

M(4) – 26 APRIL 2023

# Ordinary Council Meeting

---

Agenda

Notice is hereby given that the next **Ordinary Meeting** of the **Alpine Shire Council** will be held in the Auditorium @ Mount Beauty, 26 Bogong High Plains Road, Mount Beauty on **26 April 2023** commencing at **5:00pm**.

## Agenda

|       |   |    |
|-------|---|----|
| 1.    | Recording and livestreaming of Council meetings.....  | 3  |
| 2.    | Acknowledgement of traditional custodians, and recognition of all people.....                 | 3  |
| 3.    | Confirmation of minutes .....   | 3  |
| 3.1   | Ordinary Council Meeting – M(3) – 28 March 2023 .....   | 3  |
| 4.    | Apologies.....  | 3  |
| 5.    | Obituaries / congratulations.....   | 3  |
| 6.    | Declarations by Councillors of conflict of interest.....                                      | 4  |
| 7.    | Public questions .....  | 4  |
| 8.    | Presentation of reports by officers.....  | 5  |
| 8.1   | Chief Executive Officer – Will Jeremy .....   | 5  |
| 8.1.1 | Planning Application P.2022.31 - 29 & 31 Ashwood Avenue, Bright .....                         | 5  |
| 8.2   | Director Assets – Alan Rees.....  | 30 |
| 8.2.1 | Dinner Plain TV Service.....  | 30 |
| 8.2.2 | Alpine Planning Scheme Review 2023 .....  | 34 |
| 8.2.3 | Collaborative Waste Tender .....  | 40 |
| 8.2.4 | Airport Services Leases for Aircraft Hangar at Porepunkah Aerodrome .....                     | 43 |
| 8.3   | Director Customer and Community – Helen Havercroft.....                                       | 46 |
| 8.3.1 | Instruments of Delegation .....   | 46 |
| 8.3.2 | Instruments of Appointment and Authorisation - <i>Planning and Environment Act 1987</i> ..... | 50 |
| 8.3.3 | Audit and Risk Committee Meeting Minutes .....  | 53 |
| 8.3.4 | Community Budget Submissions .....  | 55 |
| 8.3.5 | Dinner Plain Special Rate (2023/2024) Public Notice of Proposed Declaration.....              | 62 |
| 8.3.6 | Draft 2023/24 Budget Report .....   | 67 |
| 9.    | Informal meetings of Councillors.....   | 71 |
| 10.   | Presentation of reports by delegates .....  | 72 |
| 11.   | General business .....  | 72 |
| 12.   | Motions for which notice has previously been given.....                                       | 72 |
| 13.   | Reception and reading of petitions .....  | 72 |

14. Documents for sealing ..... 73

## 1. Recording and livestreaming of Council meetings

*The CEO will read the following statement:*

All council meetings are filmed with both video and audio being recorded.

Video is focused on a specific area however audio from the entire room is captured.

In common with all narrative during Council meetings, verbal responses to congratulations, obituaries and question time will not be recorded in the written minutes. By submitting a question, you consent to your question being read aloud at the meeting.

The reasoning behind recording council meetings is to hold us more accountable and improve transparency of Council's decision-making to our community.

The full meeting is recorded on Council's YouTube channel which is "Alpine Shire Council" and will also be available on the YouTube channel after this meeting.

## 2. Acknowledgement of traditional custodians, and recognition of all people

*All to stand, the Mayor will read the following statement:*

Alpine Shire Council acknowledges the Traditional Owners of the lands on which we are meeting today. Council also acknowledges all of the Traditional Owners of the wider lands of the area known as the Alpine Shire.

We also acknowledge those people who have contributed to the rich fabric of our community and strive to make wise decisions that will improve the quality of life for all.

## 3. Confirmation of minutes

### 3.1 ORDINARY COUNCIL MEETING – M(3) – 28 MARCH 2023

#### **RECOMMENDATION**

***That the minutes of Ordinary Council Meeting M(3) held on 28 March 2023 as circulated be confirmed.***

## 4. Apologies

## 5. Obituaries / congratulations

Refer to Alpine Shire Council's website [www.alpineshire.vic.gov.au](http://www.alpineshire.vic.gov.au); for its YouTube live-streaming recording for responses to questions.

## **6. Declarations by Councillors of conflict of interest**

## **7. Public questions**

Questions on Notice will be limited to two questions per person.

Written Questions on Notice will be tabled ahead of questions from the floor.

Refer to Alpine Shire Council's website [www.alpineshire.vic.gov.au](http://www.alpineshire.vic.gov.au); for its YouTube live-streaming recording for responses to questions.

## 8. Presentation of reports by officers

### 8.1 CHIEF EXECUTIVE OFFICER – WILL JEREMY

#### 8.1.1 Planning Application P.2022.31 - 29 & 31 Ashwood Avenue, Bright

|  |   |
|--|---|
| <b>Application number:</b>                 | <b>P.2022.31</b>  |
| <b>Proposal:</b>                           | <b>Seven (7) lot subdivision with common property and buildings and works for the construction of six (6) dwellings.</b>  |
| <b>Applicant's name:</b>                   | <b>MLC Developments Pty Ltd C/- Jennie Baldry</b>   |
| <b>Owner's name:</b>                       | <b>Banyandah Gold Pty Ltd and Milan and Louise Cindric</b>  |
| <b>Address:</b>                            | <b>29 and 31 Ashwood Avenue, Bright (Lot 10 and Lot 11 PS 219240A)</b>  |
| <b>Land size:</b>                          | <b>Approx. 6,095sqm combined</b>  |
| <b>Current use and development:</b>        | <b>Dwelling</b>   |
| <b>Site features:</b>                      | <b>Discussed under the subject site and surrounds section below</b>   |
| <b>Why is a permit required?</b>           | <b>Clause 32.08-3 – Subdivision<br/>Clause 32.08-6 – Construction of two or more dwellings on a lot<br/>Clause 44.06-2 – Building and works and subdivision</b> |
| <b>Zoning:</b>                             | <b>Clause 32.08 – General Residential Zone</b>  |
| <b>Overlays:</b>                           | <b>Clause 44.06 - Bushfire Management Overlay</b>   |
| <b>Restrictive covenants on the title?</b> | <b>Yes</b>  |
| <b>Date received:</b>                      | <b>23 February 2022</b>   |
| <b>Statutory days:</b>                     | <b>399</b>  |
| <b>Planner:</b>                            | <b>Ebony Cetinich</b>   |

**RECOMMENDATION**

***That Council issues a Notice of Decision to grant a planning permit for Seven (7) lot subdivision with common property and buildings and works for the construction of six (6) dwellings in accordance with the conditions outlined in Appendix 8.3.4.a***

**PROPOSAL**

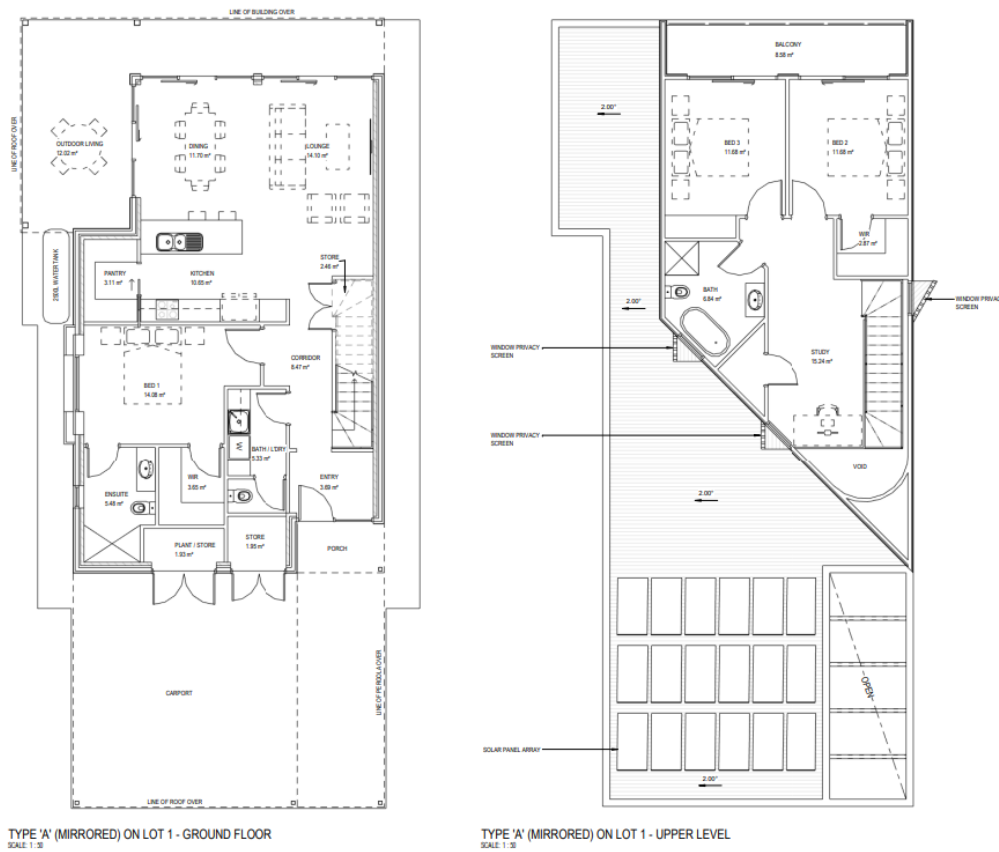
The proposal involves a seven lot subdivision with common property and the development of six dwellings.



**Figure 1: Site Plan**



**Figure 2: Plan of Subdivision**



**Figure 3: Floor Plan (Dwelling One)**



**Figure 4: Elevation (Dwelling One)**



## SUBJECT LAND AND SURROUNDS

The subject land comprises two parcels (Lots 10 and 11 PS219240A) commonly known as 29 and 31 Ashwood Avenue, Bright. The subject site has a combined area of 6,095sqm and a frontage of 68.02m to Ashwood Avenue. The site is relatively regular in shape with slightly skewed northern boundary. The site is generally undulating with topography changes of up to 3.8m across the site. An existing dwelling and ancillary structures are located at 29 Ashwood Avenue with 31 Ashwood Avenue being largely vacant. Each existing lot contains an existing access point to Ashwood Avenue. Reticulated services including electricity, water, sewer, stormwater and telecommunications are available. The site contains existing mature planted vegetation, typical of an established residential setting. The site is within an area of Cultural Heritage Sensitivities but otherwise is not subject to any heritage restrictions. The site is prone to bushfire and the northern portion is within the proposed LSIO. A number of easements traverse the site.

The subject site is situated within an established residential area of Bright, approximately 1.6kms to the north west of the commercial centre. Despite being within the General Residential Zone, existing allotments within 150m of the site range in size from 2000sqm to 6052sqm. Smaller allotments between 630sqm and 1200sqm are observed towards the entrance to Ashwood Avenue from Great Alpine Road. Existing dwellings are typically single storey with common ancillary structures such as swimming pools and sheds set within landscaped gardens. The Murray to Mountains Rail Trail runs along the western boundary of the site and the Ovens River and surrounding environs is situated to the north.

