



HEPBURN SHIRE COUNCIL
ORDINARY MEETING OF COUNCIL
PUBLIC MINUTES

Tuesday 16 July 2024

Daylesford Town Hall
76 Vincent Street Daylesford

5:30PM

A LIVE STREAM OF THE MEETING CAN BE VIEWED
VIA [COUNCIL'S FACEBOOK PAGE](#)

Confirmed at the Ordinary Meeting of Council held on 20 August 2024

A handwritten signature in black ink, appearing to be "B. Hood".

Chair, Cr Brian Hood, Mayor

MINUTES

Tuesday 16 July 2024

Daylesford Town Hall

76 Vincent Street Daylesford

Commencing at 5:30PM

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BRADLEY THOMAS

CHIEF EXECUTIVE OFFICER

Tuesday 16 July 2024

CONDUCTING HYBRID COUNCIL MEETINGS

In the spirit of open, transparent and accountable governance, this meeting will be live-streamed on Council's Facebook page. The meeting will also be recorded and made available on Council's website as soon as practicable after the meeting.

- Council's meeting will be conducted tonight in accordance with:
- The Local Government Act 2020
- The Minister's Good Practice Guideline MGPG-1: Virtual Meetings
- Council's Governance Rules; and
- The Hepburn Shire Council Councillor Code of Conduct.

1 ACKNOWLEDGEMENT OF TRADITIONAL OWNERS

Hepburn Shire Council acknowledges the Dja Dja Wurrung as the Traditional Owners of the lands and waters on which we live and work. On these lands, Djaara have performed age-old ceremonies of celebration, initiation and renewal. We recognise their resilience through dispossession and it is a testament to their continuing culture and tradition, which is strong and thriving.

We also acknowledge the neighbouring Traditional Owners, the Wurundjeri to our South East and the Wadawurrung to our South West and pay our respect to all Aboriginal peoples, their culture, and lore. We acknowledge their living culture and the unique role they play in the life of this region.

2 SAFETY ORIENTATION

Emergency exits and convenience facilities at the venue to be highlighted to members of the public in attendance.

3 OPENING OF MEETING

COUNCILLORS PRESENT: Cr Brian Hood, Cr Don Henderson, Cr Jen Bray, Cr Lesley Hewitt, Cr Tessa Halliday, Cr Tim Drylie

OFFICERS PRESENT: Dr Karina Lamb - Acting Chief Executive Officer, Mr Bruce Lucas - Director Infrastructure and Delivery, Ms Brooke Holmes - Executive Manager People and Transformation, Mr Ron Torres - Executive Manager Development, Mr Chris Whyte - Manager Information and Communication Technology, Ms Rebecca Smith - Manager Governance and Risk

The meeting opened at 5:31pm.

STATEMENT OF COMMITMENT

"WE THE COUNCILLORS OF HEPBURN SHIRE

DECLARE THAT WE WILL UNDERTAKE ON EVERY OCCASION
TO CARRY OUT OUR DUTIES IN THE BEST INTERESTS OF THE COMMUNITY
AND THAT OUR CONDUCT SHALL MAINTAIN THE STANDARDS OF THE CODE OF
GOOD GOVERNANCE
SO THAT WE MAY FAITHFULLY REPRESENT AND UPHOLD THE TRUST PLACED IN THIS
COUNCIL BY THE PEOPLE OF HEPBURN SHIRE”

4 APOLOGIES

Councillor Juliet Simpson
Mr Bradley Thomas, Chief Executive Officer

5 DECLARATIONS OF CONFLICTS OF INTEREST

Cr Tessa Halliday declared a material interest for Item 10.2 PLN24/0015 - 504
McKenzies Road Clunes, 2 lot subdivision (house lot excision) due to her company
representing the applicant.

6 CONFIRMATION OF MINUTES

Go to 00:04:30 in the meeting recording to view this item.

RECOMMENDATION

*That the Minutes of the Ordinary Meeting of Council held on 18 June 2024 and the
Special Meeting of Council held on 25 June 2024 (as previously circulated to
Councillors) be confirmed.*

MOTION

*That the Minutes of the Ordinary Meeting of Council held on 18 June 2024 and the
Special Meeting of Council held on 25 June 2024 (as previously circulated to
Councillors) be confirmed.*

Moved: Cr Lesley Hewitt

Seconded: Cr Don Henderson

Carried

Voted for: Cr Brian Hood, Cr Don Henderson, Cr Jen Bray, Cr Lesley Hewitt, Cr Tessa Halliday and Cr Tim Drylie

Voted against: Nil

Abstained: Nil

7 ITEMS OF URGENT BUSINESS

Nil.

8 COUNCILLOR AND CEO REPORTS

8.1 MAYOR'S REPORT

Go to 00:05:30 in the meeting recording to view this item.

Councillor Brian Hood, Coliban Ward

Councillors,

The past month saw a celebration of NAIDOC week which provided another opportunity for Council to reinforce its unwavering commitment to reconciliation. Successes in the State Government's Tiny Towns grant scheme were also celebrated, with a number of important projects now receiving funding. These include the development of a master plan for Victoria Park Daylesford and a number of enhancements to the popular Lyonville Community Hall. Council's advocacy and relationships with the higher tiers of government continues to pay dividends.

Last week I was very pleased to participate in the launch of 'Giving Voice – Ageing in a rural community' a new sustainable, community-based model for healthy ageing in place. A collaboration between Central Highlands Rural Health, Clunes Neighbourhood House and Attitude ageing well in Clunes will trial a new approach to improving older people's physical and psychological well-being. Congratulations to all involved in yet another wonderful example of teamwork.

The opening of the Mechanics Trentham was a fantastic highlight in the past month and indeed the successful completion of this major project is a standout feature of this term of Council. Incorporating elements of the original Trentham Mechanics Institute alongside impressive contemporary facilities this wonderful facility will provide an asset the whole community can enjoy for many years to come. It will facilitate connectedness and encourage a wide range of cultural, artistic and performance pursuits. Trentham boasts a large number of community groups that offer a wide and diverse range of activities and interests. Now we have a fabulous facility in which to pursue those interests.

Applicable to any major project I will make the observation that the link between community support and tangible action, especially in the form of external funding, was critical.

Fingers crossed the coming month may seem some good news on the State tourism awards as Daylesford has been nominated. We will also be launching Council's new arts and culture strategy in Trentham later this week and soon will be opening the magnificently renovated Central Springs Reserve.

Finally, the remaining nine weeks of this term will require a concentrated and decisive focus on the draft town structure plans and the long-term financial plan. With a substantial volume of input from the Shire-wide community to carefully consider, and given the importance of both subjects, they present as a critical

opportunity to shape both the Shire's future and that of the Council organisation and for this councillor group to create a lasting legacy.

8.2 COUNCILLOR REPORTS

Councillor Jen Bray, Birch Ward

Activities since Tuesday 18 June 2024

24 June Daylesford Community Facilities Project Advisory Group (PAG) meeting with Architect to look at the scope of the brief for the Town Hall development.

25 June Special Council Meeting to Adopt the Budget

26 June Deadline for submissions to the Future Hepburn Town Structure Plans and Rural Strategy.

Received many submissions from the public which shows good engagement in this important process. Council will be able to read all submissions and take into consideration the community's views when making final decisions about the plans.

1 July Dayleford Community Facilities Project Advisory Group (PAG) tour of Trentham Mechanics Hub facilities. Met with the Trentham PAG and Project Manager to hear how their journey from concept to finished building went. Committee gave feedback on their priorities for the brief for the scope of the Daylesford Town Hall.

9 July CEO Remuneration and Employment Committee

11 July NAIDOC Week presentation from the Reconciliation Action Plan Committee celebrating the progress on the first RAP such as the restoring of the local creek name to Larni Barramal Yaluk, the establishment of the first in Australia Frontier Wars Memorial to recognise the Aboriginal people who lost their lives defending their own land during colonisation.

Recognising the art practice of local Djaara women Aunty Marilyn Nichols in their Eel Trap installation and the Basket weaving dance performed by Djaara women at the opening of the Mechanics Trentham Hub.

11 July Financial Vision – Daylesford Drop-In Information Session

I have promoted information to community members on Facebook and in the community about the importance of being involved and giving feedback on councils Long Term Financial Plan. There are some difficult decisions ahead of us to remain financially viable and community need to be involved in that discussion. The Drop In session at the Town Hall provided some background on the services council provides and some of the options facing council to address the finances going forward.

Sharing information with the community:

Facebook Posts

- Financial Vision – Have your say on the Participate Hepburn Website
- Financial Vision – Drop In Information Sessions
- Run for Council Elections information

Tonight's council meeting will be our last in the Daylesford Town Hall as it will close in September for repairs to roof and electrics. I know the community will feel it's loss deeply as this remarkable building has long been the heart of this community as a place to gather, share and celebrate.

I look forward to seeing it back open again as a thriving hub and gathering space for all of us.

Councillor Lesley Hewitt, Birch Ward

Two events occurred last week that led me to think about the society that we are contributing to. I was asked, in my Council role, to give the toast to the Republic at the U3A French National Day celebration. Coincidentally this was the same day that Donald Trump was shot. Studying French at Cohuna High School, I was taught that July 14th known then as Bastille Day commemorated the storming of the Bastille Prison in Paris in 1789 and marked the start of the French Revolution. What I now know was that a year later on July 14th the Fete de la Federation was celebrated to mark the return of a constitutional monarchy. It wasn't until 1880, and after the formation of the 3rd Republic that July 14th became French National Day. It was chosen because it acknowledged both dates and was seen as uniting both left and right and exemplifying French values. In the preceding 90 years, two republics, the Napoleonic empire and an attempt to restore the monarchy had all failed. And in those years, there was horrific levels of violence, civil unrest, hatred and social division with appalling consequences for people at all levels of society. And then in 2024 Donald Trump was shot. In America the Republicans and the Democrats are blaming each other. In Australia, most of the commentary that I have read sees it as an 'only in America' event. And maybe it is. After all we have a different electoral system and different gun laws. But what we've seen in Australia in recent weeks has been an escalation of public violence. MP's offices have been targeted, one has been firebombed, and children and adults publicly spat on and harassed due to their presumed religious and political beliefs. What's that got to do with Hepburn Shire and my Councillor report? Hate – both speech and actions. A couple of years ago the Daylesford Skate Park was spray painted with the words 'kill the rich mayor". Last November the walkway between Vincent St and Coles was spray painted with 'hang Netanyahu". Last August a swastika was painted on the Maryborough-Dunolly Road. Cr Halliday has reported previously about both hate speech and physical violence perpetrated against members of the Rainbow community in Hepburn. Council has issued a no tolerance statement against abusive behaviour towards staff and Councillors. It's not OK. Disagree sure, debate ideas, use processes to complain but don't spread misinformation, falsehoods or use physical or verbal violence. Because the consequences for us all in a civil society are dreadful.

But then there was also our citizenship ceremony. Ten people chose to become Australian citizens. A big decision, which I am assuming meant that they valued that citizenship. Cr Simpson read a message from Andrew Giles, Minister for Immigration, Citizenship and Multicultural Affairs that spoke of a 'fair go' and equality for all regardless of gender, race, ethnicity and so on. Perhaps it's time for us all to recommit to those values. Thank you.

A list of my diary activities is below.

Councillor Diary Activities:

Opening Mechanics Trentham - 21/6/24

Daylesford Community Facilities Project Advisory Group (PAG) Meeting – 24/6/24;
2/7/24; 9/7/24

Councillor Briefing – 25/6/25; 2/7/24; 9/7/24

Special Council Meeting Budget Adoption – 25/6/24

Daylesford Community Facilities Project Advisory Group (PAG) Meeting – 1/7/24

NAIDOC Week Flag Raising Ceremony – 8/7/24

NAIDOC Week Reconciliation in Hepburn Shire – 11/7/24

Citizenship Ceremony – 11/7/24

Community Engagement 10 Year Financial Plan Daylesford – 11/7/24

French National Day Celebration Daylesford Town Hall – 14/7/24

Councillor Tessa Halliday, Cameron Ward

Presented a verbal report.

Councillor Don Henderson, Creswick Ward

Presented a verbal report.

Councillor Tim Drylie, Creswick Ward

This month, we celebrated the opening of the Mechanics Institute in Trentham. It was a pleasure to join community members, Councillors, staff and Ministers in this milestone moment for Trentham. It was a vibrant event and it is a testament to the collaborative efforts of everyone involved. I enjoyed a traditional smoking ceremony and basket weaving dance by Djaara women, showcasing the beautiful eel trap sculptures crafted by Aunty Marilynne. The Mechanics Institute will be a terrific community resource for generations to come with many useful and community spaces, services and excellent function capacities.

I also attended the Creswick Long Term Financial Planning session. We've begun working on our Financial Vision, and I extend my thanks to everyone who attended

our community drop-in session. For the 2024/2025 budget, we've set a goal of \$1.5 million in operating savings and aim to collaborate with the community for long-term financial stability. As has been stated before we have the somewhat daunting task of securing an additional \$4 million in savings or revenue to support our shared Community Vision. We have encouraged community members this month to share their thoughts on service delivery, infrastructure upgrades, and potential rate increases.

I too also acknowledge the significant number of community submissions as part of the Future Hepburn Structure Planning and Rural Strategy feedback period and I have been busy reading all of your views and I look forward to considering them in the coming months.

We celebrated NAIDOC Week last week and this year's theme was "Keep the Fire Burning! Blak, Loud and Proud!" This theme honoured the enduring strength and vitality of First Nations cultures, symbolised by fire as a connection to Country and heritage. Alongside that we've also been also been reviewing the draft Innovate Reconciliation Action Plan (RAP), which outlines our goals for reconciliation locally. This plan focuses on building stronger relationships with Aboriginal and Torres Strait Islander peoples and testing strategies to advance these commitments. I'm proud of the work we are doing with our Reconciliation Committee working together with Djaara.

And I am also proud that we will consider our first Rainbow Action Plan this month in support of our very important LGBTIQ+ community.

I'm pleased that we will soon be celebrating the early opening of part of the Creswick Mountain Bike Trails, which will provide fantastic new opportunities for active recreation and tourism in our region. It has been a long time coming, and the anticipation is almost too much for sections of our community, but I'm sure it will have been worth the wait.

Moreover, I call out the ongoing cost of living crisis that so many people from all walks of life are experiencing now. I give thanks to the many community groups and individuals who I know are digging deep to help support local people, with temporary housing options, financial concessions, homemade meals, and other household goods and services at this difficult time. These are pressing concerns for many in our community, and I'm committed with others to continue to find practical solutions.

Finally, I must mention the urgent need for climate action. June 2024 was the hottest month on record, marking the 13th consecutive month of above-average temperatures. This highlights the pressing need for urgent ongoing measures to combat climate change.

With Councillor Hewitt, I too want to express alarm at the recent rise in violence in our local and international communities and to seek enduring peace and demand action to make it stop.

RECOMMENDATION

That Council receives and notes the Mayor's and Councillors' reports.

MOTION

That Council receives and notes the Mayor's and Councillors' Reports.

Moved: Cr Jen Bray

Seconded: Cr Don Henderson

Carried

Voted for: Cr Brian Hood, Cr Don Henderson, Cr Jen Bray, Cr Lesley Hewitt, Cr Tessa Halliday and Cr Tim Drylie

Voted against: Nil

Abstained: Nil

8.3 CHIEF EXECUTIVE OFFICER'S REPORT

Go to 00:26:20 in the meeting recording to view this item.

The Chief Executive Officer Report informs Council and the community of current issues, initiatives and projects undertaken across Council.

CHIEF EXECUTIVE OFFICER UPDATE

The major outcomes arising from the previous Council meeting in June were the adoption of an Arts and Culture Strategy and the Fair Access Policy. The Arts and Culture Strategy - Council's first - seeks to support local artists of all kinds in the provision of creative cultural experiences with the aim of enriching community wellbeing. The Fair Access Policy seeks to address barriers experienced by women, girls, trans, non-binary and gender diverse people in accessing and using community sports infrastructure and to assist in eliminating systemic causes of gender inequality. Council is proud to develop and implement these policies and strategies.

On Friday 21 June we celebrated the official opening of the Mechanics Trentham. Myself, the Mayor, and Ministers Mary-Anne Thomas and Catherine King proudly cut the ribbon and declared the venue open. It was great to have Councillors (past and present) at the opening, many staff and many members of the community who had been involved in the project.

Djaara conducted a smoking ceremony, and a basket weaving dance to celebrate and acknowledge the beautiful fish trap sculptures which Aunty Marilynne created. Members of the community filled the building to celebrate and enjoy the spaces. Kit Manning's contributions to the Trentham community are well known and Council is proud to have named the commercial kitchen after Kit. Kit has also been inducted into the Heather Mutimer International Women's Day Honour Roll for her community contributions. This amazing facility caters to the whole community, offering playgroup space, a library, study nooks, workspaces, visitor information, a commercial-style kitchen, and a large function space.



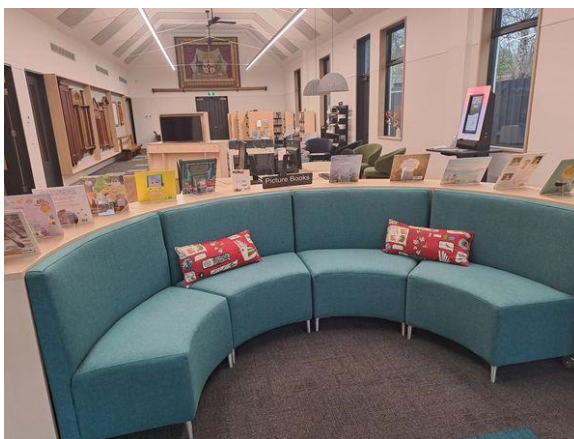
L-R, Elizabeth Atkin (Project Manager), The Hon Mary-Anne Thomas MP, Mayor Brian Hood, The Hon Catherine King MP, Ben Grounds (Project Manager)



Smoking Ceremony led by Rebecca (Bec) Phillips, Chair of Djaara



Basket weaving dance, related to the fish trap basket sculpture installation in reception area



The new Trentham library

We are very excited that Daylesford has been nominated as a ‘small town’ finalist in the TAC Victorian Small Top Tourism town awards. The winners will be announced on Thursday 25 July 2024.

You may have seen Council’s results from the recent Community Satisfaction Survey. This is a State Government commissioned survey administered by JWS Research is now conducted quarterly in Hepburn Shire, rather than yearly. Council has defied the statewide trend of declining community satisfaction in Local Government by receiving steady or improving satisfaction results in many service areas. Of the 17 service areas surveyed, Council recorded improved results in 12 areas compared to the last survey and the same result in one area. We know we can do more, but this is a step in the right direction.

Council has commenced working on its Financial Vision. Thank you to everyone who has taken the time to attend one of our community drop-in sessions across the shire or submitted your say via Participate Hepburn. Submissions are available to submit at [Financial Vision | Participate Hepburn](#) and close on 17 July – we will be working with Councillors post submissions and look to adopt a new Long Term Financial Plan in September.

On Monday 08 July Council marked the beginning of NAIDOC week with a flag raising ceremony in Trentham. This year’s theme is ‘Keep the fire burning! Blak, Loud and Proud’.



Meetings I have participated in during the month include:

- Regular staff one on one meetings
- Councillor briefings
- Special Council Meeting
- Executive Leadership Team meetings
- Joint State/Local Government Monthly CEO Forum
- Various budget briefings and meetings regarding Long Term Financial Planning
- Tourism Midwest Victoria board and committee meetings
- MAV Mayor and CEO session
- Loddon Campaspe CEOs
- Loddon Campaspe Mayors and CEOs
- MAV Rural and Regional Planning Conference
- Greater Ballarat Alliance of Councils (GBAC) meeting
- Meetings in regard to VNI-West and the Western Renewables Link
- Audit and Risk Committee Meeting
- Daylesford Macedon Ranges Tourism conference
- Local Government Industry Advisory Group Inaugural meeting
- Official opening of Mechanics Trentham

- Special Council Meeting to consider the adoption of the 2024/2025 budget
- Public Hearing - Inquiry into Local Government Funding and Service Delivery
- Meetings with Mayor and Councillors

At the time of the July Council meeting, I will be enjoying the first week of my annual leave. The Director Community and Corporate is in the role of Acting CEO, so your next CEO report will come to you from the Acting CEO, Karina Lamb.

RECOMMENDATION

That Council receives and notes the Chief Executive Officer's Report for July 2024.

MOTION

That Council receives and notes the Chief Executive Officer's Report for July 2024.

Moved: Cr Lesley Hewitt

Seconded: Cr Don Henderson

Carried

Voted for: Cr Brian Hood, Cr Don Henderson, Cr Jen Bray, Cr Lesley Hewitt, Cr Tessa Halliday and Cr Tim Drylie

Voted against: Nil

Abstained: Nil

9 PUBLIC PARTICIPATION TIME

Go to 00:28:32 in the meeting recording to view this item.

This part of the Ordinary Meeting of Council allows for the tabling of petitions by Councillors and Officers and 30 minutes for the purposes of:

- Tabling petitions
- Responding to questions from members of our community
- Members of the community to address Council

Community members are invited to be involved in public participation time in accordance with Council's Governance Rules.

Individuals may submit written questions or requests to address Council to the Chief Executive Officer by 10:00am the day before the Council Meeting.

Some questions of an operational nature may be responded to through usual administrative procedure. Separate forums and Council processes are provided for deputations or for making submissions to Council.

Questions received may be taken on notice but formal responses will be provided to the questioners directly. These responses will also be read out and included within the minutes of the next Ordinary Meeting of Council to make them publicly available to all.

BEHAVIOUR AT COUNCIL MEETINGS

Council supports a welcoming, respectful and safe environment for members of the community to participate at Council Meetings regarding issues that are important to them. Council's Governance Rules sets out guidelines for the Mayor, Councillors, and community members on public participation in meetings. It reinforces the value of diversity in thinking, while being respectful of differing views, and the rights and reputation of others.

Under the Governance Rules, members of the public present at a Council Meeting must not be disruptive during the meeting.

Respectful behaviour includes:

- Being courteous when addressing Council during public participation time and directing all comments through the Chair
- Being quiet during proceedings
- Being respectful towards others present and respecting their right to their own views

Inappropriate behaviour includes:

- Interjecting or taking part in the debate
- Verbal abuse or harassment of a Councillor, member of staff, ratepayer or member of the public
- Threats of violence

9.1 PETITIONS

9.1.1 PETITION - DRAFT TRENTHAM TOWNSHIP STRUCTURE PLAN - VISION STATEMENT INTRODUCTION

The Petition, to replace the Vision Statement in the Draft Trentham Structure Plan, was received on the 26 June 2024 and has 127 valid signatures.

The petition reads:

"The petitioners whose name, addresses and signatures appear hereunder, petition the Hepburn Shire Council as follows:

To replace the Vision Statement (p 26) in the April 2024 Draft Trentham Structure Plan with the community-led statement beginning: "Trentham is a friendly, engaged and active community looking towards a resilient and sustainable future."

RECOMMENDATION

That Council:

- 1. Receives the Petition;*
- 2. Notes the extensive community consultation that has formed the Draft Township Structure Plans and Rural Hepburn Strategy;*
- 3. Refers the request to the Executive Manager Development for consideration as part of the feedback received on the Draft Township Structure Plans and Rural Strategy; and*
- 4. Provides a written response to the Head Petitioner following the Council decision on the Township Structure Plans and Rural Strategy at the Special Meeting of Council to be held for their consideration in September 2024.*

MOTION

That Council:

- 5. Receives the Petition;*
- 6. Notes the extensive community consultation that has formed the Draft Township Structure Plans and Rural Hepburn Strategy;*
- 7. Refers the request to the Executive Manager Development for consideration as part of the feedback received on the Draft Township Structure Plans and Rural Strategy; and*
- 8. Provides a written response to the Head Petitioner following the Council decision on the Township Structure Plans and Rural Strategy at the Special Meeting of Council to be held for their consideration in September 2024.*

Moved: Cr Lesley Hewitt

Seconded: Cr Don Henderson

Carried

Voted for: Cr Brian Hood, Cr Don Henderson, Cr Jen Bray, Cr Lesley Hewitt, Cr Tessa Halliday and Cr Tim Drylie

Voted against: Nil

Abstained: Nil

9.2 PUBLIC QUESTIONS

The CEO read questions received in accordance with Council's Governance Rules and the Mayor responded on behalf of Council.

Question 1 – Dr Neville Pamment

My question relates to the draft Future Hepburn document which contains many contentious elements which were given only a brief public airing. Recognising that the upcoming Council Caretaker period commences on 17th September 2024 and that major decisions in the lead-up to that period should not be made in haste and bind future Councils, does Council acknowledge the need for more comprehensive community involvement and feedback on what it has termed "Once in a Generation" Structure Plans?

Response – Mayor Brian Hood

The Future Hepburn project, embodied in Hepburn Shire's Council Plan 2021-2025, has been an ongoing project with Council over the last two to three years, involving Councillors, expert consultants, legal advisors, and Council staff. Council can reassure our community that any decision on this project is not being done in haste.

Extensive community engagement has taken place over the last 12 months, including the involvement of Community Panels representing each township. More recently, the draft Township Structure Plans and Rural Hepburn were open for community feedback from 1 May to 26 June 2024. The community consultation period was extended to enable greater community participation. During this period, over 16,000 letters were sent to residents, 25 stakeholder meetings were conducted, 9 public meetings and one webinar were held, several one-on-one meetings with officers were arranged, and our Participate Hepburn website attracted 14,000 visits with 32,000 total views of site pages. So far, close to 400 written submissions have been submitted.

Community involvement has indeed been comprehensive, and officers are now reviewing all written submissions to inform and recommend a final draft for the township Structure Plans and Rural Strategy. It has been carried out in accordance with Council's community engagement policy, and Council believes that the engagement and consultation process has been more than satisfactory and appropriate.

Council will consider the draft Township Structure Plans and Rural Hepburn documents individually. Council will decide whether or not to adopt, abandon, or amend each plan/strategy.

Should the plans be endorsed, this will not result in an automatic change in planning provisions in the Shire. For any changes to planning provisions to occur, the successful completion of a planning scheme amendment process needs to occur.

This is a separate and lengthy statutory process involving further, formal community consultation. That is, the community and stakeholders will have their say once again, and the ability to express their views before an independent panel appointed by the Minister for Planning. It also requires Council to make a number of future decisions at certain key milestones during the planning scheme amendment process.

Question 2 – Dr Neville Pamment

Following on my previous question, why will Council not defer a decision on whether to adopt the Structure Plans and allow the new incoming Council to complete the process at a less rushed and more consultative pace?

Response – Mayor Brian Hood

The response to Question 1 demonstrates that over the life of the project there has been extensive community and stakeholder engagement and consultation. This has resulted in an unprecedented number of submissions that will be considered in the preparation of the final drafts. There is no compelling reason for Council to defer a decision.

As above, should the plans be endorsed, this will not result in an automatic change in planning provisions in the Shire. A separate and lengthy statutory process involving further, formal community consultation will be undertaken before the planning scheme is amended.

Question 3 – Mr Peter Geraeds

Regarding the Future Hepburn Structure Plans, if a decision is not to be deferred to the new incoming council, when will this Council discuss and vote on the revised recommendations of Council Officers?

Response – Mayor Brian Hood

Council intends to consider the five Township Structure Plans and Rural Strategy at a Special Council Meeting on 3 September 2024. A formal public notice will be issued in the coming days.

9.3 REQUESTS TO ADDRESS COUNCIL

Mr Michael O'Connell addressed Council in regards to a permanent location for the Creswick Brass Band.

10 STATUTORY PLANNING

10.1 PLN23/0261 - 35 PADDOCK STREET, CLUNES, MULTI-LOT, STAGED SUBDIVISION

Go to 00:43:13 in the meeting recording to view this item.

EXECUTIVE MANAGER DEVELOPMENT

In providing this advice to Council as the Coordinator Major Projects and Policy, I Nicola McGowan have no interests to disclose in this report.

ATTACHMENTS

1. PL N 23 0261 - Application - 35 Paddock Street Clunes [10.1.1 - 14 pages]

EXECUTIVE SUMMARY

This is an application to subdivide a 29.5ha parcel of land at 35 Paddock Street, Clunes. The land is currently vacant.

The site is located to the north and east of the Clunes Primary School with frontage to Paddock Street (south) and Government Road (east). The application seeks a planning permit for a multi-lot staged subdivision, providing 106 lots at no less than 2000 square meters each and removal of native vegetation on the site.

The application does not include any proposed building envelope areas, design guidelines, or development of the land beyond subdivision.

The land is currently zoned as Low Density Residential (LDRZ) and subject to the Environmental Significance Overlay (ESO1). The zone sets a minimum lot size of 2000 square metres.

The application states that there is no intention to build Paddock Street. The main east-west connector road will access Angus Street and Government Road.

Twelve objections to the proposed application have been received, including a submission from the Principal, Clunes Primary School. Concerns generally relate to infrastructure capacity, particularly stormwater and traffic management.

The draft Clunes Structure Plan is currently at consultation and identifies the site as one that could accommodate growth at a higher density.

The plan as submitted does not provide connection with the existing Clunes township and provides no opportunity to increase housing density or provide affordable housing at this site.

It is recommended that the application is refused.

OFFICER'S RECOMMENDATION

That Council, having considered all the matters required under Section 60 of the Planning and Environment Act 1987, resolves to Refuse to Grant a Planning Permit for a Staged multi-lot subdivision and removal of native vegetation at 35 Paddock Street, Clunes on the following grounds:

- 1. Inadequate urban design outcomes resulting in poor interface to the adjoining land and the Clunes township.*
- 2. Inadequate road layout results in poor interface with the Clunes Primary School and connections to the township.*
- 3. The siting of the drainage reserve is not contained within the site. Stormwater and water sustainability cannot be adequately considered.*
- 4. Provision of public open space is not provided in a safe or sufficient way.*
- 5. Removal of native vegetation is not consistent with Clause 12.01-1L.*
- 6. The subdivision layout is not in accordance with the intent of Clause 11.01-1L.*
- 7. The subdivision and removal of native vegetation does not adequately address the decision guidelines of Clause 65.02.*

MOTION

That Council, having considered all the matters required under Section 60 of the Planning and Environment Act 1987, resolves to Refuse to Grant a Planning Permit for a Staged multi-lot subdivision and removal of native vegetation at 35 Paddock Street, Clunes on the following grounds:

- 1. Inadequate urban design outcomes resulting in poor interface to the adjoining land and the Clunes township.*
- 2. Inadequate road layout results in poor interface with the Clunes Primary School and connections to the township.*
- 3. The siting of the drainage reserve is not contained within the site. Stormwater and water sustainability cannot be adequately considered.*
- 4. Provision of public open space is not provided in a safe or sufficient way.*
- 5. Removal of native vegetation is not consistent with Clause 12.01-1L.*

6. *The subdivision layout is not in accordance with the intent of Clause 11.01-1L.*
7. *The subdivision and removal of native vegetation does not adequately address the decision guidelines of Clause 65.02.*

Moved: Cr Tessa Halliday

Seconded: Cr Lesley Hewitt

Carried

Voted for: Cr Brian Hood, Cr Don Henderson, Cr Jen Bray, Cr Lesley Hewitt, Cr Tessa Halliday and Cr Tim Drylie

Voted against: Nil

Abstained: Nil

BACKGROUND

Site and Surrounds

The subject site at 35 Paddock Street, Clunes has a total area of 29.579ha. The site is located on the north-east end of the Clunes township, abutting the Clunes Primary School. The subject site is identified by yellow highlight and marked with a red arrow at Figure One.



Figure 1: Aerial image. Source: Nearthmaps Feb 24

The land has been used for agriculture with aerial images showing previous use for cropping.

The site has frontage to Paddock Street which is a sealed in part, including car parking spaces, to the front of the school building and extends to an unsealed road to the eastern boundary of the school grounds. Paddock Street is not constructed east of the school grounds.

The site eastern boundary abuts Government Road, being an unsealed road. A separate unsealed road extends east from the site to Smeaton Road.

The surrounding area includes a mix of residential land, Primary School, and farming land to the east. Recreational areas including Ligar Street Reserve and Esmond Park are nearby.

A triangular area of land between Angus Street/School Road and the subject site is owned by Council.

There is no relevant planning permit history for this site.

Proposal

The application includes subdivision of the site and removal of native vegetation as follows:

- Access to the site across the Council reserve from Angus Street (west).
- Creation of 106 lots at approximately 2000 square metres per lot, staged over 6 stages west to east. The first stage includes construction of the internal access road from Angus Street and 5 lots with frontage to the Council road reserve. A shared crossover will provide access to the southern 2 lots from School Road.
- Removal of three patches of Plains Grassy Woodlands areas.
- 2 drainage reserves – one in the north east and one abutting the school.
- Local park of 0.45ha connecting Paddock Street at the eastern boundary of the Primary School to proposed Stage 3 of the subdivision.

The proposed subdivision can be seen at Figure 2 below.



Figure 2 – Plan of Subdivision Source: Application documents

Referrals

The application has been referred to:

- External – Goulburn Murray Water; Central Highlands Water; Powercor; Ausnet; North Central CMA
- Internal – Engineering / Landscaping; Strategic Planning; Biodiversity Officer

Conditional consent is provided by the external authorities.

Council strategic planning made comment in relation to the proposed Clunes Structure Plan and have requested a revised layout.

Public notification

The surrounding property owners and occupiers were notified of the application. A total of twelve submissions raising concern against the proposal have been received. The concerns are summarised as follows:

- Clunes Primary School – fencing requirements; School Road traffic management; supports the open space connection to the subdivision; overland stormwater; safety risks mitigated to the drainage reserve.
- Stormwater and drainage.
- Existing physical and social infrastructure is not adequate.
- Increase in traffic, flow, safety concerns about entrance from Angus Street and along School Road.

- The additional housing estate will turn Clunes into a commuter town and will not add value to the fabric of the community.
- Does not adequately address the housing shortage in Clunes. The price point and maintenance of a lot this size will exclude those needing affordable housing.
- Too many lots. Not enough diversity of lot type.
- All native vegetation should be retained, with any subdivision working around the existing vegetation.
- Amenity disrupted.
- Site could be better used for public purposes.
- No known urban design outcomes and not in keeping with the charm of Clunes.
- Too far from the railway station.
- Impact on wildlife. A corridor is required for kangaroos and growling grass frog.

Planning Scheme

The site is in the Low Density Residential Zone, Schedule 1 (LDRZ1). There are no variations to the zoning requirements in the schedule. The site is subject to the Environmental Significance Overlay – Schedule 1 (ESO1).

A Planning Permit is triggered under the following clauses of the Hepburn Planning Scheme:

- Clause 32.03-3 – Subdivision in the Low Density Residential Zone;
- Clause 42.01-2 – Subdivision in the Environmental Significance Overlay.
- Clause 52.17-1 – Removal of native vegetation.

The following planning policies are relevant to the consideration of this application.

- Clause 02.03-1 – Settlement
- Clause 02.03-2 – Environmental and landscape values.
- Clause 02.03-3 - Environmental risks and amenity.
- Clause 02.03-4 - Natural resource management.
- Clause 02.03-6 – Housing
- Clause 11.01-1S – Settlement; Clause 11.01-1R Settlement – Central Highlands and Clause 11.01-1L Townships and Settlements
- Clause 11.02-1S – Supply of urban land
- Clause 12.01-1L – Native vegetation and habitat protection
- Clause 14.02-1S - Catchment planning and management.
- Clause 14.02-1L - Catchment and land protection.
- Clause 14.02-2S - Water quality
- Clause 15.01-3S – Subdivision design
- Clause 15.01-3L – Subdivision in Hepburn Shire

- Clause 16.01-1S – Housing Supply and Clause 16.01-2L – Affordable Housing
- Clause 18.01-1S – Land Use and Transport Integration; Clause 18.02-1S – Walking; Clause 18.02-2S – Cycling; Clause 18.02-4S – Roads
- Clause 19.02-6S – Open Space; Clause 19.02-6L – Open space; Clause 19.03-3S – Integrated water management and Clause 19.03-3L - Integrated water management.

KEY ISSUES

The site is located within the Clunes township boundary with a shared boundary to the Clunes Primary School.

The site is currently zoned as Low Density Residential where subdivision requires a minimum lot size of 2000square metres.

The purpose of the LDRZ includes:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To provide for low-density residential development on lots which, in the absence of reticulated sewerage, can treat and retain all wastewater.

Reticulated sewage and other infrastructure usual to the Clunes township is able to access the site.

The layout of the site includes a pedestrian link between Paddock Street and the heart of the subdivision. No lot frontage is proposed to Paddock Street.

Planning Policy

The proposed subdivision of 35 Paddock Street considers the strategic direction to facilitate growth in the Clunes township and provides infill housing development on a key strategic site.

The site can be connected to sewerage and stormwater. The proposal includes two onsite drainage retention basins which will provide an outfall of pre-development rates. One basin, however, is not wholly included within the site and relies on the use of Crown Land. No evidence from DEECA approving the use of this land has been provided.

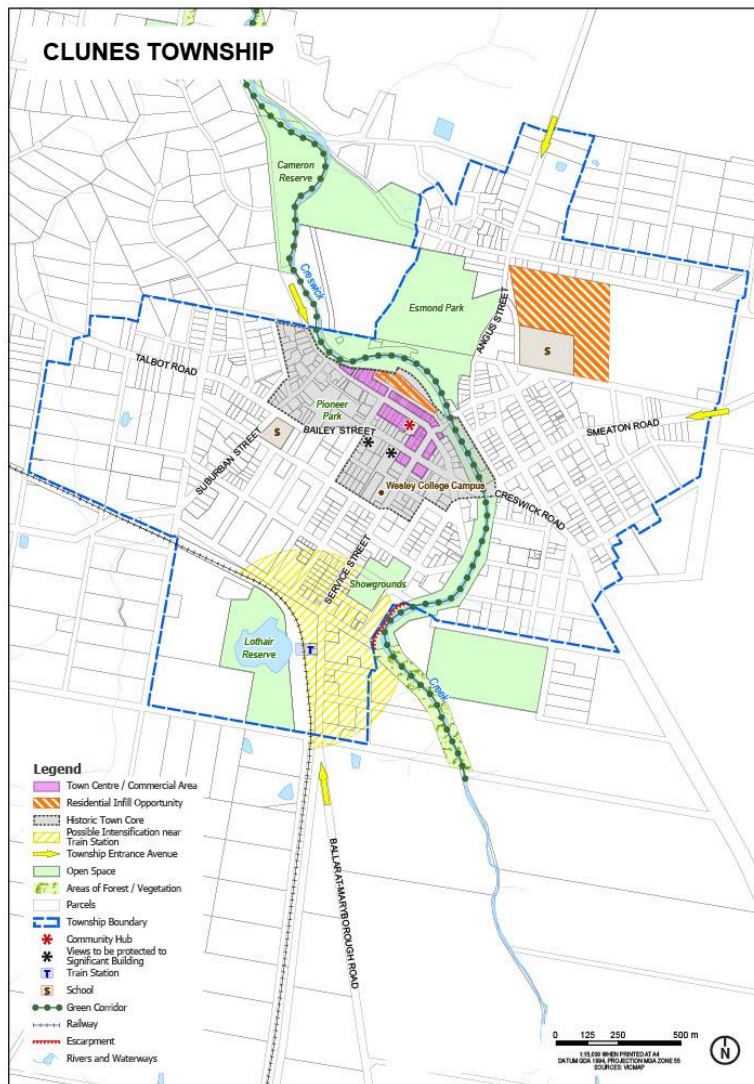
If the north-east drainage basin cannot be delivered it would detrimentally affect the drainage of the site and the impact on land to the south of the site. All infrastructure must be located wholly within the subject site.

Clause 11.01-1L Township and settlements

The subject site is located within the Clunes township boundary and is well located to promote the future growth of Clunes.

The site is currently vacant and sits to the north east of the historic Fraser Street commercial centre. The site is well positioned to accommodate new residential development and can connect directly to the Clunes Primary School.

The site is in part annotated on the current Clunes Structure Plan in orange stripes (residential infill opportunity) below:



The site is currently zoned as LDRZ with a limit of 2000m² lot sizes. The draft Clunes Structure Plan proposes to rezone part of the land along Paddock Street to NRZ, which would allow for greater density on the site.

Clause 12.01-1L Native vegetation and habitat protection

A Biodiversity study of the site prepared by Ecology & Heritage Partners identifies the removal of two native trees - one Golden Wattle and one Lemon Beauty-heads.

A patch of Plains Grassy Woodland has been identified on Government Road along the eastern boundary of the subject site. This is identified as an endangered Ecological Vegetation Class but as it is less than 0.5ha to be removed is not

considered to have a significant impact on any habitat for a rare or threatened species.

Native offsets are required for removal of the grasslands and can be accommodated within the catchment area.

No fauna is identified on the site requiring management. It is probable that reptiles live around the site. The biodiversity studies prepared for the current structure plan review identifies that wildlife corridors through urban areas are important and grassland patches should be preserved (p71, Biodiversity Assessment, 2023).

Clause 15.01-3S and 3L – Subdivision design in Hepburn Shire

The objective of subdivision policy is to achieve attractive, safe, accessible, diverse and sustainable neighbourhoods.

The subject site has a total width from Angus Street to Government Road of approximately 900m, with the western portion having good walking access to the township. An internal connection is provided through a local park, improving pedestrian accessibility to the site.

The subdivision is to be divided into 6 stages, with Stage 1 including the access road across the council reserve and 5 lots that have direct access to Angus Street and School Road, ranging in size from 2012sqm to 2167sqm.

Stages 2-6 progress west to east with lot sizes of 2000sqm to 2856sqm with five lots having direct access to Government Road (east).

There is no intention to construct Paddock Street. This could result a tall fence across 13 lots, essentially forcing the subdivision to turn its back on the town. Design guidelines could be required as a condition on any permit issued, requiring houses to face onto Paddock Street with low and permeable fence heights to that space.

Subdivision in Hepburn Shire requires that new subdivision is designed to maintain habitat corridors and large trees. No attempt has been made to protect the 2 native trees, the exotic trees close to the school boundary, nor the patch of native grasses on Government Road.

Open space

The site is encumbered by two drainage basins that cannot be included in the contribution to public open space. The proposal includes less than 5% POS with no plan to make up the sum through monetary contributions. This could be included as a condition on any permit issued.

The POS around the drainage basin in the NE is included in the final stage of subdivision. The space adjoins land in the Rural Living Zone where the subdivision of land into larger lots would be supported. It is not clear how this open space would be beneficial to the occupants within this subdivision.

Land around the SW drainage basin has limited accessibility as POS. The site is located close to the primary school and must be managed to ensure safety to the public. There is no management plan or fencing proposed with the application and could be included as a condition on any permit issued.

A landscaping plan submitted with the application shows the planting of a mix of acacia, eucalyptus and oak street trees and within the park setting. No provision has been made for a wildlife corridor or nature reserve.

Planting is proposed around the NE drainage basin, noting that the SW basin is largely encumbered land.

Access to the site

The subdivision as proposed requires access across a triangle parcel of Council owned land from Angus Street. In turn, the drainage reserve will be expanded which would be sized to less than pre-development flows of stormwater, improving drainage issues to land south including the Council netball courts.

Construction of Paddock Street is not proposed, requiring traffic to move internally within the subdivision with one key ingress and egress point.

