-activation of the site.

Council at the Ordinary Council Meeting held on 6 April 2009 resolved the following:

- a) *That Council notes the progress of the Gippsland Intermodal Freight Terminal lease negotiations with V/Line.*
- b) *That Council endorses the proposed governance model, indicative business case and project plan for the development of the Gippsland Logistics Precinct.*
- c) *That Council approves the release of the full project plan and governance model to relevant stakeholders and the broader Latrobe City community.*
- d) *That a further report be presented to Council on the development of the expression of interest documentation and process, marketing prospectus and availability of government support on or before 16 November 2009.*

5. ISSUES

Project Plan Progress

The table below provides Council with an update of the status of key elements of the project.

	Activity	Status
Stage 1.	Situation Analysis	
A	Train Paths / Port Access	Complete
B	Morwell Shire Siding Status	Underway
C	Review Situation Analysis	Complete
Stage 2.	Project Scope and Objectives	
D	Development of an Indicative Business Case	Complete
E	Determine Lease and Governance Arrangements	Complete
F	Latrobe City Council consideration of a Governance Model (if no model adopted then plan is terminated at this point), the finalised lease and interim arrangements should a firm need immediate access	Complete
G	Finalise GIFT Lease with V/Line	Underway
H	Review Scope and Objectives	Complete
Stage 3.	Implementation Strategy and Processes	
I	Identify and progress funding sources to support the development of the Precinct	Complete
J	Establishment of Steering Committee to oversee Expression of Interest process	Complete
K	Preparation of Marketing Prospectus and Information Document and report to Council	Complete
L	Preparation of Expression of Interest Documentation and report to Council	Complete
M	Undertake Expression of Interest Process and Evaluate Responses (if no interest is identified at this point then the project plan is terminated)	February 2010
N	Contract Negotiation (if negotiations are unable to be resolved the project plan is terminated at this point)	June 2010
O	Contract Resolution	September 2010

Since the 6 March 2009 Council report, the following tasks have been implemented in accordance with the project plan.

Expression of Interest process

In accordance with the adopted Project Plan, a Steering Committee to oversee the Expression of Interest (EOI) process has been established. The Steering Committee has been established to develop, oversee and evaluate the EOI process. Members of the EOI Steering Committee are:

- V\Line;
- Department of Infrastructure;
- VicTrack;
- Latrobe City Council (Rail Freight Working Group); and
- Council's rail specialist consultants.

The Committee has met twice and the key outcome of these meetings has been the development of the draft EOI. In addition, the Committee has provided input into the marketing prospectus and proposed marketing strategy for the GLP.

The objective of the EOI process is to identify a pool of suitable developers/operators who could then be shortlisted, with a small number of preferred organisations being invited to tender in mid 2010.

EOI submissions will be evaluated based on Operations, Site Development and Marketing capabilities. Operational criteria include the capability of potential developer/operators to operate the site in accordance with legislative requirements, and achieve the minimum container volumes indicated in Council's lease with V\Line.

Applicants will also be assessed on their proposed strategies for the development of the site and marketing to potential site tenants and rail customers.

Critical selection criteria for developer/operators are outlined below:

Operations (40%)

- Proponent's proposal as to how to address the objectives and considerations identified, including the proposed revenue model;
- Proponent's capability and credibility as demonstrated by past history of providing such a service or developments;
- Capacity to attract/move 8,000 Twenty Foot Equivalent Units (TEU's)/containers per annum. Understanding of what the barriers are and how to overcome these identified barriers;

- The demonstration and adherence to open access principles;
- Capability to deliver all safety and operational accreditation requirements, in particular having regard to the legislative requirements of Public Transport Safety Victoria;
- Possession of, or an ability to obtain appropriate accreditation;
- Capacity to work within the prescribed governance model;
- Proposed corporate structure for the GLP;
- Evidence of proponent's financial position as at 30 December 2009, and relevant insurance coverage.

Site Development (30%)

- Site development standards as demonstrated by the proposed strategy for the development of the site.

Marketing (30%)

- Capability to market the site and the use of rail to the following audiences:
 - Potential rail users, and/or
 - Potential site tenants.

The EOI Steering Committee has designed the criteria in such a way that firms with the capacity to operate and develop the site are identified. The intention of this process is not to rank firms, but to strike out those firms deemed not to have the capacity to operate the GLP. Following the completion of the EOI a short list of firms will be invited to tender for the works. This will gauge the capacity of selected firms in greater detail.

A report to Council detailing the outcomes of the Expression of Interest process and seeking approval for preferred firms to progress to the tender stage will be presented to Council at the 5 April 2010 Ordinary Council Meeting.

The table below outlines the proposed EOI and tender process:

Advertising for EOI process	1 February 2010
EOI closes	1 March 2010
EOI Report to Council	6 April 2010
Invitations to Tender close	3 May 2010
Tender Report to Council	7 June 2010
Advice to Applicants of the selection process outcomes	21 June 2010
Contract finalisation	30 September 2010

GIFT Lease

A draft Agreement for Lease was received from V/Line in September 2008. Since this point, V/Line and Latrobe City Council have agreed on a number of key lease conditions. A report to Council on the progress of lease negotiations was presented to the 7 September 2009 Ordinary Council Meeting.

Whilst lease negotiations have progressed since this point, at the time of writing this report, the lease was not finalised. VicTrack and V/Line are currently working on issues within the Regional Infrastructure lease that may impact on V/Line's sublease to Council.

Marketing Prospectus

A consultant has been selected to prepare a marketing prospectus for the GLP. The consultant has met with the EOI Steering Committee and has commenced the process of developing a brand and marketing materials, including a prospectus for the site. As detailed in the timeline below, the draft prospectus is to be delivered by 31 November 2009, and the finalised prospectus is due on 15 January 2010.

Task	Date
Consultancy Brief released to Consultants for 14 Days	14 September 2009
Consultant Briefs received	28 September 2009
Consultant appointed	5 October 2009
First draft of Marketing Prospectus and DVD	30 November 2009
Final Marketing Prospectus presented	15 January 2010
Finalise project	30 January 2010

The marketing prospectus and associated promotional material will be used in a series of briefings aimed at potential participants in the EOI process. In addition, a series of advertisements will be placed in the national press to promote the expression of interest. EOI briefings will be aimed at firms who have already expressed interest in the site, and those firms who have responded to advertisements placed.

Potential funding sources

Officers are continuing to progress the State Government commitment to extend the siding on the GIFT site made in 2002. It is clear that a \$660,000 commitment to fund the extension to the rail siding was made in 2001 under the "Framework for the Future" the final report of the Latrobe Valley Ministerial Taskforce. Officers are currently liaising with relevant government departments in an attempt to reactivate the commitment.

Discussions with Regional Development Victoria in relation to funding have been favourable. A priority area of Regional Development Victoria's Regional Infrastructure Development Fund (RIDF) is the support of new industry development by investment in intermodal freight infrastructure.

VLine, VicTrack and Department of Transport representatives have also stated they are supportive of Latrobe City Council's efforts to improve infrastructure on the site. External funding for the project will not be sought until the developer/operator for the site has been selected. At this point Latrobe City Council will work with the selected firm to seek funding for infrastructure works on the site.

Recent interest in the site

In recent months, officers have fielded four enquiries regarding the site. These include a firm seeking to locate on the site and move containerised logs via rail, and another firm seeking to move brown coal briquettes via rail from the site. Whilst these enquiries are in the early stages, they reinforce the potential of the site to firms seeking to move freight via rail.

6. FINANCIAL AND RESOURCES IMPLICATIONS

All financial and resource implications as a result of this project have been accommodated within the adopted 2009/10 budget of the Economic Sustainability Division. The 2009/10 expected project spend is \$95,000.

7. INTERNAL/EXTERNAL CONSULTATION

Engagement Method Used:

This report has been prepared in consultation with Council's Rail Freight Advisory Committee, industry experts and relevant state government departments.

8. OPTIONS

Council has the following options:

1. Note the progress on the project plan for the Gippsland Logistics Precinct, endorse the EOI selection criteria and approve commencement of the EOI process for 1 February 2010.

2. Note the progress on the project plan for the Gippsland Logistics Precinct and postpone the EOI process for a period of time set by Council.
3. Note the progress on the project plan for the Gippsland Logistics Precinct and cease the EOI process.

9. CONCLUSION

Latrobe City Council has had a significant long term interest and involvement in facilitating an open access intermodal freight terminal to meet the needs of the Gippsland region. The development of the Gippsland Logistics Precinct would establish a centre for the efficient and cost effective movement of freight to and from the Gippsland region.

Lease negotiations with V/Line are continuing and indicative current and future demand for rail freight by Latrobe City firms continues to be evident. The project plan provides Council with a clear way forward in which to implement the project with appropriate decision making milestones throughout.

Endorsement to proceed to EOI is sought at this point so that marketing materials and EOI documentation can be prepared for release in February 2010.

10. RECOMMENDATIONS

1. **That Council notes the progress of the Gippsland Logistics Precinct Project Plan.**
2. **That Council endorses for release the proposed expression of interest selection criteria:**
 - a) **Proponent's proposal as to how to address the objectives and considerations identified, including the proposed revenue model;**
 - b) **Proponent's capability and credibility as demonstrated by past history of providing such a service or developments;**
 - c) **Capacity to attract/move 8,000 Twenty Foot Equivalent Unit's (TEU's) per annum. Understanding of what the barriers are and how to overcome these identified barriers;**
 - d) **The demonstration and adherence to open access principles;**
 - e) **Capability to deliver all safety and operational accreditation requirements, in particular having regard to the Legislative requirements of Public Transport Safety Victoria;**

- f) Possession of, or an ability to obtain appropriate accreditation;
 - g) Capacity to work within the prescribed governance model;
 - h) Proposed corporate structure for the Gippsland Logistics Precinct;
 - i) Evidence of proponent's financial position as at 30 December 2009, and relevant insurance coverage.
 - j) Site development standards as demonstrated by the proposed strategy for the development of the site.
 - k) Capability to market the site and the use of rail to the following audiences:
 - i) Potential rail users.
 - ii) Potential site tenants.
3. That a further report be presented to Council on or before 5 April 2010 providing an overview of shortlisted firms and seeking approval to progress to tender for the development and operation of the Gippsland Logistics Precinct.

Moved: Cr Lougheed

Seconded: Cr Middlemiss

That the Recommendation be adopted.

CARRIED UNANIMOUSLY

ATTACHMENT

ECONOMIC SUSTAINABILITY

11.2.1 LATROBE CITY COUNCIL DRAFT POLICY POSITION ON THE EXPECTED LOCAL IMPACTS OF THE CARBON POLLUTION REDUCTION SCHEME

AUTHOR: General Manager Economic Sustainability
(ATTACHMENT – YES)

1. PURPOSE

The purpose of this report is to seek Council's approval to release the *Latrobe City Council Draft Policy Position on the Expected Local Impacts of the Carbon Pollution Reduction Scheme* for community consultation.

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 – Community Capacity Building

To empower the community through enhancing community advocacy, leadership, partnerships, inclusiveness and participation.

Community Outcome – Advocacy and Leadership

By maintaining an understanding of issues of local importance, Latrobe City Council will provide leadership in addressing such issues. Where appropriate, Latrobe City Council will advocate on behalf of the community and will ensure that the community is represented.

Strategic Action – Advocacy and Leadership

Support research and analysis of issues of emerging community concern, and develop strategies to address those issues.

Policy

This report is consistent with Latrobe City Council's Interim Policy Position on the Expected Local Impact of the Carbon Pollution Reduction Scheme (2009).

4. BACKGROUND

Latrobe City Council has a key role in providing leadership in representing the broader interests of its community on issues relating to the overall well-being and development of its economy. Latrobe City Council has undertaken a range of responses and initiatives in relation to the proposed introduction of the Carbon Pollution Reduction Scheme (CPRS).

A key initiative of Council for the 2009/10 financial year is to develop a Latrobe City Council policy position on the expected impacts of the Carbon Pollution Reduction Scheme on the local community and economy which will enable Council to advocate for appropriate transitional support.

Council, at the Ordinary Council Meeting held on 20 April 2009, resolved the following:

1. *That Council approves the development of a Latrobe City Council position on the likely impact on the local community and economy of the Carbon Pollution Reduction Scheme.*
2. *That Council endorses the proposed strategy to develop the policy position on the likely impact on the community and economy of the Carbon Pollution Reduction Scheme.*
3. *That Council approves the release of a media release to inform the community of the development of a policy position and to outline the strategy.*

Council, at the Ordinary Council Meeting held on 1 June 2009, resolved the following:

That Council adopts the Latrobe City Council Interim Policy Position on the expected impacts of the Carbon Pollution Reduction Scheme.

In July 2009, Latrobe City Council appointed project consultants to assist in the development of a formal position. The project consultants were appointed to ensure that the position will be developed by Council with the assistance of technical expertise and then enhanced via industry and community engagement. The project has been designed to ensure that the developed policy position has a high level of community ownership. In the ensuing months the project consultants have worked closely with Latrobe City Council to develop a draft policy position for release to the community and stakeholders for comment.

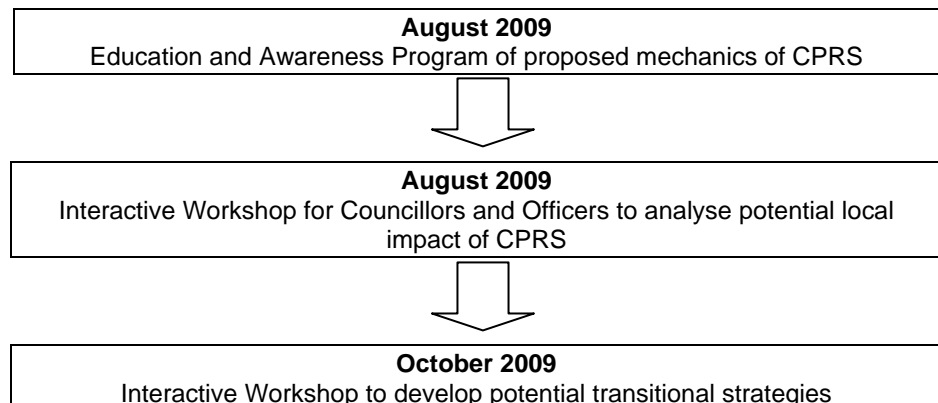
5. ISSUES

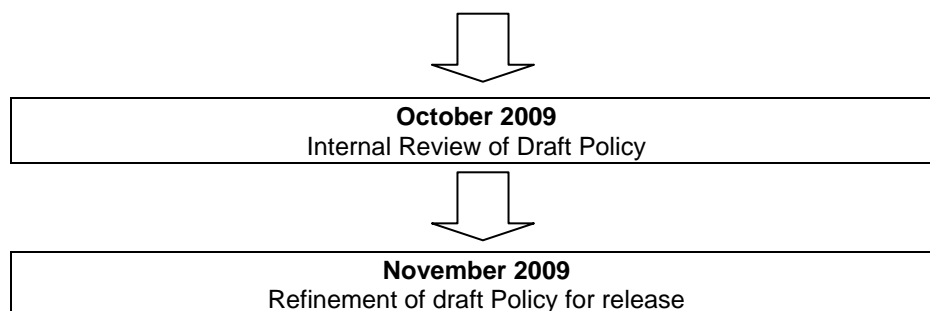
Development of the Draft Policy Position

The development of the draft policy position commenced in August 2009 and was designed to produce a comprehensive report covering:

- A summary of the likely impacts and opportunities of the CPRS on Latrobe City;
- Identification of effected stakeholders and the nature and extent of likely impact;
- Strengths/Weaknesses/Opportunities/Threats (SWOT) analysis examining the ability of Latrobe City Council and the community to respond to impacts and opportunities arising from the introduction of the CPRS;
- The level of further investigation and modelling required to fully understand the impact of CPRS on various stakeholders/industry sectors;
- Type and level of intervention and support required; and
- The roles and responsibilities of the three levels of government in managing the transition.

The process that was utilised is outlined below:





Key Aspects of the draft Policy Position

The key aspects of the draft policy position (attached) include analysis and an action plan for eight themes that underpin the proposed policy role for Latrobe City Council. These are:

- Regional Leadership & Strategic Alliances;
- Engagement with State & Federal Government;
- Community Education & Capacity Building;
- Enhancing the Profile of Latrobe City
- Sustainable Use of Natural Resources;
- Enhancement of Latrobe City Infrastructure and Services;
- Expansion and Growth of Industry Base; and,
- Contingency Planning.

Opportunity for Community/Stakeholder Testing

A key objective of the development of the policy is to ensure community and stakeholder input and ownership so that the policy reflects the views and aspirations of the broader community. With this in mind, key industry and community stakeholders will be asked to provide feedback on the draft policy and to respond to prompting questions to identify issues. This will enable further aspects of the policy implementation actions to be defined.

In addition the policy will be released to the public for a period of four weeks to encourage general feedback on the draft policy.

6. FINANCIAL AND RESOURCES IMPLICATIONS

There are no financial or resource implications related to the adoption of this report. Community and stakeholder engagement and consultation are included in the overall budget for the development of a policy position.

There is a budget allocation of \$145,000 for this project.

7. INTERNAL / EXTERNAL CONSULTATION

Engagement Method Used:

The draft policy will be released for a period of four weeks for community comment and feedback. During this time targeted consultation with groups and firms will occur which include, but are not limited to:

- Latrobe City Council Climate Change Committee;
- Power Generators;
- Education and Research Sector;
- Gippsland Local Government Network;
- Local Business Associations;
- Relevant State and Commonwealth Departments and Agencies; and
- Industry – including engineering firms, sub contractors and manufacturers.

This targeted consultation will be undertaken with broader community consultation in accordance with Council's Community Engagement Policy.

Comment and feedback on the draft policy will be sought from Tuesday, 17 November 2009 until mid December. The targeted consultation will be programmed to occur until mid December 2009.

Details of Community Consultation / Results of Engagement:

The details of the consultation and results of engagement will be reported back to Council after the close of the consultation period.

8. OPTIONS

Council has the following options:

1. Approve the release the Latrobe City Council Draft Policy Position on the Expected Local Impacts of the Carbon Pollution Reduction Scheme for community and stakeholder consultation.
2. Not approve the release the Latrobe City Council Draft Policy Position on the Expected Local Impacts of the Carbon Pollution Reduction Scheme for community and stakeholder consultation.

3. Amend the Latrobe City Council Draft Policy Position on the Expected Local Impacts of the Carbon Pollution Reduction Scheme and approve the release for community and stakeholder consultation.

9. CONCLUSION

Latrobe City Council has a key role in providing leadership in representing the broader interests of its community on issues relating to the development of the energy industry. Latrobe City Council has undertaken a range of responses and initiatives in relation to the introduction of the Carbon Pollution Reduction Scheme. The release of the draft policy for community and stakeholder consultation will allow community and stakeholder input and ownership ensuring the policy reflects the views and aspirations of the broader community.

10. RECOMMENDATION

1. **That Council approves the release of the Latrobe City Council Draft Policy Position on the Expected Local Impacts of the Carbon Pollution Reduction Scheme for community and stakeholder consultation.**
2. **That the results of the community and stakeholder consultation on Latrobe City Council Draft Policy Position on the Expected Local Impacts of the Carbon Pollution Reduction Scheme be included in a further report to Council on or before 15 February 2010.**

Moved: Cr Gibson

Seconded: Cr White

That the Recommendation be adopted.

CARRIED UNANIMOUSLY

ATTACHMENT

BUILT AND NATURAL ENVIRONMENT SUSTAINABILITY

11.3.1 **CONSIDERATION OF SUBMISSIONS TO AMENDMENT C14
(PROPOSED HERITAGE OVERLAY) AND REQUEST PLANNING
PANEL**

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

1. PURPOSE

The purpose of this report is for Council to consider all submissions received to Amendment C14 and seek Council's resolution to request the Minister for Planning to establish a planning panel and prepare a report in accordance with Sections 22 and 23 of the *Planning and Environment Act 1987*.

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 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

Protect the area's historical character and heritage features.

Key priorities and Actions

Progress the planning scheme amendment to introduce heritage provisions into the Latrobe Planning Scheme.

4. BACKGROUND

Latrobe City Council is responsible for the conservation and protection of places of cultural heritage significance within the municipality. These responsibilities are detailed within the provisions of the *Planning and Environment Act 1987*, which require Council to conserve and enhance those buildings, areas and other places that are of scientific, aesthetic, architectural or historical interest or otherwise of special cultural value. The primary instrument Local Government uses to achieve this is by way of planning controls within their municipal planning scheme.

The commencement of an amendment to introduce a revised schedule to the heritage overlay at Clause 43.01 of the Latrobe Planning Scheme is a Council Plan Action for the 2008/09 financial year.

The 2008 Latrobe City Heritage Study provides a review and update of the 2005 Latrobe City Heritage Study. The 2008 study includes a history and citations for 139 individual places and 14 heritage precincts of local heritage significance within the municipality. The 2008 Latrobe City Heritage Study was adopted by Council at the Ordinary Council Meeting held on 20 April 2009.

The study includes recommendations for statutory protection and other measures to conserve and manage heritage places that form the basis of a conservation program. The key recommendations included within the Conservation Strategy provided by the 2008 *Latrobe City Heritage Study* are as follows:

1. Prepare a Planning Scheme amendment:
Latrobe City Council prepares and exhibits a planning scheme amendment to implement recommendations of the Study, including the Latrobe City Heritage Study 2008 as a Reference Document in the Latrobe Planning Scheme.
2. Local Planning Policy Framework Review:
The Latrobe Municipal Strategic Statement is updated to reflect the key findings and recommendations of the Study.

3. Heritage Overlay Schedule and Maps:
The existing Schedule to the Heritage Overlay in the Latrobe Planning Scheme is replaced with a new Schedule, which includes both the existing heritage places listed in the Schedule and the additional heritage places and precincts of local significance identified by the 2008 study.

The identification and assessment of pre and post-contact indigenous heritage places was not undertaken as part of this project, as this study focused on post - contact cultural significance. The report provides the recommendation that a separate study be undertaken to document places of local indigenous cultural heritage.

It is noted that the protection and management of places of indigenous cultural heritage is more commonly provided by separate legislation under the *Aboriginal Heritage Act 2006*.

At the Ordinary Council Meeting held on 20 April 2009 Council adopted the 2008 Latrobe Heritage Study and resolved to request the Minister for Planning authorise the preparation of a planning scheme amendment to introduce a revised Heritage Overlay to the Latrobe Planning Scheme pursuant section 8A(3) of the *Planning and Environment Act 1987*. Ministerial authorisation was subsequently received 22 May 2009.

The amendment was later exhibited for an extended period of 8 weeks from the 18 June 2009 to 14 August 2009. A total of 41 submissions were received. A summation of the key issues raised by each submission to Amendment C14 and planning consideration of each submission is provided in attachment 1. A full copy of each submission is provided in attachment 2.

Statutory Requirements

In accordance with Section 9 of the *Planning and Environment Act 1987*, the Minister for Planning may authorise a municipal council to prepare an amendment to State and local standard provisions of a planning scheme in force in its municipal district.

When a municipal council is authorised by the Minister to prepare an amendment to a planning scheme, they also become the planning authority.

Municipal councils, as the statutory planning authority, have 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):

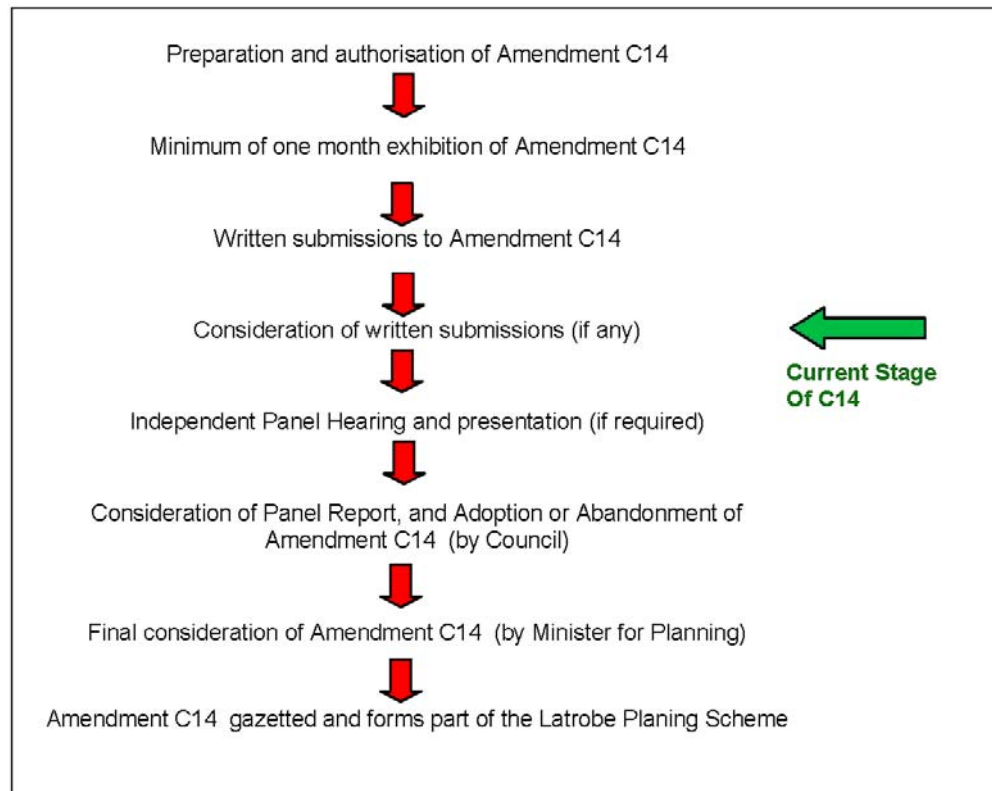
- The objectives of planning in Victoria;
- The Minister's directions;
- The Victoria Planning Provisions;
- The Latrobe Planning Scheme;
- Any significant effects which it considers a planning scheme amendment might have on the environment or which it considers the environment might have on any use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

Amendment C14 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, (refer Attachment 3).