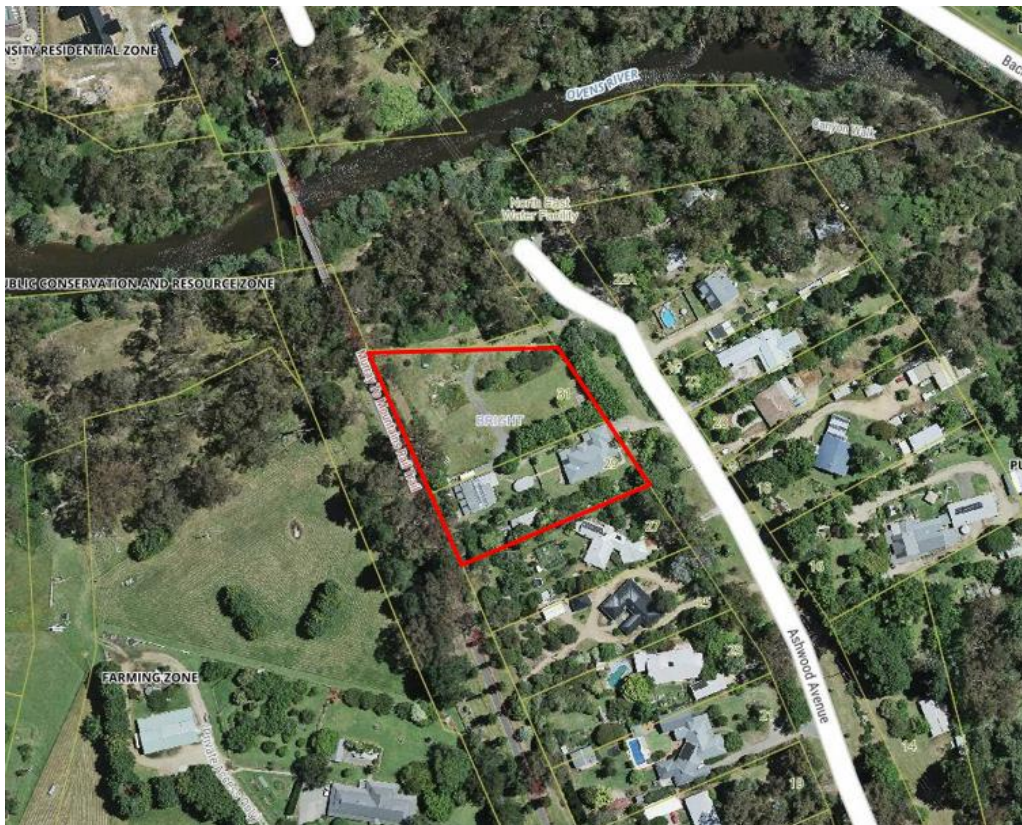


Figure 5: Aerial Image of the Subject Site

## Dwellings

The construction of one two storey dwelling on proposed lot 3 with the following features:

- Basement consisting of a garage, workshop, various storage areas, gym, sauna, wine cellar and bathroom. Two shipping containers will also be located external to the building at basement level.
- Ground floor consisting of a master bedroom with WIR and ensuite, open plan living, kitchen and dining area, terrace and outdoor living area, study, powder room, pantry, laundry and double garage.
- Upper level consisting of three bedrooms, each with WIR and ensuite.
- The dwelling has a modern architectural external appearance with external cladding consisting of colorbond sheet metal, hardwood timber, charred timber, cemintel barestone fibre cement sheet and feature stone. The colour scheme varies between the dwellings but maintains muted tones of cream, sandstone, grey and black.
- The dwelling has been designed to suitably respond to the slope of the land to minimise earthworks.
- A skillion roof form has been adopted which gives a maximum building height of 10.6m at the highest point (9.5m from natural ground).

The construction of five two storey dwellings on proposed lots 1-2 and 4-6 with the following features:

- Three bedrooms (two with walk in robes and one with a standard built in robe), open plan living, kitchen and dining area, walk in pantry study nook, bathroom, ensuite, WC, laundry, storage rooms, two car carport, alfresco and balcony. Solar panels will also be incorporated into the design.
- The dwellings have a modern architectural external appearance with external cladding consisting of colorbond sheet metal, hardwood timber, cemintel barestone fibre cement sheet and feature stone. The colour scheme varies between the dwellings but maintains muted tones of cream, sandstone, grey and black.
- A skillion roof form has been adopted which gives a maximum building height of 7m at the highest point.
- 

A shared accessway is proposed to provide access to dwellings 2 to 6 from Ashwood Avenue. Access to dwelling 1 will be shared with the existing crossover for the existing dwelling that will remain on the land.

Each dwelling is provided with two covered car parking spaces within the carport.

Considerable land has been set aside for landscaping. Some existing planted vegetation will be required to be removed to accommodate the development.

An on-site stormwater detention basin is proposed between the accessway and the northern boundary.

**PUBLIC NOTIFICATION**

The application was advertised in accordance with Section 52 of the Planning and Environment Act 1987, by sending notices to the owners and occupiers of adjoining land; and placing a sign on site.

Council has received nine objections. The objections are summarised in the table below alongside Councils response to the issues raised.

| Summary of Concerns | Council Response   |
|---------------------|--|
| Character impacts   | <p>The subject site is situated within an established residential area and is appropriately zoned for infill development. The character of Ashwood Avenue and surrounding environs is not specifically protected by any overlays (i.e. Design and Development Overlay, Significant Landscape Overlay and Heritage Overlay etc.</p> <p>Respecting character does not mean preventing change. The neighbourhood character standard in Clause 55 is not intended to result in the replication of existing building stock or stop change. Some areas will see significant changes as a result of new social and economic conditions, changing housing preferences and explicit housing policies. Typically, residential growth and change occurs within the General Residential Zone where there are no restrictive Overlays or environmental and servicing constraints. In these areas, it is important that respecting character is not taken too literally, as a new character will emerge in response to these new social and economic conditions.</p> |
| Setbacks            | <p>The positioning of the site is relatively unique and is at the end of a cul-de-sac with an interface to public land to the north and west. The development has been designed to respond to this and orient the proposed dwellings to address the public land. As such, a majority of dwellings will be placed towards the rear of the site behind the existing dwelling on the land, minimising their interaction with and visibility from Ashwood Avenue.</p>  |

| Summary of Concerns  | Council Response  |
|--|---|
| <p>Density (Small lots)<br/>Site Coverage</p>  | <p>There will be little change to the pattern of subdivision. There will be little change to the allotment pattern adjacent to Ashwood Avenue, with the exception of the common driveway located along the northern boundary of the site. There currently exists two allotments with frontage to Ashwood Avenue and this will not change as a result of the proposal.</p> <p>The dwellings maintain the detached character of existing dwellings within the surrounding area and a relatively low site coverage. Only 23.6% of the site will be covered in buildings.</p> |
| <p>Intent of original subdivision was for large blocks, quiet country/lifestyle living, close to town.<br/>Loss of quiet / semi-rural atmosphere</p> | <p>A majority of the road reserve will be unaltered as a result of the proposal and most existing vegetation will remain.</p> <p>There will be no increase in the number of access points to Ashwood Avenue. The existing northern most access point must be relocated slightly to the south as it is currently encroaching Crown Land.</p> <p>The proposed dwellings have been architecturally designed and are of a modern appearance with a range of external cladding typically found within the surrounding area.</p>  |
| <p>– Two storey dwellings</p>  | <p>Whilst not prevalent within the surrounding area, some two storey dwellings are observed. Two storey dwellings are not discouraged based on current planning controls, and the amenity of surrounding land will not be detrimentally impacted, as per the Clause 55 assessment at the end of this report. The visual bulk or a majority of dwellings will be reduced by setbacks from the street and retention of existing significant vegetation within the road reserve.</p>   |

| Summary of Concerns  | Council Response   |
|--|--|
| <p>Amenity impacts</p> <ul style="list-style-type: none"> <li>– Proximity of new dwellings to adjoining land</li> <li>– Light spill</li> <li>– Headlights</li> <li>– Increased traffic and congestion</li> <li>– Increased people noise</li> </ul> | <p>The proposal achieves a suitable level of off-site amenity and meets the standards of Clause 55 relating to building height, setbacks, overlooking and overshadowing. The road reserve is heavily vegetated and will assist in screening light spill and headlights from adjacent allotments. Standard domestic people noise is not a matter that can be enforced as part of a planning permit and is a police matter. Councils Engineering Department have not raised any issues in terms of the capacity of the existing road network to accommodate additional vehicles from the proposed development.</p> |
| <p>Visual bulk of buildings</p> <p>Impacts on views from Rail Trail and Ovens River and surrounding walking trails</p>   | <p>The proposal is considered to have an acceptable visual impact on public land as the external materials and colour scheme will be of muted tones and will incorporate natural materials such as timber and stone to blend with the natural environment.</p> <p>The dwellings will be designed to overlook public land which is considered to be a positive outcome in terms of passive surveillance, interaction and inclusion with the public realm.</p>   |
| <p>Impacts to the Ovens River and recreational use (nowhere for kayakers to park, possible impeding of access during construction)</p>   | <p>No issues were raised by GMW or NECMA in relation to the impacts of the proposal on the Ovens River and surrounding environs.</p> <p>A construction management plan will be included as a condition on any permit issued to manage all construction related matters such as parking of construction vehicles.</p>   |
| <p>Previous refusal for battle-axe subdivision at 16 Ashwood Avenue</p>  | <p>Refusal of a permit does not ultimately lead to the same outcome for a permit application on a different site. Each permit application has its own site-specific considerations, facts and merits.</p>  |
| <p>Setting a new precedent</p>   | <p>Approval of a permit does not ultimately lead to setting a precedent. Each permit application has its own site-specific considerations, facts and merits.</p>   |

| Summary of Concerns  | Council Response  |
|--|---|
| Short Term Rental use  | The proposal under assessment is for the development of dwellings any future use is only hypothetical. Planning decisions must be made on the use and development being sought.   |
| Construction vehicles, road degradation and safety hazard. Impact to existing businesses   | A construction management plan will be included as a condition on any permit issued to manage all construction related matters such as access and parking of construction vehicles, responsibility of repairing damage to roads, reducing amenity impacts etc.        |
| Increased traffic and road safety impacts  | No issues were raised by the engineering department in relation to the capacity of the existing road network to accommodate additional traffic as a result of the proposed development.   |
| Road widening and road upgrades to facilitate proposed development (i.e. kerb and channel, street lighting, drainage, footpaths etc). Burden to rate payers. | No such upgrades are proposed or required by Councils Engineering Department. The proposal provides for on-site detention to limit the extent of any upgrades to public stormwater infrastructure.  |
| Non-compliance with Clause 54 and Clause 55  | Clause 54 does not apply to this application as it only applies to the development of a single dwelling on a lot less than 300sqm. An assessment of Clause 55 has been undertaken and the proposal achieves compliance with all the relevant objectives and standards |
| Insufficient car parking   | The proposal provides off-street car parking in accordance with Clause 52.06 of the Planning Scheme.  |
| Reduced property values  | Property value is not a relevant planning consideration.  |

## REFERRALS

| Referrals / Notice   | Advice / response / Conditions  |
|----------------------|---|
| Section 55 referrals | CFA – Consent subject to Conditions<br>GMW – Consent subject to Conditions<br>Ausnet – Consent subject to Conditions<br>NEW – Consent subject to Conditions |
| Section 52 referrals | NECMA - Consent subject to Conditions   |

| Referrals / Notice | Advice / response / Conditions          |
|--------------------|---|
| Internal Referrals | ASC ENG – Consent subject to Conditions |

## PLANNING ASSESSMENT

All applicable policy can be found in Appendix 8.3.4.b.