Access to Government Road is proposed with no upgrade to that road. No direct access can currently be provided directly from the site to Albert Street.

Pedestrian links provide access to the subdivision from the south-east corner of the Clunes Primary School on Paddock Street and along the western drainage reserve from School Road.

Whilst the proposed subdivision generally meets the strategic direction, it lacks the vision to construct Paddock Street which would provide direct access from the south and connection to the township.

Stormwater

Two drainage reserves are proposed to capture the water runoff between two catchments. A stormwater management plan has been provided with the application that explains the design intent of pre and post development. The SWMP shows that the basins have been designed to detail the overland flows to pre-development levels.

There is no discussion regarding the existing Council infrastructure servicing the town downstream of the subject site or how drainage to this area would be improved.

Draft Clunes Structure Plan

The Draft Clunes Structure Plan (2024) has been through a public consultation phase. The plan is yet to be adopted by Council and holds little weight as a decision

document. The intent of the structure plan for this site generally reflects the existing structure plan, identifying the site as one that is appropriate for managed housing change.

The draft Structure Plan recommends that part of the subject site be rezoned for more intensive residential development as part of the Neighbourhood Residential Zone, as shown below at Figure 3. This would allow the subdivision of smaller lots and in turn greater diversity of lot sizes and housing affordability.

Opportunities for increased housing change and growth have not been realised in the proposed subdivision layout.

The draft Clunes Structure Plan identifies the construction of Paddock Street as a future transport link, constructed through development contributions (see Fig13 of draft Clunes SP).

Part of the land could be set aside as a superlot for future development. This could be included as a permit condition however this would present issues for the road layout, public open space areas and other flow on effects. It is recommended that this permit application should be refused and a new layout incorporate a superlot in accordance with the strategic vision for the site.



Figure 3 – site marked in green, showing indicative rezoning and connector streets.

COUNCIL POLICY AND LEGISLATIVE IMPLICATIONS

COUNCIL PLAN 2021-2025

A resilient, sustainable and protected environment

1.2 Prioritise environmental management, protection and regeneration.

1.5 Protect and regenerate the natural resources of the Shire including soils, water and ecological systems from both current and future threats

A healthy, supported, and empowered community

2.1 Support appropriate land use and accommodate more affordable long-term housing within townships, that conforms with the character of the area.

2.2 Increase the availability and accessibility of services in the Hepburn Shire area to support liveability, health, and wellbeing.

Embracing our past and planning for the future

3.2 Embrace and enhance the existing character of our towns and rural settings through community inclusive strategic planning to strengthen planning controls on growth and development

FINANCIAL IMPLICATIONS

This application has been appealed by the applicant against Council's Failure to Determine the application.

Council should consider providing officers with delegation to resolve the matter at Compulsory Conference to enable the resolution of the matter without the need for a full Hearing.

Costs may be incurred for representation at any VCAT hearing.

COMMUNITY AND STAKEHOLDER ENGAGEMENT

The application has been advertised by sending notification of the proposal to adjoining and adjacent owners and a notice on the land. As a result, 12 objections have been received. The issues raised in the objections are addressed individually as follows:

Integration with the Clunes Primary School	Conditions on any permit issued could adequately address some of the concerns of the school. As Paddock Street is not proposed to be constructed, traffic management concerns are less relevant. Safety concerns should be further considered regarding proposed crossovers and pedestrian access of the site from School Road.
Stormwater and Drainage concerns.	Two drainage reserves will improve drainage outcomes from the site.
Existing physical and social infrastructure.	A population growth in Clunes will in turn support the future economics of the town. Clunes is an established town.

RISK AND GOVERNANCE IMPLICATIONS













No risks to Council other than those already identified.

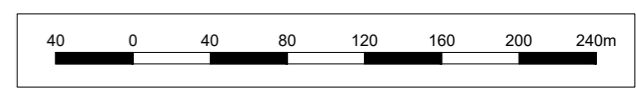
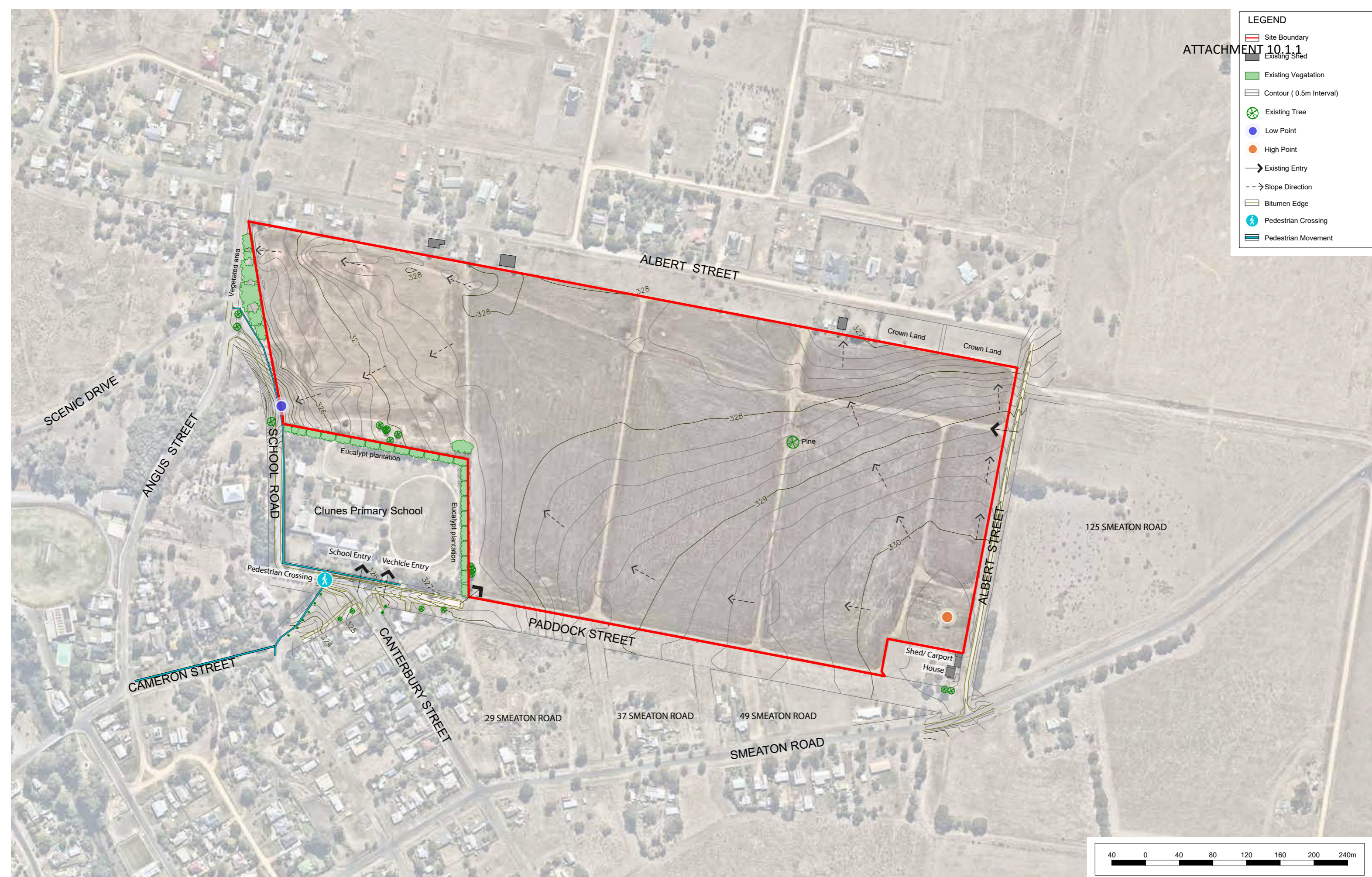
ENVIRONMENTAL SUSTAINABILITY

There are no sustainability implications associated with this report.

ATTACHMENT 10.1.1

LEGEND

-  Site Boundary
-  Existing Shed
-  Existing Vegetation
-  Contour (0.5m Interval)
-  Existing Tree
-  Low Point
-  High Point
-  Existing Entry
-  Slope Direction
-  Bitumen Edge
-  Pedestrian Crossing
-  Pedestrian Movement



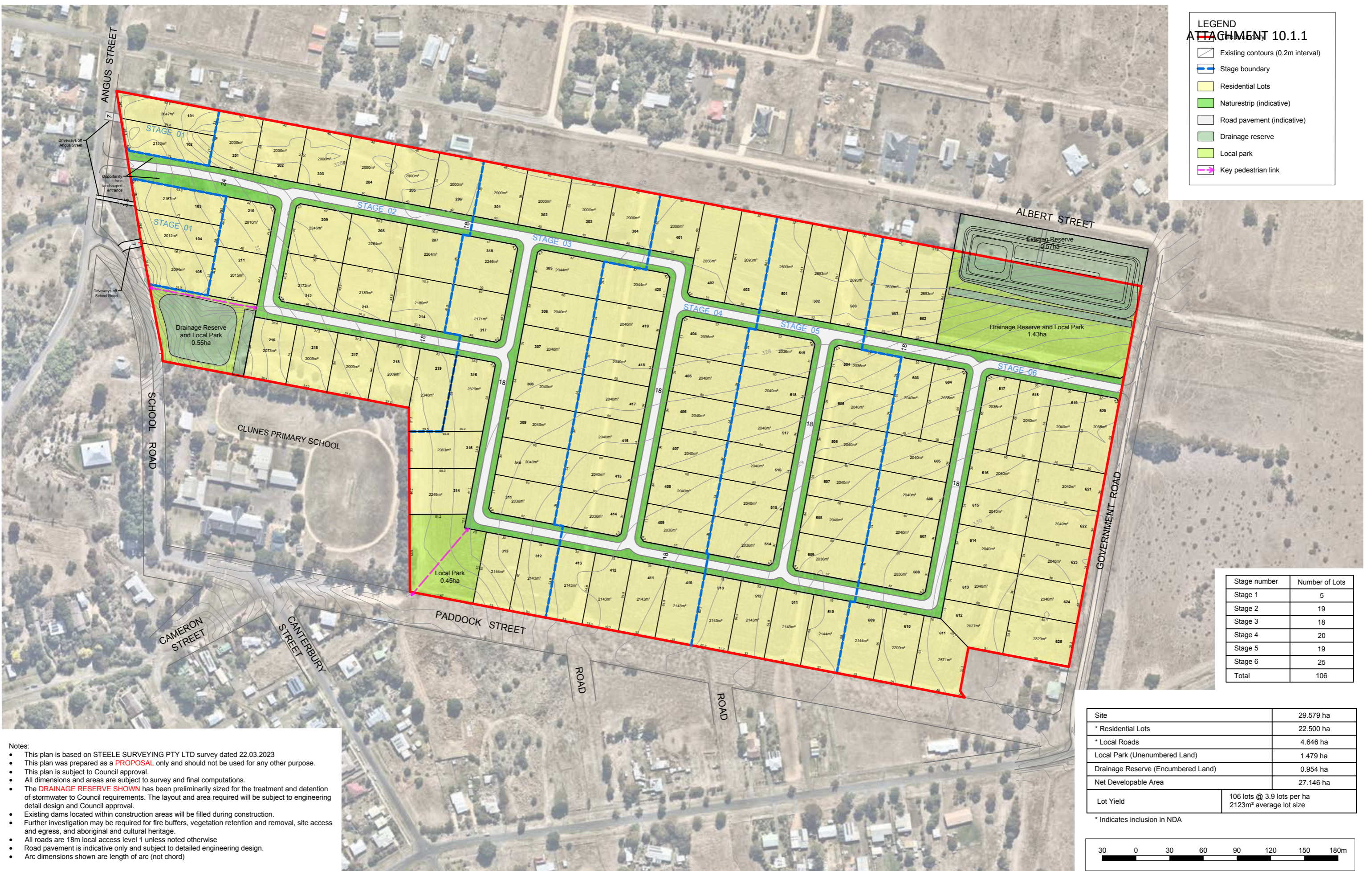
Site Analysis Plan
 35 Paddock Street, Clunes
 Gull Group

Date: 21.08.2023		Version No: 01		Job No: 2001638	
01	21.08.2023	First Issue	OX	WEB	Scale: (A1): 1:2000 (A3): 1:4000
Version	Date	Description	Drafted	Approved	

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LEGEND
ATTACHMENT 10.1.1

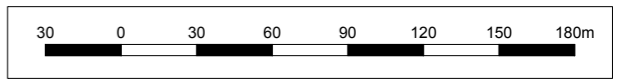
- Existing contours (0.2m interval)
- Stage boundary
- Residential Lots
- Naturestrip (indicative)
- Road pavement (indicative)
- Drainage reserve
- Local park
- Key pedestrian link



Stage number	Number of Lots
Stage 1	5
Stage 2	19
Stage 3	18
Stage 4	20
Stage 5	19
Stage 6	25
Total	106

Site	29.579 ha
* Residential Lots	22.500 ha
* Local Roads	4.646 ha
Local Park (Unnumbered Land)	1.479 ha
Drainage Reserve (Encumbered Land)	0.954 ha
Net Developable Area	27.146 ha
Lot Yield	106 lots @ 3.9 lots per ha 2123m ² average lot size

* Indicates inclusion in NDA



- Notes:**
- This plan is based on STEELE SURVEYING PTY LTD survey dated 22.03.2023
 - This plan was prepared as a **PROPOSAL** only and should not be used for any other purpose.
 - This plan is subject to Council approval.
 - All dimensions and areas are subject to survey and final computations.
 - The **DRAINAGE RESERVE SHOWN** has been preliminarily sized for the treatment and detention of stormwater to Council requirements. The layout and area required will be subject to engineering detail design and Council approval.
 - Existing dams located within construction areas will be filled during construction.
 - Further investigation may be required for fire buffers, vegetation retention and removal, site access and egress, and aboriginal and cultural heritage.
 - All roads are 18m local access level 1 unless noted otherwise
 - Road pavement is indicative only and subject to detailed engineering design.
 - Arc dimensions shown are length of arc (not chord)



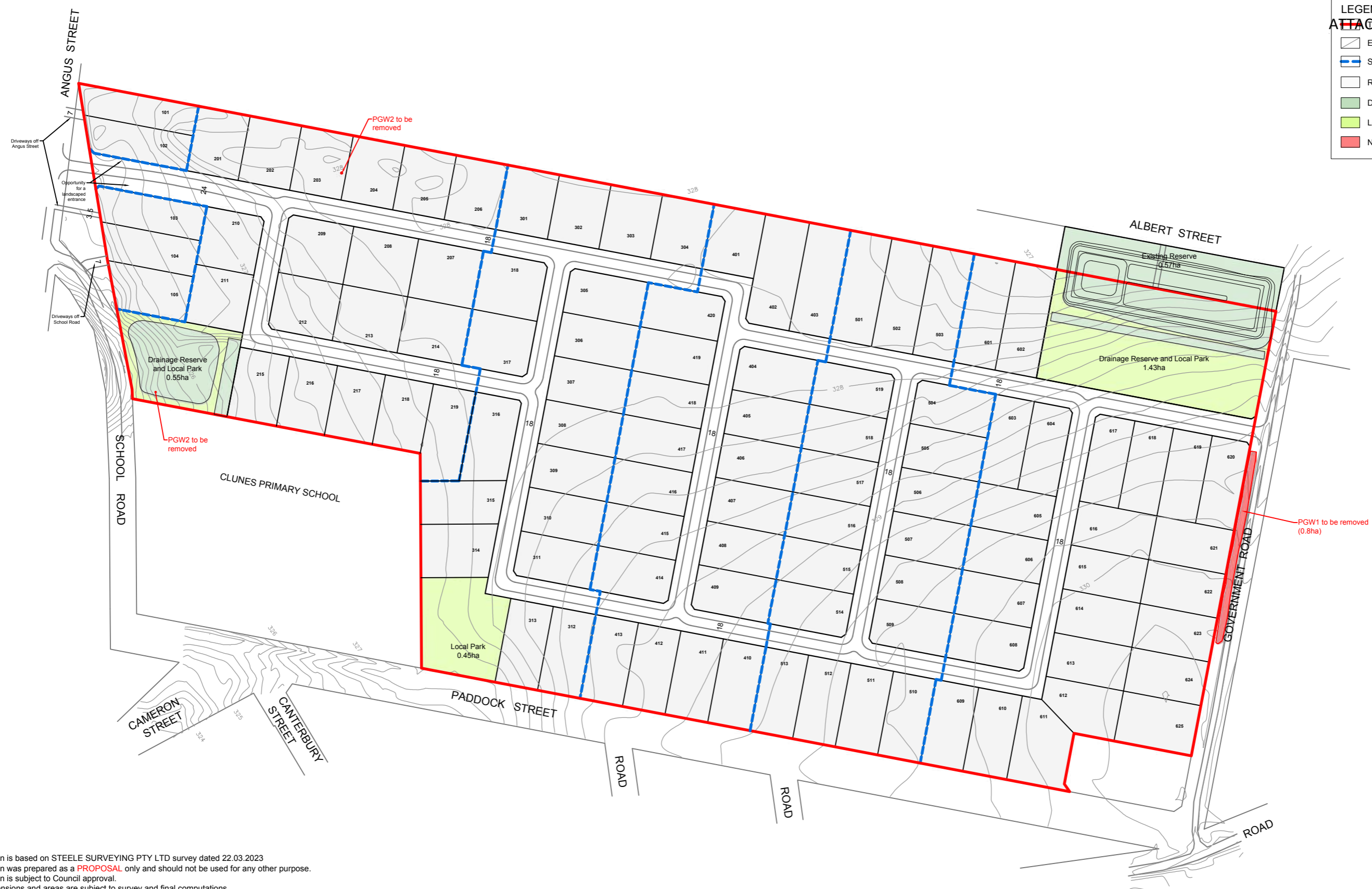
Indicative Subdivision Plan
35 Paddock Street, Clunes
Gull Group

05	19.07.2023	Plan amended to suit the survey, council and drainage comments	WEB	WEB	Date: 28.11.2023
06	09.08.2023	Plan amended to suit the comments	OX	WEB	Version No: 09
07	10.08.2023	Updated stage boundaries	OX	WEB	Job No: 2001638
08	25.10.2023	Updated based on comments	OX	WEB	Scale (A1): 1:1500
09	28.11.2023	Driveway dims included	OX	WEB	(A3): 1:3000
Version	Date	Description	Drafted	Approved	

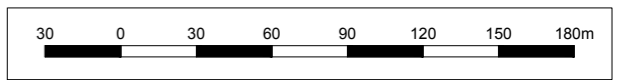
LEGEND

ATTACHMENT 10.1.1

- Existing contours (0.2m interval)
- Stage boundary
- Residential Lots
- Drainage reserve
- Local park
- Native Vegetation to be removed

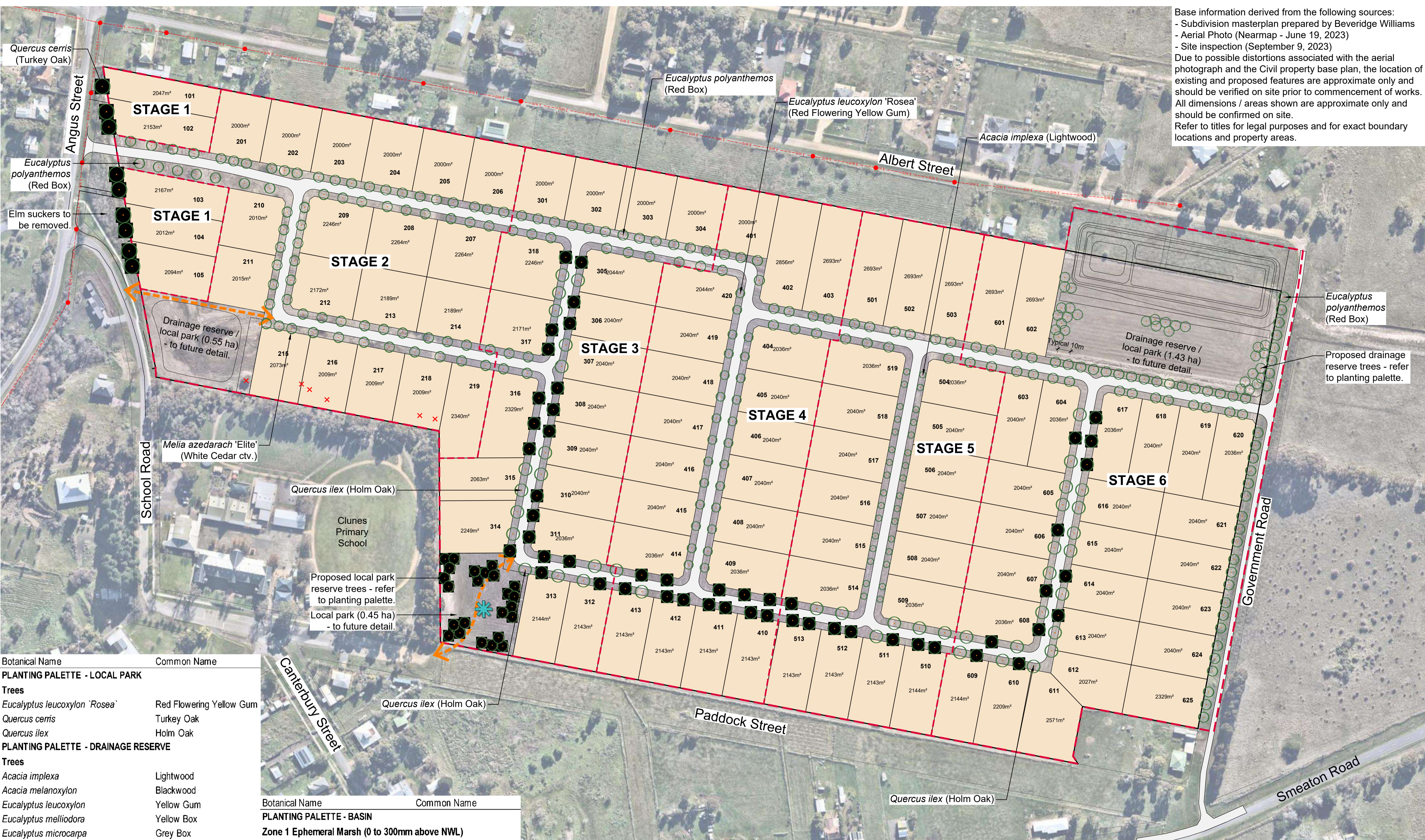


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 - The DRAINAGE RESERVE SHOWN has been preliminarily sized for the treatment and detention of stormwater to Council requirements. The layout and area required will be subject to engineering detail design and Council approval.
 - Existing dams located within construction areas will be filled during construction.
 - Further investigation may be required for fire buffers, vegetation retention and removal, site access and egress, and aboriginal and cultural heritage.
 - All roads are 18m local access level 1 unless noted otherwise
 - Road pavement is indicative only and subject to detailed engineering design.
 - Arc dimensions shown are length of arc (not chord)



Native Vegetation Removal Plan
 35 Paddock Street, Clunes
 Gull Group

Date: 06.12.2023		Version No: 01		Job No: 2001638		Scale (A1): 1:1500		Scale (A3): 1:3000	
Version	Date	Description	Drafted	Approved	OX	WEB			
01	06.12.2023	First issue							



Base information derived from the following sources:
 - Subdivision masterplan prepared by Beveridge Williams
 - Aerial Photo (Nearmap - June 19, 2023)
 - Site inspection (September 9, 2023)
 Due to possible distortions associated with the aerial photograph and the Civil property base plan, the location of existing and proposed features are approximate only and should be verified on site prior to commencement of works. All dimensions / areas shown are approximate only and should be confirmed on site. Refer to titles for legal purposes and for exact boundary locations and property areas.

LEGEND

- Lot Boundary
- Stage boundary
- Tree to be removed
- Residential lots
- Proposed road
- Proposed naturestrip
- Proposed local park
- Proposed drainage basin
- Dry out area - refer to civil drawings for detail
- Proposed pedestrian link
- Proposed seat
- Acacia implexa (Lightwood)
- Eucalyptus leucoxyylon 'Rosea' (Red Flowering Yellow Gum)
- Eucalyptus polyanthemos (Red Box)
- Melia azedarach 'Elite' (White Cedar ctv.)
- Quercus cerris (Turkey Oak)
- Quercus ilex (Holm Oak)
- Proposed reserve tree (local park)
- Proposed drainage reserve tree
- Overhead power line & power pole

Notes:
 1. Refer Subdivision Drawings prepared by Beveridge Williams for further detail.

Project Name & Address:
Residential Subdivision
35 Paddock Street
CLUNES

Drawing Title:
Landscape Master Plan

Client:
Gull Group

Date: November 01, 2023
 Scale: 1:1500 @ A1 Sheet Size
 Drawn: OJ
 Checked: DH / HM
 Planning Ref: N/A
 Drawing No:
2353 - LMP02

THOMSON HAY
 LANDSCAPE ARCHITECTS

130 Howards Rd, Wattle Flat VIC 3352
 T 03 5334 5321 W www.thomsonhay.com

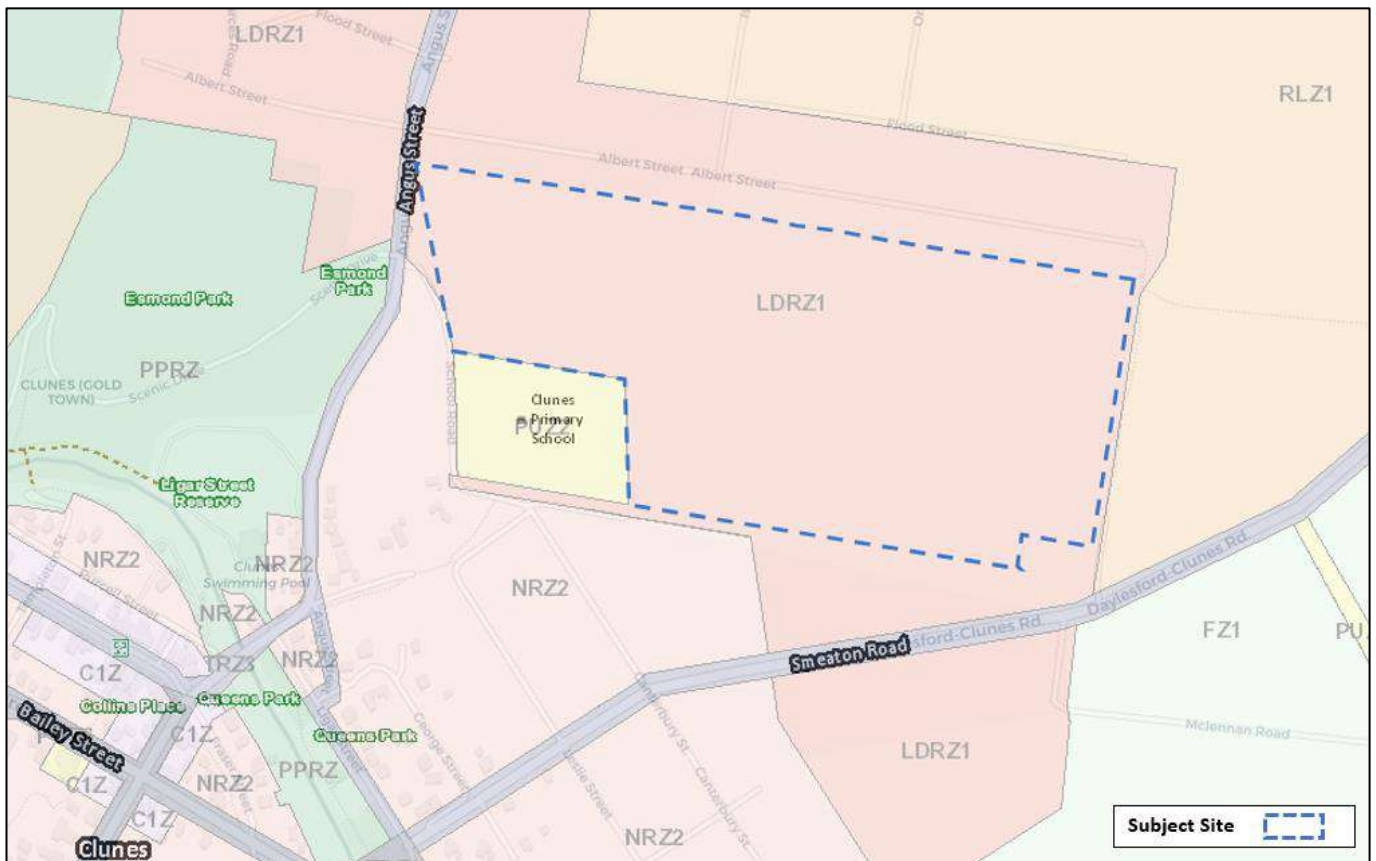
Botanical Name	Common Name
PLANTING PALETTE - LOCAL PARK	
Trees	
<i>Eucalyptus leucoxyylon 'Rosea'</i>	Red Flowering Yellow Gum
<i>Quercus cerris</i>	Turkey Oak
<i>Quercus ilex</i>	Holm Oak
PLANTING PALETTE - DRAINAGE RESERVE	
Trees	
<i>Acacia implexa</i>	Lightwood
<i>Acacia melanoxylon</i>	Blackwood
<i>Eucalyptus leucoxyylon</i>	Yellow Gum
<i>Eucalyptus melliodora</i>	Yellow Box
<i>Eucalyptus microcarpa</i>	Grey Box
Shrubs, Grasses & Groundcovers	
<i>Acacia acinacea</i>	Gold-dust Wattle
<i>Acacia aspera</i>	Rough Wattle
<i>Acacia genistifolia</i>	Early Wattle
<i>Acacia verniciflua</i>	Varnish Wattle
<i>Allocasuarina verticillata</i>	Drooping She-oak
<i>Cassinia arcuata</i>	Drooping Cassinia
<i>Carpobrotus modestus</i>	Inland Pigface
<i>Chrysocephalum semipapposum</i>	Clustered Everlasting
<i>Correa glabra</i>	Rock Correa
<i>Dodonaea viscosa subsp. cuneata</i>	Wedge-leaf Hop Bush
<i>Hakea decurrens</i>	Bushy Needlewood
<i>Hardenbergia violacea</i>	Purple Coral-pea
<i>Lomandra longifolia subsp. longifolia</i>	Spiny-headed Mat-rush
<i>Melaleuca decussata</i>	Cross-leaf Honey-myrtle
<i>Melaleuca wilsonii</i>	Violet Honey-myrtle
<i>Meliccytus dentatus</i>	Tree Violet
<i>Myoporum parvifolium</i>	Creeping Boobialla
<i>Poa labillardieri</i>	Tussock Grass

Botanical Name	Common Name
PLANTING PALETTE - BASIN	
Zone 1 Ephemeral Marsh (0 to 300mm above NWL)	
<i>Callistemon sieberi</i>	River Bottlebrush
<i>Carex appressa</i>	Tall Sedge
<i>Juncus pallidus</i>	Pale Rush
<i>Lomandra longifolia</i>	Spiny-headed Mat-rush
<i>Poa labillardieri</i>	Common Tussock Grass
Zone 2 Shallow Marsh (0 to 150mm below NWL)	
<i>Baumea articulata</i>	Jointed Twig-rush
<i>Eleocharis acuta</i>	Common Spike Rush
<i>Schoenoplectus tabernaemontani</i>	River Club-rush
<i>Persicaria decipiens</i>	Slender Knotweed
Zone 3 Deep Marsh (150 to 350mm below NWL)	
<i>Bolboschoenus caldwellii</i>	Sea Club-rush
<i>Bolboschoenus medianus</i>	Marsh Club-rush
<i>Eleocharis sphacelata</i>	Tall Spike Rush
<i>Cladium procerum</i>	Leafy Twig-rush
Zone 4 Submerged Marsh (350 to 500mm below NWL)	
<i>Potamogeton ochreateus</i>	Blunt Pondweed
<i>Myriophyllum crispatum</i>	Water Milfoil
<i>Triglochin procerum</i>	Water Ribbons

PLANTING PALETTE - STREETSCAPE

TREES	BOTANICAL NAME	COMMON NAME	MATURE SIZE (HXW)
	<i>Acacia implexa</i>	Lightwood	10 x 5m
	<i>Eucalyptus leucoxyylon 'Rosea'</i>	Red Flowering Yellow Gum	12 x 7m
	<i>Eucalyptus polyanthemos</i>	Red Box	15 x 8m
	<i>Melia azedarach 'Elite'</i>	White Cedar ctv.	10 x 8m
	<i>Quercus cerris</i>	Turkey Oak	25 x 15m
	<i>Quercus ilex</i>	Holm Oak	15 x 10m

Figure 2: Planning Scheme Zones (Source: VicPlan Maps)



2.3 Road Network

2.3.1 Angus Street

Angus Street is a local road which runs generally in the north-south direction near the subject site. In the vicinity of the site, Angus Street comprises a road reserve of 19.5 m with a carriageway of 6 m approximately. The carriageway is a two-way road allowing for one lane of traffic in each direction. The posted speed limit on Angus Street is 50 km/h south of Angus Street/School Road/Scenic Drive intersection and 60 km/h north of this intersection.

2.3.2 School Road

School Road is a local road running generally in the northwest-southeast direction and provides connectivity between Angus Street and Canterbury Street. School Road comprises a reserve of 22 m and carriageway of 6.3 m approximately. The posted speed limit on School Road is 40 km/h.

2.3.3 Canterbury Street

Canterbury Street is a local road aligned in a northwest-southeast direction near the subject site. It provides connections between School Road/Cameron Street/Paddock Street at its northern terminal and continues further southeast across Smeaton Road.

In the vicinity of the site, Angus Street comprises a reserve of 19.5 m and carriageway of 6 m, approximately. The carriageway is a two-lane two-way road allowing for one lane of traffic in each direction. The speed limit on Canterbury Street is currently unposted and therefore, a default unposted built-up area speed limit of 50 km/h applies to Canterbury Street.

2.3.4 Government Road

Government Road, currently an unnamed and unsealed road between Albert Street and Smeaton Road, forms the eastern boundary of the subject site. It is aligned in a north-south direction and comprises a 20 m road reserve and 4 m gravel road, approximately. The speed limit on Government Road is currently unposted and therefore, a default unposted rural speed limit of 100 km/h applies to Government Road.

Figure 7: Proposed Site Access



3.3 Proposed Internal Road Hierarchy

The internal street network comprises of access streets with 18 m reserves and 7.3 m carriageways. At the western access, a 24 m reserve with 7.3 m carriageway is proposed for approximately 148 m. The road reserve and carriageway widths are consistent with the Infrastructure Design Manual (IDM) and Hepburn Shire Planning Scheme. The proposed internal road hierarchy is presented in Figure 8 below.

Figure 18: Internal Traffic Volumes





Figure 3: Existing Overland Flow Paths

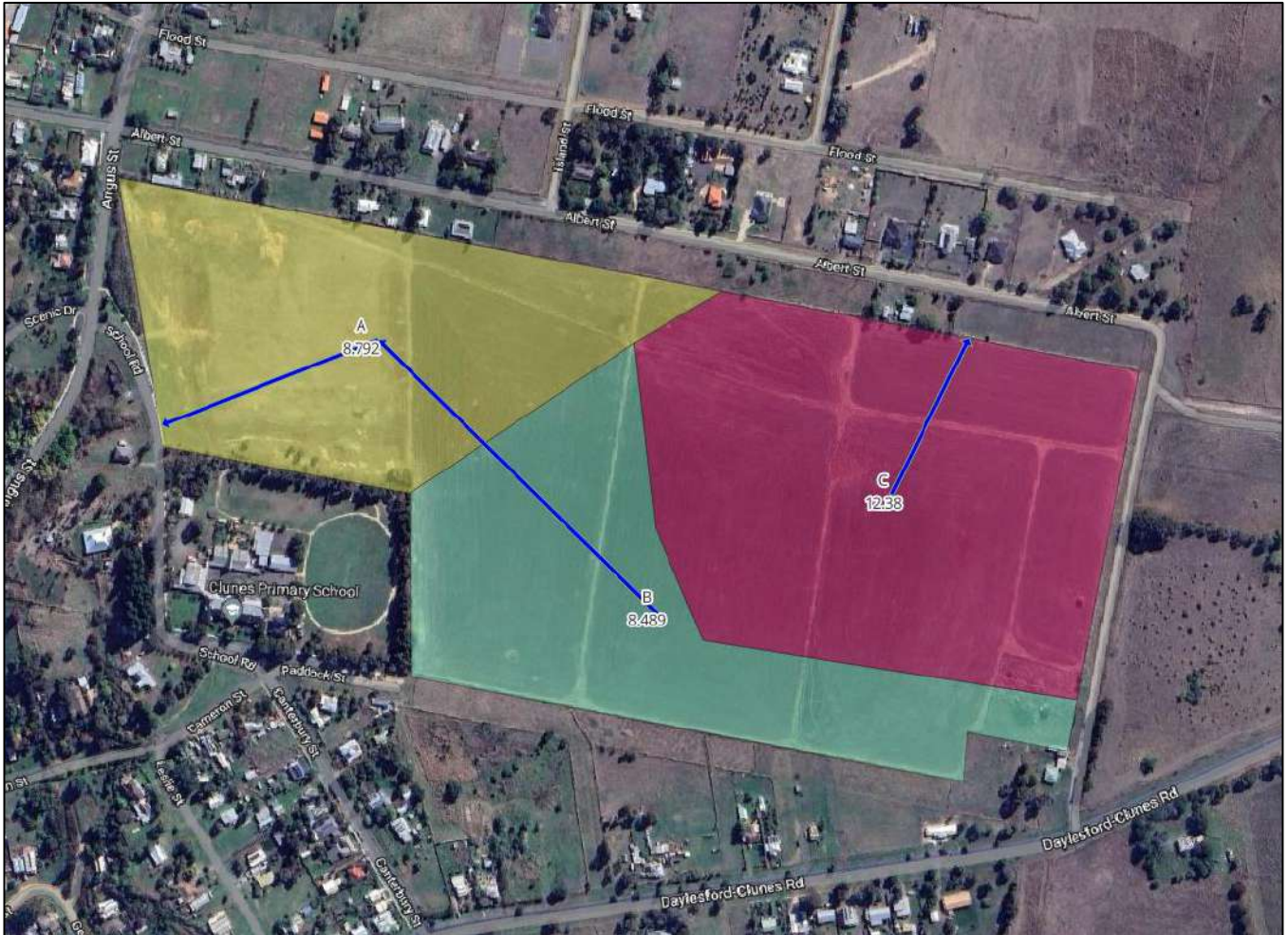


Figure 5: Pre-Development Catchment Plan

For post-development catchment plan, the associated catchment areas have been included for the purpose of sizing both stormwater quantity and quality assets. The plan shows that the flows are to be diverted south towards the proposed RBs at the west and northeast corner of the site (refer to Figure 6).

All flows except for flows from catchment A will be directed into the proposed RBs with outflow meeting pre-development flow rate conditions. The RBs will over-detain the 1% AEP flow to allow flow at catchment A to be undetained. The total discharge from the development site will be at pre-development levels.



Figure 6: Post-Development Catchment Plan

3.3 Significance Assessment

3.3.1 Flora

The VBA contains records of three nationally significant (i.e. under the EPBC Act) and 23 State significant (i.e. under the FFG Act) flora species previously recorded within 10 kilometres of the study area (DEECA 2023d) (Figure 3). The PMST nominated an additional 22 nationally significant species which have not been previously recorded but have the potential to occur in the locality (DCCEEW 2023) (Figure 3).

No national or State significant flora (i.e. listed as threatened under the EPBC Act and/or FFG Act) were recorded during the site assessment, and based on the modified nature of the study area, landscape context and the proximity of previous records, significant flora species are considered unlikely to occur within the study area due to the and high levels of disturbance (i.e. history of intensive cropping, de-rocking) and absence of suitable habitat.

One Golden Wattle (protected under the FFG Act) was recorded within the west of the study area (Figure 2). The patch of Plains Grassy Woodland (PGW1) in the road reserve to the east of the study area contained three Lemon Beauty Heads *Calocephalus citreus* individuals, which are also protected under the FFG Act (DEECA 2023e). Additionally, there are several recent records (2012) for the FFG Act-listed Cut-leaf Burr-daisy *Calotis anthemoides* (Critically Endangered) (Figure 3) within close proximity to the study area. While there is no suitable habitat within the study area for Cut-leaf Burr-daisy, PGW1 within the immediately adjacent road reserve contains potential habitat for the species. It is recommended that targeted surveys for Cut-leaf Burr-daisy be undertaken within PGW1, if this area is proposed to be cleared, to confirm the presence/absence of the species.

3.3.2 Fauna

The VBA contains records of 15 nationally significant (i.e. under the EPBC Act) and 27 State significant (i.e. under the FFG Act) fauna species previously recorded within 10 kilometres of the study area (DEECA 2023d) (Figure 4). The PMST nominated an additional 17 nationally significant species which have not been previously recorded but have the potential to occur in the locality (DCCEEW 2023) (Figure 4).

No national (i.e. under the EPBC Act) or State significant (i.e. under the FFG Act) fauna were recorded during the site assessment, and based on the modified nature of the study area (i.e. extensive history of cropping), landscape context and the proximity of previous records, significant fauna species are considered unlikely to rely on habitat within the study area for foraging or breeding purposes due to the lack of suitable and/or important habitat features.

3.3.3 Ecological Communities

Five nationally listed ecological communities are predicted to occur within 10 kilometres of the study area (DCCEEW 2023):

- Grassy Eucalypt Woodland of the Victorian Volcanic Plain;
- Grey Box (*Eucalyptus microcarpa*) Grassy Woodlands and Derived Native Grasslands of South-eastern Australia;

- Natural Temperate Grassland of the Victorian Volcanic Plain;
- Seasonal Herbaceous Wetlands (Freshwater) of the Temperate Lowlands Plains; and,
- White Box-Yellow Box-Blakely's Red Gum Grassy Woodlands and Derived Native Grassland.

However, vegetation within the study area did not meet the condition thresholds that define any national or State-significant (FFG Act-listed) communities due to the absence of key indicator species, the low diversity of native flora and high cover of exotic vegetation.

4 REMOVAL, DESTRUCTION OR LOPPING OF NATIVE VEGETATION (THE GUIDELINES)

4.1 Avoid and Minimise Statement

As a precautionary measure, all patches of native vegetation (0.080 hectares), including within the adjoining eastern roadside reserve (PGW1), have been assumed lost as part of the development and will be offset accordingly (Beveridge Williams, Indicative Subdivision Plan, 2001638_ISP_V08, 2023).

Due to the extensive history of cropping and land modification, the only native vegetation present within the study area are two small shrubs, which are single representatives of the highly modified Plains Grassy Woodland (PGW2; Figure 2). No Large Trees, waterways, or other features of ecological value are present, and the site does not support suitable quality habitat for any National or State significant flora or fauna species.

While the eastern roadside reserve patch of Plains Grassy Woodland (PGW1) contains three state-listed Lemon Beauty-heads, the entire patch has been presumed lost due to the proposed future road upgrades along Government Road (currently a small unsealed road) and the installation of services.

An Environmental Significance Overlay – Schedule 1 (ESO1: Special Water Supply Catchment Protection) applies to the study area, of which the purpose is to protect significant regional water catchment areas from development impacts, and does not apply to the protection of native vegetation present within the study area.