C14 is consistent with the State Planning Policy Framework objectives and strategies contained within the Latrobe Planning Scheme.

The planning scheme amendment process is shown in figure 1 below and provides an indication of the current stage of Amendment C14.

Figure 1:



Current Planning Scheme Amendments

The introduction of the Heritage Overlay to sites recommended by the 2008 Latrobe City Heritage Study is supported by Amendment C62 (revised Local Planning Policy Framework) endorsed at the 1 September 2008 Ordinary Council Meeting. Clause 21.04-4 provides the following strategy:

“Ensure that all heritage places and precincts of local or state significance receive appropriate statutory protection.”

5. ISSUES

The table provided at attachment 1 of this Council Report provides a summary of the 41 submissions received and planning consideration of each issue raised.

A table showing the range of submissions is provided below:

Amendment C14 - Submissions	
Support	14
Objection	23
Edits / General Comments	4
Total Submissions	41

A portion of the submissions (total 4) provided general comments or identified minor technical corrections to Amendment C14. During the public exhibition of the amendment there were also a number of minor corrections identified by members of the community, within both the 2008 Latrobe Heritage Study and the exhibited Amendment C14 documents. Where such corrections were agreed to by Council officers, in consultation with the heritage consultant, they have since been prepared for presentation to the appointed planning panel and will be completed prior to Council's adoption of the Amendment C14. A summary of minor technical corrections is provided at attachment 4.

It is important to note that when considering submissions which request significant changes to the amendment, Council has a responsibility to ensure that the changes requested do not impinge on natural justice rights of the broader community or result in C14 being transformed into a different proposal to that which was authorised by the Minister and subsequently exhibited by Council.

There is an opportunity at the panel hearing for Council to present their consideration of each submission to the panel. Figure 1 in this report shows that after the panel report has been received by Council there is an opportunity for Council to adopt or abandon Amendment C14.

Therefore while Council is currently required to form a view if the requested changes in the submissions can be accommodated, Council should not feel that it is mandated to make a final determination of submissions at this point in time. The recommendations of the future panel report, should Council resolve to request a Planning Panel, will assist Council in their deliberation of C14 and particularly those submissions of objection.

6. FINANCIAL AND RESOURCES IMPLICATIONS

The progression of planning scheme Amendment C14 to the Latrobe Planning Scheme and the facilitation of a Planning Panel will be undertaken with current resources provided within the 2009/10 budget.

7. INTERNAL / EXTERNAL CONSULTATION

Consultation with key stakeholders and community was undertaken during the completion of the 2005 Heritage Study. The 2008 review of the 2005 Heritage Study engaged key stakeholders and landowners during the further investigation of individual places.

The planning scheme amendment to introduce the Heritage Overlay to recommended sites was subject to the prescribed exhibition process in accordance with Section 19 of the *Planning and Environment Act 1987*.

The exhibition of the amendment was extended for a period of eight weeks. During this time all landowners and statutory authorities affected by the amendment were notified in writing and submissions were invited. Public notices and news releases were provided within the Latrobe Valley Express. One on one landowner information sessions were also held for a total of 8 days across each of Latrobe City's four main townships. These information sessions were attended by 50 landowners.

In excess of 70 phone consultations took place during the public exhibition period, to which a significant portion indicated their support to the proposed introduction of a heritage overlay to sites identified by the 2008 Latrobe City Heritage Study.

As stated above, a total of 41 submissions were received during the public exhibition of Amendment C14.

8. OPTIONS

The options available to Council are as follows:

1. That Council after considering all written submissions received to Amendment C14, resolve to make no changes to Amendment C14 and request the Minister for Planning establish a planning panel to consider submissions and prepare a report.
2. That Council after considering all written submissions received to Amendment C14, support making minor changes to Amendment C14 as described by the table at attachment 1, and request the Minister for Planning establish a planning panel to consider submissions and prepare a report.

3. That Council abandon planning scheme Amendment C14 or part of the amendment and inform the Minister that Council will not pursue the amendment or part of the amendment.

It should be noted that if Council wish to make substantial changes to Amendment C14 or abandon parts of C14, there is a risk that a planning panel or the Minister for Planning may not support or refuse to approve C14 and require a new planning scheme amendment to be prepared and re-exhibited.

9. **CONCLUSION**

The 2008 Latrobe City Heritage Study provides a detailed and comprehensive understanding of the extent and significance of cultural heritage places throughout Latrobe City.

There has been a high level of interest from the general community regarding Amendment C14. The 41 written submissions received represent a good cross section from the landowners affected by the amendment. Whilst not all submission requests have been able to be accommodated, there were a proportionate number of submissions in support of Amendment C14.

It is now appropriate for Council to request a planning panel to be appointed to consider all of the submissions to Amendment C14 and prepare a report. This will progress the delivery of the Latrobe City Council Plan commitment to: *Progress the planning scheme amendment to introduce heritage provisions into the Latrobe Planning Scheme.*

10. **RECOMMENDATION**

1. That Council, in accordance with Sections 22 and 23 of the *Planning and Environment Act 1987*, considers all submissions received to Amendment C14 and request the Minister for Planning establish a planning panel to consider submissions and prepare a report.
2. That Council notes the planning comment provided in the summary of submissions provided in the Summary of Submissions and Planning Comment table at attachment 1 and supports representation of these comments to the planning panel.

3. That Council supports the completion of minor technical corrections to both the exhibited amendment documents and 2008 Latrobe Heritage Study and the presentation of these corrections to the planning panel.
4. That Council supports the requested changes identified by submissions and described by the recommendations at attachment 2 (submissions received to Amendment C14), to both the exhibited amendment documents and the 2008 Latrobe Heritage Study; and the presentation of these changes to the planning panel.
5. That Council notifies all submitters directly of Council's decision to request a planning panel.

Moved: Cr Gibson

Seconded: Cr Middlemiss

1. That Council, in accordance with Sections 22 and 23 of the *Planning and Environment Act 1987*, considers all submissions received to Amendment C14 and request the Minister for Planning establish a planning panel to consider submissions and prepare a report.
2. That Council notes the planning comment provided in the summary of submissions provided in the Summary of Submissions and Planning Comment table at attachment 1 and supports representation of these comments to the planning panel.
3. That Council supports the completion of minor technical corrections to both the exhibited amendment documents and 2008 Latrobe Heritage Study and the presentation of these corrections to the planning panel.
4. That Council supports the requested changes identified by submissions and described by the recommendations at attachment 2 (submissions received to Amendment C14), to both the exhibited amendment documents and the 2008 Latrobe Heritage Study; and the presentation of these changes to the planning panel.
5. That Council notifies all submitters directly of Council's decision to request a planning panel.
6. Council requests a further report in relation to the waiving of planning permit fees when a planning permit is solely required as a result of the Heritage Overlay following consideration of C14 by a planning panel.

CARRIED UNANIMOUSLY

ATTACHMENTS

ATTACHMENT 1

TABLE: SUMMARY OF SUBMISSIONS AND PLANNING COMMENT

(COPIES OF TABLE AVAILABLE ON CD UPON REQUEST)

ATTACHMENT 2

SUBMISSIONS RECEIVED TO AMENDMENT C14

(COPIES OF SUBMISSIONS AVAILABLE ON CD UPON REQUEST)

ATTACHMENT 3

Planning and Environment Act 1987

PLANNING SCHEME

AMENDMENT C14

EXPLANATORY REPORT

Who is the Planning Authority?

Amendment C14 was prepared by Latrobe City Council, which is also the Planning Authority for this amendment.

Amendment C14 was prepared at the request of Latrobe City Council.

Land affected by the Amendment.

Amendment C14 applies to those properties proposed to be added to the Heritage Overlay, which are listed in revised Schedule to the Heritage Overlay attached to this report.

What the Amendment does.

Amendment C14 proposes to implement key recommendations of the *Latrobe City Heritage Study 2008*.

In preparing the Amendment, consideration has been given to the following guidelines and VPP Practice Notes:

Local Government Heritage Guidelines (Department of Planning & Housing 1991)

Applying the Heritage Overlay

Writing a Local Planning Policy.

On this basis, the Amendment proposes to change the Latrobe Planning Scheme by:

Replacing the existing Schedule to the Heritage Overlay (HO) at Clause 43.01 with a revised Schedule that forms part of this Amendment. This will add 130 new individual heritage places and 13 new heritage precincts to the HO, listed within the revised Schedule to the Heritage Overlay attached to this report.

Amending the Latrobe Planning Scheme Heritage Overlay Maps Nos. 5, 6, 8, 13, 16, 17, 18, 19, 20, 22, 23, 26, 27, 28, 35, 36, 42, 44, 45, 47, 49, 55, 56, 60, 63, 64, 65, 66, 68, 70, 74, 75, 76, 77, 80, 81, 82, 90, 91, 94, 96, 107, 108, 111, 112, 117, 118 in accordance with the revised Schedule to the Heritage Overlay.

In Clause 21.01 – Municipal Profile replace the existing text in Clause 21.01-6 Heritage with new texts that reflects the findings of the *Latrobe City Heritage Study 2008*.

In Clause 21.02 Key Influences add a new sub-clause 21.02-10, which sets out key issues for the protection, conservation and management of heritage places.

In Clause 21.03-3 Strategic land use framework plan rename ‘Environmental strategies’ as ‘Heritage & Environment strategies’.

In Clause 21.04 Objectives / strategies / implementation replace the text in Clause 21.04-3 Heritage with new text that:

- Provides an Overview using information drawn from the Latrobe City Heritage Study 2008.
- Provides objectives, strategies and actions for three elements of Protecting and Conserving, Managing and Undertaking Further Work.
- Updates the Planning Scheme Response and provides References.

In Clause 22.06 - Urban Residential Land Development Policy:

- Modify the third objective by adding new text as shown in italics:

To identify environmental features, *heritage places*, land uses and constraints which need to be considered in the development of land for urban purposes.

- Insert a new heritage policy after the policies for ‘Environment’:

Heritage

Heritage places are to be conserved wherever possible. Consideration should be given to:

- Ensuring that the place retains sufficient land to provide a buffer from surrounding development.
- Ensuring that significant features (buildings, trees etc.) are retained on one lot.
- Ensuring that front elevations of key buildings such as dwellings face toward the street frontage of newly created lots and will be clearly visible from the street frontage.

- Add the following to Policy references:

Latrobe City Heritage Study 2008

Adding a new Heritage policy at Clause 22.08.

In General Provisions, replace the Schedule to Clause 61.03 with a new Schedule in the form of the attached document.

Making the following reports Incorporated Documents listed in the Schedule to Clause 81 in the Latrobe Planning Scheme:

Name	Purpose
<i>Latrobe City Heritage Study. Volume 3: Place & Precinct Citations 2008</i>	This contains all of the citations for the heritage places and precincts included in the Heritage Overlay as a basis for decision making.
<i>Latrobe City HO Incorporated Plan – Planning Permit Exemptions 2008</i>	This sets out permit exemptions in accordance with Clause 43.01-2 for: <ul style="list-style-type: none"> ▪ Buildings and works associated with heritage places within the Residential and Township zones. ▪ Buildings and works associated with heritage places within Rural Living and Farming Zone. ▪ Buildings and works at Old Gippsdown, 211 Lloyd Street, Moe ▪ Buildings and works at St Andrew’s Presbyterian Church, 11 James Street, Morwell and St Mary’s Church of England, 8 Latrobe Road, Morwell

It is noted that the proposed Amendments to the Local Planning Policy Framework in its current form will be altered subsequent to the approval and inclusion of the revised Local Planning Policy Framework as proposed by Amendment C62, in a policy neutral manner.

Strategic Assessment of the Amendment.

• Why is the amendment required?

The amendment has been prepared in response to an identified community need and to address Clause 21.04-3 of the Latrobe Planning Scheme, which includes the following key objective:

“To support further study and investigation of all aspects of the municipality’s history and heritage.”

A key action of Clause 21.04-3 of the Latrobe Planning Scheme to achieve the above objective is:

“Undertake an assessment of the significance of the heritage assets by undertaking a Latrobe Heritage Study.”

The request for authorisation to the Minister for Planning to prepare an amendment to the Latrobe Planning Scheme will progress the delivery of the Latrobe City Council Plan 2008 - 2012 commitment to:

“Progress the planning scheme amendment to introduce heritage provisions into the Latrobe Planning Scheme.”

• How does the amendment implement the objectives of planning in Victoria?

The amendment implements the objectives of Section 4 of the *Planning and Environment Act 1987*, particularly Section 4(d):

“To conserve and enhance those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value.”

- **How does the amendment address the environmental effects and any relevant social and economic effects?**

Amendment C14 is expected to have positive effects on the environment by supporting the identification and conservation of cultural heritage places within Latrobe City.

Heritage places contribute to the character, amenity and identity of Latrobe City and enhance its appeal as a place to live, work and visit. Amendment C14 is therefore expected to have positive social or economic benefits for the community of Latrobe City and the wider Gippsland community.

- **Does the amendment comply with the requirements of any Minister’s Direction applicable to the amendment?**

Amendment C14 is consistent with the Minister’s Direction under Section 7(5) of the *Planning and Environment Act 1987* in relation to *The Form and Content of Planning Schemes*.

Amendment C14 is consistent with the Minister’s Direction No. 11 under Section 12(2)(a) of the *Planning and Environment Act 1987* in relation to *Strategic Assessment of Amendments*.

- **How does the amendment support or implement the State Planning Policy Framework?**

Amendment C14 is consistent with the General implementation of Clause 15.11-2 where:

“planning and responsible authorities should identify, conserve and protect places of natural or cultural value from inappropriate development”.

The amendment also accords with the objective of Clause 19.03:

“To achieve high quality urban design and architecture that... reflects the particular characteristics, aspirations and cultural identity of the community.”

- **How does the amendment support or implement the Local Planning Policy Framework?**

This Amendment is supported by and will implement strategic policy in the LPPF, particularly the Latrobe Municipal Strategic Statement (MSS). Clause 21.03-2 of the Latrobe MSS sets out the vision for the municipality. One of the vision statements is:

A community which is proud of its heritage and is strong, resilient, creative, entrepreneurial, adaptable and caring with an optimistic future and strong focus on ‘quality of life’ issues.

Clause 21.04-3 provides objectives, strategies and actions for Heritage in Latrobe City. The key objectives are:

“To continually improve the knowledge base with regard to heritage values and assets

To support further study and investigation of all aspects of the municipality’s history and heritage.”

The preparation of the Latrobe City Heritage Study 2008 substantially completes key actions identified by the Local Planning Policy Framework. Actions relevant to this Amendment are as follows:

“Undertake an assessment of the significance of the heritage assets by undertaking a Latrobe Heritage Study

Identify places, artefacts and items of heritage, archaeological and cultural significance and consider mechanisms for their conservation, including appropriate controls on adjoining land uses.”

The amendment will ensure that the Latrobe Heritage Study 2008 will be considered when considering an application for development or use of heritage places.

It is noted that the proposed Amendments to the Local Planning Policy Framework in its current form will be altered in a policy neutral manner, subsequent to the approval of the revised Local Planning Policy Framework as proposed by Amendment C62 to the Latrobe Planning Scheme.

- **Does the amendment make proper use of the Victoria Planning Provisions?**

In preparing the Amendment and in addition to orderly planning principles, consideration has also been given to the following VPP Practice Notes:
Applying the Heritage Overlay

Writing a Local Planning Policy.

The planning tools proposed are in accordance with the recommendations made in the Practice Notes.

- **How does the amendment address the views of any relevant agency?**

The amendment does not create any new referral authorities. The relevant agencies have already provided input and will also be provided with Notice of the preparation of the amendment.

- **What impact will the new planning provisions have on the resource and administrative costs of the responsible authority?**

The new planning provisions are expected to have some impact on the resource and administrative costs of the responsible authority by way of the Heritage Overlay generating planning permit applications. The inclusion of incorporated documents setting out permit exemptions is one measure to reduce the potential amount of new permits to be generated by the amendment. In addition, Council will investigate engaging a part time heritage consultant to assist with providing advice about development applications that affect heritage places.

Where you may inspect this Amendment

Amendment C14 and supporting documents including the *Latrobe City Heritage Study 2008* and the incorporated documents referred to in this report are available for public inspection, free of charge, during office hours at the following places:

Department of Planning and Community Development Planning Information Centre Ground Floor 8 Nicholson Street East Melbourne 3002	Department of Planning and Community Development Gippsland Region Office 71 Hotham Street Traralgon 3844
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Latrobe City Council
Corporate Headquarters
141 Commercial Road
Morwell VIC 3840
Latrobe City Council
Moe Service Centre
44 Albert Street
Moe VIC 3825

Latrobe City Council
Traralgon Service Centre
34-38 Kay Street
Traralgon VIC 3844
Latrobe City Council
Churchill Service Centre
9 – 11 Philip Parade
Churchill VIC 3842

The amendment can also be inspected free of charge at the Department of Planning and Community Development web site at www.dpcd.vic.gov.au/planning/publicinspection.

ATTACHMENT 4

List of minor technical corrections	
Document	Description
2008 Latrobe Heritage Study	Update citation for 121 Moore St, Moe.
	Update citation for 64 Moore St, Moe.
	Update Moore St, Moe Heritage Precinct Map.
	Update Traralgon Railway Residential Heritage Precinct Map.
	Update Toongabbie Heritage Precinct Map.
	Amend citation for Commercial Road buildings, Morwell.
	Amend heritage precinct map legend for 'non contributory places'.
	Update citation for Yinnar Church site.
	Update citation for Koorungal Homestead Yinnar.
	Update citation for 26 Hazelwood Rd, Morwell.
	Update citation for Breed St (HO91), Traralgon.
	Update citation for 154 Commercial Road, Morwell
	Update Scarne, Glengarry West citation.
	Update citation for Lawless Milking Shed, Driffield.
	Complete minor grammatical corrections.
Exhibited Amendment Documents	Update Moore St, Moe Heritage Precinct Map within incorporated plan.
	Update incorporated plan to exclude planning permit requirements for construction or demolition of outbuildings.
	Update incorporated plan to exclude planning permit requirements for minor works associated with water weir at Billy Creek, Morwell National Park.
	Update incorporated plan to include sub-headings at Section 3.1.
	Update Traralgon Railway Residential Heritage Precinct Map within incorporated plan.
	Update incorporated plan to exclude planning permit requirements for road works within heritage precincts.
	Update Toongabbie Heritage Precinct Map within incorporated plan.
	Update references to rear yard in Section 3.3. of incorporated plan.
	Update sites of significance within Section 3.5. of incorporated plan.
	Amend Heritage Overlay number references within the exhibited schedule to Clause 43.01 of the Latrobe Planning Scheme.
	Amend exhibited Heritage Map for Commercial Road buildings.
	Update heritage map for the former Traralgon water supply bridge, Tyers River.
	Update HO136 heritage overlay map for Tyers Hall.
	Update HO48 within Moore St Precinct, Moe to HO46.
	Update extent of heritage overlay map for Lawless Milking Shed, Driffield
	Update extent of heritage overlay map for Koorungal Homestead, Yinnar.
	Update extent of heritage overlay map for Boolarra Church.

11.3.2 **CONSIDERATION OF PLANNING PANEL REPORT LATROBE
PLANNING SCHEME AMENDMENT C62 - MUNICIPAL
STRATEGIC STATEMENT REVIEW STAGE 3**

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

1. PURPOSE

The purpose of this report is for Council to consider the Planning Panel report received for proposed Amendment C62 and to seek approval 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

This report is also 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

Promote and support high quality urban design within the built environment.

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

A key priority and action of the Council Plan 2009-2013 is to:

Finalise stage three of the Planning Scheme (Municipal Strategic Statement) Review by implementing a planning scheme amendment.

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 are consistent with the Act.

4. BACKGROUND

Planning Scheme Amendment C62 forms part of the Municipal Strategic Statement Review project and includes a new Municipal Strategic Statement (MSS).

The new MSS also reflects other adopted strategic studies including the Latrobe City Council Structure Plans for Churchill, Moe/Newborough, Morwell and Traralgon; Latrobe City Council Moe Activity Centre Plan; Latrobe City Council Churchill Town Centre Plan; Latrobe City Council Transit Centred Precinct Reports for Moe, Morwell and Traralgon; and the Latrobe City Council Natural Environment Sustainability Strategy.

MSS Review Project Stages

Stage 1	Planning Scheme Review.	Completed. May 2008.
Stage 2	Redrafting of new LPPF/MSS.	Completed. September 2008.
Stage 3	Public exhibition.	Completed. September - December 2008.
	Panel hearing.	Completed. April - May 2009.
	Consideration of panel report.	Underway.

The MSS Review project consists of three stages. Stage one reviewed the strengths and weakness of the current Latrobe Planning Scheme and recommended changes to the scheme. Stage one resulted in the Latrobe Planning Scheme four yearly review report April 2008 which was adopted by Council at its Ordinary Council Meeting on 5 May 2008. Stage one has been completed.

Stage two involved the technical drafting of the Local Planning Policy Framework (including the MSS). This included rewriting and updating the Local Planning Policy Framework in the Latrobe Planning Scheme to reflect Council's current adopted strategic work.

The draft of the stage two MSS rewrite directly implemented some of the key recommendations of the stage one review report. The stage two MSS rewrite was endorsed by Council to be suitable for a request for Ministerial authorisation at the Ordinary Council Meeting on 1 September 2008. Stage two has been completed.

Stage three is almost complete. Stage three includes the public exhibition of the redrafted Local Planning Policy Framework (including MSS) and the subsequent Panel hearing and panel report process. At the Ordinary Council meeting on 16 March 2009, Council considered all 77 written submissions to Amendment C62 and resolved to request the Minister for Planning to establish a planning panel to consider submissions and prepare a report.

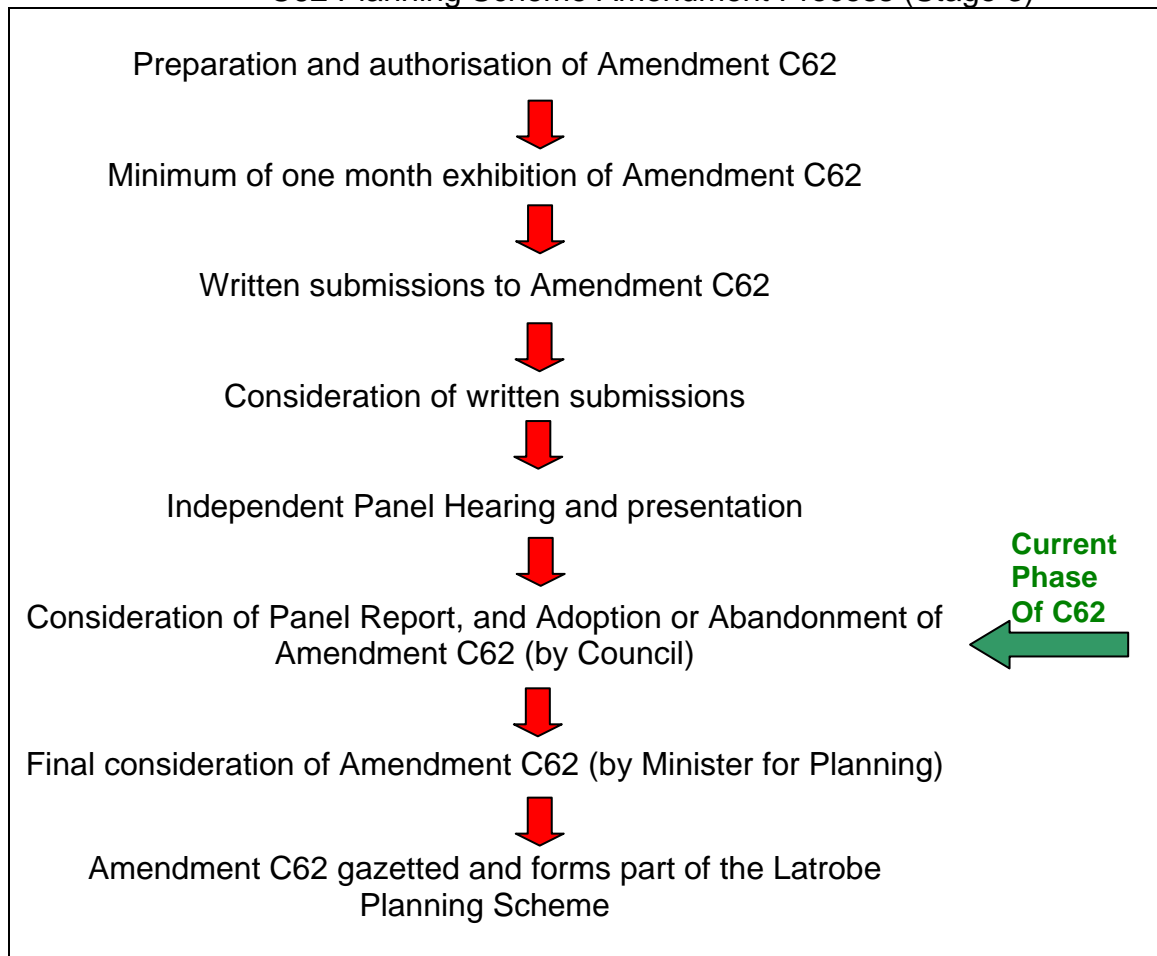
The planning panel hearing has been held and the panel report has been received by Latrobe City Council. At the Ordinary Council meeting on 17 August 2009, Council resolved to note the receipt of the Planning Panel report for proposed Amendment C62 and immediately make the report available to the public. Council did not consider the recommendations of the panel report at the 17 August 2009 Ordinary Council meeting.