### Municipal Planning Strategy and Planning Policy Framework

The relevant Clauses from the Municipal Planning Strategy and Planning Policy Framework are contained within Appendix 8.3.4.b.

The policies of the Municipal Planning Strategy and Planning Policy Framework provide support to the proposal for the following reasons:

- The subject site is within the Bright Township boundary and has access to all reticulated services. The site does not have any particular environmental constraints such as steep topography, native vegetation, site contamination and the like that would restrict the development as proposed.
- The proposal provides for additional residential land which will support the projected population growth over the next 15 years. Residential land within the Municipality is currently in high demand and the proposal will assist in alleviating this demand. There are limited greenfield opportunities within Bright and as such, a majority of residential growth will be as a result of infill development within established residential areas.
- The dwellings will be designed to overlook public land which is considered to be a positive outcome in terms of passive surveillance, interaction and inclusion with the public realm. Open rural style post and wire fencing will be incorporated along all boundaries with public realm to maintain the natural character of the area. The external materials and colour scheme will be of muted tones and will incorporate natural materials such as timber and stone to blend with the natural environment.
- The proposal suitably responds to the risk of bushfire and flooding.
- The proposal will not have any detrimental impacts on the catchment area and water resources.
- The proposed development is considered to suitably respect the existing character of the area for the following reasons:
  - The positioning of the site is relatively unique and is at the end of a cul-de-sac with an interface to public land to the north and west. The development has been designed to respond to this and orient the proposed dwellings to address the public land. As such, a majority of dwellings will be placed towards the rear of the site behind the existing dwelling on the land, minimising their interaction with and visibility from Ashwood Avenue.
  - In terms of the pattern of subdivision, there will be little change to the allotment pattern adjacent to Ashwood Avenue, with the exception of the common driveway located along the northern boundary of the site. There currently exists

two allotments with frontage to Ashwood Avenue and this will not change as a result of the proposal.

- A majority of the road reserve will be unaltered as a result of the proposal and most existing vegetation will remain.
  - There will be no increase in the number of access points to Ashwood Avenue. The existing northern most access point must be relocated slightly to the south as it is currently encroaching Crown Land.
  - The proposed dwellings have been architecturally designed and are of a modern appearance with a range of external cladding typically found within the surrounding area.
  - The dwellings maintain the detached character of existing dwellings within the surrounding area and a relatively low site coverage. Only 23.6% of the site will be covered in buildings.
  - Whilst not prevalent within the surrounding area, some two storey dwellings are observed. Two storey dwellings are not discouraged based on current planning controls, and the amenity of surrounding land will not be detrimentally impacted, as per the Clause 55 assessment at the end of this report. The visual bulk or a majority of dwellings will be reduced by setbacks from the street and retention of existing significant vegetation within the road reserve.
- The site is capable of accommodating the proposed development taking into account access and infrastructure servicing. Wastewater and stormwater are able to be managed on-site.
  - The battle-axe form provides an orderly subdivision outcome, minimising impacts to the road reserve to assist in maintaining the existing character of the area.
  - There is a demand for housing within Bright and the proposal will assist in alleviating this demand and also provide for housing choice.
  - The subject site is situated within an urban area that has reticulated water, sewer and stormwater services. GMW, NEW and Councils Engineering Department have reviewed the application and raised no concerns in relation to water management.
  - The Engineering Department have recommended standard conditions relating to provision of detailed construction and drainage drawings. No requirements were made in relation to upgrading existing road infrastructure such as kerbing, footpaths and the like. Taking into consideration the above, the proposal suitably manages water resources.

### **General Residential Zone**

- A planning permit is required under Clause 32.08-3 for subdivision and Clause 32.08-6 to construct two or more dwellings on a lot (6).
- 57.7% of the site has been set aside for garden area, meeting the minimum requirement prescribed by Clause 32.08-4.
- The proposed dwellings are no greater than two storeys and no greater than 11m in height, meeting the maximum height requirements under Clause 32.08-10.
- The application has been considered against the decision guidelines of Clause 32.08-13 and can be supported for the following reasons:



- The proposal positively responds to the Municipal Planning Strategy and the Planning Policy Framework, which have been discussed above.
- The proposal accords with the purpose of the General Residential Zone by achieving housing diversity and growth in an urban area that has access to all necessary development infrastructure and services to support increased residential densities. Whilst increased residential densities may be met with community resistance, the relevant planning controls that apply to the land are favourable of this type of development. For reasons discussed earlier in this report, the proposal is not considered to result in detrimental impacts the neighbourhood character of the surrounding area.
- As the development of dwellings has been incorporated into this application, it has been demonstrated that the pattern of subdivision has no consequence on the spacing of buildings. The proposed lot boundaries are suitably positioned to accommodate all existing and proposed dwellings as well as shared accessways and on-site stormwater detention.
- As the proposal is for a subdivision in conjunction with development, a complete assessment against the provisions of Clause 56 is not required as compliance with Clause 55 is deemed to satisfy the requirements of Clause 56. This approach is considered to be consistent with the application of Clause 56 as it is stated that the provisions of Clause 56 do not apply to an application to subdivide land into lots each containing an existing dwelling. There will be conditions on any permit issued ensuring that the dwellings are completed prior to the subdivision.
- The proposed dwellings will not overshadow any existing rooftop solar energy systems on dwellings on adjoining lots.
- The proposed achieves a suitable level of compliance with the objectives, standards, and decision guidelines of Clause 55.

### Bushfire Management Overlay

The land is covered entirely by the Bushfire Management Overlay. There is a planning permit trigger for the proposal at Clause 44.06-2. The application was referred to the Country Fire Association (CFA) for comment and conditional consent was provided. The application is considered to meet the relevant requirements of the Bushfire Management Overlay.

### Particular Provisions

#### Clause 52.06 - Car Parking

Five three-bedroom and one four bedroom dwellings are proposed, each providing for at least two covered car parking spaces within their respective carports or garages. One visitor car parking space is proposed within the shared accessway. As such, the proposal satisfies the car parking requirements. The plans submitted with the application show the necessary information required by Clause 52.06-8 and the proposal suitably meets the design standards for car parking under Clause 52.06-9.

### **Clause 53.01 – Public Open Space Contribution and Subdivision**

The proposed subdivision does not provide any land for the purposes of public open space. As such, a public open space contribution is required to be paid in accordance with 18(1)(b) of the Subdivision Act 1988. The proposed subdivision results in five additional lots within Bright which places increased demand on existing public open spaces within the township. As such, the full 5% contribution will be required as per conditions.

### **Clause 53.02 - Bushfire Planning**

The application was referred to the Country Fire Association for comment. Conditional consent was provided. The application is considered to meet the relevant requirements of this clause.

### **Clause 55 – Two or More Dwellings on a Lot and Residential Buildings**

In summary, the proposal achieves suitable compliance with all relevant objectives of Clause 55.

### **Clause 56 – Residential Subdivision**

As the proposal is for a subdivision in conjunction with development, a complete assessment against the provisions of Clause 56 is not required as compliance with Clause 55 is deemed to satisfy the requirements of Clause 56. This approach is considered to be consistent with the application of Clause 56 as it is stated that the provisions of Clause 56 do not apply to an application to subdivide land into lots each containing an existing dwelling. There will be conditions on any permit issued ensuring that the dwellings are completed prior to the subdivision.

### **General Provisions**

Clause 65.01 and 65.02 of the Alpine Planning Scheme provides the general decision guidelines that must be considered before deciding on an application. The proposal can be supported taking into account the relevant decision guidelines of Clause 65.01 and 65.02.

#### **Other matters – Breach of Covenant**

- a. Covenant W849570H applies to Lot 10 and contains the following restrictions:
- b. The erection of any building externally lined with materials other than brick veneer, masonry, mud brick, stone or new timber.
- c. The erection of any buildings or garage externally clad in iron or other commonly used materials unless such external cladding is in a colour that is not visually distracting from the amenity of the subdivision.
- d. The erection of a dwelling having an area less than 130sqm, excluding any built-in garage or carport.
- e. The erection of a dwelling with a roof of any material other than tiles, slate or colorbond iron.
- f. The erection or relocation onto the said land any transportable home.

- g. Notwithstanding point a., the erection of any dwelling manufactured or constructed from timber logs other than whole timber logs.

Covenant V252112Y applies to Lot 11 and contains the same restrictions as the Covenant described above.

The proposal does not currently comply with points a. of both Covenants as a majority of the dwellings are proposed to be clad in colorbond sheet metal. Whilst point b. allows for alternative materials to be used, the Covenant is not worded in a way to provide an option between a. and b.. Both requirements must be met.

In accordance with Section 61(4) of the Planning and Environment Act 1987, if the grant of a permit would authorise anything which would result in a breach of a registered restrictive covenant, the responsible authority must refuse to grant the permit unless a permit has been issued, or a decision made to grant a permit, to allow the removal or variation of the covenant.

A condition will be placed on any planning permit issued to ensure materials do not breach any covenant.

## **CONCLUSION**

The application is considered to be consistent with the Alpine Planning Scheme for the following reasons:

- The application is consistent with the Alpine Planning Scheme.
- The application is consistent with the objectives of planning in Victoria.
- Appropriate conditions have been put in place to remedy any possible breach in the requirements of the restrictive Covenants that apply to the land.
- The objectors concerns have been reasonably addressed.

## **DECLARATION OF CONFLICT OF INTEREST**

In accordance with section 130 of the *Local Government Act 2020*, and Chapter 7 section A6 of Council's Governance Rules, the following officers declare that they have no interests to disclose in providing this report.

- Chief Executive Officer
- Consultant Planner

## **APPENDICIES**

- 8.1.1.a. Conditions
- 8.1.1.b. Policy and decision guidelines

## Appendix 8.1.1.a. CONDITIONS

### - DEVELOPMENT CONDITIONS -

#### Plans required for endorsement

1. Before the endorsement of any plans, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and be generally in accordance with the plans submitted with the application but modified to show:

- a. External materials and colours to comply with covenants contained in Instrument of Transfer W849570H and V252112Y in the Register of Titles.
- b. Landscaping details as per Condition 5.
- c. Location of all mailboxes.
- d. All boundary fencing details on one site plan for the entire development. Fencing along the northern, eastern (for the length of proposed lot 1) and western boundaries must be rural style post and wire with a maximum height of 1.4m.
- e. Location of areas to be utilised for kerbside collection, ensuring that it is of a sufficient area to accommodate all bins on collection day.
- f. Construction and drainage details as per Conditions 7 and 8.

#### Amended Landscape Plan required

2. Concurrent with the submission of plans required by Condition 1, the Landscape Plan by Horizon Studio Landscape Architecture must be amended to the satisfaction of the Responsible Authority to show:

- a. a survey (including botanical names) of all existing vegetation to be retained and/or removed;
- b. a survey, including botanical names, of all existing trees on neighbouring properties where their Tree Protection Zones (calculated in accordance with AS4970-2009) encroach into the subject site;
- c. a planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant. Plantings must achieve a suitable balance between achieving the landscape outcomes sought by consistent with existing vegetation within the surrounding area and adhering to the vegetation management requirements under Table 6 to Clause 53.02-5;
- d. landscaping and planting within all open areas of the site (including each lot);
- e. details of all proposed hard surface materials including pathways, patio or decked areas.