In the context of the development and ecological values present in the study area, no feasible opportunities exist to further avoid and minimise impacts to native vegetation without undermining the key objectives of the proposal.

4.2 Residual Impacts to Native Vegetation

The below clearing scenario is based the development footprint as provided by Damian Drozd from Beveridge Williams on 27 October 2023. All native vegetation within the study area and the adjacent eastern roadside reserve has been presumed lost due to direct impacts from construction, or from likely road upgrades and installation of services along the roadside adjacent to the study area to the east.

4.2.1 *Vegetation proposed to be removed*

The study area is within Location 2, with 0.080 hectares of native vegetation proposed to be removed. As such, the permit application falls under the Intermediate assessment pathway (Table 1).

Condition scores for vegetation proposed to be removed are based on modelled scores available in the NVR Map (DEECA 2023b).

Table 1. Removal of Native Vegetation (the Guidelines) (DELWP 2017).

Assessment pathway	Intermediate
Location Category	2
Total Extent (past and proposed) (ha)	0.080
Extent of past removal (ha)	0.000
Extent of proposed removal (ha)	0.080
Large Trees (scattered and in patches) to be removed (no.)	0
Small scattered trees to be removed (no.)	0
EVC Conservation Status of vegetation to be removed	Endangered (Plains Grassy Woodland)

4.2.2 Offset Targets

The offset requirements for native vegetation removal for the proposed development are 0.035 General Habitat Units.

A summary of proposed vegetation losses and associated offset requirements is presented in Table 2 and the Native Vegetation Removal (NVR) report is presented in Appendix 2.

Table 2. Offset Targets.

General Offsets Required	0.035 General Habitat Units
Large Trees	0
Vicinity (catchment/council)	North Central CMA / Hepburn Shire Council municipality
Minimum Strategic Biodiversity Value*	0.328

*The minimum Strategic Biodiversity Value is 80% of the weighted average score across habitat zones where a General offset is required.

4.3 Offset Strategy

According to DEECAs Native Vegetation Offset Register (DEECA 2023f), there are 23 offset sites within the North Central CMA or Hepburn Shire Council municipality that can be used to satisfy the General Habitat Unit offset requirements.

An offset register search statement identifying the relevant offsite sites is provided in Appendix 3, which provides evidence that the offset obligation can be secured without any difficulty should a permit be provided for the project.

10.2 PLN24/0015 - 504 MCKENZIES ROAD CLUNES, 2 LOT SUBDIVISION (HOUSE LOT EXCISION)

Go to 00:55:46 in the meeting recording to view this item.

EXECUTIVE MANAGER DEVELOPMENT

In providing this advice to Council as the Coordinator Major Projects and Policy, I Nicola McGowan have no interests to disclose in this report.

ATTACHMENTS

1. PL N 240015 Application 504 McKenzies Road Clunes [**10.2.1** - 21 pages]
2. PL N 240015 Location of existing dwellings and wastewater areas [**10.2.2** - 2 pages]

EXECUTIVE SUMMARY

This is an application for a two lot subdivision, proposing to subdivide a 5ha lot in the southwest corner from the total 105.5ha land parcel located at 504 McKenzies Road, Clunes.

The land operates as a farm and includes one dwelling with separate septic system surrounded by trees in the southwest corner, accessed from McKenzies Road. A second dwelling is located to the north of that treed area, with a separate septic system, and is accessed from Maryfield Road. Other outbuildings and farming sheds are contained on the land. Each dwelling is serviced by a separate septic system.

The application does not state how the farm is used however it appears to be farmed for grazing or cropping.

The application identifies the dwelling in the southwest corner as “surplus to farm’s requirements as there is another dwelling on the land which is used to support the farm. The balance of the farm will therefore not be burdened by the ongoing maintenance of the second dwelling and this will potentially free up capital for the farming operation and reduce debt. The proposed boundaries of the smaller lot are common-sense and utilise existing fencing.”

The subject site is located within the Farming Zone – Schedule 1 (FZ1) and is also subject to the Environmental Significance Overlay – Schedule 1 and Land Subject to Inundation Overlay.

The FZ1 sets a minimum lot size of 40 hectares, but it also allows a Planning Permit to be granted to create smaller lots where the subdivision is to create a lot for an existing dwelling. The subdivision must be a two lot subdivision.

There is no record of approval for the development and use of two dwellings on the land. The title for Lot 1 was created in 1995 and includes Lot 1 - 105ha and Lot 2 - 259.3ha.

The application has been referred and surrounding property owners and occupiers have been notified. No objections have been received to the application.

The planning policy framework includes important objectives to retain and enhance native vegetation and biodiversity, along with avoiding fragmenting Farming Zoned properties, creating a rural living environment. The application must be considered against these objectives.

The site is within an area noted as having high to very high quality agricultural land. It is recommended that the application be refused.

OFFICER'S RECOMMENDATION

That Council, having considered all the matters required under Section 60 of the Planning and Environment Act 1987, resolves to Refuse to Grant a Planning Permit for Two Lot Subdivision at 504 McKenzies Road, Clunes of the following grounds:

- 1. The application is not consistent with the purpose and decision guidelines of the Farming Zone and associated planning policy contained at Clauses 14.01-1S and Clause 14.01-1L. The subdivision will result in the fragmentation of land in the Farming Zone.*
- 2. The application does not adequately address the purpose of the Farming Zone or the Decision Guidelines of the Farming Zone.*
- 3. The proposal will remove an area of land, proposed Lot 2, permanently from productive agricultural production. The removal of the proposed 5ha from the larger allotment would constitute the fragmentation of agricultural land sought to be avoided.*
- 4. The creation of proposed Lot 2 would result in a rural lifestyle lot in the Farming Zone, creating an outcome discouraged through the planning scheme.*
- 5. A small rural lifestyle lot would be likely to create a negative impact on the operation and expansion of adjoining and nearby agricultural uses.*
- 6. The application does not support or enhance agricultural production.*

Cr Tessa Halliday left the meeting at 6:27pm due to a conflict of interest for item 10.2.

MOTION

That Council, having considered all the matters required under Section 60 of the Planning and Environment Act 1987, resolves to Refuse to Grant a Planning Permit for Two Lot Subdivision at 504 McKenzies Road, Clunes of the following grounds:

1. *The application is not consistent with the purpose and decision guidelines of the Farming Zone and associated planning policy contained at Clauses 14.01-1S and Clause 14.01-1L. The subdivision will result in the fragmentation of land in the Farming Zone.*
2. *The application does not adequately address the purpose of the Farming Zone or the Decision Guidelines of the Farming Zone.*
3. *The proposal will remove an area of land, proposed Lot 2, permanently from productive agricultural production. The removal of the proposed 5ha from the larger allotment would constitute the fragmentation of agricultural land sought to be avoided.*
4. *The creation of proposed Lot 2 would result in a rural lifestyle lot in the Farming Zone, creating an outcome discouraged through the planning scheme.*
5. *A small rural lifestyle lot would be likely to create a negative impact on the operation and expansion of adjoining and nearby agricultural uses.*
6. *The application does not support or enhance agricultural production.*

Moved: Cr Don Henderson

Seconded: Cr Lesley Hewitt

Carried

Voted for: Cr Brian Hood, Cr Don Henderson, Cr Lesley Hewitt and Cr Tim Drylie

Voted against: Nil

Abstained: Cr Jen Bray

Cr Halliday returned to the meeting at 6:41pm.

BACKGROUND

Site and Surrounds

The subject site at 504 McKenzies Road, Clunes has a total area of approximately 105.5 hectares. The site is located on the north-west corner of McKenzies Road and Maryfields Road, as can be seen in the image below. The property is highlighted in yellow and marked with a blue arrow at Figure 1.

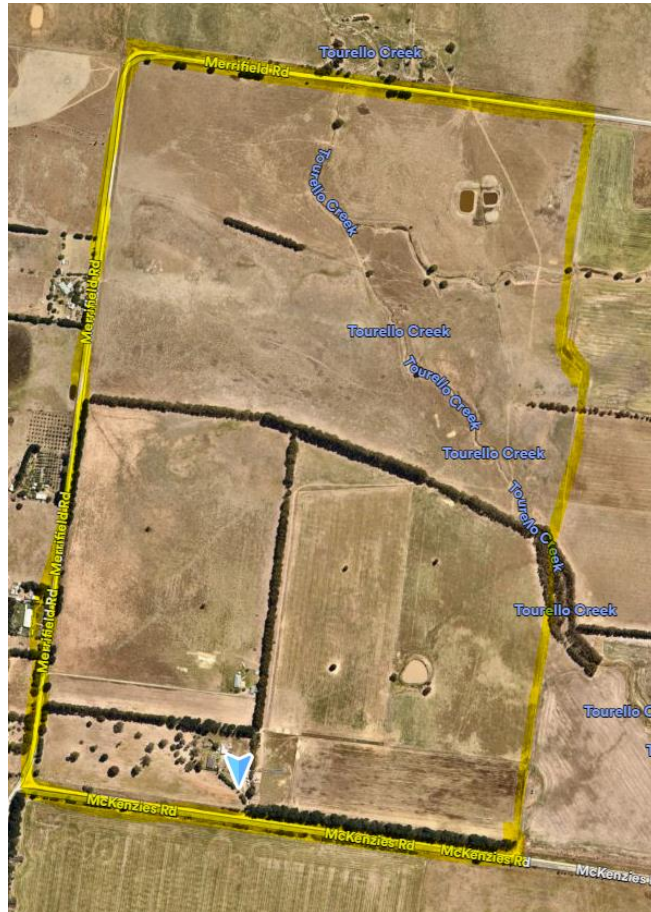


Figure 1: Aerial image. Source: NearMaps

The land is developed with 2 dwellings, one located to the south of the east-west row of trees and the other to the north. Each is provided with an individual septic system as noted on Figure 2 below.

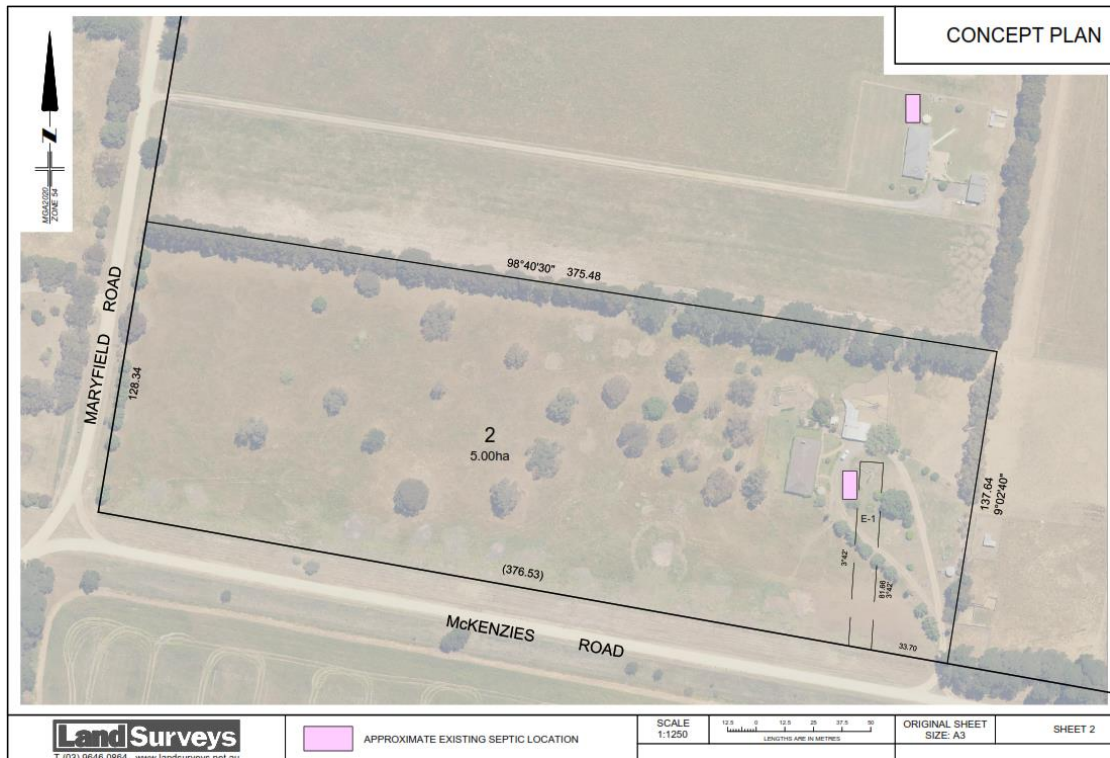


Figure 2 – Septic System to each dwelling in pink Source: Application to CHW

Surrounds

Surrounding properties include large farming lots to the north, south and east, also providing grazing or cropping agricultural land.

To the west of the property across Maryfields Road, land has been historically subdivided into smaller allotments in a pattern extending northward to the Clunes township. The land is zoned as FZ1 with dwellings scattered throughout this area.

Proposal

The application seeks a two-lot subdivision.

Lot 1 would contain an existing building which the applicant states is a dwelling and associated outbuildings and has a total area of 5 hectares.

Lot 2 would have an area of 100.5 hectares and contains an existing building that the applicant says is a dwelling, along with associated outbuildings.

The proposed subdivision can be seen at Figure 3 below:

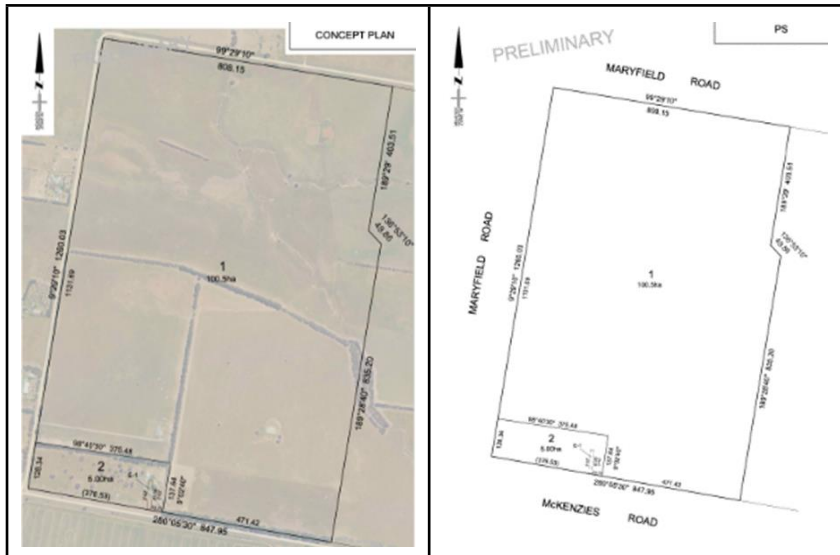


Figure 3 – Proposed subdivision with and without the aerial layer. Source: Application documents

Permit history

No permit history applies to the subject site known as Lot 1 of PS 343265X, created as a separate lot in 1995. There is no record on file for the approval of a second dwelling on the site.

Referrals

The application has been referred to:

External - Goulburn Murray Water, Central Highlands Water, Powercor. Conditional consent is provided from all authorities.

Internal - Council’s Environmental Health Officer and Engineering Officer – Conditional consent is provided.

If a Planning Permit is to be issued, these conditions are required to be included.

Public notification

The surrounding property owners and occupiers were notified of the application. No submissions were received.

Planning Scheme

The site is located in the Farming Zone – Schedule 1 (FZ1) and is subject to the Environmental Significance Overlay – Schedule 1 (ESO1) and Land Subject to Inundation (LSIO).

A Planning Permit is triggered under the following clauses of the Hepburn Planning Scheme:

- Clause 35.07-3 – Subdivision in the Farming Zone;
- Clause 42.01-2 – Subdivision in the Environmental Significance Overlay.

- Clause 44.04-3 - Subdivision in the Land Subject to Inundation Overlay.

The following planning policies are relevant to the consideration of this application.

- Clause 02.03-3 - Environmental risks and amenity.
- Clause 02.03-4 - Natural resource management.
- Clause 12.03-1S - River and riparian corridors, waterways, lakes, wetlands and billabongs.
- Clause 14.01-1S - Protection of agricultural land.
- Clause 14.01-1L - Protection of agricultural land.
- Clause 14.02-2S - Sustainable agricultural land use.
- Clause 14.01-2L – Sustainable agricultural enterprises.
- Clause 14.02-1S - Catchment planning and management.
- Clause 14.02-1L - Catchment and land protection.
- Clause 14.02-2S - Water quality.

KEY ISSUES

The site is located in the Farming Zone – Schedule 1. An application can be made to subdivide the land into lots which are less than the minimum lot size of 40 hectares. As per Clause 35.07-3:

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.

A permit may be granted to create smaller lots if any of the following apply:

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

While an application can be made for the subdivision, it is not implied that a permit should or will be granted for the application and Council must consider whether the proposal will produce an acceptable outcome. The planning policy framework includes important objectives to avoid fragmenting Farming zoned properties that would result in a rural living environment and preclude land from agricultural production. The application must be considered against these objectives.

Response to Policy Planning Policy Framework

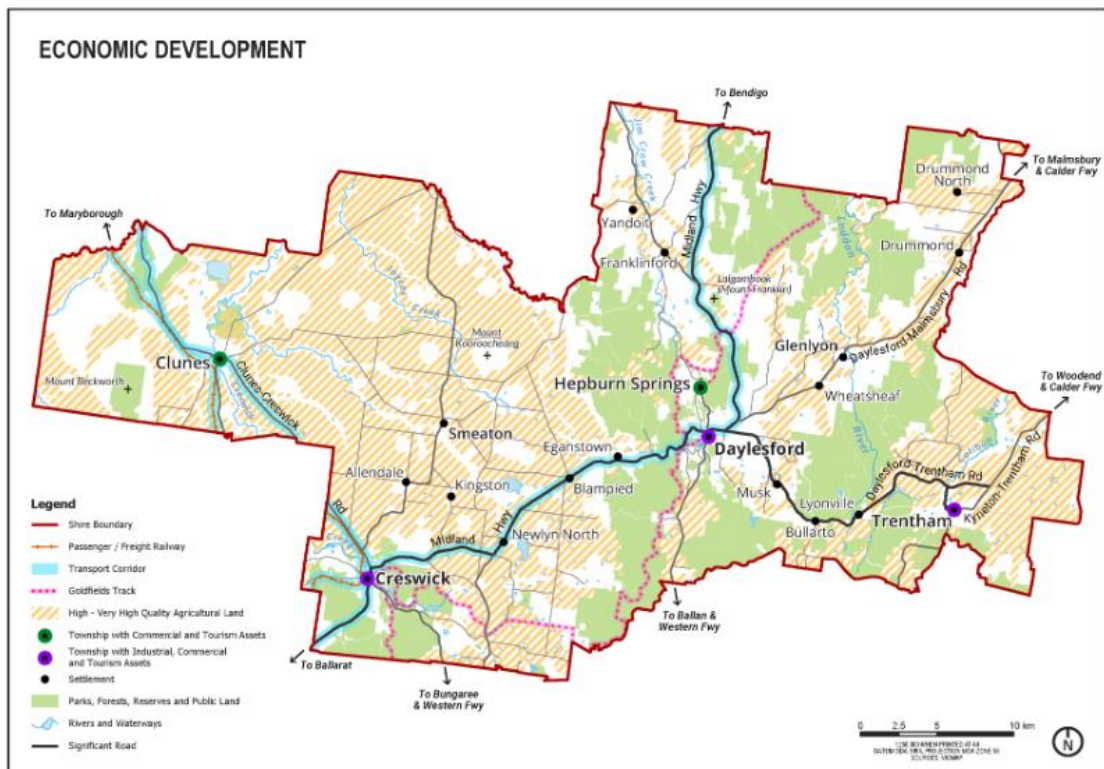
The first strategic vision at Clause 02.02 is to *Protect agricultural land as a valued resource to support jobs and opportunities into the future.*

Clause 02.03-4 clearly describes the Agricultural strategic direction of Council, stating that *“careful planning is required to maintain rural and agricultural uses and to prevent unrelated housing and other urban development negatively.”*

Strategic direction is to:

- Protect high quality productive agricultural land for agricultural uses over the long term.

The site is located within an area of high – very high quality farming land with many large agricultural land holdings of 100+ hectares.



Source – Clause 02.04 of Hepburn Planning Scheme

Clause 14.01 - Protection of Agricultural Land is a State level policy with an objective to preserve productive farmland. In considering subdivision, policy requires consideration of the potential impacts of the land use and development of the spread of plant and animal pest and animal pests into agricultural areas.

Clause 14.01-1L is the Hepburn Council policy for Protection of Agricultural Land. The objective of this policy is:

- To protect the Shire’s high quality productive agricultural land from the encroachment of incompatible use and development.

It is policy that to prevent the subdivision of tenements in single ownership and encourage the consolidation of lots.

Clause 14.01-2L Sustainable Agricultural Enterprises policy is to ensure that areas of high to very high agricultural land is utilised or remains available for agricultural production.

Council policy requires that a dwelling be allowed on a lot that meets the minimum lot size and is directly associated with the rural enterprise. This application does not meet the minimum lot size and has not provided any evidence that it is directly associated with the farming lot.

The subject site is currently occupied by two dwellings, with the southern dwelling surrounded by a wind break row of trees, creating a 5ha area. The use of this

dwelling is currently associated with the existing farm. The area to the west is currently fragmented and may impact the farming operation of the site. The further subdivision of this land will exacerbate the cluster of small lots in this area.

VCAT has previously decided on the excision of a small lot in an area with existing fragmented farming area in *Niven vs Greater Bendigo (2023)* where it was decided:

- 1. Further, while I might accept that some of these small lots could support agricultural activity in the area, no substantive evidence was provided to support these submissions. Regardless, the present use of these lots does not guarantee future uses. I have reasoned above, whether this dwelling excision would support some form of agriculture activity or enterprise like historical subdivisions are purported to have would depend on the interest of the future landowner.*
- 2. That said, what these examples of small lots highlight is that there already exist a number of small dwelling lots in this district. A further excised dwelling lot would, albeit incrementally, add to the development of a cluster of such lots in the area and contribute to a gradual incursion of non-agricultural land uses into the area. This is an outcome that planning policy seeks to avoid.*
- 3. The council's submissions referred to material that demonstrates that the subject land is agricultural land that of high capability and is best suited to broad acre cropping and grazing. This agricultural value of the land correlates with the larger lot and farm sizes (of 100 to 2,00 hectares) in the district which are of the same high agricultural capability and value. None of this is disputed by Ms Niven.*
- 4. The policies I have summarised earlier and the purposes and decision guidelines of the FZ all seek to address a mischief that may arise from small lot subdivisions or dwelling excisions. That mischief is the incremental loss of agricultural land, particularly high value land, the potential for sensitive non-farming residential land uses to encroach into such areas and become a source of reverse-amenity conflict. Such outcomes place pressure on valuable and important agricultural activity that supports Victoria's capability for growing and generating its own food and fibre and the wider economic and social benefit that arise from these activities. The high agricultural capability and value of this land reinforces and supports the need to protect it from such mischief.*
- 5. The grounds put for Ms Niven to support the proposal have not persuaded me that this mischief would be avoided or that the proposal would achieve the purposes of the FZ or the key objectives of the relevant PPF to support ongoing agricultural activity on the subject land. Many of the purported benefits relate to her personnel circumstances and relevantly, in reference to ongoing use of the land for agriculture or supporting agricultural activities, do not require the subdivision to occur.*

6. *On balance, this proposed excision of the dwelling to create a small lot in this district is one that is counter to many of the purposes and objectives of planning and of limited benefit in advancing the agricultural outcomes sought under the planning scheme. I am therefore not persuaded that the granting of a planning permit in these circumstances would achieve an acceptable planning outcome.*

A 5ha small rural lifestyle lot may have a negative impact on the surrounding farming area and detract from the productive use of high quality agricultural land and should not be supported in this context.

Farming Zone

The Purpose of the Farming Zone includes:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To provide for the use of land for agriculture.
- To encourage the retention of productive agricultural land.
- To ensure that non-agricultural uses, including dwellings, do not adversely affect the use of land for agriculture.
- To encourage the retention of employment and population to support rural communities.
- To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.
- To provide for the use and development of land for the specific purposes identified in a schedule to this zone.

The minimum lot area within the FZ1 is 40ha, with a permit required for more than one dwelling on a farming lot.

In this instance, two dwellings currently occupy the lot. The subdivision of the land would result in one dwelling on a 100ha farming lot, providing an opportunity for the owner to apply for a second dwelling on that lot.

The creation of a 5ha lot would provide for a rural living opportunity that is not related to agriculture and which may conflict with the use of the surrounding farming land.

The applicant has stated that the dwelling is surplus to needs. This is not a planning consideration and does not show how the land would relate to productive agricultural use. Currently the farmer can manage the 5ha area and lease the land to rural workers or family members, contributing to the ongoing use of the land and avoiding a conflict in land use.

The proposed subdivision does not adequately address the decision guidelines of the Farming Zone, particularly that the subdivision does not provide compatible adjoining uses and does not support or enhance agricultural production.

The VCAT decision of *Hoyle v Mildura* (2024) discusses the need for a dwelling excision to have had regard to the planning policy and zone purpose. The Tribunal determined that the excision could not be supported as follows:

7. *...I find the proposal is inconsistent with the relevant purposes of the FZ for the following reasons:*
 - *The intended outcome of the proposal is to enable the sale of lot 2 with each lot potentially being held in separate ownership and or occupancy. The applicant submits the proposal does not generate a rural lifestyle opportunity based on the size of the agricultural lot 2.*
 - *Whilst lot 2 may well continue to be used for an agricultural purpose it is unclear how this outcome can be guaranteed once it is sold. The only certainty based on the applicants' submission is that lot 2 is intended to be sold. Therefore if lot 2 is sold it is not evident from the applicant's submission how the agricultural activity on the land can be guaranteed to be continued. The size of a lot does not guarantee that a particular use will occur.*
 - *Further, I am not persuaded that the creation of a 4000 metre squared lot that retains the existing dwelling will not create a rural lifestyle outcome. The size of the lot including its occupation by the existing dwelling is not conducive to its use for an agricultural purpose in a FZ. In this context I find the creation of lot 1 will not support and enhance agricultural production as sought by the relevant purpose of the FZ.*
 - *The proposal does not seek to construct a new dwelling. However in the context of the purpose that seeks to ensure that non-agricultural uses, including dwellings, do not adversely affect the use of land for agriculture, the proposal has the potential to adversely affect that use of the agricultural land on proposed lot 2. Lot 1 will share its north-east and north-west boundaries (each with an approximately length of 63 metres) with lot 2. I have been persuaded by Council that due to the extent of site abuttal potential conflicts may arise between the dwelling occupation and farming related activities such as commercial weed spraying, noise and light spill, particularly during harvest periods.*
 - *I have not been persuaded by the applicant that the harmonious relationship between the agricultural use and dwelling will be ongoing once the site is subdivided and the lots are in different ownership. Potential changes to the agricultural activity on lot 2 once sold and the amenity expectations of the owner of lot 1 once it is in separate ownership are unknown. The establishment of an independent*

dwelling use on lot 1 combined with its extent of abuttal with lot 2 has the potential to result in land use conflicts with the agricultural use on lot 2.

The circumstance of the proposed subdivision at the subject site is similar in purpose to this decision. The excision of the existing dwelling and 5ha surrounds is not consistent with the purpose of the Farming Zone or ongoing productive use of the high quality agricultural land and is not supported.

Draft Rural Hepburn Strategy

The subject site is located within the proposed Policy Area 1 of the draft Rural Hepburn Strategy, May 2024. Page 33 of that draft strategy states:

Land in Policy Area 1 is relatively unfragmented and is held in relatively large ownerships with many in excess of 100ha in size. It will be important that this position is maintained to protect agricultural land and encourage investment in agriculture into the future...Re-subdivision that results in creation of rural residential size lots and house lot excisions will be strongly discouraged.

POLICY AND STATUTORY IMPLICATIONS

This application meets Council's obligations as Responsible Authority under the *Planning and Environment Act 1987*.

GOVERNANCE ISSUES

The implications of this report have been assessed in accordance with the requirements of the Victorian Charter of Human Rights and Responsibilities.

SUSTAINABILITY IMPLICATIONS

There are no sustainability implications associated with this report.

FINANCIAL IMPLICATIONS

Any application determined by Council or under delegation of Council is subject to appeal rights and may incur costs at VCAT if appealed.

RISK IMPLICATIONS

No risks to Council other than those already identified.

COMMUNITY AND STAKEHOLDER ENGAGEMENT

The application has been advertised by sending notification of the proposal to adjoining and adjacent owners and a notice on the land. No objections have been received.

Application Summary



Application Information	
Council Reference	PLN24/0015
Application Received	31 January 2024
Address	504 Mckenzie's Road CLUNES VIC 3370
Proposal	Two lot subdivision
Existing Use	Residential / Accommodation
Proposed Use	Residential / Accommodation
Estimated Cost	\$0.00
Applicant Name	Central Vic Planning Consultants
Owner Name:	Andrew Leishman
Heritage Plan Required	No
Number of Dwellings	0
Application Category	Permit Application
Title Information	Not Applicable (there are no encumbrances)
Pre-Application Meeting	No Meeting Undertaken

Attachment Information

Planning Scheme Assessment - Planning report-3870.pdf - PDF

Certificate of Title - TITLE-6308.pdf - PDF

Proposal Plans - 2301345_Concept Plan.pdf - PDF

Proposal Plans - 2301345_PS.pdf - PDF

Declaration

I declare that I am the applicant; and that all the information in this application is true and correct; and the owner (if not myself) has been notified of the permit application. By selecting 'Yes' in the below drop-down box, you are declaring that all the information in this application is true and correct; and the owner (if not myself) has been notified of the permit application.

It is against the law to provide false or misleading information, which could result in a heavy fine and cancellation of the permit.

Date Accepted: 31 January 2024



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ATTACHMENT 10.2.1

The Victorian Government acknowledges the Traditional Owners of Victoria and pays respects to their ongoing connection to their Country, History and Culture. The Victorian Government extends this respect to their Elders, past, present and emerging.

REGISTER SEARCH STATEMENT (Title Search) Transfer of Land Act 1958

VOLUME 10249 FOLIO 598

Security no : 124111895213W
Produced 16/01/2024 01:43 PM

LAND DESCRIPTION

Lot 1 on Plan of Subdivision 343265X.

PARENT TITLES :

Volume 09144 Folio 196 Volume 09161 Folio 813 Volume 09421 Folio 891
Created by instrument PS343265X 12/09/1995

REGISTERED PROPRIETOR

Estate Fee Simple
Sole Proprietor

ANDREW LEISHMAN of CRESWICK RD. CLUNES 3370
T897444S 05/10/1995

ENCUMBRANCES, CAVEATS AND NOTICES

MORTGAGE AC001227C 10/04/2003
NATIONAL AUSTRALIA BANK LTD

Any encumbrances created by Section 98 Transfer of Land Act 1958 or Section 24 Subdivision Act 1988 and any other encumbrances shown or entered on the plan set out under DIAGRAM LOCATION below.

DIAGRAM LOCATION

SEE PS343265X FOR FURTHER DETAILS AND BOUNDARIES

ACTIVITY IN THE LAST 125 DAYS

NIL

-----END OF REGISTER SEARCH STATEMENT-----

Additional information: (not part of the Register Search Statement)

ADMINISTRATIVE NOTICES

NIL

eCT Control 16089P NATIONAL AUSTRALIA BANK LTD
Effective from 22/10/2016

DOCUMENT END

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Document Type	Plan
Document Identification	PS343265X
Number of Pages (excluding this cover sheet)	2
Document Assembled	16/01/2024 13:43

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PLAN OF SUBDIVISION	STAGE No. <hr/>	LTO USE ONLY EDITION 1	PLAN NUMBER PS 343265X <small>ATTACHMENT 10.2.1</small>
----------------------------	--------------------	----------------------------------	--

LOCATION OF LAND

Parish: Tourello

Township: —

Section: 9 | 10

Crown Allotment: 1,2,3,4,5,6,7,8 | 1,2,3,4,5

Crown Portion: —

LTO Base Record: Parish Litho.

Title References: Vol.9144 Fol.196, Vol.9161 Fol.813, Vol.9421 Fol.891.

Last Plan Reference: —

Postal Address: MCKENZIES ROAD,
(At time of subdivision) TOURELLO

AMG Co-ordinates: E 752100
(of approx. centre of land in plan) N 5865060
Zone: 54

COUNCIL CERTIFICATION AND ENDORSEMENT

COUNCIL NAME: Hepburn Shire Council **REF:** 418

1. This plan is certified under section 6 of the Subdivision Act 1988.
~~2. This plan is certified under section 11(7) of the Subdivision Act 1988.~~
~~Date of original certification under section 6~~

3. This is a statement of compliance issued under section 21 of the Subdivision Act 1988.

OPEN SPACE

(i) A requirement for public open space under section 18 of the Subdivision Act 1988 ~~was~~ has not been made.
~~Nil. The requirement has been satisfied.~~
~~(ii) The requirement is to be satisfied in Stage~~

Council delegate
 Council seal
 Date 9 / 8 / 95

Re-certified under section 11(7) of the Subdivision Act 1988.

Council delegate
 Council seal
 Date / /

VESTING OF ROADS AND/OR RESERVES	
IDENTIFIER	COUNCIL/ BODY/ PERSON
Nil	Nil

NOTATIONS

STAGING This ~~is~~ is not a staged subdivision.
Planning Permit No.

DEPTH LIMITATION
15.24 metres applies to Crown Allotment 8 Section 9

SURVEY This plan ~~is~~ / is not based on survey
 This survey has been connected to permanent marks no(s)
 in Proclaimed Survey Area No.

EASEMENT INFORMATION				
LEGEND: A-Appurtenant Easement E-Encumbering Easement R-Encumbering Easement (Road)				
Easement Reference	Purpose	Width (Metres)	Origin	Land Benefited/ In Favour Of

LTO use only
 Statement of Compliance/
 Exemption Statement

Received

Date 23 / 8 / 95

LTO use only
 PLAN REGISTERED
 TIME 10.25 am
 DATE 12 / 9 / 95

B. J. ...
 Assistant Registrar of Titles

Sheet 1 of 2 Sheets

I.G.BISHOP and A.A.JEFFREYS PTY.LTD.
CONSULTANT SURVEYORS
 33 LYDIARD STREET SOUTH
 BALLARAT 3350
 Ph. (053) 323557

LICENSED SURVEYOR (PRINT) ... I.G. Bishop

SIGNATURE DATE / /

REF. SB5927 VERSION 1

DATE / /

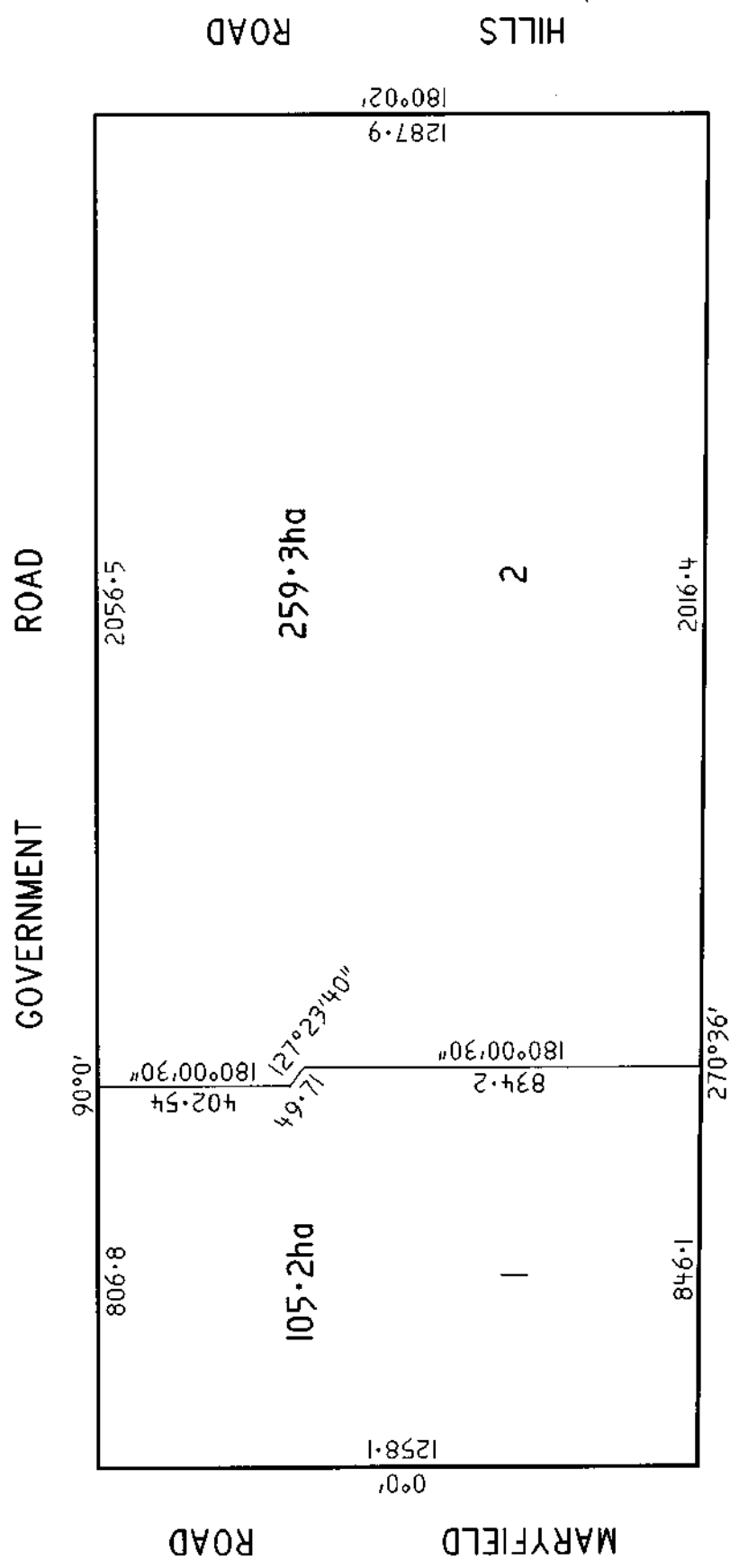
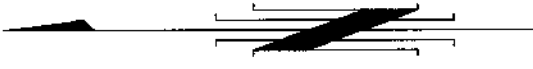
COUNCIL DELEGATE SIGNATURE

Original sheet size A3

PLAN OF SUBDIVISION

Plan Number
PS 343265X

Stage No. /



ATTACHMENT 10.2.1

Sheet 2 of 2 Sheets	DATE / /	COUNCIL DELEGATE SIGNATURE
---------------------	----------	----------------------------

LICENSED SURVEYOR (PRINT) **I.G. BISHOP**

SIGNATURE _____ DATE / /

REF **SB5927** VERSION **1**

SCALE

100 0 200 400

LENGTHS ARE IN METRES

ORIGINAL SCALE/SHEET SIZE

1:10000 A3

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 BALLARAT, 3350
 Ph. (053) 323557 Fax. (053) 323176



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Document Type	Instrument
Document Identification	T897444S
Number of Pages (excluding this cover sheet)	2
Document Assembled	16/01/2024 13:43

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VICTORIAN LAND TITLES OFFICE

Transfer of Land

Section 45 Transfer of Land Act 1958



1018 45 92 T897444S

Lodged at the Land Titles Office by:

Name: Heinz - Partner

Phone: 2536

Ref: _____ Customer Code 953M

MADE AVAILABLE / CHANGE CONTROL

Land Titles Office Use Only

The Transferor at the direction of the directing party (if any) transfers to the transferee the estate and interest specified in the land described for the consideration expressed and subject to the encumbrances affecting the land including any created by dealings lodged for registration before the lodging of this transfer.

Land (Title)

CERTIFICATE OF TITLE VOLUME 10249 FOLIO 598

Estate and Interest (e.g. "all my estate in fee simple")

ALL MY ESTATE IN FEE SIMPLE

Consideration

\$92,500.00

Transferor (Full name)

STUART RONALD LEISHMAN and ANDREW LEISHMAN

Transferee (Full name and address for future notices including postcode)

ANDREW LEISHMAN of Creswick Road, Clunes 3370

Directing Party (Full name)

Dated: 21/9/1995

Execution and Attestation

SIGNED by the said Transferors in the presence of:

Brookman

} Andrew Leishman

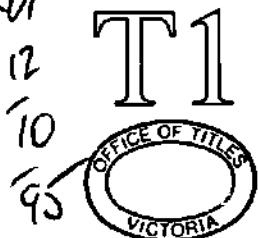
SIGNED by the said Transferee in the presence of:

Brookman

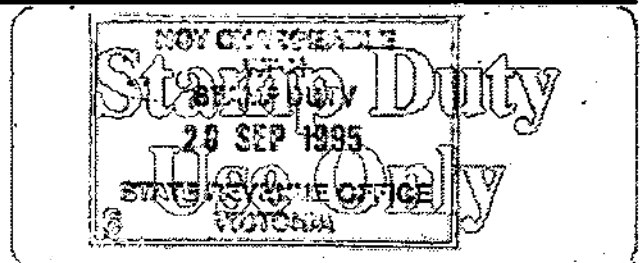
} Andrew Leishman

Land Titles Office Use Only

0006:RB



Licence No. 2926L



REGN - ABEY

ORDER TO REGISTER

ATTACHMENT 10.2.1

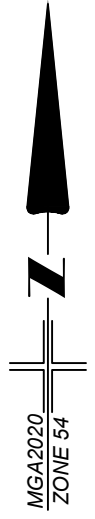
To the Registrar of Titles

Please register this dealing and upon completion issue the documents as follows :-

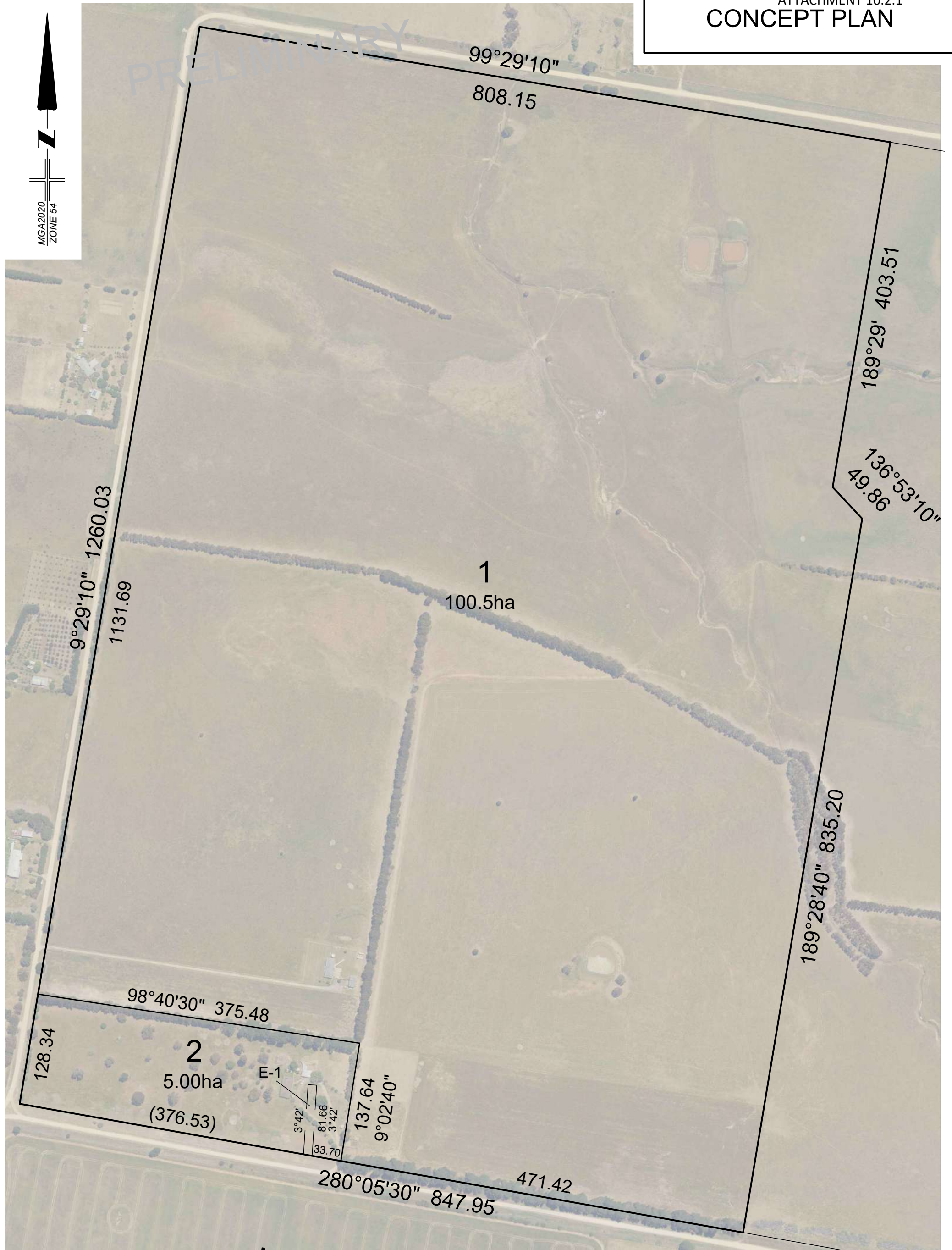
Signed.....

