



## ORDINARY COUNCIL MEETING

to be held on Wednesday 28 November 2012 at  
7.00pm

at Romsey Community Hub

### NOTICE PAPER

**Public Question Time:**

Written questions submitted by the public will be considered at 7.45pm. Question forms will be available at the entrance to the Meeting Room and will be collected at approximately 7.30pm.

*These images are from Council's 2025 Vision for the Macedon Ranges' adopted in February 2003. These images and words reflect our vision of being a vibrant and sustainable region – that deeply values our community, heritage and environment, providing a fulfilling quality of life for all.*

## TABLE OF CONTENTS

Page 1 of 2

ITEM	SUBJECT	PAGE NO.
1.	Prayer	1
2.	Present	1
3.	Apologies	1
4.	Declaration of Conflicts of Interest	1
5.	Mayor's Report	2
6.	Petitions	2
7.	Adoption of Minutes	2
8.	Record of Assemblies of Councillors	3
9.	Deputations and Presentations to Council	8
	Persons (Applicant and Objectors) who have made a submission on a land use and development application to be considered at this meeting may address the Council. The Chairperson will call for submissions in order of the items listed below and submitters will have three minutes only. At the conclusion of each submission, Councillors may wish to ask questions of the submitter.	
10	<b>Director of Planning and Environment</b>	
PE.1	Application for Amendment to Planning Permit PLN/2011/A for a Development and Use of the Land for a Dental Clinic and Signage at 7 Templeton Street, Woodend	9
PE.2	Application for Planning Permit PLN/2011/502 Building and Works Associated with a Food and Drink Premises (Cafe) and Business Identification Signage – 30 High Street, Lancefield	21
PE.3	Macedon Ranges Planning Scheme, Amendment C84 – Municipal Strategic Statement Update and Inclusion of Macedon Ranges Settlement Strategy and Other Recent Strategic Documents	39

	PE.4	C82 – Combined Amendment and Permit Application for Land at 16-18 Frith Road, Gisborne	<b>45</b>
<b>11.</b>	<b>Chief Executive Officer’s Reports</b>		
	CX.1	Appointment of Councillor Delegates 2012/13	<b>49</b>
<b>12.</b>	<b>Director of Corporate Services</b>		
	CS.1	Contracts to be Awarded as at 28 November 2012	<b>64</b>
<b>13.</b>	<b>Director of Community Wellbeing</b>		
	CW.1	Regional Development Australia Fund Rounds 3 and 4	<b>67</b>
	CW.2	Gisborne Early Years Hub	<b>74</b>
	CW.3	Parks Improvement Program	<b>84</b>
<b>14.</b>	<b>Director of Assets and Operations</b>		
	AO.1	Off Leash Dog Areas (Response to Petition)	<b>88</b>
<b>15.</b>	<b>Notice of Motion</b>		
	No. 1/2012-13	Councillor Letchford	<b>91</b>
	No. 2/2012-13	Councillor McLaughlin	<b>91</b>
	No. 3/2012-13	Councillor Mowatt	<b>91</b>
	No. 4/2012-13	Councillor Mowatt	<b>92</b>
	No. 5/2012-13	Councillor Piper	<b>92</b>
	No. 6/2012-13	Councillor Morabito	<b>92</b>
<b>16.</b>	<b>Urgent or Other Business</b>		<b>93</b>
<b>17.</b>	<b>Confidential Reports</b>		<b>93</b>
<b>18.</b>	<b>Division 1A: Conduct and Interests</b>		

Reproduced as the concluding pages at the back of Notice Paper

## **ACKNOWLEDGEMENT OF COUNTRY**

**I would like to acknowledge the traditional custodians of the land on which we are meeting as being part of the Kulin Nation.**

### **1. PRAYER**

**Almighty God, we humbly beseech thee to vouchsafe thy blessing upon this Council. Direct and prosper its deliberations to the advancement of thy glory, and the true welfare of the people of the Shire of Macedon Ranges.**

### **2. PRESENT**

### **3. APOLOGIES**

### **4. DECLARATION OF CONFLICT OF INTERESTS**

Councillors' attention is drawn to Division 1A Sections 76-81 of the Local Government Act 1989 regarding interests. The relevant sections are reproduced and attached to the back of this Notice Paper.

Councillors are reminded that:

1. Disclosures of Conflicts of Interest must be declared immediately before the consideration of the item Section 79 (2) (a) (i); and
2. They should classify the type of interest that has given rise to the conflict of interest, and describe the nature of the interest Section 79 (2) (b) (c).

## **5. MAYOR'S REPORT**

This item in each Council Notice Paper offers an opportunity for the Mayor to provide a brief report on recent Council activities and initiatives of a Shire wide nature.

Councillor reports on any meetings they have attended as a Councillor delegate are provided at Councillor Briefings or via email communications. Any matters requiring Council deliberation/decision are considered by Council via a report to a Council Meeting.

### **Recommendation:**

**That the Mayor's report be received.**

## **6. PETITIONS**

Pursuant to Council's Local Law No. 9, Meeting Procedure, a Councillor may present a petition or joint letter to the Council. A petition or joint letter presented to the Council must lay on the table until the next Ordinary Meeting of Council and no motion, other than to receive the petition or joint letter may be accepted by the Chairperson, unless the Council agrees to deal with it earlier. A Councillor presenting a petition or joint letter will be responsible for ensuring that they are familiar with the contents and purpose of the petition or joint letter and that it is not derogatory or defamatory.

Cr Mowatt has advised of his intention to present two petitions to the meeting concerning footpaths in Station Road, New Gisborne and the U.L.Daly Nature Reserve respectively.

## **7. ADOPTION OF MINUTES**

Any Councillor whether in attendance or not at the subject meeting can move and second the adoption of the minutes, however accepted practice is that Councillors who were in attendance moved and second these motions.

Ordinary Council Meeting: Wednesday 24 October 2012

Special Council Meeting: Wednesday 31 October 2012

### **Recommendation:**

**That the minutes of the Ordinary Meeting of the Macedon Ranges Shire Council held on Wednesday 24 October 2012 and the minutes of the Special Council Meeting held on Wednesday 31 October 2012 as circulated be confirmed.**

## 8. RECORD OF ASSEMBLIES OF COUNCILLORS – NOVEMBER 2012

### Summary / Purpose

The purpose of this report is to provide the record of any assembly of Councillors, which has been held since the last Council Meeting, so that it can be recorded in the minutes of the formal Council Meeting.

### Policy Context

An amendment to the Local Government Act 1989, which came into effect on 24 September 2010 requires the record of any assembly of Councillors to be reported to the next practicable Council Meeting and recorded in the minutes (Refer Local Government and Planning Legislation Amendment Act 2010 – No. 58 of 2010 – Section 17).

### Background Information

The Local Government Act provides a definition of an assembly of Councillors where conflicts of interest must be disclosed.

A meeting will be an assembly of Councillors if it considers matters that are likely to be the subject of a Council decision, or the exercise of a Council delegation and the meeting is:

1. A planned or scheduled meeting that includes at least half the Councillors (5) and a member of Council staff; or
2. Is an Advisory Committee of the Council where one or more Councillors are present.

Note: Advisory Committee means any committee established by the Council, other than a special committee, that provides advice to (a) the Council, or (b) a special committee, or (c) a member of Council staff who has been delegated a power, duty or function of the Council under Section 98.

This requirement for reporting provides increased transparency and the opportunity for Councillors to check the record, particularly the declarations of conflict of interest.

### Report

Outlined below are the details of assemblies of Councillors held since the last meeting.

1.	Date / Time	Type of Assembly
	24 October 2012	Councillor Briefing
	<b>Venue</b>	Gisborne Administration Centre
	Present - Councillors	Councillors Relph, Jukes, Letchford, Morabito, Guthrie, Donovan and McLaughlin
	Present - Officers	Peter Johnston, Dale Thornton, Sophie Segafredo, Karen Stevens, Rick Traficante and Stephen Mahon
	Items Discussed	30 High Street, Lancefield Review of Ordinary Council Meeting 24 October 2012

Conflicts of Interest declared and the name(s) of the person(s) leaving the meeting when the matter about which the person(s) has a conflict(s) is discussed	Nil
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<b>2.</b>	<b>Date / Time</b>	<b>Type of Assembly</b>
	1 and 2 November 2012	Councillor Briefing / Induction Session
	<b>Venue</b>	Lancemore Hill Convention Centre
	Present - Councillors	Councillors Jukes, Connor, Anderson, Mowatt, Piper, Letchford, Morabito, Hackett and McLaughlin
	Present - Officers	Peter Johnston, Dale Thornton, Sophie Segafredo, Glenn Owens, Karen Stevens, Stephen Mahon and Mich Williams
	Items Discussed	<p>This session was primarily concerned with providing information to the new Council and seeking their initial input on a range of matters. The specific issues discussed that may be presented to a future Council Meeting were:</p> <ul style="list-style-type: none"> <li>• Station Road, Gisborne - VicRoads Study</li> <li>• Aquatic Projects</li> <li>• Gisborne Indoor Stadium Project Planning and Implementation – Department of Education (Lead) / Outdoor Netball Courts (Council)</li> <li>• Bluestone Theatre Facility Audit Report to Inform Future Direction</li> <li>• Community Parks</li> <li>• Early Years / Kindergartens</li> <li>• Saleyards Trade Waste</li> <li>• Hanging Rock – Development and Investment Plan / Infrastructure Challenges / Carols at the Rock Event</li> <li>• Gisborne Developer Contributions Plan (DCP)</li> <li>• Council Reserve Management Plans</li> <li>• Mount Macedon and Macedon Town Centre Studies</li> <li>• Rural Living Review</li> <li>• Kyneton Structure Plan</li> <li>• Riddells Creek and Woodend Structure Plans</li> <li>• Equine Strategy Implementation</li> <li>• Planning Scheme Amendment C84</li> <li>• Kyneton Woodlands Project</li> <li>• Heritage Strategy</li> <li>• Frith Road, Gisborne Rezoning Planning Scheme Amendment</li> <li>• Gisborne Town Planning Finalisation</li> </ul>

	<ul style="list-style-type: none"> <li>• Site Specific Planning Scheme Amendments</li> </ul>
Conflicts of Interest declared and the name(s) of the person(s) leaving the meeting when the matter about which the person(s) has a conflict(s) is discussed	Nil

<b>3.</b>	<b>Date / Time</b>	<b>Type of Assembly</b>
	14 November 2012	Councillor Briefing
<b>Venue</b>		Gisborne Administration Centre
Present - Councillors		Councillors Jukes, Piper, Letchford (arrived 3.10pm) Connor, Anderson, Morabito, Mowatt and Hackett
Present - Officers		Peter Johnston, Sophie Segafredo, Karen Stevens, Dale Thornton, Glenn Owens, Rick Traficante, Katie Xiao, David Nevin and Stephen Mahon
Items Discussed		Website Development Project Gisborne Early Years Project Submission Feedback Statutory and Strategic Planning Items <ul style="list-style-type: none"> <li>- Frith Road, Gisborne</li> <li>- Planning Scheme Amendment C84</li> <li>- Riddells Creek Structure Plan</li> <li>- Kyneton Structure Plan</li> <li>- Templeton Street, Woodend</li> <li>- Kyneton Airfield</li> <li>- Cousens Lane / Romsey Heights</li> <li>- 20 Noonan Grove, Woodend</li> <li>- Rural Living Strategy</li> </ul>
Conflicts of Interest declared and the name(s) of the person(s) leaving the meeting when the matter about which the person(s) has a conflict(s) is discussed		Nil

4.	Date / Time	Type of Assembly
	21 November 2012	Bus Tour of the Municipality and Councillor Briefing
	<b>Venue</b>	Gisborne Administration Centre
	Present - Councillors	Councillors Jukes, Connor, Anderson, Mowatt, Piper, Letchford, Morabito and Hackett
	Present - Officers	Peter Johnston, Sophie Segafredo, Karen Stevens Dale Thornton, Glenn Owens, Stephen Mahon and Gemma Gamble
	Items Discussed	<p>Place / Sites Visited During Bus Tour of Municipality:</p> <p><b>Gisborne</b>            Station Street/Road            Gisborne Aquatic Centre            Frith Road            Oval Site Options            New Gisborne C67 Part 2            Netball Courts Site</p> <p><b>Macedon</b>            Tony Clarke Reserve/Neighbourhood Safer Place Kindergarten            Macedon Streetscape            Jubilee Hall Car Park            Potential 29 Lots</p> <p><b>Woodend</b>            Washington Lane Upgrade            Transfer Station            Templeton Street            Brooke Street Waste Depot            Woodend Kindergarten            Children's Playground            Visitor Information Centre            Service Centre/Library            Tennis Courts            Maternal and Child Health Centre / Cobaw Hub            Buffalo Stadium            Gilbert Gordon and Racecourse Reserve Ovals            Bentinck Site            Avenue of Honour            Depot            Kyneton            Kyneton Toyota Site            Kyneton Hospital            Visitor Information Centre            Market Street Car Park            Commercial Land on Corner of Market and Ferguson Streets            Kyneton Sports and Aquatic Centre            Kyneton Showgrounds</p>

	<p>Lady Brooks Kindergarten Kyneton Administration Office Bluestone Theatre and Red Brick Hall Old Hospital Site Playground Site in Botanic Gardens Old Swimming Pool Site Railway Station Kyneton Mechanics Institute / Library Barkly Square – Pavilion Saleyards / Hardwicks Industrial Master Plan Area Kyneton Airfield <b>Hanging Rock</b> East Paddock <b>Newham</b> Newham Hall Newham School / Community Hard Court <b>Lancefield</b> Men's Shed : Park - New Tennis Courts Park Lane House Maternal and Child Health Centre High Street / Power Transformer 30 High Street <b>Romsey</b> Old School Site Service Centre/Library Barry Street/Main Street Intersection Sports Precinct Kindergarten and Maternal and Child Health Centre Lions Park – Skateboarding Proposed Service Station and Supermarket Development Rezoned Land <b>Monegetta</b> Land Engineering Agency Proving Ground Mintaro <b>Riddells Creek</b> Recreation Reserve / Tennis Courts Supermarket Site / Planning Permit Grant Application Works Toy Library Neighbourhood House Men's Shed Senior Citizens Centre Kindergarten / Maternal and Child Health Centre Pedestrian Links <b>Gisborne</b> Rodney Street Growth in South Gisborne</p>
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	Roundabout to be Built Sports Stadium Daly Reserve Gisborne Administration Office  Feedback on Website Development Project Councillor Delegates / Appointments to Various Committees and Outside Organisations
Conflicts of Interest declared and the name(s) of the person(s) leaving the meeting when the matter about which the person(s) has a conflict(s) is discussed	Nil

**Officer Recommendation:**

**That Council endorse the record of assemblies of Councillors as outlined in this report.**

**9. DEPUTATIONS AND PRESENTATIONS TO COUNCIL**

Generally there is no opportunity for members of the public to address an Ordinary Council Meeting. In specific circumstances including where a planning matter is being considered at an Ordinary Council Meeting for the first time or a prior request to the Mayor has been made and approved, a member of the public may be provided the opportunity to address the Council. In such circumstances the presentation will be limited to three minutes unless otherwise approved.

**10. PE.1 APPLICATION FOR AMENDMENT TO PLANNING PERMIT  
PLN/2011/A FOR A DEVELOPMENT AND USE OF THE LAND  
FOR A DENTAL CLINIC AND SIGNAGE AT 7 TEMPLETON  
STREET, WOODEND**

**Officer:** Aisling McGrath, Town Planner

**File Ref:** PLN/2011/102/A

**Council Plan Relationship:** "Relates to Key Goal Area – Sustainable Development – Appropriate Development enhancing our lifestyle and community."

**Attachments:** Plans

**Applicant:** Mark Evangelisti

**Date of Receipt of Application:** 31 July 2012

**Trigger for Report to Council:** Initial application was reported to Council

**Synopsis:**

This report was deferred at the 24 October 2012 Ordinary Council Meeting.

An amended planning permit is sought for a change of design to the Dental Clinic that was initially approved at 7 Templeton Street Woodend. The site is zoned Residential 1 (R1Z) and is subject to the Environmental Significance Overlay Schedule 4 (ESO4), as well as being partially covered by the Land Subject to Inundation Overlay (LSIO).

Council resolved at its meeting held on 24 August 2011 to issue a planning permit for the use and development of the land for a Dental Clinic and Signage at 7 Templeton Street Woodend (Crown Allotment 12, TP16280Q) subject to approval of Condition 1 plans and relevant permit conditions.

The proposed amendment to the permit was advertised by erection two (2) large notices on the land and sending letters to adjoining owners and occupiers. One (1) objection was received. The issues raised in the objection relate to the design of the building and concerns in relation to the screening of the carpark. These issues have been addressed later in the report.

The application was not referred to any internal or external referral authorities as the proposal relates to the design of the building only.

The primary consideration for this amendment is whether or not the redesign of the building will detract from the neighbourhood character of the area. The application has been assessed and it is evident that proposed contemporary style building is not suitable for the residential area in which it is proposed. The box like appearance of the building and the materials and colours proposed are contrary to the existing character of the area.

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PLN/2011/A FOR A DEVELOPMENT AND USE OF THE LAND  
FOR A DENTAL CLINIC AND SIGNAGE AT 7 TEMPLETON  
STREET, WOODEND**

The proposal is inconsistent with State and Local Planning Policy and does not satisfy the decision guidelines nor the objectives found in the Reference Documents within the Macedon Ranges Planning Scheme.

In light of the above, it is recommended that Council does not support this proposal.

**Officer Recommendation:**

**That Council resolve to:**

**Issue a Notice of Refusal to amend plans under Planning Permit PLN/2011/102/A for the development and use of a Dental Clinic and Signage at 7 Templeton Street, Woodend on the following grounds:**

- 1. The proposed development is inconsistent with Clause 15.01 of the Macedon Ranges Planning Scheme, as the building design does not respond appropriately to the design principles of this clause particularly in regard to building form. The proposed building does not respond to the valued built form and or reflect the predominate characteristics of the immediate area within which it is located.**
- 2. The proposed development is contrary to the relevant objectives and policies of the Woodend Township Structure Plan at Clause 22.02-3 of the Macedon Ranges Local Planning Policies (Woodend Township) to protect the landscape and existing urban character of the township.**
- 3. The proposal is not consistent with the purpose of the Residential 1 Zone at Clause 32.01 of the Macedon Ranges Planning Scheme which encourages development that respects the neighbourhood character. The proposed building represents a poor response to the existing built character of the Woodend Township and poorly reflects elements of design which are in keeping with or build upon the existing built form and character, of particular concern is the proposed building's bulk and scale.**
- 4. The proposal will, if approved, create an undesirable precedent for the approval of inappropriate built form development in Woodend.**

**10. PE.1 APPLICATION FOR AMENDMENT TO PLANNING PERMIT  
PLN/2011/A FOR A DEVELOPMENT AND USE OF THE LAND  
FOR A DENTAL CLINIC AND SIGNAGE AT 7 TEMPLETON  
STREET, WOODEND (Continued)**

**Existing Conditions and Relevant History**

Subject Land

The site is located on the corner of Templeton Street and Brooke Street. It is a rectangular shaped allotment with a 23.92 metre frontage to Templeton Street, a 40.32 metre frontage to Brooke Street and an overall area of approximately 936m<sup>2</sup>. The site currently contains a dwelling with associated outbuildings. The vegetation on site consists of a mixture of planted garden species and maintained lawn, consistent with a residential area. The vegetation within the property has been identified as not being native to Victoria however the vegetation significantly contributes to the landscape character of the site and street. There are street trees of a significant size around the property, with two street trees on the Templeton Street frontage and another two on the Brooke Street frontage.

Surrounds

Surrounding allotments on Templeton and Brooke Streets are generally developed with single storey weatherboard dwellings and associated outbuildings. The site to the south at 14 Brooke Street has been developed and is being used as a medical centre which is of similar design to that originally proposed for the Dental Clinic at 7 Templeton Street. The existing medical centre building has a pitched roof and is of weatherboard construction with the upper storey setback from the building line. A veterinary clinic has also been recently approved at 5 Brooke Street which is approximately 50m west of the subject site. The veterinary building is single storey and features an angled roof and a mixture of red brick and cement render finish in its natural colour. It is acknowledged that there is a contemporary style dwelling located at the opposite side of the intersection of Templeton and Brooke Streets. This particular dwelling is single storey with a flat roof. The dwelling is located on a large lot measuring 8,093m<sup>2</sup> and is well setback from the street and screened by mature trees planted along the boundaries. This building did not require planning approval under the provisions of R1Z being a single residential dwelling as such Council did not have the opportunity to influence the design of the building. Council, when it has the opportunity, should ensure that the design of a building respects the neighbourhood character in which it will be located in accordance with adopted visions and directions.

Title Details

There are no restrictive covenants and/ or Section 173 Agreements affecting the site.

**10. PE.1 APPLICATION FOR AMENDMENT TO PLANNING PERMIT  
PLN/2011/A FOR A DEVELOPMENT AND USE OF THE LAND  
FOR A DENTAL CLINIC AND SIGNAGE AT 7 TEMPLETON  
STREET, WOODEND (Continued)**

Permit History

Planning permit PLN/2011/102 was granted on 6 October 2011 and allowed the use and development of the land for a Dental Clinic and Signage at 7 Templeton Street Woodend (Crown Allotment 12, TP16280Q) subject to approval of Condition 1 plans and relevant permit conditions.

Condition 1 of the permit reads as follows:

1. Before the development and/or use commences, three copies of additional plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of this permit. The plans must show:
  - A full colour and material schedule for the development;
  - The location of all external lighting on site;
  - Colour details for the sign;
  - Location of the required footpath on Templeton Street

To date amended plans have not been provided and as such there are no endorsed plans to this permit.

Prior to lodging the amendment, plans were submitted in order to ascertain officer's views on the redesign of the building. Officers advised the applicant that an application to amend the plans was unlikely to receive officer support due to the significant change to the architectural style and roof form of the proposed building which is located within a residential area surrounded by dwellings of a more traditional style.