### **Endorsed Plans**

3. The development and subdivision as shown on the endorsed plan must not be altered or modified (whether or not in order to comply with any statute, statutory rule or Local Law, or for any other reason) without the prior written consent of the Responsible Authority.

### **Mandatory Bushfire Management Overlay Condition**

4. The bushfire mitigation measures forming part of this permit or shown on the endorsed plans, including those relating to construction standards, defensible space, water supply and access, must be maintained to the satisfaction of the responsible authority on a continuing basis. This condition continues to have force and effect after the development authorised by this permit has been completed.

### **Completion and maintenance of landscaping**

5. Within 3 months of the occupation of the dwelling hereby approved or within the next planting season, whichever is the earlier; the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.

6. The landscaping must thereafter be maintained to the satisfaction of The Responsible Authority, including that any dead, diseased or damaged plants are to be replaced within 3 months or within the next planting season.

### **Alpine Shire Council Engineering Team Conditions**

#### **Detailed Construction and Drainage Plans Required**

7. Concurrent with the plans required by Condition 1, detailed construction plans must be submitted to and approved by the Alpine Shire Council. Construction detail shall be generally in accordance with Council's Infrastructure Design Manual ([www.designmanual.com.au](http://www.designmanual.com.au)). When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions, and shall include proposed construction detail, further information or modifications to:

- a. Common property pavement and proposed seal treatment including vehicle crossing and footpath.
- b. Underground drainage system, with supporting computations

8. Concurrent with the plans required by Condition 1, a properly prepared drainage discharge plan with computations must be submitted to, and approved by, Alpine Shire Council. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions. The information submitted must show the details listed in Council's Infrastructure Design Manual and be designed in accordance with the requirements of that manual. The information and plan must include:

- a. Details of how the works on the land are to be drained and retarded.
- b. a maximum discharge rate from the site is to be determined by computation to the satisfaction of Council to predevelopment flow rate
- c. connection points for drainage for each lot
- d. underground pipe drains conveying stormwater to the legal point of discharge for each allotment
- e. Detention system including approval from all relevant authorities.
- f. Incorporation of water sensitive urban design in accordance with Clause 20 of the Infrastructure Design Manual, to enhance stormwater discharge quality from the site and protect downstream waterways, including the expected discharge quality emanating from the development and design calculation summaries of the treatment elements; or as otherwise approved in writing by the Responsible Authority;
- g. Maintenance schedules for treatment elements.

#### **Defect Identification – Council’s Assets**

9. Prior to commencement of construction (or demolition), the owner or developer must submit to the Alpine Shire Council a written report and photos of any prior damage to public infrastructure. Listed in the report must be the condition of kerb and channel, footpath, seal, streetlights, signs and other public infrastructure fronting the property and abutting at least two properties either side of the development. Unless identified with the written report, any damage to infrastructure post construction will be attributed to the development. The owner or developer of the subject land must pay for any damage caused to Alpine Shire Council's assets/public infrastructure caused as a result of the development or use permitted by this permit.

#### **Tree Protection during Construction**

10. Prior to commencement of construction, a tree protection fence must be erected around the dripline of the existing trees to define a 'Tree Protection zone'. The fence must be constructed of (specify star pickets and chain mesh or similar) to the satisfaction of the relevant authority. The tree protection fence must remain in place until construction is completed. The ground surface of the Tree Protection Zone must be covered by a 100mm deep layer of mulch before the development starts and be watered regularly to the satisfaction of the Alpine Shire Council.

#### **No Vegetation Removal**

11. No tree or other vegetation other than those specifically notated on the approved plan(s) as 'tree to be removed' shall be felled, lopped, topped, ring-barked, uprooted, or otherwise wilfully destroyed or removed, without the further written consent of the Alpine Shire Council.

#### **Urban Drainage Works**

12. Prior to issue of Statement of Compliance, or occupation of any new building, all stormwater and surface water discharging from the site, buildings and works must be

conveyed to the legal point of discharge by underground pipe to the satisfaction of the Alpine Shire Council. No effluent or polluted water of any type may be allowed to enter the Council's stormwater drainage system. The legal point of discharge for this site is Stormwater pit on Ashwood Avenue. All roof water from buildings and surface water from paved areas must be collected and discharged to the LPOD to avoid any nuisance discharge to adjacent land.

### **Vehicle Crossings**

13. Prior to issue of Statement of Compliance, or occupation of any new building, vehicular crossings shall be constructed in accordance with the endorsed plan(s) to the satisfaction of the Alpine Shire Council, and shall comply with the following:
- a. standard vehicular crossings shall be constructed at right angles to the road to suit the proposed driveways, and any existing redundant crossing shall be removed and replaced with concrete kerb and channel to match into the surrounding profile.
  - b. Any proposed vehicular crossing shall have satisfactory clearance to any side entry pit, power or Telecommunications pole, manhole cover or marker, or street tree. Any relocation, alteration or replacement required shall be in accordance with the requirements of the relevant Authority and shall be at the applicant's expense;
  - c. crossings may be concrete or have a bituminous seal applied over an appropriately constructed pavement. Dimensions and roadside drainage treatments are to be generally in accordance with IDM drawing SD260.

### **Prior to Commencement of Construction**

14. Before any road/drainage works associated with the subdivision/development start, the following items must be satisfied:
- a. Approval of the construction plans;
  - b. An on-site meeting with officers of the municipality, the contractor and the developer or the developer's consultant to discuss matters such as roadside management, construction techniques, sedimentation controls, vegetation clearing controls and vegetated areas to be barricaded off prior to and during construction.

### **Driveway Construction Requirements**

15. Prior to issue of the Statement of Compliance or occupation of any of the new buildings, the common property driveway and parking area as shown on the endorsed plans must be:
- a. constructed of concrete or surfaced with an all-weather seal coat; and
  - b. drained in accordance with an approved drainage plan;
  - c. to the satisfaction of the responsibility authority.
16. The driveway must be constructed and drained to prevent diversion of flood or drainage waters and maintained in a continuously useable condition to the satisfaction of the responsible authority.

### **Construction Management Plan**

17. Prior to commencement of construction, a construction management plan shall be submitted to and approved by the Alpine Shire Council. The plan must outline how issues such as mud on roads, dust generation and erosion and sediment control will be managed, on site, during the construction phase. Details of a contact person/site manager must also be provided, so that this person can be easily contacted should any issues arise. Management measures are to be in accordance with EPA guidelines for Environment Management, "Doing It Right On Subdivisions" Publication 960, September 2004.

18. The approved Construction Management Plan must be adhered to at all times during the construction stage of the development to the satisfaction of the Alpine Shire Council.

19. Appropriate measures must be implemented throughout the construction stage of the development to rectify and/or minimise mud, crushed rock or other debris being carried onto public roads or footpaths from the subject land, to the satisfaction of the Alpine Shire Council.

### **- SUBDIVISION CONDITIONS -**

#### **Telecommunications**

20. The owner of the land must enter into an agreement with:

- a telecommunications network or service provider for the provision of telecommunication services to each lot shown on the endorsed plan in accordance with the provider's requirements and relevant legislation at the time; and
- a suitably qualified person for the provision of fibre ready telecommunication facilities to each lot shown on the endorsed plan in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.

21. Before the issue of a Statement of Compliance for any stage of the subdivision under the Subdivision Act 1988, the owner of the land must provide written confirmation from:

- a telecommunications network or service provider that all lots are connected to or are ready for connection to telecommunications services in accordance with the provider's requirements and relevant legislation at the time; and
- a suitably qualified person that fibre ready telecommunication facilities have been provided in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.



–

### **Public Open Space Contribution**

22. Prior to the issue of Statement of Compliance, the permit holder must pay a public open space contribution of 5 per cent of the site value of all of the land in the subdivision intended to be used for residential purposes, in accordance with Section 18 of the Subdivision Act 1988.

### **Development to be Completed**

23. Prior to the issue of Statement of Compliance, the development authorised by this permit as it relates to dwellings must be completed to the satisfaction of the Responsible Authority in accordance with the permit and endorsed plans (including, but not limited to the built form and layout, car parking, access, drainage and landscaping).

### **Mandatory BMO Condition**

24. Before the statement of compliance is issued under the Subdivision Act 1988 the owner must enter into an agreement with the responsible authority under Section 173 of the Planning and Environment Act 1987. The agreement must:

- a. State that it has been prepared for the purpose of an exemption from a planning permit under Clause 44.06-2 of the Alpine Planning Scheme.
- b. Incorporate the plan prepared in accordance with Clause 53.02-4.4 of this planning scheme and approved under this permit.
- c. State that if a dwelling is constructed on the land without a planning permit that the bushfire protection measures set out in the plan incorporated into the agreement must be implemented and maintained to the satisfaction of the responsible authority on a continuing basis.

25. The land owner must pay the reasonable costs of the preparation, execution and registration of the Section 173 Agreement.

This does need to be complied with if the dwellings have been completed in accordance with Condition 24.

### **Ausnet Electricity Services Pty Ltd**

26. The plan of subdivision submitted for certification must be referred to AusNet Electricity Services Pty Ltd in accordance with Section 8 of the subdivision Act 1988.

27. The applicant must:

- a. Enter into an agreement with AusNet Electricity Services Pty Ltd for the extension, upgrading or rearrangement of the electricity supply to lots on the plan of subdivision. A payment to cover the cost of such work will be required.
- b. Provide electricity easements internal and external to the subdivision in favour of AusNet Electricity Services Pty Ltd to service the lots on the plan of subdivision and/or abutting lands as required by AusNet Electricity Services Pty Ltd. The provision of reserves for electricity substations may also be required.

## **Country Fire Authority**

### **Bushfire Management Plan Required**

28. Prior to certification under the Subdivision Act 1988, an amended Bushfire Management Plan must be submitted to and endorsed by the Responsible Authority. Once endorsed the Bushfire Management Plan must be included as an annexure to the section 173 agreement prepared to give effect to clause 44.06-5 of the Planning Scheme and not be altered unless agreed to in writing by CFA and the Responsible Authority.

29. The plan must be generally in accordance with the plan submitted by Oxley and Co, dated 1/8/22, version 3 but amended to include or replace the conditions for Water Supply with:

- a. Water supply (Lots 1 & 2 and 4 - 6)
- b. Lots 1 & 2 - 5,000 litres and Lots 4 - 6 - 2,500 litres of effective water supply for firefighting purposes must be provided within all lots which meets the following requirements:
  - i. Is stored in an above ground water tank constructed of concrete or metal.
  - ii. All fixed above-ground water pipes and fittings required for firefighting purposes must be made of corrosive resistant metal.
  - iii. Include a separate outlet for occupant use.

### **Hydrants**

30. Prior to the issue of a Statement of Compliance under the Subdivision Act 1988 the following requirements must be met to the satisfaction of the CFA:

- a. Above or below ground operable hydrants must be provided. The maximum distance between these hydrants and the rear of all building envelopes (or in the absence of building envelopes, the rear of the lots) must be 120 metres and the hydrants must be no more than 200 metres apart. These distances must be measured around lot boundaries.
- b. The hydrants must be identified with marker posts and road reflectors as applicable to the satisfaction of the Country Fire Authority.