Firm's Name.....

Customer code.....



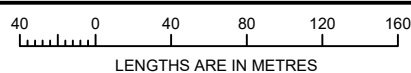
PRELIMINARY



Land Surveys

T (03) 9646 0864 www.landsurveys.net.au
 E melbourne@landsurveys.net.au
 Unit 2, 85 Salmon Street, Port Melbourne VIC 3207
 Surveyors Reference: 2301345_CP

SCALE
 1:4000



ORIGINAL SHEET
 SIZE: A3

SHEET 1

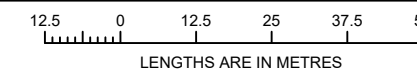
MYLES SEWELL, VERSION 1



Land Surveys

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 E melbourne@landsurveys.net.au
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SCALE
 1:1250



ORIGINAL SHEET
 SIZE: A3

SHEET 2

MYLES SEWELL, VERSION 1

PLAN OF SUBDIVISION

EDITION 1

ATTACHMENT 10.2.1
PS

LOCATION OF LAND

PARISH: TOURELLO

TOWNSHIP: -

SECTION: 9 10

CROWN ALLOTMENT: 6, 7 & 8 (PART) 4 & 5

CROWN PORTION: -

TITLE REFERENCE: VOL. 10249 FOL. 598

LAST PLAN REFERENCE: LOT 1 ON PS343265X

POSTAL ADDRESS: 504 MCKENZIES ROAD,
(at time of subdivision) CLUNES VIC 3370

MGA CO-ORDINATES: E: 751 200 ZONE: 54
(of approx centre of land in plan) N: 5 865 400 GDA 2020

DISCLAIMER:
WARNING: THIS PLAN IS UNREGISTERED AT LAND REGISTRY AND MAY BE SUBJECT TO THE FOLLOWING ALTERATIONS:
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ii) THOSE REQUESTED BY LAND REGISTRY PRIOR TO REGISTRATION OF THE PLAN.
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b) UNLESS THE REPRODUCTION INCLUDES THIS NOTE.

PRELIMINARY

VESTING OF ROADS AND/OR RESERVES

NOTATIONS

IDENTIFIER	COUNCIL/BODY/PERSON
NIL	NIL

NOTATIONS

DEPTH LIMITATION: 15.24m APPLIES TO CROWN ALLOTMENT 8 SECTION 9

SURVEY:
This plan is based on survey.

STAGING:
This is not a staged subdivision.
Planning Permit No.

This survey has been connected to permanent marks No(s). PM36, PM60 & PM61

In Proclaimed Survey Area No.

EASEMENT INFORMATION

LEGEND: A - Appurtenant Easement E - Encumbering Easement R - Encumbering Easement (Road)

Easement Reference	Purpose	Width (Metres)	Origin	Land Benefited/In Favour Of
E-1	POWER LINE	10m	SECTION 88 - ELECTRICITY INDUSTRY ACT 2000	POWERCOR

Land Surveys

T (03) 9646 0864 www.landsurveys.net.au
E melbourne@landsurveys.net.au
Unit 2, 85 Salmon Street, Port Melbourne VIC 3207
Surveyors File Reference: 2301345 PS.dwg

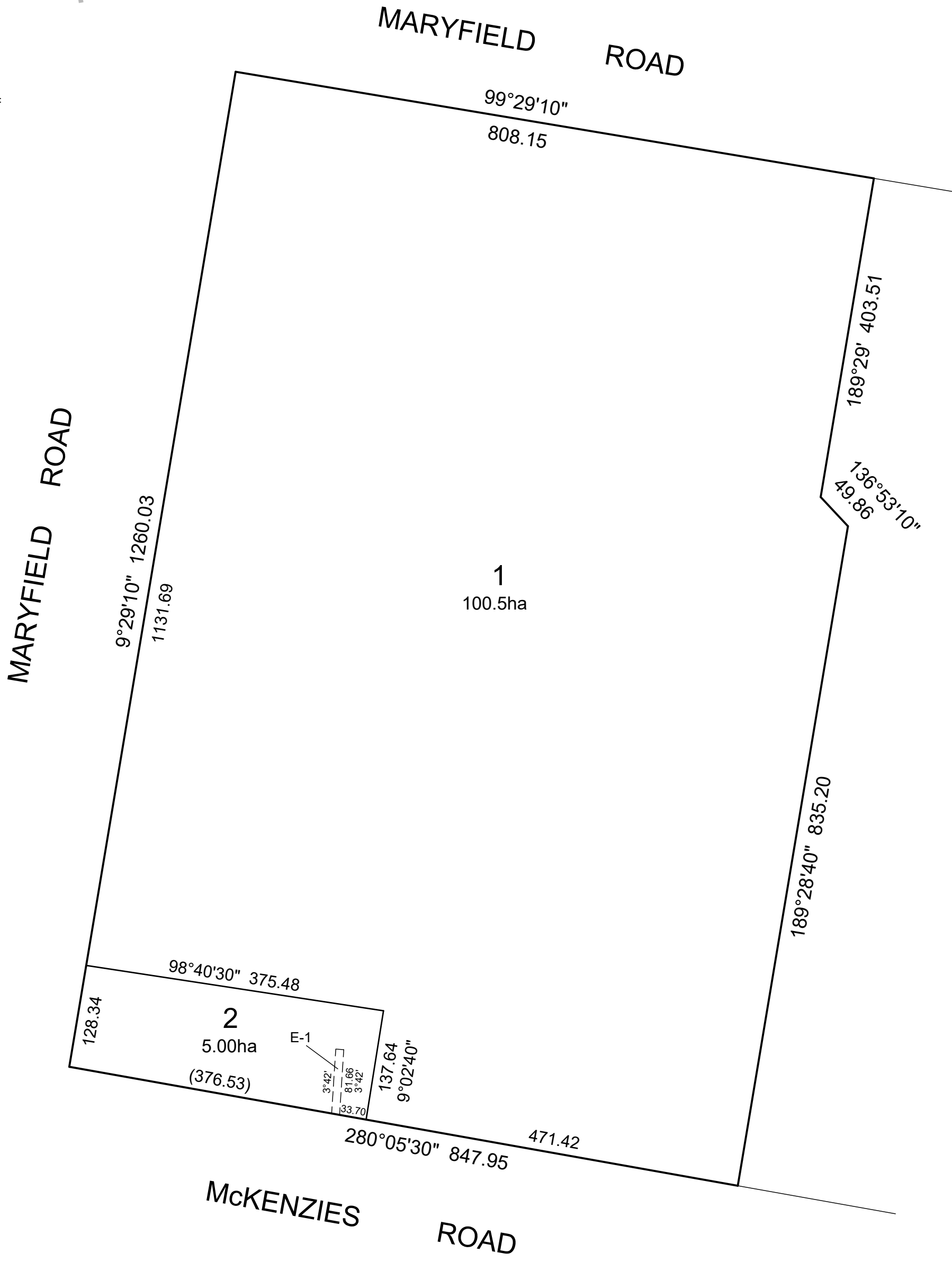
SURVEYORS REF: 2301345 DATE: 18/12/23

ORIGINAL SHEET
SIZE: A3

SHEET 1 OF 2 SHEETS

MYLES SEWELL, VERSION 1

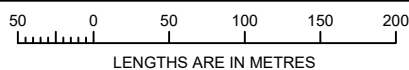
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 Unit 2, 85 Salmon Street, Port Melbourne VIC 3207
 Surveyors Reference: 2301345

SCALE
1:5000



ORIGINAL SHEET
SIZE: A3

SHEET 2

MYLES SEWELL, VERSION 1

**REPORT TO SUPPORT THE APPLICATION FOR A
TWO LOT SUBDIVISION AT
LOT 1 ON PS 343265X, 504 MCKENZIES ROAD,
CLUNES**

Prepared by:



Applicant	Andrew Leishman
Responsible Authority	Hepburn Shire Council
Planning Scheme	Hepburn Planning Scheme
Title	Lot 1 on PS343265X, 504 McKenzies Road, Clunes Victoria 3370 Vol.10249 Fol.598
Proposal	Two lot subdivision
Permit triggers	35.07-3 A permit is required to subdivide land
Applicant's Representative	Central Vic Planning Consultants
Attachments	Appendix A: Copy of Title, plan & instruments Appendix B: Services maps Appendix C: Proposed Plan of Subdivision

PROPOSAL

The application is made for planning permission to subdivide the land into two lots and create a separate title for an existing dwelling.

The subject property is identified as Lot 1 on PS343265X, 504 McKenzies Road, Clunes and has an area of 105.5 hectares. There are currently two existing occupied dwellings on the land. The land is located entirely within the Farming Zone. Each dwelling is serviced by reticulated electricity and telecommunications, and each dwelling is connected to separate septic systems and collects rainwater into tanks installed to each house for domestic use.

The proposal is to create a small lot (proposed Lot 2) containing one existing dwelling, and a larger lot (Lot 1), which will continue to be farmed, supported by the second dwelling.

The existing dwelling to the south within proposed Lot 2 is surplus to the farm's requirements. Lot 2 will be 5 hectares in size and will include a dwelling and its services, an existing fenced garden, driveway access from McKenzies Road and an existing power easement.

The remainder of the property will be contained within Lot 1, with a dwelling, existing driveway access from Merrifield Road all required services are connected and the remainder of that lot will continue to be grazed.

Each lot retains its own access and no common property is required. No infrastructure on the road reserve will be impacted, including trees, marker posts and signage.

No additional development is proposed.

The proposed lots are arranged as below:



Image 1: Proposed subdivision concept (with satellite overlay)

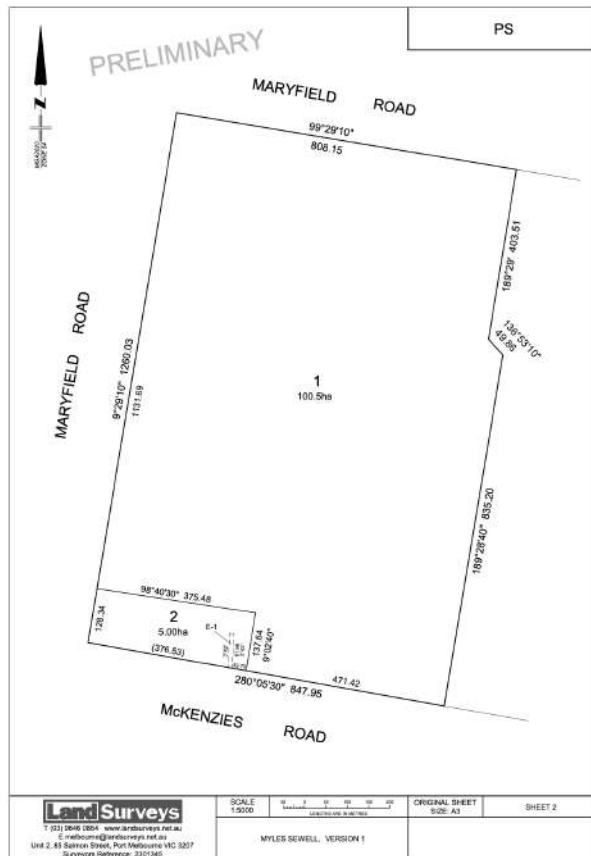


Image 2: Proposed plan of subdivision

PLANNING REQUIREMENTS

The subject land is in the Farming Zone Schedule 1 and subject to the Environmental Significance Overlay Schedule 1. The site is located within a Designated Bushfire Prone Area.

Permit Triggers:

Clause 35.07 Farming Zone

Clause 35.07-3 Subdivision:

A permit is required to subdivide the land as the proposed new lot will be less than 40 hectares. A permit may be granted to create smaller lots if the subdivision is to create a lot for an existing dwelling and the subdivision is a two lot subdivision.

Clause 42.01 Environmental Significance Overlay

Clause 42.01-2 Permit requirement:

No permit is required as each lot contains an existing building.

Clause 53.01 Public Open Space Contribution and Subdivision

It is noted that as part of the proposed 2 lot subdivision, a public open space contribution may be payable. Should Council determine a contribution is payable, it is requested this be imposed via condition of permit.

FARM ZONE (FZ)

Purpose

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To provide for the use of land for agriculture.*
- *To encourage the retention of productive agricultural land.*
- *To ensure that non-agricultural uses, including dwellings, do not adversely affect the use of land for agriculture.*
- *To encourage the retention of employment and population to support rural communities.*
- *To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.*
- *To provide for the use and development of land for the specific purposes identified in a schedule to this zone.*

Response

There will be no change of land use as a result of the subdivision as there are already two existing dwellings on the land. The proposed area of the house lot excision has been logically kept to the area already fenced off from the main farm. It is a practical size, and contains all required services. The remainder of the lot, at 100.5 hectares will continue to be farmed and supported by the existing dwelling on that lot.

35.07-6 Decision Guidelines

Decision Guidelines

General Issues

1. The Municipal Planning Strategy and the Local Planning Policy Framework.

The development and proposed use of this property is compatible with the planning scheme and its stated objectives.

Planning policies that are pertinent to this application are as follows:

02.03-2 Environmental and landscape values: Biodiversity

02.03-3 Environmental risks and amenity – Soil management

02.03-4 Natural resource management

12.01-1L Native vegetation and habitat protection

12.01-2S Native vegetation management

12.03-1S River and riparian corridors, waterways, lakes, wetlands and billabongs

Response: The proposed subdivision will have no negative impact on the quality of air, land or water. The usage of the land will not change from that which has existed for many years.

13.02-1S Bushfire planning

Response: The land is located within a Designated bushfire prone area. The proposed subdivision will have no negative impact, each dwelling will continue to maintain its defendable space and provide water for firefighting.

Clause 14.01-1S and 1L Protection of agricultural land

The Shire's objective is to '*protect the state's agricultural base by preserving productive farmland*' and '*to protect the Shire's high quality productive agricultural land from the encroachment of incompatible use and development*'.

Response: The land is being thoughtfully subdivided to have no impact on the existing agricultural enterprise. The existing dwelling to the south of the property is surplus to the farm's requirements as there is another dwelling on the land which is used to support the farm. The balance of the farm will therefore not be burdened by the ongoing maintenance of the second dwelling and this will potentially free up capital for the farming operation and reduce debt. The proposed boundaries of the smaller lot are common-sense and utilise existing fencing.

Clause 14.02-IS Catchment planning and management and 14.02-L Catchment and land protection

The aim of these clauses is to ‘assist the protection and restoration of catchments, waterways, estuaries, bays, water bodies, groundwater, and the marine environment’ and ‘ensure that use and development in a special water supply catchment protects, restores and enhances the quality and quantity of the natural resources and environmental systems for the long term supply of quality water for future generations’.

Response: The subdivision will not impact upon catchment assets as no further development is proposed.

Stormwater will continue be collected to be used on site in the existing rainwater tanks. Any excess stormwater will be discharged on the property. Stormwater run-off is not a concern due to the geography of the site.

2. Any Regional Catchment Strategy and associated plan applying to the land.

The site is located within the Tullaroop Catchment. The proposal will not compromise the quality of the water catchment from the allotment as no development of the land is proposed.

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

Not applicable. There is no change to use and no development proposed.

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

The proposal to excise one of the existing dwellings into its own title is a common-sense solution. The dwelling is surplus to the farm’s requirements and will free up resources that are better allocated to the farming enterprise. No development is proposed and the proposal will not negatively impact sustainable land management practices.

5. Whether the site is suitable for the use or development and whether the proposal is compatible with adjoining and nearby land uses.

The surrounding properties are of varying shapes and sizes and all fall within the Farming Zone Schedule 1. The proposal is entirely compatible with the surrounding area. The following plan shows the pattern of subdivision in the surrounding area:



Image 3: Local pattern of subdivision

6. How the use and development makes use of existing infrastructure and services.

The accessways to each dwelling are existing and requires no change as a result of the proposal and all existing infrastructure will be retained for use. The property is not serviced by reticulated water or sewer, but are self-sufficient with effluent systems, stormwater management systems, and rainwater tanks. Reticulated electricity and telecommunications are available and connected to each dwelling. All existing fencing is to be retained and the proposed subdivision is guided by the existing fencing surrounding the dwelling to the south.

Agricultural Issues and the impacts from non-agricultural uses

The existing farming enterprise will continue to be supported by the existing infrastructure and further enhanced by the potential future sale of the southern lot. The land within the southern lot is restricted by the presence of vegetation and is not currently part of the farming enterprise. There will be no loss of productive farming land.

There will be no adverse impact on soil quality.

The land is surrounded by agricultural properties unlikely to expand into proposed Lot 2. As stated, the land is not suitable for farming due to the presence of native vegetation.

Whether Rural worker accommodation is necessary having regard to:

- *The nature and scale of the agricultural use.*
- *The accessibility to residential areas and existing accommodation, and the remoteness of the location.*

The farm enterprise does not require rural worker accommodation as any staff employed are local and have their own accommodation.

The duration of the use of the land for Rural worker accommodation.

Not applicable.

Accommodation issues

Not applicable, there will be no loss of productive agricultural land. No further development is proposed.

Environmental issues

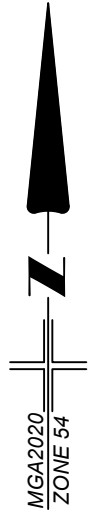
Soil and water quality will not be affected. The existing established infrastructure is sufficient to continue servicing each dwelling. There will be no loss of vegetation.

Design and siting issues

Not applicable, there is no further development proposed.

AREAS OF ABORIGINAL CULTURAL HERITAGE SENSITIVITY

The proposed new lot is sited outside the Area of Aboriginal Cultural Heritage Sensitivity. A Cultural Heritage Management Plan is not required for a two lot subdivision.



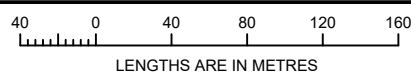
PRELIMINARY



Land Surveys

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 E melbourne@landsurveys.net.au
 Unit 2, 85 Salmon Street, Port Melbourne VIC 3207
 Surveyors Reference: 2301345_CP

SCALE
 1:4000



ORIGINAL SHEET
 SIZE: A3

SHEET 1

MYLES SEWELL, VERSION 2



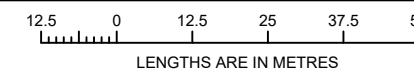
Land Surveys

T (03) 9646 0864 www.landsurveys.net.au
 E melbourne@landsurveys.net.au
 Unit 2, 85 Salmon Street, Port Melbourne VIC 3207
 Surveyors Reference: 2301345_CP



APPROXIMATE EXISTING SEPTIC LOCATION

SCALE
 1:1250



ORIGINAL SHEET
 SIZE: A3

SHEET 2

MYLES SEWELL, VERSION 2

11 A HEALTHY, SUPPORTED, AND EMPOWERED COMMUNITY

11.1 RAINBOW ACTION PLAN

Go to 01:10:26 in the meeting recording to view this item.

DIRECTOR COMMUNITY AND CORPORATE

In providing this advice to Council as the Inclusion Officer, I Brett Dunlop have no interests to disclose in this report.

ATTACHMENTS

1. Rainbow Action Plan - July 2024 [**11.1.1** - 16 pages]
2. Rainbow Action Plan 2024-2026 - Public Exhibition Engagement Report [**11.1.2** - 15 pages]

OFFICER'S RECOMMENDATION

That Council:

1. *Adopts the Hepburn Shire Rainbow Action Plan for LGBTIQ+ Inclusion 2024-2026 as attached to this report;*
2. *Acknowledges the community members and Advisory Committee members who have been involved in the development of the Plan; and*
3. *Notes that officers will write to submitters, key stakeholders and community organisations to advise them of Council's decision.*

MOTION

That Council:

1. *Adopts the Hepburn Shire Rainbow Action Plan for LGBTIQ+ Inclusion 2024-2026 as attached to this report;*
2. *Acknowledges the community members and Advisory Committee members who have been involved in the development of the Plan; and*
3. *Notes that officers will write to submitters, key stakeholders and community organisations to advise them of Council's decision.*

Moved: Cr Tessa Halliday

Seconded: Cr Tim Drylie

Carried

Voted for: Cr Brian Hood, Cr Don Henderson, Cr Jen Bray, Cr Lesley Hewitt, Cr Tessa Halliday and Cr Tim Drylie

Voted against: Nil

Abstained: Nil

EXECUTIVE SUMMARY

The Rainbow Action Plan for LGBTIQ+ Inclusion 2024-2026 ('the Plan') was developed using the Victorian Government's Rainbow Ready Roadmap methodology, with input from Council's Advisory Committees, Daylesford Police LGBTIQ+ Liaison Officer and staff from across Council. Feedback from community consultation has helped to refine the Plan.

The Plan is achievable within current resource levels.

BACKGROUND

Council has demonstrated leadership in advancing Inclusion. For example, adopting the Gender Equity Action Plan to implement the *Gender Equality Act 2020 (Vic)*, conducting prevention of violence activities, establishing an LGBTIQ+ Advisory Committee and staging LGBTIQ+ commemorations and celebrations.

The Rainbow Pledge promulgated by Rainbow Local Government in 2020 was that "Councillors commit to furthering equality for LGBTIQ+ people. We will work to end LGBTIQ+ discrimination and stand up for the human rights of LGBTIQ+ people."

Rainbow Local Government has set benchmarks for LGBTIQ+ inclusion and Council has made significant progress toward achieving these. For example, Council flies the rainbow flag on significant days; Councillors and staff march in the annual ChillOut Parade; Council has an LGBTIQ+ Advisory Committee; and if this proposal is adopted, Council will have an LGBTIQ+ Action Plan. The fifth benchmark of 'Rainbow Tick' accreditation was evaluated but the recommendation was to not proceed.

The Plan is informed by Pride in Our Future - Victoria's LGBTIQ+ Strategy 2022-2032; Rainbow Ready Roadmap Setting Guide for Local Government; LGBTIQ+ Action Plans of other local governments; Advisory Committee workshops; Daylesford Police LGBTIQ+ Liaison Officer; and staff workshops involving representatives from all Council departments.

The draft Rainbow Action Plan was open for public exhibition to gather community feedback from 10 April to 8 May 2024. Feedback was also provided by three Advisory Committees. The feedback was overall positive and is outlined in the attached Public Exhibition Engagement Report - 16 July 2024, which notes changes that were made in response to the feedback.

KEY ISSUES

This is a whole-of-Council plan that will be implemented through actions shared by many departments and community groups. The Inclusion Officer has a supporting role, helping staff and community groups to deliver the nominated actions.

The Plan is designed to run for two years, which allows for the next iteration to be aligned with the next Council Plan for 2025-2029.

COUNCIL POLICY AND LEGISLATIVE IMPLICATIONS

Council Plan 2021-2025

A healthy, supported, and empowered community

2.5 Improved mental wellbeing within the community.

A dynamic and responsive Council

5.6 Be a leader in gender equality and equity, and promote respect and safety in our community.

State Government Strategy: Pride in our future: Victoria's LGBTIQ+ Strategy 2022-2032.

FINANCIAL IMPLICATIONS

The Plan's proposed actions are achievable with current resources, comprising a time fraction of a current officer (2 days/week Inclusion Officer) and an existing operating budget of \$10,000 per annum. Delivering on the Plan will be an organisation wide objective and allow Council to partner with community groups and external partners to implement the Plan.

Local government organisations are sometimes ineligible for grants that support LGBTIQ+ initiatives. However, there is potential to partner with not-for-profit LGBTIQ+ organisations or unincorporated LGBTIQ+ groups in their grant applications.

COMMUNITY AND STAKEHOLDER ENGAGEMENT

The draft Rainbow Action Plan was open for public exhibition to gather community feedback from 10 April to 8 May 2024. Feedback was also obtained from three Advisory Committees.

The feedback was overall positive and is outlined in the attached Public Exhibition Engagement Report. Changes were made to the draft Plan in response to this feedback.

RISK AND GOVERNANCE IMPLICATIONS

Without a Rainbow Action Plan, there is a risk that Hepburn Shire will lose its reputation as a leader in LGBTIQ+ Inclusion. At least fifteen Victorian councils to date have adopted LGBTIQ+ Action Plans, including the rural/regional councils of Ballarat, Bendigo, Mildura, Mount Alexander and Shepparton.

ENVIRONMENTAL SUSTAINABILITY

There are no sustainability implications associated with this report.

GENDER IMPACT ASSESSMENT

A Gender Impact Assessment (GIA) assessed the overall impact as positive. The Plan will ensure that all Actions consider gender norms, roles and relations for gender diverse people, and the barriers they may face to access this Plan. We will actively try to remove or minimise those barriers.

The GIA recommends that the Rainbow Action Plan is reviewed annually.

Hepburn
SHIRE COUNCIL

Rainbow Action Plan

July 2024



for LGBTIQ+ Inclusion

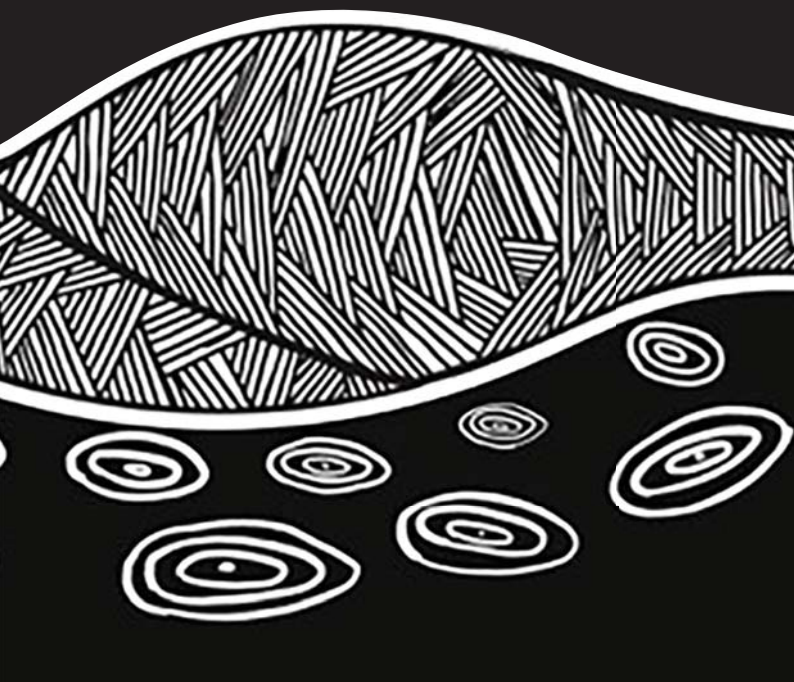
MINUTES - ORDINARY MEETING OF COUNCIL - 16 JULY 2024

2024 - 2026

Acknowledgement of Country

Hepburn Shire Council acknowledges the Dja Dja Wurrung as the Traditional Owners of the lands and waters on which we live and work. On these lands, Djaara have performed age-old ceremonies of celebration, initiation and renewal. We recognise their resilience through dispossession and it is a testament to their continuing culture and tradition, which is strong and thriving.

We also acknowledge the neighbouring Traditional Owners, the Wurundjeri to our south east and the Wadawurrung to our south west and pay our respect to all Aboriginal peoples, their culture and lore. We acknowledge their living culture and the unique role they play in the life of this region.



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Mayor's message

Hepburn Shire Council is proud to present its first Rainbow Action Plan. It commits to a clear and achievable set of actions to guide our work to create a safe and welcoming community for all LGBTIQ+ people.

This plan will help to ensure that all LGBTIQ+ people feel supported, connected, visible and safe in our community. It will also guide us in providing an inclusive workplace for LGBTIQ+ staff and volunteers.

Hepburn Shire Council recognises and celebrates the important contributions that LGBTIQ+ people, businesses and visitors bring to the life of our Shire. Together we share an inclusive, resilient, vibrant, sustainable, innovative and diverse community.

We will treat all people fairly, equitably and with respect. We will not tolerate discrimination or violence in any form, against any part of our community. The plan builds on Council's initiative in 2021 to create an LGBTIQ+ Advisory Committee. I would like to thank the committee members and many in the Hepburn community for their advice and input into this Plan.



Cr Brian Hood
Mayor







A note on language

A variety of abbreviations are used to describe the LGBTIQ+ community and to celebrate people's different and diverse experiences. Each abbreviation has limitations.

Hepburn Shire Council has chosen the abbreviation 'LGBTIQ+' to describe people, families, communities and organisations that are Lesbian, Gay, Bisexual, Trans and gender-diverse, Intersex, Queer and Asexual. The plus symbol (+) indicates that these initials cannot cover everyone's experiences of sexuality, gender identity and sex characteristics.

We acknowledge that some Aboriginal and Torres Strait Islander communities use the terms 'sistergirls' and 'brotherboys'. Their preferred abbreviation can be written as 'LGBTIQ+SB'.

Council will sometimes choose to respectfully use 'Rainbow' as an inclusive umbrella term for all who are represented by the letters in LGBTIQ+. For example, this is the 'Rainbow Action Plan'.

We recognise that each person reflected in these letters has a different lived experience and we do consider the impact of intersectionality.

Finally, we must contend with the history of these words which were (and are) used to abuse and denigrate people. Some words, like gay, have been reclaimed and are now used with pride. The word 'queer' has become inclusive and uniting for some, but other people may still find it offensive and disrespectful.



Community vision

Hepburn Shire – An inclusive rural community in Dja Dja Wurrung Country, where all people are valued, partnerships are fostered, environments protected, diversity supported and innovation embraced.



Photo: Sandy Scheltema

Diversity, inclusion and equality

We are proud of our Shire's diversity. We are enriched when all people, regardless of cultural background, ability, gender, sexuality or identity, are embraced and supported to participate and contribute to the life of our community.

Council has developed plans that focus on key populations in our Shire. This Rainbow Action Plan demonstrates Council's focus on inclusion for lesbian, gay, bisexual, trans and gender diverse, intersex, queer and asexual (LGBTIQA+) people.

Council is committed to achieving equality for LGBTIQA+ people. We will work to end LGBTIQA+ discrimination and affirm and defend the fundamental human rights of LGBTIQA+ people.



Photo: Michelle Donnelly Photography



LGBTIQA+ people in Hepburn Shire

The Victorian Population Health Survey (2017) shows that 7.5% of Hepburn Shire's population identify as LGBTIQA+, which is higher than the 5.7% average for rural and regional local government areas in Victoria.

It is possible that surveys under-report our LGBTIQA+ population because, anecdotally, many 'local' LGBTIQA+ people have their primary residence in Melbourne.

Interpretation of household population data from the 2021 Census shows that localities within Hepburn Shire have some of the highest rates of same-sex-couple households (per 1000 people living as couples) in Victoria.

Four of the 'top 10' localities for Victorian same-sex households are in our Shire. They are Hepburn Springs (16.3%), Daylesford (13.2%), Hepburn (11.2%) and Glenlyon (8.5%). For comparison, the highest figure in metropolitan Melbourne was 11.2% in Collingwood.

The average rate of same-sex-couple households across Hepburn Shire was 6.8%, just behind top-placed City of Yarra (6.9%). The average across all Victorian councils was 1.5%.

Why is this plan important?

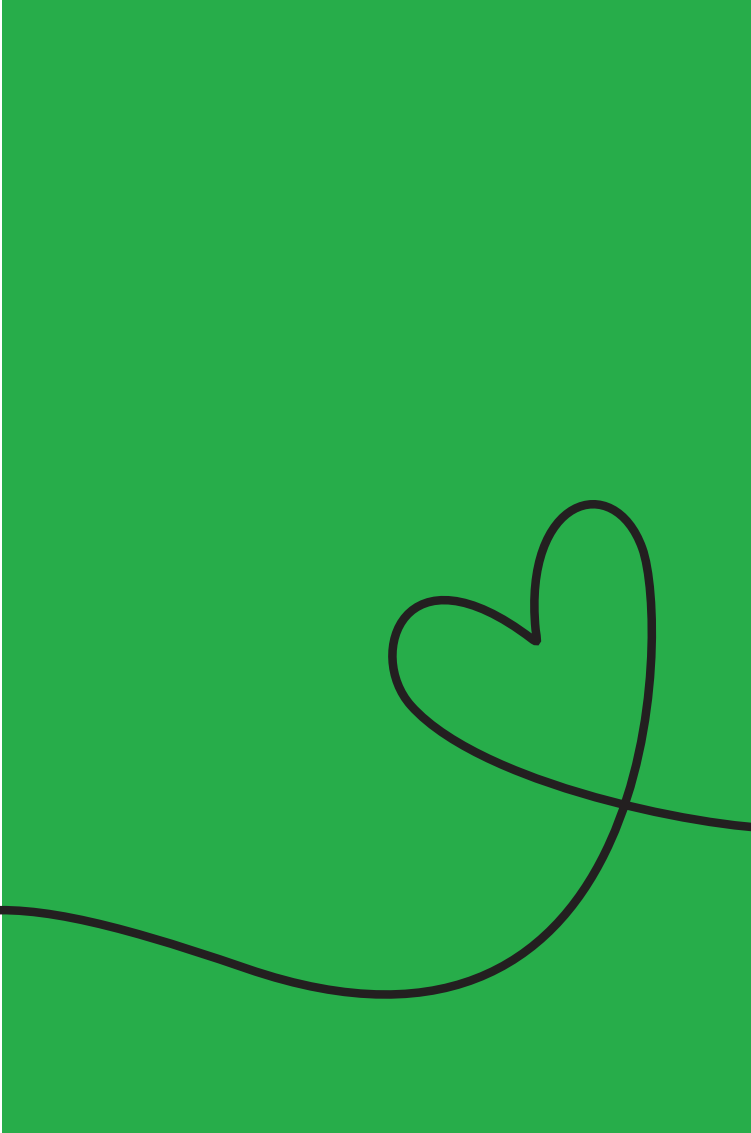
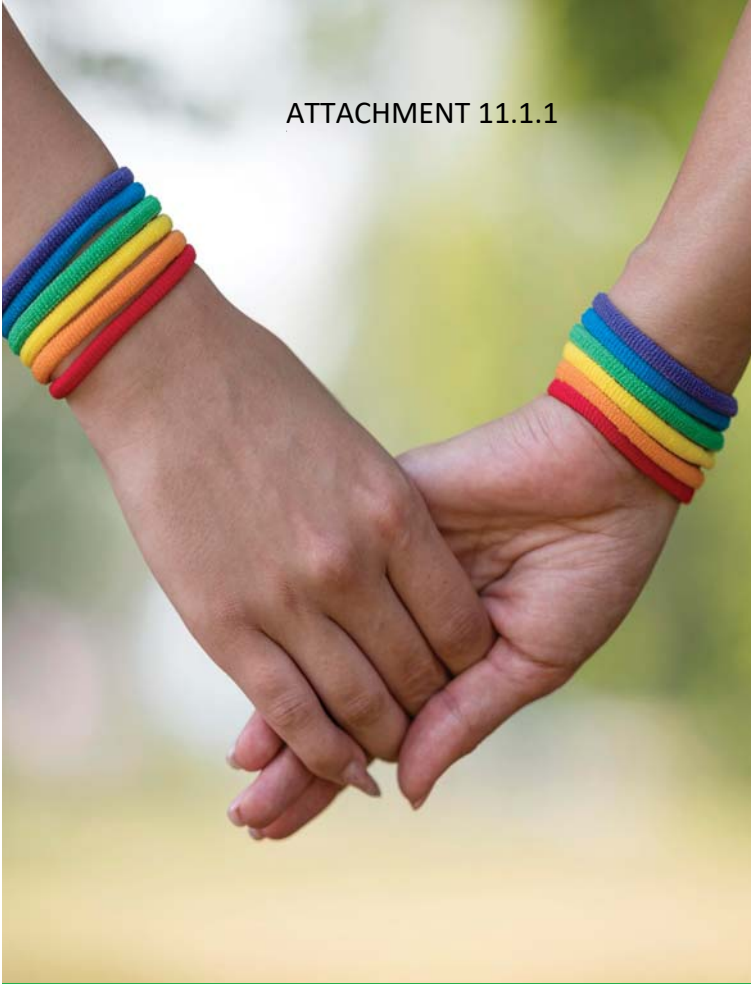
Everyone should have the opportunity to live their lives in a safe and welcoming environment, free from discrimination and abuse.

Many LGBTIQ+ people live happy, connected, positive and healthy lives. Yet research shows that LGBTIQ+ Victorians face higher levels of unfair treatment, discrimination, social exclusion, harassment and violence. The figures are higher in regional and rural areas and for LGBTIQ+ people from multicultural backgrounds. *

The single strongest and most consistent predictor of poor mental health and wellbeing among LGBTIQ+ communities is experiences of abuse, harassment or assault. *

This Rainbow Action Plan will help to deliver safe and inclusive services, facilities, programs and events for our LGBTIQ+ communities. The Plan aims to reduce the likelihood of direct or indirect discrimination related to sexual orientation, gender identity or intersex status.

* Pride in our future: Victoria's LGBTIQ+ strategy 2022-32





Rainbow ready roadmap

This Action Plan was developed using the Victorian Government's Rainbow Ready Roadmap methodology. The roadmap was co-developed with LGBTIQ+ communities, so that regional and rural communities can work together to address inequalities experienced by LGBTIQ+ people.

The roadmap identifies four Core Principles of LGBTIQ+ inclusion which are; Understanding, Inclusion, Visibility and Safety. It also suggests 15 Indicators, which are measures used to understand the ways in which Hepburn Shire Council already practices LGBTIQ+ inclusion, and where there is room for improvement.

Guided by these core principles and indicators, Council has identified more than 40 achievable actions that will help us make progress towards an even safer and more welcoming Shire where LGBTIQ+ people will want to live, work and visit.



Our rainbow goal

Hepburn Shire Council will be acknowledged as a leader in LGBTIQ+ inclusion, because of the way we understand and address the needs of our LGBTIQ+ constituents and work with them to build a safe and welcoming culture of LGBTIQ+ inclusivity in the Shire.

For matters beyond Council's direct control, we will demonstrate leadership through effective advocacy, thereby helping to achieve change.

Actions

Principles	Indicators of inclusion	Council's planned actions
Understanding		
1	Council educates its staff and volunteers on LGBTIQ+ inclusion.	<p>1.1 Continue to offer LGBTIQ+ inclusion as part of mandatory induction training for new staff. Expand this induction training to include new volunteers and new Councillors.</p> <p>1.2 Develop and deliver a more comprehensive inclusion training program for existing staff and volunteers, with annual refresher training.</p> <p>1.3 Continue awareness-raising activities for staff and volunteers, including Council's celebration of LGBTIQ+ days of significance, eg, IDAHOBIT, Wear It Purple Day, Trans Awareness Week, World AIDS Day.</p>
Inclusion		
2	LGBTIQ+ residents take part in Council committees and in Council planning.	<p>2.1 Provide an annual report to the community about progress made against this plan and celebrate the achievements.</p> <p>2.2 Continue to support and engage with our LGBTIQ+ community members and consider their advice on Council's proposed policies, plans and strategies.</p>
3	Council grants are provided to support local LGBTIQ+ initiatives.	<p>3.1 Promote Council grant opportunities to local LGBTIQ+ groups and organisations, so that they can develop and deliver community-led programs and events.</p> <p>3.2 Strengthen grant-seeking capability within LGBTIQ+ community groups, eg, by holding an information session covering eligibility rules and application processes.</p>
4	Council supports local LGBTIQ+ events.	<p>4.1 Continue to provide support for ChillOut Festival – regional Victoria's largest and longest running LGBTIQ+ festival.</p> <p>4.2 Continue the tradition of Councillors, staff and volunteers proudly marching in the annual ChillOut Parade.</p> <p>4.3 Council holds public activities and initiatives to improve inclusion of, and understanding about, LGBTIQ+ people.</p>
5	Council provides an inclusive workplace for LGBTIQ+ employees and volunteers.	<p>5.1 Incorporate gender inclusive language into all standards and protocols, forms, surveys and induction processes. [Refer to Gender Equity Action Plan 1.3]</p> <p>5.2 Examine our recruitment process with a gender and diversity lens. [Refer to Gender Equity Action Plan 2.1].</p> <p>5.3 Strengthen data collection systems and processes to fill employment data gaps. [Refer to Gender Equity Action Plan 3.1]</p> <p>5.4 Analyse staff surveys and feedback opportunities to better understand people's perceptions of safety in the workplace and how these may be different for LGBTIQ+ staff.</p> <p>5.5 Apply LGBTIQ+ inclusion principles when developing policies about volunteers.</p>

Principles	Indicators of inclusion	Council's planned actions
Visibility		
6	Council has a strategy or plan for LGBTIQ+ inclusion.	6.1 Pursue the idea of incorporating 'LGBTIQ+ inclusion' in the 2025-2028 Council Plan as part of a holistic 'inclusion' framework.
7	Council has a statement of LGBTIQ+ inclusion that is publicly visible.	7.1 Council's statement of commitment to LGBTIQ+ inclusion will be featured on our website, in relevant publications and promoted to staff and volunteers. 7.2 Promote the statement of commitment to LGBTIQ+ inclusion at Council-run LGBTIQ+ activities and initiatives.
8	Council information incorporates LGBTIQ+ inclusive language and images.	8.1 Update and expand our current inclusive language guidelines (in Brand Guidelines) to reflect best practice. 8.2 Expand our inclusive image library by sourcing new images and conducting photoshoots to obtain images representing the diversity of Hepburn's LGBTIQ+ community. 8.3 Develop and expand the capacity of staff to use LGBTIQ+ inclusive language and images.
9	Council takes opportunities to fly Pride flags and display other symbols of Pride.	9.1 Fly Pride flags on the Daylesford community flagpole on LGBTIQ+ days of significance, such as IDAHOBIT, Wear It Purple, Trans Awareness Week, World AIDS Day. 9.2 Investigate community flagpoles to be installed at a prominent location in Trentham, Creswick and Clunes so that Pride flags can be flown Shire-wide. 9.3 Investigate relocation of the Daylesford community flagpole to a prominent place where larger groups can safely gather for flag-raising ceremonies. 9.4 Maintain current symbols of Pride and identify opportunities for new symbols of Pride throughout the Shire.
10	Council's website and social media accounts profile LGBTIQ+ initiatives, events, people and resources.	10.1 Continue to profile LGBTIQ+ content on social media, eg, sharing content related to LGBTIQ+ days of significance and community events. 10.2 Review Council's website content annually so that content relevant to our LGBTIQ+ community remains up-to-date, comprehensive and easy to find. 10.3 Encourage local community support and services organisations to promote their LGBTIQ+ services and events on platforms that link to Council's website.