The purpose of this report is for Council to formerly consider the Planning Panel report received for proposed Amendment C62 and to seek Council approval to submit C62 to the Minister for Planning.

Requirements

The C62 planning scheme amendment process is shown in the figure below and provides an indication of the current phase of C62.

C62 Planning Scheme Amendment Process (Stage 3)



In accordance with 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 C62 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 exhibited Explanatory Report, see Attachment 2.

It should be noted that some of the planning panel recommendations if supported by Council, will require changes to the exhibited Explanatory Report when the Explanatory Report is submitted to the Minister for Planning for approval.

C62 is consistent with the State Planning Policy Framework objectives and strategies contained within the Latrobe Planning Scheme. The amendment has been prepared in the context of a considerable amount of strategic work prepared by Latrobe City Council over the last nine years. The amendment is a complete review and replacement of Clauses 21 and 22 (including some maps) arising out of the strategic work undertaken. While the majority of the existing MSS is significantly outdated, some sections of the existing LPPF are still relevant and have been included in the new MSS.

Section 27(1) of the Act requires Council to consider the panel's report before deciding whether or not to adopt the amendment. Section 29(1) of the Act enables Council after complying with the relevant sections of the Act, to adopt the amendment or that part with or without changes.

5. ISSUES

The Planning Panel was held during May and June 2009 and the panel report was received by Council on 24 July 2009.

The Planning Panel report makes 34 recommendations for Council's consideration. Attachment 1 of this Council report provides planning advice on the preferred approach when considering each of the 34 planning panel recommendations.

The panel's recommendations support the adoption of Amendment C62 with changes. The panel report states that the panel support the intent of Amendment C62, particularly as it relates to future directions for residential growth of the main towns. The panel agree with some, but not all, changes supported by Council as a result of submissions in relation to residential growth. Twelve of the 34 recommendations (4 - 8, 13, 25 - 28, 32, and 33) of the panel are inconsistent with Council's preferred position put to the panel in May and June 2009. In particular the panel does not support a number of Council's conclusions regarding:

- the strategic directions for future industrial land use across the main towns;
- the need for further residential areas to the west of Churchill; and

- the need to identify the southern shores of Lake Narracan for future development opportunities at this point in time.

Council has a responsibility to ensure that any changes to C62 post panel report do not impinge on *natural justice* rights of the community or result in C62 being *transformed* into a different proposal to that which was exhibited or from what the panel has recommended. In other words, the community may not have had an opportunity to consider the changes because the changes did not form part of the exhibition documents or the changes may not have been discussed in the panel report. If a member of the community was aware of the change they may have wished to make a written submission regarding the change. If C62 is significantly transformed from what was exhibited or from what the panel recommend, there is a risk that the Minister for Planning may not support or refuse to approve C62 and require a new planning scheme amendment to be prepared and re-exhibited.

Attachment 1 of this Council Report provides recommendations to support all of the 34 planning panel recommendations. However in order for Amendment C62 to proceed, Council must now formerly consider the recommendations of the Planning Panel and decide whether to adopt Amendment C62 as exhibited, adopt Amendment C62 with changes or abandon the amendment.

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 this stage of the planning scheme amendment include the fee for the panel report and the fee for the Minister's approval of an amendment if the amendment is adopted by Council.

Funds have been allocated in the current 2009/2010 budget year to enable the planning scheme amendment to proceed.

7. INTERNAL / EXTERNAL CONSULTATION

Details of Community Consultation / Results of Engagement:

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

In accordance with Section 19 of the Act, C62 was placed on public exhibition during October 2008 to the 12 December 2008. There has been a high level of enquiry from the public regarding the C62 proposal. One on one information sessions were held in Churchill, Moe, Morwell, and Traralgon in November 2008. Sixty five persons attended the information sessions. Seventy seven written submissions from the community have been received. All of the 77 written submissions were considered by Council at the 16 March 2009 Ordinary Council Meeting.

A Directions Hearing was held on 27 April 2009 at the municipal offices in Morwell. The Panel Hearing was then held on 27, 28 and 29 May 2009 at Century Inn, Traralgon and on 9 and 10 June 2009 at Quality Inn Traralgon. All 77 written submissions were considered by the panel. Twenty eight parties (including Latrobe City Council) made presentations in support of their written submissions to the panel over the five day panel hearing. The panel report that was received by Council on 24 July 2009 was made available to the public.

8. OPTIONS

The options available to Council are as follows:

1. That Council, after considering the Planning Panel report recommendations for Amendment C62, resolves to adopt and seek Ministerial approval of Amendment C62 as exhibited without changes.
2. That Council, after considering the Planning Panel report recommendations for Amendment C62, resolves to adopt and seek Ministerial approval of Amendment C62 with changes.
3. That Council, after considering the Planning Panel report recommendations received for Amendment C62, resolves to abandon exhibited Amendment C62 or part of the amendment and inform the Minister for Planning.

The recommendation to Council is to support option 2. It should be noted that if Council wish to make substantial changes to C62 or abandon parts of C62, there is a risk that the Minister for Planning may refuse to approve C62 and require a new planning scheme amendment to be prepared and re-exhibited.

9. CONCLUSION

C62 directly implements some of the key recommendations of the Latrobe Planning Scheme four yearly review report April 2008 which was adopted by Council on 5 May 2008. C62 reflects the intent of the draft MSS that was endorsed at the Ordinary Council Meeting held on 1 September 2008.

The C62 process has enabled consideration of the views of key internal and external stakeholders and addressed a number of strategic urban land use planning issues that are relevant to Latrobe City. C62 better reflects Latrobe 2021 and adopted strategic Council land use planning policies and strategies.

There has been a high level of enquiry from the public regarding the C62 proposal. The 77 written submissions received represent a good cross section from the community, particularly those communities around the main towns. A number of the submitters participated in the five day panel hearing. While not all submission requests have been able to be accommodated, there are a high number of submissions in support of C62.

The panel's recommendations support the adoption of Amendment C62 with changes and the panel report states that the panel supports the intent of Amendment C62. It is therefore appropriate for Council to adopt Amendment C62 in accordance with the panel's suggested changes and the officer's comment provided in Attachment 1 and seek Ministerial approval of Amendment C62.

10. RECOMMENDATION

1. That Council, having considered the Planning Panel report and its recommendations for Amendment C62, adopts Amendment C62 with changes identified in the C62 Panel Recommendations and Planning Officer Comment - Attachment 1, in accordance with Section 29 of the *Planning and Environment Act 1987*.
2. That Council submits Amendment C62 once adopted to the Minister for Planning for approval, in accordance with Section 35 of the *Planning and Environment Act 1987*.
3. That Council advises those persons who made written submissions to Amendment C62 of Council's decision.

Councillor Kam left the Council Chamber at 8.30 pm due to a direct and indirect interest.

Councillors Gibson and White left the Council Chamber at 8.30 pm due to a direct interest.

Moved: Cr Vermeulen

Seconded: Cr Middlemiss

That the Recommendation be adopted.

CARRIED UNANIMOUSLY

Councillors Kam, Gibson and White returned to the Council Chamber at 8.32 pm.

ATTACHMENTS

**ATTACHMENT 1 - C62 PANEL RECOMMENDATIONS AND PLANNING
OFFICER COMMENT**

(COPIES OF PANEL REPORT AVAILABLE ON CD UPON REQUEST)

ATTACHMENT 2

Planning and Environment Act 1987

LATROBE PLANNING SCHEME

AMENDMENT C62

EXHIBITED EXPLANATORY REPORT (EXCLUDING MAPS)

1.0 Who is the planning authority?

This amendment has been prepared by Latrobe City Council, which is the planning authority for this amendment.

The amendment has been made at the request of Latrobe City Council.

2.0 Land affected by the amendment.

The amendment affects land in all areas of the municipality.

3.0 What the amendment does.

The amendment proposes to implement the recommendations of Council's recently completed four year Planning Scheme Review. The amendment also implements a number of strategic planning projects undertaken and adopted by Council as well as state government initiatives, all of which have informed the proposed changes to the Latrobe Planning Scheme. Some of the significant documents include (but are not limited to):

- Latrobe City Council Four Year Planning Scheme Review Report 2008.
- Latrobe 2021: The Vision for Latrobe Valley 2nd Edition 2006.
- Latrobe City Council Plans 2007 – 2011 and 2008 - 2012.
- Latrobe City Council Structure Plans Churchill, Moe/Newborough, Morwell and Traralgon 2007.
- Latrobe City Council Moe Activity Centre Plan 2007.
- Latrobe City Council Churchill Town Centre Plan 2007.
- Latrobe City Council Transit Centred Precinct Reports Moe/Newborough, Morwell and Traralgon 2004 and 2006.
- Latrobe City Council Natural Environment Sustainability Strategy 2008.
- Traralgon Bypass Supplementary Inquiry Advisory Committee Report July 2007.
- Cutting Red Tape in Planning 2006.
- Making Local Policy Stronger 2007.

The Four Year Planning Scheme Review Report evaluates the entire Latrobe Planning Scheme. However this amendment only makes changes to the Local Planning Policy Framework (LPPF) and doesn't modify the existing zone and overlay regime in the Latrobe Planning Scheme. Zone and overlay changes are to form subsequent council and private initiated planning scheme amendments.

Clause 21 and 22 – LPPF Changes.

The amendment comprises a new Municipal Strategic Statement (MSS) that reflects the changes in the format of Municipal Strategic Statements introduced since the preparation of the initial new format Latrobe Planning Scheme in 1999. In accordance with the recommendations of the Four Year Planning Scheme Review report and consistent with the Making Local Policy Stronger report released by the Minister for Planning in October 2007, all local policies are to be deleted with relevant guidance to be included in appropriate sections of the new MSS clause 21.

Latrobe 2021 is Latrobe City Council's main strategic document which informs other important Latrobe City Council documents such as the Council Plan. Latrobe 2021 is the principal corporate road map for Council with its foundation principles of:

- Sustainability (economic, natural environment, built environment);
- Liveability (recreational, community, cultural);
- Governance (democratic, legislative compliance);
- Community Capacity Building (advocacy and leadership, partnerships and inclusiveness).

Existing clauses 21 and 22 of the LPPF are to be consolidated into one new MSS clause 21 which utilises the structure of Latrobe 2021. The new clause 21 which will form the body of the new LPPF is primarily based on the foundations of the Sustainability and Liveability principles in Latrobe 2021.

The new MSS also reflects other adopted strategic studies including the Latrobe City Council Structure Plans Churchill, Moe/Newborough, Morwell and Traralgon; Latrobe City Council Moe Activity Centre Plan; Latrobe City Council Churchill Town Centre Plan; Latrobe City Council Transit Centred Precinct Reports Moe/Newborough, Morwell and Traralgon 2004 and 2006; and the Latrobe City Council Natural Environment Sustainability Strategy.

The Latrobe City Council Structure Plans Churchill, Moe/Newborough, Morwell and Traralgon; Latrobe City Council Moe Activity Centre Plan; and Latrobe City Council Churchill Town Centre Plan are shown in appendix 1 to this explanatory report.

These studies are introduced into the Planning Scheme as reference documents as part of this amendment.

It should be noted that elements of the Churchill Town Centre Plan relating to the commercial precinct are being refined in an urban design and community consultation process that is being undertaken concurrently with the exhibition of Amendment C62. It is proposed that modification of the adopted Churchill Town Centre Plan and its implication for Amendment C62 will be considered prior to finalisation of the Amendment C62.

The following table provides a full description of the changes sought to Clause 21:

Clause No.	Existing Clause	New Clause	Explanation
21.01	Municipal Profile	Municipal Profile	The existing Municipal Profile clause has been revised to closer align with Latrobe 2021, Council Plan, updated ABS 2006 population data, and consultation input.
21.02	Key Influences	Municipal Vision	Key influences have been removed from the existing clause and merged within each of the new clauses. A new Municipal Vision clause has been revised to closer align with Latrobe 2021, Council Plan, and consultation input. The new Municipal Vision clause includes a revised Strategic Land Use Framework Plan.
21.03	Vision and Strategic Framework Plan	Natural Environment Sustainability	Revision of existing Vision and Strategic Framework Plan clause (refer to 21.02 above). New Natural Environment Sustainability clause has been created to closer align with Latrobe 2021, Council Plan, the West Gippsland Regional Catchment Strategy, the Natural Environment Sustainability Strategy, and consultation input.
21.04	Objectives, Strategy and Implementation Settlement and Urban Form Environment Heritage Housing Economic Development Retail Industry Tourism Infrastructure	Built Environment Sustainability Settlement Rural Living Heritage Urban Design Infrastructure Specific Town Strategies	Objectives, Strategies and Implementation have been removed from the existing clause and merged within each of the new clauses. A new Built Environment Sustainability clause has been created to closer align with Latrobe 2021, Council Plan, Transit Centred Precinct Reports Moe/Newborough, Morwell and Traralgon 2004 and 2006, the Latrobe Structure Plans August 2007, Latrobe City Heritage Study 2008, and consultation input. New town centre plans for Churchill and Moe, and structure plans for Churchill, Moe/Newborough, Morwell, and Traralgon are included in the new Built Environment Sustainability clause. The new structure plans replace the structure plans in existing Objectives, Strategies and Implementation clause. The existing 'Network City' principles have been further refined.

Clause No.	Existing Clause	New Clause	Explanation
21.05	Monitoring and Review	Economic Sustainability Economic Development Coal Agriculture Retailing Industry Timber Tourism Stone Resources Basslink Electricity Interconnector	Monitoring and Review has been removed from the existing clause and has been replaced with new clauses 21.07 and 21.08 (refer below). A new Economic Sustainability clause has been created to closer align with Latrobe 2021, Council Plan, Latrobe City Council Economic Development Strategy, Latrobe City Council Retail Strategy, Rural Zones Review, existing coal planning scheme provisions, and consultation input. The existing Gippsland Coalfields and Extractive Industries Interest Areas policy maps from Clause 21.01 are included in the Economic Sustainability clause.
21.06		Liveability Design Guidelines Residential Liveability Community Liveability Open Space Liveability	A new Liveability clause has been created to closer align with Latrobe 2021, Council Plan, Healthy by Design Guidelines, and consultation input.
21.07		Implementation Program	A new Implementation Program clause has been created and replaces the existing Monitoring and Review clause.
21.08		Further Strategic Work Program	A new Further Strategic Work Program clause has been created and replaces the existing Monitoring and Review clause. The clause has been primarily informed by the Four Year Planning Scheme Review Report.
21.09		Reference Documents	A new Reference Documents clause has been created to better articulate the strategic direction arising from recent strategic studies adopted by Council.

The following table provides a full description of the changes sought to Clause 22:

Clause No.	Existing Clause (Policy)	New Clause	Explanation
22.01	Coal Resources Policy	Existing Clause 22.01 is to be deleted and merged with new Clause 21.	The existing policy is absorbed into new Clause 21.05. The existing Coal Policy map is already repeated in the Gippsland Coalfields map at existing Clause 21.01-17 and new Clause 21 and therefore has been deleted. The existing coal provisions have been translated into new Clause 21 on a policy neutral basis.
22.02	Coal Buffers Policy	Existing Clause 22.02 is to be deleted and merged with new Clause 21.	The existing policy is absorbed into new Clause 21.05. The existing coal provisions have been translated into new Clause 21 on a policy neutral basis.
22.03	Car Parking Policy	Existing Clause 22.03 is to be deleted and merged with new Clause 21.	Clause 52.06 already addresses car parking requirements and the state government review of car parking may make Latrobe City Council's existing policy redundant. However part of the existing policy is absorbed throughout new Clause 21.
22.04	Latrobe Regional Airport and Environs Policy	The existing Clause 22.04 is to be deleted and merged with new Clause 21.	Part of the existing policy is absorbed throughout new Clause 21.
22.05	Protection of Stone Resources Policy	The existing Clause 22.05 is to be deleted and merged with new Clause 21.	Clause 52.09 already addresses extractive industry and search for stone uses. Part of the existing policy including the Extractive Industries Interest Areas policy map is absorbed into new Clause 21.05.
22.06	Urban Residential Land Development Policy	The existing Clause 22.06 is to be deleted and merged with new Clause 21.	Part of the existing policy is absorbed into new Clause 21.04. Another part of the existing policy is better placed in a Development Plan Overlay Schedule and therefore this part of the policy is deleted.
22.07	Mixed Use Argyle Street Traralgon Policy	Existing Clause 22.07 is to be deleted.	The existing policy is addressed by the zone and overlay regime for the site and therefore the policy is deleted.

4.0 Strategic assessment of the amendment

- **Why is the amendment required?**

The amendment to the Latrobe Planning Scheme has arisen from a recent review of the entire Planning Scheme. The review was undertaken as a consequence of the requirement in the *Planning and Environment Act 1987* to review the planning scheme around every four years. The amendment implements some of the recommendations from the review specifically relating to the State Planning Policy Framework (SPPF).

The review raised a number of strategic urban land use planning issues and provides a background to why the amendment is required. The extract below from Section 16 of the review report summarises these issues:

'In terms of the current review it remains clear that the MSS is structurally poor and is strategically limited on things such as identifying residential development areas in its townships and it is lacking in clear direction on many of the recurrent, day-to-day issues confronting the Council and the community including rural living, medium density housing, the natural environment, the various activity centres, agriculture and some social issues. Council has either commissioned, completed (or is completing) strategic work on some of these issues and such research now needs to be absorbed into the scheme as the highest priority, once it is adopted.

Additionally, in the course of the review it has become apparent that there is no clear link between the MSS (and therefore the whole planning scheme) and the main strategic document within Council being Latrobe 2021. This document is the principal corporate road map for Council with its foundation principles of:

- *Sustainability*
- *Liveability*
- *Governance*
- *Community Capacity Building*

These are supported by town structure plans for all eleven settlements.

None of this is reflected in the current MSS and at the very least, the new MSS dovetails better with this document. On top of this, the following important and recently adopted strategic work including (but not limited to) now needs to be reflected in the scheme.

- *Latrobe Town Structure Plans*
- *Economic Development Strategy*
- *Activity Centre Plans for Moe and Churchill*
- *Transit City Reports*

Inclusion of this material will provide Council and its community with a contemporary planning document.

In the context of the recommendations of "Making Local Policy Stronger", it is recommended that Council prepare and exhibit a new streamlined MSS which contains only the most critical land use planning strategies and policies of relevance to Council. This streamlined MSS would then be the 'template' for the inclusion of further strategic work once adopted. Beyond this, Council should embark on a zone and overlay amendment to implement the outcomes of the strategic work.'

Latrobe City Council has adopted a number of strategic studies completed over recent years. The amendment is required to align the strategic directions of the planning scheme with Latrobe 2021 and to give statutory affect to the recommendations of these strategic studies to assist Council in its decision making in relation to future land use and development in Latrobe City's urban centres and rural areas.

The proposed improvements to the LPPF section of the planning scheme will contribute towards implementation of action 10 – making local policy stronger of the 'Cutting the Red Tape in Planning Report'. The state government's 'Making Local Policy Stronger 2007' document recommends the need to increase the effectiveness of local policy by simplifying the way it is presented in planning schemes and to restructure MSS clauses 20 – 22 to produce a simplified MSS. The amendment combines the existing Latrobe Planning Scheme MSS clauses 20 – 22 into one new MSS clause 21. The new MSS reduces the existing LPPF pages from 83 down to approximately 41 (including maps) thereby increasing the effectiveness of the local policy in the Latrobe Planning Scheme.

- **How does the amendment implement the objectives of planning in Victoria?**

The amendment will implement the following objectives of planning in Victoria under section 4 of the *Planning & Environment Act 1987*:

- 4(1)(a) to provide for the fair, orderly, economic and sustainable use, and development of land;
- 4(1)(b) *to provide for the protection of natural and man-made resources and the maintenance of ecological processes and genetic diversity;*
- 4(1)(c) to secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria;
- 4(1)(d) to conserve and enhance those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value;
- 4(1)(f) to facilitate development in accordance with the objectives set out in paragraphs (a), (b), (c), (d) and (e).

The amendment will implement these objectives by providing the strategic directions through the MSS which will:

- provide an updated and clear policy framework for the fair, orderly, economic and sustainable use and development of land in Latrobe City, particularly through Clauses 21.04 Built Environment Sustainability and 21.05 Economic Sustainability.
- protect and enhance natural and man-made resources and the maintenance of ecological processes and genetic diversity through the creation of a new Clause 21.03 Natural Environmental Sustainability;
- provide a pleasant, efficient and safe working and living environment through the creation of a new Clause 21.06 Liveability; and
- conserve the cultural heritage values of the land through providing for updated heritage objective and strategies in Clause 21.04 Built Environment Sustainability.

- **How does the amendment address the environmental effects and any relevant social and economic effects?**

A focus of the new MSS is to ensure that the planning and development of Latrobe City aligns itself with Latrobe 2021 by taking a fair and balanced account of existing and future social, environmental and economic effects. In particular many of the changes made to the LPPF that will guide future urban and rural development, highlight these considerations and the opportunity to provide positive impacts through well planned development.

The new MSS provides consideration of a core set of issues and principles that require proper assessment to be made of social, economic and environmental effects, with an emphasis on delivering a greater level of certainty for major investment decisions. The new MSS achieves this by introducing recently council adopted strategic work into the planning scheme. The new Latrobe Structure Plans for Churchill, Moe/Newborough, Morwell, and Traralgon are one such example.

The new Natural Environment Sustainability clause 21.03 provides a focus on environmental issues with factors such as catchment management, native vegetation and biodiversity, greenhouse and climate change, water quality, waste management, flood and fire being identified and encouraged to be protected ahead of potential urban development pressures. This policy objective will deliver better environmental outcomes and will prove important in meeting the challenges faced in balancing development needs with environmental and social management issues.

The new Economic Sustainability clause 21.05 provides a focus on economic issues with factors such as areas of employment, coal, agriculture, retailing, industry, timber, and tourism being identified at the same time as potential urban development pressures. This policy objective will deliver better economic sustainability outcomes and will prove important in meeting the challenges faced in balancing development needs with environmental and social management issues.

The Department of Primary Industries (DPI) has been consulted regarding the proposed coal related sections of the new MSS. Other than condensing the length of the coal provisions, the new MSS has included the intent and wording as it exists in the current Latrobe Planning Scheme and therefore results in a policy neutral position. DPI has provided feedback to the new MSS and their comments have been considered.

The amendment proposes to introduce a revised MSS that includes Council's strategic and policy position on natural environment, built environment, economic sustainability, and liveability. Some of these positions include aligning the MSS with Latrobe 2021; updating the Network City concept; directing growth to key townships through up to date structure plans; ensuring an adequate supply of land for development (especially housing); encouraging medium density housing in the main townships; preparing town centre strategies in the main townships; providing rural lifestyle opportunities at appropriate locations; protecting significant vegetation, biodiversity values and water quality; and balancing the demand for significant coal resource and settlement growth. This policy framework provides the context for planning decisions and will ensure the appropriate consideration of environmental, social and economic effects.

- **Does the amendment comply with the requirements of any Minister's Direction applicable to the amendment?**

The amendment complies with Minister's Direction No 11, Strategic Assessment of Amendments. All requirements to be met under the direction have been considered and met in the preparation of the amendment.

The amendment is consistent with the Ministerial Direction on the Form and Content of Planning Schemes under section 7(5) of the Act.

- **How does the amendment support or implement the State Planning Policy Framework (SPPF)?**

The amendment supports and builds on the principles outlined in clause 11 of the SPPF in regard to settlement, environment, management of resources, infrastructure, economic well being, social needs and regional cooperation and specifically clauses 14 (Settlement), 15 (Environment), 16 (Housing), 17 (Economic Development) and 18 (Infrastructure) of the SPPF. Appropriate guidance is provided through the new MSS in each of these key areas.

The amendment supports and implements the SPPF through ensuring the LPPF is current and accurately reflects the local response to State Policy. The LPPF includes Council's specific policy positions on settlement, environment, economic development and infrastructure which are consistent with State Policy. The amendment is consistent with, and gives effect to the following specific sections of the SPPF:

- Settlement SPPF Clause

Clause 14.01-1 Settlement – seeks 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.”

This is to be implemented through the new Built Environment Clause 21.04 by:

- Accommodating projected population growth over at least a 10 year period, taking into account opportunities for redevelopment and intensification of existing urban areas.
- Encourage consolidation of urban areas while respecting neighbourhood character.
- Preparation of structure plans.

The new Municipal Profile and Municipal Vision Clauses 21.01 and 21.02 are also consistent with SPPF Clause 14.01 regarding planning for urban settlement.

The new Implementation Program and Further Strategic Work Program Clauses 21.07 and 21.08 provide a further commitment to implement various future local provisions that are supported by the SPPF.

- Environment SPPF Clause

Clause 15.01-2 – Protection of catchments, waterways and groundwater - requires planning authorities to “consider the impacts of catchment management on downstream water quality”.

Clause 15.02-2 – Floodplain management – “flood risk must be considered in the preparation of planning schemes”.