Note – CFA’s requirements for identification of hydrants are specified in ‘Identification of Street Hydrants for Firefighting Purposes’ available under publications on the CFA web site ([www.cfa.vic.gov.au](http://www.cfa.vic.gov.au))

### **Construction of vehicle access**

31. Before the statement of compliance is issued under the Subdivision Act 1988, the vehicle access arrangements shown on the endorsed plans to all lots must be implemented to the satisfaction of the Responsible Authority.

### **Goulburn Murray Water**

32. Each lot must be provided with connection to the reticulated sewerage system in accordance with the requirements of the relevant urban water authority.

33. All stormwater discharged from the site must meet the urban run-off objectives and Standard C25 as specified in Clause 56.07-4 of the Victorian Planning Provisions. All infrastructure and works to manage stormwater must be in accordance with the requirements of the Responsible Authority.

34. All works within the subdivision must be done in accordance with EPA Publication 1834 Civil Construction, Building and Demolition Guide (November 2020).

35. No buildings are to be constructed within 50m of the Ovens River.

#### **North East Catchment Management Authority**

36. Prior to the issue of a Statement of Compliance it must be demonstrated that stormwater quality and quantity treatment measures have been constructed in accordance with the approved plans.

#### **North East Water**

37. The owner of the subject land (or applicant in anticipation of becoming the owner) is required to enter into a legal agreement with North East Water detailing the works to be constructed, and other requirements to be met, necessary for the provision of reticulated water supply to each of the lots and proposed dwellings, within the development, at the owners cost, to the satisfaction of North East Water, provided:

- a. where the development is staged, a number of agreements may be required for separate stages; and
- b. each agreement must be in accordance with North East Water policy and requirements applying at the time of entry into the relevant agreement.

38. The owner of the subject land (or applicant in anticipation of becoming the owner) is required to enter into a legal agreement with North East Water detailing the works to be constructed and other requirements to be met, necessary for the provision of reticulated sewerage services to each of the lots and proposed dwellings, within the development, at the owners cost, to the satisfaction of North East Water, provided:

- a. where the development is staged, a number of agreements may be required for separate stages; and
- b. each agreement must be in accordance with North East Water policy and requirements applying at the time of entry into the relevant agreement.

39. Where the development (including any subdivision) occurs in stages the availability of water supply and sewerage services may be delayed having regard to NEW system capacity, conditions in relation to which shall be detailed in the relevant agreement for water supply and/or sewerage services.

40. The works required to be constructed for the provision of water supply and sewerage services must include, where so required by and to the satisfaction of, North East Water:
- a. works external to the subject land to allow connection to the North East Water water supply and sewerage systems;
  - b. the vesting at no cost of such of those works required by North East Water, to North East Water (“Developer Works”); and
  - c. works to ensure compatibility with and allowance for, other developments being served through existing and future North East Water infrastructure, including the Developer Works
  - d. internal or private works within the development, in accordance with applicable plumbing standards and providing adequate pressure and service levels.
41. Any modification to the development approved under this permit, including an increase or decrease in the number of dwellings or lots (or both) or the inclusion of additional land, requires the further consent of and may be subject to modified conditions, to the satisfaction of, North East Water.
42. Prior to the issue of a Statement of Compliance, the applicant must pay a new customer contribution determined in accordance with North East Water’s policy for development charges applicable to the water supply system currently servicing the area in which the subject land is located.
43. Prior to the issue of a Statement of Compliance, the applicant must pay a new customer contribution determined in accordance with North East Water’s policy for development charges applicable to sewers and disposal systems currently servicing the area in which the subject land is located.
44. The applicant must create easements to the satisfaction of and in favour of North East Water, over all existing and proposed sewerage facilities within the proposed subdivision.
45. The applicant must ensure that private water services do not traverse property boundaries and are independently supplied from a point of supply approved by North East Water.
46. The applicant must provide easements through other land, to the satisfaction of North East Water, if such easements are considered necessary for the efficient and economic servicing of the subject land.
47. That the applicant pays applicable charges determined in accordance with North East Water’s policy for development charges, applicable from time to time towards North East Water’s sewers and disposal systems servicing the area to which the permit applies.

48. Where the subject land is developed in stages, the North East Water conditions will apply to any subsequent stage of the subdivision.

49. Where an easement created in favour of North East Water is located within a proposed road reserve in a future stage, prior to the certification of the plan of subdivision for that stage, the applicant must formally remove the easement from the title to the land.

50. North East Water's consent to the issue of a Statement of Compliance under the Subdivision Act 1988 is conditional upon completion of all works, and meeting all requirements set out in this permit and any relevant agreement with, North East Water.

51. The plan of subdivision for certification must be referred to North East Water in accordance with Section 8 of the Subdivision Act 1988.

### **Permit Expiry**

52. The above-mentioned planning permit as it relates to development will expire if either of the following circumstances arise:

- a. The development is not started within two (2) years of the date of this permit;  
or
- b. The development is not completed within four (4) years of the date of this permit.

53. The above-mentioned planning permit as it relates to subdivision will expire if either of the following circumstances arise:

- a. The plan of subdivision is not certified within two (2) years of the date of this permit; or
- b. The subdivision is not completed within five (5) years of the date of certification.

54. The Responsible Authority may extend the periods referred to if a request is made in writing in accordance with Section 69 of the Planning and Environment Act 1987

**- End of Conditions -**

### **Planning Notes:**

1. This permit does not authorize the commencement of any building construction works. Before any such development may commence, the applicant must apply for and obtain appropriate building approval.

2. A road opening/crossing permit must be obtained from the Alpine Shire Council prior to working in or occupying the road reserve with construction equipment or materials. Applications may be accessed via the Alpine Shire Council website.

## **Appendix 8.1.1.b. POLICY AND DECISION GUIDELINES**

### **Municipal Planning Strategy and Planning Policy Framework**

Clause 02.03-1, Clause 11.01-1S & Clause 11.01-1L-01 – Settlement

Clause 11.01-1L-02 – Bright

Clause 11.02-1S – Supply of Urban Land

Clause 02.03-2 – Environmental and Landscape Values

Clause 12.05-1L – Public and Private Land Interfaces

Clause 02.03-3 - Environmental Risks and Amenity

Clause 13.02-1S & Clause 13.02-1L - Bushfire Planning

Clause 13.03-1S & Clause 13.03-1L – Floodplain Management

Clause 14.02-1S & Clause 14.02-1S – Catchment Planning and Management

Clause 14.02-2S & Clause 14.02-2S – Water Quality

Clause 02.03-5 – Built Environment and Heritage

Clause 15.01-1S & Clause 15.01-1L-01 – Urban Design

Clause 15.01-2S – Building Design

Clause 15.01-3S – Subdivision Design

Clause 15.01-3L – Battle-Axe Development

Clause 15.01-5S - Neighbourhood Character

Clause 15.03-2S – Aboriginal Cultural Heritage

Clause 02.03-6 – Housing

Clause 16.01-1S – Housing Supply

Clause 16.01-2S – Housing Affordability

Clause 02.03-9 – Infrastructure

Clause 19.03-3S & Clause 19.03-3L – Integrated Water Management

### **Zone**

Clause 32.08 - General Residential Zone

### **Overlays**

Clause 44.06 – Bushfire Management Overlay

### **Particular Provisions**

Clause 52.06 - Car Parking

Clause 53.01 – Public Open Space Contribution and Subdivision

Clause 53.02 – Bushfire Planning

Clause 55 – Two or More Dwellings on a Lot and Residential Buildings

Clause 56 – Residential Subdivision

### **General Provisions**

Clause 65.01 - Approval of an Application or Plan

Clause 65.02 - Approval of an Application to Subdivide Land

## 8.2 DIRECTOR ASSETS – ALAN REES

### 8.2.1 Dinner Plain TV Service

#### **INTRODUCTION**

This report relates to the Dinner Plain TV service.

#### **RECOMMENDATIONS**

##### ***That Council:***

- 1. Notes that the Dinner Plain cable television network infrastructure is at the end of its useful life;***
- 2. Notes that reliable alternative commercial technologies and products are available to residents;***
- 3. Discontinues the delivery of this service at the end of the 2023 winter season and decommissions the infrastructure; and***
- 4. Communicates these changes to enable residents to make the transition with adequate notice.***

#### **BACKGROUND**

Council provides and maintains the cable TV infrastructure to parts of Dinner Plain. Over the last few years, the number of breakdowns and customer complaints has risen. This has been due to the aging infrastructure and an increasing susceptibility to weather events. The cost to maintain the system is increasing due to the number of repairs required. In addition, the equipment and technology are obsolete, with the hardware no longer commercially available.

#### **ISSUES**

##### ***Hardware Availability***

Hardware components are no longer available through the supplier network. They can only be procured upon special request and then manufactured individually. This has resulted in a 300% increase in hardware costs.

##### ***Failing Infrastructure***

The infrastructure is failing with underground cables cracked, making fault detection and rectification unviable.

##### ***Customer Experience***

The customer experience is deteriorating with the number of customer complaints increasing each year as follows:

2021 – 14

2022 – 25

2023 Year to Date – 15

### ***Inequitable Service***

The cable TV service is an inequitable service providing connection to the older parts of Dinner Plain, but not to the newer developments and buildings.

### ***Alternative Options***

There are 2 private TV service options available to the community as follows:

- Mobile NBN connection via Telstra

All residents have access to this service option via signing a Telstra contract, which provides access to TV and Foxtel channels through mobile streaming via the internet.

- VAST TV satellite connection

All residents have access to connect to this network through a contract with VAST and at an approximate cost of \$900 to connect. Some trees may impede this service's signal and currently approximately 10% of houses have installed this service.

## **POLICY IMPLICATIONS**

The recommendations are in accordance with the following Strategic Objective of the Council Plan 2021-2025:

- 2.3 Access to technology that meets our evolving needs

## **FINANCIAL AND RESOURCE IMPLICATIONS**

Council has sufficient existing operational budget to maintain the service through to 30 June 2023, and through the draft budget is seeking additional budget to maintain the service through to 30 September 2023, following which the service will be switched off and the infrastructure decommissioned.

Cable Television Maintenance was stated as a Dinner Plain Special Rate service in the 'Declaration of the Dinner Plain Special Rate (2022/23)' adopted by Council at the June 2022 Council Meeting.

Cable Television Maintenance is not included as a Dinner Plain Special Rate Service in the recommendations for the 'Dinner Plain Special Rate (2023/24) Public Notice of Proposed Declaration' to be considered later in this meeting.



**RISK MANAGEMENT**

| Risk                     | Likelihood     | Impact | Mitigation Action / Control   |
|--------------------------|----------------|--------|---|
| Reputation               | Almost certain | Minor  | <ul style="list-style-type: none"> <li>• Provide adequate notice to enable a transition to an alternative private TV service provider and product</li> <li>• Implement a communication program to raise awareness and educate the community on the viable new technology options</li> </ul> |
| Poor Customer Experience | Almost Certain | Minor  | <ul style="list-style-type: none"> <li>• Decommission the Dinner Plain TV service.</li> <li>• Provide adequate notice to enable the community to make alternative arrangements for TV services</li> </ul>   |

**CONSULTATION**

A comprehensive communication plan will be implemented to inform the Dinner Plain community and provide sufficient notice of the decision and to provide guidance and support to enable a smooth transition to the new superior private TV services.