Principles	Indicators of inclusion	Council's planned actions
Safety		
11	Bookings and assessment processes are LGBTIQ+ inclusive.	11.1 Develop staff capacity to audit and improve booking, assessment and intake forms to ensure they are LGBTIQ+ inclusive across all Council services.
12	LGBTIQ+ groups and services are supported to access Council spaces.	12.1 Invite LGBTIQ+ groups and services to consider using Council spaces. 12.2 Develop the capacity of LGBTIQ+ groups and services to access Council spaces, eg, by holding an information session covering bookings, fee discounts, permits, risk plans and public liability insurance. 12.3 Review current Council operational spaces to ensure they are welcoming and inclusive for all genders and intersectionalities. [Refer to Gender Equity Action Plan 1.5]
13	Council provides all-gender bathroom and change room options.	13.1 Include all-gender toilet facilities and change room options in all new Council-controlled building and redevelopment projects. 13.2 Implement operational changes to provide an all-gender toilet option at existing Council facilities. 13.3 Work with the owners/operators of non-Council public facilities (eg, sporting clubs, community halls) encouraging them to provide all-gender options for toilets and change rooms.
14	Potential risks to the safety of LGBTIQ+ group members are identified and minimised.	14.1 Consult LGBTIQ+ groups to understand current concerns about community safety. 14.2 Identify emerging risks to LGBTIQ+ people in the Shire and work with local police and other services to mitigate those risks. 14.3 Develop risk management plans for Council's LGBTIQ+ public programs and activities to address the safety of all participants, staff and volunteers.
15	Council responds to LGBTIQ+ phobic incidents by advocating for the rights of LGBTIQ+ members and taking steps to prevent future incidents.	15.1 Council makes public statements of support for LGBTIQ+ people and in opposition to discrimination and violence in all forms. 15.2 Work with local police to create community guidelines for responding to any LGBTIQ+ phobic incidents and share these guidelines with the community. 15.3 Continue to monitor Council's social media accounts to detect and (when appropriate) remove or respond to LGBTIQ+ phobic social media postings. 15.4 Council will internally review LGBTIQ+ phobic incidents brought to our attention, assessing the effectiveness of our responses and follow-up actions. 15.5 Promote the Community Reporting Tool (Victorian Equal Opportunity and Human Rights Commission) for reporting discrimination and breaches of human rights, and make the link visible on Council's website. 15.6 Enforce the Local Laws on Community Amenity and Municipal Places to protect LGBTIQ+ people from exposure to threatening, abusive or insulting behaviour which interferes with their use or enjoyment of a public place.

Evaluation

Council will monitor and report on the success and progress of this plan. An annual evaluation will be conducted by an internal working party. The outcomes will be discussed with the LGBTIQ+ Advisory Committee and their advice will be sought on ways to improve future plans.



Photo: Sandy Scheltema

Glossary

For further information, please refer to the 2023 Victorian Government LGBTIQ+ Inclusive Language Guide.

Asexual ~ refers to a person who does not experience sexual attraction but may or may not experience romantic attraction towards others. Asexual people can be any gender or sexual orientation.

Bisexual ~ a person romantically and/or sexually attracted to people of their own gender and other genders.

Cis or cisgender (pronounced 'sis') ~ refers to a person whose gender is the same as their sex recorded at birth.

Endosex ~ refers to people whose sex characteristics meet medical and social norms for typically 'male' or 'female' bodies. (Sometimes used in contrast to 'Intersex'.)

Gay ~ a person romantically and/or sexually attracted to people of the same sex and/or gender as themselves. Often used to describe men who are attracted to other men, but some women and gender diverse people may describe themselves as gay.

Gender ~ is part of a person's personal and social identity. It can be about one's experience as a woman, man or gender diverse person.

Gender diverse ~ is an umbrella term for a range of different genders. Language in this area is dynamic and always changing. Some examples include genderfluid, genderqueer, gender non-conforming, agender, bi-gender and non-binary.

Heterosexual ~ is another word for 'straight'. It generally refers to men who are attracted to women, or women who are attracted to men.

Intersectionality ~ describes how different parts of a person's identity or circumstances

(such as age, race, culture, disability, gender, location or religion) intersect and combine to shape people's life experiences, including of discrimination. Being LGBTIQ+ is only one part of any person or community. Intersectionality recognises that the different parts of someone's identity and circumstances cannot be disentangled or considered in isolation.

Intersex ~ some people are born with a variation to physical or biological sex characteristics (including chromosomes, hormones or anatomy) called intersex variations. Some people use the term 'intersex', while others do not connect to the term nor with 'LGBTIQ+'. Intersex people can have any gender identity or sexuality.

Lesbian ~ refers to a woman (cis or trans) or gender diverse person who is romantically and/or sexually attracted to women.

LGBTIQ+ phobia ~ is a wide range of negative emotions, attitudes and behaviours toward LGBTIQ+ people, or those perceived as LGBTIQ+ people. It has been defined as contempt, prejudice, aversion, hatred or antipathy. LGBTIQ+ phobia may be experienced as stigma, bullying, abuse or discrimination.

Non-binary ~ is a term for people whose gender sits outside of the spectrum of man or woman or male and female. A person who is non-binary might feel like they have a mix of genders, or like they have no gender at all.

Pansexual ~ a person romantically and/or sexually attracted to people of all genders and regardless of gender.

Queer ~ is often used as an umbrella term for diverse genders or sexualities. Some people use queer to describe their own gender or sexuality, as an identity that does not correspond to heterosexual norms.

Questioning ~ refers to people who are exploring or questioning their gender or sexual orientation.

People may not wish to have one of the other labels applied to them yet, for a variety of reasons.

Rainbow families ~ are families where LGBTIQ+ people are parents, co-parents and carers. This includes soon-to-be parents, donors and surrogates. Rainbow families come in all different shapes and sizes. They can be sole parents or carers and can live across one or many homes.

Sex ~ refers to a person's biological sex characteristics. This includes their sex chromosomes, hormones and reproductive organs.

Sex recorded at birth ~ is a medical data collection term, based upon a person's sex characteristics and reproductive organs observed at, or soon after, birth.

Sexuality (or sexual orientation) ~ refers to a person's intimate, romantic and/or sexual attractions to others. It can include sexual identity (how a person thinks of their sexuality), attraction (romantic or sexual interest in another person) and behaviour. Sexuality may be fluid for some people and change over time. For others it can be the same throughout their life.

Sistergirl and Brotherboy ~ are general terms used in Aboriginal and Torres Strait Islander communities to describe transgender people and their relationships, and non-trans but non-conforming Aboriginal and Torres Strait Islander peoples. For example, both lesbian and heterosexual Aboriginal and Torres Strait Islander women may refer to themselves as 'sistergirls', 'sisters' or 'tiddas'. Gay Aboriginal men may also refer to themselves as 'sisters'.

Trans or Transgender ~ refers to someone whose gender does not exclusively align with their sex recorded at birth. Not all trans people will use this term to describe themselves.



Acknowledgements

Members of Hepburn Shire Council's LGBTIQ+ and Gender Equity Advisory Committees

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36 Fraser Street

Trentham The Mechanics Trentham
66 High Street

Rainbow Action Plan



Rainbow Action Plan Public Exhibition Engagement Report 16 July 2024



for LGBTIQ+ Inclusion 2024 - 2026

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Introduction

The Rainbow Action Plan (the Plan) was developed in 2024 using the Victorian Government’s Rainbow Ready Roadmap methodology, which is a free resource co-developed with rural and regional LGBTIQ+ communities.

The development was kick-started with a workshop attended by our LGBTIQ+ Advisory Committee and the Daylesford Police LGBTIQ+ Liaison Officer. It was followed by a workshop for staff with representatives invited from all departments.

Consultation with the Reconciliation Advisory Committee was not feasible in this period, however, direct advice was sought from Djaara on the appropriateness of referencing the pre-colonial attitudes to LGBTIQ+ people in First Nations communities. Some Councils have made such references in their inclusion plans, however, the Djaara advice was to not do so without sufficient time for consultations.

A draft Rainbow Action Plan was then presented at a Councillor Briefing prior to release for public exhibition from 10 April to 8 May 2024.

The focus of this consultation was to give the community an opportunity for input prior to endorsement by Council. This was supported through a communications strategy with the following engagement activities:

- Participate Hepburn web page inviting submissions/responses/survey
- Public display at service centres and library branches, with hardcopy available
- Media release targeting local media
- Social media posts
- Mention in Hepburn Life.

In addition to that community engagement, the below Council committees were consulted:

- Disability Advisory Committee
- LGBTIQ+ Advisory Committee
- Gender Equity Advisory Committee.

Engagement Methodology

Stakeholder and community consultation has been undertaken in the development of the Rainbow Action Plan, with a moderate level of engagement from our community.

Thirteen survey responses were received via Participate Hepburn, three of which were removed from consideration because they contained obscene, indecent or profane language, threats, or defamatory statements. Of the ten accepted survey responses, one was incomplete.

Comments from respondents have been transcribed verbatim in Attachment 2, *Rainbow Action Plan - Public Consultation - Feedback - May 2024*. The document notes the Officer's response and indicates the impact (if any) of the comment on the final Plan.

The LGBTIQ+ Advisory Committee dedicated a half-day special meeting to review the draft Plan and submit their recommendations.

The Disability Advisory Committee considered the draft Plan as an agenda item of a regular quarterly meeting.

The Gender Equity Advisory Committee was unable to convene due to timing issues and the unavailability of some members. One written submission was made by a member of that Committee.

The combined stakeholder feedback is described in Attachment 3, *Rainbow Action Plan - Stakeholder Feedback - Advisory Committees - May 2024*. The document notes the Officer's response to each comment and indicates the impact on the final Plan.

As mentioned earlier, the Reconciliation Advisory Committee was unable to convene to consider this draft Plan in the period it was open for public feedback.

Engagement Findings

Strengths:

The overall sense was that the Plan was well thought out and that the main objectives were sound and correctly represented the priorities of our local LGBTIQ+ people; for their safety, visibility, awareness and understanding.

Survey respondents were asked to rate their overall satisfaction with the draft Plan. Of the ten survey responses accepted, 30% were very highly satisfied, 30% were highly satisfied and 40% were satisfied.

Weaknesses:

Community respondents and some stakeholder groups commented that the proposed actions lacked specificity, eg, on quantity, frequency or timelines. (Response – this detail will be developed in Officers' annual workplans.)

There was a desire for Council's Rainbow Action Plan to have higher aspirations and to propose more ambitious actions. (Response – Wording reviewed throughout document, to make stronger promises where feasible.)

The Disability and Gender Equity committees' feedback was that intersectionality and diversity needed more emphasis. (Response – inserted additional words and definitions to partly address this critique.)

The LGBTIQ+ Advisory Committee requested a review of jargon and reduction in the number of similar-sounding section headings. (Response – information rearranged under fewer headings, with the removal of repeated/redundant information on Principles and Indicators.)

The LGBTIQ+ Advisory Committee requested that Council review all Policies and Strategies with an LGBTIQ+ Inclusion lens. (Response – this request is noted and will be considered as part of Council's policy review process.)

Individuals and stakeholder groups had strong and opposing opinions on the provision of all-gender toilets and changerooms. Some expressed concern about hygiene and safety issues for women, however, the LGBTIQ+ Advisory Committee advocated for urgency to create safer spaces for trans and gender diverse people. (Response - Inserted a new Action on implementing quick, low-cost operational solutions (signs etc) to create an all-gender option in existing facilities.)

Next Steps

The information collected from the engagement activities undertaken during the public exhibition period have been used to inform the final Rainbow Action Plan for LGBTIQ+ Inclusion 2024-2026. Modest changes have been made in response to the community feedback responses.

Subject to the Plan's approval by Council, annual workplans will be developed, matching the resources that are currently available.

Implementation of this Rainbow Action Plan will rely on cross-departmental collaborations across Hepburn Shire Council and cooperation with community organisations.

Specific projects over time will be subject to Council's annual budgeting process. There may be potential to seek external funding opportunities that align with the Rainbow Action Plan.

Attachment 1 - Survey Questions

1. What do you like most about the draft Rainbow Action Plan?
2. What do you like least about the draft Rainbow Action Plan?
3. What is missing from the draft Rainbow Action Plan?
4. Which action from the draft Rainbow Action Plan would you like to see implemented first?
5. Any other feedback on the draft Rainbow Action Plan?
6. Overall satisfaction with the draft Rainbow Action Plan (on a scale 1-5)?

Attachment 2 - Rainbow Action Plan - Public Consultation - Feedback - July 2024

Q1. WHAT DO YOU LIKE MOST ABOUT THE DRAFT RAINBOW ACTION PLAN?			
KEY ISSUE	I.D.	OFFICER RESPONSE	IMPACT ON PLAN
It makes a statement of collective, positive intent.	Person 1	Noted	No change to Plan
It is a positive step forward to generating an inclusive and safer environment for LGBTIQ+ individuals who live within the Shire. Importantly it reflects the Council's intent going forward.	Person 2	Noted	No change to Plan
its a great leadership piece of work from LGA	Person 4	Noted	No change to Plan
It's clear and up front, seems to cover the key areas	Person 5	Noted	No change to Plan
I liked that the draft Rainbow Action Plan quoted data for 'same sex attracted' ie. LGB residents rather than the mismatched coupling of same sex attracted (LGB) communities and communities with gender issues (TIQA+).	Person 6	Council relies on available statistics, provided by other agencies. This was not a deliberate selection of terminology.	Data sources added to document, as footnotes, so that readers can interrogate the original research.
That it is supporting the whole community to be inclusive.	Person 7	Noted	No change to Plan
The fact it wants to make sure everyone feels included and that queer people are respected, I like the following planned actions. Queer people advising others on events and how to address things, flying flags for important dates, including aboriginal people, having awareness groups be a part of everything.	Person10	Noted	No change to Plan
Where do I find the action plan? I see the news item but no copy of the plan ??? Tried searching your website for rainbow plan to find details but just back to the news item.	Person11	This comment was read after submissions closed, so unable to assist respondent.	No change to Plan
Support for Chillout. Visibility elements such as flags, symbols and social media. Crating gender diverse and space spaces for people to meet in Council buildings and facilities.	Person12	Noted	No change to Plan
No comment	Person13	Noted	No change to Plan

Q2. WHAT DO YOU LIKE LEAST ABOUT THE DRAFT RAINBOW ACTION PLAN?			
KEY ISSUE	I.D.	OFFICER RESPONSE	IMPACT ON PLAN
Some of the actions are very vague. For example, 2.2 "...support and engage with our LGBTIQ+ community members, and consider their advice.." How will you do this? In what forum? Which community members? How will you identify that you are engaging with these community members? On what topics will you take their advice? eg Just because I'm gay, doesn't mean I have any better, or different views on the council's waste management policies. Maybe if you were talking about aged care, I might have more to say. Maybe an LGBTIQ+ reference group, elected by members of the community is needed. Between the council and this reference group, agree upfront the sorts of topics on which it may wish to consult.	Person 1	Council has an LGBTIQ+ Advisory Committee, with Terms of Reference outlining its purpose and role. Mayor's Message says, "The plan builds on Council's initiative in 2021 to create an LGBTIQ+ Advisory Committee".	No change to Plan
It does not provide definitive actions or tactics in many of the areas covered within the plan. Thus making it more of a "tick the box" type of document that the Council has met its obligations to provide such a document. I would rather see a document that has thought about what is lacking or missing and provided concrete objectives to improve the situation either in the community or within the mechanics of the Council itself. This is reflected within the commitment statement which should be about "achieving" and "active defence of the rights" of LGBTIQ+. The Council's approach to inclusion and safety of its staff, volunteers and visitors is significantly weaker than that seen in other institutions within Victoria and Australia in general. There needs to be more attention paid to the conditions within the workplace. Given the recent record of homophobic behaviour in the	Person 2	<ul style="list-style-type: none"> (a) Definitive actions will be detailed in the annual workplans of Council Officers. (b) Commitment statement has been updated. (c) This plan is only one part of Council's approach to ensuring safety of staff and volunteers. (d) Council is aware of one incident reported to police, alleging homophobia. 	<ul style="list-style-type: none"> (a) No change to plan (b) "Council is committed to achieving equality for LGBTIQ+ people. We will work to end LGBTIQ+ discrimination and affirm and defend the fundamental human rights of LGBTIQ+ people." (c) Safety actions updated, now "Identify emerging risks...". (d) Updated action 15.4 to emphasise improvement over time: "Council will internally review LGBTIQ+

Shire over the life to this Council I would expect a more proactive approach from the Council to address and mitigate the risks.			phobic incidents brought to our attention, assessing the effectiveness of our responses and follow up actions.”
nothing	Person 4	Noted	No change to Plan
-	Person 5	No response required	No change to Plan
I hope the plan aims for some but not only 'All Gender Toilets' because unlike women's toilets, all gender toilets are usually really smelly because of urine splashed on toilet seats and on the floor from men with poor aim. I'm quite happy for there to be some all gender toilets available if there are also some women's toilets provided as well. Change rooms definitely need to include some women's change rooms.	Person 6	Similar concerns have been discussed within Council and will inform decisions on the future identification of toilets as gendered or all-gender. Preference for private individual toilet cubicles. There is no proposal to have open, mixed-gender changerooms.	Wording in plan is now consistent, saying all-gender “options”. New action 13.2: “Implement operational changes to provide an all-gender toilet option at existing Council facilities.”
Nothing	Person 7	Noted	No change to Plan
I'm worried if we have all gender bathrooms and changing areas it might cause a higher risk of people being sexually assaulted, or have inappropriate things go on in there, and I would hate for someone to get harmed, not to mention some people feel uncomfortable changing in front of other people.	Person10	Similar concerns have been discussed within Council and will inform decisions on the future identification of toilets as gendered or all-gender. Preference for private individual toilet cubicles. There is no proposal to have open, mixed-gender changerooms.	Wording in plan is now consistent, saying all-gender “options”. New action 13.2: “Implement operational changes to provide an all-gender toilet option at existing Council facilities.”
No comment	Person11	Noted	No change to Plan
No comment	Person12	Noted	No change to Plan
No comment	Person13	Noted	No change to Plan

Q3. WHAT DO YOU THINK IS MISSING FROM THE DRAFT RAINBOW ACTION PLAN?			
KEY ISSUE	I.D.	OFFICER RESPONSE	IMPACT ON PLAN
Some detail on the planned actions and next steps (see above). Under Safety, is there scope to include schools ie dealing with safety of LGBTIQA+ student and teacher safety - or is that outside council's remit? What about working with schools to promote safety within the community? I know of a couple visiting from overseas who were walking down Vincent Street during ChillOut and a couple of local schoolgirls walked past and said "Hmhh....not more gays!" It's all very good having the support of council and locals businesses, but it can't all be achieved with a top-down approach.	Person 1	Council works in partnership with Daylesford College on anti-violence, anti-bullying and inclusion programs for students, through our Youth Development Team.	No change to Plan
Specific actions that can be measurable in terms of achievement within the time frame of the plan. More concrete commitment to delivery of a safer environment for LGBTIQA+ people whether employees of the council, volunteers, residents or visitors to the Shire. "Understanding" does not make it a safer place. Hate Crimes are not always physical and that seems to have been missed in the current iteration of the plan. That the expectations of inclusion and diversity should extend beyond LGBTIQA+ run events to all events that are conducted or sponsored by the Shire."	Person 2	Definitive actions will be detailed in the annual workplans of Council Officers. Council has a broad interpretation of 'violence' that includes bullying and harassment – this is clarified in an added Glossary.	Glossary: "LGBTIQA+ phobia is a wide range of negative emotions, attitudes and behaviours toward LGBTIQA+ people, or those perceived to be LGBTIQA+ people. It has been defined as contempt, prejudice, aversion, hatred or antipathy. LGBTIQA+ phobia may be experienced as stigma, bullying, abuse or discrimination."
more people reading it	Person 4	Noted	No change to Plan
Perhaps I missed it, but who is the Council officer to whom one would direct concerns about Rainbow matters? Would be good to see who to contact in this document	Person 5	The Inclusion Officer is the relevant contact for 'rainbow' matters. General contact details for Council are listed on the Plan, which allows residents to reach the Inclusion Officer.	No change to Plan

I dislike that there is no stated intention to celebrate International Lesbian Day - October 8.	Person 6	Days of celebration are recommended by the LGBTIQ+ Advisory Committee and a decision taken by Council. We will refer this comment to the LGBTIQ+ Advisory Committee.	No change to Plan
Nothing	Person 7	Noted	No change to Plan
No comment	Person10	Noted	No change to Plan
The details	Person11	Definitive actions will be detailed in the annual workplans of Council Officers	No change to Plan
How to support businesses establish recognisable networking and social events. Council advocating for more funds to professionalise the operations of ChillOut	Person12	Council is currently considering networking events for businesses. Council regularly advocates and provides letters of support to ChillOut to source additional funding.	No change to Plan
No comment	Person13	Noted	No change to Plan
Q4. WHICH ACTIONS FROM THE DRAFT RAINBOW ACTION PLAN WOULD YOU LIKE TO SEE IMPLEMENTED FIRST?			
KEY ISSUE	I.D.	OFFICER RESPONSE	IMPACT ON PLAN
None in particular	Person 1	Noted	No change to Plan
The area of training is probably of primary importance as the wording and intent of some of the points in the plan are not as robust as would be expected. In some cases they omit areas of importance which may reflect the council's lack of understanding of the issues affecting LGBTIQ+ communities. For example hate crimes are not always physical, language, what a fully inclusive workplace involves, imaging etc.	Person 2	Council has a broad interpretation of 'violence' that includes bullying and harassment – this is clarified with an added glossary.	Glossary: "LGBTIQ+ phobia is a wide range of negative emotions, attitudes and behaviours toward LGBTIQ+ people, or those perceived to be LGBTIQ+ people. It has been defined as contempt, prejudice, aversion, hatred or antipathy. LGBTIQ+ phobia may be experienced as stigma, bullying, abuse or discrimination."

?	Person 4	No response required	No change to Plan
14 and 15 (Risks to safety, and responses)	Person 5	Noted	No change to Plan
All at the same time.	Person 6	Noted	No change to Plan
Visibility	Person 7	Noted	No change to Plan
I'd like to everything I mentioned implemented, but I'd just say I'd like an even more inclusive environment than Daylesford already has, and to keep doing what you're doing.	Person10	Noted	No change to Plan
No comment	Person11	No response required	No change to Plan
No comment	Person12	No response required	No change to Plan
No comment	Person13	No response required	No change to Plan
Q5. ANY OTHER FEEDBACK ON THE DRAFT RAINBOW ACTION PLAN?			
KEY ISSUE	I.D.	OFFICER RESPONSE	IMPACT ON PLAN
All the best!	Person 1	Noted	No change to Plan
It needs to be re proofed to ensure the grammar and sentences are constructed correctly. I note the intent to collect data...but it is not clearly explained as to why and what that data will be utilised for. As a Shire that has a large LGBTIQ+ residency the Council should be active in its promotion, and encouragement of a culture which supports and celebrates diverse voices of our community. Thus this should be a strong message within the plan of action for the next three years. Further review of the commitment to inclusion statement to be more about actually achieving of equality, safety and inclusion of all LGBTIQ+	Person 2	Inclusion statement updated with 'stronger' language.	"Council is committed to achieving equality for LGBTIQ+ people. We will work to end LGBTIQ+ discrimination and affirm and defend the fundamental human rights of LGBTIQ+ people."
no	Person 4	Noted	No change to Plan
-	Person 5	No response required	No change to Plan
I'd like you to reconsider the options provided under the "Do you identify as any of the following? Required." survey question above. I am a Lesbian, however I do not identify with the LGBTIQ+ descriptor. Hence I felt excluded and	Person 6	This comment has been referred to Council's Engagement Expert to consider alternative ways of asking this question in future surveys.	No change to Plan

made invisible by the options offered under this particular question of the survey.			
I am happy about this plan for Hepburn	Person 7	Noted	No change to Plan
Maybe adding resources for detransitioners/desisters and voicing support for their community because they're a part of the rainbow community and matter, too. -a desisted queer woman	Person10	This suggestion will be made to the LGBTIQ+ Advisory Committee for consideration, during the life of this proposed Plan, and to make recommendation to Council.	No change to Plan
I am really really happy that you have developed a plan even though I cannot find a copy of it online	Person11	Noted. The draft Plan was provided on Council's Participate Hepburn webpage. The final plan will be uploaded once the Plan has been adopted by Council.	No change to Plan
No comment	Person12	No response required	No change to Plan
No comment	Person13	No response required	No change to Plan
Q6. WHAT IS YOUR OVERALL SATISFACTION WITH THE DRAFT RAINBOW ACTION PLAN? (scale 1-5) 1 is no satisfaction, 5 is very high satisfaction			
KEY ISSUE	I.D.	OFFICER RESPONSE	IMPACT ON PLAN
4 = highly satisfied	Person13	40% satisfied (with draft plan)	
5 = very highly satisfied	Person12	30% highly satisfied	
3 = satisfied	Person11	30% very highly satisfied	
4 = highly satisfied	Person10		
5 = very highly satisfied	Person 7		
3 = satisfied	Person 6		
4 = highly satisfied	Person 5		
5 = very highly satisfied	Person 4		
3 = satisfied	Person 2		
3 = satisfied	Person 1		

Attachment 3 - Rainbow Action Plan - Stakeholder Feedback - Advisory Committees - May 2024

From LGBTIQ+ Advisory Committee		
FEEDBACK / COMMENT	OFFICER RESPONSE	IMPACT ON PLAN
What is missing? Review all Council policies to make them LGBTIQ+ inclusive.	Noted – this will be considered as part of Council’s policy review process.	No change to Plan
Council to generate more public education and awareness programs, not relying on community groups, like ChillOut.	Aligns with current practice of inviting the public to attend Council programs on days of LGBTIQ+ significance.	Action 4.3: “Council holds public activities and initiatives to improve inclusion of, and understanding about, LGBTIQ+ people.”
Inclusion and Awareness training is a good start but requires ongoing training with annual refreshers.	Add refresher training.	Action 1.2: “Develop and deliver a more comprehensive inclusion training program for existing staff and volunteers, with annual refresher training.”
Flag Policy should include LGBTIQ+ flags, so annual applications to fly Pride flags is not needed.	Consider this when Flag Policy is reviewed.	No change to Plan
The plan’s structure is complicated, with too many similar-sounding headings (ie, Vision, Diversity, Commitment, Importance, Goal, Principles, Indicators).	Agreed. Improve readability by combining information under fewer headings, to tell more of a story.	New section “Diversity, Inclusion and Equality” includes old content on Diversity and Commitment. “Rainbow Ready Roadmap” heading now covers Principles and Indicators.
Safety is not only about violence, it is also about discrimination. More references to discrimination needed.	Agree to mention discrimination more often. Add glossary definition for LGBTIQ+ phobia.	Glossary definition added – “LGBTIQ+ phobia - is a wide range of negative emotions, attitudes and behaviours toward LGBTIQ+ people, or those perceived as LGBTIQ+ people. It has been defined as contempt, prejudice, aversion, hatred or antipathy. LGBTIQ+ phobia may be experienced as stigma, bullying, abuse or discrimination.”
Start work now on current toilets, eg, trans and gender diverse people need safe access to toilets, now. Need options for all. (Simple immediate solutions.)	Agree, due to evidence that this is a safety issue for trans and gender diverse people.	Action 13.2: “Implement operational changes to provide an all-gender toilet option at existing Council facilities.”

Commitment statement needs to be stronger.	New wording proposed.	Commitment statement amended to - "Council is committed to achieving equality for LGBTIQ+ people. We will work to end LGBTIQ+ discrimination and affirm and defend the fundamental human rights of LGBTIQ+ people."
Volunteer policy needs to address LGBTIQ+ inclusivity	Agreed. Refer this comment to People and Culture team.	New Action 5.5: "Apply LGBTIQ+ inclusion principles when developing policies about volunteers."
Stronger statements needed, eg, Install, not investigate ... make actions more concrete	Desirable however Council's capacity is limited; don't want to over-promise.	Wording reviewed throughout document, to make stronger promises where feasible.
Review website annually	Agreed	Added "annually" to Action 10.2
Identify risks, not 'consider' them	Agreed	Reworded action 14.2
Make statements, don't 'reiterate' past ones.	Agreed	Reworded action 15.1

From Disability Advisory Committee		
FEEDBACK / COMMENT	OFFICER RESPONSE	IMPACT ON PLAN
People with disability are not visible in this plan, yet there are many LGBTIQ+ people with disability.	The plan aims to take an intersectional approach.	Added "ability" to diversity statement.
Image library needs to include people with disability.	Agreed	Reword 8.2: "Expand our image library by sourcing new images and conducting photoshoots to obtain images representing the diversity of Hepburn's LGBTIQ+ community."
Proposal for a holistic inclusion focus in next Council Plan risks lower profile for this plan and disability plan.	Action 6.1 is to pursue the idea. Officers will explore options and make recommendations to Councillors.	No change to Action 6.1
All gender toilets don't meet the needs of women who have experienced violence by men.	All gender toilets are needed as an option, for the safety of trans and gender-diverse people.	Actions 13.1, 13.2 and 13.3 refer to offering the option of all-gender toilets and changerooms.

From a member of Gender Equity Advisory Committee		
FEEDBACK / COMMENT	OFFICER RESPONSE	IMPACT ON PLAN
The aim does not acknowledge the complexity of LGBTIQ+ identity or consider the specific needs of women, men and trans people and is therefore gender blind.	This may refer to opening paragraph of Mayor's message. Refer to sections on language, diversity and goal.	As per other feedback, several sections have been combined into a more coherent narrative.
[A note on language] has the potential to set up a generation divide.	References to 'older people' changed.	The following sentence added to 'A note on language': "The word 'queer' has become inclusive and uniting for some, but other people may still find it offensive and disrespectful."
Population data on LGBTIQ+ people in Hepburn Shire only focuses on same sex couples and LGBTIQ+ identity.	Plan highlighted the data that is reported on a local government area basis.	No change to Plan
The plan does not acknowledge the complexity of identity or the ways in which identity intersects with other complex factors.	Added a definition of intersectionality, with focus on LGBTIQ+ intersectionality.	Intersectionality included in new Glossary.
Focus on the LGBTIQ+ community as a group risks making invisible those who are marginalised or not Out.	De-emphasised references to 'community' at several points.	Replaced 'LGBTIQ+ community' with 'LGBTIQ+ people' at several places in the plan.

12 EMBRACING OUR PAST AND PLANNING FOR OUR FUTURE

12.1 AWARD OF TENDER - HEPBU.RFT2024.81 - WOMBAT HILL DAY BASIN AND FORECOURT REFURBISHMENT

Go to 01:22:58 in the meeting recording to view this item.

DIRECTOR INFRASTRUCTURE AND DELIVERY

In providing this advice to Council as the Project Manager, I Lee Kosky have no interests to disclose in this report.

ATTACHMENTS

1. CONFIDENTIAL - HEPBU.RFT 2024.81 WHD Basin and Forecourt Tender Evaluation Report [**12.1.1** - 5 pages]

OFFICER'S RECOMMENDATION

That Council:

1. *Awards Contract Number HEPBU.RFT2024.81 to Naturform Pty Ltd for the fixed lump sum of \$565,310 (exclusive of GST);*
2. *Delegates authority for the Chief Executive Officer to sign and seal the contract documents on behalf of Council;*
3. *Approves Council officers to make variations and additions to the Contract, in excess of the awarded lump sum contract value, within approved Officer Delegations and approved budgets and contingencies; and,*
4. *Resolves that the attached Tender Evaluation Report remains confidential and that the Public Minutes records the successful tenderer.*

MOTION

That Council:

- 9. Awards Contract Number HEPBU.RFT2024.81 to Naturform Pty Ltd for the fixed lump sum of \$565,310 (exclusive of GST);*
- 10. Delegates authority for the Chief Executive Officer to sign and seal the contract documents on behalf of Council;*
- 11. Approves Council officers to make variations and additions to the Contract, in excess of the awarded lump sum contract value, within approved Officer Delegations and approved budgets and contingencies; and,*
- 12. Resolves that the attached Tender Evaluation Report remains confidential and that the Public Minutes records the successful tenderer.*

Moved: Cr Lesley Hewitt

Seconded: Cr Jen Bray

Carried

Voted for: Cr Brian Hood, Cr Don Henderson, Cr Jen Bray, Cr Lesley Hewitt, Cr Tessa Halliday and Cr Tim Drylie

Voted against: Nil

Abstained: Nil

EXECUTIVE SUMMARY

The purpose of this report is for Councillors to consider the award of Contract HEPBU.2024.81 - Wombat Hill Day Basin upgrades.

BACKGROUND

This contract is for the Wombat Hill Botanic Gardens - Day Basin and Forecourt Refurbishment and Landscaping project. This forms part of the Regional Development Victoria funded project at the Wombat Hill Botanic Gardens which also includes the recently completed stone step construction and conservatory glass replacement items.

The project involves landscaping and refurbishment of the Wombat Hill Botanic Gardens day basin and the installation of a water rill connecting to the fernery waterfall.

Tenders for the Wombat Hill Day Basin and Forecourt Refurbishment were invited via public advertisement on Council's website and in the Ballarat Courier on 2 April 2024 and Tenders were received from two tenderers.

KEY ISSUES

- Initial evaluations showed a close score for each submission, however following a Best and Final Offer (BAFO) and reference checks, Naturform were the first-ranked tenderer.
- Naturform's references were positive, and have demonstrated quality project delivery.
- Naturform interviewed well with practical examples and direct, pragmatic solutions.

COUNCIL POLICY AND LEGISLATIVE IMPLICATIONS

Council Plan 2021-2025

Embracing our past and planning for the future

3.3 Build and maintain quality infrastructure that supports and promotes liveability and active living in the community.

3.1 - Partner with and empower our Traditional Owners and broader community to acknowledge, understand, celebrate, and preserve our area's cultures, traditions, and environs.

3.3 - Build and maintain quality infrastructure that supports and promotes liveability and active living in the community.

A range of policy and legislation requirements have been considered and met for this project:

1. Hepburn Planning Scheme
2. Hepburn Heritage Strategy 2020-2030
3. Community Engagement Policy 2021
4. Planning and Environment Act 1987
5. Asset Management Policy
6. Asset Management Strategy
7. Council Plan

FINANCIAL IMPLICATIONS

Project Budget Allocation	\$1,018,000 excl GST <ul style="list-style-type: none">- \$500,000 Regional Development Victoria- \$200,000 Friends of Wombat Hill Botanical Gardens- \$318,000 Council
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Actual Expenditure – To: 25/06/2024	\$288,209 excl GST
Recommended Tender Amount	\$565,310 excl GST
Estimated Additional Costs Against Project <ul style="list-style-type: none"> - project management - specialist advice - contingency 	\$164,481 excl GST
Total Estimated Expenditure Against Project	\$1,018,000 excl GST
Surplus/Shortfall on Project	\$ 0

COMMUNITY AND STAKEHOLDER ENGAGEMENT

In line with Council’s Community Engagement Policy, this project requires a ‘medium level’ of engagement for the majority of stakeholders. Officers will continue to liaise with project partners, stakeholders and the broader community throughout this project.

As a key stakeholder and investor in the project, the Friends of Wombat Hill will be kept informed with project progress and engaged through regular meetings and updates.

RDV are also a key stakeholder and investor and will also be included in these regular meetings.

RISK AND GOVERNANCE IMPLICATIONS

Project governance seeks to ensure that the project adheres to the relevant legislative and regulatory requirements and follows the guidance in Council’s Project Management Framework.

ENVIRONMENTAL SUSTAINABILITY

There are no sustainability implications associated with this report.

GENDER IMPACT ASSESSMENT

There are no gender equity implications associated with this tender.

13 A DYNAMIC AND RESPONSIVE COUNCIL

13.1 ADOPTION OF THE AUDIT AND RISK COMMITTEE CHARTER

Go to 01:33:13 in the meeting recording to view this item.

EXECUTIVE MANAGER PEOPLE AND TRANSFORMATION

In providing this advice to Council as the Manager Governance and Risk, I Rebecca Smith have no interests to disclose in this report.

ATTACHMENTS

1. Audit and Risk Committee Charter March 2024 [**13.1.1** - 16 pages]

OFFICER'S RECOMMENDATION

That Council adopts the Audit and Risk Committee Charter as attached to this report.

MOTION

That Council adopts the Audit and Risk Committee Charter as attached to this report.

Moved: Cr Don Henderson

Seconded: Cr Tessa Halliday

Carried

Voted for: Cr Brian Hood, Cr Don Henderson, Cr Jen Bray, Cr Lesley Hewitt, Cr Tessa Halliday and Cr Tim Drylie

Voted against: Nil

Abstained: Nil

EXECUTIVE SUMMARY

The *Local Government Act 2020* requires Council to adopt a governing Audit and Risk Committee Charter. The existing Charter was adopted in 2020 and is due for review.

Once the Charter is adopted by Council, the Audit and Risk Committee will review the annual workplan to align.

BACKGROUND

The Audit and Risk Committee Charter outlines the responsibilities of the Committee, such as monitoring the compliance of Council policies and procedures, financial and performance reporting, risk management and fraud prevention systems and controls, internal audit function, external audit function and internal controls and compliance.

Council's Audit and Risk Committee Charter is reviewed every four years.

The current Charter was adopted in 2020 and was based on the template provided by Local Government Victoria. Officers have also sought advice from the current Audit and Risk Committee members presenting a draft Charter at the March 2024 meeting.

KEY ISSUES

The following amendments have been made to the Charter, as attached:

- Inclusion of a more detailed indemnity clause.
- Clarification that the Chair is appointed by Council.
- Clarification that the Workplan is adopted by Council.
- Clarification of the requirement to report to Council.
- Additional of a clause enabling the Chair to refer items for consideration out of session.
- Clarification of the fee and invoicing arrangements.
- Addition of the requirement that a quorum includes at least one Councillor and two independent members.
- The additional of a requirement for significant breaches to be reported to the Committee immediately.
- Clarification of the requirement for independent members to complete Interest Returns.
- Revisions in line with current position titles.
- Minor amendments and clarifications to language.

COUNCIL POLICY AND LEGISLATIVE IMPLICATIONS

Council Plan 2021-2025

A dynamic and responsive Council.

5.3 A sustainable and agile organisation with strong corporate governance that supports excellent operations.

FINANCIAL IMPLICATIONS

The Charter is being reviewed within existing budget. The operation of the Audit and Risk Committee is funded through Council's operational budget.

COMMUNITY AND STAKEHOLDER ENGAGEMENT

Public consultation is not required for the Audit and Risk Committee Charter.

The draft Charter was presented to the Audit and Risk Committee at the March 2024 meeting and their feedback has been incorporated.

RISK AND GOVERNANCE IMPLICATIONS

Council currently has in place an Audit and Risk Committee, operating under a Charter, which meets the requirements outlined in the *Local Government Act 2020*.

Section 54 of the Act sets out requirements for the Audit and Risk Committee Charter.

ENVIRONMENTAL SUSTAINABILITY

There are no sustainability implications associated with this report.

GENDER IMPACT ASSESSMENT

There are no gender equity implications associated with this report.

▶ **AUDIT AND RISK COMMITTEE CHARTER**

DATE ADOPTED:

DATE OF NEXT REVIEW: December 2028

RESPONSIBLE OFFICER: Manager Governance and Risk

REFERENCES:

- Local Government Act 2020

Version History			
Change/Review details	Author / reviewer	Date	Approver
Adopted	Manager Governance and Risk	25 August 2020	Council resolution
Update to remuneration	Manager Governance and Risk	18 July 2023	Change to remuneration via Council resolution
Regular Review	Manager Governance and Risk	27 March 2024	

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▶ AUDIT AND RISK COMMITTEE CHARTER

Council established an Audit and Risk Committee (the Committee) in compliance with Division 8 – Section 53 of the *Local Government Act 2020* (the Act).

1. PURPOSE

Council is committed to good governance, public transparency and accountability to the Hepburn Shire community. The Committee is established to strengthen Council's governance, risk management, financial management and to drive continuous improvement.

Pursuant to section 53(2) of the Act, the Committee is an advisory committee and does not have any delegated powers, including executive powers, management functions, or delegated financial responsibility.

The Committee has been established to assist the Council discharge its responsibilities under the Act to:

- monitor the compliance of Council policies and procedures with:
 - the overarching governance principles;
 - the Act and the regulations and any Ministerial directions; and
 - other relevant laws and regulations;
- monitor Council financial and performance reporting;
- monitor and provide advice on risk management and fraud prevention systems and controls;
- oversee internal audit function; and
- oversee external audit functions.

The Committee will engage with management in a constructive and professional manner in discharging its responsibilities and formulating its advice to the Council.

▶ AUDIT AND RISK COMMITTEE CHARTER

2. AUTHORITY

The Committee is directly responsible to Council for discharging its responsibilities as set out in this Charter. The Committee has no delegated authority from Council unless specifically provided by Council from time to time and any such authority shall be temporary and may only relate to specific matters as directed by Council.

The Committee has the authority to:

- Endorse key documents and reports that must be approved by Council, including annual financial reports, annual performance statements, new or revised policies and other documents that assist in maintaining a strong internal control environment;
- Endorse internal and external audit plans, including internal audit plans with an outlook of greater than one year;
- Provide advice and make recommendations to Council on matters within its areas of responsibility;
- Retain counsel of relevant independent experts where it considers that is necessary in order to execute its responsibilities, subject to prior agreement with the Chief Executive Officer;
- Seek any relevant information it requires from Council, Council Officers (who are expected to co-operate with the Committee's requests) and external parties;
- Meet with Council Officers, internal and external auditors and other parties as required to discharge its responsibilities.

The Committee will, through the Chief Executive Officer, have access to appropriate management support to enable it to discharge its responsibilities effectively.

3. ROLES

The role of the Committee is to assist Council in the effective discharge of its responsibilities by providing independent advice and recommendations to Council regarding the Council's risk, control and compliance framework and its reporting responsibilities. The Committee's oversight of financial and other reporting and risk management practices does not remove the Council's responsibility to ensure the integrity of its reporting and risk processes.