**Site Inspection**

A site inspection was undertaken by Aisling McGrath on 17<sup>th</sup> August 2012.

**The Proposal**

The proposal includes amendments to the plans that were originally submitted. The amendments are described as follows:

- Change in the design and built form of the building to feature a box like building with a flat roof.
- Change in the type of materials and colours to be used.
- Increase in the area of the ground floor by 5.8m<sup>2</sup> on the south west corner of the building.

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PLN/2011/A FOR A DEVELOPMENT AND USE OF THE LAND  
FOR A DENTAL CLINIC AND SIGNAGE AT 7 TEMPLETON  
STREET, WOODEND (Continued)**

- Increase in the area of the first floor of the building by 28m<sup>2</sup> and the addition of a balcony measuring 21m<sup>2</sup> onto the upper floor of the east elevation of the building.
- Adding a decked area to the northern elevation where there courtyard was originally proposed.
- A reduction in the setback of the building from the northern boundary. Having a 2.45m setback reduced to 2.1m on the east side of the building and from a 2.25m setback to 2.1m on the west side of the building.

Building Details - Current Permit

The plans considered in the original application show a two storey building, with the ground floor containing the dental surgery which includes four consultation rooms for the four (4) practitioners on site at any one time, recovery room, offices, waiting room, laboratory, staff room, sterilisation room, offices and store rooms. The first floor contained two bedrooms and a living room for use by staff working at the clinic.

The building had a total ground floor area of 260m<sup>2</sup> and first floor area of 46.54m<sup>2</sup>. The height of the building to the apex of the roof was 7m. The building resembled the built form of the existing medical centre on Brooke Street and the surrounding residential dwellings on Templeton and Brooke Streets with a gable roof form and an upper floor stepped back from the ground floor on all elevations. The building was to be constructed of a mixture of weatherboard cladding, rendered walls and 'Hebel' stone wall cladding at the entry. The roof, fascia and guttering was to be Colorbond steel sheeting 'Woodland Grey' in colour and the roof was to have a 15° pitch.

Proposed Amendments

The applicant describes that redesign is required in order to '*evoke a clean look and create the hint of the intended use contained within*'.

The redesign includes changing the building and roof form to present a simplified modern building with a flat roof which clearly displays it's commercial purpose. The building and roofline heights will be varied to accommodate the double-storey extension. The building will have an overall height of 6.9m to the roof line at the west end of the building and the roof line at the east end will measure 3.7m in height.

The proposed colour schedule is as follows:

<b>External finish</b>	<b>Proposed Colour</b>
Walls - James Hardy "Comtex"	- Dulux Natural White
Walls - Carter Holt Harvey "Shadowclad"	- Dulux Raku ( Dark Grey)

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FOR A DENTAL CLINIC AND SIGNAGE AT 7 TEMPLETON  
STREET, WOODEND (Continued)**

Walls – Cedar Horizontal Panelling	- Stained Supernatural
Walls – Zinc Metal Cladding	- Zinc
Eaves - Cedar Horizontal Panelling	- Stained Supernatural
Roof - Corrugated Metal Sheeting	- Not seen
Windows and Doors – Aluminium	- Aluminium

The redesign also includes increasing the ground floor area by 5.8m<sup>2</sup> which will extend the lab room over an area which had been designated as a footpath on the original drawings. The proposal also includes to extend the upper floor area of the building by 28m<sup>2</sup> to allow the addition of an ensuite and also the addition of a balcony measuring 21m<sup>2</sup>.

**Relevant Macedon Ranges Planning Scheme controls**

Since the original application was made, the State Planning Policy Framework has changed; however the matters relating to flooding, health facilities, car parking, signage still include a similar set of principles which are not affected by the proposed changes. Built form remains a strong emphasis within state policy.

State Planning Policy Framework

MRPS Clause No.	Clause Name
13.02	Floodplains
15	Built Environment and Heritage
17	Economic Development
19.02-1	Health Facilities

Local Planning Policy Framework

MRPS Clause No.	Clause Name
21	Municipal Strategic Statement
22.01	Macedon Ranges and Surrounds
22.02-3	Woodend Township

Zoning

MRPS Clause No.	Clause Name
32.01	Residential 1 Zone

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FOR A DENTAL CLINIC AND SIGNAGE AT 7 TEMPLETON  
STREET, WOODEND (Continued)**

Overlay

MRPS Clause No.	Clause Name
42.01	Environmental Significance Overlay (Schedule 4)
44.04	Land Subject to Inundation Overlay

Particular Provisions

MRPS Clause No.	Clause Name
52.05	Advertising Signs
52.06	Carparking

General Provisions

MRPS Clause No.	Clause Name
Clause 65	Decision guidelines
Clause 66	Referral and notice provisions
Clause 74	Land use definitions

*Clause 74 Land use definitions*

Land Use Term	Definition	Included In
Medical Centre	Land used to provide health services (including preventative care, diagnosis, medical and surgical treatment and counselling) to out-patients only.	Office

Relevant Planning Scheme Amendments/Council Adopted Policy

There are no Planning Scheme Amendments or other adopted Council Policy that is relevant to this application.

**Relevant Application History**

**The process to date:**

Referral

The original application was referred to North Central Catchment Management Authority, Council's Engineer and Conservation Officer. The authorities had no objection to the proposal subject to conditions being included on the permit.

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PLN/2011/A FOR A DEVELOPMENT AND USE OF THE LAND  
FOR A DENTAL CLINIC AND SIGNAGE AT 7 TEMPLETON  
STREET, WOODEND (Continued)**

The application to amend the permit was not referred to any internal or external authorities as the application relates to the amended design of the building only. There are no other changes proposed, therefore the conditions of the original permit are maintained.

Advertising

Pursuant to Section 52 of the *Planning and Environment Act 1987*, notification of the amended application was undertaken by erection two (2) large notices on the land and sending letters to adjoining owners and occupiers. One (1) objection was received to the application from an adjoining owner. The original application had also been advertised and received one objection. The objections submitted were not from the same person.

Consideration of objection for the amendment

During the notification period for the proposed amendment, Council received one (1) objection to the proposed development. The issues raised in the submission have been addressed below:

*Issue 1: Design of the Building*

The objector states *'Having compared the Amendment to the Planning permit with the original application, I am not in favour of the amended proposal. I object on the grounds that the proposed contemporary facade and design of the building does not blend in with the character of its proposed neighbourhood, nor the overall character of the township. To maintain a sense of belonging the original proposed plan is the more appropriate building outcome.'*

*Issue 2: Impact of the development in relation to the western boundary*

In relation to the above issue, the points raised are in regard to the type of fencing and screening proposed along the western boundary to obscure the view of the car park as the living area of the adjoining dwelling faces into the car park.

**Officer Assessment**

State Planning Policy Framework

The State policies of the planning scheme encourage and reinforce redevelopment of existing established urban areas, whilst respecting and enhancing the character of the towns.

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PLN/2011/A FOR A DEVELOPMENT AND USE OF THE LAND  
FOR A DENTAL CLINIC AND SIGNAGE AT 7 TEMPLETON  
STREET, WOODEND (Continued)**

The proposal however in officers' opinions does not adequately respond to the SPPF by providing a development which respects and enhances existing character of the immediate area. The original proposal provides a good opportunity for redevelopment in an established medical precinct; however the proposed redesign does not achieve a balance in between providing for redevelopment whilst also respecting the existing character.

Clause 15 Built Environment and Heritage of the State Planning Policy Framework states that '*Planning should ensure all new land use and development appropriately responds to its landscape, valued built form*'. State policy encourages high quality urban design and architecture that:

- *Contributes positively to local urban character and sense of place.*
- *Reflects the particular characteristics, aspirations and cultural identity of the Community.*
- *Minimises detrimental impact on neighbouring properties.*

Of particular relevance, the proposal fails to satisfy the objectives and strategies of Clause 15.01 in achieving high quality urban design as well as promoting attractive and liveable environments that also respects the character of the area. The proposal also fails to adequately respond to Clause 15 by providing high quality design that will contribute positively to local urban character and sense of place. The proposed modern style building does not positively respond to the context of the site nor does it reflect the character and the rural context of Woodend and the residential zoning of the land.

Further to the above, urban design principles at Clause 15.01-2 also apply in this instance. The objective of this clause is '*to achieve architectural and urban design outcomes that contribute positively to local urban character and enhance the public realm while minimising detrimental impact on neighbouring properties*'.

An objective of Clause 15.01-5 Neighbourhood Character '*to recognise and protect cultural identity, neighbourhood character and sense of place.*' The strategies to achieve this outcome include;

- *Ensure development responds and contributes to existing sense of place and cultural identity.*
- *Ensure development recognises distinctive urban forms and layout and their relationship to landscape and vegetation.*
- *Ensure development responds to its context and reinforces special characteristics of local environment and place by emphasising:*

**10. PE.1 APPLICATION FOR AMENDMENT TO PLANNING PERMIT  
PLN/2011/A FOR A DEVELOPMENT AND USE OF THE LAND  
FOR A DENTAL CLINIC AND SIGNAGE AT 7 TEMPLETON  
STREET, WOODEND (Continued)**

- *The underlying natural landscape character.*
- *The heritage values and built form that reflect community identity.*
- *The values, needs and aspirations of the community.*

Other relevant policy such as ‘The Urban Design Charter for Victoria (January 2010)’ indicate ‘*Places are valued because of the individual qualities that make them distinctive from other places – because of their character. Urban design should understand, protect, develop and celebrate local character.*’

*Local Planning Policy Framework*

Clause 21.02 (Municipal Snapshot). Woodend is recognised as a Major Urban Centre. Quality of Lifestyle policy recognises that townships in the Shire have their own distinctive character with tree lined avenues and “turn of the century” streetscapes, houses, ...”

Woodend Urban Design Strategy 1999 (Woodend’s Framework for the Future: an Urban Design Framework). This strategy recognises the design of the approaches to Woodend (which includes the subject land). The report sets out design principles which “*should be referred to when undertaking capital works or considering planning permits in the town centre*”. The three principles of relevance in this instance are:

- *To maintain building scale;*
- *New buildings ...are encouraged to create innovative contrasts in the street while maintaining an appropriate rhythm and scale.*
- *New buildings that replace existing ones should always be of a better design quality and offer a better contribution to the streetscape than the ones they replace.*

In regards to Local Planning Policy the Woodend Township Policy encourages developments which add to and protect the existing urban landscape. The objectives of the Township policy found at Clause 22.02-3 include:

- *To recognise that limits to the growth of Woodend need to be established based on protecting the landscape, environmental and lifestyle qualities and infrastructure limitations.*
- *To protect Woodend’s landscape and townscape character*

**10. PE.1 APPLICATION FOR AMENDMENT TO PLANNING PERMIT  
PLN/2011/A FOR A DEVELOPMENT AND USE OF THE LAND  
FOR A DENTAL CLINIC AND SIGNAGE AT 7 TEMPLETON  
STREET, WOODEND (Continued)**

The proposed double storey contemporary building is not a common feature of this part of Woodend. The use of non traditional building elements such as zinc in addition to the stark design with contrasting colours (dark grey and white) the proposed building is not considered sympathetic to the existing streetscape given that all of the other buildings in the vicinity are aesthetically similar being traditional weatherboard dwellings having pitched roofs and are of muted tones. The proposed building would be more suited to a suburban area within metro Melbourne where there is a variety of architectural styles, not in a country town like Woodend.

Clause 22.02-3 Woodend Township Structure Plan. Under this Clause it is relevant policy that:

- *Use and development of land in the township and environs that protects and adds to the landscape and urban character of the township will be supported.*
- *New development and general directions and locations for urban expansion and infill development are to be consistent with the policy reference documents.*

The original application for the use and development for the Dental Clinic was supported as it was considered an appropriate development for the area and the building proposed reflected the style of buildings in the surrounding area. The Brooke Street Medical Centre across the road from the subject site is of similar design to the original design for the Dental Clinic. The building initially proposed was a better articulated building in terms of bulk and scale with the upper floor setback from the ground floor on all elevations. The original building had a pitched roof style and used materials and colours which would allow the building to blend into the existing streetscape.

*Zoning Considerations*

Although the site is located within an established medical precinct, the subject site is zoned Residential 1 Zone and is within an established residential area. The original application approved a dental clinic which is a Section 2 Use and categorised as a 'medical centre' under the provisions of the Macedon Ranges Planning Scheme. As mentioned when addressing local policy, the design of the original building was considered appropriate although the double storey element is not a common feature of this part of Woodend. The building was still considered sympathetic to the existing streetscape given that it resembled the built form of other buildings in the area. The upper level was further setback from the ground floor building line, the roof being of pitched form and the external materials and colours displayed muted tones.

**10. PE.1 APPLICATION FOR AMENDMENT TO PLANNING PERMIT  
PLN/2011/A FOR A DEVELOPMENT AND USE OF THE LAND  
FOR A DENTAL CLINIC AND SIGNAGE AT 7 TEMPLETON  
STREET, WOODEND (Continued)**

The proposed redesign of the dental clinic is not considered to be consistent with the purpose of the zone, as the proposed building is not site responsive and will not blend into the surrounding area. The modern design proposed does not respect the existing neighbourhood character of the area. The proposed building incorporates a double level built form with a flat roof which is not setback from the ground floor building line. The scale and bulk of the proposed building with its harsh building lines and use of stark colours visually highlights its proposed commercial use and therefore does not respect the residential character of the area.

The development needs to be appropriate to the established form of the area. To achieve a development proposal that meets the objective of being respectful and responsive to the established neighbourhood character of the area, it is suggested that the building revert to the previous design which incorporates a more traditional type building with a pitched roof and the use of materials and colours that are sensitive to the area.

Given the design of the building in relation to the site, the modern box type building proposed would be of detrimental impact to the neighbourhood as it would be visually obtrusive within the existing streetscape.

Overlays

The proposed amendment to the permit was not assessed in relation to the Environmental Significance Overlay (ESO4) or the Land Subject to Inundation Overlay (LSIO) as the proposed amendments are concerned with the design of the building only.

Car Parking

The proposed amendment does not require any modifications to the layout or number of car parking spaces.

**Conclusion**

This application has been assessed against the requirements of the Macedon Ranges Planning Scheme and is deemed to be contrary with the provisions set out under the State and Local Policy Frameworks, including the MSS, local planning policies and does not satisfy the purpose or decision guidelines of the Residential Zone which aims to encourage development that respects the neighbourhood character. The proposed amendment to the design is inappropriate and if permitted would have adverse amenity impacts to the immediate area. As such the application is not supported.

**10. PE.2 APPLICATION FOR PLANNING PERMIT PLN/2011/502  
BUILDING AND WORKS ASSOCIATED WITH A FOOD AND  
DRINK PREMISES (CAFE) AND BUSINESS IDENTIFICATION  
SIGNAGE – 30 HIGH STREET, LANCEFIELD**

**Officer:** Laura Thompson, Town Planner

**File Ref:** PLN/2011/502

**Council Plan Relationship:** Sustainable Environment and Infrastructure - Safe, functional assets and a protected natural environment

**Attachments:** 2

**Date of Receipt of Application:** 5 December 2011

**Trigger for Report to Council:** Councillor Call In

**Applicant:** P S Saunders

**Synopsis:**

The application before Council is for the retrospective approval of external buildings and works and erection of business identification signage in a Heritage Overlay. The application originally included a waiver of car parking, however due to changes to Clause 52.06 - Car Parking, introduced by Amendment VC94 part way through the assessment of this application, it became apparent that the current land uses satisfy the new car parking requirements and a waiver of parking will not be required. Nevertheless, as car parking was originally a large component of this application prior to the changes introduced by amendment VC94, this issue has been addressed in detail in this report.

The subject land is located on the northern side of High Street, in the business district of the township of Lancefield. The land has long been developed with a weatherboard shop that has been used for various commercial enterprises over the years. Currently there are a number of separate businesses occupying the building, including a toy shop, hairdresser, cafe and garden/gift centre. Previous uses of the land included a wine room and medical centre.

At some point during the second half of 2011 a cafe commenced operation from the western half of the existing building. Several retail uses (toy shop, hairdresser and garden/gift centre) also commenced operation on the site at approximately the same time with the toy shop and hairdresser operating from the eastern half of the main building and the garden/gift centre being established in the garage located at the rear of the property. These uses commenced operating without having addressed the car parking requirements in force at the time.

**10. PE.2 APPLICATION FOR PLANNING PERMIT PLN/2011/502  
BUILDING AND WORKS ASSOCIATED WITH A FOOD AND  
DRINK PREMISES (CAFE) AND BUSINESS IDENTIFICATION  
SIGNAGE – 30 HIGH STREET, LANCEFIELD (Continued)**

It also became apparent during the course of the application that some minor buildings and works and erection of signage had occurred without appropriate planning approval.

The application was lodged in December 2011 seeking retrospective approval for the waiver of car parking associated with a 10 seat cafe. During the processing of the application clarification as to the nature of the cafe was sought from which it was established that the proposal was for a 28 seat cafe. Upon this basis the application was advertised in March 2012 as '*Use of the land for a Convenience Restaurant (cafe) and waiver of car parking*'. It should be noted that at the time advertising was undertaken the car parking provisions had not as yet changed. Two objections relating to car parking were received from adjoining properties

Following advertising of the application and a site visit it became apparent the number of seats available in the cafe had increased, minor external alterations had occurred and signage had been erected. Consequently the application was amended to include consideration of car parking for all current uses (44 seat cafe and retail uses), minor building works and erection of business identification signage. The amended proposal was forwarded to objectors with no further comments received.

Clause 52.06 sets out the requirements for car parking, nominating the number of car spaces a new use must provide onsite. Where the required number of car parking spaces cannot be provided on site, a planning permit for a waiver of car parking can be sought. At the time the application was lodged in December 2011 Clause 52.06 required a waiver of car parking for the cafe and retail uses. However, in July 2012 Amendment VC94 introduced significant changes to Clause 52.06 and this has now removed the requirement for waiver of car parking, particularly as the application proposes the creation of four new car parking spaces on the site. It should be noted that in determining the car parking requirements, the cafe has been classed as a Food and Drink Premises and not a Convenience Restaurant as it was originally advertised. The definition of a Food and Drink Premises more accurately describes the cafe use, whereas a Convenience Restaurant is more akin to a fast food restaurant with provision for 'drive through'. As the application has been deemed to satisfy current car parking requirements the objections are also deemed to have been addressed.

A permit is still required for the buildings and works and erection of signage that has occurred at the site as both the Heritage Overlay and Business 1 Zone trigger planning approval. The signage erected is inappropriate in the heritage context of High Street being of modern design and bold graphic format.

**10. PE.2 APPLICATION FOR PLANNING PERMIT PLN/2011/502  
BUILDING AND WORKS ASSOCIATED WITH A FOOD AND  
DRINK PREMISES (CAFE) AND BUSINESS IDENTIFICATION  
SIGNAGE – 30 HIGH STREET, LANCEFIELD (Continued)**

As a result of discussions with the Heritage Advisor, the applicant agreed to amend the extent and design of signage which is proposed to be addressed via permit conditions. The buildings and works undertaken without approval include installation of a hot water service, air conditioning unit, pizza oven and verandah. These works are considered to be sufficiently minor in nature and are considered acceptable in both the Heritage Overlay and Business 1 Zone as they can also be easily addressed through permit conditions.

Consequently it is recommended that a planning permit be granted for buildings and works and erection of business identification signage.

Noted: the recommendation is for a Planning Permit and not an Notice of Decision to Grant a Permit. Even though two objections were received, the grounds upon which the objections were made are no longer relevant to this application as no waiver of parking is required. Furthermore, with the changes introduced by Amendment VC94, a waiver of car parking is now exempt from advertising and third party appeal rights.

**Officer Recommendation:**

**That a Planning Permit be issued for building and works and Business identification signage associated with a new use (Food and Drink Premises (Cafe) and Shop) for the land at Part Crown Allotment 20 and Part Crown Allotment 21, Section 62 Parish of Lancefield, 30 High Street Lancefield, subject to the conditions below**

- 1. Within one month of the approval of this permit, additional plans - including dimensioned signage drawings, elevations and updated site plan - (2 copies) must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of this permit. The amended plans must include the following:**
  - a) Elevations plans showing all new buildings and works including the shelter located at the front of the garage, pizza oven, air conditioning unit and hot water service.**
  - b) Existing signage to be removed (1 roof, 2 side wall and 3 under servery) and replaced with 2 signs that follow the design (font and colours) of the existing 1 roof sign. Signs can be located as follows;**
    - i. locate on the front boundary on simple black steel posts – 1&2 combined**
    - ii. on the side wall – 3 re-designed**

**10. PE.2 APPLICATION FOR PLANNING PERMIT PLN/2011/502  
BUILDING AND WORKS ASSOCIATED WITH A FOOD AND  
DRINK PREMISES (CAFE) AND BUSINESS IDENTIFICATION  
SIGNAGE – 30 HIGH STREET, LANCEFIELD (Continued)**

- c) A directional sign to be located at the driveway entrance indicating staff parking is available at the rear of the building.
  - d) The site plan is to indicate the signage on the front boundary and the location of new buildings and works.
  - e) The elevation of the front facade is to indicate all proposed signage. Any proposed external painting will need heritage approval and should be notated on the elevations. Existing colours previously utilised on the front facade are acceptable.
- 2. Within three month of the endorsement of amended plans required by Condition 1 the signage must be removed or erected in accordance with the endorsed plans to the satisfaction of the Responsible Authority.
- 3. The development allowed by this permit and shown on the plans endorsed to accompany the permit shall not be amended for any reason unless with the prior written consent of the Responsible Authority.
- 4. The following ongoing requirements must at all times be met, to the satisfaction of the Responsible Authority:
  - a) Any air-conditioners or mechanical plants or any other facilities or services must not be located on or project above the roof line and the noise generated from such equipment must comply with the relevant State Environment Protection Policies.
  - b) All external lighting must be designed, located and fitted with suitable baffles or otherwise to prevent the emission of direct light onto adjoining properties and the road.
  - c) Advertising signs for the premises shall be restricted to those approved by the Responsible Authority, including any signs external or remote from the premises.
  - d) All buildings and works must be maintained in good order and appearance so as not to reduce the amenity of the neighbourhood.
  - e) The entrance to the parking area at the rear of the property must not be obscured or blocked during the trading hours of any of the business operating from the site.
  - f) A directional sign indicating staff parking at the rear must be maintained at all times in accordance with the endorsed plans.