**CONCLUSION**

The Dinner Plain TV service technology and infrastructure has reached the end of its useful life and will be decommissioned at the end of the 2023 winter season. Superior alternative TV technology, service providers and products are available to the Dinner Plain community. Adequate notice will enable the community to make a smooth transition to connecting to one of these services, which will deliver a reliable and consistent customer experience.

## **DECLARATION OF CONFLICT OF INTEREST**

In accordance with section 130 of the *Local Government Act 2020*, and Chapter 7 section A6 of Council's Governance Rules, the following officers declare that they have no interests to disclose in providing this report.

- Director Assets

## **ATTACHMENT(S)**

Nil

## 8.2.2 Alpine Planning Scheme Review 2023

### INTRODUCTION

This report relates to the adoption and implementation of the Alpine Planning Scheme Review 2023 (Review). The report recommends that the Review be adopted by Council and be forwarded to the Minister for Planning as evidence that Alpine Shire Council has met its obligations in accordance with Section 12B of the Planning and Environment Act 1987 to review the planning scheme every four years. The report also recommends that Council resolves to prepare and exhibit a planning scheme amendment to implement key recommendations of the Review in the Alpine Planning Scheme.

### **RECOMMENDATION**

***That Council:***

- 1. Notes that the Alpine Planning Scheme Review 2023 pursuant to section 12B (1) of the Planning and Environment Act 1987 has been finalised;***
- 2. Forwards the Alpine Planning Scheme Review 2023 to the Minister for Planning in accordance with Section 12B (5) of the Planning and Environment Act 1987; and***
- 3. Seeks authorisation from the Minister for Planning to prepare and exhibit a planning scheme amendment to implement the Alpine Planning Scheme Review 2023.***

### BACKGROUND

Council, as the planning authority for the Alpine Planning Scheme, is required to review its planning scheme every four years under Section 12(B) of the Planning and Environment Act 1987 (the Act).

A planning scheme review is an overall health check of the Alpine Planning Scheme and focuses on:

- the effectiveness and efficiency of the planning scheme in achieving the objectives of planning and the planning framework in Victoria;
- aligning the planning scheme with the Ministerial Direction on the Form and Content of Planning Schemes; and
- ensuring the planning scheme contains a clear narrative about the way in which the use and development of land will be managed to achieve the planning vision or objectives of the area.

Planning scheme reviews also provide the opportunity to align Council's policy position with the planning scheme, update out-of-date or redundant information, and educate and inform stakeholders about how the planning scheme works and the process by which to improve it.

The *Alpine Planning Scheme Review 2023* forms attachment 8.2.2a to this report.

Council last undertook a comprehensive review of the Alpine Planning Scheme between 2010 and 2014. The findings of this review were translated into the planning scheme via Amendment C39, which was gazetted on 9 June 2016.

Recently the planning scheme was restructured to insert a new Municipal Planning Strategy and local planning policies to replace the former Local Planning Policy Framework. This was done via Amendment C62alpi and was a policy neutral amendment undertaken by the Victorian government.

## **ISSUES**

### ***High level findings***

The Review found that the Alpine Planning Scheme contains many policy gaps and is not effectively guiding decision-making in Alpine Shire. There are significant gaps and the planning scheme is out-of-date. This is leading to inconsistent decision-making and lost opportunities for the most efficient use of land, adaptation to climate change and protection of values, such as landscapes and heritage, for the benefit of the community.

The statutory planning function of Council is confronted with both legislative requirements and community expectations.

The process to address the underlying issues that led to this situation to improve the performance of the planning function at Council are underway, but they will take time to see results. In the interim, the Review states that it is critical that Council remains focused on the strategic planning projects that will make the most difference to the wider community, and to building the capacity and confidence of the statutory planning team.

### ***Planning scheme amendment***

The Review recommends that Council prepares a planning scheme amendment or amendments using the marked-up ordinance that forms Attachment 8.2.2.b to this report.

- Incorporate the policy neutral changes identified in Chapter 5 to align the ordinance with the Ministerial Direction on the Form and Content of Planning Schemes:
- Include new policy to implement the:
  - Affordable Housing Research and Analysis Paper 2022;
  - Affordable Housing Action Plan 2022;
  - Rural Land Strategy 2015;
  - Community Vision and Council Plan including the Municipal Health and Wellbeing Plan 2022-2026;
  - Myrtleford Resilience Plan;
  - Economic Development Strategy;
  - Alpine Shire Events Strategy; and
  - Sport and Active Recreation Plan 2022-2023.

- Amend Clause 12.05-1L Public and private interfaces, and Clause 14.01-3L Forestry and timber products to introduce changes requested by HVP;
- Include a new notice requirement at Clause 66.06s to ensure plantation managers are notified of applications for subdivision of land or use of land for accommodation within 300 metres of a timber plantation boundary;
- Introduce new strategies at Clause 13.02-1L (Bushfire Planning) to support dual access to properties and consider bushfire risk at a landscape scale;
- Amend Clause 19.03-2L Infrastructure design and provision to include consideration of the Infrastructure Design Manual and the Sustainable Infrastructure Guidelines when approving development;
- Rezone the north east portions of 25, 27, 33 and 35 King Street, Myrtleford that are currently zoned General Residential Zone to Farming Zone to remove the zoning anomaly;
- Delete DPO1 (Tempo Court area) as the subdivision is complete and the schedule does not contain any content;
- Delete DPO2 (Glenburn Drive) as it does not contain any content;
- Introduce the schedule to Clause 53.01 Public open space contributions and subdivision to collect a 5% contribution for residential subdivisions; and
- Include an updated Clause 74.02 Further strategic work that prioritises the strategic work program based on the findings of the Review.
- Attachment 8.2.2.c to this report contains the draft Explanatory Report for this amendment. This document explains what the amendment will do, and will be one of the public documents that is made available as part of the amendment should Council resolve to proceed.

### ***Further strategic work***

Following the analysis of the current planning scheme, stakeholder engagement and data, the Review identified the following priorities for Council over the next four years:

- Finalise the Land Development Strategy and implement into the planning scheme.
- Prepare the Rural Land Strategy Stage 2 to:
  - clarify the policy directions for each precinct in the Shire focused on supporting agricultural uses and minimising land use conflicts through separation of activities;
  - review the appropriate zoning for small lots in the Farming Zone (for example, Freeburgh, Ovens, Wandiligong, etc.); and
  - mitigate the impacts of climate change on rural land.
- Prepare structure plans for Porepunkah, Bright, Mount Beauty – Tawonga South and Myrtleford to:
  - direct land uses to appropriate locations;
  - develop a residential development framework that identifies the appropriate housing mix to provide a diversity of housing and achieve preferred neighbourhood character;

- identify active transport linkages and routes;
  - support the intensification of residential development in appropriate locations;
  - identify the preferred character for commercial and industrial areas;
  - identify infrastructure requirements;
  - prepare landscaping guidelines for public and private property, including planting, retention and replacement of canopy trees; and
  - draft planning controls to implement the Structure Plans including schedules to the residential zones.
- Undertake a comprehensive review of the suite of controls applying to Wandiligong to ensure they provide clearer guidance about what is to be achieved and more detailed direction to applicants and decision makers. This includes a review of zones, HO83 and SLO4.
  - Amend the schedules to the Farming Zone to increase the maximum floor area for which no permit is required for an outbuilding associated with a dwelling to decrease the number of permits that are triggered for this use.
  - Commence a comprehensive assessment of the significant landscapes and vegetation in the municipality, including those at a regional scale (e.g., views to Mount Buffalo and Mount Bogong) and local scale (e.g., boulevards in Bright) and put in place planning controls to protect such as the Significant Landscape Overlay, Environmental Significance Overlay, Vegetation Protection Overlay and Heritage Overlay.
  - Review the existing Significant Landscape Overlay Schedules (SLO1, SLO2, SLO3, SLO4 and SLO5) to strengthen the statement of significance and objectives, and populate the schedules with policy to more effectively guide decision making.
  - Undertake a heritage gap analysis (identify existing citations, update and address gaps).
  - Prepare a Heritage Policy to assist with decision making for applications in the Heritage Overlay.
  - Apply flood controls to land identified by NECMA and GBCMA as being subject to inundation.
  - Prepare an anomalies amendment to fix mapping anomalies that have been identified (land in two zones, publicly zoned private owned land, etc.).

### *Advocacy and process improvements*

Drawn from both the analysis of the planning scheme and the targeted consultation with users of the planning scheme, the Review also made recommendations to:

- Improve processes associated with the collection and analysis of data (such as planning permits), processing and referral of applications, and communication.
- Matters that Council may wish to discuss with the Victorian government to highlight the issue and advocate for change, specially who is responsible for preparing flood mapping for the Shire.
- Engage a Dinner Plain advisor (similar to the Heritage advisor) to provide design advice on planning permit applications.

These will be considered by Council in its operational and advocacy activities.

### **POLICY IMPLICATIONS**

The Review has undertaken a detailed assessment of all relevant planning policy reports and strategic documents. This Review has been undertaken in accordance with Section 12B of the Planning and Environment Act 1987, which requires Council to regularly review the Alpine Planning Scheme.

The recommendation is in accordance with the following Strategic Objectives of the Council Plan 2021-2025:

- 2.2 Innovative and sustainable business development that supports year-round benefit.
- 4.2 Planning and development that reflects the aspirations of the community.
- 5.2 A responsible, transparent and responsive organisation.
- 5.3 Bold leadership, strong partnerships and effective advocacy.

### **FINANCIAL AND RESOURCE IMPLICATIONS**

#### ***Adoption of the review***

There are no direct financial implications associated with the adoption of the Review, although the Review identifies future strategic work that may be required which will be subject to the normal annual budget process Council undertakes.

The Review was undertaken with assistance from the Department of Transport and Planning - Regional Planning Hub Program.

### **RISK MANAGEMENT**

| Risk                           | Likelihood | Impact | Mitigation Action / Control                                |
|--------------------------------|------------|--------|--|
| An out-of-date planning scheme | Unlikely   | Minor  | Council accepts the recommendations in this Council Report |

### **CONSULTATION**

The Review is a technical assessment of the Alpine Planning Scheme so community consultation is not required.

However, targeted engagement took place throughout the preparation of the Review during the second half of 2022. This included engagement with Councillors, planning officers, other officers across Council who use or are impacted by the planning scheme, Council’s heritage advisor, all referral authorities listed in the planning scheme and the forestry plantation manager HVP. This engagement process and its findings are summarised in the Review.

The wider community will have the opportunity to make submissions to the proposed planning scheme amendment seeking to implement the recommendations of the Review through the public exhibition process.

## **CONCLUSION**

Council is required to review the Alpine Planning Scheme every four years. This a mandatory requirement of the Planning and Environmental Act 1987. The Review has been prepared to meet this mandatory obligation.

Once formally noted by Council, the Review will constitute the formal 'Planning Scheme Review' of the Alpine Planning Scheme as required under Section 12B of the Planning and Environment Act 1987. A planning scheme amendment is required to implement the findings and recommendations of the Review.