The role of Council is to maintain overall strategic direction, control, oversight and decision making for the organisation. This role is performed in line with the defined purpose and responsibilities in the *Local Government Act 2020*. In performing its role, Council delegates many, but not all, powers to the Chief Executive Officer, other members of staff and special committees. Council is responsible for establishing an Audit and Risk Advisory Committee, including the appointment and termination of members. In terms of risk management, Council is responsible for setting the risk appetite of Council and monitoring that effective risk processes and control measures are in place, including audit programs. The role of management, comprising the Chief Executive Officer and other members

of staff with management responsibilities, is to maintain an effective system of processes and controls to deliver outcomes in-line with Council's purpose, responsibilities and strategy. Management is responsible for making and implementing decisions to achieve the organisation's objectives and to present recommendations to Council in areas where it is not delegated to make decisions. In terms of risk, management is responsible for identifying, assessing and managing risks through an effective internal control framework.

4. MEMBERSHIP AND TENURE

4.1 Composition of membership

- The Committee must comprise a majority of members who are not councillors of the Council, and who are appointed by Council.
- Total membership will **be 6 members** (two Councillors and four independent and external members).
- In accordance with the Act the Members must:
 - include members who are Councillors of the Council section 53(3)(a)
 - consist of a majority of members who are not Councillors of the Council and 53(3)(b) and who collectively have:
 - Expertise in financial management and risk 53(3)(b)(i);
 - Experience in public sector management 53(3)(b)(ii); and
 - Not include any person who is a member of Council staff or the Council 53(3)(c)
- Membership of the committee will be reviewed periodically by the Council with the aim of ensuring an appropriate balance between continuity of membership, the contribution of fresh perspectives and a suitable mix of qualifications, knowledge, skills and experience.
- If the Council proposes to remove a member of the Committee, it must give written notice to the member of its intention to do so, provide the reason(s) for such removal and provide that member with the opportunity to be heard at a Committee meeting if that member so requests.

▶ AUDIT AND RISK COMMITTEE CHARTER

Independent Members

- Independent members will be appointed for a four year (4 year) term after a public advertisement process has been undertaken.
- The Chief Executive Officer or Director Community and Corporate and the Councillor representatives on the Committee will undertake the evaluation of potential external members taking into account the experience of candidates and their likely ability to apply appropriate analytical and strategic management skills and will make a recommendation to Council for appointment to the Committee.
- A sitting member is able to reapply and be appointed for 1 subsequent term, subject to the evaluation process set out as above and subject to maintaining the ratio of Councillors to external members.
- Independent members must collectively have expertise in financial management and reporting and risk management and also experience in public sector management.
- The Council will indemnify and keep indemnified each independent member of the Committee against all actions or claims whether arising during or after their term of appointment in respect of anything necessarily done or reasonably done or omitted to be done in good faith:
 - a) In the performance of a duty or function or the exercise of any matter under the Act, regulations, a local law or this charter.
 - b) In the reasonable belief that the act or omission was in the performance of a duty or a function or the exercise of a matter under the Act, regulations, a local law or this charter.

Chairperson

- The Chairperson of the Committee must be an independent member.
- The Audit and Risk Committee will recommend the Chairperson to Council for appointment.
- Council will appoint the Chairperson via Council Resolution.
- If the Chairperson is unable to attend a meeting, the members in attendance at the meeting will appoint a Chairperson for that meeting from among the attending members.
- The Chairperson shall, as deemed required but at least twice a year, provide to Council an audit and risk report that describes the activities of the Audit and Risk Committee and includes its findings and recommendations.

▶ AUDIT AND RISK COMMITTEE CHARTER

- The Chairperson has the authority to refer any matter for a discussion and recommendation out of session. Any recommendations made out of session will need to be ratified at the next Committee meeting.

Councillor Members

- Councillor members will be appointed to the Committee by Council annually.
- Should an appointed Councillor member not be able to attend a Committee meeting, Council can appoint an alternate member to act in such circumstances, either on a meeting by meeting basis or for the entire year.

Other attendees

- The Mayor of Council and other Councillors may attend committee meetings, and when they elect to do so, will require copies of committee papers. These attendees act as observers and are not members of the Committee.
- The Chief Executive Officer, Director Community and Corporate, Manager Financial Services, Manager Governance and Risk or other management representatives may attend meetings as advisers or observers but will not be members of the committee. For example, the Chief Executive Officer, and members of the Executive Team will be invited to all meetings and Managers will be invited to attend if an audit report central to their area of responsibility is presented.

5. REMUNERATION

- The Council will pay a fee to independent committee members. This fee will be apply per meeting of the Committee and be determined by the Council. It will be indexed in alignment with the rate cap % each 1 July and rounded up to the nearest \$5.
- After each meeting, following receipt of a Tax Invoice to be issued by the independent member, payment will be made in alignment with Council's standard payment terms. Payment will only be made if the member attended the scheduled meeting.
- As at 1 July 2024, the remuneration for independent committee members is \$775.00 including GST and \$1030.00 including GST for the Chair.

▶ AUDIT AND RISK COMMITTEE CHARTER

- Each time the Charter is reviewed (every four years) the fee paid to Independent Members will be benchmarked against no less than five other peer Councils to provide the Council with the information required to fully review fees.

6. MEETINGS

Meeting frequency

- The committee will meet at least four times a year, with authority to convene additional meetings, as circumstances require.
- Where the Chairperson attends an annual briefing to Council, they will be paid as per the remuneration as detailed above.
- A schedule of meetings will be developed annually and agreed by members.
- Additional meetings, where deemed required shall be convened at the discretion of the Chairperson in conjunction with the Chief Executive Officer or Mayor at the written request of any member of the Committee, internal or external auditor.

Attendance, Quorum and Voting

- All Committee members are expected to attend each meeting in person, although in special circumstances members can attend through electronic means.
- A quorum will consist of four members, with a minimum of two independent committee members and one Councillor.
- Each member shall have one vote and decisions shall be made on a majority basis.
- Invitees and guests shall not have a vote.
- When resolutions are circulated electronically for endorsement, members may respond electronically either in the affirmative or negative or request a meeting or teleconference to discuss them.

▶ AUDIT AND RISK COMMITTEE CHARTER

Agendas and minutes

- Meeting agendas and appropriate briefing materials will be provided to members at least one week before each meeting by Council's Manager Governance and Risk in consultation with the Chairperson.
- Minutes will be prepared for all meetings by Council's Manager Governance and Risk and distributed to each member within 14 days of each meeting.
- The minutes of a meeting shall be submitted to committee members for confirmation at the next subsequent meeting of the Committee.
- A summary of the minutes of each meeting shall be provided to the next Ordinary Meeting of Council.

Conduct of meetings

- The meetings will be conducted broadly in accordance with Council's Governance Rules at the discretion of the Chairperson.

7. ACCESS TO INFORMATION AND ADVICE

Access to Information

- Committee members shall have reasonable right of access to the Chief Executive Officer or other management personnel.
- Committee members shall have the right to request for information from management or other Council personnel.
- The request for the above must be via the Chief Executive Officer or Director Corporate and Community Services.

Access to Advice

- The Committee will have complete and open right of access to external and internal auditors without management present, and the right to seek explanations and additional information following consultation with the Chief Executive Officer

▶ AUDIT AND RISK COMMITTEE CHARTER

- The Committee has the right to request independent, expert advice to assist it in undertaking its oversight responsibilities. Such requests are to be made to the Chief Executive Officer or Director Corporate and Community Services.

8. REPORTING

- The Committee, through the Chairman, shall report annually to the Council summarising the activities of the Committee during the previous financial year.
- The committee will prepare a biannual audit and risk report that describes the activities of the Audit and Risk Committee and includes its findings and recommendations.
- The committee will provide a copy of the biannual audit and risk report to the Chief Executive Officer for tabling at the next Council meeting.
- Management shall report any incidents of actual or suspected fraud and any material error in any financial statements to the Committee immediately it becomes known.

Management shall report any risk or incident that may lead to substantial loss for Council to the Committee immediately it becomes known.

- Management shall report any significant or material breaches of compliance or Council Policy to the Committee immediately it becomes known.

9. WORKPLAN

- In accordance with section 54(3) of the Act the Committee will develop an annual work program that includes the timing of reporting for all of the responsibilities outlined in this charter.
- The workplan will be adopted annually by Council.

10. FUNCTIONS AND RESPONSIBILITIES

The committee will carry out the following responsibilities:

Compliance Management

- Monitor the compliance of Council policies and procedures with the overarching governance principles and the *Local Government Act 2020* and the regulations and any ministerial directions.

▶ AUDIT AND RISK COMMITTEE CHARTER

- Review the systems and processes implemented by the Council for monitoring compliance with relevant legislation and regulations and the results of management's follow up of any instances of non-compliance.
- Review the processes for communicating Council's Employee Code of Conduct to employees and contractors and for monitoring compliance with the Code.
- Obtain briefings on any significant compliance matters.
- Receive reports from management on the findings of any examinations by regulatory or integrity agencies (whether related to investigations at Council or other agencies), such as the Ombudsman, IBAC, Victoria Government Inspectorate, etc. and monitor Council's responses.

Financial and Performance Reporting

- In conjunction with the external auditor, at least annually review significant accounting and external reporting issues, including complex or unusual transactions, transactions and balances in areas where judgement is required, changes to accounting policies, recent accounting, professional and regulatory pronouncements and legislative changes, and understand their effect on the annual financial report and the audit thereof.
- Review the annual financial report and annual performance statement and consider whether they are complete, consistent with information known to Committee members, reflect appropriate accounting treatments and adequately disclose Council's financial performance and position.
- Review with management and the external auditors the results of the audit, including any difficulties encountered by the auditors and how they were resolved.
- Recommend the adoption of the annual financial report and annual performance statement to Council.
- Review the appropriateness of the format and content of periodic management financial reports and performance statements to Council as required.

Internal Control Environment

- Review the adequacy and effectiveness of key policies, systems and controls for providing a sound internal control environment. This should be done on a rotational basis over a four year period.
- Determine whether systems and controls are reviewed regularly and updated where required.
- Monitor significant changes to systems and controls to assess whether those changes significantly impact Council's risk profile.
- Ensure that a programme is in place to test compliance with systems and controls;
- Assess whether the control environment is consistent with Council's Governance Principles.

Risk management

- review whether Council has in place an effective and appropriate risk management framework, under which all significant or material risks are identified, analysed, managed and reported to Council.
- review whether appropriate fraud control arrangements processes and systems are in place to detect, capture and effectively respond to fraud-related information.
- review whether appropriate business continuity and disaster planning, response and recovery arrangements are in place.

Fraud Prevention Systems and Controls

- Review Council's Fraud Prevention policies and controls, including the Fraud Control Plan and fraud awareness programmes every four years.
- Receive reports from management about actual or suspected instances of fraud or corruption including analysis of the underlying control failures and action taken to address each event.
- Review reports by management about the actions taken by Council to report such matters to the appropriate integrity bodies.

▶ AUDIT AND RISK COMMITTEE CHARTER

External audit

- Review the scope of the external audit plan with the external auditor and management and monitor its implementation.
- Review all external audit reports and provide advice to the Council on significant issues identified in audit reports and action to be taken on issues raised, including identification and dissemination of good practice.
- Monitor and review management's implementation of external auditor's findings and recommendations and have regard to any significant disagreements with management (irrespective if they have been solved).
- Monitor processes and practices to ensure that the independence of the external audit function is maintained.
- Discuss with the external auditor any audit issues encountered in the normal course of audit work, including any restriction on scope of work or access to information.
- Review the effectiveness of the external audit function and ensure that the Victorian Auditor General's Office (VAGO) is aware of the Committee's views if applicable.
- Consider the findings and recommendations of any relevant performance audits undertaken by VAGO and monitor Council's responses to them.
- Meet with the external auditor at least annually in the absence of management.

Internal audit

- Review and recommend the Internal Audit Plan for Council endorsement and monitor its implementation.
- Review internal audit reports and assess whether matters are being managed and rectified in an appropriate and timely manner.
- Monitor and review management's implementation of internal audit findings and recommendations and have regard to any significant disagreements with management (irrespective if they have been solved).
- Monitor processes and practices to ensure that the independence of the internal audit function is maintained.

▶ AUDIT AND RISK COMMITTEE CHARTER

- Assess the performance of the Internal Auditor in conjunction with management on an annual basis.
- Meet with the leader of the internal audit function at least annually in the absence of management.

11. OBLIGATIONS

Committee members should familiarise themselves with their obligations under the *Local Government Act 2020* relating to their obligations relating to the following provisions.

Misuse of position

- Section 123 of the *Local Government Act 2020* applies to Independent Members, as if the member were a member of a delegated Committee.

Confidential Information

- Section 125 of the *Local Government Act 2020* applies to Independent Members, as if the member were a member of a delegated Committee.
- New members will receive relevant information and briefings on their appointment to assist them to meet their committee responsibilities.

Conflicts of interest

- Committee recommendations must be transparent and accountable, to protect the public interest, maintain the integrity of the Committee and Council and enable the public to be confident that the Committee is performing its duties properly. If a conflict of interest exists, it must be declared and managed.
- Committee members are required to provide initial and biannual interest returns, as required by Councillors, to the Council declaring any material personal interests they may have in relation to their responsibilities.
- Division 2 of Part 6 of the *Local Government Act 2020* applies to Independent Members, as if the member were a member of a delegated Committee. An independent member has a conflict of interest if they have:
 - a general conflict of interest within the meaning of section 127 of the Act

▶ AUDIT AND RISK COMMITTEE CHARTER

- a material conflict of interest within the meaning of section 128 of the Act.
- External members should consider past employment, consultancy arrangements and related party issues in making these declarations and the Council, in consultation with the Chair, should be satisfied that there are sufficient processes in place to manage any real or perceived conflict.
- At the beginning of each committee meeting, members are required to declare any material personal interests that may apply to specific matters on the meeting agenda.
- Where required by the Chair, the member will be excused from the meeting or from the committee's consideration of the relevant agenda item(s).
- The Chair is also responsible for deciding if they should excuse themselves from the meeting or from the committee's consideration of the relevant agenda item(s).
- Details of material personal interests declared by the Chair and other members, and actions taken, will be appropriately recorded in the minutes.

12. REVIEW OF THE COMMITTEE CHARTER

- The Charter will be reviewed at least every four years by the Committee and will include consultation with the Council.
- Any substantive changes to the Charter will be recommended by the Committee and must be formally approved by the Council. The Chief Executive Officer is authorised to make minor, administrative amendments.

13. EVALUATING PERFORMANCE

- The Committee will undertake an annual assessment of its performance against the Audit and Risk Committee Charter in accordance with section 54(4a) of the Act. This assessment will be reported in accordance with the Reporting requirements outlined in section 8 of the Charter.
- The Chair, in conjunction with management, will undertake formal reviews of performance and independence of independent audit committee members before reappointing them for additional terms.

14. INDUCTION OF NEW MEMBERS

- As soon as practical following their appointment, the Manager Governance and Risk shall arrange for new members to meet with key management personnel and the other independent members.
- The Manager Governance and Risk shall arrange for an adequate induction package to be provided to each new member. The package shall contain the following:
 - Audit and Risk Committee Charter
 - List of fellow committee members and contact details
 - Council's organisational chart
 - Most recent annual report and quarterly report
 - Most recent adopted budget
 - Council's Current Council Plan
 - List of Council's Policies
 - Council's Governance Rules
 - Initial and Biannual Interests return form
- The new members will meet with the internal and external auditors at the first meeting of the committee.

15. DISPUTE RESOLUTION

- In performing its duties disputes may arise between Committee members, the Committee and Executive, and the Committee and Council.
- In situations where a dispute arises it shall be dealt with in accordance with an appropriate dispute resolution process determined by the Dispute Settlement Centre of Victoria (Department of Justice)

13.2 ADOPTION OF POLICY 30(C) - PRIVACY POLICY

Go to 01:34:37 in the meeting recording to view this item.

EXECUTIVE MANAGER PEOPLE AND TRANSFORMATION

In providing this advice to Council as the Manager Governance and Risk, I Rebecca Smith have no interests to disclose in this report.

ATTACHMENTS

1. Policy 30(C) - Hepburn Shire Council Privacy Policy [**13.2.1** - 15 pages]

OFFICER'S RECOMMENDATION

That Council adopts Policy 30(C) - Privacy Policy as attached to this report.

MOTION

That Council adopts Policy 30(C) - Privacy Policy as attached to this report.

Moved: Cr Lesley Hewitt

Seconded: Cr Tessa Halliday

Carried

Voted for: Cr Brian Hood, Cr Don Henderson, Cr Jen Bray, Cr Lesley Hewitt, Cr Tessa Halliday and Cr Tim Drylie

Voted against: Nil

Abstained: Nil

EXECUTIVE SUMMARY

The purpose of this report is present the revised Policy 30(C) - Privacy Policy to Council for adoption.

Amendments proposed to this policy are minor and administrative.

BACKGROUND

This Policy was adopted in 2020 and is due for review in 2024. The initial policy was based on a template made available by Local Government Victoria.

The Policy was considered by the Audit and Risk Committee at the June meeting, and their feedback has been incorporated.

The Policy was made available for public consultation on Participate Hepburn from 22 April to 20 May 2024. While the page received several hundred hits, no submissions were received.

KEY ISSUES

The Privacy Policy assists Council in meeting its obligations under the *Privacy and Data Protection Act 2014*. It was last adopted on 25 August 2020. There have been no legislative changes relating to this policy, so amendments are minimal. They include:

- Clarification of the disclosure notice to be clearer about “opt out” provisions regarding personal information;
- Updates to align the complaint process with Council’s existing policy;
- Minor amendments to language.

COUNCIL POLICY AND LEGISLATIVE IMPLICATIONS

Council Plan 2021-2025

A dynamic and responsive Council

5.3 A sustainable and agile organisation with strong corporate governance that supports excellent operations

FINANCIAL IMPLICATIONS

The review of this Policy was completed within existing resource. No additional budget is required to implement it.

COMMUNITY AND STAKEHOLDER ENGAGEMENT

An Engagement Plan was completed for the project and indicated that the project required a low level of engagement at the inform/consult level. This Policy is heavily legislated, with limited opportunity for community to influence or change the approach.

The Policy was available for public consultation on Participate Hepburn from 22 April to 20 May 2024. While the page received several hundred hits, no submissions were received.

RISK AND GOVERNANCE IMPLICATIONS

This Policy will support Council in meeting its legislative obligations in relation to privacy and data protection.

The Policy is due for review in 2024, and while only administrative changes are anticipated, the review will ensure the Policy remains current and compliant.

ENVIRONMENTAL SUSTAINABILITY

There are no sustainability implications associated with this report.

GENDER IMPACT ASSESSMENT

There are no gender equity implications associated with this report.

Revision Date: July 2024

▶ PRIVACY POLICY

POLICY NUMBER:	30 (C)
NAME OF POLICY:	Privacy Policy
DATE OF NEXT REVIEW:	July 2028
DATE APPROVED:	TBC
RESPONSIBLE OFFICER:	Manager Governance and Risk
KEY REFERENCES:	<i>Privacy and Data Protection Act 2014</i> <i>Health Records Act 2001</i>

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Revision Date: July 2024

▶ PRIVACY POLICY

POLICY STATEMENT

Hepburn Shire Council (Council) is strongly committed to ensuring that personal and health information received by Council is collected and handled in a responsible manner.

Council demonstrates its commitment through implementing the Information Privacy Principles (“IPPs”) in the *Privacy and Data Protection Act 2014 (Vic)* and the Health Privacy Principles (“HPPs”) in the *Health Records Act 2001 (Vic)* (jointly the “Privacy Principles”).

In fulfilling the objectives of the Privacy Principles, Council is mindful of the need to balance the public interest in the free flow of information with the public interest in protecting the privacy of personal and health information.

PURPOSE

To meet the IPPs and HPPs in relation to managing and handling personal and health information within Council.

SCOPE

This policy applies to all employees, councillors, committee members and contractors of Council.

This policy applies to all operations of Council, including personal information sourced by Council from third parties. This policy explains:

- how Council use, store and discloses personal information and health information;
- how individuals can gain access to their personal information and request correction of inaccuracies; and
- the process for individual to report alleged breaches of Councils responsibilities under Privacy Principles

DEFINITIONS

Personal Information	<p>Means information or an opinion about an individual who can be identified from the information, or whose identity can reasonably be ascertained from the information. The information can be recorded in any form and does not need to be true. This includes information Council has collected in any format including correspondence, in person, over the phone, and via our various websites, or information or an opinion that forms part of a database. However, where the information is health information, it need not be recorded and, where the individual has been deceased for more than 30 years, the information is no longer considered to be personal information.</p> <p>Examples of personal information:</p> <p>Names; addresses; contact details; work addresses; signatures; attendances at meetings; and opinions (particularly where those opinions would identify the person). Personal information on a public register, complaints records, records of telephone calls, building plans, in meeting minutes and many, many other types of records held by Council.</p>
Health Information	<p>Includes information or an opinion about the physical, mental, psychological health of an individual, disability of an individual or a health service provided or to be provided to an individual where that information is also personal information. Health information includes other personal information that is collected to provide or in providing a health service.</p> <p>Examples of health information:</p> <p>The assessment notes of a maternal child health nurse , records held by Council of attendees at immunisation sessions; requests for home support to be provided to a person living in the municipality made by family members outside the municipality.</p> <p>Health service - means an activity that is intended or claimed to assess, maintain or improve the individual's health, to diagnose the individual's illness, injury or disability or to treat the individual's illness, injury or disability.</p>
IPPs – Information Privacy Principles	<p>Set of principles established by the <i>Privacy and Data Protection Act 2014</i> that regulate how organisations such as Council collects, holds, manages, uses, discloses or transfers personal information.</p>
HPPs – Health Privacy Principles	<p>Set of principles established by the <i>Health Records Act 2001</i> that regulate how Council collects, holds, manages, uses, discloses or transfers health service provider information.</p>
Sensitive Information	<p>Council may also hold sensitive information in order to provide education, welfare and other services. Sensitive information is personal information that is information or an opinion about an individual's:</p> <ul style="list-style-type: none"> • race or ethnic origin • political opinions

Revision Date: July 2024


 PRIVACY POLICY

	<ul style="list-style-type: none"> • membership of a political association • religious beliefs or affiliations • philosophical beliefs • membership of a professional trade association • membership of a trade union • sexual preferences or practice • criminal record.
Public Registers	<p>Documents that are held by Council and:</p> <p>are open to inspection by members of the public;</p> <p>contain information that a person or body was required or permitted by legislation to give Council under an Act or regulation; and</p> <p>contain information that would be personal information if the document was not a generally available publication.</p>

POLICY

It is the policy of the Hepburn Shire Council that personal information is managed in accordance with the 10 Information Privacy Principles (IPPs) and the 11 Health Privacy Principles (HPPs).

<p>The 10 IPPs contained in the <i>Privacy and Data Protection Act 2014 (Vic)</i> are listed below:</p> <ul style="list-style-type: none"> Principle 1 - Collection Principle 2 - Use and Disclosure Principle 3 - Data Quality Principle 4 - Data Security Principle 5 - Openness Principle 6 - Access and Correction Principle 7 - Unique Identifiers Principle 8 - Anonymity Principle 9 - Transborder Data Flows Principle 10 - Sensitive Information 	<p>The 11 Health Privacy Principles (HPPs in the <i>Health Records Act 2001 (Vic)</i> are listed below:</p> <ul style="list-style-type: none"> Principle 1 - Collection Principle 2 - Use and Disclosure Principle 3 - Data Quality Principle 4 - Data Security and Data Retention Principle 5 - Openness Principle 6 - Access and Correction Principle 7 - Identifiers Principle 8 - Anonymity Principle 9 - Transborder Data Flows Principle 10 - Transfer or closure of the practice of a health service provider Principle 11—Making information available to another health service provider
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PRINCIPLE 1 – COLLECTION OF PERSONAL OR HEALTH INFORMATION

When collecting personal or health information from an individual, Council will take reasonable steps to advise that individual of what information is being sought, as far as practicable what the intended purpose or use is, whom will have access to the information and how they can contact Council.

Council will only collect personal or health information that is necessary for its specific and legitimate functions and activities. In some instances, Council is required by law to collect personal or health information.

Types of collected information

The personal information collected by Council typically includes, but is not limited to, the following types of information:

- name
- address (postal and e-mail)
- telephone number (work, home and mobile)
- signature
- date of birth
- credit card and bank account number
- motor vehicle registration number
- type of disability
- allergy
- chronic health condition (e.g. asthma, diabetes)
- licence number
- phone or video footage

How private information is collected

When Council collects personal or health information it will do so by fair and lawful means and not in an unreasonably intrusive way. Where it is practicable to do so at the time Council collects the personal or health information, Council will provide details of:

- why it is collecting the information
- how that information can be accessed by the individual it was collected from
- the purpose for which the information is collected
- with whom Council shares this information
- any relevant laws; and
- the consequences for the individual if all or part of the information is not collected.

The information you provide may be used for purposes including but not limited to the following:

- To contact you where it is necessary in order to provide services requested by you, such as obtaining a resident parking permit via our public interfaces.

▶ PRIVACY POLICY

- As part of our commitment to customer service, Council may periodically invite you to provide feedback about your experience via a survey (any survey is voluntary, and you do not have to participate.)
- To contact you where it is necessary to resolve issues relating to Council services or functions which you have brought to our attention. For instance, contacting you in response to your report of a fallen tree branch.
- To contact you prior to a Council or Committee meeting to confirm your attendance and/or advise you of any changes to the meeting details where you have made a submission for consideration.
- To supply you with material concerning Council initiatives and programs where you have supplied personal information to Council for this purpose. For instance, where you have opted to be included on a mailing list for a Council publication via our public interfaces.
- To be able to respond to medical emergencies to appropriately.

Council will not include you on such mailing lists unless you have given consent.

- To facilitate the collection of Council fees and charges. For instance, Council will use your name and address details to forward rate notices.
- To enable payment for Council provided goods and services. Council collect your credit card and bank account details when you make payment for good and services.
- To enable Council to undertake its law enforcement functions. For instance, Council collects information about you from various Road Traffic Authorities to process Parking Infringement Notices. Council will only collect information about you from third parties where it is authorised to do so.
- To protect Council assets, staff and community members. For instance, Council collects images via closed circuit television cameras which are located in public areas, including but not limited to; Council's depot, transfer station and museums. Footage and photographs of incidents are made available only to authorised law enforcement officers or council officers who have a legitimate reason and meet the criteria of the protocols and agree to comply with the requirements for handling, use and return of footage and photographs.

As part of our commitment to customer service, Council may periodically invite you to provide feedback about your experience via a survey. Any survey is voluntary, and you do not have to participate.

- To contact you where it is necessary to resolve issues relating to the Hepburn Shire Council services or functions which you have brought to our attention. For instance, contacting you in response to your report of a fallen tree branch.
- To contact you prior to a Council or Committee meeting to confirm your attendance and/or advise you of any changes to the meeting details where you have made a submission for consideration.
- To supply you with material concerning Council initiatives and programs where you have supplied personal information to Council for this purpose. For instance, where you have opted to be included on a mailing list for a Council publication via our public interfaces. Council will not include you on such mailing lists unless you have given consent.

- To facilitate the collection of Council fees and charges. For instance, Council will use your name and address details to forward rate notices.
- To enable payment for Council provided goods and services. Council collect your credit card and bank account details when you make payment for good and services.
- To enable Council to undertake its law enforcement functions. For instance, Council collects information about you from various Road Traffic Authorities to process Parking Infringement Notices. Council will only collect information about you from third parties where it is authorised to do so.

By way of example, when Council receives unsolicited information such as a complaint, petition or submission, it is not practicable for Council to provide these types of details.

If it is reasonable and practicable to do so, Council will collect personal or health information about you directly from you. If Council collects personal or health informational about you from someone else, it will take reasonable steps, if practicable, to make you aware of these matters.

Council will, from time to time, use this information to contact you directly on a range of issues in the performance of its functions and the exercise of its powers under various Acts and Regulations and Local Laws, to also issue accounts and for permitted purposes.

Collection Notice / Privacy Statement

All areas of Council that collect personal or health information will prepare a Collection Notice to state how the information is intended to be used, shared and disclosed. This notice could be provided in a form similar to below:

Hepburn Shire Council is committed to protecting your privacy. The personal information requested on this [insert form, survey or questionnaire] is being collected by Hepburn Shire Council for the purpose of [insert purpose] or any other directly related purpose. The personal information will also be disclosed to [insert names of any other entities Hepburn Shire Council will be disclosing the personal information to] for the purpose of [insert how those entities will be using the personal information]. It will not be disclosed to any other external party without your consent, unless required or authorised by law. If you would prefer that the personal information is not collected, [insert details of what will happen – can they still participate in the process, can they be anonymous etc]. If you wish to alter any of the personal information you have supplied to Hepburn Shire Council, please contact Council via telephone [insert number for your work area] or email [insert email address for your work area].

More information is available on Council's website or from Council's Privacy Officer (Manager Risk and Governance). Individuals may view Council's Privacy Policy on Council's website or obtain a copy from any Council office."

There are some specific requirements that Council must meet when it is collecting health information. For example, Council will only collect health information where it has obtained consent, or the law provides for the collection or another exception applies (for instance for a law enforcement functions).

There are also some specific requirements where health information is given to Council when it is providing health services. In some situations, a person giving health information about another individual, for example a family member, may request Council to keep the information confidential. In such a situation, Council will:

- confirm with the person giving the information that it is to remain confidential;
- record it only if required to give health services;
- take reasonable steps to ensure the health information is accurate and not misleading; and
- take reasonable steps to record that the information is given in confidence and is to remain confidential.

PRINCIPLE 2 – USE AND DISCLOSURE OF PERSONAL OR HEALTH INFORMATION

Council will only use personal or health information within Council, or disclose it outside Council, for the purpose for which it was collected or in accordance with the *Privacy and Data Protection 2014* and the *Health Records Act 2001*. For example, Council may use or disclose your personal or health information where you have consented to the disclosure, where a person would reasonably expect the disclosure to occur, or where the use or disclosure is specifically authorised by law.

Council will take all necessary measures to prevent unauthorised access to or disclosure of your personal or health information.

Council discloses personal or health information to external organisations such as Council's contracted service providers who perform various services for and on behalf of Council. Council contractors agree to be bound by the provisions of the *Privacy and Data Protection 2014* and the *Health Records Act 2001* just as Council is bound. Additionally, Council limits the personal or health information provided to its contractors by only providing them with that necessary to provide services to you on behalf of Council.

The law may authorise Council to disclose personal or health information to:

- debt collection agencies
- government agencies
- law enforcement agencies, including the courts and the Victoria Police, in instances where Council is required to respond to a subpoena or provide information to assist a police investigation.

Some examples of where personal or health information may be disclosed by Council are listed below:

Personal information in applications for employment with Council will be supplied to agencies such as the Victoria Police, where required by law (for instance, under the *Working with Children Act 2005*) as part of a background check. Background checks will only be carried out on applications for selected positions prior to employment with Council. Such checks will only be carried out with your written authorisation and the results will not be disclosed to third parties unless authorised by law.

Personal information provided by you as part of a public submission to a Council or committee meeting may be included with the published agenda papers and minutes of the meeting. The published agenda papers and minutes are displayed online and available in hardcopy format.

Personal information may also be contained in Council's Public Registers that are required or permitted by law to be made available for inspection in particular circumstances.

Personal or health information may be disclosed in certain circumstances, such as where it is necessary for Council to establish or defend a legal claim or where there is a serious and imminent threat to an individual's health safety or welfare, or a serious threat to public health, public safety or public welfare. Where the information is health information there are additional disclosure requirements.

PRINCIPLE 3 – DATA QUALITY

Council will take reasonable steps to make sure that the personal or health information it collects, uses or discloses, is accurate, complete and up-to-date. In addition, where the information is health information, Council will take steps that are reasonable in the circumstances and, having regard to the purpose for which the health information is to be used, to ensure that it is relevant to Council's functions and activities.

PRINCIPLE 4 – DATA SECURITY AND DATA RETENTION

Council will take all necessary steps to protect all personal or health information it holds from misuse, loss, unauthorised access, modification or disclosure. This applies regardless of the format in which the information is held.

Council will take reasonable steps to lawfully and responsibly destroy or permanently de-identify personal or health information when it is no longer needed for any purpose, subject to compliance with the *Public Records Act 1973 (Vic)*, the *Health Records Act 2001* and any other applicable law.

PRINCIPLE 5 – OPENNESS

Council will make publicly available its policies relating to the management of personal or health information. Council will on request, take reasonable steps to provide individuals with general information on the types of personal or health information it holds about the individual making the request, for what purpose the information is held, and how it collects, holds, uses and discloses that information.

You may also download Council's policy from Council's web site at:

<https://www.hepburn.vic.gov.au/council-policies/>

PRINCIPLE 6 – ACCESS AND CORRECTION

As Council is subject to the *Freedom of Information Act 1982 (Vic)*, access or correction of personal or health information about you is managed under that legislation.

Should you wish to access or amend your personal or health information, please contact Council's Freedom of Information Officer email: shire@hepburn.vic.gov.au or telephone 5348 2306.

PRINCIPLE 7 – UNIQUE IDENTIFIERS

A unique identifier is a number or code that is assigned to someone's record to assist with identification (similar to a driver's licence number).

Council will not assign, adopt, use, disclose or require unique identifiers from individuals unless it is necessary to enable Council to carry out any of its functions more efficiently. Council will only use or disclose unique identifiers assigned to individuals by other organisations if the individual consents to Council doing so, or there are legal requirements for Council to do so, or the conditions for use and disclosure set out in the *Privacy and Data Protection Act 2014* or *Health Records Act 2001* are satisfied.

PRINCIPLE 8 - ANONYMITY

Where it is both lawful and practicable, Council will give you the option of not identifying yourself when supplying information or entering into transactions with it.

Anonymity may limit Council's ability to process a complaint or other matter. Therefore, if you choose not to supply personal or health information that is necessary for Council to perform its functions, then Council reserves the right to take no further action on that matter.

PRINCIPLE 9 – TRANSBORDER DATA FLOWS

Council may transfer personal or health information about you to an individual or organisation outside Victoria only in the following instances:

- if you have provided your consent; or
- if disclosure is authorised by law; or
- if the recipient of the information is subject to a law, scheme or contract with principles that are substantially similar to the *Privacy and Data Protection Act 2014 (Vic)*; or
- where the information is health information, the specific provisions of the HPPs are met.

By way of example, Council may use cloud computing services based outside Victoria, in which case Council must ensure comply with the Victorian IPPs and HPPs in engaging with those services.

INFORMATION PRIVACY PRINCIPLE 10 – SENSITIVE INFORMATION

Council will not collect sensitive information about you except where:

- you have provided your consent; or
- the law requires the information to be collected; or
- it is necessary to collect the sensitive information for establishing, exercising or defending a legal claim; or
- in certain prescribed circumstances where:
 - the collection is necessary to prevent or lessen a serious and imminent threat to the life or health of any individual; or

- it is impracticable to obtain consent and there is no reasonable alternative to collecting the sensitive information for the purpose of research or government funded targeted welfare and educational services.

HEALTH PRIVACY PRINCIPLES 10 AND 11 – HEALTH SERVICE PROVIDER CHANGES

In the event that a health service offered by Council is discontinued the health information held by Council will be managed in accordance with the *Health Records Act 2001*. For example, the health information may continue to be held by Council or it may be transferred to a competent organisation for safe storage until such time as it can be destroyed in accordance with the principle on data security.

Where an individual requests Council to make health information available to other health providers, this will be done in accordance with the *Health Records Act 2001*. Council reserves its right to charge a fee for this service in accordance with the *Health Records Regulations 2012*.

EXEMPTIONS TO THE LEGISLATION

The *Privacy and Data Protection Act 2014* does not apply to:

- Publicly available information including: a publication that is generally available, information kept within a library, art gallery or museum, a public record under the *Public Records Act 1973*, archives within the *Copyright Act 1968*
- Information kept on Public Registers, e.g. Building Permit Register, Domestic Animals Register, Register of Pecuniary Interests and Prescribed Matters Register
- Certain information may be given to Law Enforcement Agencies if it is believed necessary for the purposes of law enforcement functions or activities
- Personal information relating to deceased persons.

Within Council, *The Health Records Act 2001* does not apply to:

- All points listed above except for the final point. *The Health Records Act 2001* does not apply to deceased persons 30 years after their death.
- Health information can be accessed through the *Freedom of Information Act 1982*

HOW TO MAKE A COMPLAINT OR ENQUIRY CONCERNING PRIVACY

The *Privacy and Data Protection Act 2014* gives you the right to complain about a breach of your privacy by Council.

Please note:

- your complaint must relate to a breach of one or more of the ten Information Privacy Principles
- your complaint should be made within 15 days of you being made aware of the breach (although it may still be considered if there are reasons you were not able to complain within the specified timeframe)
- complaints can only be about personal information that is recorded in some form.

Revision Date: July 2024

▶ PRIVACY POLICY

Complaints must:

- be made by the person whose privacy has allegedly been breached, or a person they have authorised to act on their behalf
- be in writing and accompanied by a suitable form of identification (such as a copy of your driver's licence).
- provide a brief description of the incident: for example, the date of the incident, what personal information was involved and what form it was in (if known), for example paper records, electronic database.

Your complaint will be acknowledged within five business days and will be investigated as soon as practicable. Outcome of complaints will be formally communicated back to the complainant within 30 working days of receipt of the complaint. Where the investigation will exceed 30 working days, Council will inform the complainant of the need for additional time to complete the investigation, within the 30 working day period.

Please submit your complaint to:

Manager Governance and Risk

Hepburn Shire Council

Phone: 5348 2306

Email: shire@hepburn.vic.gov.au

or Postal address: PO Box 21, Daylesford, VIC 3460

Alternatively, a Privacy complaint can be made to the [Office of the Victorian Information Commissioner \(OVIC\)](#) about Council's handling of personal information, or the [Health Complaints Commissioner](#) about Council's handling of health information. Commissioners may decline to hear complaints not made to Council first.

Where a complainant is not satisfied with the decision of Council's Privacy Officer you may apply to OVIC or the Health Complaints Commissioner using the appropriate forms downloaded from their websites.

Officer of the Victorian Information

Commissioner (OVIC)

Form available from

<https://ovic.vic.gov.au/resource/privacy-complaint-form/>

Telephone: 1300 006 842

Email: privacy@ovic.vic.gov.au

or post to: PO BOX 24014, Melbourne VIC 3001

Health Complaints Commissioner

Online form available from

<https://hcc.vic.gov.au/health-records/reporting-privacy-breaches-involving-health-information>

Telephone: 1300 582 113

Email: hcc@hcc.vic.gov.au

or post to: Level 26, 570 Bourke Street, Melbourne VIC 3000

Revision Date: July 2024

▶ PRIVACY POLICY

TRAINING AND AWARENESS

All Councillors, committee members and Council employees receive training to enhance their awareness about their obligations regarding the collection and management of personal information in Council working environment. All new Councillors, committee members and staff are required to complete an induction program when they commence their term or employment with Hepburn Shire Council. As part of the induction they must:

- agree to abide by the Code of Conduct
- agree to abide by Council's Privacy Policy.

A copy of this [Privacy Policy](#) is available to all staff via Council's intranet. It is also available on Council's external website.

RELATED DOCUMENTS

Council policies:

- Complaints Policy
- Staff and Councillor Code of Conducts

Legislation:

- [Copyright Act 1968](#)
- [Public Records Act 1973](#)
- [Equal Opportunity Act 2010](#)
- [Victorian Charter of Human Rights and Responsibilities Act 2006 \(Vic\)](#)
- [Freedom of Information Act 1982](#)
- [Working with Children Act 2005 \(Vic\)](#)
- [Health Records Act 2001](#)
- [Privacy and Data Protection Act 2014](#)

RESPONSIBILITIES

It is the responsibility of the Governance and Risk Department to review and make any necessary amendments to this Policy annually or otherwise in accordance with any changes in the legislation.

This policy will be reviewed every four years or as necessary.

13.3 ADOPTION OF POLICY 74(C) - PUBLIC INTEREST DISCLOSURE PROCEDURES

Go to 01:37:05 in the meeting recording to view this item.

EXECUTIVE MANAGER PEOPLE AND TRANSFORMATION

In providing this advice to Council as the Manager Governance and Risk, I Rebecca Smith have no interests to disclose in this report.

ATTACHMENTS

1. Policy 74(C) - Public Interest Disclosure Procedures [**13.3.1** - 25 pages]

OFFICER'S RECOMMENDATION

That Council adopts Policy 74(C) - Public Interest Disclosures Procedures as attached to this report.

MOTION

That Council adopts Policy 74(C) - Public Interest Disclosures Procedures as attached to this report.

Moved: Cr Don Henderson

Seconded: Cr Jen Bray

Carried

Voted for: Cr Brian Hood, Cr Don Henderson, Cr Jen Bray, Cr Lesley Hewitt, Cr Tessa Halliday and Cr Tim Drylie

Voted against: Nil

Abstained: Nil

EXECUTIVE SUMMARY

The purpose of this report is present the revised Policy 74(C) - Public Interest Disclosures Procedure for adoption.

Amendments proposed to this policy are minor and administrative.

BACKGROUND

This Policy was adopted in 2020 and is due for review in 2024. The initial policy was based on a template made available by Local Government Victoria.

The Policy was considered by the Audit and Risk Committee at the June meeting, and their feedback has been incorporated.

The Policy was made available for public consultation on Participate Hepburn from 22 April to 20 May 2024. While the page received several hundred hits, no submissions were received.

KEY ISSUES

This policy assists Council in meeting its obligations under the *Local Government Act 2020* and the *Public Interest Disclosures Act 2012*. It provides information to the community on the process for making a disclosure. It was last adopted on 15 September 2020. There have been no legislative changes relating to this policy, so amendments are minimal. They include:

- Additional information regarding applying the standards when deciding if improper conduct or detrimental action;
- Removal of binary language;
- Minor amendments to language and removal of duplications.

COUNCIL POLICY AND LEGISLATIVE IMPLICATIONS

Council Plan 2021-2025

A dynamic and responsive Council

5.3 A sustainable and agile organisation with strong corporate governance that supports excellent operations

FINANCIAL IMPLICATIONS

The review of this policy has been completed with existing resource. No additional budget was required.

COMMUNITY AND STAKEHOLDER ENGAGEMENT

An Engagement Plan was completed for the project and indicated that the project required a low level of engagement at the inform/consult level. This Policy is heavily legislated, with limited opportunity for community to influence or change the approach.

The Policy was available for public consultation on Participate Hepburn from 22 April to 20 May 2024. While the page received several hundred hits, no submissions were received.

RISK AND GOVERNANCE IMPLICATIONS

This Policy will support Council in meeting its legislative obligations in relation to public interest disclosures.

The Policy is due for review in 2024, and while only administrative changes are anticipated, the review will ensure the Policy remains current and compliant.

ENVIRONMENTAL SUSTAINABILITY

There are no sustainability implications associated with this report.

GENDER IMPACT ASSESSMENT

There are no gender equity implications associated with this report.

Revision Date: <Date Adopted>

**PUBLIC INTEREST DISCLOSURE PROCEDURES
FOR HEPBURN SHIRE COUNCIL**

POLICY NUMBER:	74 (C)
NAME OF POLICY:	Public Interest Disclosure Procedures for Hepburn Shire Council
DATE OF NEXT REVIEW:	July 2024
DATE APPROVED:	TBC
RESPONSIBLE OFFICER:	Manager Governance and Risk (Public Interest Disclosures Coordinator)
REFERENCES:	<i>Public Interest Disclosures Act 2012</i>

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INTRODUCTION

The *Protected Disclosure Act 2012* was renamed the *Public Interest Disclosures Act 2012* (the Act) in March 2019. The revised legislation introduced some changes to the *Protected Disclosures Act 2012* to support people making disclosures which are in the public interest. On 1 January 2020, these changes took effect replacing existing 'protected disclosure' arrangements with 'public interest disclosures'.