Clause 15.07-2 – Protection from wildfire – *“Planning authorities must identify wildfire risk environment in planning schemes.”*

Clause 15.09 – Conservation of native flora and fauna – Planning authorities must have regard to relevant Acts, strategies and plans when preparing planning scheme amendments or municipal strategic statements.

Clause 15.12 – Energy Efficiency – *“Planning authorities should encourage land use and development that is consistent with the efficient use of energy and the minimisation of greenhouse gas emissions”.*

This amendment responds directly to these elements of the SPPF by providing objectives and strategies for each element in the new Natural Environment Sustainability Clause 21.03.

The new Municipal Profile and Municipal Vision Clauses 21.01 and 21.02 are also consistent with SPPF Clauses 15.02 and 15.09 regarding floodplain management and conservation of flora and fauna.

The new Implementation Program and Further Strategic Work Program Clauses 21.07 and 21.08 provide a further commitment to implement various future local provisions that are supported by the SPPF.

Clause 15.04-2 – Air quality – *“Planning authorities should ensure that development is not prejudiced and community design is not reduced by air emissions...”*

Clause 15.05-2 – Noise abatement – *“Planning authorities should ensure that development is not prejudiced and community design is not reduced by noise emissions...”*

Clause 15.10-1 - Open space – *“Planning authorities should plan for regional open space networks to be used for recreation and conservation of natural and cultural environments.”*

Clause 15.11- Heritage – *“Planning authorities should identify, conserve and protect places of natural or cultural value from inappropriate development.”*

This amendment responds directly to these elements of the SPPF by providing objectives and strategies for most of these elements in the new Built Environment and Liveability Clauses 21.04 and 21.06. The new Latrobe Structure Plans also provide a number of detailed recommendations regarding each of these SPPF elements.

The new Implementation Program and Further Strategic Work Program Clauses 21.07 and 21.08 provide a further commitment to implement various future local provisions that are supported by the SPPF.

- Housing SPPF Clause

Clause 16.01-1 – Residential development for single dwellings - seeks to encourage subdivisions that provide a range of lot sizes, sufficient usable open space and opportunities for increased residential densities to help consolidate urban areas.

Clause 16.02-1 – Medium density housing - seeks to encourage the development of well-designed medium density housing.

Clause 16.03 – Rural living and rural residential development - has the objective to identify land suitable for rural living and rural residential development that is located close to existing towns but in areas not required for fully serviced urban development and does not encroach on high quality productive agricultural land or adversely impact on waterways or other natural resources.

This amendment responds directly to these elements of the SPPF by providing objectives and strategies for each element in the new Built Environment Clause 21.04. The new Latrobe Structure Plans also provide a number of detailed recommendations regarding each of these SPPF elements.

The new Municipal Profile and Municipal Vision Clauses 21.01 and 21.02 are also consistent with SPPF Clauses 16.01 and 16.03 regarding residential development and rural living and rural residential development.

The new Implementation Program and Further Strategic Work Program Clauses 21.07 and 21.08 provide a further commitment to implement various future local provisions that are supported by the SPPF.

- Economic Development SPPF Clause

Clause 17.01-1 - Activity centres – has the objective to encourage the concentration of major retail, commercial, administrative, entertainment and cultural developments into activity centres.

Clause 17.02 – Business - has the objective to encourage developments which meet the 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 17.03 – Industry - aims to ensure that sufficient land is zoned for industrial development in urban growth areas, where good access for employees and freight transport is available, and where appropriate buffer areas can be provided between the proposed land and sensitive uses.

Clause 17.04 – Tourism - aims to encourage the development of a range of well designed and sited tourist facilities.

Clause 17.05 – Agriculture - aims to protect against the unplanned loss of productive agricultural land and to enable protection of productive farmland which is of strategic significance in the local or regional context.

Clause 17.07 – Forestry and timber production – has the objective to facilitate the establishment, and harvesting of plantations and native forests consistent with relevant government policy documents.

Clause 17.08 – Mineral Resources – *“Planning authorities in Central Gippsland must act to protect the brown coal resource to ensure that”* the winning of coal is not compromised and that there are adequate buffers in place to separate coal activities and sensitive uses.

The new MSS has consolidated the coal policy provisions as it exists in the current Latrobe Planning Scheme. However the intent and general wording of the coal policy provisions have not changed and this has therefore resulted in a **policy neutral position** being achieved in the new MSS in Clause 21.05.

Clause 17.09 – Extractive industry – has the objective to identify and protect stone resources.

This amendment responds directly to these elements of the SPPF by providing objectives and strategies for each element in the new Economic Sustainability Clause 21.05. The new Latrobe Structure Plans and the Moe and Churchill Town Centre Plans also provide a number of detailed recommendations regarding the activity centre, business, and industry SPPF elements.

The new Municipal Profile and Municipal Vision Clauses 21.01 and 21.02 are also consistent with SPPF Clauses 17.03, 17.05, 17.07, and 17.08 regarding industry, agriculture, forestry and timber production and mineral resources.

The new Implementation Program and Further Strategic Work Program Clauses 21.07 and 21.08 provide a further commitment to implement various future local provisions that are supported by the SPPF.

- Infrastructure SPPF Clause

Clause 18.01 – Declared highways, railways and tramways – aims to integrate land use and transport planning around existing planned and declared railways

Clause 18.02-1 - Car parking and public transport access to development and Clause 18.03 Bicycle transport – encourages consideration be given to all modes of travel, including walking, cycling, public transport, taxis and private vehicles in providing access to new developments.

Clause 18.04 – Airfields – has the objective to facilitate the siting of airfields and extensions to airfields, restrict incompatible land use and development in the vicinity of airfields, and recognise the role of airfields as focal points within the state's economic and transport infrastructure.

Clause 18.06 – Health facilities and Clause 18.07 Education facilities – encouraged hospitals and secondary and tertiary education facilities in areas which are highly accessible to public, private transport, and are located to maximise access by walking.

Clause 18.09 – Water supply, sewerage and drainage - requires that urban development is provided with sewerage at the time of subdivision and that water catchments are protected from contamination.

Clause 18.10 – Waste management – has the objective to prevent pollution and land degradation by controlling the generation, transport and disposal of waste.

Clause 18.12 – Developer contributions to infrastructure - encourages the timely provision of planned infrastructure to communities through the preparation and implementation of development contribution plans.

Clause 19.03 – Design and built form – aims to achieve high quality urban design and architecture.

This amendment responds directly to the elements of the SPPF Clauses 18.01, 18.02, 18.03, 18.04, 18.09, 18.12 and 19.03 by providing objectives and strategies for most of the elements in the new Built Environment Sustainability Clause 21.04.

The new Latrobe Structure Plans and the Moe and Churchill Town Centre plans also provide a number of detailed recommendations regarding the declared highways, car parking, public and bicycle transport, education facilities, water supply, sewerage and drainage, and design and built form SPPF elements.

This amendment responds directly to the elements of the SPPF Clauses 18.06, 18.07, and 19.03 by providing objectives and strategies for each element in the new Liveability Clause.

The new Municipal Profile and Municipal Vision Clauses 21.01 and 21.02 are also consistent with SPPF Clauses 18.01, 18.04, 18.06, and 18.07 regarding declared highways, airfields, health facilities, and education facilities.

This amendment responds directly to the elements of the SPPF Clause 18.10 by providing objectives and strategies for each element in the new Natural Environment Sustainability Clause 21.03.

The new Implementation Program and Further Strategic Work Program Clauses 21.07 and 21.08 provide a further commitment to implement various future local provisions that are supported by the SPPF.

- **How does the amendment support or implement the Local Planning Policy Framework?**

The amendment has been prepared in the context of a considerable amount of strategic work prepared by Latrobe City Council over the last eight years. The amendment is a complete review and replacement of Clauses 21 and 22 (including some maps) arising out of the strategic work undertaken. While the majority of the existing MSS is significantly outdated, some sections of the existing LPPF are still relevant and have been included in the new MSS.

- **Does the amendment make proper use of the Victoria Planning Provisions?**

The amendment uses the MSS to deliver the broader strategic land use direction for Latrobe City Council. The review of the LPPF has resulted in the removal of all local policies that were either inconsistent with the VPPs, duplicated requirements already in the SPPF or were more appropriately included in a revised form in the MSS. The revised LPPF focus is on directing the use of discretion on planning applications to implement Latrobe City Council's key strategic actions.

The amendment has been prepared with reference to the following VPP Practice Notes, General Practice Notes, and Advisory Notes:

- Strategic Assessment Guidelines April 2008.
- Review of Planning Schemes February 2006.
- Format of Municipal Strategic Statements February 1999.
- Monitoring and Review of Planning Schemes October 2000.
- Writing a Local Planning Policy December 1999.
- Incorporated and Reference Documents August 2000.

The amendment has been prepared with reference to the following state government policy documents:

- Making Local Policy Stronger June 2007.
- Continuous Improvement Review Kit February 2006.
- Cutting Red Tape in Planning 2006 (and subsequent reports).

All the MSS changes proposed are considered to be consistent with relevant VPP Practice Notes and state government policy documents. The structure of the new MSS is generally consistent with the VPP Practice Note Format of Municipal Strategic Statements February 1999 although the new MSS uses different headings over those suggested in the Practice Note. The new MSS is closer aligned with Latrobe City Council's Latrobe 2021 strategy headings but the main themes of in the Practice Note are still addressed in the new MSS.

- **How does the amendment address the views of any relevant agency?**

Significant consultation was held with relevant agencies during the preparation of the strategic studies underpinning this amendment, including (but not limited to) the Planning Scheme Review Report, Latrobe 2021, Latrobe Structure Plans, Towns Centre Plans, and the Natural Environmental Sustainability Strategy.

Service authorities, other government departments, local planning consultants, and local developers have attended workshops and made submissions which have been incorporated into the base studies and the new MSS.

Latrobe City Council has worked closely with the Department of Planning and Community Development and the Department of Primary Industries in preparing the amendment.

It is also anticipated that the views of relevant agencies will also be submitted to Latrobe City Council during the public exhibition process.

- **What impact will the new planning provisions have on the resource and administrative costs of the responsible authority?**

It is considered that the proposed controls will have a positive effect on Latrobe City Council resources and decrease administrative costs by providing improved guidelines in relation to urban and rural development. The proposed controls will provide greater certainty to land owners and developers which will flow on to reduced resource and administrative costs to Latrobe City Council.

Where you may inspect this Amendment.

The amendment is available for public inspection, free of charge, during office hours at the following places.

<p>Department of Planning and Community Development web site at:</p> <p>www.dpcd.vic.gov.au/planning/publicinspection</p>	<p>Department of Planning and Community Development</p> <p>Traralgon Regional Office 71 Hotham Street Traralgon VIC 3844</p>
<p>Latrobe City Council Headquarters</p> <p>Corporate Headquarters 141 Commercial Road Morwell VIC 3840</p>	<p>Latrobe City Council Service Centres</p> <p>Traralgon Service Centre 34-38 Kay Street Traralgon VIC 3844</p> <p>Moe Service Centre 44 Albert Street Moe VIC 3825</p>

11.3.3 PLANNING PERMIT APPLICATIONS 2009/24-29, 13-23 BRUTON STREET, MORWELL - USE AND DEVELOPMENT OF ONE DWELLING ON A LOT

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

1. PURPOSE

The purpose of this report is to determine the following Planning Permit Applications:

- 2009/24 – located at 13 Bruton Street, Morwell;
- 2009/25 – located at 15 Bruton Street, Morwell;
- 2009/26 – located at 17 Bruton Street, Morwell;
- 2009/27 – located at 19 Bruton Street, Morwell;
- 2009/28 – located at 21 Bruton Street, Morwell; and
- 2009/29 – located at 23 Bruton Street, Morwell,

Each application proposes: 'development of a single dwelling on a lot of less than 300 square metres, in accordance with the endorsed plans.'

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, as follows:

Latrobe 2021 and Council Plan 2009-2013

Strategic Objective – Sustainability

To promote the responsible and sustainable care of our 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 Action – Built Environment Objective

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

Strategic Action – Community Capacity Building

Ensure the Latrobe Valley supports social and family life by promoting rights and respecting diversity.

This report is consistent with the *Planning and Environment Act 1987* and the Latrobe Planning Scheme.

4. BACKGROUND

4.1 SUMMARY

Land:	Planning Permit 2009/24, 13 Bruton Street, Morwell, known as Lot 6 Lodged Plan 52998
Land:	Planning Permit 2009/25, 15 Bruton Street, Morwell, known as Lot 7 Lodged Plan 52998
Land:	Planning Permit 2009/26, 17 Bruton Street, Morwell, known as Lot 8 Lodged Plan 52998
Land:	Planning Permit 2009/27, 19 Bruton Street, Morwell, known as Lot 9 Lodged Plan 52998
Land:	Planning Permit 2009/28, 21 Bruton Street, Morwell, known as Lot 10 Lodged Plan 52998
Land:	Planning Permit 2009/29, 23 Bruton Street, Morwell, known as Lot 11 Lodged Plan 52998
Proponent:	Community Housing (VIC) Ltd
Zoning:	Residential 1 Zone (R1Z)
Overlay	There are no overlays that affect these properties.

A Planning Permit is required for the development of one dwelling on a lot of less than 300 square metres in accordance with Clause 32.01-3 of the Latrobe Planning Scheme.

4.2 PROPOSAL

Each application proposes the construction of a single dwelling.

Subject Land:

As outlined above, there are six allotments which comprise the site to which the six planning permit applications relate. The site is located on the western side of Bruton Street, which is an unmade road currently developed and used as a pedestrian path.

The site is currently vacant, and is located within a residential zone.

Each allotment has the following total site area:

Lot	Total site area
Lot 6	273 square metres
Lot 7	185 square metres
Lot 8	185 square metres
Lot 9	185 square metres
Lot 10	185 square metres
Lot 11	185 square metres

The Proposal:

Each of the proposed dwellings comprises two bedrooms with a single car space (located within a car port) which is to be accessed from the rear laneway. The dwellings have an identical floor plan, and are setback 4 metres from the front (east) title boundary, and 8 metres from the rear (west) title boundary.

The dwellings are proposed to be constructed on the title boundaries (i.e. – they are to be built boundary to boundary), except for the dwelling on Lot 6, which is setback 1 metre from the northern (side) boundary.

The private open space areas located to the rear of the dwellings are delineated by a 1.8 metre high timber paling fences. The front yards are proposed to be delineated by a 1.2 metre high front fence.

A courtyard is provided for each of the dwellings (located in the centre of the northern boundary of lots 7-11), that enables natural light to enter the laundry, toilet, bathroom and bedroom 2 of each of the proposed dwellings. The courtyards are accessed directly from the kitchen area in each proposal.

Each of the applications provides north facing secluded private open space at the rear of the dwellings, which totals 30.7 square metres in area. When combined with the private open space located at the front of the dwellings, the total amount of private open space proposed for each dwelling is 55.1 square metres.

The dwellings will be constructed of face brickwork and colourbond roofing and guttering. The maximum building height proposed is 4.3m at the highest point of the roof.

Each dwelling has a total floor area of approximately 103 square metres.

Surrounding Land Use:

- North: Lots to the north of the site contain existing single dwellings, fronting Kathleen Street.
- South: Land to the south of the site is located within a Mixed Use Zone and is developed with a variety of commercial uses (e.g. a Hair Salon, Fish and Chip Shop, Milk Bar).
- East: Land to the east of the site, across the unmade Bruton Street, is a dwelling that fronts Kathleen Street, and open space accessing the reserve surrounding the Elizabeth Wilmot Preschool.
- West: Land located to the west of the site, across the laneway, is developed with dwellings that address Haywood Street. Rear access to these properties is from the laneway.

4.3 HISTORY OF APPLICATION

Six individual planning permit applications were received on 29 January 2009 for the development of a single dwelling on each of the lots located at 13-23 Bruton Street. Amended plans were received for consideration on 16 February 2009.

On 19 February, Council Officers required the applicant to notify adjoining property owners and occupiers, and display a sign on each of the sites.

A completed Statutory Declaration form was received on 19 March 2009 advising that the notification process had been completed in accordance with the directions of Council.

One objection was received on 17 March 2009 to all six planning permit applications. A second objection was received on 23 March 2009, relating solely to the planning permit applications for Lots 6 and 7 of LP 52998.

A planning mediation meeting was scheduled to occur on 22 April 2009. This meeting was subsequently postponed as the applicant advised Council that they would be submitting amended plans.

Revised plans were not received, and the applicant requested Council to organise the planning mediation meeting. A meeting date was confirmed for 20 May 2009, with representation from the applicant and objectors.

On 7 June, Council Officers were advised that the lots had been sold and the plans were to be altered. The new owner and proponent, Community Housing (VIC) Ltd, confirmed that amended plans would be received reflecting their own designs, which were received by Council on 24 June 2009.

The changes required notice of the applications to be given a second time, and Council directed the applicant to give notice on 22 July 2009. A Statutory Declaration confirming that notification had occurred and was completed in accordance with Council's requirements was received on 25 August 2009. No additional objections were received to the amended plans, and the two submitted were not withdrawn.

4.4 LATROBE PLANNING SCHEME

State Planning Policy Framework

Clause 11.03 (Principles of Land Use and Development Planning):

Clause 11.03 states that "Society has various needs and expectations such as land for settlement, protection of the environment, economic well-being, various social needs, proper management of resources and infrastructure. Planning aims to meet these by addressing aspects of economic, environmental and social well-being affected by land use and development."

Clause 14.01 (Planning for Urban Settlement):

Clause 14.01 states the objectives to "ensure a sufficient supply of land is available for residential, commercial, industrial, recreation, institutional and other public uses", and also "to facilitate the orderly development of urban areas".

Clause 14.01-2 further states that *“In planning for urban growth, planning authorities should encourage consolidation of existing urban areas while respecting neighbourhood character. Planning authorities should encourage higher density and mixed use development near public transport routes.”*

Clause 16.05 (Affordable Housing):

The objective of this clause is stated as being to *“deliver more affordable housing closer to jobs, transport and services”*.

This clause further states the aims to *“improve housing affordability by:*

- *Ensuring land supply continues to be sufficient to meet demand.*
- *Increasing choice in housing type, tenure and cost to meet the needs of households as they move through life cycle changes and to support diverse communities.*
- *Promoting good housing and urban design to minimise negative environmental impacts and keep down costs for residents and the wider community.*

Increase the supply of well-located affordable housing by:

- *Encouraging a significant proportion of new development, including development at activity centres and strategic redevelopment sites, to be affordable for households on low to moderate incomes.*
- *Facilitating a mix of private, affordable and social housing in activity centres, strategic redevelopment sites and Transit Cities projects.*
- *Ensuring the redevelopment and renewal of public housing stock better meets community needs.”*

Clause 19.03 (Design and Built Form):

The objective of this clause is stated as being to *“achieve high quality urban design and architecture that:*

- *Reflects the particular characteristics, aspirations and cultural identity of the community;*
- *Enhances liveability, diversity, amenity and safety of the public realm;*

- *Promotes the attractiveness of towns and cities within broader strategic contexts.”*

Local Planning Policy Framework

Municipal Strategic Statement (Clause 21)

Clause 21.01 (Municipal Profile):

Clause 21.01-7 states 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”*.

This clause further states that *“there should be a growing need for affordable and easily maintained housing with good accessibility to facilities and services for older people and, therefore, greater diversity in the medium density type dwelling stock.”*

Clause 21.02 (Key Influences):

Clause 21.02-2 states 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.*

For example, the Office of Housing, Department of Human Services prepared the La Trobe Valley Stock Management Strategy for the period of 1994 to 1999. It recognises that the provision of housing stock needs to change considerably from ‘family’ stock to more accurately reflect demand from older persons, singles and youth to match demographic trends.

Recognition of the need for more affordable housing also leads to the need for a more diverse housing stock in the urban areas, such as, medium density accommodation.”

Clause 21.03 (Vision – Strategic Framework):

Clause 21.03-2 states various strategies identified in the *Latrobe Strategy Plan* to become:

- *“A unique and prosperous municipality benefiting from its central location in the diverse environment of Gippsland offering a wide range of attractive lifestyle choices in the many towns, smaller villages and rural parts of the municipality;*

- *A community which is proud of its heritage and is strong, resilient, creative, entrepreneurial, adaptable and caring with an optimistic future and strong focus on 'quality of life' issues.*
- *A cohesive municipality which:*
 - *Provides the opportunity for rich and varied lifestyles;*
 - *Satisfies the community's needs for employment, housing, social interaction, shopping, education, health, entertainment, recreation, leisure and culture; and*
 - *Provides the means to access these opportunities conveniently by private and public transport."*

Clause 21.04 (Objectives/Strategies/Implementation):

Clause 21.04-4 states that *"the priorities in all the main urban settlements should be on realising opportunities for infill development, diversity of housing types, upgrading of areas of public housing and generally improving the residential amenity of the municipality while maximising the use of capital and resources invested in existing infrastructure, business and community facilities."*

Element 2 (Housing Choice) of this clause states the objective to:

- *"To encourage a wider variety of housing types, especially smaller and more compact housing, to meet the changing needs of the community."*

Two of the strategies listed to assist the achievement of this are:

- *"Encourage diversity of dwelling type to provide greater choice and affordability;*
- *Publicise examples of best practice in modern housing design and development, particularly for medium density housing, to inform the community of new housing options and encourage innovation in housing development across the municipality."*

Local Planning Policy (Clause 22)

Clause 22.03 (Car Parking Policy):

This clause applies to the use and development of all land within Latrobe. The basis for this policy relies on the knowledge that *“Land uses should generally cater for on-site provision of car parking. However, where circumstances arise for facilities to be provided off-site, car parking requirements are often waived and/or covered by cash-in-lieu contribution, orderly and proper provision of car parking is guided by this policy.”*

Clause 22.06 (Urban Residential Land Supply):

This policy relates to all urban residential zoned land in the main towns within Latrobe. The objectives of this policy include:

- *“To ensure that the design layout, height and appearance of new development, including landscaping, contributes to the improvement of the character, presentation, amenity and visual quality of towns;*
- *To increase the choice and availability of housing for a broad range of ages and lifestyles; and*
- *To encourage consolidation within the defined urban boundaries.”*

Zoning

The subject site is zoned ‘Residential 1’. Pursuant to Clause 32.01-4 of the Scheme, a planning permit is required to construct two or more dwellings on a lot. The proposal must also meet the requirements of the decision guidelines of Clause 32.01-4 and Clause 65 (Decision Guidelines). The ‘Purpose’ of the Residential 1 Zone is:

- *“To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and the local planning policies;*
- *To provide for residential development at a range of densities with a variety of dwellings to meet the housing needs of all households;*
- *To encourage residential development that respects the neighbourhood character; and*

- *In appropriate locations, to allow educational, recreation, religious, community and a limited range of other non-residential uses to serve local community needs.”*

The decision guidelines of Clause 32.01-4 are:

- *“The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and the local planning policies; and*
- *The objectives, standards and decision guidelines of Clause 55.”*

Overlay

No overlays affect the subject land.

Particular Provisions

Clause 54 One Dwelling on a Lot:

This clause applies to any application to construct a dwelling on a lot of less than 300m².

The ‘Purpose’ of Clause 54 ‘One dwelling on a lot’ is:

- *‘To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *To achieve residential development that respects the existing neighbourhood character or which contributes to a preferred neighbourhood character.*
- *To encourage residential development that provides reasonable standards of amenity for existing and new residents.*
- *To encourage residential development that is responsive to the site and the neighbourhood.’*

Decision Guidelines (Clause 65):

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

- *The matters set out in Section 60 of the Act;*
 - *The relevant planning scheme; and*
 - *The objectives of planning in Victoria; and*
 - *All objections and other submissions which it has received and which have not been withdrawn; and*
 - *Any decision and comments of a referral authority which it has received; and*

- *Any significant effects which the responsible authority considers the use or development may have on the environment or which the responsible authority considers the environment may have on the use or development.*
- *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 and the use, development or management of the land so as to minimise any such hazard.”*

Incorporated Documents (Clause 81):

There are no incorporated documents that relate specifically to the consideration of this application.

Relevant Planning Scheme Amendments:

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

Amendment C62 identifies the subject land as being within an existing urban area. The proposed Clause 21.04-3 states the objectives most relevant to this application, as:

- *To contain urban development within distinct boundaries.*

- *To encourage a wider variety of housing types, especially smaller and more compact housing, to meet the changing housing needs of the community.*
- *To encourage medium density housing in locations identified in the structure plans and in the Transit Cities.*

The proposed Clause 21.04-4 identifies the strategies by which to achieve these objectives:

- *Encourage diversity of dwelling type to provide greater choice and affordability*
- *Encourage infill and renewal at a variety of housing densities.*
- *Encourage medium density housing within the Transit City areas of the major town centres and neighbourhood clusters.*
- *Consolidate development within and around the existing towns and avoid unnecessary urban expansion and rural subdivision.*

The proposals are consistent with the intent of the policy contained in Amendment C62.

5. **ISSUES**

Strategic direction of the State and Local Planning Policy Frameworks:

The State and Local Planning Policy Framework provide strategic directions to provide affordable housing for the citizens of Latrobe. The policy framework identifies the need for a variety of dwelling types and sizes to meet the changing needs of the community.

The applications are considered to comply with the State and Local Planning policies, as the applications propose affordable housing to cater for people with variety of dwelling needs.

'Purpose' and 'Decision Guidelines' of the Residential 1 Zone:

The applications are considered to comply with the purpose and decision guidelines of the Residential 1 Zone, as the applications comply with the provisions of Clause 54 and are generally consistent with the State and Local Planning Policy frameworks.