10. PE.2 APPLICATION FOR PLANNING PERMIT PLN/2011/502  
BUILDING AND WORKS ASSOCIATED WITH A FOOD AND  
DRINK PREMISES (CAFE) AND BUSINESS IDENTIFICATION  
SIGNAGE – 30 HIGH STREET, LANCEFIELD (Continued)

**Engineering and Infrastructure Conditions**

5. The applicant/owner shall restrict sediment discharges from any construction sites within the property in accordance with Construction Techniques for Sediment Pollution Control (EPA 1991) and Environmental Guidelines for Major Construction Sites (EPA 1995).
6. Storm water runoff from all buildings, tanks and paved areas must be dissipated at a legal point of discharge approved by the Responsible Authority. All new drainage is to be connected into Council's existing drainage network.

**Permit Expiry**

7. The business identification signage hereby approved, expires 15 years from the date of issue for the purpose of the business identification signage. The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires or within three months afterwards.

**PERMIT NOTE:**

Pursuant to Clause 52.06-2 of the Macedon Ranges Planning Scheme, prior to a new use commencing, the floor or site area of an existing use being increased or, the number of patrons, seats or practitioners at an existing use being increased, the car parking spaces required under Clause 52.06-5 must be provided on the land or as approved under Clause 52.06-3 to the satisfaction of the responsible authority. If the required car parking spaces cannot be provided on the land a planning permit may be required for the full or partial waiver of the car parking requirement. For any enquires regarding car parking requirements, please contact the Planning Department, Macedon Ranges Shire Council ph: (03) 5422 0333.

**10. PE.2 APPLICATION FOR PLANNING PERMIT PLN/2011/502  
BUILDING AND WORKS ASSOCIATED WITH A FOOD AND  
DRINK PREMISES (CAFE) AND BUSINESS IDENTIFICATION  
SIGNAGE – 30 HIGH STREET, LANCEFIELD (Continued)**

**Existing conditions**

The subject land is situated on the north side of High Street, centrally located within the main commercial strip of Lancefield. The land is rectangular in form and has a frontage to High Street of 14.76m, side boundaries of 50.8m and an overall area of approximately 750m<sup>2</sup>.

The land is currently developed with an existing weatherboard heritage building that occupies the front portion of the site. The building is double fronted with the eastern two thirds of the frontage built to the street, and including a verandah that extends out over the footpath. The western third of the frontage is setback from the street with a smaller verandah built out over a paved courtyard. A narrow pedestrian access leads down the eastern boundary, and a gravel driveway is located along the western boundary. At the rear of the building is a covered courtyard and grassed yard. In the north-west corner is located a timber garage with a verandah constructed in front.

The building has had many previous uses. In the last few years it has been used as a dwelling and medical centre (Bowen Therapy) and for retail use (wine room) which was introduced into the western half of the building. Prior uses of the building remain unconfirmed; however Council's records indicated that in 2000 the property valuation was adjusted to commercial valuation from a previous residential valuation.

Since the land was purchased by the applicant's mother in May 2011, the use of the building has changed again and currently the building is used as follows:

- A toy shop occupying 44sqm in the front rooms of the eastern section of the building.
- A hairdressing salon occupying 19sqm behind the toy shop, with access from the eastern walkway.
- A cafe occupying the rest of the building, with shared toilet facilities to the rear. The cafe includes outdoor seating comprising pavement seating to the front and an alfresco courtyard to the rear. The total number of seats available is 44 with the cafe occupying 134 square metres.
- Garden and gift centre occupying an area of 34 square metres in the existing shed with external display areas notated in front and adjoining.

High Street, between Main Road and Raglan Street, is the main business and commercial precinct in the Lancefield Township. Located long both the northern and southern side of the street are predominantly detached single storey buildings many of which date from the mid to late nineteenth century. Most buildings are used for shops, offices or cafe/restaurants with a few residences interspersed.

**10. PE.2 APPLICATION FOR PLANNING PERMIT PLN/2011/502  
BUILDING AND WORKS ASSOCIATED WITH A FOOD AND  
DRINK PREMISES (CAFE) AND BUSINESS IDENTIFICATION  
SIGNAGE – 30 HIGH STREET, LANCEFIELD (Continued)**

A wide median strip incorporating a plantation of deciduous trees divides High Street. Located either side of the median strip is angled parking with parallel parking along the kerb.

Located to the east of the subject land is a single story dwelling while to the west is another cafe. To the north of the subject land, properties are zoned and developed for residential purposes.

**Registered restrictive covenants and/or Section 173 Agreements affecting the site**

A current copy of title has been provided with the application which shows no Covenants, Section 173 Agreements or restrictions have been registered on the title to this property.

**Previous planning permit history**

Following a review of Council's records no relevant planning permit history for the subject property has been found.

However, following history is relevant to the immediate area:

<b>Permit Number</b>	<b>Description</b>
PLN/2009/385	15 High Street. Pharmacy and waiver of car parking.
PLN/2010/104	17 High Street. Medical Centre and waiver of car parking.
PLN/2010/510	38-40 High Street. Shops, dwellings and waiver of car parking.
PLN/2011/257	34 High Street. Shop extension and waiver of car parking.

**The proposal**

The application is retrospective. The applicant's mother bought the site in May 2011 and enforcement action in December 2011 occurred, at which point the applicant had opened a cafe within the western section of the building (previously the wine room).

The original documents submitted for the application had no plans and described the proposal as '*applying for waiver of car parking for small cafe with seating for 10*'.

A request for further information was made in February 2012 and the applicant subsequently advised the cafe includes seating for 28 chairs (10 tables) with one staff member, and is open 7 days a week from 7am to 5pm.

**10. PE.2 APPLICATION FOR PLANNING PERMIT PLN/2011/502  
BUILDING AND WORKS ASSOCIATED WITH A FOOD AND  
DRINK PREMISES (CAFE) AND BUSINESS IDENTIFICATION  
SIGNAGE – 30 HIGH STREET, LANCEFIELD (Continued)**

On this basis the application was advertised to adjoining and adjacent properties in March 2012 as '*Use of the land for a Convenience Restaurant (cafe) and waiver of car parking*'. Two objections relating to car parking issues were received.

Following advertising and the receipt of objections to the application, it became apparent that the cafe was operating with more than 28 seats and that the additional commercial uses that had commenced (i.e. toy shop, hairdresser and garden and gift centre) needed to be incorporated into the application. Consequently the application was amended to include consideration of the whole site and waiving of car parking associated with multiple uses (44 seat Food and Drink Premises (cafe), toy shop, hairdresser and garden and gift centre).

The application was also amended to include the creation of four car spaces along the eastern boundary, behind the existing building. The car spaces will allow for 90 degree parking with the ability to enter and exit the site in a forward direction. It is intended that the car spaces primarily be used for staff parking.

With the provision of this onsite parking, and as a result of changes to the car parking provisions at Clause 52.06, a waiver of car parking is no longer required. Therefore the application is only for the minor buildings and works and business signage that have been undertaken without approval.

When the application was submitted there were no heritage issues, however during the course of the application new business identification signs were erected on the site. At this point it also became apparent that some minor building works had also occurred (installation of air conditioning unit, hot water services, pizza oven shelter and construction of a verandah in front of the existing garage).

A meeting occurred on site with the applicant and the heritage advisor present, during which the heritage issues were discussed. The applicant claimed to be aware of the Heritage Overlay but not of its implications. The erected signs are quite inappropriate in the heritage context. They are white with large, red lettering in bold format, and are located all over the facade. The applicant agreed at this meeting to remove the signs and get them re-designed to more appropriately suit their context.

### **Site Inspection**

A site inspection was undertaken by Sonia Vescovi 24 May 2012 and 12 July 2012.

**10. PE.2 APPLICATION FOR PLANNING PERMIT PLN/2011/502  
BUILDING AND WORKS ASSOCIATED WITH A FOOD AND  
DRINK PREMISES (CAFE) AND BUSINESS IDENTIFICATION  
SIGNAGE – 30 HIGH STREET, LANCEFIELD (Continued)**

**Relevant Macedon Ranges Planning Scheme Controls**

Definitions

<b>Relevant Definitions – Clause 74</b>	
Convenience Restaurant	Land used to prepare and sell food and drink for immediate consumption, where substantial provision is made for consumption both on and off the premises.  Included in: <b>Food and drink premises</b>
Food and Drink Premises	Land used to prepare and sell food and drink for immediate consumption on, or off, the premises.  Included in: <b>Retail premises</b>
Shop	Land used to sell goods or services, or to hire goods. It includes the selling of bread, pastries, cakes or other products baked on the premises. It does not include food and drink premises, gambling premises, landscape gardening supplies, manufacturing sales, market, motor vehicle, boat, or caravan sales, postal agency, primary produce sales, or trade supplies.  Included in: <b>Retail premises</b>

SPPF

<b>Clause No.</b>	<b>Clause name</b>
14.01	Planning for urban settlement
17.01	Activity centres
17.02	Business
18.02	Car parking and public transport access to development
18.03	Bicycle transport
19.03	Design and built form

LPPF

<b>Clause No.</b>	<b>Clause name</b>
21	Municipal Strategic Statement
22.01	Macedon Ranges and Surrounds
22.02	Township

**10. PE.2 APPLICATION FOR PLANNING PERMIT PLN/2011/502  
BUILDING AND WORKS ASSOCIATED WITH A FOOD AND  
DRINK PREMISES (CAFE) AND BUSINESS IDENTIFICATION  
SIGNAGE – 30 HIGH STREET, LANCEFIELD (Continued)**

Zone

The subject land is zoned Business 1 Zone (B1Z) and is therefore subject to the provisions of Clause 34.01 of the Macedon Ranges Planning Scheme (MRPS).

'Food and drink premises' is included in Section 1 – Permit not required at Clause 34.01-1. Therefore the use of the land for a Food and Drink Premises (Cafe) does not require a planning permit under the zone.

The other existing uses i.e. toy shop, hairdresser and, garden & gift centre all fall within the definition of a 'Shop'.

The use of the land for a shop is also listed in Section 1 of the table of uses at Clause 34.01-1 and therefore a permit is not triggered for the existing retail uses currently operating from the subject land.

Adjoining land to the east, west and south is zoned Business 1. Adjoining land to the north is zoned Residential 1.

Overlays

Clause No.	Clause name
43.01-1	Heritage Overlay 266 Lancefield Town Centre Precinct

Particular Provisions

Clause No.	Clause name
52.06	Car Parking

Clause 52.06-2 requires that a new use must not commence until the car parking spaces required under Clause 52.06-5 have been provided on the land to the satisfaction of the Responsible Authority. If the required number of car spaces cannot be provided an application for a full or partial waiver of car parking can be sought.

At the time the application was lodged (December 2011) this clause did not specify a car parking ratio for a Food and Drink Premises. In such instances, car parking must be provided to the satisfaction of the Responsible Authority and therefore the car parking ratio for a Restaurant (0.6 spaces to each patron) was used to determine the car parking for cafe as this was the closest match of the available uses.

**10. PE.2 APPLICATION FOR PLANNING PERMIT PLN/2011/502  
BUILDING AND WORKS ASSOCIATED WITH A FOOD AND  
DRINK PREMISES (CAFE) AND BUSINESS IDENTIFICATION  
SIGNAGE – 30 HIGH STREET, LANCEFIELD (Continued)**

When Clause 52.06 updated in July 2012 through Amendment VC94, the car parking ratios were adjusted and the advertising requirements for a waiver of parking were changed. Clause 52.06-5 now includes the car parking ratio specifically for the use Food and Drink Premises removing the need to rely upon a ratio for another use to determine the car parking requirement.

Consequently, under the new car parking provisions, a Food and Drink Premises requires 4 car spaces for each 100 square metres of leasable floor area. The ratio for Retail uses has dropped from 8 spaces to 4 spaces per 100 square metres of leasable floor area. Overall the change to Clause 52.06 has resulted in a reduced car parking requirement for the current land uses.

The changes to Clause 52.06 introduced in July also altered the circumstances in which an application for waiver or car parking would be advertised. If the application had been lodged after 4 July 2012 there would have been no need to advertise the application. As the changes to Clause 52.06 did not introduce transitional arrangements, they take effect immediately, and as a result objectors to this application do not have appeal rights to any decision made.

Clause 52.06-5 also requires that for a retail use, a ratio of 4 spaces per 100 square metres of leasable floor area be applied.

General Provisions

Clause No.	Clause name
65.01	Decision Guidelines

Permit Trigger

Clause No	Details
34.01-4	Construct or carry out works in the B1Z
43.01-1	Construct or carry out works in the HO
52.06-3	A permit is required to reduce the number of car parking spaces required for a new use.

**Relevant application history**

Referral

The application was referred to the following external authorities or MRSC units:

**10. PE.2 APPLICATION FOR PLANNING PERMIT PLN/2011/502  
BUILDING AND WORKS ASSOCIATED WITH A FOOD AND  
DRINK PREMISES (CAFE) AND BUSINESS IDENTIFICATION  
SIGNAGE – 30 HIGH STREET, LANCEFIELD (Continued)**

<b>Authority/Unit</b>	<b>Response</b>
Council's Engineering Infrastructure & Projects	No objection subject to (2) conditions.
Council's Heritage Advisor	No concerns subject to conditions regarding the signage are implemented (as agreed on site on 12 <sup>th</sup> July 2012)

Advertising

Pursuant to Section 52 of the *Planning and Environment Act 1987*, the application was advertised by sending notices to the owners and occupiers of surround/adjoining land and by requiring a notice to be erected on the land for a period of 14 days.

The application was advertised as '*Use of the land for a Convenience Restaurant (cafe) and waiver of car parking*'. The application at that time stated the number of seats as 28. Two objections have been received to date and are summarised as follows:

- Concern at impact of new businesses on parking if no parking is provided on the site.
- New businesses commenced without adherence to car parking requirements of the planning scheme.
- Discrepancies in application statement in number of staff; existing conditions; number of patrons.
- Increase in volume of traffic due to new businesses adding to congestion of traffic and parking in the area.

Following advertising the application was amended to consider the whole site and waiving of car parking associated with multiple uses (44 seat Food and Drink Premises (Cafe) and retail uses). The objectors were sent a copy of the revised application, and no further comments were received in writing, although the one of the objectors stated in the first response that 'on-site parking would resolve the issue'.

As a result of changes to Clause 52.06 a waiver of car parking is no longer required and the reason for advertising the application no longer exists. Furthermore, Clause 52.06 no longer requires advertising of waiver of car parking applications and removes third party (objector) appeal rights to such applications. Consequently, the objections have limited weight in the assessment of this application.

**10. PE.2 APPLICATION FOR PLANNING PERMIT PLN/2011/502  
BUILDING AND WORKS ASSOCIATED WITH A FOOD AND  
DRINK PREMISES (CAFE) AND BUSINESS IDENTIFICATION  
SIGNAGE – 30 HIGH STREET, LANCEFIELD (Continued)**

**Officer Assessment**

The merits of the application have been considered against the provisions of the Clause 52.06 Car Parking, Business 1 Zone, Heritage Overlay and all relevant state and local planning policies.

Change of Use and Car Parking

With the introduction of Amendment VC94 a planning permit is no longer required for the waiver of car parking for this application as the car parking requirement has been met. However, as this aspect formed a large component of the original application it has been addressed in detail as part of the application assessment.

State Policy relevant to the proposal seeks to encourage commercial development that meets community needs, as well as encourage tourism to maximise employment and long term economic, social, and cultural benefits.

Local Policy at Clause 22.02-7 – Lancefield Township makes note of the role of the commercial district in Lancefield as a local service centre providing convenience shopping needs. This policy further reinforces State Policy objectives by seeking to retain the compact commercial centre and protect and enhance the heritage buildings and streetscapes.

The change of use is therefore seen as appropriate for the location, taking into consideration the Business 1 zoning, in which a Food and Drink Premises (Cafe) and Shops are as-of-right uses, the surrounding commercial uses and the previous commercial uses of the site.

In light of the above, the primary consideration for the change of use becomes the ability for the multiple new uses to meet car parking requirements as contained at Clause 52.06, or where this is not possible, to consider the cumulative effect of parking and traffic movement in the town centre as a result of the proposed waiver of the car parking requirement.

High Street Lancefield has a deep median strip with right angle parking along its length. Additional to this parking is parallel parking to each side, which occurs in front of the subject site. Within 100 metres walking distance of the subject land there are over 100 on street car parking spaces. It has been noted on numerous occasions by planning staff visiting the site that there has been ample parking available around the subject land.

**10. PE.2 APPLICATION FOR PLANNING PERMIT PLN/2011/502  
BUILDING AND WORKS ASSOCIATED WITH A FOOD AND  
DRINK PREMISES (CAFE) AND BUSINESS IDENTIFICATION  
SIGNAGE – 30 HIGH STREET, LANCEFIELD (Continued)**

When lodged in December 2011 the application sought a waiver of car parking associated with a cafe. Through amendments to the application, a waiver of car parking was sought to satisfy the car parking requirements of all current uses operating from the site. To assist with clarifying the car parking requirements and number of spaces to be waived, an assessment of car parking credits was also undertaken.

**Note regarding definitions:**

Clause 56.02 contains specific car parking requirements for different land uses. Before a use can commence, the car parking requirement contained in Clause 52.06 must be met or a waiver of car parking must be sought. If a car parking requirement is not specified for a particular use, the car parking must be to the satisfaction of the Responsible Authority (Council).

At the time the application was lodged, the application was being considered as a Convenience Restaurant on the basis that much of the food was prepared for consumption off the premises. However upon further review, this definition does not appear to reflect the nature of the cafe.

The definition of Convenience Restaurant is '*Land used to prepare and sell food and drink for immediate consumption, where substantial provision is made for consumption both on and off the premises.*' (my emphasis). To make substantial provision for consumption off the premises would involve something similar to drive through facilities or organised deliver service. As the cafe does not make any substantial provision for consumption off the premises it is not suitably classified as a Convenience Restaurant.

Neither is the definition of Restaurant considered to be applicable, as it relates primarily to consumption of food and drink on the premises. As the cafe includes a take away component and only operates between normal trading it does not fit appropriately within the definition of Restaurant.

The only other definition that can adequately cover the cafe use is Food and Drink Premises as this simply relates to preparation and sale of food and drink for consumption either on or off the premises.

As there was no car parking requirement for a Food and Drink Premises (or Convenience Restaurant) listed at Clause 52.06 at the time the application was lodged, car parking was to be to the satisfaction of Council. To enable an assessment of car parking to be undertaken, the car parking requirement was worked out using the closest available use, Restaurant, which did have a ratio stipulated at Clause 52.06.

However the changes to Clause 52.06 introduced by Amendment VC94 included introduction of a car parking ratio specifically for the use Food and Drink Premises and it was no longer necessary to use a substitute ratio to determine car parking requirements.

**10. PE.2 APPLICATION FOR PLANNING PERMIT PLN/2011/502  
BUILDING AND WORKS ASSOCIATED WITH A FOOD AND  
DRINK PREMISES (CAFE) AND BUSINESS IDENTIFICATION  
SIGNAGE – 30 HIGH STREET, LANCEFIELD (Continued)**

Table 1 below outlines the existing car parking credits derived from the previous use of the land and based on the requirements of Clause 52.06 at the time the application was lodged. Table 2 shows the car parking credits derived from the current requirements of Clause 52.06.

**Table 1: Car parking credits from previous uses PREVIOUS VERSION OF CLAUSE 52.06.**

Existing use	Classification	Area or relevant indicator	No car parks reqd
Wine room	Shop 8 Car spaces to each 100 sq m of leasable floor area	46sqm	4
Bowen Therapy clinic	Medical 5 spaces per practitioner	2	10
<b>Total</b>			<b>14</b>

**Table 2: Car parking credits from previous uses CURRENT VERSION OF CLAUSE 52.06**

Existing use	Classification	Area or relevant indicator	No car parks reqd
Wine room	Shop 4 Car spaces to each 100 sq m of leasable floor area	46sqm	2
Bowen Therapy clinic	Medical 5 spaces for 1 <sup>st</sup> practitioner and 3 thereafter	2	8
<b>Total</b>			<b>10</b>

For the purpose of determining the car parking requirements for this application the current provisions of Clause 52.06 will be used and as such, a credit of 10 car spaces can be attributed to the site.

Table 3 below outlines the number of car spaces to be provided for each of the new uses that commenced under the previous requirements of Clause 52.06 with Table 4 showing the current car parking requirement.