The Act aims to:

- Encourage and assist people to report improper conduct and detrimental action taken in reprisal for a public interest disclosure.
- Provide certain protections for people who make a disclosure or those who may suffer detrimental action in reprisal for a disclosure.
- To ensure that those disclosures are properly assessed and investigated.
- Ensure that certain information about a disclosure is kept confidential – the identity of the person making the disclosure and the content of that disclosure.

The Act has also established a new parliamentary oversight committee. The Integrity and Oversight Committee, consolidates the oversight of a number of Victorian integrity agencies, including the Independent Broad-based Anticorruption Commission, the Victorian Ombudsman and the Office of the Victorian Information Commissioner.

PURPOSE

The procedures establish a system for reporting disclosures of improper conduct or detrimental action by Council, councillors or employees. The system enables such disclosures to be made to Council's Public Interest Disclosure Coordinator and to the Independent Broad-based Anti-Corruption Commission (IBAC). Disclosures may be made by any person, this includes members of the public, councillors or employees of Hepburn Shire Council, but not a legal entity like a corporate body.

SCOPE

The procedures apply to all persons who are involved in reporting and processing of public interest disclosures made against Council employees, contractors or councillors.

POLICY STATEMENT

Council is committed to the intent and spirit of the *Public Interest Disclosures Act 2012* (the Act). Council does not tolerate improper conduct by its employees or councillors, nor the taking of reprisals against those who come forward to disclose such conduct.

Council recognises the value of transparency and accountability in its administrative and management practices, and supports the making of disclosures that reveal corrupt conduct, conduct involving a substantial mismanagement of public resources, or conduct involving a substantial risk to public health and safety or the environment

Council will take all reasonable steps to protect people who make such disclosures from any detrimental action in reprisal for making the disclosure.

PROCEDURES

1. Making a disclosure

1.1. What is a public interest disclosure?

Public interest disclosures are reports about:

- improper conduct of public bodies or public officers (such as corrupt conduct)
- detrimental action that a public officer or public body has taken against a person in reprisal for them (or another person) having made a public interest disclosure or cooperated with the investigation of a public interest disclosure.

A disclosure can relate to conduct or action that:

- may have already taken place
- may be occurring now
- may happen in the future.

1.2 Who a public interest disclosure can be about

Disclosures can be made about:

- public bodies
- public officers
- conduct of a person who is not a public officer or is not employed by a public body, where their conduct is adversely affecting the honest performance of a public body or public officer, or is intended to adversely affect their effective performance.

Public bodies include:

- a municipal council
- public sector bodies (including public entities and special bodies)
- incorporated or unincorporated bodies established under an Act for a public purpose, including universities
- the Electoral Boundaries Commission
- a body performing a public function on behalf of the State or a public body or public officer (for example, a regulatory function or a function that is publicly funded).

Public officers include:

- local government councillors and council employees
- public servants, including IBAC officers
- university employees and teachers

- Victoria Police personnel
- members of Parliament, including Ministers ministerial officers, parliamentary advisers and officers, electorate officers, judicial officers, including coroners, members of the Victorian Civil and Administrative Tribunal (VCAT), associate judges, judicial registrars
- statutory office holders, including the Auditor-General and the Victorian Ombudsman, and the Director of Public Prosecutions
- the Governor, Lieutenant-Governor or Administrator of the State.

Further information about the types of public bodies and public officers about whom disclosures can be made is in the *Public Administration Act 2004*, and the *Independent Broad-based Anti-corruption Commission Act 2011* (IBAC Act).

Someone can still make a disclosure even if they can't identify the person or the organisation to which the disclosure relates.

1.3. Who can make a disclosure?

Anyone can make a disclosure about improper conduct or detrimental action – both members of the public and employees of a public body. However, to fall within the scheme, disclosures must be made to an organisation that is authorised to receive disclosures.

Disclosures can be made by individuals or a group of people. A company or business cannot make a disclosure - but its officers or employees can.

1.4. Organisations that can receive a public interest disclosures

Disclosures about some public bodies or officers must only be made to particular entities.

The following table sets out where disclosures about specific public bodies or officers should be made.

Table 1: Which public bodies to report disclosures to

Disclosures around specific public bodies or officers	Where they should be made
the Chief Commissioner of Police the Director of Public Prosecutions the Chief Crown Prosecutor the Solicitor-General the Governor the Lieutenant- Governor or Administrator the Director, Policy Integrity the Electoral Commissioner a Commissioner or member of a Board of Inquiry appointed under the Inquiries Act 2014	IBAC

<p>a judicial employee a Ministerial officer a Parliamentary adviser an electorate office a Parliamentary officer a Minister of the Crown who is not a member of Parliament.</p>	
<p>a Councillor the Information Commissioner the Health Complaints Commissioner</p>	IBAC or the Victorian Ombudsman
<p>the Chief Examiner or an Examiner appointed under the Major Crimes (Investigative Powers) Act 2004 a Victorian Ombudsman officer a Victorian Auditor-General's officer a Judicial Commission officer (other than a judicial member of the Board of the Judicial Commission).</p>	IBAC or the Victorian Inspectorate
<p>a member of police personnel (other than the Chief Commissioner).</p>	IBAC or a Prescribed Member of Police Personnel
<p>a member of Parliament (Legislative Assembly).</p>	The Victorian Inspectorate
<p>a Judicial officer or a member of VCAT who is not a judicial officer</p>	IBAC or the Judicial Commission
<p>a Victorian Inspectorate Officer.</p>	Integrity and Oversight Committee, the Speaker of the Legislative Assembly of the President of the Legislative Council

If the subject of the disclosure is not listed in the above table, the disclosure can be made to the following organisations that are authorised to receive public interest disclosures.

Table 2 – List of organisations authorised to receive public interest disclosures (if not listed in previous diagram).

Organisation	Officer who can receive disclosures
<p>Council</p> <p>All councils can receive disclosures that relate to the conduct of themselves, or disclosures made by their own members, officers or employees. Disclosures about councils can also be made to IBAC, or to the Victorian Ombudsman or the Victorian Inspectorate</p>	<ul style="list-style-type: none"> • Chief Executive Officer • A person identified in council's procedures as a person who can receive a disclosure about that council, e.g. Public Interest Disclosure Coordinator • Manager or supervisor of the discloser • Manager or supervisor of the person who is the subject of the disclosure.
IBAC	<ul style="list-style-type: none"> • The Commissioner • A Deputy Commissioner • The Chief Executive Officer • An IBAC employee • An IBAC consultant.
Victorian Ombudsman	<ul style="list-style-type: none"> • A Victorian Ombudsman officer
Victorian Inspectorate	<ul style="list-style-type: none"> • The Victorian Inspector • A Victorian Inspectorate employee
<p>Public Service body</p> <p>Public service bodies can only receive disclosures that relate to the conduct of themselves, or disclosures made by their own members, officers or employees. Disclosures about public sector bodies can also be made to IBAC, or to the Victorian Ombudsman or the Victorian Inspectorate.</p>	<ul style="list-style-type: none"> • Head of the relevant public service body • A person identified in council's procedures as a person who can receive a disclosure about that council, e.g. Public Interest Disclosure Coordinator • Manager or supervisor of the discloser • Manager or supervisor of the person who is the subject of the disclosure.

1.5. Disclosures made to an organisation that is not authorised to receive public interest disclosures

If someone makes a disclosure to an agency that isn't authorised to receive public interest disclosures, the disclosure will not be protected under the Act. The person should be advised what organisations can receive disclosures.

1.6. How can a disclosure be made?

A person may make a disclosure verbally or in writing. The disclosure may also be anonymous.

Private verbal disclosure

Disclosures can be made in person, by phone or by leaving a voice mail message.

Verbal disclosures must be made in private. This means the person making the disclosure must reasonably believe that only the following people (other than themselves) are present or able to listen to the conversation:

- a lawyer representing the person making the disclosure (if any)
- one or more people to whom a disclosure can be made under the Act or Regulations.

This does not preclude a group of individuals from making a joint disclosure.

If the disclosure is made verbally, the person receiving the disclosure must make notes at the time. This person can also record the conversation, however should give prior warning that the conversation will be recorded. The conversation should not be recorded if the discloser objects.

Written disclosure

A written disclosure can be provided to Council by:

- delivering it in person to Council offices at 1 Duke Street, Daylesford VIC 3460
- mailing it to the PO Box 21, Daylesford Victoria 3460
- emailing to the email address publicinterestdisclosures@hepburn.vic.gov.au
- completing the online form available on the [IBAC](#) and the [Victorian Ombudsman](#) websites.
- A disclosure cannot be made by fax.

Anonymous disclosure

A discloser need not identify themselves to make a disclosure.

An anonymous disclosure can be made by using unverifiable email addresses, through anonymous phone calls or in a face-to-face conversation or meeting where the person refuses to identify themselves (provided that meeting or conversation takes place 'in private' in accordance with the Public Interest Disclosures Regulations).

If the disclosure comes from an email address where the identity of the person making the disclosure cannot be determined, the disclosure should be treated as an anonymous disclosure.

1.7. Who can receive disclosures?

Disclosures of improper conduct or detrimental action by Council or its employees, may be made to the Public Interest Disclosure Coordinator.

The following officers of Council can receive disclosures:

- Chief Executive Officer
- Public Interest Disclosure Coordinator (Manager Governance and Risk).

- The Public Interest Disclosure Coordinator will be the main contact point within Council.

2. Definitions of key terms

Disclosures can be made under the public interest disclosure regime where they relate to improper conduct or detrimental action. Definitions of these terms are set out below.

2.1. *Improper conduct*

Improper conduct includes corrupt conduct, criminal offences and other conduct specified in the Act. If the conduct is trivial, it will not meet the threshold of improper conduct.

When assessing allegations of improper conduct, you need to identify that there is a link between the conduct and the official function of a public officer or public body.

Improper conduct includes corrupt conduct and/or any of the following conduct by a public officer or public body in their capacity as a public officer or public body:

- a criminal offence
- serious professional misconduct
- dishonest performance of public functions
- an intentional or reckless breach of public trust
- an intentional or reckless misuse of information or material acquired in the course of the performance of the functions of the public officer or public body
- a substantial mismanagement of public resources
- a substantial risk to health or safety of one or more persons
- a substantial risk to the environment
- conduct of any person that:
 - adversely affects the honest performance by a public officer or public body of their public functions
 - is intended to adversely affect the effective performance or exercise by a public officer or public body of the functions or powers of the public officer or public body and results in the person, or an associate of the person, obtaining:
 - a licence, permit, approval, authority or other entitlement under any Act or subordinate instrument
 - an appointment to a statutory office or as a member of the board of any public body under any Act or subordinate instrument
 - a financial benefit or real or personal property
 - any other direct or indirect monetary or proprietary gain, that the person or associate would not have otherwise obtained.
- conduct of any person that could constitute a conspiracy or attempt to engage in any of the conduct referred to above.

2.2 Serious Professional Misconduct

Serious professional misconduct is conduct that constitutes a serious breach of an established professional code of conduct and/or other serious departures from the person's professional responsibilities. This may include a serious failure to exhibit the skills and experience required to perform the functions of the office, as well as non-compliance with professional codes of conduct or the policies, procedures and laws that govern behaviour in the public sector and the workplace.

To identify whether serious professional misconduct has occurred, the following will be considered:

- the person has behaved in a way that is inconsistent with the expectations, skills and responsibilities of their office
- the behaviour the person engaged in was in their capacity as a public officer
- the misconduct was serious.

Factors to consider when assessing whether misconduct is serious are:

- persistent, repeated or premeditated behaviour
- risks posed to others or the consequences of the behaviour (including for the public officer and others)
- the level of public trust and responsibility attached to the public office
- the amount of money involved in the wrongdoing • how the conduct is perceived by the person's peers
- whether the conduct would result in significant disciplinary or potentially criminal penalties
- the size of the discrepancy between what the person should have done and what they did
- whether it should have been apparent to the person that they were wrong.

2.2. Detrimental action

It is an offence for a person to take, threaten to take or allow another person to take detrimental action against another person in reprisal for making a public interest disclosure.

Detrimental action includes:

- action causing injury, loss or damage
- intimidation or harassment
- discrimination, disadvantage or adverse treatment in relation to a person's employment, career, profession, trade or business, including the taking of disciplinary action

The person need not have actually taken the detrimental action but can just have threatened to do so or incited or permitted someone else to do so.

When assessing a disclosure for detrimental action the following will be considered as part of the assessment:

PUBLIC INTEREST DISCLOSURE PROCEDURES
 FOR HEPBURN SHIRE COUNCIL

- both the nature of the detrimental action and whether it is being taken in reprisal for a public interest disclosure
- did the person take or threaten the action (or incite or permit another person to take or threaten the action) because (or in the belief that):
 - the other person (or anyone else) has made, or intends to make, the disclosure
 - the other person (or anyone else) has cooperated, or intends to cooperate, with an investigation of the disclosure.

The Act does not prevent a manager taking management action against a person who has made a disclosure provided that the making of the disclosure is not the reason for the management action being taken.

3. What standard needs to be applied?

The disclosure needs to be assessed to decide if it is about improper conduct or detrimental action. There are two standards that should be considered:

Table 3 – Standards to be applied when deciding if improper conduct or detrimental action

Shows or tends to show improper conduct or detrimental action	Reasonable belief that improper conduct or detrimental action has occurred
<p>Does the information provided show or tend to show there is improper conduct or detrimental action?</p> <p>Reliability of the information</p> <p>In assessing if there is improper conduct or detrimental action, look at all the information provided about the alleged conduct and about the discloser:</p> <ul style="list-style-type: none"> • What is the discloser’s connection to the alleged conduct? Are they a victim, a witness, or a participant? • How did they come to know about the conduct? Were they directly involved in it? Did they observe it happening to another person? Did someone else tell them about it? • How detailed is the information provided? Is there sufficient information to enable you to consider whether there is improper conduct or detrimental action? • How reliable is the information? Is it 	<p>Does the discloser believe on reasonable grounds that improper conduct or detrimental action has occurred?</p> <p>Reasonable belief</p> <p>A person making a disclosure must reasonably believe that improper conduct or detrimental action has occurred or is going to occur. This requires more than a suspicion; the belief must have supporting facts and circumstances. For example, it would not be sufficient for a person’s disclosure to consist simply of a one sentence statement like ‘I know XYZ is corrupt’. The test is whether a reasonable person, possessed of the same information, could believe that the improper conduct had occurred. Other matters that can be considered to determine if there are reasonable grounds for the discloser’s belief is the reliability of the information they have provided, even if it is second or third hand. You can consider how the person would have</p>

Revision Date: <Date Adopted>

PUBLIC INTEREST DISCLOSURE PROCEDURES
FOR HEPBURN SHIRE COUNCIL

supported by other information?	obtained the information and the amount of detail that has been provided. You can also consider the credibility of the discloser or the people who provided the discloser with information.
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Table 4 – Notifying your assessment

It is a public interest disclosure	It is NOT a public interest disclosure
<p>Notify the appropriate agency</p> <p>Council will notify the appropriate agency in writing, within 28 days after the disclosure was made, that:</p> <ul style="list-style-type: none"> the disclosure may be a public interest disclosure Council is sending the disclosure for assessment. <p>Council will also provide the agency with any information obtained regarding the disclosure in the course of inquiries. Note, this information can be provided at the time of notification or at any later time.</p> <p>IBAC is the appropriate agency for all disclosures except the following:</p> <ul style="list-style-type: none"> Disclosures about IBAC or the Public Interest Monitor must be notified to the Victorian Inspectorate. Disclosures about the Victorian Inspectorate must be notified to the Integrity and Oversight Committee. <p>Notify the discloser</p> <p>Council will notify the discloser in writing, within 28 days after the disclosure was made, that the disclosure has been sent to IBAC for assessment.</p>	<p>Council will advise the discloser in writing, within 28 days after the disclosure was made, that:</p> <ul style="list-style-type: none"> Council does not consider the disclosure shows or tends to show improper conduct or detrimental action the disclosure has not been sent to IBAC, the Victorian Inspectorate or the Integrity and Oversight Committee for assessment the discloser's identity doesn't have to be kept confidential, but protections under Part 6 of the Act apply, for example: <ul style="list-style-type: none"> they can't be fired, disciplined or bullied for making the disclosure they are protected from legal actions such as defamation and civil liability. <p>Note, Council does not have to provide the discloser with this information unless the discloser has indicated, or it otherwise appears to Council that they wish to receive the protections that apply to a public interest disclosure under the Act. Council will consider whether the disclosure could be dealt with according to your organisation's normal complaint handling procedures.</p>

3.1. Can a discloser request that a complaint not be dealt with as a public interest disclosure?

Yes. A discloser can advise that they do not want the disclosure treated as a public interest disclosure by stating so in writing at the time of making the disclosure or within 28 days of making the disclosure.

3.2. Protection for public officers

When a public officer acts in good faith and in accordance with the public interest disclosure scheme, they do not commit an offence under section 95 of the *Constitution Act 1975* or any other Act that imposes a duty to maintain confidentiality, and do not breach confidentiality obligations or information disclosure restrictions.

3.3. If urgent action is required while a disclosure is being assessed

In some circumstances, the disclosure may be about conduct that may pose an immediate threat to the health and safety of individuals, or the preservation of property, or may consist of serious criminal conduct.

Examples could include a child protection worker allegedly assaulting children in care, a council worker allegedly lighting bush fires, or a person threatening to poison the water supply.

In these cases, Council will take immediate action while considering whether or not it is a disclosure that must be notified to IBAC. Council may also take immediate action while awaiting IBAC's decision on a notified matter.

It may be necessary to report criminal conduct to Victoria Police for immediate investigation or take management action against an employee to prevent future conduct.

While the Act limits the release of information about disclosures, it allows Council to disclose the content of the disclosure 'to the extent necessary for the purpose of taking lawful action' in relation to conduct that is the subject of a disclosure, including disciplinary process or action. However, this does not allow Council to reveal the identity of the discloser.

There is also an exception that allows both disclosure content and the discloser's identity to be shared with Victoria Police where an investigating entity has previously disclosed information to the Chief Commissioner of Police relating to actual or potential criminal conduct and the information is relevant to an investigation by Victoria Police of the criminal conduct.

4. IBAC assessment

Once a notification is made to IBAC, then IBAC must assess whether, in IBAC's view, the assessable disclosure is a public interest complaint. If IBAC is of the view that the assessable disclosure is a public interest complaint, then the discloser is protected.

In making its assessment, IBAC may seek additional information from the notifying entity or from the discloser if IBAC considers there is insufficient information to make a decision.

If IBAC determines that a disclosure is a public interest complaint, it will investigate or refer a disclosure, or it may take no further action.

4.1. IBAC’s determination

IBAC will provide the following information to a disclosure following its determination:

Table 5 – Information provided by IBAC when making a determination.

It is a public interest complaint	It is NOT a public interest complaint
<p>IBAC must advise the discloser of the determination and the action it will take. This includes advising the discloser whether IBAC has decided to investigate or refer the complaint or take no further action.</p> <p>If IBAC decides to take no further action it must give reasons for its decision.</p> <p>If IBAC decides to investigate or refer the complaint it must provide a written statement advising the discloser that it is an offence to disclose IBAC’s action. IBAC must notify the discloser in writing and within a reasonable time. However, IBAC may decide not to notify the discloser or the entity that has notified the disclosure if it considers that notifying would have one of the adverse consequences set out in the IBAC Act.</p> <p>These adverse consequences include putting a person’s safety at risk, or prejudicing an investigation under the IBAC Act</p>	<p>IBAC must advise the discloser in writing within a reasonable time, that:</p> <ul style="list-style-type: none"> • IBAC has determined their disclosure is not a public interest complaint • the disclosure will not be investigated as a public interest complaint • their identity does not have to be kept confidential. <p>IBAC will advise the notifying entity of its determination.</p> <p>IBAC may also consider treating the disclosure as a complaint under the IBAC Act which engages its powers to refer the matter to a more appropriate agency to investigate, including the agency the complaint is about.</p> <p>IBAC will consult with the discloser prior to doing so.</p>

4.2. IBAC – investigating complaints

IBAC may choose to investigate the alleged conduct if it is corrupt conduct that is serious or systemic.

Confidentiality and welfare issues

During the investigation of a public interest complaint, IBAC or another investigating entity may need to contact the public body that is the subject of the complaint.

If so, the public body or public officer will be able to disclose information about the public interest complaint without breaching the confidentiality requirements of the Act.

IBAC or the relevant investigating entity may also disclose the identity of the discloser and the content of the complaint if necessary. If so, the public body or public officer to whom the information has been disclosed is bound by the confidentiality requirements of the Act.

In addition, if the public body or public officer is advised of the identity of the discloser, then they will be required to look after the welfare of the discloser and provide protection against possible detrimental action.

4.3. IBAC – referring a complaint

IBAC may refer a public interest complaint to another investigating entity:

- Complaints about the conduct of a member of Victoria Police may be referred to the Chief Commissioner of Police.
- Other complaints may be referred to the Victorian Ombudsman, or depending on the nature of the complaint, the Chief Municipal Inspector, the Judicial Commission, the Racing Integrity Commissioner or the Information Commissioner.

If there is another public body that may be more suited to investigating a complaint (for example, a council or Victorian Government department), IBAC may refer the complaint to that body if the person who made the complaint gives their consent.

4.4. IBAC – no further action

If IBAC dismisses a public interest complaint, it must do so for reasons set out in the Act, for example if the complaint:

- lacks substance or credibility
- is vexatious or trivial
- is about a matter that neither IBAC or a body specified in the IBAC Act may investigate.

4.5. IBAC’s obligations – providing information to the discloser at the end of an investigation

IBAC must provide the discloser with information about the results of its investigation. This will include any action taken by IBAC and any recommendation by IBAC that action or further action be taken.

IBAC may provide written information to the relevant principal officer about the commencement, conduct or result of an investigation. This includes any actions taken and any recommendations for action or further action. However, IBAC must not provide any information that is likely to lead to a discloser being identified.

IBAC does not have to provide this information to either the discloser or the relevant principal officer if it considers the disclosure might result in any of the possible adverse outcomes specified in section 163(4) of the *Independent Broad-based Anti-corruption Commission Act 2011.5*.

Protections for persons making disclosure

The following types of disclosures are protected:

- any disclosure assessed as public interest disclosure (where the assessment has been made by an organisation that is authorised to receive disclosures). The protections apply even if the public body receiving the disclosure does not notify IBAC.
- any notification that IBAC receives and determines to be a public interest complaint.

How the discloser is protected is set out below:

- cannot be fired, disciplined or bullied for making a disclosure
- is not subject to any civil or criminal liability for making a disclosure
- is not committing an offence against the *Constitution Act 1975* or any other Act that imposes obligations of confidentiality or any other restriction on the disclosure of information
- is not breaching any other obligation (made by oath, rule of law or practice) requiring him or her to maintain confidentiality or otherwise restrict confidentiality
- cannot be held liable for defamation in relation to information included in a public interest disclosure.

5.1. Confidentiality – content and identity of a person making a public interest disclosure

Confidentiality is another way that disclosers and other people involved in public interest complaint investigations are protected.

There are two main restrictions on disclosing information. Breaching either of these restrictions is an offence:

Table 6 – Protecting the confidentiality of a person making a public interest disclosure.

Content of a public interest disclosure must be confidential	Identity of a person making a public interest disclosure must be confidential
<p>The Act prohibits the disclosure of the content, or information about the content, of any disclosure that has been assessed as a public interest disclosure.</p> <p>This restriction applies to a person or body that receives a disclosure or is provided information about the disclosure by an investigating entity assessing or investigating it. The restriction does not apply to the discloser.</p>	<p>The Act prohibits the disclosure of information that would be likely to lead to the identification of a person who has made a public interest disclosure.</p> <p>This restriction applies to any person or body, other than the discloser.</p>

These restrictions and their exceptions are set out in sections 52, 53 and 54 of the Act.

5.1.1. Exceptions to confidentiality requirements

There are certain circumstances where the confidentiality requirements do not apply.

These are:

- when a body is exercising its functions under the Act
- it is disclosed by an investigating entity for the purpose of the exercise of functions under the Act that authorises that investigating entity to investigate a public interest complaint
- IBAC, the Victorian Inspectorate or the Integrity and Oversight Committee determines the disclosure is not a public interest complaint
- when a disclosure is to Victoria Police where an investigating entity has previously disclosed information to the Chief Commissioner of Police relating to actual or potential criminal conduct and the information is relevant to an investigation by Victoria Police of the criminal conduct
- it is for the purpose of a proceeding or for a disciplinary process under a relevant Act
- the disclosure is necessary for the discloser to obtain legal advice or representation, interpretive services, the advice of a parent or guardian (for disclosers under 18 years), the advice of an independent person (for disclosers who are illiterate or have mental or physical impairments)
- the disclosure is for the purpose of assisting the discloser to seek advice or support from a registered health practitioner or trade union or employee assistance program
- the disclosure is to WorkCover for a workers compensation claim or to the Fair Work Commission for an application.

5.1.2. Additional exceptions to confidentiality of the content of a public interest disclosure

Confidentiality doesn't apply if:

- the disclosure is in accordance with a direction or authorisation from the investigating entity that is investigating the public interest complaint
- the disclosure is necessary for taking lawful action in relation to the conduct that is the subject of the disclosure.

5.1.3. Additional exceptions to confidentiality of the identity of a person making a public interest disclosure

Confidentiality doesn't apply if the discloser gives written consent.

5.2. Limits on protections

A number of the protections in the Act do not apply if a discloser:

- knowingly provides false or misleading information
- claims that a matter is the subject of a public interest disclosure knowing the claim to be false.

The Act also specifically states that a person is still liable for their own conduct even if they disclose that conduct.

A person who makes a disclosure is not protected against legitimate management action being taken in relation to them.

6. Offences

Taking disciplinary or other action against a person who has made a disclosure creates the perception that it is being taken in reprisal for the disclosure.

Where disciplinary or other action is being contemplated, the Chief Executive Officer or other responsible public officer must be able to clearly demonstrate that:

- the fact that a person has made a public interest disclosure is not any part of the reason for taking action against the employee
- there are good and sufficient grounds that would fully justify action against any other person in the same circumstances
- there are good and sufficient grounds that justify exercising any discretion to institute disciplinary or other action.

Council may obtain legal advice before taking any action against the person making a public interest disclosure.

Care will be taken to thoroughly document the process. This includes recording the reasons why the disciplinary or other action is being taken, and the reasons why the action is not in retribution for making the disclosure.

The person making a public interest disclosure should be clearly advised of the proposed action to be taken and of any mitigating factors that have been taken into account.

See Appendix 1 for the Civil and Criminal Penalties Under the Act.

7. The reporting system

7.1. Contact persons within Council

Disclosures of improper conduct or detrimental action by Council or its employees, may be made to the Public Interest Disclosure Coordinator or the Chief Executive Officer.

All correspondence, phone calls and emails from internal or external persons making a disclosure must be referred to the Public Interest Disclosure Coordinator.

Where a person is contemplating making a disclosure and is concerned about approaching the Public Interest Disclosure Coordinator in the workplace, they can call the Public Interest Disclosure Coordinator and request a meeting in a discreet location away from the workplace.

7.2 Alternative contact persons

A disclosure about improper conduct or detrimental action by Council or its employees may also be made directly to IBAC.

The following sets out where disclosures about persons other than employees or Councillors of Council should be made. Disclosures relating to Councillors must be made to IBAC or the Victorian Ombudsman.

8. Roles and responsibilities

8.1. Employees

Employees are encouraged to report known or suspected incidences of improper conduct or detrimental action in accordance with these procedures.

All employees of the Hepburn Shire Council have an important role to play in supporting those who have made a legitimate disclosure. They must refrain from any activity that is, or could be perceived to be, victimisation or harassment of a person who makes a disclosure. Furthermore, they should protect and maintain the confidentiality of a person they know or suspect to have made a disclosure.

8.2. Public Interest Disclosure Coordinator

The Public Interest Disclosure Coordinator will be a contact point within Council and will:

- Establish and manage a confidential filing system
- Receive all disclosures
- Receive phone calls, emails and letters from members of the public or Council employees seeking to make a disclosure
- Be a contact point for general advice about the operation of the Act for any person wishing to make a disclosure about improper conduct or detrimental action
- Make arrangements for a disclosure to be made privately and discreetly and, if necessary, away from the workplace
- Receive any disclosure made orally or in writing (from internal and external person)
- Commit to writing any disclosure made orally
- Impartially assess the allegation and determine whether it is a disclosure made in accordance with the Act (that is, a public interest disclosure)
- Take all necessary steps to ensure the identity of the person making the disclosure and the identity of the person who is the subject of the disclosure are kept confidential
- Impartially assess each disclosure to determine whether it is a public interest disclosure
- Refer all public interest disclosures to IBAC
- Appoint a Welfare Manager to support the person making the disclosure and to protect them from any reprisals
- Collate and provide statistics on disclosures made

8.3. Receipt of disclosures by staff

Council staff receiving telephone calls must not enquire into the circumstances of the disclosure and must refer the caller to the Public Interest Disclosure Coordinator. If the disclosure is received in the mail or in some other written form, the letter, email, or document must be immediately and personally delivered to the Public Interest Disclosure Coordinator without recording any details of the disclosure in Council's electronic document management system - Content Manager.

The contents of disclosure telephone calls or mail are confidential and a person divulging any matter relating to a disclosure will be subject to prosecution for offences and any penalties under the Act.

8.4. Welfare manager

The Welfare Manager is responsible for looking after the general welfare of the discloser. The Welfare Manager will:

- Examine the immediate welfare and protection needs of the discloser and seek to foster a supportive work environment.
- Advise the discloser of the legislative and administrative protections available to him or her.
- Listen and respond to any concerns of harassment, intimidation, or victimisation in reprisal for making disclosure.
- Ensure the expectations of the discloser are realistic.

The Welfare Manager may be a person from within Council or a third party engaged for that purpose.

8.5. The Freedom of Information Act

Documents may not be subject to the *Freedom of Information Act 1982* (FOI Act) if they disclose information that:

- relates to a public interest disclosure or police complaint disclosure
- is likely to identify a person who has made a public interest disclosure.

Public bodies should ensure that any officers handling freedom of information requests are aware of this section.

Council's Freedom of Information Officer will give consideration to contacting IBAC prior to providing any document originating from IBAC or relating to a public interest disclosure, if requested under the FOI Act.

9. Confidentiality

Council will take all reasonable steps to protect the identity of the discloser. Maintaining confidentiality is critical in ensuring reprisals are not made against a discloser.

The Act requires any person who receives information due to the handling or investigation of a public interest disclosure, not to disclose the information except in limited circumstances.

9.1. Information Management

Council will ensure all files, whether paper or electronic, are kept in a secure room and can only be accessed by the Public Interest Disclosure Coordinator, or Welfare Manager (in relation to welfare matters). All printed material will be kept in files that are clearly marked as a Public Interest Disclosures Act matter, and warn of the civil and criminal penalties that apply to any unauthorised divulging information concerning a public interest disclosure.

All electronic files will be produced and stored on a stand-alone computer and be given password protection. Backup files will be kept on an encrypted memory stick. All materials relevant to an investigation, such as tapes from interviews, will also be stored securely with the public interest disclosure file(s).

Council will not email documents relevant to a disclosure matter to any computer where general staff have access and will ensure all phone calls and meetings are conducted in private.

10. Managing the welfare of the discloser

10.1. Commitment to protecting discloser

Council is committed to the protection of genuine disclosers against detrimental action taken in reprisal for the making of public interest disclosures. The Public Interest Disclosure Coordinator has the primary responsibility for ensuring the discloser is protected from direct and indirect detrimental action, and that the culture of the workplace is supportive of public interest disclosures being made. The Public Interest Disclosure Coordinator will appoint a Welfare Manager to all disclosures who have made a public interest disclosure.

In addition to these procedures, the Welfare Manager will in accordance with Council's 'Welfare Management Procedures - Public Interest Disclosures' manage the welfare of persons associated with a public interest disclosure.

11. Compliance reporting

Council is required to publish certain statistics about the Act in its annual report. That information relates mainly to how the procedures may be accessed, and the number of disclosures notified to the IBAC for assessment under the Act during the financial year.

The Public Interest Disclosure Coordinator will establish a secure register to record such information, and to generally keep account of the status of disclosures made under the Act.

Revision Date: <Date Adopted>

PUBLIC INTEREST DISCLOSURE PROCEDURES
FOR HEPBURN SHIRE COUNCIL

REVIEW

The procedures will be reviewed regularly to ensure they meet the objectives of the Act and Regulations and accord with the IBAC guidelines.

REFERENCES

Independent Broad-Based Anti-Corruption Act 2011

Public Interest Disclosures Act 2012

Public Interest Disclosures Regulations 2019

Ombudsman Act 1973

The Independent Broad-Based Anti-Corruption Commission Guidelines for Making and Handling Public Interest Disclosures

The Independent Broad-Based Anti-Corruption Commission Guidelines for Public Interest Disclosures Welfare Management

Appendix 1 - Civil and criminal penalties under the *Public Interests Disclosure Act 2012*

Specific offences	Penalties
Detrimental action	
<p>Liability of an individual</p> <p>It is an offence for a person to take or threaten action in reprisal when:</p> <ul style="list-style-type: none"> • another person has made or intends to make a public interest disclosure • the person believes another person has made or intends to make a public interest disclosure • another person has cooperated or intends to cooperate with the investigation of a public interest disclosure • the person believes another person has cooperated or intends to cooperate with the investigation of a public interest disclosure 	<p>Criminal penalty: 240 penalty units or two years imprisonment or both</p> <p>AND (if person is convicted or found guilty of an offence) possible order of court for reinstatement or reemployment of person subjected to detrimental action.</p> <p>Civil penalty: Order of court for offender to pay appropriate level of damages to compensate for injury, loss or damage.</p>
<p>Vicarious liability of their employer</p> <p>An employer may also be held to be liable for the detrimental action of their employee or agent</p>	<p>Criminal penalty: 240 penalty units or two years imprisonment or both</p> <p>AND (if person is convicted or found guilty of an offence) possible order of court for reinstatement or reemployment of person subjected to detrimental action.</p> <p>Civil penalty: Order of court for offender to pay appropriate level of damages to compensate for injury, loss or damage.</p>
<p>Disclosure of content of a public interest disclosure or police complaint disclosure A person/body must not disclose content of a disclosure or information about its content</p>	<ul style="list-style-type: none"> • 120 penalty units or 12 months imprisonment or both (person) • 600 penalty units (body corporate)
<p>Disclosure of identity of person making a public interest disclosure or police complaint disclosure</p> <p>A person/body must not disclose information likely to lead to the identification of a person who has made a disclosure</p>	<ul style="list-style-type: none"> • 120 penalty units or 12 months imprisonment or both (person) • 600 penalty units (body corporate)

<p>Making false disclosure or providing false further information</p> <p>A person must not provide information intending it be acted on as a public interest disclosure, or further information that relates to a public interest disclosure, knowing it to be false or misleading</p>	<p>120 penalty units or 12 months imprisonment or both</p>
<p>Falsely claiming a disclosure is a public interest disclosure</p> <p>A person must not falsely claim a matter is the subject of a public interest disclosure or the subject of a disclosure determined to be a public interest disclosure</p>	<p>120 penalty units or 12 months imprisonment or both</p>

13.4 ADOPTION OF POLICY 80(C) - COUNCIL EXPENSES AND RESOURCES POLICY

Go to 01:39:44 in the meeting recording to view this item.

EXECUTIVE MANAGER PEOPLE AND TRANSFORMATION

In providing this advice to Council as the Manager Governance and Risk, I Rebecca Smith have no interests to disclose in this report.

ATTACHMENTS

1. Policy 80(C) - Council Expenses and Resources Policy [**13.4.1** - 32 pages]

OFFICER'S RECOMMENDATION

That Council:

1. *Adopts Policy 80(C) - Council Expenses and Resources Policy as attached to this report, and;*
2. *Revokes the following governing policies, which are not legislatively required and have now been superseded by the Local Government Act 2020 and other policies:*
 - a. *Governing Framework;*
 - b. *Governing Policy 1 – Core Values;*
 - c. *Governing Policy 2 – Culture and Behaviour;*
 - d. *Governing Policy 3 – Community Engagement; and*
 - e. *Governing Policy 4 – Risk Management.*

MOTION

That Council:

1. *Adopts Policy 80(C) - Council Expenses and Resources Policy as attached to this report, and;*
2. *Revokes the following governing policies, which are not legislatively required and have now been superseded by the Local Government Act 2020 and other policies:*
 - a. *Governing Framework;*
 - b. *Governing Policy 1 – Core Values;*

- c. *Governing Policy 2 – Culture and Behaviour;*
- d. *Governing Policy 3 – Community Engagement; and*
- e. *Governing Policy 4 – Risk Management.*

Moved: Cr Don Henderson

Seconded: Cr Tim Drylie

Carried

Voted for: Cr Brian Hood, Cr Don Henderson, Cr Jen Bray, Cr Lesley Hewitt, Cr Tessa Halliday and Cr Tim Drylie

Voted against: Nil

Abstained: Nil

EXECUTIVE SUMMARY

The Councillor Resources and Expenses Policy is due to review. Amendments proposed to this policy are relatively minor and administrative.

Council also currently has a governing framework and four governing policies which were adopted in January 2019 and which have been superseded by other policies, or the *Local Government Act 2020*, which are proposed to be revoked:

- Governing Framework
- Governing Policy 1 – Core Values;
- Governing Policy 2 – Culture and Behaviour;
- Governing Policy 3 – Community Engagement; and
- Governing Policy 4 – Risk Management

BACKGROUND

This Policy was adopted in 2020 and is due for review in 2024. The initial policy was based on a template made available by Local Government Victoria.

The Policy was considered by the Audit and Risk Committee at the June meeting, and their feedback has been incorporated.

The Policy was made available for public consultation on Participate Hepburn from 22 April to 20 May 2024. While the page received several hundred hits, no submissions were received.

KEY ISSUES

This policy is a requirement of the *Local Government Act 2020*. It was last adopted on 25 August 2020. There have been no legislative changes relating to this policy, so amendments are minimal. They include:

- Clarification that individual training and development provided during the first year of the Council Term will be required to be reported on as a separate expense, as for other years.
- Update to clarify that interstate and overseas travel requires prior approval by Council resolution.
- Update to reflect change in regulations to no longer require a travel register, but to require travel expenses to be included in the Annual Report.
- Removal of the reference to Wards. Should the new term of Councillors nominate portfolios, an administrative update can be made to accommodate this.
- Clarification that the Mayor can choose to take an allowance, or a vehicle while serving as Mayor.
- Clarification of the requirement for drivers to abide by all current road rules and laws when operating a Council vehicle.
- Removal of duplication with Communication and Social Media Policy.
- Inclusion of new technologies.
- Removal of binary language.
- Removal of repetitive information.
- Minor amendments to language.

Governing Policies

A framework and four governing policies were adopted by Council in January 2019. These policies were not a legislative requirement, and have since been superseded by other policies, and/or the *Local Government Act 2020*. They were:

- Governing Framework – Superseded by the *Local Government Act 2020*
- Governing Policy 1: Core Values - Superseded by the *Local Government Act 2020* and the Public Transparency Policy
- Governing Policy 2: Culture and Behaviour - Superseded by the *Local Government Act 2020* and the Councillor Code of Conduct
- Governing Policy 3: Community Engagement - Superseded by the *Local Government Act 2020* and the Community Engagement Policy
- Governing Policy 4: Risk Management - Superseded by the *Local Government Act 2020*, the Risk Management Framework and the Risk Management Policy.

These policies are available on Council's website here:

<https://www.hepburn.vic.gov.au/Council/Plans-and-publications/Policies>

Officers recommend that these policies be revoked as they are no longer required and contradict new requirements under the *Local Government Act 2020* and other policies.

COUNCIL POLICY AND LEGISLATIVE IMPLICATIONS

Council Plan 2021-2025

A dynamic and responsive Council

5.3 A sustainable and agile organisation with strong corporate governance that supports excellent operations

FINANCIAL IMPLICATIONS

The review of this policy has been completed with existing resource. No additional budget was required.

COMMUNITY AND STAKEHOLDER ENGAGEMENT

An Engagement Plan was completed for the project and indicated that the project required a low level of engagement at the inform/consult level. This Policy is heavily legislated, with limited opportunity for community to influence or change the approach.

The Policy was available for public consultation on Participate Hepburn from 22 April to 20 May 2024. While the page received several hundred hits, no submissions were received.

RISK AND GOVERNANCE IMPLICATIONS

This Policy will support Council in meeting its legislative obligations in relation to expenses and resources to support Councillors in their roles.

The Policy is due for review in 2024, and while only administrative changes are anticipated, the review will ensure the Policy remains current and compliant.

ENVIRONMENTAL SUSTAINABILITY

There are no sustainability implications associated with this report.

GENDER IMPACT ASSESSMENT

The Policy has been reviewed to remove references to binary language.

The *Local Government Act 2020* provides for Councillors to be reimbursed for costs incurred in relation childcare or carer responsibilities, in recognition that these roles are often fulfilled by women, and may be a barrier to their participation in local government.

The Policy supports this approach to ensure Councillors are aware that this support is available and accessible.

Revision Date: July 2024

▶ **COUNCIL EXPENSES AND RESOURCES POLICY**

POLICY NUMBER:	80 (C)
NAME OF POLICY:	Council Expenses and Resources Policy
DATE OF NEXT REVIEW:	July 2028
DATE APPROVED:	TBC
RESPONSIBLE OFFICER:	Chief Executive Officer
REFERENCES:	<u>Local Government Act 2020</u> – sections 39-43

▶ **COUNCIL EXPENSES AND RESOURCES POLICY**

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▶ COUNCIL EXPENSES AND RESOURCES POLICY

INTRODUCTION

This policy outlines the resources and support to be provided to Councillors and members of delegated committees of Hepburn Shire Council (Council) as well as what constitutes as eligible expenditure that may be reimbursed in performance of duties as elected or delegated representatives as outlined in Sections 39-43 of the *Local Government Act 2020*.

Councillors and members of delegated committees will be reimbursed for out-of-pocket expenses that:

- are bona fide expenses and
- have been reasonably incurred in the performance of the role of a Councillor and
- are reasonably necessary for a Councillor or member of a delegated committee to perform their role.

SCOPE

This policy applies to Councillors and members of delegated committees and to the duties performed as a necessary part of their role, in achieving the objectives of Council. These duties may include (but are not limited to):

- attendance at meetings of Council and its committees
- attendance at briefing sessions, workshops, civic events or functions convened by Council
- attendance at conferences, workshops and training programs related to the role of a Councillor, Mayor or Deputy Mayor
- attendance at meetings, events or functions representing Council
- duties in relation to constituents.

Members of delegated committees exercising the powers of Councillors, under delegation. This policy also applies to those members in the course of undertaking their role as delegated committee members.