The applications comply with the requirements of Clause 54 of the Latrobe Planning Scheme.

Clause 65 (Decision Guidelines):

The applications are considered to comply with the Clause 65 Decision Guidelines, as the applications are consistent with the Scheme, the orderly planning of the area, and will not result in a significant affect on the amenity of the area.

The applications received two submissions in the form of objections. The issues raised were:

1. Issue raised by submitter: The use of the site for dwellings, rather than commercial properties.

Officer Comment:

As the subject land is located within a residential zone, the proposed development of a single dwelling is consistent with the purpose of the zone. In addition, the Morwell Structure Plan, which forms part of Amendment C62, identifies the site as being within an existing residential area, and thus, appropriate for residential development.

2. Issue raised by submitter: Affect on the amenity of the area (noise/crime/graffiti).

Officer Comment:

Amenity issues in relation to the possible future tenants of the dwellings is not identified by the *Planning and Environment Act 1987* as a valid planning objection and therefore this objection is outside the realms of matters to be considered by the responsible authority.

3. Issue raised by submitter: Decrease in property values.

Officer Comment:

This is not considered a valid ground of objection unless it can be justified by a sworn professional valuation, and is usually not considered a ground for refusal when considered in VCAT hearings. As no sworn professional valuation has been submitted, this objection is outside the realms of matters to be considered by this application.

4. Issue raised by submitter: The restrictions the developments will impose on the ability of rear access arrangements for lots with a Haywood Street frontage.

Officer Comment:

Council's Project Services Team have provided advice stating that the lane located to the west of the site is a sufficient width to enable vehicles to enter and exit the rear access to sites on both sides of the lane. If current access is being obtained over the subject land to enable vehicle turning circles, this is illegal access over the site.

5. Issue raised by submitter: Increase in pedestrian and vehicle traffic.

Officer Comment:

Council's Project Services Team have provided advice stating that the increased traffic levels created by the development of a single dwelling on the lot would generate an average of 10 vehicle movements over a 24 hour period. Therefore, the proposed development of six dwellings would result in an additional 60 vehicle movements over a 24 hour period. It is considered unlikely that there will be 60 car movements per day from these sites given the provision of one car parking space at each dwelling.

Each application meets the car parking space requirements required pursuant to Clause 54 of the Scheme. It is considered that the additional vehicle movements are unlikely to result in any unacceptable impacts on the amenity of the area.

6. Issue raised by submitter: Location of rubbish bins for collection.

Officer Comment:

Council's Local Law Number 2 requires:

"Domestic waste bins are to be placed on the nature-strip adjacent to the driveway abutting the occupier's property by 6.00 am on the mornings specified by the Council for collection from that property."

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 the notice requirements of Section 52(1) of the Act, the applicant was required to notify adjoining property owners and occupiers of the applications and display a sign on each of the sites.

Pursuant to Section 52(1)(c) of the Act, the Department of Primary Industries (DPI) Mineral and Petroleum division were provided notice of the applications. DPI did not object to the applications.

External:

There were no referral requirements pursuant to Section 55 of the Act.

Internal:

The applications were referred internally to Council's Project Services department for consideration, who provided consent to the applications subject to conditions.

The applications were also referred internally to Property and Statutory Services, who provided consent to the applications with comments.

The applications were also referred internally to Councils Municipal Building Surveyor, who provided conditional consent to the applications.

Details of Community Consultation following Notification:

Following the notification process, there were two objections received to planning permit applications 2009/24 and 2009/25, and one objection received for planning permit applications 2009/26, 2009/27, 2009/28 and 2009/29.

A planning mediation meeting was held 20 May 2009 with representatives from the applicant and the objectors in attendance. 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.

Refer to Section 5 of this report for a discussion and comments in response to the concerns raised by the objectors.

8. OPTIONS

Council has the following options in regard to this application:

1. Issue a Notice of Decision to Grant 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:

- Consistent with the strategic direction of the State and Local Planning Policy Frameworks;
- Consistent with the 'Purpose' and 'Decision Guidelines' of the Residential 1 Zone;
- Consistent with Clause 65 (Decision Guidelines); and
- The objections received has been considered against the provisions of the Latrobe Planning Scheme and the relevant planning concerns have been considered (the objections do not form planning grounds on which the application should be refused).

10. RECOMMENDATION

A. That Council decides to issue a Notice of Decision to Grant Planning Permit 2009/24, for the Development of a Dwelling on a lot less than 300 square metres, located at 13 Bruton Street, Morwell, known as Lot 6 LP 52998, with the following conditions:

1. Prior to the commencement of works, plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The plans must show:

- a) A north facing window to be located in the kitchen/living room area;
 - b) The removal of the northern wall enclosing the courtyard.
2. The development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.
3. Prior to the commencement of works, a landscape plan must be submitted to and approved by the Responsible Authority. The plan must show:
 - a) buildings and trees (including botanical names) on neighbouring properties within three metres of the boundary;
 - b) details of surface finishes of pathways and driveways;
 - c) 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;
 - d) landscaping and planting within all open areas of the site; and
 - e) a minimum of canopy tree (minimum two metres tall when planted) in the private open space located to the rear (west) of the dwelling. All species selected must be to the satisfaction of the Responsible Authority.
The landscape plan must also indicate that an in-ground irrigation system is to be provided to all landscaped areas.
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.
4. Prior to the occupation of the building, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.
5. 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.
6. Upon completion of the buildings and works, the site must be cleared of all excess and unused building materials and debris to the satisfaction of the Responsible Authority.

7. Once building works have commenced they must be completed to the satisfaction of the Responsible Authority.

Engineering Conditions:

8. Environmental amenity must be controlled during construction, including the control of dust, and measures preventing silt and litter entering the drainage system.
9. 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.
10. All stormwater and surface water discharging from the site, building and car park must be connected to a legal point of discharge using underground pipes.
11. All the construction works on the roads affected by these works must be in accordance with Standards Australia "Field Guide for Traffic Control at Works on Roads".
12. This permit will expire if one of the following circumstances applies:
 - a) The development is 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.

Note 1: Any drainage connection into Council's storm water drain requires the approval of the Responsible Authority prior to the works commencing. The applicant must obtain a Council Works permit for new connections to Council drains and these works are to be inspected by an officer from the Responsible Authority.

Note 2: 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, as Asset Protection Permit must be obtained.

- B. That Council decides to issue a Notice of Decision to Grant a Planning Permit, for:
- 2009/25, for the Development of one Dwelling on a lot, located at 15 Bruton Street, Morwell, known as Lot 7 Lodged Plan 52998;
 - 2009/26, for the Development of one Dwelling on a lot, located at 17 Bruton Street, Morwell, known as Lot 8 Lodged Plan 52998;
 - 2009/27, for the Development of one Dwelling on a lot, located at 19 Bruton Street, Morwell, known as Lot 9 Lodged Plan 52998;
 - 2009/28, for the Development of one Dwelling on a lot, located at 21 Bruton Street, Morwell, known as Lot 10 Lodged Plan 52998; and
 - 2009/29, for the Development of one Dwelling on a lot, located at 23 Bruton Street, Morwell, known as Lot 11 Lodged Plan 52998, with the following conditions:
1. The development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.
 2. Prior to the commencement of works, a landscape plan must be submitted to and approved by the Responsible Authority. The plan must show:
 - a) buildings and trees (including botanical names) on neighbouring properties within three metres of the boundary;
 - b) details of surface finishes of pathways and driveways;
 - c) 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;
 - d) landscaping and planting within all open areas of the site; and
 - e) a minimum of canopy tree (minimum two metres tall when planted) in the private open space located to the rear (west) of the dwelling. All species selected must be to the satisfaction of the Responsible Authority. The landscape plan must also indicate that an in-ground irrigation system is to be provided to all landscaped areas. 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.

3. Prior to the occupation of the building, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.
4. 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.
5. Upon completion of the buildings and works, the site must be cleared of all excess and unused building materials and debris to the satisfaction of the Responsible Authority.
6. Once building works have commenced they must be completed to the satisfaction of the Responsible Authority.

Engineering Conditions:

7. Environmental amenity must be controlled during construction, including the control of dust, and measures preventing silt and litter entering the drainage system.
8. 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.
9. All stormwater and surface water discharging from the site, building and car park must be connected to a legal point of discharge using underground pipes.
10. All the construction works on the roads affected by these works must be in accordance with Standards Australia "Field Guide for Traffic Control at Works on Roads".
11. This permit will expire if one of the following circumstances applies:
 - a) The development is 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.

Note 1: Any drainage connection into Council's storm water drain requires the approval of the Responsible Authority prior to the works commencing. The applicant must obtain a Council Works permit for new connections to Council drains and these works are to be inspected by an officer from the Responsible Authority.

Note 2: 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, as Asset Protection Permit must be obtained.

Moved: Cr White

Seconded: Cr Lougheed

That the Recommendation be adopted.

For the Motion

Councillor White

Against the Motion

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

The Mayor confirmed that the Recommendation had been LOST

Moved: Cr Middlemiss

Seconded: Cr Lougheed

That Council DECIDES to issue a Refusal to Grant a Permit, on the following grounds:

- 1. Does not meet the objectives of Clause 55.02-1 'Neighbourhood Character' of the Latrobe Planning Scheme, as the resulting dwelling density does not reflect the built form of the surrounding area.**
- 2. The proposal does not meet the decision guidelines of Clause 65.01, as the proposal is inconsistent with the orderly planning of the area considering the density of the proposed development.**
- 3. The development does not encourage design detail that respects the existing or preferred neighbourhood character of the area and is therefore inconsistent with Clause 32.01, the 'Purpose' of the Residential 1 Zone.**

CARRIED UNANIMOUSLY

ATTACHMENTS

11.3.4 PLANNING PERMIT APPLICATION 2009/156 - BUILDINGS AND WORKS ASSOCIATED WITH AN EXTENSION TO AN EXISTING INDUSTRY (CHEESE FACTORY)

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

1. PURPOSE

The purpose of this report is to determine Planning Permit Application 2009/156 for buildings and works associated with an extension to an existing industry (cheese factory) at Lot 1 on Plan of Subdivision 529156T, Princes Highway, Traralgon East.

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

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

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

4. **BACKGROUND**

4.1 **SUMMARY**

Land:	Princes Highway, Traralgon East, known as Lot 1 on Plan of Subdivision 529156T.
Proponent:	M Pettitt C/- Chris O'Brien & Company Pty Ltd
Zoning:	Industrial 3 Zone and abuts a Road Zone, Category 1.
Overlay	No overlays affect the subject land.

A Planning Permit is required to construct a building or construct or carry out works in the Industrial 3 Zone in accordance with Clause 33.03-4 of the Scheme.

4.2 **PROPOSAL**

The application is for a retrospective planning permit for buildings and works associated with an extension to an existing industry.

The total area of the extension is 2,238 square metres. The works include the construction of 38 on-site car parking spaces.

It is noted that the extension has been constructed (in 2006) and is located in the western half of the site. The car parking spaces have not yet been constructed.

Subject Land:

The subject site is irregular in shape, with a total area of 1.358 hectares. The northern (front) boundary of the site abuts Princes Highway for a distance of 135 metres and the southern (rear) boundary of the site extends for a distance 135.57 metres. The western and eastern (side) boundaries extend 106.81 and 94.37 metres respectively.

The land is relatively flat and the site contains minimal vegetation, which appears to have been planted.

An 8 metre wide power line easement extends 52.15 metres from the north eastern boundary of the site towards the south.

Surrounding Land Use:

- North: Road – sealed with kerb and channel (Princes Highway).
- South: Forty metre wide Railway Reserve (Melbourne to Bairnsdale Railway Line) and single dwellings on lots of approximately 1,700m² south of the railway.
- East: Existing industry on a lot of approximately 5,094m².
- West: Vacant land on a lot of approximately 4,155m².

The closest residential dwelling is located approximately 68 metres to the south of the site.

4.3 HISTORY OF APPLICATION

The application was received by Council on 8 May 2009 after meeting with the permit applicant. At this meeting, the applicant was informed that they carried out the buildings and works on site in 2006 without the necessary planning approvals. The applicant was then instructed to apply for a retrospective planning permit or face enforcement action.

A further information request was then sent to the permit applicant on 27 May 2009. The further information requested was received by Council on 12 June 2009.

The application was advertised on 18 June 2009 to adjoining and adjacent landowners and occupiers 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. Notice of the application was given to the Environment Protection Authority (EPA) under Section 52(1)(d) of the Act also on 18 June 2009.

Submissions in the form of objections were subsequently received on 6 July 2009 and 7 July 2009.

The EPA responded to the notice served on 9 July 2009.

A planning mediation meeting was held on 9 September 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.

4.4 LATROBE PLANNING SCHEME

State Planning Policy Framework

Clause 17.03 'Industry' contains the following 'Objective':

- *'To ensure availability of land for industry and to facilitate the sustainable development and operation of industry and research and development activity'.*

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 18.10 'Waste management' contains the following 'Objective':

- *'To assist control of the generation, transport and disposal of wastes so as to prevent pollution and land degradation'.*

Clause 19.03 'Design and built form' contains the following 'Objective':

- *'To achieve high quality urban design and architecture that reflects the particular characteristics, aspirations and cultural identity of the community, enhances livability, diversity, amenity and safety of the public realm and promotes attractiveness of towns and cities within broader strategic contexts'.*

Local Planning Policy Framework

Municipal Strategic Statement (Clause 21)

Clause 21.01 (Municipal Profile):

Under 'Urban settlement and form' (Clause 21.01-3) it is recognised that:

- *'The three main urban settlements of Moe, Morwell and Traralgon are located along a linear spine of the main transport corridor formed by the Princes Freeway and the Melbourne railway line'.*

and under 'Environment' (Clause 21.01-5) it is acknowledged 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'.*

and under 'Industry' (Clause 21.01-10) it is noted that:

- *'Each of the main urban settlements, except for Churchill, has a number of industrial areas. They enjoy access to main roads, co-location of ancillary activities as well as availability of a skilled labour force'.*

Clause 21.02 (Key Influences):

Under 'Industry' (Clause 21.02-4) it is stated that:

- *'The challenge for Latrobe City is not simply to rebuild the industrial bases that have provided prosperity in the past but also to build the emerging industries which can both strengthen and diversify the economy'.*

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'; and*
- *'Encourage consolidation of urban settlement within the urban zoned boundaries'.*

Clause 21.04-2 has a 'Municipal conservation planning' objective (Element 1) to protect and improve the air and water quality of the municipality. Strategies to implement this objective include:

- *'Identify areas of high environmental sensitivity and develop planning permit conditions appropriate to the protection and management of such areas'; and*
- *'Evaluate the impact on air quality of proposed developments, especially industrial developments generating air borne emissions'.*

Clause 21.04-7 has an 'Industrial amenity' objective (Element 3) to improve the appearance and amenity of existing industrial areas to make them more attractive to new industry looking to establish in the municipality. Strategies to implement this objective include:

- *'Encourage the development of modern new industry within the municipality';*
- *'Encourage industry to achieve high performance standards and/or site development criteria to minimise off-site impacts and enhance the amenity of the areas'; and*
- *'Encourage landscape design and layout that are appropriate and include paving and lighting to provide a safe attractive and functional environment and blend development with the neighbourhood'.*

Local Planning Policy (Clause 22)

Clause 22.03 (Car Parking Policy):

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

- *'Adequate, accessible and functional car parking provision is an integral part of an urban system. Land uses should generally cater for on-site provision of car parking'.*

'Objective':

- *'To provide car parking appropriate to the use of the land and reflecting need and usage'.*

'Policy':

- *'Car parking provisions shall be determined in accordance with Clause 52.06, except for those uses identified in the following Table, in which case the lesser car parking requirement shown in the Table can be considered'.*

Zoning

The subject site is zoned 'Industrial 3'. Pursuant to Clause 33.03-4 of the Scheme, a planning permit is required to construct a building or construct or carry out works. The proposal must also meet the requirements of Clause 65 (Decision Guidelines). The 'Purpose' of the Industrial 3 Zone is:

- *'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 industries and associated uses in specific areas where special consideration of the nature and impacts of industrial uses is required or to avoid inter-industry conflict.*
- *To provide a buffer between the Industrial 1 Zone or Industrial 2 Zone and local communities, which allows for industries and associated uses compatible with the nearby community.*
- *To ensure that uses do not affect the safety and amenity of adjacent, more sensitive land uses'.*

Overlay

No overlays affect the subject land.

Particular Provisions

Clause 52.06 Car Parking:

The 'Purpose' of this clause is:

- *'To ensure that car parking facilities are provided in accordance with:*

- *The State Planning Policy Framework and the Local Planning Policy Framework including the Municipal Strategic Statement and local planning policies.*
- *Any parking precinct plan.*
- *To provide the opportunity to use parking precinct plans in appropriate locations.*
- *To promote the efficient use of car spaces through the consolidation of car parking facilities.*
- *To ensure the provision of an appropriate number of car spaces having regard to the activities on the land and the nature of the locality.*
- *To ensure that the design and location of car parking areas:*
 - *Does not adversely affect the amenity of the locality, in particular the amenity of pedestrians and other road users.*
 - *Achieves a high standard of urban design.*
 - *Creates a safe environment for users, particularly at night.*
 - *Enables easy and efficient use.*
 - *Protects the role and function of nearby roads.*
 - *Facilitates the use of public transport and the movement and delivery of goods'.*

Clause 52.07 Loading and Unloading of Vehicles:

The 'Purpose' of this clause is:

- *'To set aside land for loading and unloading commercial vehicles to prevent loss of amenity and adverse effect on traffic flow and road safety'.*

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

The 'Purpose' of this clause is:

- *'To ensure appropriate access to identified roads.*
- *To ensure appropriate subdivision of land adjacent to identified roads'.*

The proposal does not seek to subdivide the land or create or alter access to the site. The existing access is to be utilised.

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 65.01 of the Scheme, the Responsible Authority must consider, as appropriate:

- *'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 and the use, development or management of the land so as to minimise any such hazard'.*

Incorporated Documents (Clause 81):

No Incorporated Documents are considered to be relevant to this application.

Relevant Planning Scheme Amendments:

Amendment C62 to the Scheme proposes changes to the Municipal Strategic Statement and Local Planning Policies. Amendment C62 is a seriously entertained planning scheme amendment pursuant to Section 60 (1A)(c) of the Act.

Amendment C62 identifies the subject land as being within an existing industrial area. The application is considered to be consistent with the proposed changes as outlined in the amendment.

5. ISSUES

Strategic direction of the State and Local Planning Policy Frameworks:

It is considered that the application complies with the State and Local Planning Policy Frameworks.

'Purpose' and 'Decision Guidelines' of the Industrial 3 Zone:

It is considered that the application complies with the 'Purpose' and 'Decision Guidelines' of the Industrial 3 Zone.

Clause 65 (Decision Guidelines):

It is considered that the application complies with Clause 65 'Decision Guidelines'.

The application received two submissions in the form of objections. Please refer to Attachment 1 for location details of the two objectors. Issues raised by submitter(s):

1. The works proposed by this application were carried out two years ago without notice given to the residents or the necessary permits.

Officer comment:

It is acknowledged that the works were carried out without the necessary planning approval. This application is for a retrospective planning permit so that the landowner will not be in breach of the Latrobe Planning Scheme and the *Planning and Environment Act 1987*.

2. The cheese factory was not operating when some residents moved in 8 years ago. Since re-establishing the operation residents have been subjected to unpleasant odours emitting from the waste treatment plant on site.

Officer comment:

The proposal was referred to the Environment Protection Authority (EPA) in relation to issues such as the omission of odours. The landowner has carried out works on their waste treatment system which the EPA have deemed adequate. The EPA have been monitoring the site and provided no objection to the granting of a planning permit.

3. As a result of the odour being emitted from the site, it is understood that the EPA will also be objecting to this planning permit.

Officer comment:

The EPA have provided consent to the granting of a planning permit. Odour issues appear to have been resolved between the EPA and the landowner.

4. It is believed that the method of waste treatment on site (open tank) has not changed.

Officer comment:

The EPA has advised that the method of waste treatment on site is considered to be appropriate and adequate considering the use of the land and the type of waste created. EPA have provided consent to the granting of a permit.

5. The proposed extension will increase the waste to be treated and increase the odour being emitted from the site.

Officer comment:

The extension was carried out in 2006. The EPA have assessed the waste treatment methods on site with the extended part of the building being fully functional, and do not object to the proposal.

6. The size of the building is far too great.

Officer comment:

Visual impacts being experienced by residents to the south can be alleviated by a landscaping buffer which will be a condition on the permit. As discussed at the planning mediation meeting, a strip of landscaping, consisting of mature trees that will grow to at least 6 metres in height, will be required along the southern boundary of the subject site.

7. The proposal will decrease the value of surrounding properties.

Officer comment:

This is not considered a valid ground of objection, unless justified by a sworn professional valuation. A sworn professional valuation was not submitted to Council by the objectors.

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 for 14 days.

External:

Clause 66 of the Scheme details that the application is exempt from the referral requirements of Section 55 of the Act.

Notice of the application was given to the Environment Protection Authority (EPA) pursuant to Section 52(1)(d) of the Act. The EPA gave consent to the granting of a planning permit.

Internal:

Internal officer comments were sought from Council's Project Services Team who gave consent to the granting of a planning permit subject to appropriate conditions and notes that have been provided.

Details of Community Consultation following Notification:

Following the advertising of the application, two submissions in the form of objections were received.

The concerns raised from the objections are detailed in section 5 of this report.

A planning mediation meeting was held on 9 September 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 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:

- Consistent with the strategic direction of the State and Local Planning Policy Frameworks;
- Consistent with the 'Purpose' and 'Decision Guidelines' of the Industrial 3 Zone;
- 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 and the objections do not form planning grounds on which the application should be refused.

10. RECOMMENDATION

That Council decides to issue a Notice of Decision to Grant a Planning Permit, for the buildings and works associated with an extension to an existing industry (Cheese factory) at Lot 1 on Plan of Subdivision 529156T, Princes Highway, Traralgon East, with the following conditions:

1. **The development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.**
2. **Within 2 months of the issue date of this permit, the areas set aside for the parking of vehicles and access lanes as shown on the endorsed plans must be:**

- a) constructed and properly formed to such levels that they can be used in accordance with the plans;
- b) drained and surfaced with an all-weather-seal coat;
- c) line marked to indicate each car space and all access lanes;
- d) clearly marked to show the direction of traffic along access lanes and driveways; and
- e) Designed and laid out according to Australian Standard AS/NZS 2890.1:2004, *Parking Facilities – Off-street car parking*.

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

3. No fewer than 38 car spaces must be provided on the land for the use and development, including a minimum of one car space that must be provided for the exclusive use of disabled persons. The car space for the use of disabled persons must be provided as close as practicable to a suitable entrance of the building and must be clearly marked with a sign to indicate that the space must only be utilised by disabled persons. The minimum dimensions of the car space for the use of disabled persons must be 3.2 metres wide by 4.9 metres long.
4. Within 1 month of the issue date of this permit, 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. The plan must show:
 - 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 and driveways;
 - 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 all open areas of the site; and

- f) a landscaping strip with a minimum width of 2 metres that extends along the entire length of the southern boundary of the site. All proposed plants within this area must be at least two metres tall when planted and grow to a minimum height of 6 metres at maturity.
All species selected must be to the satisfaction of the Responsible Authority.
5. Within 1 month of the Landscaping Plan required by condition 4 of this permit being endorsed, 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.
6. 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.
7. All buildings and works must be maintained in good order and appearance to the satisfaction of the Responsible Authority.
Building Condition:
8. A six (6) metre wide road with the capacity to withstand fire tankers and that is to the satisfaction of the Responsible Authority must be constructed on the western and southern sides of the proposed extension, sealed with either concrete or asphalt.
Engineering Conditions:
9. Prior to the commencement of any works associated with the construction of the car park and associated driveways, or within 1 month of the issue date of this permit (which ever is earlier), detailed design plans with computations must be submitted to and approved by the Responsible Authority. The design plans must be prepared in accordance with the requirements of Latrobe City Council's Design Guidelines for infrastructure development and must provide for the following:
- a) how the land will be drained for the 1 in 10 year ARI storm event;
 - b) underground pipe drains to convey stormwater to the legal point of discharge; and
 - c) provision of car parking bays in accordance with AS2890.1 Off street car parking facilities.
- When approved, the plans will be endorsed and will then form part of the permit.

10. Any requirement to discharge storm water from this development to the Princes Highway must be approved of in writing by VicRoads, to the satisfaction of the Responsible Authority.
11. The following works must be provided to the satisfaction of the Responsible Authority:
 - a) construction of drainage infrastructure detailed in the approved drainage discharge plan; and
 - b) construction of car parking areas and access roads including line marking to indicate car spaces.
12. Environmental amenity must be controlled during construction, including the control of dust, and measures preventing silt and litter entering the drainage system to the satisfaction of the Responsible Authority.
13. Any 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.

Expiry of Permit:
14. This permit will expire if one of the following circumstances applies:
 - a) The development is 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.

Engineering Notes:

Note 1. Any drainage connection into a Council stormwater drain requires the approval of the Responsible Authority prior to the works commencing. The applicant must obtain a Council Works permit for new connections to Council drains and these works are to be inspected by the Responsible Authority.

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.

Moved: Cr Vermeulen

Seconded: Cr Fitzgerald

That the Recommendation be adopted.