**Table 3: Car parking requirement for new uses PREVIOUS VERSION OF CLAUSE 52.06**

Proposed use	Classification	Area or relevant indicator	No car parks reqd
Cafe	<i>Car Parking to satisfaction of RA. Determined to use ratio for 'Restaurant' being the closest fit for the cafe use.</i> 0.6 Car spaces to each seat available to the public.	44 seats	26
Toy Shop	Shop 8 Car spaces to each 100 sq m of leasable floor area	44sqm	4

**10. PE.2 APPLICATION FOR PLANNING PERMIT PLN/2011/502  
BUILDING AND WORKS ASSOCIATED WITH A FOOD AND  
DRINK PREMISES (CAFE) AND BUSINESS IDENTIFICATION  
SIGNAGE – 30 HIGH STREET, LANCEFIELD (Continued)**

Hairdresser	Shop 8 Car spaces to each 100 sq m of leasable floor area	19sqm	2
Garden/gift centre	Shop 8 Car spaces to each 100 sq m of leasable floor area	34sqm	3
<b>Total</b>			<b>35</b>

**Table 4: Car parking requirement for new uses CURRENT VERSION OF CLAUSE 52.06**

<b>Proposed use</b>	<b>Classification</b>	<b>Area or relevant indicator</b>	<b>No car parks reqd</b>
Cafe	Food and Drink Premises 4 Car spaces to each 100 sq m of leasable floor area	134 (includes outdoor areas)	6
Toy Shop	Shop 4 Car spaces to each 100 sq m of leasable floor area	44sqm	2
Hairdresser	Shop 4 Car spaces to each 100 sq m of leasable floor area	19sqm	1
Garden/gift centre	Shop 4 Car spaces to each 100 sq m of leasable floor area	34sqm	2
<b>Total</b>			<b>11</b>

The applicant has submitted a revised plan that demonstrates that 4 spaces can be provided on the site. Taking into account these proposed spaces and the car parking credit Table 5 below compares the car parking calculations from the previous and current versions of Clause 52.06

**Table 5: Car parking calculation under previous and current versions of Clause 52.06**

	<b>Previous Clause 52.06</b>	<b>Current Clause 52.06</b>
Spaces Required	34	11
Credits	14	10
Onsite parking	4	4
Car Parking Waiver	$34 - (14+4) =$ <b>short fall of 16 spaces</b>	$11 - (10 +4) =$ <b>excess of 3 spaces</b>

As can be seen from the calculations above, under the current provisions the application does not trigger a waiver of car parking, and in fact can provide three spaces over the requirement.

**10. PE.2 APPLICATION FOR PLANNING PERMIT PLN/2011/502  
BUILDING AND WORKS ASSOCIATED WITH A FOOD AND  
DRINK PREMISES (CAFE) AND BUSINESS IDENTIFICATION  
SIGNAGE – 30 HIGH STREET, LANCEFIELD (Continued)**

It has been accepted that these will be utilised by staff members only, the argument being that the public will be better serviced by parking on the street rather than in a less visible position behind the building. Council's Engineering Department are therefore satisfied that the access and parking at the rear remain unsealed, which is a more appropriate outcome in terms of the heritage aspects of the site.

As the application can meet the car parking requirement, and in light of the considerable amount of on street parking available in the vicinity of the subject site the application is considered to have suitably responded to the objectives and requirements of Clause 52.06.

Response to Objections

With the changes introduced by Amendment VC94, the application no longer triggers a planning permit for waiver of car parking. As car parking was the only grounds upon which the objections were made, compliance with the car parking requirements is considered to have satisfactorily addressed these objections. The creation of four new car parking spaces on the site is considered to further support the proposal as this will allow provide dedicated space for staff car parking, leaving existing on street parking available for customers. The concerns can therefore be seen to be addressed.

Signage and Buildings and Works

As no permit is required for waiver of car parking, only the signage, buildings and works components remain for assessment.

During the course of the application, signage was installed at the site and this requires consideration under the Heritage Overlay. A meeting on site occurred with the planning officer, heritage advisor and applicant present. The signage in its current format cannot be supported as it does not enhance the heritage aspects of the streetscape. The current signage is modern and has bold graphic format, in colours unsuited to a heritage place. Discussions with the applicant occurred and it was agreed that more appropriate signage be installed to address the heritage concerns. This is proposed to be dealt with via conditions given the applicant now has a better understanding of what is required and changes have been agreed upon following the site meeting. These changes are expressed in condition 1 of the recommendation.

It also became apparent that some fairly minor building works had been carried out, namely installation of an air conditioning unit, hot water service, pizza oven and construction of a verandah in front of the garage at the rear of the site. These works require approval under both the Heritage Overlay and Business 1 Zone.

**10. PE.2 APPLICATION FOR PLANNING PERMIT PLN/2011/502  
BUILDING AND WORKS ASSOCIATED WITH A FOOD AND  
DRINK PREMISES (CAFE) AND BUSINESS IDENTIFICATION  
SIGNAGE – 30 HIGH STREET, LANCEFIELD (Continued)**

In triggering a permit for buildings and works, the Business 1 Zone seeks to ensure among other things that the '*the interface with adjoining zones*' is appropriate and '*the streetscape, including the conservation of buildings..., the treatment of the fronts and backs of buildings and their appurtenances*' is protected.

The proposed verandah at the front of the garage has been constructed to provide a cover to an existing section of concrete that is now being used as a display area for the recently established garden and gift centre.

The verandah is considered acceptable in both the Business 1 Zone and the Heritage Overlay given its location at the rear of the property and in conjunction with the garage. The height of the verandah does not significantly exceed the height of the existing garage and the setback from the western boundary is retained. Being of a very simple design (four posts and a corrugated iron roof) the verandah is very unobtrusive. No concerns were raised by the Heritage Advisor regarding this structure.

Insofar as it will be used for commercial purposes this is considered an appropriate development in the Business Zone and complimentary to the current use of the land. As the verandah will be separated by the existing garage from the adjoining residential land to the north, the amenity of adjoining properties is unlikely to be affected.

The installation of the air conditioning unit, hot water service, and pizza oven shelter on the western elevation is unfortunate. The location of these items close to the front of the building renders them more visible with the potential to detract from the heritage character of the building. Ideally such items would be located to the rear or in a less obtrusive location. However, considering they are now in place, and represent only a small obtrusion, it is considered unreasonable at this point to require their relocation or removal. Recommendations have been made to the applicant to consider means by which they could be made less obtrusive (i.e. repainting etc). It is noted that repainting of the building would trigger a planning permit and this would be addressed in a separate application.

### Conclusion

In summary, the proposal is considered to meet all relevant requirements of State, Local, zoning and general provisions of the planning scheme and therefore it is recommended for approval.

**10. PE.3 MACEDON RANGES PLANNING SCHEME, AMENDMENT C84 – MUNICIPAL STRATEGIC STATEMENT UPDATE AND INCLUSION OF MACEDON RANGES SETTLEMENT STRATEGY AND OTHER RECENT STRATEGIC DOCUMENTS**

**Officer:** Sophie Segafredo, Director Planning and Environment

**Council Plan Relationship:**

Sustainable Environment and Infrastructure - Safe, functional assets and a protected natural environment

**Attachment:** Interim Panel report's Amendment Summary, Overall Conclusions and Consolidated Recommendations

**Synopsis:**

Macedon Ranges Planning Scheme Amendment C84 was prepared primarily to implement the Macedon Ranges Settlement Strategy and update the planning scheme with other adopted strategies and revised formatting requirements. Following public exhibition, 40 submissions were received which were subsequently referred to an independent panel for assessment. A panel hearing was held in June 2012 attracting 27 presenting parties. Planning Panels has now issued an *Interim Panel Report* dated 28 September 2012.

The panel report is an *interim* report due to the extent of changes recommended and in response to community concerns regarding the extent of post-exhibition changes to the amendment presented to the Panel. Thus, the interim report allows for changes to be made to the Amendment documentation and notice of the changes will be provided to the public for comment. The matter will then be referred back to the Panel for final consideration.

The *Interim Panel Report* dealt with a number of topics as follows:

- The Settlement Strategy
- Economic Development, Environmental Values and Rural Areas
- Local Planning Policy Framework (LPPF) Structure and Drafting

This report provides brief details of the Panel's report and puts forward a recommended path to finalise the amendment process.

**10. PE.3 MACEDON RANGES PLANNING SCHEME, AMENDMENT C84 – MUNICIPAL STRATEGIC STATEMENT UPDATE AND INCLUSION OF MACEDON RANGES SETTLEMENT STRATEGY AND OTHER RECENT STRATEGIC DOCUMENTS (Continued)**

**Officer Recommendation:**

**That Council:**

- 1. Receive and acknowledge the Interim Panel Report relating to Planning Scheme Amendment C84;**
- 2. Prepare revised amendment documents generally in accordance with the interim recommendations of the Panel; and**
- 3. Publicly exhibit the revised amendment seeking comments on the overall drafting of the Municipal Strategic Statement rather than revisiting matters already addressed by the Panel.**

**10. PE.3 MACEDON RANGES PLANNING SCHEME, AMENDMENT C84 – MUNICIPAL STRATEGIC STATEMENT UPDATE AND INCLUSION OF MACEDON RANGES SETTLEMENT STRATEGY AND OTHER RECENT STRATEGIC DOCUMENTS (Continued)**

**Report**

Planning Scheme Amendment C84 seeks to undertake a significant structural review of the Macedon Ranges Local Planning Policy Framework (LPPF) section of the Planning Scheme to bring it in line with the Department of Planning and Community Development (DPCD) Practice Notes and to implement the recommendations of various pieces of strategic work that have been undertaken by Council over the last four years or more, in particular the implementation of the adopted Macedon Ranges Settlement Strategy (MRSS). The MRSS was developed by Council over a two year period and involved significant community input and the analysis of growth scenarios for the Shire as a whole and the main towns.

Amendment C84 was prepared in October 2011 and exhibited in November and December of that year. Following exhibition approximately 40 submissions were received. These submissions and further consideration of a range of issues by Council led to significant changes being made to the Amendment documentation, which were adopted in March 2012. Further amendments were subsequently made under delegation following discussion at Council workshops to finalise the amendment for presentation to the independent Planning Panel.

The Panel was appointed by the Minister for Planning to hear submissions in response to the exhibition of the Amendment in accordance with the Planning and Environment Act 1987. The Panel Hearing took place over seven days in June 2012 where 27 parties presented to the Panel, including Council, some calling expert witnesses, some with professional representation and others represented themselves. Following site inspections and detailed consideration of the issues put forward the Panel released an *Interim Panel Report* to Council on 28 September 2012. The release of an interim report is not common but occurs in instances where the panel sees merit in the essence of the amendment but recommends an additional course of action prior to offering support to the final product.

A copy of the Interim Panel Report's Amendment Summary, Overall Conclusions and Consolidated Recommendations are attached.

The *Interim Panel Report* recognises that the "*intent and scope of the Settlement Strategy was sound*". It recognises the overarching nature of the approach and that it "*was intended to identify the most appropriate locations/townships for future growth based on broad analysis, it was not intended to identify the exact locations or specific land use planning frameworks, which would occur through subsequent area specific planning processes*".

**10. PE.3 MACEDON RANGES PLANNING SCHEME, AMENDMENT C84 – MUNICIPAL STRATEGIC STATEMENT UPDATE AND INCLUSION OF MACEDON RANGES SETTLEMENT STRATEGY AND OTHER RECENT STRATEGIC DOCUMENTS (Continued)**

However, the Panel also found a lack of analysis of development constraints applicable to different parts of settlements and consideration of the “*implications of development of potential locations for growth were significant weaknesses*”.

The Panel found that the Settlement Strategy was the outcome of very extensive analysis, drew on specialists’ assessment and took account of key agency views. The Panel report goes into a detailed description of particular issues including the consultative mechanisms, the rigour and interpretation of the analysis of social and physical infrastructure, the role of the Victoria in Future (VIF) population projections and recommendations relating to business and tourism, to mention a few. Discussion is put forth and conclusions are drawn on each issue in turn, leading to detailed recommendations for Council.

It is important to note that the points of discussion in the Panel report are those raised through submission; matters called into question by agencies and residents or landowners with specific interests, or through Council’s own analysis. The Panel report is not an unravelling of the strategic work undertaken by Council, nor is it the rejection of the amendment. In fact the Panel is supportive of the renewal of the planning scheme and supports much of the work put forward through the amendment process. The recommendations offer a practical path to complete this important project in a manner that provides natural justice to all interested parties, responds to valid issues raised during the exhibition phase and will make improvements to the documents.

A fully detailed analysis of the Panel discussion and recommendations, their implications and a redrafted amendment will be presented for discussion with Council over the coming months.

**Process**

The Panel recommends making several changes to the amendment documents, re-exhibiting the amendment and referring the matter back to the reconvened panel for consideration. However the details of how this should be carried out were not included in the report. Following correspondence with Planning Panels Victoria a process considered suitable and practical has been accepted.

**10. PE.3 MACEDON RANGES PLANNING SCHEME, AMENDMENT C84 – MUNICIPAL STRATEGIC STATEMENT UPDATE AND INCLUSION OF MACEDON RANGES SETTLEMENT STRATEGY AND OTHER RECENT STRATEGIC DOCUMENTS (Continued)**

Page three of the Panel report states that the *“interim report would provide Council with an opportunity to revise the Amendment documents, give notice of those changes and then reconvene the Panel Hearing to review the revised documents. This would provide those affected with an opportunity to comment on the revised MSS as a whole and should expedite the review process as the panel is aware of the issues raised to date. The reconvened hearing would focus on the drafting of the LPPF and would not revisit the substantive issues that were raised at the June 2012 Hearing.”*

It is agreed that this is a sensible process and it is important to be very clear to the community that the focus of the exhibition and reconvened hearing will be restricted to that which is intended by the above wording.

The proposed process is:

1. To accept the Interim Panel Report including advice on a path to complete the amendment process
2. Consider in detail the Panel report and recommendations and revise the amendment documents accordingly, to generally reflect the panel recommendations
3. Exhibit the redrafted documents via notification to all submitters, notice in the local newspaper and community newsletters, notification on Council's website
4. The exhibition material will be explicit in seeking comment on the overall drafting of the MSS in terms of capturing the direction offered by the Panel in response to all the submissions received in the process so far, the discussion at the panel hearing, the requirements from the DPCD and their own expertise and advice. It would also clearly state the agreed process.
5. Council to consider submissions and refer the further revised document to the Panel. This process would include:
  - a. Receipt and review of submission by Council
  - b. Consideration of issues that relate to the overall drafting and management of the MSS content.
  - c. Submissions that seek to revisit the substantive issues or issues already put to and considered by the Panel will be noted only.
  - d. Submissions that raise new issues will be noted and potentially referred to other existing projects or included in future work.
  - e. All submissions will be referred to Council and a revised amendment will be recommended for submission to Panel.

**10. PE.3 MACEDON RANGES PLANNING SCHEME, AMENDMENT C84 – MUNICIPAL STRATEGIC STATEMENT UPDATE AND INCLUSION OF MACEDON RANGES SETTLEMENT STRATEGY AND OTHER RECENT STRATEGIC DOCUMENTS (Continued)**

- f. All submissions, their consideration and the revised amendment will be referred to the Panel for review.
  - g. The Panel, without further hearing, will consider all submitted material and then finalise the panel report with appropriate recommendations. The Panel may, if deemed necessary, call a round table discussion with interested parties to clarify and finalize drafting matters.
6. Council will consider the Panel report and adopt, amend or abandon the amendment, as regulated and may submit for Ministerial approval and gazettal.

**Options**

The only options available to Council in considering the *Interim Panel Report* finding and recommendations are as follows:

- Accept the Panel's advice to make alterations to the documents, re-exhibit and refer the matter back to the Panel; or,
- Reject the Panel's recommendation and the Panel will submit its final report based on the material provided to date.

**Conclusion**

The investment made in the development of the Settlement Strategy by the Council and the local community requires Amendment C84 to proceed. By giving consideration to the recommendations of the Panel in a pragmatic manner the significant but critical changes to Macedon Ranges LPPF can be made and Council's adopted approach to planning for growth implemented. The abandonment of Amendment C84 in its entirety would leave the LPPF with intent towards growth that is contrary to Council's adopted position and in a format that is outdated.

**10. PE.4 C82 - COMBINED AMENDMENT AND PERMIT APPLICATION FOR LAND AT 16-18 FRITH ROAD GISBORNE**

**Officer:** Sophie Segafredo, Director Planning and Environment

**File Ref:** 4/4225/1400/C82

**Council Plan Relationship:**

Relates to our strategic objectives for “a strong and diverse local economy”, “infrastructure that meets community needs” and “improved quality of life for our community”.

**Attachments:** Summary of submissions received

**Synopsis:**

This amendment relates to land at 16-18 Frith Road Gisborne, (Amendment C82). The amendment is to rezone a portion of the land from Rural Conservation to Residential 1, and the concurrent application is for a planning permit to create five new residential lots on the rezoned land. The amendment and application were prepared and publicly exhibited under the authorisation of the Minister for Planning (AO 2334).

All relevant documents were placed on public exhibition from 30 August to 5 October 2012. Four submissions were received during the exhibition period. Three supported the proposal, and one objected (Macedon Ranges Residents Association). Despite Officer’s requests for a meeting with the objector they were refused and it was not possible to reach a resolution on the issues raised. Accordingly the matter must now be referred to Planning Panels Victoria for an independent review.

**Officer Recommendation:**

**That Council:**

- 1. Adopt the summary of submissions and response to submissions for Amendment C82, as set out in Attachment 1.**
- 2. Request the Minister for Planning to appoint an independent Planning Panel to review Amendment C82 and the one unresolved submission received, pursuant to Section 23(1)(b) of the Planning and Environment Act 1987.**

**10. PE.4 C82 - COMBINED AMENDMENT AND PERMIT APPLICATION FOR LAND AT 16-18 FRITH ROAD GISBORNE (Continued)**

**Background**

Council received a request from Brown Consulting, on behalf of the owners of land at 16-18 Frith Road, Gisborne to rezone and subdivide part of the land. This was to be achieved as a combined amendment to the Macedon Ranges Planning Scheme and concurrent application for a planning permit, (given under Section 96A of the *Planning and Environment Act 1987*).

The portion of land to be rezoned is within an otherwise fully developed residential estate. The land abuts a fully sealed, kerb and channel residential road with all services available. Protections are retained for the escarpment behind the proposed lots and enhanced with the addition of a building exclusion zone on the escarpment, included as part of the application.

On 27 June 2012 Council resolved to request the Minister for Planning for authorisation to prepare the Amendment and to place it on public exhibition. Authorisation was received (AO 2334) on 2 August 2012. The proposal was exhibited from 30 August to 5 October 2012.

**What the Amendment Does**

The amendment:

1. Rezones the southern portion of 16-18 Frith Road Gisborne from the Rural Conservation Zone to the Residential 1 Zone, an area of 4,780sqm (Lot 1 LP113444), fronting Frith Road;
2. Removes the Restructure Overlay Schedule 11 (RO11) from the portion of land proposed to be rezoned;
3. Retains the Rural Conservation Zone and Restructure Overlay Schedule 11 (RO11) on the balance of the land (new Lot 6 in the proposed subdivision). This will allow for the conservation and enhancement of the Jacksons Creek Escarpment, located north and to the rear of the land proposed to be rezoned; and
4. Introduces Design and Development Overlay 21 (DDO21) to the portion of land proposed to be rezoned.

**What the Application Does**

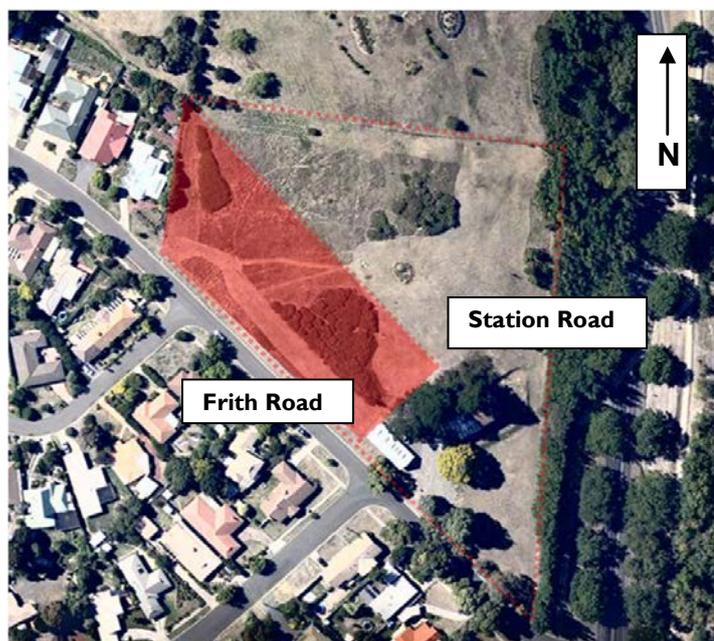
The application for a planning permit:

1. Creates five residential allotments along Frith Road on the proposed rezoned land, ranging in size from 809sqm to 1,293sqm;
2. Consolidates the balance of the land into Lot 6 and applies a building exclusion zone to the Jacksons Creek escarpment.

**10. PE.4 C82 - COMBINED AMENDMENT AND PERMIT APPLICATION FOR LAND AT 16-18 FRITH ROAD GISBORNE (Continued)**

**The Subject Land**

The subject land is identified in the aerial photo below.



**Exhibition**

Exhibition involved the following elements:

- Letters to nine referral agencies - sent 14 August 2012.
- Letters to seventeen adjoining land owners - sent 17 August 2012.
- Advertisements in the Macedon Ranges Leader, Midland Express and Macedon Ranges Weekly - 28 August 2012.
- Notice in the Government Gazette - 30 August 2012.
- Hard copies displayed at libraries and Council Service Centres - 17 August to 5 October 2012.
- Two signs erected on the property - 18 September to 5 October 2012.
- Electronic copies on Council's website - 18 September to 5 October, and on the DPCD website from 30 August 2012.

**Submissions**

Four submissions to the proposal were received; three were comments from authorities and one was an objection from the Macedon Ranges Residents Association. Council officers' requests for a meeting with the objector were refused and it was not possible to reach a resolution on the issues raised.

Attachment 1 provides a summary of the points made by the submitters and the officer comments.

**10. PE.4 C82 - COMBINED AMENDMENT AND PERMIT APPLICATION FOR LAND AT 16-18 FRITH ROAD GISBORNE (Continued)**

**Legislative Framework and Amendment Process**

Following exhibition of an amendment to the Planning Scheme and receipt of submissions, Council can determine to:

- change the amendment in the manner requested by the submissions, or
- refer the submissions to a Panel appointed by the Minister for Planning for review, or
- abandon all or part of the amendment.

An amendment once adopted by Council is then referred to the Minister for Planning for approval and gazettal.

**Panel Request**

As the one objection received cannot be resolved, an Independent Panel is required to consider this submission pursuant to Section 23(1)(b) of the *Planning and Environment Act 1987*.

**Conclusion**

As no resolution was able to be reached with the objector it is considered appropriate that Council resolve to support the officer recommendations at the beginning of this report and have the matter considered by an independent Planning Panel.