▶ COUNCIL EXPENSES AND RESOURCES POLICY

DEFINITIONS

Carer	Means a person, including a person under the age of 18 years, who provides care to another person with whom they are in a care relationship. Source: <i>Carers Recognition Act 2012</i>
Communications equipment	Includes: <ul style="list-style-type: none"> a) Portable communication equipment such as mobile telephone, laptop computer, tablet, smartphone, wireless internet connection and associated hardware and software. b) Fixed communication equipment* such as land line, internet access and associated hardware and software. <p>* only provided where there is not mobile internet access.</p>
Delegated committee	A delegated committee established by a Council— <ul style="list-style-type: none"> c) must include at least two (2) Councillors; and d) may include any other persons appointed to the delegated committee by the Council who are entitled to vote. <p>Source: <i>Local Government Act 2020, Section 63</i></p>
Expense	Includes: <ul style="list-style-type: none"> • Expenses initially incurred by a Councillor for which a claim is subsequently made for reimbursement; and • Expenses incurred by Council for or on behalf of a Councillor.
Professional Development	Means the process of improving and increasing the capabilities, knowledge and skills of Councillors, that is relevant to their duties and functions, through access to education and training opportunities through outside organisations or in the workplace.

▶ COUNCIL EXPENSES AND RESOURCES POLICY

POLICY AND PROCEDURES

1. CONFERENCES, SEMINARS, TRAINING AND PROFESSIONAL DEVELOPMENT

Where attendance has been approved in advance, Councillors and members of a delegated committee are entitled to have paid for by Council, or reimbursed, the cost of attending conferences, seminars, training and professional development courses within the scope of this policy which may include:

- registration fees
- accommodation costs and expenses
- reasonable costs and expenses for meals and refreshments
- Professional development programs/courses available to all Councillors.

Upon the commencement of each electoral term, a purpose designed induction program will be provided to all Councillors. Costs associated with training and development provided to the Councillor group as a whole are absorbed as part of an induction period budget and do not form part of quarterly expense reports. Training completed by individual Councillors will be considered and reported on per this Policy.

Enrolments and payment for conferences, seminars, training and professional development will generally be made through the CEO Unit by purchase order or purchase (corporate credit) card. On the rare occasions this is not possible, Councillors or members of delegated committees may seek reimbursement following approval from the Chief Executive or their delegate.

To obtain approval, complete the Professional Development Application Form (Appendix 1) and forward the request to the CEO Unit.

2. REPRESENTING COUNCIL

Each year, and from time to time, Council resolves to appoint Councillors or members of delegated committees to represent Council at a number of specific organisations with the delegated authority of Council on appropriate matters.

Where Council has not appointed a Councillor representative to a particular organisation or group, and Council receives an official invitation seeking Council representation at an event, the following shall apply to determine Councillor representation at an event:

- The Mayor as first amongst equals will be given the opportunity to attend the event
- If the Mayor is unable to attend a local, national, Victorian or regional event the Mayor will offer the opportunity to the Deputy Mayor in the first instance.
- The Mayor and the Chief Executive Officer may, determine that official representation of

▶ **COUNCIL EXPENSES AND RESOURCES POLICY**

all Councillors is considered necessary or appropriate to support the business or representational needs of Council.

Any Councillor representing Council at that event shall be entitled to have paid by Council, or reimbursed, reasonable bona fide costs associated with representing Council at the event.

3. ATTENDANCE BY SPOUSE/PARTNER AT SEMINARS, CONFERENCES AND CIVIC FUNCTIONS

Attendance at any seminar, conference or civic function by a Councillor's or delegated committee member's spouse/partner shall be at the expense of the Councillor except where:

- prior approval has been given by Mayor and the Chief Executive Officer; and
- attendance by a Councillor's spouse/partner is considered to be necessary or appropriate to support the business or representational needs of Council; and
- if sufficient provision exists in the approved annual budget for conferences and seminars.

Where approval has been granted for a Councillor's spouse/partner to attend a seminar, conference or civic function, Councillors are entitled to have paid by Council, or reimbursed, their spouse or partner's registration fees and reasonable costs for meals and refreshments.

Councillors are entitled to have paid by Council, or reimbursed, the reasonable costs and expenses of their spouse or partner attending:

- functions held by Council; or
- functions held by other Victorian municipalities;
- where there is an agreed expectation of partners attending, i.e. spouse/partner of the Councillor is specified on the invitation.

4. ACCOMMODATION COSTS

Councillors are entitled to have paid by Council, or reimbursed, the reasonable costs and expenses for accommodation incurred for attending approved conferences, seminars, training or professional development.

To obtain approval, Councillors must complete a Professional Development Application Form (Appendix 1) submit it to the CEO Unit. Upon approval the CEO Unit is responsible for management all accommodation and associated travel bookings.

5. COMMUNICATION EQUIPMENT EXPENSES AND COSTS

Councillors and members of delegated committees shall be provided with appropriate communications equipment to ensure that they can adequately and efficiently perform their role as a Councillor, which may include:

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- 2-in-1 laptop (laptop/tablet device)
- a printer and associated printer cartridge refills, for small print jobs
- wireless broadband internet connection
- mobile telephone

The make, model and specifications of any communications equipment, the associated contracts or plans, and the replacement of any communications equipment shall be at the discretion of the Chief Executive Officer or their delegate.

Council administration will pay all connection fees, rental charges and all Council business call charges associated with the above devices.

Council administration will meet the reasonable purchase, installation, maintenance and service, connection, subscription, rental and usage costs for all Council provided communications equipment:

- Where a Councillors place of residence/office is not serviced by wireless broadband for the purpose of Council business, the Council shall fund reasonable installation and operation costs for an additional line.
- Councillors will only be reimbursed for such expenses where the purchase, installation, maintenance, service, connection, subscription, rental or usage has been approved in advance by Council, or the Chief Executive Officer.
- Council may reimburse an amount less than the amount claimed, where the actual expense incurred is considered unreasonable, taking into account the estimated costs of using equivalent communications equipment provided by Council.

Council provided communications equipment is to be used for Council related business activities however it is acknowledged that, on occasion, reasonable personal use.

Whilst on international travel to avoid excessive cost mobile devices, Councillors/delegated committee members shall avoid excessive communication costs and use internet services provided through place of accommodation.

▶ **COUNCIL EXPENSES AND RESOURCES POLICY**

Communication equipment provided to Councillors is to be used for Council business and in accordance with Council's **Conditions of Use - Information Technology and Communications** (at Appendix 4). Training and IT support is available to Councillors and members of delegated committees on the use of these devices upon request.

Council will make printing services available to all Councillors and members of delegated committees who require it, with printouts being available for collection at one of Council's offices.

Council will review Councillors' communication equipment and where required will update equipment at the commencement of each electoral term; and any stage during the electoral term where Council believes an update is appropriate.

All equipment must be returned at the end of the Council term. A member of the Governance and Risk Department and ICT Department will arrange collection and recall of all Councillor resources by 6:00pm before Election Day.

6. CARER AND DEPENDENT RELATED EXPENSES

Council will provide reimbursement of costs where the provision of childcare is reasonably required for a Councillor or member of a delegated committee to perform their role.

This applies to the care of a dependent, while the Councillor or delegated committee member is undertaking their official duties; and may include expenses such as hourly fees and booking fees, if applicable.

Council will provide reimbursement of costs where the provision of carer services is reasonably required when a Councillor or delegated committee member who is a carer incurs reasonable expenses in the performance of their duties.

Payments for carer and childcare services will not be made to:

- A person who resides either permanently or temporarily with the Councillor or delegated committee member - except where a live-in (professional) helper, such as a nanny, is required to work extra time at extra expense because of the Councillor's duties, or
- has any financial or business interest with the Councillor or delegated committee member; or
- has a familial or like relationship with the Councillor, delegated committee member or their partner.

To seek reimbursement of care expenses, Councillors/delegated committee members must complete a Council Expenses Claim Form and return it to the CEO Unit for authorisation.

Claims must be accompanied by a receipt from the care provider showing the date and time care was provided and detail the reason care was needed on each occasion.

▶ COUNCIL EXPENSES AND RESOURCES POLICY

7. TRAVEL ARRANGEMENTS AND EXPENSES

Councillors are entitled to have travel expenses and costs paid by Council, or reimbursed, for return travel within Victoria undertaken whilst discharging the duties of a Councillor. Claims will be assessed by the CEO.

Subject to approval in advance by Council resolution, Councillors are entitled to have travel expenses and costs paid or reimbursed, for return travel originating within Victoria to destinations outside Victoria but within Australia undertaken whilst discharging the duties of a Councillor.

Subject to approval in advance by Council resolution, Councillors are entitled to have travel expenses and costs paid by Council, or reimbursed, for return travel originating within Victoria to destinations outside Australia undertaken whilst discharging the duties of a Councillor.

Expenses and costs for return travel which originates outside Victoria or Australia will only be paid by Council or reimbursed where such expenses and costs have been approved in advance by Council resolution.

Councillors undertaking private travel arrangements in conjunction with any travel for the purpose of their duties as a Councillor must ensure that all costs incurred for private purposes are clearly delineated and that appropriate records including pre-departure itineraries are maintained.

Where any private travel and associated costs are included in a package ticket or arrangement, the Councillors must meet, or reimburse Council, the private proportion prior to departure.

7.1. MISCELLANEOUS TRAVEL PROVISIONS

1. Motor Vehicle expenses paid by Council or reimbursed will be at the Australian Taxation Office rates as determined from time to time.
2. Travel should be undertaken by the most practicable mode and route possible taking into account factors such as duration and cost of travel.
3. The quantum of expenses paid by Council or reimbursed will be on the basis of the actual cost incurred and the form of transport used.
4. Council may reimburse an amount less than the amount claimed, where the actual expense incurred is considered unreasonable, taking into account the alternative modes of travel available.
5. All travel by flight will be economy class.
6. The purpose of the travel must be aligned to the Strategic Objectives described in the Council Plan.

7.2. ACCESS TO A COUNCIL POOL VEHICLE

Where requested, a Council fleet vehicle may be provided subject to availability, for Councillors or

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members of delegated committee members to perform their duties. Use of a Council vehicle is in accordance the **Conditions of Use - Council Motor Vehicles** at Appendix 5.

7.3. PROCEDURE FOR APPLYING FOR INTERSTATE AND INTERNATIONAL TRAVEL

- a) Councillors seeking to travel interstate or internationally must first provide a report to the Mayor and CEO outlining their proposal. If the Mayor is travelling, they must provide a report to the CEO. The report must contain the following elements:
- State the travel location, reason for travel and period of travel
 - Provide details of the travel including
 - Any external funding
 - The objectives of the travel together with the potential benefits to the Hepburn Shire Council and its stakeholders
 - Accompanying staff and their role
 - Identify the relationship between the proposed travel and the Strategic Objectives in the Council Plan and any other Council policy, strategy or program.
- b) Provide the estimated cost including
- Airfares, including class of travel, accommodation, fees and other expenses such as day to day incidental costs;
 - The cost associated with any accompanying Council staff member
 - A statement confirming that the costs relating to the proposed travel will be met from an existing budget allocation
 - Assessment of each application will be made on the merits of the proposal and the alignment of the request with the Council Plan or other interests of the Hepburn Shire Council.
 - Councillors seeking to travel internationally must prepare and present a report to an Ordinary Meeting of Council which contains the elements outlined above.
- c) Where the proposal is supported by Council it will be approved and:
- Nominate the Councillor(s) to undertake the travel
 - Recommend an amount to cover the travel costs relating to airfare, accommodation, fees, expenses and incidentals

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- Identify a maximum estimated amount for “incidentals” covering costs not pre-paid by Council
 - Note that the Councillor/ member of delegated committee will prepare a post travel report within 14 days of their return from approved travel.
- d) Any proposal in relation to interstate or overseas travel to be undertaken by the Mayor will follow the same format, with the report to be presented to the CEO and subsequently considered at a Council Meeting. During the consideration of any travel proposal relating to the Mayor, the Deputy Mayor or other Councillor will take the Chair.
- e) Councillors shall await the decision of the relevant approver, which will be evidenced in writing, prior to making any bookings or incurring any costs associated with the proposed travel arrangement.

7.4. POST TRAVEL REPORT

Following an interstate or overseas trip, the Councillor shall present a post travel report detailing the travel approved by Council, the outcomes and benefits of the travel undertaken, the cost and any other relevant details. The Report shall be prepared within 14 days of their return from approved travel and will be placed on the next relevant agenda for consideration by Council.

7.5. TRAVEL EXPENSES REPORTING REQUIREMENTS

The Local Government Regulations require that details of Councillor travel expenses be included in Council’s Annual Report.

8. PROFESSIONAL MEMBERSHIPS AND SUBSCRIPTIONS

Annual renewal of corporate memberships and subscriptions are part of the recurrent budget. New or existing current corporate memberships or subscriptions are at the discretion of the Chief Executive Officer. Individual memberships and subscriptions are at the Councillors own cost.

9. SPECIAL NEEDS EXPENSES SUPPORT, FACILITIES AND EQUIPMENT

Council will provide reasonable additional support, facilities, and equipment for any Councillor or member of a delegated committee with a disability to enable that Councillor to perform the duties of a Councillor.

Councillors and members of delegated committees are entitled to claim reimbursement for the reasonable cost of assistive devices or assistive personnel.

- Where reimbursement is claimed for the purchase of an assistive device, that device shall become the property of Council.

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- Claims for reimbursement for assistive devices or assistive personnel will only be considered where the use of the device or the assistance required, relates specifically to the performance of a Councillor's duties.
- Any Councillor wishing to claim reimbursement in excess of \$100 for assistive devices will require prior approval from the Chief Executive Officer in consultation with the Mayor.

10. EXPENSES NOT INCLUDED

Councillor and members of delegated committees cannot claim for the following expenses:

- a) Penalties for traffic and parking infringements
- b) Individual memberships or subscriptions.
- c) Council letterhead
- d) Damage or loss of personal possessions except where covered by insurance
- e) Council will only meet legal expenses incurred as a result of a Councillor executing their official duties. Councillors seeking independent legal advice will be responsible for their own legal costs.
- f) Any expenditure not specified in this policy as expenditure for which a Councillor or delegated committee member is entitled to be reimbursed or paid.

Subject to a resolution of Council, a Councillor or delegated committee member may be reimbursed for expenses incurred in circumstances not provided for elsewhere in the Policy.

11. GOODS AND SERVICES TAX

When Council buys goods or services, it will pay GST to the supplier. Council must receive a tax invoice from its suppliers to enable Council to claim GST input tax credits. Council can also claim input tax credits for business expenses incurred by Councillors.

The person who claims reimbursement must ensure that Council has received an appropriate Tax Invoice that will enable Council to claim GST input tax credits. It is therefore each Councillor's responsibility to provide tax invoices with each expense claim.

12. PAYMENT OF EXPENSES AND OPERATING COSTS

12.1. METHODS OF INCURRING EXPENSES AND OPERATING COSTS

The expenses and operating costs relating to the provision of services, facilities and resources will be processed and managed by either:

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- Councils purchasing system through completion of a Council Purchase Order by the CEO; or
- through a reimbursement claim made by a Councillor or a member of a delegated committee in accordance with the procedure for reimbursement of out-of-pocket expenses.

All expenditure incurred will be captured through the relevant form and approved by the Mayor/CEO and processed through the Council's finance system.

13. PROCEDURE FOR REIMBURSEMENT OF OUT-OF-POCKET EXPENSES

- a) All claims must be made on the approved Council Expense Claim form (Appendix 2) or Use of Private Vehicle Claim Form (Appendix 2).
- b) All sections of the form must be completed, and original receipts must be attached for all claims (credit card receipts will not be accepted)
- c) Where the provider of the goods or service is registered for GST a tax invoice must be obtained and provided (without this the GST component of the cost cannot be reimbursed)
- d) Claims for reimbursement must be submitted to the CEO within 30 days of incurring an expense.
- e) For international travel expenses, the exchange rate to be applied by Councillors when making claims shall be the rate identified by a banking institution or credit card company as being the closing rate on the day of transaction.
- f) Councillors shall be reimbursed within 14 working days of making a successful claim.
- g) Claims can only be approved by the Chief Executive Officer or their delegate.

14. ALLOWANCES FOR MAYORS AND COUNCILLORS

The Mayor, Deputy Mayor and Councillors are entitled to receive an annual allowance during their term of office. The amount of each allowance is set by a Determination of the Victorian Independent Remuneration Tribunal under the *Victorian Independent Remuneration Tribunal and Improving Parliamentary Standards Act 2019*.

The Mayor, Deputy Mayor and Councillors may elect:

- to receive the entire allowance to which they are entitled; or
- to receive a specified part of the allowance to which they are entitled; or
- to receive no allowance.

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15. INSURANCE POLICIES

Councillors and members of delegated committees are indemnified under the following Council insurance policies while discharging, in good faith, the duties of civic office including attendance at meetings of external bodies as Council representatives:

- Public Liability
- Professional indemnity
- Councillors and delegated committee members and officer's liability
- Travel insurance for interstate and international travel
- WorkCover (as a deemed employee).

Council will pay the insurance policy excess in respect of any claim made against a Councillor arising from Council business where any claim is accepted by Council's Insurers, whether defended or not.

16. RESOURCES AND USE OF FACILITIES FOR COUNCILLORS

16.1. OFFICE OF MAYOR

The Mayor receives a high volume of invitations for functions, luncheons and dinners.

The budget allocation to the Office of Mayor should enable its core activity of facilitating the political, economic, social and cultural advancement of the Hepburn Shire Council strategies and policies.

The budget allocation is considered as part of the annual budget determination process.

16.2. OFFICE OF COUNCILLORS

Councillors proposing to host a function shall first liaise with the Mayor who will further discuss with the Chief Executive Officer. In seeking approval, Councillors shall specify the type and nature of the event and how the function aims to promote the initiatives, strategies and policies of the Council.

Councillors participate in some of the functions organised by the Office of Mayor. Invitations to all Councillors shall be extended for major functions and events such as Civic receptions.

Any additional functions or events outside the existing budget will need to be identified and resources allocated as part of the budget process.

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16.3. ADMINISTRATIVE SUPPORT

Administrative support will be made available by the CEO Unit to assist Councillors and members of delegated committees with diary management and in responding to correspondence, printing, enquiries and requests for services as part of their official duties as a Councillor.

16.4. STATIONERY

The CEO Unit shall, upon request, provide Councillors and members of delegated committees with standard stationery from office supplies.

The stationery may include, but not necessarily be limited to, paper, business cards, writing implements, diaries, writing pad/books and envelopes. Any letters being sent out of letterhead will be prepared by the CEO Unit.

16.5. NAME BADGE

Each Councillor will be provided with a name badge for use on Council business.

16.6. CLOTHING

Councillor will be provided with protective equipment, such as a hi-vis vest, at the start of their term to assist in carrying out the duties of office.

Councillors may request an item or items of clothing bearing the Hepburn Shire Council logo from the established uniform list. Items may include shirts, jackets, hats, and jumpers.

Items bearing the Council logo should be returned when the Councillor ceases to hold office.

16.7. BUILDING ACCESS

Access to the Hepburn Shire Council Municipal Offices will be available within normal office hours, 8:30am to 5:15pm. Staff are present during all meetings and events held outside of office hours to facilitate building access and to lock up.

16.8. INFORMATION TECHNOLOGY SUPPORT

Each Councillor will receive support as required from Council's ICT department with regards to Council supplied equipment such as laptops, mobile phones and Council computer software.

Councillors can access IT Support upon request.

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16.9. MAYORAL VEHICLE

- The Mayor may request access to a fully maintained vehicle (including servicing, fuel and insurance).
- The make and model of the Mayoral vehicle shall be at the discretion of the Chief Executive Officer.
- The Mayor may request a monetary contribution of an equal monetary value in lieu of a Mayoral Vehicle.
- When a vehicle is assigned, the Mayoral vehicle is to be returned one week prior to the end of their term as Mayor and presented in a condition that will enable a smooth handover to the next Mayor-elect without a need for further maintenance or cleaning services. If the vehicle requires a professional clean or repairs prior to the day of the Statutory Meeting, it is the responsibility of the sitting Mayor to arrange these services in advance.
- The vehicle shall be available for use by the Mayor in the discharge of their duties as the Mayor and a Councillor, and for reasonable private use during the Mayoral term.

16.10. MAINTENANCE, SERVICING AND REPAIRS OF THE MAYORAL VEHICLE

- The Mayoral vehicle shall be kept in a clean and tidy condition to a standard that befits a Council vehicle. If the Mayor Vehicle sustains significant spoilage, the Mayor shall ensure that the vehicle is returned in a clean and tidy condition. All litter and rubbish must be removed from the vehicle after each use.
- The Mayor shall ensure the Mayoral vehicle is booked in for recommended routine servicing via the CEO Office. It is the responsibility of the Mayor to undertake regular checks on tyre pressures, oil and water levels and promptly report any performance issues or damage to the CEO's Office. Council will pay all maintenance and operating expenses including oil, repairs, servicing, comprehensive insurance, registration, taxes and fuel incurred in respect of the Mayoral vehicle
- The Fleet Officer will periodically carry out vehicle inspections to ensure that the Mayoral vehicle is being maintained in an appropriate condition at all times. Failure by the Mayor vehicle to meet all requirements of these Conditions of Use may result in the withdrawal of the vehicle.

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- Should major repairs be necessary, and the vehicle is off the road for any length of time, a replacement or hire vehicle may be arranged by the CEO's unit.
- The Mayoral Vehicle shall be driven in accordance with **the Conditions of Use - Council Motor Vehicles**.

MONITORING, EVALUATION AND REVIEW

Quarterly reports of all Councillor and delegated committee member expenses will be provided to Council, and Council's Audit and Risk Committee.

The report will include:

- details of expenses incurred by Councillors during the quarter
- reimbursement claims made by Councillors during the quarter
- reimbursements made by Councillors during the quarter.

Council commits to monitoring processes and decision making to understand the overall success of the policy's implementation.

This policy will be periodically reviewed to ensure any changes required to strengthen or update the policy are made in a timely manner.

RELATED POLICIES AND LEGISLATION

Council policies:

- Councillor Code of Conduct
- Hepburn Shire Council Governance Rules
- Hepburn Shire Council Public Transparency Policy
- Hepburn Shire Council Privacy Policy

Legislation:

- *Carers Recognition Act 2012*
- *Charter of Human Rights and Responsibilities Act 2006*
- *Freedom of Information Act 1982*
- *Local Government Act 2020*
- *Privacy and Data Protection Act 2014*
- *Equal Opportunity Act 2010*
- *Gender Equity Bill 2020*

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APPENDIX 1 - PROFESSIONAL DEVELOPMENT APPLICATION

Application by Councillor or member of a delegated committee to attend a conference, function or training.

Please provide the following information and **attach all relevant literature on or about the event.**

(Note an email of the same information will also be accepted.)

Councillor Name		
Name of Conference/Function/ Training		Date/s & Time:
Purpose		Cost: \$
Signature of Applicant		Date:
Authorised by Chief Executive Officer		Date:

Note this form will be filed on your personnel file.

All bookings and payment will be made by the CEO unit following approval, unless otherwise approved by the Chief Executive.

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APPENDIX 2 - COUNCIL EXPENSES CLAIM FORM

Name: Councillor/Mayor _____ Date : _____

Address: _____

I wish to claim the following expenses that were incurred in the performance of my duties as a Councillor/Mayor/ member of a delegated committee of Hepburn Shire Council:

Date	Description	Amount (\$)	GST Included (Y/N)	Tax Invoice / Receipt Attached (Y/N)	<i>For Office Use: Ledger Number</i>
Total reimbursing (\$)					
To validate your claim please attached all original tax receipts with GST.					

Bank Details for EFT Payment:

Bank Name:	
Account Name:	
BSB:	
Account Number:	

Signature of claimant: _____ Date: _____

Authorised by (Chief Executive Officer): _____ Date: _____

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APPENDIX 3 - USE OF PRIVATE VEHICLE CLAIM FORM

Name: _____ Date: _____

Details of travel:

Time	Date	Kilometres Travelled			Description		
		odometer readings start of trip	odometer readings end of trip	Total Kms	Council business	Origin	Destination
E.g. 17:30	03/03/2020	956443333	956443353	20	Meeting with resident Mr Murry Trip	Council depot	23 Greenfields Ave Trentham
Total				20			

Details of tolls

Date	Road Toll Incurred On	Cost
Total Cost		

All relevant receipts and tax invoices must be attached to support your claim.

Payment is at the ATO rate per kilometre travelled.

Signature of claimant: _____

Authorised by (Chief Executive Officer) _____

Date: _____

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Appendix 4 - Conditions of Use - Information and Communication Technology

By using the Internet, device and network access provided by Hepburn Shire Council (Council), Councillors agree to these Conditions of Use and acknowledge that Council officers may record and monitor records of Council user IDs and Internet access at all times. To this end, Councillors in Council should understand that information may be collected for the purposes of protecting Council data, systems and electronic assets.

Internet/intranet/extranet access is granted expressly for Councillors for the purpose of conducting approved Council business activities; computing equipment, operating systems, software, storage media, email, web browsing, FTP (File Transfer Protocol) and network accounts are all associated with and the property of Council.

Councillors are responsible for applying reasonable judgement when using Council internet, device(s) and network for personal use and should seek guidance from their immediate manager/supervisor or Manager ICT if unsure of what constitutes reasonable personal use.

1. Authorised and Unauthorised Usage

The internet connection, email and other systems of Council are primarily for Council business use. Occasional and reasonable personal use is permitted provided this does not interfere with the Information and Technology (ITC) bandwidth or the performance of work duties and responsibilities.

Personal or incidental use is authorised for limited purposes however the following must be taken into account:

- Every website you use, or visit must support the goals and objectives of Council. There may be times where employees may access the internet for personal use, however the following guidelines must still be adhered to.
- The use must not constitute a conflict of interest. Using Council systems for personal business or use for personal gain, unrelated to individual's direct duties, constitutes a conflict of interest and may be considered serious misconduct.
- Illegal, obscene, pornographic, offensive, threatening, harassing or defamatory material must not be accessed, viewed, downloaded or sent. Offensive material or content may present as discrimination, harassment, or hostility due protected attributes covered under

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legislation. Offensive material or content can also include soliciting sex or otherwise violating the laws regarding minors and their protection. Councillors that violate child protection laws, including solicitation of sex from minors, or posting of illegal pornographic material will be in breach of the Councillor Code of Conduct and a criminal offence. Council is obligated to notify law enforcement authorities of any violation of law.

- Use must not involve any illegal or unethical activity (e.g. gambling, or sites containing pirated software, movies, games, proxy services or illegal hacking/cracking tools, torrents etc).
- Any access that could result in significant incremental cost, such as mobile phone subscription services, excessive bandwidth usage or large non-business-related file transfers, and the like are not permitted.
- Transmitting or sending sensitive or proprietary information, including software applications or personal information of internal and/or external persons, to unauthorised persons or organisations is prohibited.
- Authorisation for any transmission of Personally Identifiable Information, where not specifically part of your job role must be approved by a Chief Executive Officer prior to transmission and done using authorized protocols (e.g. encryption, VPN, SSL).
- Council materials that are protected under Privacy/Copyright legislation are not authorised to be transmitted.
- Transmission of files and data that forms part of your position or is expressly approved by your manager is authorised. Downloading or sending of unapproved software, computer viruses, malicious code, or any attempts to access another person's data are prohibited.
- Councillors should not bring personal computers or data storage devices (such as CDs/DVDs, external hard drives, USB or flash drives, iPads, or other data storage media) to connect them to our systems without permission from the ICT unit. Personal electronic devices are subject to inspection if a user is reasonably suspected of utilising the device in an unauthorised manner.

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- Councillors may not download software to Council devices from any external systems without permission from the ICT unit. Councillors should not use any externally provided software without first getting approval from the ICT unit.
- Councillors are responsible for determining the sensitivity and need for further encryption to secure Council's sensitive information or Personally Identifying Information prior to posting, transmitting or sending it via the Internet. If unsure, the user is responsible for contacting the ICT unit for guidance.
- Audio file sharing, streaming or downloading (e.g. Spotify) is prohibited unless explicitly approved by the Chief Executive Officer and the ICT unit.
- Peer file sharing or downloading (e.g. Bit torrent) is prohibited unless explicitly approved by the Chief Executive Officer and the ICT unit.
- Council websites, web servers or other cloud storage services (e.g. Dropbox, One Drive or any other website that uses your unique Council email address as the login) are not to be used for posting non- business related data or for the illegal distribution of data, such as software, games, movies, code or other inappropriate data.

2. Privacy and Monitoring

Council's Privacy Policy is posted on Council's website to ensure that customers and suppliers are aware of our desire to maintain and protect the privacy of data.

By using the Internet access provided by Council, Councillors must act in accordance with the Conditions of Use and acknowledge that records of Internet access, such as sites visited, images viewed and emails sent, use of Office 365 products such as teams, are recorded and may be monitored at any time.

The following guidelines will apply:

- Encrypted technology that meets our requirements will be applied to our systems.
- Hepburn Shire Council owns the rights to all data and files on our computers, network, or other information systems, subject to applicable laws.
- Councillors should not access networks, servers, drives, folders, or files to which the user has not been granted authorisation.

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- Councillors shall not destroy, delete, erase, or conceal files or other data, or otherwise make files or data unavailable or inaccessible.
- Councillors should not disclose their individual login passwords to any other person unless explicitly authorised by the CEO for business requirements. Councillors who allow other individuals to log on to Council network and systems using their credentials may have access to ITC equipment removed.
- Documents can be password protected to prevent unauthorised access, but this password must be shared with the IT Manager.
- Council licenses the use of certain commercial software application programs from third parties for business purposes. Third parties retain the ownership and distribution rights to this software.
- Councillors may not use or distribute licensed software.
- Electronic mail (“email”) messages sent and received using Council equipment or Internet access provided by Council are not private and are subject to viewing, downloading, inspection, release and/or archiving by Council.
- To prevent unauthorised access Council requests all Councillors to password lock electronic device(s) including mobile phones, computer/desktop, iPad or other electronic device(s) when leaving their desk or device in a public space.
- Council may monitor email messages (including personal/ private/ instant messaging systems). Council currently archive all email messages originating from and sent to all external parties and all internal email for a minimum of seven years.
- Council may use software that allows us to monitor messages, files, or other information that is entered into, received by, sent, or viewed on Council’s Network. When monitoring Council’s network and information systems, implied consent will be placed on Councillors that continue to utilise Council’s equipment and internet access in the course of their term.

3. Reporting of Internet Abuse

Complaints and concerns from external parties pertaining to internet activity possibly originating from Hepburn Shire Network can be lodged via the “Report an Issue” link on Council’s website.

Complaints to this account will be forwarded to the Manager ICT and the Chief Executive Officer as appropriate.

Councillors are prohibited from creating or sending electronic mail that:

- may be considered offensive or harassing or that may contribute to a hostile environment;
- contains profanity, obscenities or derogatory remarks;

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- constitutes chain letters or spam;
- solicits or sells products or services that are unrelated to Council business; or
- distracts, intimidates or harasses anyone or creates a disruption within the workplace.

Councillors are instructed to use caution when opening electronic mail and attachments from unknown senders because these pieces of electronic mail and attachments may contain viruses, root kits, spyware or malware that can put our system and sensitive information at risk. Councillors are advised to notify a member of the ICT department as soon as reasonably practicable, if they suspect they have opened an email attachment that presents a risk to Council's computer system.

Instant messaging services are prohibited unless provided to staff as corporate software or explicitly approved by your Manager and the Manager ICT.

Councillors should not use Council email addresses for non-work-related services and should not reference a personal email, phone or messaging account as a tool to conduct Council business.

Councillors are required to set an automatic "Out of Office" response on their HSC email account any time they are on leave for more than two (2) days.

4. Social Media/Public Forums

Councillors are required to abide by Council's Communications and Social Media Policy.

5. Cessation of term of office

Upon cessation of elected or delegated term of office, all user access to Council ICT services will cease. Even after termination of a user's relationship with Council, Councillors are responsible for maintaining the confidentiality of Hepburn Shire sensitive information and Personally Identifiable Information the user may have had access to previously.

6. Compliance

Violations of these Conditions of Use may lead to the suspension or revocation of system privileges and/or disciplinary action up to and including termination of employment. Council reserve the right to advise appropriate authorities of any violation of law.

7. Accountability

Councillors are responsible for the secure handling, processing, transmittal and safeguarding of Hepburn Shire Sensitive Information and Personally Identifiable Information. This responsibility is fulfilled by the acceptable use of the Hepburn Shire Network and the Internet access we provide.

The ICT Unit will not provide access to Council's sensitive computing resources until a Councillor acknowledgement or a non-disclosure agreement has been signed acknowledging the Information Technology and Communications Conditions of Use.

Revision Date: August 2028

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ICT is responsible for monitoring compliance with these Conditions of Use and the controls created to safeguard the Hepburn Shire Network.

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APPENDIX 5 - CONDITIONS OF USE - COUNCIL MOTOR VEHICLES

All Councillors that drive a Council vehicle (including the Mayoral vehicle) are bound by the following Conditions of Use.

1. GENERAL CONDITIONS

1.1 Operating Responsibilities

- Any Councillor using a Council pool vehicle or Mayoral vehicle must refuel the vehicle prior to its return, where the vehicle tank is less than half full at the completion of the trip.
- Councillors must adhere to all legal requirements relating to driving, including, but not limited to the adherence to speed limits, the proper use of mobile telephones, wearing of seat belts and not driving whilst impaired, (when blood alcohol level exceeds the limits prescribed by law, or when impaired by drugs).
- Councillors must immediately notify the Chief Executive Officer when they are notified of a driving offence which could or will result in cancellation or suspension of their licence prior to such driving licence being cancelled or suspended.
- Any road traffic and/or parking fines/infringements are the responsibility of the offending driver.
- A vehicle log (located in each vehicle) must be completed each time a vehicle is used.
- The fuel card assigned to a vehicle must not be used to purchase fuel for any other vehicle or any items other than fuel. The fuel card must be kept in the vehicle at all times.
- Any accidents or vehicle damage must be reported as soon as practically possible to the Fleet Officer and the Manager Facilities and Circular Economy.
- The Chief Executive Officer has the discretion to withdraw the allocation of a Council vehicle for breaches of this policy.
- The assigned driver of a Council vehicle is responsible for ensuring the vehicle is kept clean, tidy and in a road worthy condition that presents Council in a positive light.

1.2 Conditions & Restrictions of Use

- All drivers of Council vehicles must hold a current driver's licence and agree to use the motor vehicle under the Conditions of Use.
- Smoking in all Council vehicles is prohibited.
- The Mayor is responsible for ensuring the Mayoral vehicle is kept clean internally and externally. Car wash tokens can be coordinated through the CEO's unit. A request form must be completed to obtain the tokens.

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- Drivers must operate the vehicle within manufacturer instructions and not modify the vehicle without a Director or Fleet Officer approval.
- The driver must ensure the vehicle is secure and garaged where possible when not in use.
- Vehicles must not be used or employed for business activities outside of the Council, or any business-related activities of any other person with authority to use a Council vehicle i.e. immediate family members.
- Under no circumstances are Council vehicles to be used in a car rally, time trial, or any other similar motor sport event, which is inconsistent with the normal use of the vehicle.

2 DRIVER RESPONSIBILITIES

2.1 Licensing and Compliance

All Councillors who drive a Council vehicle must comply with the provisions of the Road Safety Act 1986 (as amended) and all Regulations made under that Act, or the relevant act of the State or Territory in which you are driving. If a driver is convicted of an offence under the Act or Regulations that result in the loss of their driver's licence, either during or out of work hours, they will lose access to Council vehicles, however this is subject to the discretion of the Chief Executive Officer. If the driver is convicted of breaches of the Act and associated Regulations, they may also be subject to investigation by the Local Government Inspectorate or the like. The extent of action will be dependent upon the severity of the offence. Councillors are also required to notify Council if their driver licence is cancelled or suspended at any time.

2.2 Safe Driving and Road Rules

In driving a Council vehicle, the Councillors must carry their licence at all times and comply with all speed limits and road rules. Other safe driving requirements include:

- Driving in a courteous manner at all times
- Ensuring that seatbelts are worn at all times including all passengers
- Driving with headlights on when visibility is poor
- Stopping for appropriate rest breaks on long trips
- Never using a hand-held mobile phone while driving (it is illegal)
- For pool vehicles, a vehicle log must be completed each time the vehicle is used.

2.3 Traffic/Parking Infringements and Logbooks

Councillors who incur a driving infringement while driving Council Vehicles, i.e. speeding, parking, traffic etc. are fully responsible for any penalties that are imposed. Council will not be responsible for any infringements. The booking system and reference to vehicle logbooks will be the method by

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which driver identification will be established and drivers should ensure the accurate and precise recording of vehicle usage, to avoid any confusion or uncertainty in determining who the driver was at the time of any infringement.

2.4 Alcohol and Drugs

Councillors, and anyone they permit to drive a Council vehicle, are required to abide by all current road rules and law, including blood alcohol limits. Any breaches of this provision may involve review by the Local Government Inspectorate investigation. Any damage caused whilst the driver is under the influence of alcohol, drugs or other substances will be the responsibility of the driver.

2.5 Fuel Cards

All Council vehicles are issued with an approved fuel card which enables the purchase of fuel twenty-four (24) hours a day, seven (7) days a week. All fuel cards carry the Council's name and the vehicle registration number and can only be used for purchases relative to the nominated vehicle. The vehicle's odometer reading MUST be given on all occasions when purchasing fuel.

2.6 First Aid Kits and Fire Blankets

All vehicles have been issued with First Aid Kits and a Fire Blanket and should always be left in the vehicle.

Personnel who use the First Aid kit for any reason should advise the CEOs Unit so that supplies can be replenished.

2.7 Mobile Phones/Electronic Devices

Operating a handheld mobile phone or other electronic communication device whilst driving is illegal and is not permitted. Using a mobile phone with a Bluetooth or in-car kit, or other electronic device(s) such as iPods, navigators, etc, whilst in charge of a Council vehicle is strongly discouraged. Drivers who need to use a mobile phone must safely pull over.

2.8 Process and Training for Multiple "At Fault" Accidents or Gross Neglect

Where a Councillor or delegate is responsible for a number of "At Fault" accidents or is responsible for gross neglect of a Council Vehicle, they may be subject to disciplinary action. The extent of the disciplinary action will depend upon the severity and the circumstances surrounding the offences and the driver may be required to attend a series of training sessions on safe driving and road regulations.

3 INSURANCE AND ACCIDENT PROCEDURES

3.1 Motor Vehicle Insurance & RACV Fleet Care

All Council vehicles are insured under a comprehensive policy covering all vehicles, drivers and authorised passengers and damage to third parties. Certain circumstances and actions may result in

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the policy being declared null and void resulting in the driver becoming personally liable for the damages. These circumstances may include but are not limited to:

- the driver of a Council vehicle is not in possession of a current driver's licence
- the driver of a Council vehicle is convicted of being under the influence of alcohol or drugs
- the driver of a Council vehicle is not authorised to drive the relevant Council vehicle.

If an emergency breakdown occurs, the driver must first contact the relevant roadside service provider. If the problem cannot be fixed, then the vehicle should be towed to the nearest registered dealership or approved service agent (e.g. the dealer network). In this event if it is a warranty item repairs should be carried out immediately, otherwise the CEO Unit must be contacted to authorise any necessary repairs.

RACV membership has been provided for each Council passenger vehicle. If you require breakdown assistance, please call 137228 and quote membership no. 3173031.

3.2 Personal Property

Drivers carrying or leaving private property in Council vehicles do so at their own risk as Council insurance may not cover the loss of private property.

3.3 Vehicle Loss due to Theft or Fire

In the event that a vehicle, or any part of a vehicle, is stolen, or lost as a result of fire, the CEO Unit should be notified to arrange for the appropriate insurance claim to be completed. In the case of theft, the driver should also immediately report the matter to the Police.

3.4 Vehicle Accident Procedure

If an authorised driver is involved in an accident whilst driving a Council Vehicle the following procedures should be followed at all times.

Personal Safety Is Your First Priority:

- a) Take all precautions necessary to safeguard yourself, casualties and bystanders against any further injury.
- b) Turn off ignition in crashed vehicles, and if fuel leakage is apparent in the accident area, ensure there are no other ignition sources near the vehicle.
- c) Attend to emergency needs, such as first aid, sending for ambulance, police and fire brigade (Emergency Telephone 000).
- d) You should then endeavour to obtain the following information: and if necessary, a police report.

3.5 Accident Details Required:

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- a) Other Vehicle(s) and Other Driver(s) details and/or property.
- b) Name and address of owner & contact phone number.
- c) Name, address and license number of driver & contact phone number
- d) Vehicle registration number make and model and year.
- e) Other parties Insurance Company.
- f) Damage to vehicles and property.
- g) Names and addresses of any witnesses.
- h) Details of personal injuries to any party.
- i) Sketch a brief plan/map of the accident.

Do not admit liability, even if you consider yourself at fault. Make notes of any conversations between you and other drivers and do not offer that you or the Council will pay for repairs.

3.6 No Fault Accidents

When a Council vehicle being driven for business or private purposes is involved in an accident which, in the opinion of Council or the insurer, is the fault of the other driver, then no excess will be payable by the assigned or authorised driver.

3.7 At Fault Accidents

Where a Council vehicle being driven for business or private purposes is involved in an accident which, in the opinion of Council or the insurer, is the fault of the assigned or authorised driver, then Council may seek reimbursement from the driver of the following charges as a contribution to the cost incurred by Council in relation to the at-fault accident:

- Standard charge of \$500; plus
- An additional charge of \$500 if the driver is aged under 25 years.

Under normal circumstances, Council will not apply the charges for the first at-fault accident. However, in the event of two or more at-fault accidents occurring within a twelve-month period, Council may require payment of the charges for the second and any subsequent at-fault accidents. In such instances, the Fleet Officer will write to the driver explaining that charges will become payable should there be any subsequent at-fault accident in the next twelve months. It is important to note that Council's Policy is void if the authorised driver at the time of the accident is under the influence of drugs/alcohol or is unlicensed. In such instances, the driver shall be liable for ALL costs associated with the accident.

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4 USE OF COUNCIL VEHICLES

4.1 Use of Council Vehicles by Councillors

A vehicle may be driven at any time in the course of carrying out normal Council operations by any driver who is authorised to do so and who holds a current and valid driver's license

4.2 Use of Council Vehicles on Council Business

Council's preference is that Councillors utilise Council vehicles, rather than their own private vehicle, when on Council business. All Council vehicles are comprehensively insured, refer Clause 4, and in general it is expected Council vehicles are likely to be safer than a driver's private vehicle because Council's vehicles are generally newer, maintained in good mechanical condition, with most recent safety features for that model of vehicle.

However, Councillors require to use their own private vehicle on Council business will be entitled to an allowance in accordance with the Australian Taxation Department cents per kilometre rate.

Council also has an insurance policy that covers private vehicles involved in an accident while on Council business. This insurance policy covers the reimbursement of payment of insurance excess effect on future no claim bonus on the Comprehensive Motor Vehicle Insurance Policy.

There is currently a limit of \$1,000 per claim on this policy. However, no coverage is provided by Council if the private vehicle has only third party, fire and theft insurance cover or is uninsured.

14 CLOSE OF MEETING

The Meeting closed at 7:20pm.