CARRIED UNANIMOUSLY

ATTACHMENTS

**11.3.5 PLANNING PERMIT APPLICATION 2009/189 - CONSTRUCTION
OF FIVE DWELLINGS ON A LOT, 8 BEMM DRIVE, MORWELL**

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

1. PURPOSE

The purpose of this report is to determine Planning Permit Application 2009/189 for the construction of five dwellings on a lot at Lot 87 on Plan of Subdivision 521413T, more commonly known as 8 Bemm Drive, 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, as follows:

Latrobe 2021 and Council Plan 2009-2013

Strategic Objective – Sustainability

To promote the responsible and sustainable care of our 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 Action - Built Environment Sustainability

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

Strategic Action – Community Capacity Building

Ensure the Latrobe Valley supports social and family life by promoting rights and respecting diversity.

This report is consistent with the *Planning and Environment Act* 1987 and the Latrobe Planning Scheme.

4. BACKGROUND

4.1 SUMMARY

Land: 8 Bemm Drive, Morwell known as Lot 87
Plan of Subdivision 521413T
Proponent: Community Housing (VIC) Ltd
Zoning: Residential 1 Zone (R1Z)
Overlay: There are no overlays that affect this property.

A Planning Permit is required to construct two or more dwellings on a lot in the Residential 1 Zone in accordance with Clause 32.01-4 of the Latrobe Planning Scheme (the Scheme).

4.2 PROPOSAL

The application is for the construction of five dwellings on a vacant lot of 2029m².

Each of the proposed dwellings are of single storey face brick construction with features of bagged brickwork with a paint finish. The pitched and hipped roofs are constructed in colourbond materials, as are the roller doors providing access to the garages.

Proposed Units 3 and 4 are to contain one bedroom and are to be serviced by a single car garage. Proposed Units 1 and 2 are to contain two bedrooms and will be serviced by single car garages. Proposed Unit 5 will be serviced by a single car garage with ample space in front for a second car parking spot. This dwelling is to contain three bedrooms. A single visitor car parking space is provided to the south of the subject site adjacent to the shared accessway.

Access to the site is to be provided via a single 4 metre wide crossover to Bemm Drive. This crossover provides access to the shared internal accessway servicing all five dwellings.

Each dwelling is provided with a minimum of 59 square metres of secluded private open space that is oriented towards the north of the site. Access to these secluded private open space areas is obtained via living areas of the dwellings.

Unit 1 is setback from the front title boundary to Bemm Drive six metres. All other dwellings are setback further within the site.

Subject Land:

The subject land is located in Morwell's north western urban area, at the northern end of Bemm Drive, which is accessed via Gabo Way. The site is 2,029 square metres in total area, and is irregular in shape. The front (Bemm Drive) boundary measures 13.46 metres. The southern property boundary (abutting 9 Bemm Drive) is 48.13 metres, the northern boundary is 23.91 metres, the western boundary (abutting 7 Bemm Drive) is 55.85 metres, and the eastern boundary (abutting 53-65 Centre Road) is 46.86 metres.

A two metre wide drainage easement runs along the northern boundary of the site, and a five metre wide drainage easement runs along the eastern boundary. Each of the neighbouring residential lots contains an existing dwelling, and there are several vacant lots within Bemm Drive.

Surrounding Land Use:

- North: Single dwelling on a lot of approximately 1,509m². Access to this lot is gained via Joanne Court.
- South: Single dwelling on a lot of approximately 1,250m². Access to this lot is gained via Bemm Drive.
- East: Existing industry (Orica Australia) on a lot of approximately 8,242m². Access to this lot is gained via Centre Road.
- West: Road – sealed with kerb and channel (Bemm Drive) and a single dwelling on a lot of approximately 1,309m². Access to this lot is gained via Bemm Drive.

4.3 HISTORY OF APPLICATION

The application was received by Council on 25 May 2009. The certificate of title contains two registered restrictions in the form of covenants. Covenant AD652777W relates to the materials of which a building can be constructed on the site, and covenant PS521413T requires a 12 metre setback buffer from the industrial properties to the east, within which no habitable rooms can be constructed.

No habitable room windows are located within the 12 metre industrial/residential interface 'buffer strip' to the east of site.

On 11 June 2009, the applicant was required to notify adjoining property owners and occupiers of the proposal. Inadvertently omitted from this letter was the requirement to display a sign on the site. This matter was rectified when Council Officers displayed a sign on the site for fourteen days, from 10 September 2009.

On 17 July 2009, a Statutory Declaration was received advising Council that the notification process had been completed in accordance with Council's instructions. There were 14 submissions received in the form of objections, one including a petition with 79 signatures of nearby property owners and occupiers.

A planning mediation meeting occurred on 2 September 2009, with many of the objectors and a representative from Community Housing (VIC) Ltd in attendance. There was no agreed solutions to the objectors concerns so the application cannot be determined under delegated authority.

4.4 LATROBE PLANNING SCHEME

State Planning Policy Framework

Clause 11.03 (Principles of Land Use and Development Planning):

Clause 11.03 states that "Society has various needs and expectations such as land for settlement, protection of the environment, economic well-being, various social needs, proper management of resources and infrastructure. Planning aims to meet these by addressing aspects of economic, environmental and social well-being affected by land use and development."

Clause 11.03-6 states that "Planning is to recognise social needs by providing land for a range of accessible community resources, such as affordable housing, places of employment, open space, and education, cultural, health and community support (mental, aged, disabled, youth and family services) facilities. Land use and development planning must support the development and maintenance of communities with adequate and safe physical and social environments for their residents, through the appropriate location of uses and developments and quality of urban design."

Clause 14.01 (Planning for Urban Settlement):

Clause 14.01 states the objectives to “ensure a sufficient supply of land is available for residential, commercial, industrial, recreation, institutional and other public uses”, and also “to facilitate the orderly development of urban areas”.

Clause 14.01-2 further states that “In planning for urban growth, planning authorities should encourage consolidation of existing urban areas while respecting neighbourhood character. Planning authorities should encourage higher density and mixed use development near public transport routes.”

Clause 16.02 (Medium Density Housing):

The objective of this clause is stated as being to:

“Encourage the development of well-designed medium-density housing which:

- *Respects the neighbourhood character.*
- *Improves housing choice.*
- *Makes better use of existing infrastructure.*
- *Improves energy efficiency of housing.”*

Clause 16.05 (Affordable Housing):

The objective of this clause is stated as being to “deliver more affordable housing closer to jobs, transport and services”.

This clause further states the aims to “improve housing affordability by:

- *Ensuring land supply continues to be sufficient to meet demand.*
- *Increasing choice in housing type, tenure and cost to meet the needs of households as they move through life cycle changes and to support diverse communities.*
- *Promoting good housing and urban design to minimise negative environmental impacts and keep down costs for residents and the wider community.*

Increase the supply of well-located affordable housing by:

- *Encouraging a significant proportion of new development, including development at activity centres and strategic redevelopment sites, to be affordable for households on low to moderate incomes.*
- *Facilitating a mix of private, affordable and social housing in activity centres, strategic redevelopment sites and Transit Cities projects.*
- *Ensuring the redevelopment and renewal of public housing stock better meets community needs.”*

Clause 19.03 (Design and Built Form):

The objective of this clause is stated as being to “*achieve high quality urban design and architecture that:*

- *Reflects the particular characteristics, aspirations and cultural identity of the community;*
- *Enhances liveability, diversity, amenity and safety of the public realm;*
- *Promotes the attractiveness of towns and cities within broader strategic contexts.”*

Local Planning Policy Framework

Municipal Strategic Statement (Clause 21)

Clause 21.01 (Municipal Profile):

Clause 21.01-7 states 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”.*

This clause further states that “*there should be a growing need for affordable and easily maintained housing with good accessibility to facilities and services for older people and, therefore, greater diversity in the medium density type dwelling stock.”*

Clause 21.02 (Key Influences):

Clause 21.02-2 states 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.*

For example, the Office of Housing, Department of Human Services prepared the La Trobe Valley Stock Management Strategy for the period of 1994 to 1999. It recognises that the provision of housing stock needs to change considerably from 'family' stock to more accurately reflect demand from older persons, singles and youth to match demographic trends.

Recognition of the need for more affordable housing also leads to the need for a more diverse housing stock in the urban areas, such as, medium density accommodation."

Clause 21.03 (Vision – Strategic Framework):

Clause 21.03-2 states various strategies identified in the *Latrobe Strategy Plan* to become:

- *"A unique and prosperous municipality benefiting from its central location in the diverse environment of Gippsland offering a wide range of attractive lifestyle choices in the many towns, smaller villages and rural parts of the municipality;*
- *A community which is proud of its heritage and is strong, resilient, creative, entrepreneurial, adaptable and caring with an optimistic future and strong focus on 'quality of life' issues.*
- *A cohesive municipality which:*
 - *Provides the opportunity for rich and varied lifestyles;*
 - *Satisfies the community's needs for employment, housing, social interaction, shopping, education, health, entertainment, recreation, leisure and culture; and*
 - *Provides the means to access these opportunities conveniently by private and public transport."*

Clause 21.04 (Objectives/Strategies/Implementation):

Clause 21.04-4 states that "the priorities in all the main urban settlements should be on realising opportunities for infill development, diversity of housing types, upgrading of areas of public housing and generally improving the residential amenity of the municipality while maximising the use of capital and resources invested in existing infrastructure, business and community facilities."

Element 2 (Housing Choice) of this clause states the objective to:

- *“To encourage a wider variety of housing types, especially smaller and more compact housing, to meet the changing needs of the community.”*

Two of the strategies listed to assist the achievement of this are:

- *“Encourage diversity of dwelling type to provide greater choice and affordability;*
- *Publicise examples of best practice in modern housing design and development, particularly for medium density housing, to inform the community of new housing options and encourage innovation in housing development across the municipality.”*

Local Planning Policy (Clause 22)

Clause 22.03 (Car Parking Policy):

This clause applies to the use and development of all land within Latrobe. The basis for this policy relies on the knowledge that *“Land uses should generally cater for on-site provision of car parking. However, where circumstances arise for facilities to be provided off-site, car parking requirements are often waived and/or covered by cash-in-lieu contribution, orderly and proper provision of car parking is guided by this policy.”*

Clause 22.06 (Urban Residential Land Supply):

This policy relates to all urban residential zoned land in the main towns within Latrobe. The objectives of this policy include:

- *“To ensure that the design layout, height and appearance of new development, including landscaping, contributes to the improvement of the character, presentation, amenity and visual quality of towns;*
- *To increase the choice and availability of housing for a broad range of ages and lifestyles; and*
- *To encourage consolidation within the defined urban boundaries.”*

Zoning

The subject site is zoned 'Residential 1'. Pursuant to Clause 32.01-4 of the Scheme, a planning permit is required to construct two or more dwellings on a lot. The proposal must also meet the requirements of the decision guidelines of Clause 32.01-4 and Clause 65 (Decision Guidelines). The 'Purpose' of the Residential 1 Zone is:

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

The decision guidelines of Clause 32.01-4 are:

- *“The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and the local planning policies; and*
- *The objectives, standards and decision guidelines of Clause 55.”*

Overlays

No overlays affect the subject land.

Particular Provisions

Clause 55 Two or More Dwellings on a Lot:

This clause applies to any application to construct two or more dwellings on a lot.

The 'Purpose' of Clause 55 'Two or more dwellings on a lot and residential buildings' is:

- *“To implement the State Planning Policy Framework and the Local Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies;*
- *To achieve residential development that respects the existing neighbourhood character or which contributes to a preferred neighbourhood character;*
- *To encourage residential development that provides reasonable standards of amenity for existing and new residents;*
- *To encourage residential development that is responsive to the site and the neighbourhood.”*

Refer to the Clause 55 assessment that is attached to this report for further detail.

Decision Guidelines (Clause 65):

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

- *The matters set out in Section 60 of the Act;*
 - *The relevant planning scheme; and*
 - *The objectives of planning in Victoria; and*
 - *All objections and other submissions which it has received and which have not been withdrawn; and*
 - *Any decision and comments of a referral authority which it has received; and*
 - *Any significant effects which the responsible authority considers the use or development may have on the environment or which the responsible authority considers the environment may have on the use or development.*
- *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 and the use, development or management of the land so as to minimise any such hazard."*

Incorporated Documents (Clause 81):

There are no incorporated documents that relate specifically to the consideration of this application.

Relevant Planning Scheme Amendments:

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

Amendment C62 identifies the subject land as being within an existing urban area, with the proposed Clause 21.04-3 stating the objectives most relevant to this application, as:

- *To contain urban development within distinct boundaries.*
- *To encourage a wider variety of housing types, especially smaller and more compact housing, to meet the changing housing needs of the community.*
- *To encourage medium density housing in locations identified in the structure plans and in the Transit Cities.*

The proposed Clause 21.04-4 identifies the strategies by which to achieve these objectives:

- *Encourage diversity of dwelling type to provide greater choice and affordability*
- *Encourage infill and renewal at a variety of housing densities.*
- *Encourage medium density housing within the Transit City areas of the major town centres and neighbourhood clusters.*

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

5. ISSUES

Strategic direction of the State and Local Planning Policy Frameworks:

The State and Local Planning Policy Framework provide strategic directions to provide affordable housing for the citizens of Latrobe City. The policy framework identifies the need for a variety of dwelling types and sizes to meet the changing needs of the community.

The application is considered to comply with the State and Local policies, as it proposes affordable housing and encourages a variety of dwelling types in the local area.

'Purpose' and 'Decision Guidelines' of the Residential 1 Zone:

The application is considered to comply with the purpose and decision guidelines of the Residential 1 Zone, as the application complies with the provisions of Clause 55 and is generally consistent with the State and Local Planning Policy Frameworks.

Clause 65 (Decision Guidelines):

The application is considered to comply with the Clause 65 Decision Guidelines as the application is consistent with the Scheme, the orderly planning of the area, and although there may be some impact on amenity, it is not considered to result in a significant affect on the amenity of the area.

There were no objections received from the neighbouring industrial properties. The application received 14 submissions in the form of objections. The issues raised were:

1. Issue raised by submitters: Loss of Property Values

Officer Comment:

This is not considered a valid ground of objection unless it can be justified by a sworn professional valuation, and is usually not considered a ground for refusal when considered in VCAT hearings. As no sworn professional valuation has been submitted, this objection is outside the realms of matters to be considered by this application.

2. Issue raised by submitters: Additional traffic generated by the use of five dwellings

Officer Comment:

Council's Project Services Team have provided conditional consent to the application and provided comment on traffic levels likely to be generated by this development. It is considered that the increased traffic levels created by the development of a single dwelling on the lot would be an average of 10 vehicle movements over a 24 hour period. Therefore, the proposed development of five dwellings would result in an additional 50 vehicle movements over a 24 hour period. It is considered that the additional vehicle movements are unlikely to result in any unacceptable impacts on the amenity of the area.

3. Issue raised by submitters: Amenity issues relating to possible future tenants (noise, safety, crime, rubbish bins)

Officer Comment:

Amenity issues relating to the possible future tenants of the dwellings is not identified by the *Planning and Environment Act 1987* as a valid planning objection. Therefore, this objection is outside the realms of matters to be considered by the Responsible Authority.

It is acknowledged that arrangements will need to be made with tenants to place bins in accordance with Local Law No.2;

"Domestic waste bins are to be placed on the nature-strip adjacent to the driveway abutting the occupier's property by 6.00 am on the mornings specified by the Council for collection from that property."

It is not unusual for such arrangements to be made, particularly in court bowls.

4. Issue raised by submitters: Overlooking from within the development to surrounding sites

Officer Comment:

As the dwellings are all single storey, and there is a 1.8m timber fence between the subject land and the surrounding neighbours, there will be no overlooking into adjoining properties. The application complies with the requirement of Clause 55.04-6 relating to overlooking into habitable room windows and private open space.

5. Issue raised by submitters: Density of the Dwellings within the streetscape

Officer Comment:

Allotments located within Bemm Drive generally contain single dwellings set off the side boundaries and associated outbuildings. Planning policy encourages medium density housing developments that are consistent with the existing streetscape of an area. Whilst it is acknowledged that the density of the site varies from the surrounding lots, the applicant has selected colours and materials that are similar to the surrounding dwellings to obtain a design that is consistent with the existing character of the area. The dwellings are setback considerably from the front and side title boundaries, it is considered to be generally consistent with the appearance of the streetscape.

The proposal is considered to reflect the character of the Bemm Drive streetscape as one dwelling, i.e. Unit 1, will be visible from the street, which is setback generously from the side and front boundaries, and one driveway and crossover is proposed. The built form character of the streetscape will be retained by the design of this proposal.

6. Issue raised by submitters: Existing car parking constraints within Bemm Drive

Officer Comment:

All of the dwellings within the development are provided with the required number of on-site car parking spaces, based on the requirements within Clause 55.03-11 (one car parking space for each two bedroom dwelling, two car spaces for a three bedroom dwellings).

In addition, Clause 55.03-11 requires that for every five dwellings, 1 visitor car parking space should be provided. This visitor car parking space has been provided for to the south of the subject site, adjacent to the shared accessway.

The car parking provided on-site is considered to be adequate to contain the car parking needs of the proposed development.

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 the notice requirement of Section 52(1) of the Act, the applicant was required to notify adjoining property owners and occupiers. In most applications where multiple dwellings are proposed, a sign is required to be displayed on the site for fourteen days pursuant to Section 52(1)(d) of the Act. This was inadvertently omitted from the letter to the applicant, and was subsequently undertaken by Council on 10 September 2009. One additional objection was received after displaying a sign on the site.

External:

There were no referral requirements pursuant to Section 55 of the Act.

Internal:

The application was referred internally to Council's Project Services Team for consideration, who provided consent to the application with conditions.

Details of Community Consultation following Notification:

There were 14 submissions in the form of objections received to the application, including one petition.

A planning mediation meeting was held on 2 September 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. All persons who submitted an objection attended the planning mediation meeting.

8. OPTIONS

Council has the following options in regard to this application:

1. Issue a Notice of Decision to Grant 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:

- Consistent with the strategic direction of the State and Local Planning Policy Frameworks;
- Consistent with the 'Purpose' and 'Decision Guidelines' of the Residential 1 Zone;
- Consistent with the 'Purpose' and 'Objectives' of Clause 55 (Two or more dwellings on a lot and residential buildings);
- 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. Whilst it is considered this type of application will introduce a density and style of housing that may have some amenity impacts for the local area, on balance, the application meets the policy direction and objectives for residential development in the interests of the broader community.

10. RECOMMENDATION

That Council decides to issue a Notice of Decision to Grant a Planning Permit, for the construction of five dwellings on a lot at Lot 87 on Plan of Subdivision 521413T, more commonly known as 8 Bemm Drive, Morwell, with the following conditions:

1. Prior to the commencement of buildings and works, 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 four copies must be provided. The plans must show:

- a) a maximum driveway width of 3 metres in areas where turning circles are not provided;
 - b) a minimum of a 1.5 metre wide landscaping strip along the southern boundary and driveway;
 - c) landscaping between the rear of the visitor car parking space and southern boundary; and
 - d) security lighting within the shared accessway.
2. The development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.
3. External lighting must be designed, baffled and located so as to prevent any adverse effect on adjoining land to the satisfaction of the Responsible Authority.
4. The exterior colour and cladding of the building must be of a non-reflective nature to the satisfaction of the Responsible Authority.
5. Prior to the commencement of buildings and works, 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 four copies must be provided. The plan must show:
- 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 and driveways;
 - 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 all open areas of the site;
 - f) a minimum of one canopy tree (minimum two metres tall when planted) in the secluded private open space of each dwelling, within the front setback of Unit 1 and in front of Unit 1, 2, 3 and 4.
- All species selected must be to the satisfaction of the Responsible Authority.
6. Prior to the issue of Certificate of Occupancy, 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.

7. 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.
8. Once building works have commenced they must be completed to the satisfaction of the Responsible Authority.
9. Upon completion of the buildings and works, the site must be cleared of all excess and unused building materials and debris to the satisfaction of the Responsible Authority.

Engineering Conditions:

10. Prior to the commencement of buildings and works, the following infrastructure must be designed to the satisfaction of, and approved by the Responsible Authority:
 - a) an underground drainage system (or alternative drainage system) including all hydraulic computations accepting stormwater discharge from the internal roadways, car parks and buildings. Provision of storm surcharge routes and cut-off drains. The pipes must be designed to take the 5 year ARI storm event; and
 - b) the design of car parking areas must be in accordance with Australian Standard AS 2890.1.
12. Prior to the issue of Certificate of Occupancy, the following works must be constructed to the satisfaction of the Responsible Authority:
 - a) construction of the underground drainage system in accordance with the drainage plans approved by the Responsible Authority; and
 - b) construction of the internal roadways and car parking, and all vehicle crossovers connecting to Bemm Drive. The driveways are to be constructed in accordance with Council's Design Guidelines (Urban Standards).
13. Environmental amenity must be controlled during construction, including the control of dust, and measures preventing silt and litter entering the drainage system.
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. This permit will expire if one of the following circumstances applies:
 - a) The development is 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.

Note 1. All buildings erected on this site must comply with the requirements of the Building Act 1993, the Building Regulations 2006, the Building Code of Australia 2007, Australian Standards and relevant municipal local laws.

Note 2. Prior to the commencement of buildings and 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.

Moved: Cr Middlemiss

Seconded: Cr Lougheed

That Council DECIDES to issue a Refusal to Grant a Permit, for the construction of five dwellings on a lot at Lot 87 on Plan of Subdivision 521413T, more commonly known as 8 Bemm Drive, Morwell, on the following grounds:

1. **The proposal does not meet the objectives of Clause 55.02-1 'Neighbourhood Character' of the Latrobe Planning Scheme, as the resulting dwelling density does not reflect the built form of the surrounding area.**
2. **The proposal does not meet the decision guidelines of Clause 65.01, as the proposal is inconsistent with the orderly planning of the area considering the density of the proposed development.**
3. **The development does not encourage design detail that respects the existing or preferred neighbourhood character of the area and is therefore inconsistent with Clause 32.01, the 'Purpose' of the Residential 1 Zone.**

CARRIED UNANIMOUSLY

ATTACHMENTS

11.3.6 REVIEW OF THE REGIONAL WASTE MANAGEMENT GROUP

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

1. PURPOSE

The purpose of this report is to seek Council's endorsement of the Gippsland Local Government Network (GLGN) response submission to the Future Directions Paper review being undertaken by Sustainability Victoria of the Victorian Regional Waste Management Groups.

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 facilitate a well connected, inter-active economic environment in which to do business.

Community Outcome - Sustainability

By responsibly managing the natural environment, to ensure its sustainability and diversity for the community.

Strategic Action - Natural Sustainability

Develop waste management facilities, techniques and technologies to advocate waste avoidance or minimisation, enhance resource recovery and achieve 'final storage quality' where possible.

Strategic Action

Develop facilities to manage waste which enhance the desirability for economic development within Latrobe City.

Policy - Ecologically Sustainable Development Policy 09 POL-3

The goal of this policy is to achieve ecologically sustainable development in Latrobe City. Ecologically sustainable development is an international initiative and policy of both federal and state government. This local policy provides a basis for a series of outline policies and strategies to assist Latrobe City to achieve sustainability in various sectors of environmental protection, major land-use, business and industry, waste disposal and people and equity.

4. BACKGROUND

Regional Waste Management Groups (RWMGs) are Victorian Statutory Authorities established under the Environment Protection (Amendment) Act 1996 in recognition that

"...stronger regional bodies with better resources and statutory powers are likely to be the most viable means of waste management..." (EPA Information Bulletin, 1997).

Their functions are outlined in Section 50H(1) of the Environment Protection Act 1970 and, as defined by the Act, are to encourage best practise in waste management by:

- (a) to plan for the management of municipal waste in its region, working in partnership with the councils in the region; and*
- (b) to co-ordinate the activities of its members in its region to give effect in its region to State policies, strategies and programs relating to waste; and*
- (c) to facilitate and foster best practices in waste management.*

The Gippsland Regional Waste Management Group (GRWWMG) is one of 12 Regional Waste Management Groups in Victoria. The Gippsland Group member councils are the municipalities of Bass Coast, Baw Baw, East Gippsland, Latrobe, South Gippsland and Wellington.

The overall policy objective of the GRWWMG is to minimise municipal solid waste generation, prevent litter, maximise resource recovery and recycling and minimise waste disposal in landfills.

The role of the Group is to strengthen the planning and co-ordination of municipal solid waste management in the Gippsland Region. In partnership with member councils, the Group determines how Gippsland will meet the challenges of State policies, strategies and programs relating to waste and how to reduce damage to the environment caused by waste disposal.

Refer to Attachment 1 - Relationship of Regional Business Plan with State Strategy and Plans.

5. ISSUES

Sustainability Victoria commenced reviewing Victoria's RWMGs in February 2009, extending an earlier review started by the Department of Sustainability and Environment in 2007.

The objective of the review of RWMGs is:

"To propose future structural, funding and governance arrangements for Regional Waste Management Groups to improve regional Victoria's capacity to deliver on the Victorian Government's Sustainability in Action: Towards Zero Waste targets."

The Review of the RWMGs will set the future direction for regional resource recovery planning and the regional and local implementation of the Victorian Government's waste management strategies and plans as part of the development of an integrated waste management framework across Victoria.

As part of the review Sustainability Victoria has prepared a Future Directions Paper on the possible future operating structures of RWMGs. The Paper has been released for public consultation and submissions are being sought from RWMGs, local governments, waste industry and community organisations, closing 30 November 2009.

The Future Directions Paper presents background information on RWMGs, barriers and opportunities for resource recovery in regional Victoria and proposes a set of future operating models, including a recommendation on the preferred operating structure.