**11. CX.1 APPOINTMENT OF COUNCILLOR DELEGATES 2012/13**

**Officer:** Stephen Mahon, Manager Council and Customer Services

**File Ref:** 03/05/03

**Council Plan Relationship:**

Responsible Governance –  
Transparent accountable  
leadership and democratic  
decision-making

**Synopsis:**

This report considers the appointment of delegates to a range of internal and external committees and organisations.

The report provides a brief description of the purpose of the groups, the responsible Council officer, meeting frequency and the proposed 2012 /13 Councillor delegates.

There are a number of organisations/bodies/committees external to Council to which we are invited to have a delegate or representative. Additionally, Council has a range of committees - internal formal committees and internal informal working groups to which Councillor representatives are appointed.

This report seeks to have Council appoint these delegates and representatives for the 2012/13 Council year. The nominated Councillor delegates to these bodies/committees are provided the opportunity to present oral reports at monthly Ordinary Council Meetings. Letters advising external organisations and relevant internal officers will be forwarded as soon as these appointments have been made.

This matter was discussed at the Councillor Briefing on the 21<sup>st</sup> November and expressions of interest by Councillors for various appointments noted. These expressions of interest have been noted on the table incorporated in the report along with those that require determination.

**Advisory Committee Review:**

Council currently has nine (9) Advisory Committees that are listed in the table accompanying this report. It is proposed that Council appoint delegates to these Committees and that a review of each Committees purpose and functioning be undertaken early in 2013 to ensure there is alignment with the Council's vision and strategic direction.

**11. CX.1 APPOINTMENT OF COUNCILLOR DELEGATES 2012/13  
(Continued)**

**Officer Recommendation:**

**That Council:**

- 1. Appoint the delegates for 2012/13 to the external and internal committees/organisations listed in this report, and as further resolved; and**
- 2. Note that a review of the existing Advisory Committee structure be undertaken in early 2013 and a report be presented to the April Ordinary Council Meeting.**

**11. CX.1 APPOINTMENT OF COUNCILLOR DELEGATES 2012/13 (Continued)**

<b>Body/Committee</b>	<b>Meeting frequency</b>	<b>Responsible officer</b>	<b>Current community representatives</b>	<b>Councillor delegate 2012</b>	<b>Officer recommendation for 2013</b>	<b>Councillor delegate 2013</b>
<p><b>Arts Advisory Committee</b>  <i>Assess Macedon Ranges Arts Fund applications. Provide feedback to council on matters relating to culture - arts &amp; heritage. Committee is made of local artists and those interested in or have experience in the arts.</i></p>	<p>Three times a year.                      Usually Wed 1pm at Kyneton</p>	<p>Manager Recreation and Cultural Development</p>		<p>Cr Relph                      Cr McLaughlin</p>	<p>Format, Membership and operation of committee to be reviewed in conjunction with proposed Advisory Committee review in early 2013.</p>	<p>Cr Connor                      Cr Letchford</p>
<p><b>Audit Committee</b>  <i>The Audit Committee is a formally appointed under Section 139 of the Local Government Act and is responsible to Council. The primary objective of the Audit Committee is to assist Council in the effective conduct of its responsibilities, and in particular to review:</i></p> <ul style="list-style-type: none"> <li>• financial and operational reporting;</li> <li>• management of risks;</li> <li>• internal controls and the protection of assets;</li> <li>• management of data, information and knowledge;</li> <li>• Compliance with laws and regulations</li> <li>• effectiveness of the internal audit function.</li> </ul>	<p>4 times a year during the day                       Usually Wed 2.30pm                      (March, June, Aug &amp; Nov)</p>	<p>Director Corporate Services</p>	<p>Brian Collins,                      Geoff Neil,                      Barrie Sutton</p>	<p>Mayor                      Cr Guthrie</p>	<p>The Committee Charter specifies the Mayor and one Councillor.</p>	<p>Mayor                      Cr Anderson</p>
<p><b>Annual Meeting of Braemar College Ltd</b>  <i>Note – Council can have two (2) delegates to this body</i></p>	<p>Meets annually in May.</p>	<p>Chief Executive Officer</p>	<p>Shareholders of college include Uniting Church, Catholic Church, Anglican Church and MRSC.</p>	<p>Cr Letchford                      Cr Jukes</p>	<p>Two councillor delegates required.</p>	<p>Cr Piper</p>

11. CX.1 APPOINTMENT OF COUNCILLOR DELEGATES 2012/13 (Continued)

Body/Committee	Meeting Frequency	Responsible Officer	Current community representatives	Councillor delegate 2012	Officer recommendation for 2013	Councillor delegate 2013
<p><b>Calder Highway Improvement Committee</b>  <i>Advisory Committee to VicRoads and the State Government in relation to improvements to the Calder Highway</i></p>	<p>Meets 3 times per year (No set meeting dates as date determined during meeting - Meeting venue rotated)                      Usually Fri 12pm</p>	<p>Manager Engineering, Infrastructure and Projects</p>	<p>Veronica Burgess, Vincent Sait and David Hutchings</p>	<p>Cr Relph                      Cr Donovan (sub)</p>	<p>One Councillor delegate and an alternative required.</p>	
<p><b>Calder Regional Waste Management Group.</b>  <i>This Committee oversees the issues of waste management across the Macedon Ranges Shire, Mt. Alexander Shire and the Greater City of Bendigo. It examines cost effective means of waste management, recycling, marketing of recycled material across regional areas rather than on an individual Shire basis. Note : Appointees to this Board are paid an attendance fee in accordance with State Government rules.</i></p>	<p>Meets bi-monthly.                      Feb, Apr, June, Aug, Oct, Dec                      Usually Tues 3pm</p>	<p>Director Assets &amp; Operations</p>	<p>No community representation</p>	<p>Cr Guthrie                      Cr Donovan (sub)</p>	<p>One Councillor delegate and an alternative required.</p>	<p>Cr Connor                      Cr Anderson</p>
<p><b>Central Highlands Agribusiness Forum (CHAF)</b>  <i>The Central Highlands Agribusiness Forum was established to look at the long term development of the agribusiness industries in the area covering City of Ballarat, Pyrenees, Moorabool, Macedon Ranges and Hepburn Shires.</i></p>	<p>Meets bi-monthly – primarily in Ballarat                      Usually Mon 6.30 pm</p>	<p>Manager Economic Development &amp; Tourism</p>	<p>MR reps: Sue Morgan &amp; Gavin Lester-Smith.                      Please note: both will be standing down at the upcoming AGM.                      Other members represent partner Councils.</p>	<p>Cr Jukes                      Cr McLaughlin</p>	<p>No longer required see Macedon Ranges Agri-Business Network below</p>	<p>n/a</p>

11. CX.1 APPOINTMENT OF COUNCILLOR DELEGATES 2012/13 (Continued)

Body/Committee	Meeting Frequency	Responsible Officer	Current community representatives	Councillor delegate 2012	Officer recommendation for 2013	Councillor delegate 2013
<p><b>Macedon Ranges Agribusiness Forum</b>  <i>Agribusiness is one of the Macedon Ranges 3 major industries. The development of this forum will seek to understand and address the issues facing the industry and to work with Council to develop the MR Agribusiness Plan in 2012/13.</i></p>	<p>Regular meetings to be confirmed once the Plan is complete, however would be meeting more regularly while the Plan is being developed.</p>	<p>Manager Economic Development &amp; Tourism</p>	<p>Focus group of 30 agribusinesses across the Shire. Group includes representatives from across the Shire and from varying size and type of operation.</p>	<p>Cr Benson</p>	<p>Two Councillor delegates required.</p>	<p>Cr Hackett                      Cr Piper                      Cr Jukes</p>
<p><b>CEO Performance Appraisal Advisory Group</b>  <i>(This Advisory Committee will coordinate and oversee the process of reviewing the CEO performance in accordance with the Local Government Act. It has no power or authority to act and will report directly to Council)</i></p>	<p>As needs basis</p>	<p>Chief Executive Officer</p>	<p>Nil</p>	<p>Mayor and Councillors Benson, Jukes, Relph and Letchford</p>	<p>Council options:                      a) Continue with an advisory group                      b) Consider other options</p>	<p>Mayor                      Cr Letchford                      Cr Anderson                      Cr Piper</p>

**11. CX.1 APPOINTMENT OF COUNCILLOR DELEGATES 2012/13 (Continued)**

Body/Committee	Meeting Frequency	Responsible Officer	Current community representatives	Councillor delegate 2012	Officer recommendation for 2013	Councillor delegate 2013
<p><b>Daylesford Macedon Ranges Regional Tourism Board ( DMR )</b>  <i>Established in mid 2010 DMR objectives are to:</i></p> <p><i>Act as the peak Regional Tourism Board for the Daylesford and Macedon Ranges region.</i></p> <p><i>Consolidate the strategic direction of the tourism industry.</i></p>	<p>Board meetings are monthly during the day.</p> <p>There can also be a number of meetings in between each monthly meeting.</p> <p>Industry forums are attended by Board members in the evenings.</p> <p>Venue alternate between regional participants – Moorabool, Hepburn, Hume, Melbourne and Macedon Ranges.</p>	<p>Manager Economic Development &amp; Tourism</p>	<p>Board comprises of Tourism Victoria, 4 partner Council representatives and a skills based members:                      Anthony McIntosh, Frank Page, Kim Whitehouse, Nina Murray and Imogin Corrie.</p> <p>2 vacancies to be advertised upon appointment of Independent Chair (Nov 2012).</p>	<p>Manager Economic Development &amp; Tourism                      Cr Jukes (sub)</p>	<p>One Councillor delegate required.</p>	<p>Manager Economic Development &amp; Tourism                      Cr Piper</p>

11. CX.1 APPOINTMENT OF COUNCILLOR DELEGATES 2012/13 (Continued)

Body/Committee	Meeting Frequency	Responsible Officer	Current community representatives	Councillor delegate 2012	Officer recommendation for 2013	Councillor delegate 2013
<p><b>Hanging Rock Development Advisory Committee</b>                      Advise and assist Council on developmental proposals for Hanging Rock.                      Act as a forum for discussing any other proposals.</p>	<p>Three times a year                       Usually Tues 10.30 am</p>	<p>Manager Recreation &amp; Cultural Development</p>	<p>Representatives of :</p> <ul style="list-style-type: none"> <li>• DSE</li> <li>• HR Tennis Club</li> <li>• HR Racing Club</li> <li>• Friends of HR</li> <li>• HR Cricket club</li> <li>• Tourism and Economic Development</li> </ul>	<p>Cr Morabito                      Cr Donovan                      Cr Manning</p>	<p>Format, Membership and operation of committee to be reviewed in conjunction with proposed Advisory Committee review in early 2013.</p>	<p>Cr Hackett                      Cr Anderson                      Cr Morabito                      Cr Mowatt</p>
<p><b>Kyneton Mechanics Institute Advisory Committee</b>  <i>To provide recommendations on the operational management and long-term objectives of the facility and to be active in promotional and fundraising activities.</i></p>	<p>Four times a year.                       Usually Tue 5.30pm</p>	<p>Manager Recreation &amp; Cultural Development</p>	<p>Two elected members of Council                      One rep from Friends of KMI                      One rep from National Trust                      Two rep from user groups                      One rep MRSC Community Development dept                      On rep MRSC Cultural Development dept                      Four community members</p>	<p>Cr Jukes                      Cr Benson</p>	<p>Format, Membership and operation of committee to be reviewed in conjunction with proposed Advisory Committee review in early 2013.</p>	<p>Cr Jukes                      Cr Anderson</p>

**11. CX.1 APPOINTMENT OF COUNCILLOR DELEGATES 2012/13 (Continued)**

<b>Body/Committee</b>	<b>Meeting Frequency</b>	<b>Responsible Officer</b>	<b>Current community representatives</b>	<b>Councillor delegate 2012</b>	<b>Officer recommendation for 2013</b>	<b>Councillor delegate 2013</b>
<p><b>Kyneton Woodlands Project (New)</b>  <i>\$2.5M will be invested over the next five years in over 24K hectares north and east of Kyneton. The project will assist landholders to protect, manage and re-establish biodiverse carbon stores on their land. The purpose of the project reference group is to provide advice, information and support to the North Central CMA project team who will manage the project to meet community and stakeholder needs.</i></p>	<p>Six times per year, or as otherwise agreed.</p>	<p>Manager Strategic Planning &amp; Environment</p>		<p>New</p>	<p>One Councillor delegate and an alternative required.</p>	<p>Cr Anderson</p>
<p><b>Goldfields Regional Library</b>  <i>Councillor Delegate and Council Officer are appointed as Board Members. The Board Members direct the operations of the Goldfields Regional Library.</i></p>	<p>Every 2 months on last Friday at 3pm.</p>	<p>Director Community Wellbeing</p>		<p>Cr Benson Cr Guthrie (sub)</p>	<p>Officer recommendation - For the same Councillor to attend both the GLC and LAC meetings.</p>	<p>Cr Connor</p>
<p><b>Library Advisory Committee</b>  <i>Provides a conduit to local 'Friends of the Library' groups and has assisted in the development and implementation of strategic library services.</i></p>	<p>Quarterly  Usually Thur 10 am</p>	<p>Director Community Wellbeing</p>		<p>Cr Donovan Cr Guthrie</p>	<p>For the same Councillor to attend both the LAC and GLC meetings.  Format, Membership and operation of committee to be reviewed in conjunction with proposed Advisory Committee review in early 2013.</p>	<p>Cr Connor</p>

11. CX.1 APPOINTMENT OF COUNCILLOR DELEGATES 2012/13 (Continued)

Body/Committee	Meeting Frequency	Responsible Officer	Current community representatives	Councillor delegate 2012	Officer recommendation for 2013	Councillor delegate 2013
<p><b>Macedon Ranges Community Access Advisory Group</b></p> <p><i>Advises and informs Council on a range of issues and advocates on behalf of people with a disability.</i></p>	<p>Monthly</p> <p>3<sup>rd</sup> Thurs of month 9.30am</p>	<p>Manager Community Development</p>		<p>Cr Donovan</p>	<p>Format, Membership and operation of committee to be reviewed prior to the adoption of the next Council Plan.</p>	<p>To be determined</p>
<p><b>Macedon Ranges Employment &amp; Training Network</b></p> <p><i>This network has been developed to address the fact that MR employers are experiencing increasing difficulties in attraction and retaining skilled and reliable employees.</i></p> <p><i>The network aims to facilitate partnerships and a cross organisational approach to addressing this issue.</i></p> <p><i>Current focus is the skills audit and training needs analysis project.</i></p>	<p>Meets bi monthly generally in Kyneton.</p>	<p>Manager Economic Development &amp; Tourism</p>	<p>Network comprises of approximately 30 stakeholders including: job agencies, secondary school careers advisors, MR Local Learning &amp; Employment Network, training providers (private, local and Gvt) &amp; relevant Government departments.</p>	<p>Cr Jukes</p>	<p>One Councillor delegate and an alternative required.</p>	<p>Cr Jukes</p>

11. CX.1 APPOINTMENT OF COUNCILLOR DELEGATES 2012/13 (Continued)

Body/Committee	Meeting Frequency	Responsible Officer	Current community representatives	Councillor delegate 2012	Officer recommendation for 2013	Councillor delegate 2013
<p><b>Macedon Ranges Equine Industry Network</b></p> <p><i>The Equine Industry focus group was put together to scope the needs and opportunities of this industry. This has resulted in the economic analysis and strategy. Endorsed in 2012. The network will be formalized in early 2013 and will work with the broader industry to work with Council deliver the 5 Year Strategy.</i></p>	Meet, as needed, to assist with delivering outcomes from the Study.	Manager Economic Development & Tourism	Focus Group consists of approximately 40 members and includes representatives from various elements of the business community as well as regional and local Associations eg. pony and adult riding clubs.	Cr Morabito Cr Jukes	One Councillor delegate and an alternative required.	Cr Hackett Cr Piper Cr Morabito
<p><b>Macedon Ranges Further Education Centre</b></p>	Third Wednesday each month (except School holidays)	Manager Council & Customer Service		Cr Guthrie Cr Relph (sub)		Cr Mowatt
<p><b>Macedon Ranges Getting Around Project</b></p>	Quarterly	Coordinator Community Place and Partnerships		Cr Relph Cr Benson	Project funding ceased. No longer required.	n/a
<p><b>Macedon Ranges Heritage Council</b></p> <p><i>This group is a representative group of all Historical Societies in the Shire. Council's Heritage Advisor attends the Groups meetings.</i></p>	4 meetings a year – third Thursday of the month: March, June (if needed, being in winter) September and November. These meetings are rotated.	Manager Planning & Development		Cr Guthrie Cr Manning (sub)	One Councillor delegate and an alternative required.	Cr Anderson

**11. CX.1 APPOINTMENT OF COUNCILLOR DELEGATES 2012/13 (Continued)**

<b>Enrique GutierrezBody/Committee</b>	<b>Meeting frequency</b>	<b>Responsible officer</b>	<b>Current community representatives</b>	<b>Councillor delegate 2012</b>	<b>Officer recommendation for 2013</b>	<b>Councillor delegate 2013</b>
<p><b>Macedon Ranges Local Safety Committee</b> <i>This Committee is a new Police run Committee involving key community agencies focusing on community safety</i></p>	<p>Each even-numbered month  Tues alternate Kyneton/Gisborne 9.00am</p>	<p>Manager Community Development</p>		<p>Cr Donovan</p>		<p>Cr Hackett</p>
<p><b>Macedon Ranges Regional Park Committee</b> <i>Ministerial Appointed Committee to guide management of the Macedon Regional Park.</i></p>	<p>Meets quarterly</p>	<p>Manager Economic Development &amp; Tourism</p>	<p>Restructured committee includes agencies such as Western Water and Parks Victoria, Park stakeholders as well as individual community members.</p>	<p>Cr Jukes Cr Relph</p>	<p>One Councillor delegate and an alternative required.</p>	<p>Cr Hackett</p>
<p><b>Mt Macedon Wastewater Project Working Group</b> <i>This working group including community members was established to provide input into the development of the business case for funding for the Mt Macedon Waster Project. The working group is still required to provide guidance to Western Water and Council on the implementation of the project</i></p>	<p>Twice in 2013</p>	<p>Manager Community Safety</p>	<p>Helen Kalajdzic Jim Darby John Honey Ken Anders Peter Bishop</p>	<p>Cr Relph</p>	<p>Councillor representative required for 2013 (project should be completed by end 2013).</p>	<p>n/a</p>

**11. CX.1 APPOINTMENT OF COUNCILLOR DELEGATES 2012/13 (Continued)**

<b>Body/Committee</b>	<b>Meeting frequency</b>	<b>Responsible officer</b>	<b>Current community representatives</b>	<b>Councillor delegate 2012</b>	<b>Officer recommendation for 2013</b>	<b>Councillor delegate 2013</b>
<p><b>Municipal Association of Victoria</b>  <i>All Victorian Councils represented. The MAV additionally has a number of Advisory Committees in which all Councillors are welcome to participate. Details of these will be separately communicated to all Councillors.</i></p>	<p>No fixed meeting schedule. Meetings called as required.</p>	<p>Chief Executive Officer</p>		<p>Cr Letchford Deputy?</p>	<p>Continue to appoint MAV representative and deputy.</p>	<p>Cr Letchford Substitute Cr Anderson</p>
<p><b>Municipal Emergency Management Planning Committee</b>                      The MEMPC is responsible for the planning of Emergency Management in the Shire including the development and review of the Municipal Emergency Management Plan.</p>	<p>Three times a year March, June, October</p>	<p>Manager Community Safety</p>		<p>Cr Relph Cr Benson Cr Letchford</p>		<p>Cr Hackett Cr Piper Cr Letchford</p>
<p><b>Municipal Fire Management Committee</b>                      The MFMPC is responsible for Fire Management in the Shire including the implementation of the recently adopted Municipal Fire Management Plan</p>	<p>Quarterly</p>	<p>Manager Community Safety</p>		<p>Cr Relph</p>		<p>Cr Hackett Cr Letchford</p>
<p><b>Naming/Re-Naming Working Group</b>  <i>The group considers road-naming applications.</i></p>	<p>As needs basis</p>	<p>Manager Council &amp; Customer Service</p>		<p>Relevant Ward Councillors</p>		<p>As required</p>

**11. CX.1 APPOINTMENT OF COUNCILLOR DELEGATES 2012/13 (Continued)**

<b>Body/Committee</b>	<b>Meeting frequency</b>	<b>Responsible officer</b>	<b>Current community representatives</b>	<b>Councillor delegate 2012</b>	<b>Officer recommendation for 2013</b>	<b>Councillor delegate 2013</b>
<p><b>Peri Urban Councils Group</b>                      New group of councils experiencing growth and on the fringe of metropolitan areas. Involved councils – Moorabool, yarra Ranges, Mitchell, Murrundindi, Golden Plains, Baw Baw, Surf Coast</p>	<p>Meeting dates &amp; times TBC – 1/4ly meetings.</p> <p>Usually Fri at VLGA or MAV</p>	<p>Director Planning and Environment</p>	<p>5 Peri-Urban Councils, 1 Councillor &amp; 1 officer.</p>	<p>Cr Guthrie                      Cr Relph                      Cr Letchford</p>	<p>One Councillor delegate and an alternative required.</p>	<p>Cr Connor                      Cr Anderson                      Cr Letchford</p>
<p><b>Positive Ageing Advisory Committee</b>  <i>To advocate and advise Council on the issues, needs and expectations of older people across the Shire.</i></p>	<p>Monthly</p> <p>1<sup>st</sup> Tue of month 2-4pm</p>	<p>Manager Community Services</p>		<p>Cr Relph</p>	<p>Format, Membership and operation of committee to be reviewed prior to the adoption of the next Council Plan.</p>	<p>Cr Connor                      Cr Mowatt</p>