The Review found that the Alpine Planning Scheme contains many policy gaps and is not effectively guiding decision-making in Alpine Shire. There are significant gaps and the planning scheme is out-of-date. This is leading to inconsistent decision-making and lost opportunities for the most efficient use of land, adaptation to climate change and protection of values, such as landscapes and heritage, for the benefit of the community.

It is recommended that Council notes that the Review has been completed and forwards it to the Minister for Planning to meet the requirements of Section 12B of the Planning and Environment Act 1987. It is also recommended that a planning scheme amendment be prepared and exhibited to implement the findings of the Review.

## **DECLARATION OF CONFLICT OF INTEREST**

In accordance with section 130 of the *Local Government Act 2020*, and Chapter 7 section A6 of Council's Governance Rules, the following officers declare that they have no interests to disclose in providing this report.

- Director Assets
- Strategic Planning Coordinator

## **ATTACHMENT(S)**

- 8.2.2.a Alpine Planning Scheme Review 2023.
- 8.2.2.b Recommended changes to planning scheme ordinance.
- 8.2.2.c Draft Explanatory Report for the proposed planning scheme amendment.



## 8.2.3 Collaborative Waste Tender

### INTRODUCTION

The purpose of this report is to update Council on Item 8.1.1 Collaborative Waste Tender from the February Ordinary Council Meeting and provide details for noting of a variation to the estimated financial value for the supply and delivery of Mobile Garbage Bins (MGBs) and the delivery of kitchen caddies and biodegradable caddy liners.

### **RECOMMENDATION**

***That Council notes the variation in cost for Contract CQ23008, from \$416,792 as identified in the February Council Report to \$453,696 Ex GST.***

### BACKGROUND

To enhance buying power and achieve best value for money for ratepayers, Council joined the Resource Recovery Collective Hume (RRCH) for the Collaborative Waste and Recycling Services Tender with eleven other councils and Alpine Resort Management Boards across the Hume region. At the February Council meeting the following recommendations were adopted:

That Council:

- 3. Awards Contract CQ23008 to Cleanaway Pty Ltd for the supply and delivery to residences of approximately 6,574 green-lidded 240L SULO mobile garbage bins (MGB's) and delivery of kitchen caddies. The estimated one-off cost is \$416,792 Ex GST; and*
- 4. Delegates authority to Council's Chief Executive Officer to enter negotiations and execute a contract with the preferred tenderers.*

A risk identified in the February Council report was that Cleanaway would charge more for an accelerated bin and kitchen caddy rollout for FOGO Introduction by 1 July 2023, as the contracted notice period for a mass rollout is six (6) months.

In addition to this, the delivery of the biodegradable kitchen caddy liners was included in the February Council meeting as an item delegated to the CEO to negotiate but the cost was not included in the estimated amount.

A quotation for the increased cost of the accelerated roll out, as well as the delivery of the kitchen caddy liner bags, has been negotiated with Cleanaway. The estimated cost in the February Council report was noted as being \$416,792. The negotiated final cost is \$453,696, a total increase of \$36,904. Breakdown of these costs is detailed in the Financial and Resource Implications section.

### ISSUES

Due to the timing of the Resource Recovery Collective Hume (RRCH) for the Collaborative Waste and Recycling Services Tender evaluation and recommendations, a clarification was requested from Cleanaway during the contract negotiations to determine the ability to achieve a mass roll out of MGBs in less than the tendered 6

month notice period. The response received from Cleanaway in January identified that all delivery contractors were fully booked up to 30 June 2023; however, given the relatively small size of the job for the Alpine Shire Council the shorter delivery schedule could be met, albeit requiring some extra resources and thus be more expensive.

The cost for the delivery of biodegradable caddy liners was not included in the RRCH tender, however, was identified in the February Council meeting as an item to be negotiated as part of the Cleanaway contract.

## **POLICY IMPLICATIONS**

The design of the regional collaborative tender has considered that there has been significant policy, regulatory and industry change within the waste and resource recovery sector. The project has been informed through careful consideration of these changes to ensure progression towards administering kerbside reform and meeting the targets of the Victorian Government's circular economy policy. It is critical that this can be achieved in a cost effective and compliant way and that the resilience of the sector is enhanced.

Key regulatory and current state changes that have been considered include:

- China National Sword
- Government Intervention
- *Environment Protection Act 2017* (Vic)
- *Circular Economy Act 2021* (Vic)
- *Local Government Act 2020* (Vic)

The recommendations are in accordance with the following Strategic Objective of the Council Plan 2021-2025:

- 3.3 Responsible management of waste

## **FINANCIAL AND RESOURCE IMPLICATIONS**

The tendered cost for supply and delivery of MGBs was \$59.80 per bin. The negotiated revised cost for the accelerated roll out is \$65.79 per bin, an increase of \$5.99 per bin.

The tendered cost for the delivery of kitchen caddies with the MGBs was \$3.60 per caddy. This cost is unchanged with the accelerated roll out.

The negotiated cost for the delivery of kitchen caddy biodegradable liners was \$1.50 per caddy.

The estimated number of bins for the estimate in the February Council report was 6,574. This has been revised down to 6,400 as engagement to date has identified that not all commercial properties will opt-in to the service. The exact number will be clarified prior to the delivery of the bins to residents and any excess bins will be kept as spares at Council's depots. Council will only be charged per resident receiving the service.

This results in a total increase of \$36,904 over the initial estimated \$416,792. There are sufficient Council funds in the waste reserve and associated Recycling Victoria grant funding to award and deliver the revised value of this contract.

## **RISK MANAGEMENT**

Risks have been addressed through the robust RRCH tender process and the contract negotiations with Cleanaway in the weeks since they were identified as the preferred tenderer.

## **CONSULTATION**

An early market announcement occurred in March 2022, well prior to the release of the Request for Tender, and there was significant promotion of the opportunity during the tender open period.

Australian Competition and Consumer Commission (ACCC) approval was sought early in the process. This process required consultation with industry and approval was provided late in September 2022 to allow the Participants to collaboratively procure waste and resource recovery services until October 2042.

Alpine Shire Council has committed to introducing a kerbside FOGO service from 1 July 2023. A separate glass service will be introduced via either kerbside collection or drop off points prior to 2030. This tender supports the implementation of these new services.

## **CONCLUSION**

The variation to the estimated figure in February's Council report is in line with the risk and expectations associated with the accelerated timeframe required and the local market. Cleanaway's buying power offers Council the ability to deliver the infrastructure in the accelerated timeframe at a competitive price.

## **DECLARATION OF CONFLICT OF INTEREST**

In accordance with section 130 of the *Local Government Act 2020*, and Chapter 7 section A6 of Council's Governance Rules, the following officers declare that they have no interests to disclose in providing this report.

- Director Assets
- Manager Engineering and Assets
- Sustainability Coordinator

## **ATTACHMENT(S)**

Nil

## 8.2.4 Airport Services Leases for Aircraft Hangar at Porepunkah Aerodrome

### INTRODUCTION

This report relates to new leases at the Porepunkah Aerodrome on Site 9 and Site 12 contained in Lot 1 of Plan of Subdivision PS612929, 266 Buckland Valley Road Porepunkah. A lease has been prepared for a hangar on these sites for a 10-year term with an option for an additional 10 years.

### **RECOMMENDATIONS**

#### ***That Council:***

- 1. Approves and executes a lease for Site 9 and Site 12 of Lot1 PS612929, 266 Buckland Valley Road Porepunkah for an aircraft hangar; and***
- 2. Signs and seals the lease documents at the appropriate stage of the Council meeting.***

### BACKGROUND

The Porepunkah Aerodrome Master Plan was presented to Council at the Ordinary Council Meeting in June 2006. A recommendation of the Master Plan was that Council negotiates with the adjoining landowner of the airfield with regard to acquisition of additional land for potential hangar relocation and new hangars.

At the Ordinary Council Meeting in July 2007, Council delegated authority to the CEO to proceed with the acquisition of an adjoining strip of land at the Porepunkah Aerodrome.

The land was acquired in 2008 and is Site 9 and Site 12 contained in Lot 1 of Plan of Subdivision PS612929, 266 Buckland Valley Road Porepunkah. A new entrance to the airfield was created on this land with the remaining land set aside for hangars and taxi way.

Lease documentation has been developed for the purpose of entering into long term hangar leases on this land. The length of each lease is 10 years, plus an option for a further 10 years. Commencement rent for each of the attached leases will be \$1224 Ex GST per annum calculated based on the square meterage of the sites.

In September 2018 and in accordance with Section 190 of the Local Government Act 1989 Council posted public notices notifying of proposed future leases at the airfield and invited submissions in accordance with Section 223 (Section 190(3b) & (4)) of the Local Government Act 1989 against such future leases. No submissions were received.

This report sets out the proposals for issuing the proposed future leases for hangars consulted on in September 2018 with 10 (plus 10) year terms.

### ISSUES

Under Section 115 of the Local Government Act 2020 (the Act),

- (1) A Council's power to lease any land to any person is limited to leases for a term of 50 years or less.
- (2) Subject to any other Act, and except where section 116 applies, if a Council leases any land to any person subject to any exceptions, reservations, covenants and conditions, it must comply with this section.
- (3) A Council must include any proposal to lease land in a financial year in the budget, where the lease is—
- (a) for one year or more and -
- (i) the rent for any period of the lease is \$100 000 or more a year; or
- (ii) the current market rental value of the land is \$100 000 or more a year; or
- (b) for 10 years or more.
- (4) If a Council proposes to lease land that is subject to subsection (3) and that was not included as a proposal in the budget, the Council must undertake a community engagement process in accordance with the Council's community engagement policy in respect of the proposal before entering into the lease.

In September 2018 and in accordance with Section 190 of the Local Government Act 1989 Council posted public notices notifying of proposed future leases at the airfield and invited submissions in accordance with Section 223 (Section 190(3b) & (4)) of the Local Government Act 1989 against such future leases. No submissions were received.

The intent and terms of these leases have not changed (except for Consumer Price Index (CPI) adjustments to annual rents). Council has therefore previously communicated its intention to enter into leases for aircraft hangars at the site and met its obligation under the Local Government Act 1989 which applied at the time.

## **POLICY IMPLICATIONS**

The process adopted by Council for the awarding of future leases at the Porepunkah Aerodrome was in accordance with obligations under the Local Government Act 1989 and the Local Government Best Practice Guidelines for the Sale, Exchange and Transfer of Land at that time. The leases are to be awarded as a result of these processes.

The recommendations are in accordance with the following Strategic Objective of the Council Plan 2021-2025:

- 4.5 Assets for our current and future needs

## **FINANCIAL AND RESOURCE IMPLICATIONS**

The commencement annual lease income for a lease will be \$1,153.80 Ex GST. Forward lease charges are indexed to CPI annually and subject to a market review after the first 10 years of the lease. Income collected from hangar rentals at the airfield is paid to the Porepunkah Aerodrome Association to assist it in fulfilling its responsibilities to operations and day to day maintenance of the airfield.

**RISK MANAGEMENT**

| Risk                                 | Likelihood | Impact | Mitigation Action / Control  |
|--------------------------------------|------------|--------|--|
| Non-Compliance of Lease requirements | Unlikely   | Minor  | <ul style="list-style-type: none"> <li>Termination of Lease</li> </ul> |

**CONSULTATION**

In accordance with Section 190 of the Local Government Act 1989, public notices were posted in September 2018 notifying of proposed future leases at the site and inviting submissions in accordance with Section 223 (Section 190(3b) & (4)) of that Act. No submissions were received at that time.