The final Future Directions Paper will be presented to the State Minister for Environment and Climate Change. Any structural changes emanating from the Review are expected to come into effect by 1 July 2010.

The recommended future structural model is the establishment of seven Regional Business Units (RBU) integrated with Sustainability Victoria. Gippsland RWMG will remain with the current jurisdiction under this recommendation.

Each RBU will operate with a new Regional Management Committee. These Committee's will be chaired by a local government Councillor, with the committee consisting of local government Councillors, advisory officers and Sustainability Victoria Representatives. Waste industry representatives from the commercial/industrial and construction/demolition sectors will be invited to participate, and skills based directors will be invited to join the Committee.

Within the GRWMG, under the recommended changes, the Executive Officer role will be changed to a Regional Manager and the Regional Education Officer roles will remain. An additional Resource Recovery and Market Development Facilitator position will be included at each of the RBU's.

A submission in response to the Future Directions Paper has been prepared and endorsed by GLGN. This submission is attached.

6. FINANCIAL AND RESOURCES IMPLICATIONS

There are no financial implications in respect to Council's endorsement of the GLGN submission.

7. INTERNAL / EXTERNAL CONSULTATION

Sustainability Victoria has held public, local government and industry consultation sessions with the opportunity to provide feedback on the Future Directions Paper, which commenced on 25 August 2009. Information briefings and discussions have also been held with and by MAV and the RWMGs.

8. OPTIONS

Council has the following options in respect to the Victorian Region Waste Management Group Future Directions Paper:

1. Endorse the attached submission from GLGN as presented; or
2. Not endorse the attached submission from GLGN as presented.

9. **CONCLUSION**

Sustainability Victoria has commenced reviewing Victoria's RWMG's. A Future Directions Paper has been released for public consultation and submissions are being sought from RWMGs, local governments, waste industry and community organisations, closing 20 November 2009.

A submission in response to the Future Directions Paper is being made by GLGN.

10. **RECOMMENDATION**

That Council supports the response submission by Gippsland Local Government Network in relation to the review of Regional Waste Management Groups.

Moved: Cr Middlemiss

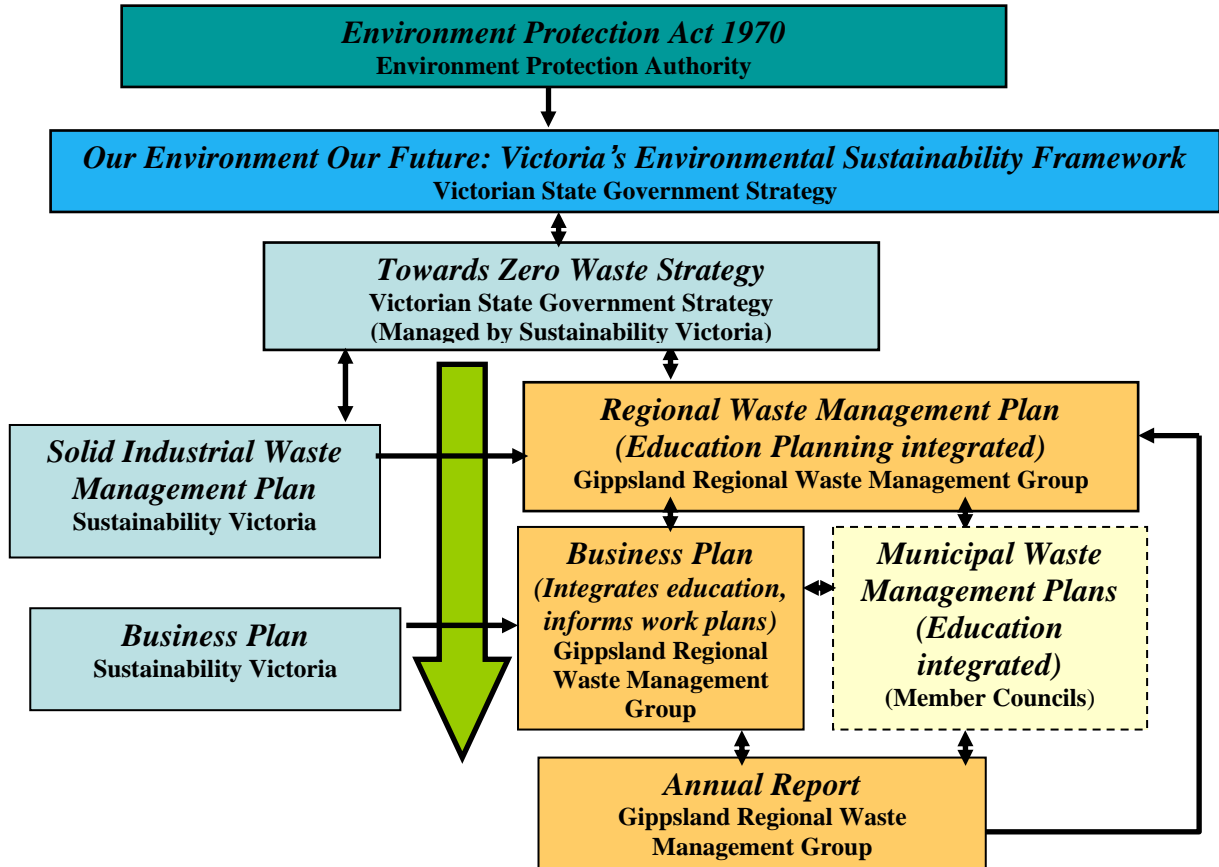
Seconded: Cr Lougheed

That Council supports the Municipal Association of Victoria's position on the review of the Regional Waste Management Groups and joins with Gippsland Local Government Network in registering opposition to the changes proposed in the Future Directions Paper proposed by Sustainability Victoria.

CARRIED UNANIMOUSLY

ATTACHMENTS

**ATTACHMENT 1 - RELATIONSHIP OF REGIONAL BUSINESS PLAN WITH
STATE STRATEGY AND PLANS**



**ATTACHMENT 2 – RESPONSE SUBMISSION FROM GLGN TO
SUSTAINABILITY VICTORIA**

11.3.7 **FEDERAL GOVERNMENT REGIONAL AND LOCAL COMMUNITY
INFRASTRUCTURE PROGRAM**

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

1. PURPOSE

The purpose of this report is to seek Council's approval for three projects to be submitted for funding under the Federal Government Regional and Local Community Infrastructure Program.

2. POLICY IMPLICATIONS

This report is consistent with Council's Latrobe 2021 vision document and the Council Plan 2008-2012.

Latrobe 2021 and Council Plan 2008-2012

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 Actions – Infrastructure Maintenance and Development

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.

Promote and support private and public sector investments in the development and maintenance of key asset infrastructure in the municipality.

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

Promote and support the infrastructure and development of small town communities within the municipality.

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

Ensure public infrastructure is maintained to meet community aspirations.

3. BACKGROUND

On 25 June 2009, the Prime Minister, the Hon Kevin Rudd MP announced that additional funding of \$220 million for the Regional and Local Community Infrastructure Program (RLCIP) would be made available in 2009-10.

There are two funding streams available under the RLCIP, they are:

1. Grant direct to Councils

Latrobe City Council has been allocated grant funds of \$678,000 under this component of the program.

The funding is available for new construction and major renovations or refurbishment of assets, ranging from access facilities such as walkways and boat ramps; through to social and cultural spaces; facilities for recreation, tourism, children, youth and seniors; and environmental initiatives. The range of eligible project categories is detailed in Attachment 1 to this report.

The funding program has a number of specific conditions that Council must meet, including:

- The funds are available for additional and ready-to-proceed community infrastructure projects, and for additional stages of projects that are currently underway.
- Completed applications must be received by the Federal Government by 20 November 2009.
- Projects must be fully completed by 31 December 2010.

2. Strategic Projects

The Federal Government has made \$120M available under this component of the RLCIP (RLCIP-SP). Funding is available to Councils on a competitive basis for limited number of larger scale strategic projects. Completed applications must be received by the Federal Government by 15 January 2010.

Funding will be allocated on a nationally competitive basis and will be assessed by the Federal Department of Infrastructure, Transport, Regional Development and Local Government.

Preference will be given to projects which can demonstrate community benefit. Partnership funding is required and preference may be given to projects with greater co-contributions.

RLCIP–SP will provide funding for community infrastructure including new works or major renovations and refurbishments such as:

- social and cultural infrastructure (e.g. art spaces, gardens);
- recreational facilities (e.g. swimming pools, sports stadiums);
- tourism infrastructure (e.g. walkways, tourism information centres);
- children, youth and seniors facilities (e.g. playgroup centres, senior citizens' centres);
- access facilities (e.g. boat ramps, footbridges and airports); and
- environmental initiatives (e.g. drain and sewerage upgrades, recycling plants).

The range of eligible project categories is detailed in Attachment 1 to this report.

4. ISSUES

In considering the projects that may be included for funding, a number of factors require consideration in addition to the requirements set by the Federal Government. These include, but are not limited to:

- Is the project part of an existing Council Strategy / Plan / Policy or resolution?
- Is the project scoped / planned and specified to the level that will enable delivery to meet the program guidelines?
- Have the necessary pre construction requirements of community engagement / building approval / planning approval / site tenure and security been conducted or can be completed in sufficient time so as not to jeopardise project delivery?

The projects recommended for funding from Latrobe City Council's \$678,000 allocation under the Regional and Local Community Infrastructure Program are detailed in Attachment 2 to this report.

The recommended projects are:

<i>Project</i>	<i>LCC RLCIP allocation</i>
Traralgon West Sporting Complex – stage 2	278,000
Latrobe Leisure Moe Newborough, change room upgrade	200,000
Latrobe Leisure Morwell, change room upgrade	200,000
<i>Total \$</i>	<i>678,000</i>

These projects have been proposed for inclusion as they meet the criteria outlined above.

The project identified for submission under the RLCIP–SP component is to be determined at the 7 December 2009 Ordinary Council Meeting. This will allow sufficient time to identify appropriate project opportunities for Council consideration.

5. FINANCIAL AND RESOURCES IMPLICATIONS

Should Council's application for project funding under the RLCIP–SP component be successful, a co-contribution will be required and will have to be included in Council's 2010-11 capital works budget.

There is no further capital cost to Council required to expend the grant fund component of \$678,000.

6. INTERNAL / EXTERNAL CONSULTATION

Engagement Method Used:

Projects identified for inclusion in the Regional and Local Community Infrastructure Program form part of an existing Council Strategy / Plan / Policy / program or resolution. Community engagement and consultation has been completed as part of the prior action.

As projects are required to be submitted to the Federal Government by within reasonable short timeframes, it is not practical to undertake further specific community engagement and consultation.

7. OPTIONS

Options available to Council include:

1. Council adopts the three projects identified for inclusion in the Regional and Local Community Infrastructure Program.
2. Council does not adopt the range of projects identified for inclusion in the Regional and Local Community Infrastructure Program.
3. Council make amendments to the range of projects identified for inclusion in the Regional and Local Community Infrastructure Program, giving consideration to the project delivery factors identified in Section 4 above.

8. CONCLUSION

The range of projects nominated for funding from the Federal Government Regional and Local Community Infrastructure Program provides an opportunity to deliver significant benefit to the Latrobe City community and improve the quality of the City's built environment.

9. RECOMMENDATION

1. That Council adopts the following projects to be funded from the \$678,000 grant made under the Federal Governments Regional and Local Community Infrastructure Program:

Traralgon West Sporting Complex – stage 2	278,000
Latrobe Leisure Moe Newborough, change room upgrade	200,000
Latrobe Leisure Morwell, change room upgrade	200,000
<i>Total \$</i>	<i>678,000</i>

2. That a further report be presented to the 7 December 2009 Ordinary Council Meeting to consider a suitable project for submission under the RLCIP-SP component.

Cr Vermeulen left the Council Chamber at 8.56 pm due to an indirect interest.

Moved: Cr O'Callaghan

Seconded: Cr Lougheed

That the Recommendation be adopted.

CARRIED UNANIMOUSLY

Cr Vermeulen returned to the Council Chamber at 9.01 pm.

ATTACHMENT 1

RANGE OF ELIGIBLE PROJECT CATEGORIES

Annexure A

Examples of Community Infrastructure

Social and cultural infrastructure

- Town halls
- Community centres
- Libraries
- Local heritage sites
- Museums
- Cultural centres
- Enhancement of main streets and public squares
- Theatre/music/art spaces
- Historic buildings
- Parks and gardens
- Internet kiosk infrastructure
- Kitchens for organisations
- Community market areas
- Other

Recreation facilities

- Sports grounds and facilities
- Sports stadiums
- Community recreation spaces
- Playgrounds
- Rail trails
- Swimming pools
- Walking tracks and bicycle paths
- Skate Parks
- BMX/Mountain Bike parks/trails
- Surf lifesaving clubs
- Other

Tourism infrastructure

- Convention or trade centres
- Memorial halls/walkways
- Tourism information centres
- Local infrastructure to support or provide access to tourist facilities
- Airports and terminals
- Community public attractions
- Buildings for exhibits
- Other

Children, youth and seniors facilities

- Playgroup centres
- Youth centres
- Scout/guide halls
- Senior citizens' centres
- Other

Access facilities

- Disabled access infrastructure
- Footbridges
- Bus/rail terminal upgrade
- Jetties/wharves/piers/pontoons
- Foreshore development
- Boat ramps
- Other

Environmental Initiatives

- Water source and treatment
- Drain and sewerage upgrades
- Water conservation infrastructure
- Waste management and processing infrastructure
- Wastewater infrastructure
- Water recycling plants
- Water catchments
- Recycling plants
- Other

GOVERNANCE

11.6.1 CONTRACT ACTIVITIES FROM THE PREVIOUS COUNCIL MEETING 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. DOCUMENTS

- a) There were no contracts awarded at the Council Meeting held on 19 October 2009.
- b) The following contract was awarded by the Chief Executive Officer under delegation:

CONTRACT NO.	DESCRIPTION	CONTRACTOR	PRICE AWARDED	DATE AWARDED
12738	Construction of stormwater drainage at Alamere Drive and Coopers Road, Traralgon	J & S Civil Constructions Pty Ltd	\$134,047.29 exclusive of GST	9/10/2009

- c) The following contract was signed and sealed by the Chief Executive Officer under delegation:

CONTRACT NO.	DESCRIPTION	CONTRACTOR	PRICE AWARDED	DATE SIGNED AND SEALED
12738	Construction of stormwater drainage at Alamere Drive and coopers Road, Traralgon	J & S Civil Constructions Pty Ltd	\$134,047.29 exclusive of GST	21/10/2009

- d) There were no variations approved by the Chief Executive Officer under delegation up to the date 28 October 2009

3. RECOMMENDATION

That Council notes this report on contract decisions made by the Chief Executive Officer under delegation on 9 October 2009 and 21 October 2009.

Moved: Cr Lougheed

Seconded: Cr Gibson

That the Recommendation be adopted.

CARRIED UNANIMOUSLY

11.6.2 **SEPTEMBER 2009 QUARTERLY FINANCE AND PERFORMANCE REPORT**

AUTHOR: General Manager Governance
(ATTACHMENT – YES)

1. PURPOSE

The purpose of this report is to present the September 2009 quarterly Financial and Performance Report for the information of Council.

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 Compliance

By ensuring adherence to legislative requirements

Strategic Action

Ensure compliance with the Local Government Act.

4. BACKGROUND

Under the provisions of the *Local Government Act* 1989 Section 138 (1), at least every three months, the Chief Executive Officer must ensure that a statement comparing the budgeted revenue and expenditure to date is presented to Council. This report ensures compliance with this legislative requirement.

The attached report as at 30 September 2009 is provided for the information of Council and the community. The financial report compares budgeted income and expenditure with actual results for the first three months of the financial year. A status report on the Key Strategic Activities, adopted in the 2009/2010 budget is also attached.

5. **ISSUES**

The attached report, "Income Statement", shows the actual result for the three months ended 30 September 2009 compared with the budgeted year to date result. The report also provides a forecast for the full year financial result compared to the budgeted full year financial result.

Overall the report is showing a favourable year to date variance of \$295K. The major favourable income variances relate to additional government grant funding received of \$586K primarily for bushfire recovery programs. A year to date unfavourable variance of \$788K for capital grants and contributions is a result of funding being received in 2008/2009 for 2009/2010 capital projects. The unfavourable expenditure variance of \$676K primarily relates to expenditure incurred in 2009/2010 that was funded in 2008/2009. A detailed explanation of these variances is included in the attached report.

The "Income Statement" report forecasts that the operating surplus for the full financial year will be \$167K greater than the original budget. It is forecast that operating revenue will be less than budget as a result of funds received in 2008/2009 for programs to be delivered in 2009/2010, whilst expenditure is forecast to be \$4.996M greater than budget as a result of funding received in 2008/2009 for these works. Capital income is forecast to be \$5.164M greater than budget as a result of government funding approved for new capital projects. However there will be no significant variance in the 2009/2010 cash flow statement. Explanations of these variances are also included in the attached report.

6. **FINANCIAL AND RESOURCES IMPLICATIONS**

The attached report provides details of budget variances for both the three months to 30 September 2009 and the full financial year.

7. INTERNAL / EXTERNAL CONSULTATION

Council's Management Team has reviewed the report.

8. OPTIONS

The requirement to report on financial and key strategic actions quarterly is a statutory requirement, therefore the options that exist are:

1. Council receives and notes the financial and performance report for the quarter ending 30 September 2009, in accordance with the *Local Government Act* 1989; or
2. Council does not accept the report; or
3. Council seeks additional information.

9. CONCLUSION

The attached report provides financial details, as required by the *Local Government Act* 1989. The report indicates that Council is operating within the parameters of its 2009/2010 adopted budget. Variances arising from the timing of the receipt of grant revenues and the completion of the 2008/2009 capital works program in 2009/2010, provided a significant increase in the operating surplus for the 2008/2009 financial year. The offsetting resultant expenditure in 2009/2010, offset with additional capital income, has been forecast to result in an increased operating surplus of \$11.078M for the full financial year.

10. RECOMMENDATION

That Council receives and notes the financial and performance reports for the three months ended 30 September 2009, in accordance with the *Local Government Act* 1989.

Moved: Cr Fitzgerald

Seconded: Cr White

That the Recommendation be adopted.

CARRIED UNANIMOUSLY

ATTACHMENT

SEPTEMBER 2009 QUARTERLY FINANCE AND PERFORMANCE REPORT

11.6.3 **PROCUREMENT POLICY**

AUTHOR: General Manager Governance
(ATTACHMENT – YES)

1. PURPOSE

The purpose of this report is to present a draft procurement policy in accordance with the requirement of the *Local Government Act 1989*, for Council's consideration.

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.

Ensure compliance with other relevant legislation.

4. BACKGROUND

Section 186A of the *Local Government Act 1989* requires Council to prepare and approve a procurement policy within 12 months after the commencement of the *Local Government Amendment Act 2008*. The policy must be adopted by 19 November 2009 in order to meet this requirement.

Council has a current tendering policy, Policy 09 POL-07, and the relevant content of this policy has been included in the draft procurement policy.

The Department of Planning and Community Development issued Local Government Procurement Best Practice Guidelines to assist the local government sector in the drafting of best practice procurement policy and processes. This document has been utilised in drafting the content of the attached draft policy.

5. **ISSUES**

The draft policy focuses on achieving best practice in the contracting and procurement for all goods, services and works by Council. Associated procedural documents underpin the procurement policy to ensure due processes are communicated, undertaken and adhered to.

It should also be noted that a requirement of the *Local Government (General) Regulations 2004* is for Council to make available for public inspection a list of contracts valued in excess of the prescribed amounts and are not contracts referred to in section 186(5) of the *Local Government Act 1989*, that Council has entered into during the financial year without first engaging in a competitive process. The list must also be included in Council's annual report.

The procurement policy will be used to guide all procurement processes and practices for Council.

6. **FINANCIAL AND RESOURCES IMPLICATIONS**

There are no direct financial implications associated with the implementation of the procurement policy.

7. **INTERNAL / EXTERNAL CONSULTATION**

Engagement Method Used:

The draft procurement policy has been reviewed by the Governance Management Team and Council's Executive Team.

Details of Community Consultation:

Council's Community Engagement Policy and Strategy require a notice to be placed in the local newspaper as well as placing a notice on Council's web page, to inform the public of its intention to consider a new policy. These public notices were placed in the Latrobe Valley Express and on Council's web page on Monday, 2 November 2009.

8. OPTIONS

Council has the following options available:

1. To adopt the draft procurement policy without amendment;
2. To adopt the draft procurement policy with amendment(s);
3. To not adopt the draft procurement policy.

9. CONCLUSION

There is a requirement under Section 186A of the *Local Government Act 1989*, Section 186A, for Council to prepare and approve a procurement policy within 12 months after the commencement of section 67 of the *Local Government Amendment Act 2008*.

A draft procurement policy has been prepared and is now submitted to Council for consideration.

10. RECOMMENDATION

1. That Council revokes the Tendering Policy 09 POL-7 and removes the policy from the standing 2009-2012 Policy Manual.
2. That Council adopts the Procurement Policy 09 POL-1.
3. That the 2009-2012 Council Policy Manual [09 POL-3] be produced and made available to the public.

Moved: Cr Kam

Seconded: Cr Fitzgerald

1. That Council revokes the Tendering Policy 09 POL-7 and removes the policy from the standing 2009-2012 Policy Manual.
2. That Council adopts the Procurement Policy 09 POL-1 with the following amendment in regard to 5.3.1.2 Quotations. Items with a value of less than \$1,000.00 including GST request for quotation a minimum of one verbal quotation must be obtained and the details recorded before placing an order. Items with a value of \$1,000.00 to \$5,000.00 including GST request for quotation a minimum of two verbal quotations must be obtained and the details recorded before placing an order.
3. That the 2009-2012 Council Policy Manual [09 POL-3] be produced and made available to the public.

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 Vermeulen

Seconded: Cr Lougheed

1. **That Council revokes the Tendering Policy 09 POL-7 and removes the policy from the standing 2009-2012 Policy Manual.**
2. **That Council adopts the Procurement Policy 09 POL-1, subject to a period of public notification.**
3. **That a further report be provided to Council on 21 December 2009 to consider any submissions in relation to the Procurement Policy.**
4. **That the 2009-2012 Council Policy Manual [09 POL-3] be produced and made available to the public.**

CARRIED UNANIMOUSLY

ATTACHMENT

PROCUREMENT POLICY 09 POL-1

11.6.4 EXTENSION OF COUNCIL DELEGATES AND COMMITTEES

AUTHOR: General Manager Governance
(ATTACHMENT – YES)

1. PURPOSE

The purpose of this report is to seek an extension for the delegates appointed by Council to the various Council Committees and Community Organisations / Committees on 16 February 2009 beyond the 2008/09 Mayoral Term.

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 - Community Capacity Building

To empower the community through enhancing community advocacy, leadership, partnerships, inclusiveness and participation.

Community Outcome - Legislative Compliance

By ensuring adherence to legislative requirements.

Strategic Action - Community Capacity Building

Support community-based programs to promote greater community empowerment.

Policy

Council does not have a specific policy in relation to the appointment of committee delegates.

4. **BACKGROUND**

Previously, Council has reviewed the appointment of delegates on various Council Committees and working groups, community committees and other associations annually for the duration of each Mayoral Term. This practice is only customary and there is no statutory reason why Council could not consider appointing delegates for a longer term.

In conjunction with the statutory review of the Special Committees of Council at the Ordinary Council Meeting held on 16 February 2009, Council decided to adopt the attached *2008-2009 Council Delegates and Committees* [09 DEL-2] for the duration of the remainder of the 2008/09 Mayoral Term only.

5. **ISSUES**

Following the statutory review of special committees of Council in February 2009, a review of other committees where Council has representation and/or a vested interest is now underway and will include a review of existing Terms of Reference.

The review timetable provides for a report to be presented to Council at the Ordinary Meeting scheduled for the 15 February 2010.

As this review may have a direct impact on the need for representation on various Council committees, working groups, community committees and other associations, Council should consider extending the current term of its appointed delegates until 15 February 2010.

The further report to Council could then encompass the appointment of delegates either for the remainder of 2009/10 Mayoral Term, for a period of twelve months or until the 2012 General Election.

For the interim period 7 December 2009 through 15 February 2009 the new Mayor will be expected to attend any committee meetings where the Mayor is the delegate.

6. **FINANCIAL AND RESOURCES IMPLICATIONS**

Any potential financial implications are expected to be within budget allocations and relate directly to meeting attendance and travel claim costs.

Potential resource implications for appointed delegates would include a time commitment to attend respective committee meetings.

7. INTERNAL / EXTERNAL CONSULTATION

Engagement Method Used:

No external consultation has been engaged in the preparation of this report.

Details of Community Consultation / Results of Engagement:

In the event Council decides to extend the appointment of delegates to the various committees of Council beyond the 2008/09 Mayoral Term, the respective organisations and committees will be notified and a notice of the decision posted on Council's website.

8. OPTIONS

Council may decline the proposal to extend the term of appointment of its delegates to various the committees of Council until 15 February 2010. Council has the option of either nominating delegates at the commencement of the 2009/10 Mayoral Term following the election of the next Mayor or can set an alternative extension date for the current appointments.

9. CONCLUSION

Given the committee review findings are scheduled to be presented to Council on 15 February 2010 and in light of the Christmas/New Year holiday period, it would be both prudent and practical for Council to extend the term of those delegates appointed to the various Council Committees and Community Organisations / Committees on 16 February 2009, until 15 February 2010.