**11. CX.1 APPOINTMENT OF COUNCILLOR DELEGATES 2012/13 (Continued)**

<b>Body/Committee</b>	<b>Meeting frequency</b>	<b>Responsible officer</b>	<b>Current community representatives</b>	<b>Councillor delegate 2012</b>	<b>Officer recommendation for 2013</b>	<b>Councillor delegate 2013</b>
<p><b>Saleyards Advisory Committee</b> <i>Advises and informs Council on the strategic direction and operation of the Kyneton Saleyards and provides a conduit to Stock Agents and other stakeholders.</i></p>	<p>4 meetings yearly Feb. May, Aug and Nov</p> <p>Tue before last Wed of the month 8.30 am at Saleyards</p>	Saleyards Supervisor	Stock Agents Livestock transporters' rep.	Cr Benson Cr Morabito	Committee to continue	Cr Connor Cr Hackett Cr Morabito
<p><b>Section 223 Committee</b> <i>Section 86 Special Committee of Council established to hear submissions made pursuant to Section 223 of the Act</i></p>	As needs basis	Manager Council & Customer Service		Relevant Ward Councillors		As required
<p><b>Tourism Macedon Ranges Inc</b> <i>Act as the peak Local Tourism body for the Macedon Ranges region.</i>  <i>Partners with Council to implement the Macedon Ranges Tourism Industry Strategic Plan.</i></p>	<p>Meets the first Thursday of the month from 4pm – 6pm.</p> <p>Various venues across the shire. (Other evening &amp; daytime functions throughout the year)</p>	Manager Economic Development & Tourism	<p>Skills based committee comprising of: Patrick Bell, Chairman. Barbara Nixon, Deputy Chair.  Bill Balcam, Emily Blades, Jo Hagan, Steve Brendish, Sandra McGregor, Maxwell Winchester, &amp; MRSC Tourism Marketing Coordinator.  2 vacancies scheduled to be advertised in Nov 2012.</p>	Cr Letchford Cr Jukes	Two Councillor delegates required.	<b>To be determined</b>

**11. CX.1 APPOINTMENT OF COUNCILLOR DELEGATES 2012/13 (Continued)**

<b>Body/Committee</b>	<b>Meeting frequency</b>	<b>Responsible officer</b>	<b>Current community representatives</b>	<b>Councillor delegate 2012</b>	<b>Officer recommendation for 2013</b>	<b>Councillor delegate 2013</b>
<p><b>Victorian Local Governance Association</b>  <i>The VLGA is a principal source of democratic and co-operative leadership to municipalities and associated community groups.</i></p>	<p>General Meetings held 1<sup>st</sup> Thursday of each month (preceded by dinner at 6.00 p.m.) in Melbourne                      13 Working Groups that also offer opportunities to participate</p>	<p>Chief Executive Officer</p>		<p>Cr McLaughlin</p>	<p>Appoint Councillor delegate.</p>	<p>Cr Connor</p>
<p><b>Victorian Tavern Trust</b></p>	<p>Annually</p>	<p>Manager Community Development</p>		<p>Cr Relph Cr McLaughlin</p>	<p>Previous arrangement no longer exists as change of ownership. Discussions will be held in future.</p>	<p>n/a</p>
<p><b>Workspace Australia</b>  <i>This Organisation manages a range of Employment Parks including the Gisborne Enterprise Park (new Gisborne Industrial Estate) which is owned by Council and leased to Workspace Australia.</i></p>	<p>Bi-monthly – 2nd Thursday at 6.00 pm. Venues rotate in the region</p>	<p>Manager Economic Development &amp; Tourism</p>	<p>Delegates are from Councils in the region and are required to become directors of a Not for Profit Limited Liability Company.</p>	<p>Cr Guthrie</p>	<p>One Councillor delegate required.</p>	<p>Cr Connor</p>
<p><b>Youth Services Liaison Councillors – Ward Councillors</b></p>	<p>As needs basis</p>	<p>Manager Community Development</p>		<p>Cr McLaughlin Cr Letchford Cr Jukes</p>	<p>Format, Membership and operation of committee to be reviewed in conjunction with proposed Advisory Committee review in early 2013.</p>	<p>Cr Piper Cr Letchford Cr Hackett Cr Anderson</p>

**12. CS.1 CONTRACTS TO BE AWARDED AS AT 28 NOVEMBER 2012**

**Officer:** Corinne Farley, Contracts Coordinator

**File Ref:** 60/03/01

**Council Plan Relationship:**

“To ensure that the process of decision making is transparent and accountable and honest.”

**Synopsis:**

Currently a report is issued to all Councillors on a regular basis which summarises the status of tenders from specification stage to contract awarded stage.

At its meeting on 25 March 1998 Council resolved that a report be presented on a monthly basis to provide Council with the opportunity (upon resolution of Council) to revoke the delegated authority to award a contract(s) in any instance where Council deems it appropriate.

At its meeting on 9 April 2003 Council resolved to delegate to the Chief Executive Officer the authority to affix the Common Seal to all contracts awarded by officers in accordance with the limits of delegation, as applying from time to time, and subject to Council being previously informed of the intention to award the contracts under delegated authority.

**Officer Recommendation:**

**1. That Council notes the existence of delegated authority to award the following contracts and to affix the Common Seal:**

- a) C13.640 Powerlines Clearance Services**
- b) C13.646 Bridge Works Three Chain Road**
- c) C13.647 Woodend Kindergarten Refurbishment Works**
- d) C13.649 Asphalt Works 2012-2013**

**12. CS.1 CONTRACTS TO BE AWARDED AS AT 28 NOVEMBER 2012  
(Continued)**

Currently a confidential report (Status of Current Tenders) is regularly issued to all Councillors which summarises the status of tenders from specification stage to contract awarded stage. The report is confidential because it provides officer's estimates of the expected value of the contracts (prior to tenders being invited). The report also indicates whether or not delegated authority to award the contract is expected to exist. The expected delegated authority is determined by the value of the contract.

At its meeting on 25 March 1998 Council resolved that in the event of any of the following conditions prevailing, then delegated authority will not be exercised by the relevant officer and instead, the award of the contract will become Council responsibility and an evaluation report will be submitted to the first available Council Meeting:

- If the preferred tenderer is from outside the Shire of Macedon Ranges and other tenderers are from within the Shire of Macedon Ranges;
- If the preferred tenderer is a "not for profit" organisation;
- If the preferred tenderer is another Council.

At the Council Meeting on 24 October 2012 it was noted that delegated authority was expected to exist for the following contracts:

C13.630 Road Construction Stabilisation Works  
C13.633 Woodend Structure Plan  
C13.634 Riddells Creek Structure Plan  
C13.635 Design and Construction Various Bridges  
C13.639 EOI Finance and Human Resources System  
C13.643 Tylden Multipurpose Courts  
C13.644 Woodend Tennis Court

Since then specifications have been prepared for the following contracts, and tenders have been invited.

**C13.640 Powerlines Clearance Services**

The purpose of the contract is to provide arboriculture powerlines clearance to the townships of Gisborne and Kyneton for a three year period.

**C13.646 Bridge Works Three Chain Road**

The works relate to the upgrade of the existing two span, two lane bridge on Three Chain Road. The works consist of the construction of a new 100mm minimum thickness reinforced concrete composite overlay to replace the existing road fill and asphalt overlay, installation of spray seal on top of reinforced concrete overlay and installation of waterproof joint at the edges of the asphalt wearing course.

**C13.647 Woodend Kindergarten Refurbishment Works**

This contract is for the construction of extensions and refurbishment of the Woodend Kindergarten.

**12. CS.1 CONTRACTS TO BE AWARDED AS AT 28 NOVEMBER 2012  
(Continued)**

**C13.649 Asphalt Works 2012-2013**

To undertake the supply and spreading of asphalt and all works associated including profiling, traffic control and reinstatement of line marking on various roads in the Shire.

It is expected that following the tendering and evaluation process Council officers will be able to exercise the delegated authority and award the abovementioned contracts.

**13. CW.1 REGIONAL DEVELOPMENT AUSTRALIA FUND ROUNDS 3 AND 4**

**Officer:** Rod Clough, Manager Recreation and Cultural Development

**File Ref:** 1/1005/300

**Council Plan Relationship:** Community Wellbeing - Healthy, vibrant and resilient communities

**Synopsis:**

The \$1 billion Regional Development Australia Fund (RDAF) is aimed to help Australia's regions to grow, and to become strong and vibrant. Rounds One and Two of the RDAF have delivered significant benefits to regional communities.

Concurrent rounds 3 and 4 have recently been announced. Round 3 which will provide \$50 million for smaller priority infrastructure in towns with a population of 30,000 people or less in rural, remote, regional and peri-urban areas. Round 4 will provide \$175 million for regional infrastructure projects that address identified priorities of Regional Development Australia committees and have a strong regional impact.

After consideration of the funding parameters it is recommended that Council submit expressions of interest for funding for:

Round 4 - Hanging Rock development of infrastructure at Hanging Rock to support events, concerts, facilities and general visitations.

Round 3 – Bluestone Theatre refurbishment to return this facility to community use.

**Officer Recommendation:**

**That Council:**

- 1. Seek funding for the Hanging Rock Development project of approximately \$2.061 million and possibly more from the Regional Development Australia Fund - Round 4 and that it commit to provide funding of \$550,000 in the 2013/14 budget year and \$250,000 in the 2014/15 budget year to supplement the \$200,000 already committed should the application be successful; and**
- 2. Seek funding for the Bluestone Theatre refurbishment project of approximately \$120,000 and possibly more from the Regional Development Australia Fund- Round 3 and that Council commit to provide funding of \$90,000 in the 2013/14 budget year should the application be successful.**

**13. CW.1 REGIONAL DEVELOPMENT AUSTRALIA FUND ROUNDS 3 AND 4 (Continued)**

**Background**

The \$1 billion Regional Development Australia Fund (RDAF) is aimed to help Australia's regions to grow, and to become strong and vibrant. The RDAF is part of the Federal Government's larger \$4.3 billion package for regional infrastructure, including the Regional Infrastructure Fund.

Rounds One and Two of the RDAF have delivered significant benefits to regional communities. \$350 million has been provided to support 81 projects with a total value of \$1.2 billion.

Projects related to:

- Upgrades to transport and tourism infrastructure to assist local economies to better respond to growth and to diversify.
- New and upgraded arts and performance facilities to bring more of the arts to regional and remote areas.
- Sports infrastructure to enable young people in regional communities to become active and to compete on quality facilities.

Rounds 1 and 2 were conducted in April 2011 and January 2012 and the program was very competitive.

Funding is available for projects which are predominantly capital in nature, such as new infrastructure and upgrades to existing infrastructure, are important to regional and local communities align with Commonwealth priorities and meet the objectives of the program.

Concurrent rounds 3 and 4 have recently been announced and consist of:

**Round 3** – Will provide \$50 million for smaller priority infrastructure in towns with a population of 30,000 people or less in rural, remote, regional and peri-urban areas. Grants of between \$50,000 and \$500,000 are available to eligible applicants.

**Round 4** – Will provide \$175 million for regional infrastructure projects that address identified priorities of Regional Development Australia committees and have a strong regional impact. Grants of between \$500,000 and \$15 million are available to eligible applicants.

Expressions of interest for both rounds close on Thursday 6 December 2012 and announcements will be made on Wednesday 13 February 2013 as to which projects are to proceed to full application.

Full applications are due on 27 March 2013 and 11 April 2013 for Rounds 3 and 4 respectively.

**13. CW.1 REGIONAL DEVELOPMENT AUSTRALIA FUND ROUNDS 3 AND 4 (Continued)**

Projects need to be “shovel ready” and applications require substantial investigations and scoping to be complete.

Advice from the Federal Government is that:

- Proponents and projects should leverage funds, not just from government, but also from the private sector, business and community groups.
- Proponents should be persistent – it pays off. 23 projects that were not funded in Round One received a grant in Round Two. These organisations took feedback from Regional Development Australia on board, strengthened their applications, and made a compelling case for funding
- Proponents should think strategically and innovatively. Projects should be creative and innovative – offer new ways to address old problems or adopt and adapt new technologies.
- Regional impact is important. Projects should reach beyond town or local government area, and offer real benefits to a number of communities. In this way, projects will have a real impact in regional Australia.

Note that both rounds are not necessarily \$ for \$ funding – greater contributions from the government may be possible for worthwhile projects however priority will be given to projects “that provide partnership funding of more than 50% of the required grant”. This partnership funding can be in the form of “in kind” contributions including land.

There will be a final Round 5 of the program in 2013.

**Round 4 RDAF**

Council has previously endorsed applications to the Regional Development Australia Fund (RDAF) initial 2 rounds for the Hanging Rock Development project which were ultimately unsuccessful.

Feedback was sought and will be used to strengthen any future application.

The project aims to develop infrastructure at Hanging Rock to support events, concerts, facilities and general visitations. Infrastructure requirements include:

- The provision of upgraded power supply to the reserve and east paddock;
- Improved access and pedestrian tracks;
- Improved supply of water throughout the reserve;
- Revegetation of key habitat areas;
- Other facilities such as toilets.

**13. CW.1 REGIONAL DEVELOPMENT AUSTRALIA FUND ROUNDS 3 AND 4 (Continued)**

The project meets the Regional Development Australia Loddon Mallee committee's identified priority to "*initiate and support investment in public infrastructure for natural, cultural and tourism assets*" which is a critical requirement of the funding criteria.

The committee has indicated that this project demonstrates 'significant alignment' with the Regional Strategic Plan. Tourism Victoria is also supportive of the project and notes the potential for 'economic benefits that can result from increasing tourism and events based visitation'.

Hanging Rock Reserve as a destination also contributes to the success of long standing major events such as the New Years Day & Australia Day race meets, Harvest Picnic and the Macedon Ranges & District Motor Club annual picnic. The latter event is at capacity in its current format and location therefore the development of infrastructure within the east paddock will give the event organisers the ability to review their current set up and potentially improve and grow their event.

The recently developed and held Craft Markets are attracting over 5000 visitors each time and the event organisers have committed to hosting two markets per year. The third Run the Rock once again attracted over 1,000 participants.

The success of the Leonard Cohen concert in November 2010 and then the Rod Stewart concert in February 2012 has boosted the already high profile of Hanging Rock reserve with accommodation sold out across the region.

Hanging Rock is the pre-eminent tourist attraction and event venue in the region. An independent economic assessment indicated that over \$31M in economic activity would be generated locally over 10 years from concerts themselves let alone what might eventuate from other events and general visitations.

However, there are serious infrastructure challenges for the events and concerts that need to be overcome if they are to remain viable and sustainable into the future and the care of Hanging Rock itself can benefit more greatly from such infrastructure. Hanging Rock as an event and concert venue is competing against major Victorian venues and needs to be competitive if the benefits it provides are to be sustained.

The Hanging Rock Development project has been assessed as being closely aligned with the RDAF Round 4 eligibility criteria of having a strong regional impact.

The project in the previous applications and being proposed in round four has an estimated cost of \$4.13M.

**13. CW.1 REGIONAL DEVELOPMENT AUSTRALIA FUND ROUNDS 3 AND 4 (Continued)**

Council has already allocated \$200,000 (\$150,000 from Hanging Rock reserves) in the 2011/12 budget and notionally allocated a further \$800,000 in its long term capital works program over the next few years.

A successful application will attract federal government funding of at least \$2.061M on a \$ for \$ basis to undertake the Hanging Rock Development project. It also may be possible prior to submission of the Expression of Interest to secure other partnership funding – as such possibly more than \$2.061M might be requested.

It is therefore proposed that an application consist of:

<b>Contribution</b>	<b>Amount</b>
Council (\$200K-2011/12, \$550K-2014/14 & \$250K 2014/15)	\$1,000,000
Kyneton & Hanging Rock Racing Club (viewing mound)	\$30,000
Department Sustainability and Environment (footbridge replacement)	\$8,000
Council land and project management contribution (in kind)	\$1,038,000
<b>Sub total</b>	<b>\$2,076,000</b>
RDAF Grant application	\$2,061,000
<b>Total project funding</b>	<b>\$4,137,000</b>

The project will therefore be developed in two years with priority given to infrastructure and service connections in the first year.

Thus it is recommended that Council seek funding for the Hanging Rock Development project of approximately \$2.061M from the Regional Development Australia Fund- Round 4 and that it commit to provide funding of \$550,000 in the 2013/14 budget year and \$250,000 in the 2014/15 budget year subject to a successful funding application to supplement the \$200,000 already committed.

**Round 3 RDAF**

Round 3 of the RDAF funding program provides grants of up to \$500,000 for priority infrastructure projects for smaller towns and the guidelines for both rounds 3 and 4 indicate a priority for funding arts and culture.

The Bluestone Theatre in Kyneton is a historic building owned and managed by Council that was closed earlier this year due to safety and condition issues. The theatre was used by the Kyneton Theatre Company, the Daffodil Festival One Act Play and for other performances all of which were relocated or not conducted.

**13. CW.1 REGIONAL DEVELOPMENT AUSTRALIA FUND ROUNDS 3 AND 4 (Continued)**

The closure has caused great concern to sections of the Kyneton community and in particular those with an interest in theatre across the region. The closure has resulted in the Friends of the Bluestone Theatre being formed whom are now undertaking fund raising activities and are interested in a future management role in respect to the building. Options regarding ongoing management will be considered once funding for reinstatement of the facility has been determined.

A technical assessment has been conducted on the building and recommends various safety works up to some more sophisticated improvements as well as suggests that the theatre become more of a “black box” theatre (that is, an open space area without raked seating that can be used in a variety of ways). This would provide a point of difference with Council’s other specialist theatre, the Mount View Theatre at Macedon, as well as the various halls with stages. It would also provide more capacity for multi-purpose use.

The above parameters of the project align very well with the funding program and the refurbishment works are a project Council will be required to address at some stage.

The architectural technical assessment of the theatre completed recently has provided a number of costed options for Council consideration including:

1. Undertaking basic safety works only to enable community use again – cost estimate = \$100,000.
2. Inclusive of 1 plus conversion of theatre to “black box” – cost estimate = \$240,000.
3. Inclusive of 2 plus full compliance issues and improved toilets for both the theatre and the adjacent Red Brick Hall – cost estimate = \$1.39M.
4. Full redevelopment with new inclusive of new infill building between theatre and the adjacent Red Brick Hall – cost estimate = \$2M plus.

It is proposed to seek funding for Option 2 with an additional contingency on the following basis:

<b>Contribution</b>	<b>Amount</b>
Council funding (to be allocated in 2013/14 budget)	\$90,000
Community fund raising	\$20,000
Council project management contribution (in kind)	\$10,000
<b>Sub total</b>	<b>\$120,000</b>
RDAF Grant application	\$120,000
<b>Total project funding</b>	<b>\$240,000</b>

**13. CW.1 REGIONAL DEVELOPMENT AUSTRALIA FUND ROUNDS 3 AND 4 (Continued)**

A successful application will attract federal government funding of approximately \$120,000 on a \$ for \$ basis to undertake the project. It also may be possible prior to submission of the Expression of Interest to secure other partnership funding – as such possibly more than \$120,000 may be requested.

Thus it is recommended that Council seek funding for the Bluestone Theatre refurbishment project of approximately \$120,000 from the Regional Development Australia Fund - Round 3 and that it commit to provide funding of \$90,000 in the 2013/14 budget year should the project be successful.

Council should note that Kyneton Community Park Incorporated expressed interest in having their community park project considered for funding. Unfortunately only one Expression of Interest will be accepted for each round. This project could be considered when Round 5 of the program opens in 2013, or Council can decide to submit the Kyneton Community Park instead of the Bluestone Theatre.

**13. CW.2 GISBORNE EARLY YEARS HUB**

**Officer:** Suzie Mansell, Manager Community Services

**File Ref:** 21/19/10

**Council Plan Relationship:**

Community Wellbeing - Healthy, vibrant and resilient communities

**Attachments:**

- 1: Map of Submissions
- 2: Summary of Submissions

**Synopsis**

Council resolved on 29 August 2012 to look to build a \$3.9 million Early Years Hub in Gisborne at the preferred location of 63 Howey Street, Gisborne (Daly Reserve).

A community consultation in relation to this proposal was conducted during September and October to inform and consult with key stakeholders regarding this project. The outcome of the community consultation is provided to Council to inform Council of the community feedback and seek support for further investigation of a preferred site for Gisborne Early Years Hub (GEYH).

**Officer Recommendation:**

**That Council:**

1. **Note the consultation process conducted regarding the proposed Gisborne Early Years Hub and the preferred location of 63 Howey Street, Gisborne (Daly Reserve);**
2. **Acknowledge the submissions from the public and the issues raised in response to the proposed Early Years Hub and the preferred location as summarised in Attachment 2 to the notice paper; and**
- 2.1 **Note that there is strong support for an Early Years Hub in Gisborne to replace the current kindergarten at Grant Avenue, Gisborne and integrate the Maternal and Child Health Service and other support services for families into an Early Years Hub facility.**

**13. CW.2 GISBORNE EARLY YEARS HUB (Continued)**

- 2.2 Note that the majority of submissions were not in favour of the preferred site being 63 Howey Street and that there is a strong preference by submitters to retain Daly Reserve as open space and to protect the remnant native vegetation from any development.**
- 2.3 Note that the submitters in favour of the preferred site supported its proximity to schools, the natural environment, central location and ease of access.**
- 3. Acknowledge that although the full site assessment including vegetation, traffic and cultural significance studies has not been completed, that the community concern regarding development at the current preferred site is sufficient to require consideration of alternate sites.**
- 4. Request that the Mayor, Chief Executive Officer and Director Community Wellbeing investigate any other site that may be considered suitable, and take the required action to pursue an alternate site and report back to Council early in 2013.**
- 5. Continue to progress the project through work on the service model, philosophy and partnerships for the Gisborne Early Years Hub.**

**13. CW.2 GISBORNE EARLY YEARS HUB (Continued)**

**Background**

Council resolved on 29 August 2012 to look to build a \$3.9 million Early Years Hub in Gisborne at the preferred location of 63 Howey Street, Gisborne (Daly Reserve).

A community consultation in relation to this proposal was conducted during September and October to inform and consult with key stakeholders regarding this project. The outcome of the community consultation was to be presented to Council to inform the final decision about the location of the Gisborne Early Years Hub.