10. RECOMMENDATION

1. That Council extends the term of the delegates appointed to the nominated committees on 16 February 2009 by Instrument of Delegation *2008-2009 Council Delegates and Committees [09 DEL-2]* until 28 February 2010.
2. That a further report be presented to Council at the Ordinary Council Meeting to be held on 15 February 2010 setting out the Council delegates beyond 15 February 2010.

Moved: Cr O'Callaghan

Seconded: Cr Middlemiss

That the Recommendation be adopted.

CARRIED UNANIMOUSLY

ATTACHMENT

2008-2009 COUNCIL DELEGATES AND COMMITTEES [09 DEL-2]

11.6.5 OFFICER DELEGATIONS REVIEW

AUTHOR: General Manager Governance
(ATTACHMENT – YES)

1. PURPOSE

The purpose of this report is to seek Council's adoption of three Instruments of Delegation being the S5. Delegation to The Chief Executive Officer, the S6. Delegation to members of Council staff and the S8. Staff Delegation Guidelines; and its notation of the S7. Instrument of Sub-Delegation to Council officers in accordance with the requirements of the *Local Government Act 1989*.

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 processes and legislative requirements.

Strategy Action

Ensure compliance with the *Local Government Act 1989*.

Policy - Nil

This review is a statutory requirement under the *Local Government Act 1989* and no specific Council policy is applicable.

Section 98 of the *Local Government Act 1989* allows Council to delegate various powers and functions:

98. Delegations

- (1) *A Council may by instrument of delegation delegate to a member of its staff any power, duty or function of a Council under this Act or any other Act other than—*
 - (a) *this power of delegation; and*
 - (b) *the power to declare a rate or charge; and*
 - (c) *the power to borrow money; and*
 - (d) *the power to approve any expenditure not contained in a budget approved by the Council; and*
 - (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 a 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.*
- (4) *The Council must keep a register of delegations to members of Council staff.*
- (5) *A delegation under this section to a member of Council staff may be made to—*
 - (a) *a person named in the delegation; or*
 - (b) *the holder of an office or position specified in the delegation.*
- (6) *A Council must review within the period of 12 months after a general election all delegations which are in force and have been made by the Council under subsection (1).*

4. BACKGROUND

Sections 86(6) and 96(6) of the *Local Government Act 1989* require councils to conduct a complete review of their Instruments of Delegation (to the Chief Executive Officer, members of staff and special committees of council) within twelve months of a general election.

As Council reviewed the delegations of its Special Committees under s.86 of the *Local Government Act 1989* at the Ordinary Council Meeting on 16 February 2009, this report now deals with the delegations to the Chief Executive Officer and Council Staff.

Council last undertook a complete review of Officer Delegations in September 2006, following the general election in 2005. At that review Council adopted the suite of delegations prepared by Maddocks Lawyers [*"Maddocks"*] and delegated various powers, functions and duties to Council Staff.

At the Ordinary Council Meeting on 4 September 2006 Council resolved to delegate to the Chief Executive Office the powers, duties and functions set out in the S5. *Instrument of Delegation to The Chief Executive Officer* dated 5 September 2006, subject to the conditions and limitations specified in that Instrument. By resolution, Council also noted that the instrument included a power of (sub) delegation to members of Council staff in accordance with section 98(3) of the Act. This instrument remains in force and is the subject of review.

At the same meeting, Council also resolved to delegate the powers, duties and functions to council officers set out in the S6. *Instrument of Delegation to Members of Council Staff*.

However, that Instrument has been reviewed annually since then due to changes in legislation and the organisational restructure in 2008.

The relevant instrument currently in force and under review is the S6. *Instrument of Delegation to Members of Council Staff – August 2008* adopted by Council on 4 August 2008.

The instrument of sub-delegation from the Chief Executive Officer to members of staff currently in force and under review is the S7. *Instrument of Sub-Delegation by the Chief Executive Officer* dated 20 December 2007.

5. **ISSUES**

Most day to day Council decisions are made by Council Staff and subsequently, most decision making power is allocated by formal delegations; this enables decision making in accordance with the policy and direction set by the Council.

There are two forms of delegation which occur in Victorian local government:

- Delegation to special committees; and
- Delegation to members of staff.

Any decision of a delegate of Council is deemed to be a decision of Council.

As mentioned above Council currently operates under the powers and functions delegated by Council to the Chief Executive Officer and Members of Staff on 4 September 2006 and 4 August 2008 respectively; and the powers and functions sub-delegated by the Chief Executive Officer to Council officers dated 20 December 2007.

It is customary for a review to take place when changes have been made to the Acts under which delegated authority is given. In any event, Council is required to review all delegations given to council officers within twelve months of a general election.

A similar review of the sub-delegations from the Chief Executive Officer to Council officers has also taken place.

The delegations proposed have been prepared utilising the *Maddocks* model delegations suite, which is regarded as a contemporary model for delegations and involves the Chief Executive Officer having a delegation by exception.

The S5. *Instrument of Delegation to The Chief Executive Officer* [09 DEL-1], subject to the conditions and limitations prescribed in the Schedule thereto, is presented for consideration as Attachment A.

With respect to delegations to other officers the *Maddocks* model takes a provision-by-provision listing of Council powers under statutes and regulations which are delegated under the *Local Government Act* 1989 and under other legislation.

Each proposed power, function and/or duty to be delegated by Council to other officers and the position title of each nominated officer is prescribed in the Schedule to the S6. *Instrument of Delegation to Members of Council Staff* [09 DEL-1]. This instrument is presented for consideration as Attachment B.

Draft S7. *Instrument of Sub-Delegation by the Chief Executive Officer* is provided as Attachment D. This instrument is intended to be executed by the Chief Executive Officer should Council resolve to adopt the S5. and S6. Instruments of Delegation and once they have been signed and sealed.

The *Maddocks* model also contains the S8. *Guidelines – Delegations to Members of Council Staff* package for the guidance of the Chief Executive Officer and any member of staff to whom powers, duties and functions have been delegated for adoption by Council. These Staff Delegation Guidelines have been reviewed annually with the current *Guidelines for Delegation to Members of Council Staff – September 2008* adopted by Council on 1 September 2008. Accordingly, the S8. *Staff Delegation Guidelines* [09 DEL-1] have been prepared and are presented for consideration as Attachment C.

The comprehensive review of officer delegations undertaken over the course of 2009 has been a two stage process owing to significant changes in legislation. The requisite amendments made to the Instruments as presented are summarised in the attached *Maddocks* Delegations and Authorisations Service Email Letters [Attachment E] dated 13 March 2009 and 28 August 2009 respectively.

Of the 79 Local Government authorities in Victoria, 61 currently subscribe to the *Maddocks* Delegations and Authorisations Service.

6. FINANCIAL AND RESOURCES IMPLICATIONS

With the exception of the purchase price for the *Maddocks* Delegations and Authorisations Service there is no direct cost to Council in delegating various powers and function.

7. INTERNAL/EXTERNAL CONSULTATION

Engagement Method Used:

No external consultation has been engaged.

Details of Community Consultation / Results of Engagement:

Community consultation has not been undertaken as this is a statutory function required by the *Local Government Act 1989*. The respective officer delegations have been referred within Council administration for consideration.

8. OPTIONS

In the instance of the Chief Executive Officer delegation, Council has the option to have a delegation by prescription, meaning that all relevant legislation and local laws need to be detailed in the delegation. This is not the preferred model as it has the potential to become outdated easily due to changes in legislation.

In respect to the other delegates, Council has the option to delete the specified legislative provisions from the schedule of delegations, or amend the designated officer receiving the delegation. In the first instance, if a specific provision is deleted from the delegation prepared by *Maddocks*, it should be noted that Council will be the only body that can exercise that part/s of the legislation. To exercise those respective provisions would require a resolution of the Council at either an *Ordinary* or *Special* Council Meeting.

9. CONCLUSION

The following attachments are presented for Council's consideration:

- A. S5. *Instrument of Delegation to The Chief Executive Officer* [09 DEL-1]; and
- B. S6. *Instrument of Delegation to Members of Council Staff* [09 DEL-1]; and
- C. S8. *Staff Delegation Guidelines* [09 DEL-1].

In addition –

- D. S7. *Instrument of Sub-Delegation by the Chief Executive Officer* [09 DEL-1] should be noted.

10. RECOMMENDATION

- A. S5. Delegation to Chief Executive Officer
In the exercise of the powers conferred by section 98(1) of the *Local Government Act 1989* (the Act) and the other legislation referred to in the attached instrument of delegation, Latrobe City Council (Council) RESOLVES THAT –

1. There be delegated to the person holding the position, acting in or performing the duties of Chief Executive Officer the powers, duties and functions set out in the attached S5. *Instrument of Delegation to the Chief Executive Officer* [09 DEL-1], subject to the conditions and limitations specified in that Instrument.
2. The instrument comes into force immediately upon the common seal of Council being affixed to the instrument.
3. On the coming into force of the instrument all previous delegations to the Chief Executive Officer are revoked.
4. The duties and functions set out in the instrument must be performed, and the powers set out in the instruments must be executed, in accordance with any guidelines or policies of Council that it may from time to time adopt.
5. It is noted that the instrument includes a power of delegation to members of Council staff, in accordance with section 98(3) of the Act.

B. S6. Delegation to members of Council staff

In the exercise of the powers conferred by section 98(1) of the *Local Government Act 1989* (the Act) and the other legislation referred to in the attached instrument of delegation, Latrobe City Council (Council) RESOLVES THAT –

1. That there be delegated to the members of Council staff holding, acting in or performing the duties of the offices or positions referred to in the attached S6. *Instrument of Delegation to Members of Council Staff* [09 DEL-1], the powers, duties and functions set out in that instrument, subject to the conditions and limitations specified in that Instrument.
2. The instrument comes into force immediately upon the common seal of Council being affixed to the instrument.
3. On the coming into force of the instruments all previous delegations to members of Council staff (other than the Chief Executive Officer) are revoked.
4. The duties and functions set out in the instrument must be performed, and the powers set out in the instruments must be executed, in accordance with any guidelines or policies of Council that it may from time to time adopt.

- C. S8. Staff Delegation Guidelines
1. That Council revokes the *Guidelines for Delegations to Members of Council Staff – September 2008* adopted by Council on 1 September 2008.
 2. That Council adopts the *S8. Staff Delegation Guidelines* [09 DEL-1].
- D. S7. Sub-Delegation by Chief Executive Officer to Staff
That Council notes the *S7. Instrument of Sub-Delegation by the Chief Executive Officer* in accordance with section 98(3) of the *Local Government Act 1989*.

Moved: Cr Gibson

Seconded: Cr Kam

A. S5. Delegation to Chief Executive Officer

In the exercise of the powers conferred by section 98(1) of the *Local Government Act 1989* (the Act) and the other legislation referred to in the attached instrument of delegation, Latrobe City Council (Council)

RESOLVES THAT –

1. There be delegated to the person holding the position, acting in or performing the duties of Chief Executive Officer the powers, duties and functions set out in the attached *S5. Instrument of Delegation to the Chief Executive Officer* [09 DEL-1], subject to the conditions and limitations specified in that Instrument.
2. The instrument comes into force immediately upon the common seal of Council being affixed to the instrument.
3. On the coming into force of the instrument all previous delegations to the Chief Executive Officer are revoked.
4. The duties and functions set out in the instrument must be performed, and the powers set out in the instruments must be executed, in accordance with any guidelines or policies of Council that it may from time to time adopt.
5. It is noted that the instrument includes a power of delegation to members of Council staff, in accordance with section 98(3) of the Act.

B. S6. Delegation to members of Council staff

In the exercise of the powers conferred by section 98(1) of the *Local Government Act 1989* (the Act) and the other legislation referred to in the attached instrument of delegation, Latrobe City Council (Council)

RESOLVES THAT –

1. That there be delegated to the members of Council staff holding, acting in or performing the duties of the offices or positions referred to in the attached *S6. Instrument of Delegation to Members of Council Staff* [09 DEL-1], the powers, duties and functions set out in that instrument, subject to the conditions and limitations specified in that Instrument.
2. The instrument comes into force immediately upon the common seal of Council being affixed to the instrument.

3. On the coming into force of the instruments all previous delegations to members of Council staff (other than the Chief Executive Officer) are revoked.
 4. The duties and functions set out in the instrument must be performed, and the powers set out in the instruments must be executed, in accordance with any guidelines or policies of Council that it may from time to time adopt.
- C. S8. Staff Delegation Guidelines
1. That Council revokes the *Guidelines for Delegations to Members of Council Staff – September 2008* adopted by Council on 1 September 2008.
 2. That Council adopts the S8. *Staff Delegation Guidelines* [09 DEL-1].
- D. S7. Sub-Delegation by Chief Executive Officer to Staff
That Council notes the S7. *Instrument of Sub-Delegation by the Chief Executive Officer* in accordance with section 98(3) of the *Local Government Act 1989*.
- E. At no time shall powers of delegation be exercised by any officer in such a manner as to delay, prevent or not provide, to any councillor information that the councillor considers is essential to enable them to perform their duties as a Councillor and to monitor the true status of activities, finances and state of the council.

For the Motion

Councillor Gibson

Against the Motion

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

The Mayor confirmed that the Motion had been LOST

Moved: Cr Gibson

Seconded: Cr Kam

- A. S5. Delegation to Chief Executive Officer
In the exercise of the powers conferred by section 98(1) of the *Local Government Act 1989* (the Act) and the other legislation referred to in the attached instrument of delegation, Latrobe City Council (Council)
RESOLVES THAT –
1. There be delegated to the person holding the position, acting in or performing the duties of Chief Executive Officer the powers, duties and functions set out in the attached S5. *Instrument of Delegation to the Chief Executive Officer* [09 DEL-1], subject to the conditions and limitations specified in that Instrument.

2. The instrument comes into force immediately upon the common seal of Council being affixed to the instrument.
 3. On the coming into force of the instrument all previous delegations to the Chief Executive Officer are revoked.
 4. The duties and functions set out in the instrument must be performed, and the powers set out in the instruments must be executed, in accordance with any guidelines or policies of Council that it may from time to time adopt.
 5. It is noted that the instrument includes a power of delegation to members of Council staff, in accordance with section 98(3) of the Act.
- B. S6. Delegation to members of Council staff
In the exercise of the powers conferred by section 98(1) of the *Local Government Act 1989* (the Act) and the other legislation referred to in the attached instrument of delegation, Latrobe City Council (Council)
RESOLVES THAT –
1. That there be delegated to the members of Council staff holding, acting in or performing the duties of the offices or positions referred to in the attached S6. *Instrument of Delegation to Members of Council Staff* [09 DEL-1], the powers, duties and functions set out in that instrument, subject to the conditions and limitations specified in that Instrument.
 2. The instrument comes into force immediately upon the common seal of Council being affixed to the instrument.
 3. On the coming into force of the instruments all previous delegations to members of Council staff (other than the Chief Executive Officer) are revoked.
 4. The duties and functions set out in the instrument must be performed, and the powers set out in the instruments must be executed, in accordance with any guidelines or policies of Council that it may from time to time adopt.
- C. S8. Staff Delegation Guidelines
1. That Council revokes the *Guidelines for Delegations to Members of Council Staff – September 2008* adopted by Council on 1 September 2008.
 2. That Council adopts the S8. *Staff Delegation Guidelines* [09 DEL-1].
- D. S7. Sub-Delegation by Chief Executive Officer to Staff
That Council notes the S7. *Instrument of Sub-Delegation by the Chief Executive Officer* in accordance with section 98(3) of the *Local Government Act 1989*.
- E. At no time shall powers of delegation be exercised by any officer in such a manner as to delay, prevent or not provide, to any councillor information that the councillor is legally entitled that will enable them to perform their duties as a Councillor and to monitor the true status of activities, finances and state of the council.

For the Motion

Councillors Gibson, Middlemiss, Kam and O'Callaghan

Against the Motion

Councillors White, Vermeulen, Price, Fitzgerald and Lougheed

The Mayor confirmed that the Motion had been LOST

Moved: Cr White

Seconded: Cr Lougheed

The Original Recommendation became the Motion before the Chair.

A. S5. Delegation to Chief Executive Officer

In the exercise of the powers conferred by section 98(1) of the *Local Government Act 1989* (the Act) and the other legislation referred to in the attached instrument of delegation, Latrobe City Council (Council) **RESOLVES THAT –**

1. There be delegated to the person holding the position, acting in or performing the duties of Chief Executive Officer the powers, duties and functions set out in the attached *S5. Instrument of Delegation to the Chief Executive Officer* [09 DEL-1], subject to the conditions and limitations specified in that Instrument.
2. The instrument comes into force immediately upon the common seal of Council being affixed to the instrument.
3. On the coming into force of the instrument all previous delegations to the Chief Executive Officer are revoked.
4. The duties and functions set out in the instrument must be performed, and the powers set out in the instruments must be executed, in accordance with any guidelines or policies of Council that it may from time to time adopt.
5. It is noted that the instrument includes a power of delegation to members of Council staff, in accordance with section 98(3) of the Act.

B. S6. Delegation to members of Council staff

In the exercise of the powers conferred by section 98(1) of the *Local Government Act 1989* (the Act) and the other legislation referred to in the attached instrument of delegation, Latrobe City Council (Council) **RESOLVES THAT –**

1. That there be delegated to the members of Council staff holding, acting in or performing the duties of the offices or positions referred to in the attached *S6. Instrument of Delegation to Members of Council Staff* [09 DEL-1], the powers, duties and functions set out in that instrument, subject to the conditions and limitations specified in that Instrument.

2. The instrument comes into force immediately upon the common seal of Council being affixed to the instrument.
 3. On the coming into force of the instruments all previous delegations to members of Council staff (other than the Chief Executive Officer) are revoked.
 4. The duties and functions set out in the instrument must be performed, and the powers set out in the instruments must be executed, in accordance with any guidelines or policies of Council that it may from time to time adopt.
- C. **S8. Staff Delegation Guidelines**
1. That Council revokes the *Guidelines for Delegations to Members of Council Staff – September 2008* adopted by Council on 1 September 2008.
 2. That Council adopts the *S8. Staff Delegation Guidelines [09 DEL-1]*.
- D. **S7. Sub-Delegation by Chief Executive Officer to Staff**
That Council notes the *S7. Instrument of Sub-Delegation by the Chief Executive Officer* in accordance with section 98(3) of the *Local Government Act 1989*.

For the Motion

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

Against the Motion

Councillor Gibson

The Mayor confirmed that the Recommendation had been CARRIED

ATTACHMENTS

ATTACHMENT A

**S5. INSTRUMENT OF DELEGATION TO THE CHIEF EXECUTIVE OFFICER
[09 DEL-1]**

ATTACHMENT B

**S6. INSTRUMENT OF DELEGATION TO MEMBERS OF COUNCIL STAFF
[09 DEL-1]**

ATTACHMENT C

S8. STAFF DELEGATION GUIDELINES [09 DEL-1]

ATTACHMENT D

**S7. INSTRUMENT OF SUB-DELEGATION BY THE CHIEF EXECUTIVE
OFFICER [09 DEL-1]**

ATTACHMENT E

**MADDOCKS DELEGATIONS AND AUTHORISATIONS SERVICE
EMAIL LETTERS DATED 13/03/09 AND 28/08/09**

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11.6.6 COUNCILLOR CODE OF CONDUCT

AUTHOR: General Manager Governance
(ATTACHMENT - YES)

1. PURPOSE

The purpose of this report is to present to Council for consideration a 'Code of Conduct' in accordance with the *Local Government Act 1989* ("the Act").

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 processes and legislative requirements.

Strategic Action

Continually review Latrobe City Governance protocols taking into account evolving governance best practice protocols.

Community Outcome – Democratic Governance

By representing the interests of the community and conducting its affairs openly and with integrity, reflecting the highest level of good management and governance.

Legislation

Section 76C of the Act states:

A Council must develop and approve a Councillor Code of Conduct for the Council within 12 months after the commencement of section 15 of the *Local Government Amendment (Councillor Conduct and Other Matters) Act 2008*.

4. **BACKGROUND**

Council is required to develop and approve a Code of Conduct by 19 November 2009.

All Councillors participated in a Councillor Workshop on 3 March 2009 for the purposes of discussing and considering a Code of Conduct to meet their obligations under the Act.

A further workshop was held with Councillors on 12 October 2009 to further develop the draft Code of Conduct.

5. **ISSUES**

The Act requires Council to develop and approve a Code of Conduct that incorporates the Councillor Conduct Principles contained within the Act.

The Councillor Conduct Principles contained within section 76B and 76BA are:

76B Primary principle of Councillor conduct

It is a primary principle of Councillor conduct that, in performing the role of a Councillor, a Councillor must —

- (a) act with integrity; and
- (b) impartially exercise his or her responsibilities in the interests of the local community; and
- (c) not improperly seek to confer an advantage or disadvantage on any person.

76BA General Councillor conduct principles

In addition to acting in accordance with the primary principle of Councillor conduct specified in section 76B, in performing the role of a Councillor, a Councillor must —

- (a) avoid conflicts between his or her public duties as a Councillor and his or her personal interests and obligations;
- (b) act honestly and avoid statements (whether oral or in writing) or actions that will or are likely to mislead or deceive a person;
- (c) treat all persons with respect and have due regard to the opinions, beliefs, rights and responsibilities of other Councillors, council officers and other persons;

- (d) exercise reasonable care and diligence and submit himself or herself to the lawful scrutiny that is appropriate to his or her office;
- (e) endeavour to ensure that public resources are used prudently and solely in the public interest;
- (f) act lawfully and in accordance with the trust placed in him or her as an elected representative;
- (g) support and promote these principles by leadership and example and act in a way that secures and preserves public confidence in the office of Councillor.

Furthermore, Council may incorporate within their Code of Conduct a process for the purpose of resolving an internal dispute between Councillors. A process has been suggested and incorporated within the proposed Code.

As a result of amendments to the Act from November 2008, Council is no longer required to incorporate provisions relating to council's conduct during the election period.

A copy of the Code of Conduct must be given to each Councillor and made available for inspection by the public at the Council office.

Councillors have shown a commitment to ensuring the good governance of Latrobe City Council and therefore have indicated a desire to adopt the core values and behaviours espoused within the Act.

As a result, a Code of Conduct has been developed that incorporates the necessary sections of the Act.

6. FINANCIAL AND RESOURCES IMPLICATIONS

There are no financial implications in adopting the Code of Conduct.

7. INTERNAL/EXTERNAL CONSULTATION

Engagement Method Used:

Upon its adoption, the public will be advised of the Code of Conduct and the document will be available on the Latrobe City Council Website.

Details of Community Consultation / Results of Engagement:

No community consultation is required as this is a document affecting the conduct of Councillors only.

8. OPTIONS

Council has the following options;

1. Adopt the proposed Code of Conduct in its current form;
2. Amend and adopt the proposed Code of Conduct; or
3. Not adopt a Code of Conduct.

9. CONCLUSION

Council is required to develop and approve a Code of Conduct prior to 19 November 2009.

By conducting and participating in the Councillor Workshop, Councillors have shown a commitment to ensuring all decision making is done with respect, honesty and integrity and in accordance with principles enunciated within the Act.

By approving a Code of Conduct, Council is meeting its statutory obligations and actively and openly confirming its commitment to the practice of good governance.

10. RECOMMENDATION

That Council adopts the Code of Conduct 2009 (09 MIS-01) and makes it available to the public.

Moved: Cr White

Seconded: Cr Lougheed

That the Recommendation be adopted.

For the Motion

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

Against the Motion

Councillors Gibson, Kam and Fitzgerald

The Mayor confirmed that the Recommendation had been CARRIED

ATTACHMENT

CODE OF CONDUCT 2009 (09 MIS-01)

**MEETING CLOSED
TO THE PUBLIC**

13.1 MEETING CLOSED TO THE PUBLIC

AUTHOR: General Manager Governance
(ATTACHMENT – NO)

1. PURPOSE

The purpose of this report is for Council to consider closing this meeting to the public to allow Council to deal with items which are of a confidential nature.

Section 89(2) of the *Local Government Act* 1989 enables the Council to close the meeting to the public if the meeting is discussing any of the following:

- (a) Personnel matters;
- (b) The personal hardship of any resident or ratepayer;
- (c) Industrial matters;
- (d) Contractual matters;
- (e) Proposed developments;
- (f) Legal advice;
- (g) Matters affecting the security of Council property;
- (h) Any other matter which the Council or Special Committee considers would prejudice the Council or any person;
- (i) A resolution to close the meeting to members of the public.

2. DECLARATION OF INTERESTS

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

3. RECOMMENDATION

That Council closes this meeting to the public to consider the following items which are of a confidential nature, pursuant to section 89(2) of the *Local Government Act* (LGA) 1989 for the following reasons:

ITEMS	NATURE OF ITEM
15.1 ADOPTION OF MINUTES	(h) - OTHER
15.2 CONFIDENTIAL ITEMS	(h) - OTHER
15.3 ITT 12704 PROVISION OF EMERGENCY DRAINAGE WORKS	(d) - CONTRACTUAL MATTERS
15.4 ITT 12724 PAVILION UPGRADE AT TED SUMMERTON RESERVE, MOE	(d) - CONTRACTUAL MATTERS

Moved: Cr White

Seconded: Cr Gibson

That the Recommendation be adopted.

CARRIED UNANIMOUSLY

Meeting Closed to the Public

The Meeting closed to the public at 10.10 pm.

14. TEA BREAK**Adjournment of Meeting**

The Mayor adjourned the Meeting at 10.10 pm for a tea break.

Resumption of Meeting

The Mayor resumed the Meeting at 10.16 pm.