**Capital Grant Funding Application**

Council submitted an expression of interest for an Integrated Children's Centre grant for the amount of \$1.5 million in the 2012-2013 Department of Education and Early Childhood Development (DEECD) Children's Facility Capital program. The application did not meet the criteria for the funding requirements as the planning for the project was not sufficiently progressed.

This planning includes further development of the partnership model and governance structure of the proposed hub. DEECD has encouraged Council to make a submission for future early childhood capital grants when the project is further progressed.

**Community Consultation**

Council has undertaken a consultation period following the 29 August Council decision. The aim of the consultation was to seek feedback about the proposed Hub, including the preferred location. Council also undertook the following activities as part of a communication plan to inform and consult with key stakeholders:

- Media release distributed 30 August and 5 September regarding Council resolution and funding application outcome.
- Fact sheet was developed including how to provide feedback on the Hub proposal.
- Discussion via phone, email and follow-up hard copies of Council report, Feasibility and Fact sheet sent to the Gisborne Scouts on 7 September. A meeting with Gisborne Scout leaders was held on 20 September.
- 264 letters and fact sheets were distributed to residents within a 300m radius of the Daly Reserve, Gisborne on 11 September.
- 375 letters and fact sheets were distributed to families enrolled in kinder/pre-kinder at Swinburne and Grant Ave kindergartens on 11 September.
- Stakeholder letters were distributed to; Health Providers, Department of Early Education and Childhood Development (DEECD), Gisborne Toy Library, Gisborne Play Groups, Cobaw Community Health, Macedon Ranges Health, Kyneton District Health, Windarring, St Luke's, Bendigo Health and surrounding schools.
- A meeting with the 'Preserve the Reserve' representatives was held on 11 October.

**13. CW.2 GISBORNE EARLY YEARS HUB (Continued)**

- An information session was held Tuesday 25 September 2012 (5:00 – 7:00pm) at the Gisborne Shire Office.

**Information Session**

The session was informal, with an opportunity for residents to come in at any time from 5:00 - 7:00pm and ask questions, view displays or receive further information from staff. This approach aimed to be inclusive, with participants able to attend at any time during the session, and participatory with the use of interactive displays rather than presentations.

The session was attended by approximately 57 people. Evaluation forms were received with feedback reporting that overall they found the information provided useful and Council staff helpful during the session. Many of the people who attended indicated that they did not support the GEYH being located on the Daly Reserve.

**Community Submissions**

A total of 64 submissions were received from 50 households (see Attachment 1 – Map of Submissions) about the proposed GEYH. The submissions provided feedback from the community and several stakeholders on the proposal (see Attachment 2 – Summary of Submissions). There are common themes in responses, with most opposed to any development taking place on the Daly Reserve at 63 Howey Street, Gisborne.

Key themes include:

- Community consultation
- The preferred location
- Preservation of open spaces and character of surrounding environment
- Increased traffic congestion
- Damage to native vegetation, flora and fauna
- Land ownership and usage
- Need for an Early Years facility in Gisborne.

Those in favour of the proposal have outlined the overall benefits to families, being a central location, providing ease of access to all services. It should also be noted that while some were against the proposed site, they also acknowledged the need to cater for a growing population with a purpose built facility for children and families.

**Council response to community questions about the proposal**

Community members submitted their views/questions through the consultation, including questions from the gallery at the 24 October 2012 Ordinary Council meeting. The following is a summary of the key areas covered in these queries:

13. CW.2 GISBORNE EARLY YEARS HUB (Continued)

Submission topic	Comment
<b>Feasibility Study</b>	
<p>Submitters questioned the rationale for Daly Reserve being chosen as the preferred site.</p>	<p>This location was recommended to relocate the Gisborne (Grant Avenue) Kindergarten to a nearby site and continue to provide service immediately south of the town centre.</p> <p>It is in close proximity to the primary and secondary schools which could create an educational precinct for Gisborne children and families. It could provide a profile for children and family services in Gisborne within walking distance to the village and a central point for the Maternal and Child Health service. The location could also provide a beautiful natural setting for early childhood services.</p> <p>Co-location with the Scout Group could provide the opportunity for Council to enhance both facilities through a combined sealed car park, landscaping, access to the new community facilities for the Scouts and joint conservation activities.</p> <p>Council owns this land; it has appropriate planning zoning for the intended purpose of the Early Years Hub.</p>
<p>Alternate sites suggested by submitters:</p> <ul style="list-style-type: none"> <li>• Ross Watt Reserve, New Gisborne</li> <li>• Willowbank Road estate</li> <li>• Corner of Willowbank and Fersfield road</li> <li>• South Gisborne – in a new estate</li> <li>• Growth areas</li> </ul>	<p>Noted for consideration.</p>

**13. CW.2 GISBORNE EARLY YEARS HUB (Continued)**

<p>Submitters questioned differences in the facility footprint and concept shown in the feasibility study and those displayed at the information session.</p>	<p>The schematic of the GEYH footprint shown as it could be located on Daly Reserve was shown 'to scale' on the information session. The diagram in the feasibility study was not to scale.</p> <p>The concept plan shown at the Information Session is Option One of the proposed GEYH. The plan in the feasibility study includes an additional children's room and is not considered necessary at this time. This was described on page 203 of the August 2012 Council report under the heading 'A staged approach'.</p> <p>Council resolved on 29 August 2012 to 'Endorse construction of Option One to build the first stage of the Gisborne Early Years Hub, to be funded and built during the 2012-13 and 2013-14 financial years (to be revisited if grant funding is not successful)'.</p>
<p>Submitters questioned the cost of the feasibility study.</p>	<p>The cost of the GEYH feasibility study was \$20,000.</p>
<p>Submitters questioned what services are to be included in the GEYH.</p>	<p>The concept shown in the feasibility study is a design to accommodate a range of health, community and education services. The services included in the GEYH will be determined at the planning stage when the service model, philosophy and service partnerships are further developed. The GEYH concept design has multi-purpose spaces that could be used for different programs as the needs of children and families in Gisborne change over time. Detailed design of the facility will include consultation with key stakeholders (when determined) to ensure that the facility is designed to support the delivery of effective integrated services and programs.</p>
<p>Submitters believe the GEYH will be used as a medical practice or for private enterprise.</p>	<p>There are no plans for the GEYH to be used for private enterprise or as a medical clinic.</p>

**13. CW.2 GISBORNE EARLY YEARS HUB (Continued)**

<b>Preservation of open spaces and character of surrounding environment</b>	
<p>Submitters believe this Council land to be used as a nature reserve for passive recreation and conservation activities.</p>	<p>The proposed Hub would use approximately 10 percent of the reserve. Recreation activities are compatible with a community Hub being located on the Reserve, just as the Scout Group has enjoyed since occupying part of this green space.</p> <p>The natural environment surrounding the proposed Hub is an ideal setting for children to learn more about nature and participate in conservation activities with their educators, parents and other local groups.</p>
<p>Submitters expressed their wish for the Daly Reserve to be preserved with no further development on the site.</p>	<p>The degree of concern expressed by residents about the open space being used for any development is acknowledged.</p>
<p>Submitters believe the proposal is not consistent with Council's Open Space Strategy.</p>	<p>Noted.</p>
<b>Increased traffic congestion</b>	
<p>Submitters reported a 'traffic gridlock' at school pick up and drop off times in the area surrounding Daly Reserve. They believe the inclusion of another community facility would exacerbate this situation.</p>	<p>Council planned to complete traffic studies and assess the potential impact of the GEYH following the community consultation process. Initial traffic flow studies around Daly Reserve did not support the view of submitters that there is an exceptional volume of traffic in this area.</p>

**13. CW.2 GISBORNE EARLY YEARS HUB (Continued)**

<p>It is noted that some submitters believe the location of the Hub would make access to these services easier as it would create a parking area for all services. This would enable families to walk their children to kindergarten or school from a central point.</p>	<p>One of the reasons Daly Reserve is the preferred location for the Early Years Hub is to create an education precinct in Gisborne. This could be further enhanced through traffic management treatments, a network of access friendly paths and signage.</p>
<p><b>Damage to native vegetation, flora and fauna</b></p>	
<p>Submitters expressed concern about the potential loss of 'remnant native vegetation', flora and fauna if the proposed Hub is built on Daly Reserve.</p>	<p>The degree of concern expressed by residents about the potential impact on native vegetation, flora and fauna is acknowledged. The appropriate studies would be conducted to assess and mitigate any impact to native vegetation, flora and fauna.</p>
<p><b>Land use and ownership</b></p>	
<p>Submitters believe that Daly Reserve was bequeathed to Council by Mr Ulrick Daly.</p>	<p>The property was purchased by the Shire of Gisborne in 1978.</p>
<p>Submitters believe that Council does not own Daly Reserve, it belongs to the 'people of Gisborne'.</p>	<p>When the Macedon Ranges Shire Council (MRSC) was created on 19 January 1995 the Order in Council published in the Government Gazette that 'all the property, rights and assets of the former Councils were from that date vested in the MRSC.' This means that MRSC is the successor by law of those former Councils and therefore owns Daly Reserve.</p>

**13. CW.2 GISBORNE EARLY YEARS HUB (Continued)**

<p>53 Submitters were opposed to the GEYH being built on the Daly Reserve. Seven submitters supported the proposed GEYH to be built on the preferred location of the Daly Reserve.</p>	<p>Noted.</p>
<p><b>Community consultation</b></p>	
<p>Submitters believe that Council did not adhere to its Community Consultation Framework when planning the GEYH.</p>	<p>The approach to the GEYH project is consistent with Council’s Community Consultation Framework. Refer to page 8: Informed Consultation:</p> <p>‘Consultation is most effective when people have the facts before them. This means that Council may have the officers do some development work on an issue or proposal, prior to the commencement of the consultation. This work will generally be described as the scoping work or study. This scoping work will be the factual information that Council puts into the public area for consultation. On occasion, Council may develop a preliminary preference for a particular position. When this occurs, Council will indicate what that preliminary position is. This will assist the community to understand where the Council states at the start of the consultation...’</p> <p>Feedback regarding this issue highlights the need to better inform the community of Council’s Consultation Framework early in the project’s development and how it applies to projects.</p>
<p><b>Need for an early years hub in Gisborne</b></p>	
<p>All submitters supported the need for an Early Years Hub/new facilities for children and families in Gisborne.</p>	<p>Noted.</p>

**13. CW.2 GISBORNE EARLY YEARS HUB (Continued)**

The community consultation process about the proposed Gisborne Early Years Hub highlights community concern about locating the facility on the Daly Reserve Gisborne.

This community concern regarding development at the current preferred site is sufficient to require consideration of alternate sites.

While there was minimal feedback in support of the proposal, Council is aware of the rapidly increasing demand for Kindergarten places and other support services for families in Gisborne.

Further work on this project must be progressed to develop the service model, philosophy and partnership model for the proposed hub. Officers propose to progress work in this area while further investigation of an alternate location is completed.

**13. CW.3 PARKS IMPROVEMENT PROGRAM**

**Officer:** Graham Treadwell, Coordinator Recreation

**File Ref:** 25/09/09

**Council Plan Relationship:** Community Wellbeing - Healthy, vibrant and resilient communities

**Synopsis:**

The Council's Parks Improvement Program is an annual funding program designed to encourage and assist community groups and individuals to implement beautification and improvement works.

Council has a total budget of \$17,669 in the current budget with no expenditure to date for this financial year.

Three applications under Council's Parks Improvement Program have been received by Council for consideration being:

- The Gisborne & Mount Macedon Districts Historical Society - Blue Stone Wall "Quiet Area" with plaque (\$3,000)
- The Gisborne Vintage Machinery Society – Parks Furniture (\$3,000)
- Friends of Jacksons Creek – Creek Clean up around Sankey Reserve walking paths in Gisborne (\$1,000)

It is recommended that Council allocate funding to the abovementioned groups and projects.

**Officer Recommendation:**

**That Council:**

- 1. In line with the adopted guidelines allocate \$3,000 from the Parks Improvement Program to the Gisborne & Mount Macedon Districts Historical Society to construct a blue stone wall "quiet area" with plaque;**
- 2. In line with the adopted guidelines allocate \$3,000 from the Parks Improvement Program to install parks furniture; and**
- 3. In line with the adopted guidelines allocate \$1,000 from the Parks Improvement Program to assist in funding the clean up of Jacksons Creek around the Sankey Reserve pathway area in Gisborne.**

### **13. CW.3 PARKS IMPROVEMENT PROGRAM (Continued)**

#### **Background**

The Council's Parks Improvement Program is an annual funding program designed to encourage and assist community groups and individuals to implement beautification and improvement works at central community accessed facilities / locations.

Funding of up to \$5,000 can be obtained via this program.

Council has a total budget of \$17,669 in 2012/2013 with no expenditure to date for this financial year.

Applications can be submitted to Council at any time during the year and assessment of applications is undertaken by officers from both the Parks and Recreation Units. The officer recommendation is then submitted in a report to Council seeking the required Council approval or otherwise.

#### **Funding Categories**

##### **1. CENTRAL TOWN PARKS**

The primary objective and target of the program is to provide high quality focal points for informal recreation in the major townships of over 2000 people, accessible to most of the municipality as well as adding significantly to the area's attraction for visitors.

Significant assistance of up to \$5,000 per project is available to develop a high quality park in each major town as identified in Council's Open Space Strategy.

The town parks identified in the Open Space Strategy and eligible in this category are:

- Gisborne – Jacksons Creek parklands including the Gisborne Botanic Gardens
- Kyneton – Campaspe River parklands including the Kyneton Botanic Gardens
- Woodend – Five Mile Creek including the Woodend Racecourse Reserve
- Romsey – Romsey parklands along Five Mile Creek and including the Lions Park

##### **2. CEMETERIES**

Assistance of up to \$3,000 is available to assist cemetery trusts with specific projects that provide sustainable improvements to cemeteries throughout the Shire. A maximum of one grant per cemetery per annum applies.

**13. CW.3 PARKS IMPROVEMENT PROGRAM (Continued)**

**3. OTHER PARKS**

Assistance of up to \$3,000 for groups and \$250 for individuals is available to other Council parks and open space throughout the municipality for general improvement works. These specifically include beautification works and passive recreational improvements (i.e. paths, park benches, playgrounds) but exclude user specific works (i.e. goal posts, storage shed etc).

A maximum of one grant per location per annum applies.  
Larger projects are eligible to apply to Council's Community Funding Scheme.

**PROJECTS THAT WILL NOT BE CONSIDERED FOR FUNDING INCLUDE:**

- Purchase of equipment such as mowers or ground maintenance equipment.
- Annual / cyclical maintenance such as mowing, brush cutting and the like.
- Any user group specific structures or equipment such as goal posts, nets or sheds.

**Conditions**

- There is no closing date for funding applications. Applications can be lodged throughout any given financial year.
- The maximum grant available to any community group or individual will be 50% of the project total, including the value of donations and in kind contributions.
- Applicants must provide an acquittal of the funds to Council within one (1) month of the completion of the project. A form for this purpose is attached and will be provided to successful applicants.
- All successful applicants must have expended the funds that they obtain through this scheme within four (4) months of receiving the grant.
- All applicants seeking funding through this scheme must do so using the attached application form. Supportive information can be attached as appendices to the application form.
- Where necessary all works to be undertaken must obtain the relevant permits and approvals prior to commencement.
- The contribution of the applicant group / individual may be in the form of:
  - Construction / labour work hours.
  - Financial contribution by the applicant.
  - Donated materials or machinery.
- Council officers must be invited to inspect the finished works at the completion of the project.
- Applications must include quotes where possible or detailed work estimates. The more detailed the submission the more chance of success.
- The proposed works must be sustainable for a period greater than 12 months.

**13. CW.3 PARKS IMPROVEMENT PROGRAM (Continued)**

- Applications must not be in conflict with Council policies, guidelines and strategies. The Open Space Strategy is a prime example of one that must be considered when drafting a proposal.
- ALL Applicants must be a non-profit organisation based within the Macedon Ranges Shire. Individuals can apply but will be provided with materials rather than financial assistance.

**Evaluation Criteria**

Applications will be assessed on the following criteria:

- Extent to which the project fits into Council's planning processes (i.e. Campaspe River Concept Plan, Jacksons Creek Landscape Plan etc) or vision.
- Extent to which the project provides high profile beautification or enhanced informal recreational opportunities to the general community.
- Extent of detail (i.e. quotations, plans etc) and research provided in submission.
- Evidence of availability of matching contribution (i.e. grants from other sources etc.).
- Success of previous projects undertaken by applicant.

**Applications Received**

Three applications under Councils Parks Improvement Program have been received by Council being:

- The Gisborne & Mount Macedon Districts Historical Society (\$3,000)
- The Gisborne Vintage Machinery Society (\$3,000)
- Friends of Jacksons Creek (\$1,000)

The Gisborne & Mount Macedon Districts Historical Society propose to create a bluestone wall from remnants of the former Police House, to the West of the Gisborne Court House. This area will contain an explanatory plaque provided by the Historical Society and to be called "the quiet corner" where people of all ages can sit, rest, contemplate or meet.

The Gisborne Vintage Machinery Society proposes to purchase and install a picnic setting within the Gisborne Steam Park.

The Friends of Jacksons Creek Group intend to remove fallen debris around the bases of trees along the Sankey Reserve walking track.

Council officers support the three applications submitted and recommend them for funding.

**14. AO.1 OFF LEASH DOG AREAS (RESPONSE TO PETITION)**

**Officer:** Anne-Louise Lindner, Manager Community Safety

**File Ref:** 40/04/05

**Council Plan Relationship:** A community that is safe to live in

**Attachment:** Petition

**Synopsis:**

This report responds to the petition presented at the 24 October 2012 Ordinary Council Meeting requesting that suitably sized fenced areas be made available as off leash dog exercise areas within Macedon Ranges Shire in the vicinity of major townships. The petition contained forty two signatures (refer to attachment).

Council will commence a review of the Domestic Animal Management Plan, which was adopted in 2008 in 2013. The plan recommends the investigation of the development of an Off Leash Policy and possible designation of appropriate off leash areas. To date no funding has been allocated to carry out this investigation.

It is recommended that as part of the Review of the Domestic Animal Management Plan that Council commit to investigating whether there are suitable areas within the shire that could be designated off leash exercise areas. This should be done in consultation with the development of the Open Space Strategy with a view to providing guidance on potential areas. It is anticipated that the new Domestic Animal Management Plan will be ready to be considered by Council in May 2013.

The review of the Domestic Animal Management Plan will include community consultation in accordance with our consultation matrix.

**Officer Recommendation:**

**That Council:**

- 1. Investigate the development of an Off Leash Policy and possible designation of off leash areas in the new Domestic Animal Management Plan;**
- 2. Use the Open Space Strategy as a key reference document for guiding the identification of possible off leash areas; and**
- 3. Inform the initiator of the petition of the outcome of this report.**

**14. AO.1 OFF LEASH DOG AREAS (RESPONSE TO PETITION)  
(Continued)**

**Introduction**

Council received a petition on 22 October 2012 which was presented to the Ordinary Council Meeting on 24 October 2012. The petition had forty two signatures with residents predominantly from Lancefield and Romsey. The petition requested that suitably sized fenced areas be made available as off leash dog exercise areas within Macedon Ranges Shire in the vicinity of major townships.

**Background**

Current figures show that just over eleven thousand dogs are registered in the Shire and this has steadily been increasing over the last few years. Council's current policy is that all dogs must be on a leash when out in public. Signs reminding residents to ensure their dog is on a leash have been installed at various locations across the shire particularly around popular parks, reserves and walking tracks. General observation and reports from customers indicate that not everyone complies with this policy. Council Rangers have responded to a number of requests about the enforcement of this policy.

As the shire has grown and the numbers of houses has increased, areas where residents may have previously walked their dog off leash have become less and less. In more urban areas, open space is becoming a premium and more people are requesting Council give consideration to designating some off leash areas.

We have received a few requests for Council to consider providing some designated off leash areas. We receive considerably more complaints from residents about dogs being off lead in public places. From a health and wellbeing perspective, it is important to provide a range of opportunities for community members of all ages to be active and many residents choose to do this with their dog.

**Domestic Animal Management Plan**

Council is required to comply with Section 68A of the Domestic Animal Act, which stipulates that Council must prepare a Domestic Animal Management Plan at four year intervals. The plan outlines programs, services and strategies that address areas such as responsible pet ownership, minimising dog attacks, registration, nuisances etc. Investigating the introduction of an Off leash Policy was identified in the Encouraging Responsible Pet Ownership of the 2008 – 2012 Domestic Animal Management Plan. The plan talks about the importance of community consultation and liaison with interested groups.

**14. AO.1 OFF LEASH DOG AREAS (RESPONSE TO PETITION)  
(Continued)**

**Relationship to Open Space Strategy**

Council is currently reviewing its Open Space Strategy and consultants have been engaged to undertake this project in partnership with the Recreation Unit. Off leash dog areas have been identified as an area Council may consider incorporating into the Open Space Strategy. In determining suitable sites, a number of elements may need to be considered such as:

- Availability of open space within the area/town
- Potential conflicts with other activities e.g. playgrounds
- Safety
- Security such as fencing
- Parking
- Accessibility
- Financial implications of any fencing or signs

It is anticipated that the consultants will be able to provide us with some key criteria or guidelines for potential off leash sites through the Open Space Strategy. The strategy is due for completion by early to mid 2013.

**Conclusion**

This petition has reinforced that off leash dog areas are becoming more important to some residents in our Shire as dog ownership increases and opportunities for allowing dogs to run freely becomes less acceptable in the community. Through the development of an Off Leash Policy and the designation of off leash areas, Council has the opportunity to improve the safety of the community and also enhance the health and wellbeing of its residents.

## 15. NOTICE OF MOTION

### **Notice of Motion 1/2012-2013 Councillor Letchford**

That Council seeks a report from the Chief Executive Officer as to the conduct of general elections as applicable to the general election of Councillors and to include:

- the contract price for running the recent 2012 postal election;
- the indicative costings associated with a normal polling booth ballot election;
- the indicative cost benefit based on the ratios of past attendance voting versus postal voting;
- the total cost of running the recent Shire election (did that cost include the recount or any subsequent recount); and
- the costings as applicable to the recount to the ratepayers for the recount in South Ward.

Furthermore:

- In the general case that if a dispute goes to the court of disputed returns/tribunal, who pays the costs and what are the estimated costs of a hearing?
- Did Council receive any costings or quotes obtain for normal polling booths and if so what was the quote for the running of that ballot/attendance voting?

### **Notice of Motion 2/2012-2013 Councillor McLaughlin**

That Council's outdoor swimming pools in Woodend and Lancefield be open to the public on Australia Day, 26 January, each year free of charge for any persons wishing to attend these facilities on this day.

#### Background:

Australia Day 2013 will fall on Saturday 26 January and in anticipation of generally warm weather experienced in late January and as a way to promote the benefits of these two fine community facilities, the health and wellbeing benefits of being active and learning to swim and Australia Day, I propose that for a minimal cost and organisation we could through some simple things, such as providing free barbeques for people to use, perhaps some entertainment and activities, significantly enhance the Macedon Ranges Australia Day calendar of events.

### **Notice of Motion 3/2012-2013 Councillor Mowatt**

That Council seeks a report of all the existing Macedon Ranges Open Space areas and the intervention levels required to maintain these locations/places as well as costings associated for periodic maintenance.

#### **Notice of Motion 4/2012-2013 Councillor Mowatt**

That Council seeks a preliminary report on the Gisborne Racecourse Wetlands specifically on the costings to carry out an ecological / environmental study specifically on the following:

- a) the projected environmental impact upon the reserve with further urban development;
- b) current ecological and social values; and
- c) preparing a management plan on how to best maintain and protect this area.

#### **Notice of Motion 5/2012-2013 Councillor Piper**

That Council:

- a) Place a 'Trust for Nature Conservation Covenant' over UL Daly Nature Reserve in Gisborne; and
- b) Prepare an amendment to the Macedon Ranges Planning Scheme to rezone the UL Daly Nature Reserve from Public Use Zone 6 (PUZ6) to an appropriate conservation zone at the first available opportunity.

#### **Notice of Motion 6/2012-2013 Councillor Morabito**

That Council:

1. Write to the Premier, Treasurer, Minister for Education, other relevant Ministers and Local Members seeking that the State Government reconsider its decision to amend the School Bus Conveyance Allowance to not disadvantage students in rural and regional Victoria, especially in the Macedon Ranges Shire;
2. Express concern that the changes could lead to financial pressure on parents who seek an independent education for their child;
3. Is concerned that the changes may impact on businesses in rural and regional areas due to the financial pressures that will be placed upon independent schools;
4. Acknowledge the unique location of Braemar College in relation to the College's Fire Safety Plan, which has a component where fast access to vehicles is required in order to move students and staff off-site in the event of an emergency; and
5. The changes will significantly impact on traffic movement and management on Mount Macedon Road, Turner Avenue and Boundary Road, Woodend.

#### Background:

Braemar College and other schools in the Macedon Ranges Shire have been affected by the recent Conveyance Allowance changes.

**16. URGENT AND OTHER BUSINESS**

In accordance with Council's Local Law No. 9 Meeting Procedure, business which has not been listed on the Agenda may only be raised as urgent or other business by resolution agreed by Council.

**17. CONFIDENTIAL REPORTS**

Nil

## 18. DIVISION 1A – CONDUCT AND INTERESTS

### 76B Primary principle of Councillor conduct

It is a primary principle of Councillor conduct that, in performing the role of a Councillor, a Councillor must—

- (a) act with integrity; and
- (b) impartially exercise his or her responsibilities in the interests of the local community; and
- (c) not improperly seek to confer an advantage or disadvantage on any person.

### 76BA General Councillor conduct principles

In addition to acting in accordance with the primary principle of Councillor conduct specified in section 76B, in performing the role of a Councillor, a Councillor must—

- (a) avoid conflicts between his or her public duties as a Councillor and his or her personal interests and obligations;
- (b) act honestly and avoid statements (whether oral or in writing) or actions that will or are likely to mislead or deceive a person;
- (c) treat all persons with respect and have due regard to the opinions, beliefs, rights and responsibilities of other Councillors, Council staff and other persons;
- (d) exercise reasonable care and diligence and submit himself or herself to the lawful scrutiny that is appropriate to his or her office;
- (e) endeavour to ensure that public resources are used prudently and solely in the public interest;
- (f) act lawfully and in accordance with the trust placed in him or her as an elected representative;
- (g) support and promote these principles by leadership and example and act in a way that secures and preserves public confidence in the office of Councillor.

### 76C. Councillor Code of Conduct

- (1) A Council must develop and approve a Councillor Code of Conduct for the Council within 12 months after the commencement of section 15 of the **Local Government Amendment (Councillor Conduct and Other Matters) Act 2008**.
- (2) A Council must review the Councillor Code of Conduct within the period of 12 months after a general election.
- (3) A Councillor Code of Conduct—
  - (a) must include the Councillor conduct principles;
  - (b) may set out processes for the purpose of resolving an internal dispute between Councillors;
  - (d) must include provisions in respect of any matter prescribed for the purpose of this section;
  - (e) may include any other matters relating to the conduct of Councillors which the Council considers appropriate.
- (5) A Councillor Code of Conduct must not be inconsistent with any Act or regulation.
- (5A) A Councillor Code of Conduct is inoperative to the extent that it is inconsistent with any Act or regulation.
- (6) A copy of the current Councillor Code of Conduct must be—
  - (a) given to each Councillor;
  - (b) available for inspection by the public at the Council office and any district offices.
- (7) On and from the commencement of section 15 of the **Local Government Amendment (Councillor Conduct and Other Matters) Act 2008**, a Councillor Code of Conduct is taken to include the Councillor conduct principles.

### 76D. Misuse of position

- (1) A person who is, or has been, a Councillor or member of a special committee must not misuse his or her position—
  - (a) to gain or attempt to gain, directly or indirectly, an advantage for themselves or for any other person; or
  - (b) to cause, or attempt to cause, detriment to the Council or another person.

Penalty: 600 penalty units or imprisonment for 5 years or both.

- (2) For the purposes of this section, circumstances involving the misuse of a position by a person who is, or has been, a Councillor or member of a special committee include—
  - (a) making improper use of information acquired as a result of the position he or she held or holds; or
  - (b) disclosing information that is confidential information within the meaning of section 77(2); or
  - (c) directing or improperly influencing, or seeking to direct or improperly influence, a member of Council staff in contravention of section 76E; or
  - (d) exercising or performing, or purporting to exercise or perform, a power, duty or function that he or she is not authorised to exercise or perform; or
  - (e) using public funds or resources in a manner that is improper or unauthorised; or
  - (f) failing to disclose a conflict of interest as required under this Division.
- (3) This section—
  - (a) has effect in addition to, and not in derogation from, any Act or law relating to the criminal or civil liability of Councillors or members of special committees; and
  - (b) does not prevent the institution of any criminal or civil proceedings in respect of that liability.

#### **76E Improper direction and improper influence**

- (1) A Councillor must not improperly direct or improperly influence, or seek to improperly direct or improperly influence, a member of Council staff in the exercise of any power or in the performance of any duty or function by the member.
- (2) A Councillor must not direct, or seek to direct, a member of Council staff—
  - (a) in the exercise of a delegated power, or the performance of a delegated duty or function of the Council; or
  - (b) in the exercise of a power or the performance of a duty or function exercised or performed by the member as an authorised officer under this Act or any other Act; or
  - (c) in the exercise of a power or the performance of a duty or function the member exercises or performs in an office or position the member holds under another Act; or
  - (d) in relation to advice provided to the Council or a special committee, including advice in a report to the Council or special committee.
- (3) This section does not apply to a decision of the Council or a special committee that is made within the powers, duties or functions conferred under this or any other Act.

#### **77. Confidential information**

- (1) A person who is, or has been, a Councillor or a member of a special committee, must not release information that the person knows, or should reasonably know, is confidential information.
- (2) For the purposes of this section, information is “confidential information” if—
  - (a) the information was provided to the Council or a special committee in relation to a matter considered by the Council or special committee at a meeting closed to members of the public and the Council or special committee has not passed a resolution that the information is not confidential; or
  - (b) the information has been designated as confidential information by a resolution of the Council or a special committee which specifies the relevant ground or grounds applying under section 89(2) and the Council or special committee has not passed a resolution that the information is not confidential; or
  - (c) subject to sub-section (3), the information has been designated in writing as confidential information by the Chief Executive Officer specifying the relevant ground or grounds applying under section 89(2) and the Council has not passed a resolution that the information is not confidential.

- (3) Confidential information referred to in sub-section (2)(c) ceases to be confidential at the expiry of the period of 50 days after the designation is made unless sub-section (2)(a) or (2)(b) applies to the information.

#### **77A Direct and indirect interests**

- (1) A relevant person has a conflict of interest in respect of a matter if the relevant person has a direct interest or indirect interest in the matter.
- (2) A relevant person has a direct interest in a matter if the relevant person has an interest of a kind described in section 77B.
- (3) A relevant person has an indirect interest in a matter if the relevant person has—
- (a) a close association as specified in section 78; or
  - (b) an indirect financial interest as specified in section 78A; or
  - (c) a conflicting duty as specified in section 78B; or
  - (d) received an applicable gift as specified in section 78C; or
  - (e) become an interested party as specified in section 78D; or
  - (f) a residential amenity that may be altered as specified in section 78E.
- (4) A relevant person does not have a conflict of interest in a matter if the direct interest or indirect interest of the relevant person is so remote or insignificant that the direct interest or indirect interest could not reasonably be regarded as capable of influencing any actions or decisions of the relevant person in relation to the matter.
- (5) A relevant person does not have a conflict of interest in a matter if the direct interest or indirect interest the relevant person holds—
- (a) is held as a resident, ratepayer or voter and does not exceed the interests generally held by other residents, ratepayers or voters; or
  - (b) is held in common with a large class of persons and does not exceed the interests generally held by the class of persons.
- (6) A relevant person does not have a conflict of interest in a matter if the relevant person—
- (a) does not know the circumstances that give rise to the conflict of interest; and
  - (b) would not reasonably be expected to know the circumstances that give rise to the conflict of interest.

#### **77B Direct interest**

- (1) A person has a direct interest in a matter if there is a reasonable likelihood that the benefits, obligations, opportunities or circumstances of the person would be directly altered if the matter is decided in a particular way.
- (2) Without limiting subsection (1), a person has a direct interest in a matter if—
- (a) there is a reasonable likelihood that the person will receive a direct benefit or loss that can be measured in financial terms if the matter is decided in a particular way;
  - (b) the person has, or the person together with a member or members of the person's family have, a controlling interest in a company or other body that has a direct interest in the matter.
- (3) A person who has a membership in a club or organisation that has a direct interest in a matter—
- (a) does not, by reason of that membership, have a direct interest in the matter under subsection (1); and
  - (b) does not have an indirect interest in the matter, by reason of that membership, unless the person has an indirect interest in the matter under section 78A, 78B or 78C.
- (4) In subsection (2), *controlling interest* has the same meaning as it has in section 72(2) of the **Payroll Tax Act 2007**.

#### **78 Indirect interest by close association**

- (1) In this section—
- daughter* means a biological daughter, step-daughter, adopted daughter, or female child for whom the person has custodial responsibilities;
- direct relative* means the spouse, domestic partner, son, daughter, mother, father, brother or sister of the person;

*domestic partner* of a person means—

- (a) a person who is in a registered relationship with the person; or
- (b) an adult person to whom the person is not married but with whom the person is in a relationship as a couple where one or each of them provides personal or financial commitment and support of a domestic nature for the material benefit of the other, irrespective of their genders and whether or not they are living under the same roof, but does not include a person who provides domestic support and personal care to the person—
  - (i) for fee or reward; or
  - (ii) on behalf of another person or an organisation (including a government or government agency, a body corporate or a charitable or benevolent organisation);

*family member* means—

- (a) a spouse or domestic partner of the person; or
- (b) a son, daughter, mother, father, brother or sister that regularly resides with the person;

*relative* means—

- (a) a direct relative of the person;
- (b) a direct relative of a person who is the direct relative of the person;

*son* means a biological son, step son, adopted son or male child for which the person has custodial responsibilities.

- (2) A person has an indirect interest by close association in a matter if—
  - (a) a family member of the person has a direct interest or an indirect interest in a matter; or
  - (b) a relative of the person has a direct interest in a matter; or
  - (c) a member of the person's household has a direct interest in a matter.
- (3) For the purposes of the definition of *domestic partner* in subsection (1)—
  - (a) **registered relationship** has the same meaning as in the **Relationships Act 2008**; and
  - (b) in determining whether persons who are not in a registered relationship are domestic partners of each other, all the circumstances of their relationship are to be taken into account, including any one or more of the matters referred to in section 35(2) of the **Relationships Act 2008** as may be relevant in a particular case; and
  - (c) a person is not a domestic partner of another person only because they are co-tenants.

#### **78A Indirect interest that is an indirect financial interest**

- (1) A person has an indirect financial interest in a matter if the person is likely to receive a benefit or incur a loss, measurable in monetary terms, as a consequence of a benefit received or loss incurred by another person who has a direct or indirect interest in the matter.
- (2) Without limiting subsection (1), a person has an indirect financial interest that is a conflict of interest if—
  - (a) the person has a beneficial interest in shares of a company or other body that has a direct interest in the matter, except in the circumstances specified in subsection (3);
  - (b) the person is owed money from another person and that other person has a direct interest in the matter.
- (3) If a person, and family members of the person, hold shares in a company or body that has a direct or indirect interest in a matter with a combined total value that does not exceed \$10 000 and the total value of issued shares of the company or body exceeds \$10 million, the person's indirect financial interest is not a conflict of interest.
- (4) Subsection (2)(b) does not apply if the other person is an authorised deposit-taking institution.
- (5) For the purposes of determining the value of shares under this section, the share value is to be taken from—
  - (a) the close of business on the most recent of 30 June or 31 December; or

- (b) if the person has lodged an ordinary return since the most recent of 30 June or 31 December, the close of business on the date the return was submitted.

**78B Indirect interest because of conflicting duties**

- (1) A person has an indirect interest in a matter because of a conflicting duty if the person—
  - (a) is a manager or a member of a governing body of a company or body that has a direct interest in a matter;
  - (b) is a partner, consultant, contractor, agent or employee of a person, company or body that has a direct interest in a matter;
  - (c) is a trustee for a person who has a direct interest in a matter.
- (2) A person has an indirect interest in a matter because of a conflicting duty if the person held a position or role specified in subsection (1) and, in that position or role, dealt with the matter.
- (3) A person does not have an indirect interest because of a conflicting duty if—
  - (a) the person is, or has been, only an employee in the service of the Crown or of a body established by or under any Act for a public purpose and the person has no current or expected responsibilities as that employee in relation to a matter;
  - (b) the person only holds a position in a not-for-profit organisation for which the person receives no remuneration and the person was appointed to the relevant special committee of the Council to be a representative of the non-for-profit organisation;
  - (ba) the person only holds a position, with the Council's approval as a representative of the Council, in an organisation for which the person receives no remuneration;
  - (c) the person is only a Councillor who holds a position in the Municipal Association of Victoria or in another body that has the purpose of representing the interests of Councils;
  - (ca) the person is only a member of a development assessment committee established under Part 4AA of the **Planning and Environment Act 1987**;
  - (d) the person only holds a position that has been prescribed for the purposes of this section.

**78C Indirect interest because of receipt of an applicable gift**

- (1) In this section, *applicable gift* means one or more gifts with a total value of, or more than, the gift disclosure threshold, received from a person or persons specified in subsection (2) in the 5 years preceding the decision or the exercise of the power, duty or function but does not include—
  - (a) reasonable hospitality received by the person at an event or function the person attended in an official capacity as the Mayor, a Councillor, a member of Council staff or a member of a special committee; or
  - (b) a gift, other than an election campaign donation, that was received by the person more than 12 months before the person became a Councillor, a member of Council staff or a member of a special committee.
- (2) A person has an indirect interest in a matter if the person has received an applicable gift, directly or indirectly, from—
  - (a) a person who has a direct interest in the matter; or
  - (b) a director, contractor, consultant, agent or employee of a person, company or body that the person knows has a direct interest in a matter; or
  - (c) a person who gives the applicable gift to the person on behalf of a person, company or body that has a direct interest in the matter.
- (3) For the purposes of determining when a person became a Councillor or member of a special committee under subsection (1)(b), if the person is re-elected or reappointed as a Councillor or a member of a special committee, on completion of his or her term of office, the previous term of office served by that person as a Councillor or member of a special committee must be counted as continuous service with any service completed by the person after the person's re-election or reappointment.

**78D Indirect interest as a consequence of becoming an interested party**

A person has an indirect interest in a matter if the person has become an interested party in the matter by initiating civil proceedings in relation to the matter or becoming a party to civil proceedings in relation to the matter.

**78E Indirect interest because of impact on residential amenity**

A person has an indirect interest in a matter if there is a reasonable likelihood that the residential amenity of the person will be altered if the matter is decided in a particular way.

**79 Disclosure of conflict of interest**

- (1) If a Councillor or member of a special committee has a conflict of interest in a matter which is to be considered or discussed at a meeting of the Council or the special committee, the Councillor or member must, if he or she is attending the meeting, disclose the conflict of interest in accordance with subsection (2).
- (2) A Councillor or member of a special committee who has a conflict of interest and is attending the meeting of the Council or special committee must make a full disclosure of that interest—
  - (a) by either—
    - (i) advising the Council or special committee at the meeting of the details required under paragraphs (b) and (c) immediately before the matter is considered at the meeting; or
    - (ii) advising the Chief Executive Officer in writing of the details required under paragraphs (b) and (c) before the meeting; and
  - (b) classifying the type of interest that has given rise to the conflict as either—
    - (i) a direct interest; or
    - (ii) an indirect interest and specifying the particular kind of indirect interest under section 78, 78A, 78B, 78C, 78D or 78E; and
  - (c) describing the nature of the interest; and
  - (d) if the Councillor or member advised the Chief Executive Officer of the details under paragraph (a)(ii), the Councillor or member must make a disclosure of the class of interest only to the meeting immediately before the matter is considered at the meeting.
- (5) The Chief Executive Officer must—
  - (a) keep written disclosures given to him or her under this section in a secure place for 3 years after the date the Councillor or member of a special committee who made the disclosure ceases to be Councillor or member of a committee; and
  - (b) destroy the written disclosure when the 3 year period referred to in paragraph (a) has expired.
- (6) While the matter is being considered or any vote is taken in relation to the matter, the Councillor or member of a special committee must—
  - (a) leave the room and notify the Mayor or the Chairperson of the special committee that he or she is doing so; and
  - (b) remain outside the room and any gallery or other area in view or hearing of the room.
- (7) The Mayor or the Chairperson of the special committee must cause the Councillor or member of a special committee to be notified that he or she may return to the room after—
  - (a) consideration of the matter; and
  - (b) all votes on the matter.
- (8) If a Councillor or member of a special committee discloses a conflict of interest, the Chief Executive Officer or the Chairperson must record in the minutes of the meeting—
  - (a) the declaration of the conflict of interest; and
  - (b) the classification of the interest that has given rise to the conflict, and if the Councillor or member has disclosed the nature of the interest to the meeting, the nature of the interest.
- (9) Unless section 80 applies, a Councillor or member of a special committee who fails to comply with this section is guilty of an offence and liable to a fine not exceeding 120 penalty units.

**79B Conflicting personal interest**

- (1) This section does not apply to a Councillor or member of a special committee who has a conflict of interest in the matter.
- (2) If a Councillor or a member of a special committee considers that he or she has a personal interest in relation to a matter that is in conflict with his or her public duty in relation to the matter, the Councillor or member may, immediately before the matter is considered at the relevant meeting, apply to the Council or special committee to be exempted from voting on the matter.
- (3) If a Councillor or member of a special committee makes an application under subsection (2), he or she must give reasons in support of the application.
- (4) A Council or special committee may consent to an application made under subsection (2) and must not unreasonably withhold consent.
- (5) If a Council or special committee consents to an application under subsection (4), sections 79(6), 79(7), 79(8) and 79(9) apply as if the personal interest that is the subject of an application under subsection (2) were a conflict of interest specified under this Act.

**79C Certain situations where Councillor taken to not have a conflict of interest**

- (1) A Councillor is taken to not have a conflict of interest for the purposes of this Division if the matter only relates to—
  - (a) the nomination or appointment by the Council of the Councillor to a position for which the Councillor will not be remunerated;
  - (b) the election of the Mayor under section 71 or the appointment of an acting Mayor under section 73(3);
  - (c) a decision in relation to the payment of allowances to the Mayor or Councillors under section 74 or 74C(2);
  - (d) the adoption of a policy in relation to the reimbursement of expenses under section 75A;
  - (e) the adoption of a Councillor Code of Conduct under section 76C;
  - (f) an application to a Councillor Conduct Panel or VCAT under Division 1B;
  - (g) an application for an exemption under section 80;
  - (h) the appointment of members and Chairpersons of special committees;
  - (i) a resolution that has the effect of making the Councillors eligible or ineligible for the superannuation guarantee under taxation legislation;
  - (j) the conduct of a Councillor with respect to—
    - (i) an internal dispute that involves the Councillor;
    - (ii) an allegation of misconduct or serious misconduct (as defined in section 81A) by the Councillor;
  - (k) a submission provided to an electoral representation review under section 219F;
  - (l) a submission provided for the purposes of a subdivision review conducted under section 219N.
- (2) If a budget or revised budget to be approved by a Council includes funding for a matter in respect of which a Councillor has a conflict of interest the Councillor is taken to not have a conflict of interest for the purposes of approving the budget or revised budget if—
  - (a) the Council approved the matter and the proposed funding previously; and
  - (b) the Councillor disclosed the nature of the conflict of interest under this Division when the decision in respect of the funding was originally considered and made.