Council has therefore previously communicated its intention to enter into leases for aircraft hangars at the site and met its obligation under the Local Government Act 1989 which applied at that time. The current lease has been developed under the same terms (save for CPI adjustments to annual rent) and therefore it is not considered necessary to undertake further community engagement relating to such leases at the airfield.

The Porepunkah Airfield Association has been consulted and is supportive of the issuing of the leases.

**CONCLUSION**

In conclusion, Council has previously met its obligations under the Local Government Act 1989 in relation to issuing leases at the airfield and therefore the leases subject to this report do not require further Community Engagement. It is recommended that they are executed by Council under the terms of section 115 of the Local Government Act 2020.

**DECLARATION OF CONFLICT OF INTEREST**

In accordance with section 130 of the *Local Government Act 2020*, and Chapter 7 section A6 of Council's Governance Rules, the following officers declare that they have no interests to disclose in providing this report.

- Director Assets
- Property and Contracts Coordinator

**ATTACHMENT(S)**

Nil

## 8.3 DIRECTOR CUSTOMER AND COMMUNITY – HELEN HAVERCROFT

### 8.3.1 Instruments of Delegation

File Number: Delegations Register

#### **INTRODUCTION**

Instruments of Delegation are an important means of Council ensuring its officers hold the appropriate legislative powers for the various Acts and Regulations that Council administers. This report refreshes delegations to the Chief Executive Officer, and to members of Council staff.

#### **RECOMMENDATIONS**

***That Council:***

- 1. Exercises the powers conferred by section 11(1)(b) of the Local Government Act 2020, so that:***
  - a. There be delegated to the person holding the position, acting in or performing the duties of Chief Executive Officer the powers, duties and functions set out in attachment 8.3.1.a "S5 - Instrument of Delegation from Council to the Chief Executive Officer" (instrument S5), subject to the conditions and limitations specified in that instrument;***
  - b. Instrument S5 be signed and sealed at the appropriate stage of this meeting;***
  - c. Instrument S5 comes into force immediately the common seal of Council is affixed to the instrument;***
  - d. On the coming into force of instrument S5, all previous delegations to the Chief Executive Officer are revoked;***
  - e. The duties and functions set out in instrument S5 must be performed, and the powers set out in the instruments must be executed, in accordance with any guidelines or policies of Council that it may from time to time adopt.***
- 2. Exercises the powers conferred by the legislation referred to in attachment 8.3.1.b "S6 - Instrument of Delegation from Council to Members of Council Staff - April 2023"(instrument S6), so that:***
  - a. There be delegated to the members of Council staff holding, acting in or performing the duties of the offices or positions referred to in instrument S6a, the powers, duties and functions set out in that instrument, subject to the conditions and limitations specified in that Instrument;***
  - b. Instrument S6 be signed and sealed at the appropriate stage of this meeting;***
  - c. Instrument S6 comes into force immediately the common seal of Council is affixed to the instrument;***

- d. On the coming into force of instrument S6, all previous delegations to members of Council staff (other than the Chief Executive Officer) are revoked; and*
  - e. The duties and functions set out in instrument S6 must be performed, and the powers set out in the instruments must be executed, in accordance with any guidelines or policies of Council that it may from time to time adopt.*
- 3. Exercises the powers conferred by the legislation referred to in attachment 8.3.1.c. "S18 - Instrument of Sub-Delegation from Council to Members of Council Staff (EPA 2017)"(instrument S18), so that:**
- a. There be delegated to the members of Council staff holding, acting in or performing the duties of the offices or positions referred to in instrument S18, the powers, duties and functions set out in that instrument, subject to the conditions and limitations specified in that Instrument*
  - b. Instrument S18 be signed and sealed at the appropriate stage of this meeting*
  - c. Instrument S18 comes into force immediately the common seal of Council is affixed to the Instrument*
  - d. On the coming into force of instrument S18, the previous version of instrument S18 dated 13 December 2022 be revoked; and*
  - e. The duties and functions set out in instrument S18 must be performed, and the powers set out in the instruments must be executed, in accordance with any guidelines or policies of Council that it may from time to time adopt.*

## **BACKGROUND**

Many legislative Acts and Regulations provide Council with specific powers, duties or functions. To enable Council as an organisation to run smoothly, many of these powers, duties and functions are delegated to the Chief Executive Officer (CEO), who can then further sub-delegate these duties to Staff. This ensures that decisions are made on a timely basis, without the need for every legislative decision being presented to a Council meeting.

Council's S5 Instrument of Delegation to the CEO passes on Council's powers directly to the CEO. For instances where decisions are required that are not within the CEO's delegation, these must be presented directly to Council - for example, where a purchase exceeds the CEO's financial delegation.

Where legislation allows it, the CEO then sub-delegates specific legislative duties to staff, via a separate Instrument. Some legislation does not allow sub-delegation via the CEO, so Council must delegate these powers directly to staff using the S6 Instrument of Delegation to Council Staff.

The Environment Protection Authority delegates several of its powers to Council, which must then be sub-delegated to Council staff. The S18 Instrument of Sub-Delegation to Members of Council Staff ensures this occurs.



The S5 Instrument of Delegation to the CEO was most recently updated in August 2022, while the S6 and S18 Instruments were most recently updated in December 2022, which came into operation on 9 January 2023 to coincide with a recent restructure of the organisation.

**ISSUES**

***Legislative updates***

There have been no changes made to the S5 Instrument of Delegation or the S18 Instrument of Delegation, however both are being updated as part of due process to ensure that all the legislative powers available at the time of this meeting are passed on the CEO and Council staff.

There have minor updates to the legislative powers, duties, and function in the S6 Instrument of Delegation since it was last adopted in December 2022. These have been included in the document, with the appropriate members of Council staff delegated to those legislative provisions.

***Staff members with delegated duties***

Minor updates have been made to reflect the position titles of some staff with delegated duties.

**POLICY IMPLICATIONS**

The recommendations are in accordance with the following Strategic Objective of the Council Plan 2021-2025:

- 5.2 A responsible, transparent and responsive organisation

**FINANCIAL AND RESOURCE IMPLICATIONS**

Council has an annual subscription for Maddocks delegations and authorisations service that is allowed for in Council’s annual budget. Appropriate delegations and authorisations allow Council and Council staff to operate effectively within legislative frameworks.

**RISK MANAGEMENT**

| Risk  | Likelihood | Impact   | Mitigation Action / Control  |
|---|------------|----------|--|
| Delegations are not in place or are out of date | Possible   | Moderate | Ensure that all Council approved delegations are up-to-date to ensure that staff can undertake their statutory duties. |

## **CONSULTATION**

No external consultation is required. Council to CEO delegations have been discussed with the relevant Manager, Director and CEO.

## **CONCLUSION**

A review and update of the S5 Instrument of Delegation to the CEO, S6 Instrument of Delegation to Members of Council Staff, and S18 Instrument of Sub-Delegation to Members of Council Staff (EPA 2017), will ensure that the CEO and Council officers can undertake the powers, duties and functions relating to their role.

## **DECLARATION OF CONFLICT OF INTEREST**

In accordance with section 130 of the *Local Government Act 2020*, and Chapter 7 section A6 of Council's Governance Rules, the following officers declare that they have no interests to disclose in providing this report.

- Director Customer and Community
- Manager Corporate
- Governance Officer

## **ATTACHMENT(S)**

- 8.3.1.a S5 - Instrument of Delegation from Council to the Chief Executive Officer - April 2023
- 8.3.1.b S6 - Instrument of Delegation from Council to Members of Council Staff - April 2023.
- 8.3.1.c S18 - Instrument of Sub-Delegation from Council to Members of Council Staff (EPA 2017) - April 2023

## 8.3.2 Instruments of Appointment and Authorisation - *Planning and Environment Act 1987*

File Number: Delegations register

### INTRODUCTION

Instruments of appointment and authorisation are an important means of Council ensuring that its officers are appropriately authorised under the relevant Acts that Council administers. This report provides for a newly appointed position in Council's Statutory Planning department.

### **RECOMMENDATION**

***That Council exercises the powers conferred by section 147(4) of the Planning and Environment Act 1987, so that:***

- 1. The following member of Council staff referred to in attachment 8.3.7 "S11A – Instrument of Appointment and Authorisation – Planning & Environment Act 1987" (the instrument) be appointed and authorised as set out in the instrument;***
  - a. Compliance Coordinator***
- 2. The instrument comes into force immediately the common seal of Council is affixed to the instrument, and remains in force until Council determines to vary or revoke it;***
- 3. On the coming into force of the instrument, the previous "S11A – Instrument of Appointment and Authorisation – Planning and Environment Act 1987" for the following member of Council staff, as dated, be revoked;***
  - a. Compliance Coordinator, dated 4 May 2021***
- 4. The instrument be signed and sealed at the appropriate stage of this meeting.***

### BACKGROUND

Council staff involved in planning roles require current and accurate authorisations to fulfil their duties. Council has appointed a new Compliance Coordinator, requiring a new Instrument of Appointment and Authorisation under the *Planning and Environment Act 1987*. The Instrument of Appointment and Authorisation being revoked relates to Council's previous Compliance Coordinator.

### ISSUES

#### ***Authorised Officers***

Authorised officers have statutory powers under relevant legislation. In the case of Council's staff in the Planning department, the attached Instruments of Appointment and Authorisation under the *Planning and Environment Act 1987* mean that they are authorised officers for the purposes of that Act.

While Council may delegate its powers, duties or functions to staff, so that a delegate acts on behalf of the Council, staff appointed as authorised officers have their own statutory powers under the relevant Act.

### ***Planning and Environment Act 1987***

Section 188(1)(b) of the *Planning and Environment Act 1987* specifies that “a planning authority ... may by instrument delegate any of its powers, discretions or functions under this Act to an officer of the authority”. However Section 188(2)(c) specifically prevents an officer from further sub-delegating any duty, function or power. Therefore, as the responsible authority, Council must authorise staff directly using the “S11A – Instrument of Appointment and Authorisation – Planning and Environment Act 1987”, rather than via the Chief Executive Officer.

### ***Maddocks Delegations and Authorisations Service***

Council utilises the delegations and authorisations service provided by law firm Maddocks. This is a template system used by many councils and provides a detailed way of ensuring that appropriate delegations and authorisations are given to Council staff. All of the relevant legislation affecting local government, including Acts and regulations and the sections that relate to the powers, duties and functions of Council are outlined within the template and the relevant officer is allocated accordingly.

## **POLICY IMPLICATIONS**

Ensuring authorisations are kept up to date ensures that Council's planning staff can undertake their statutory roles.

The recommendation is in accordance with the following Strategic Objective of the Council Plan 2021-2025:

- 5.2 A responsible, transparent and responsive organisation

## **FINANCIAL AND RESOURCE IMPLICATIONS**

Council has an annual subscription to the Maddocks delegation and authorisation service that is provided for in Council's annual budget. There are no other financial implications associated with these instruments of appointment and authorisation.

Appropriate authorisations allow Council and Council staff to operate effectively and within legislative frameworks.

**RISK MANAGEMENT**

| Risk   | Likelihood | Impact   | Mitigation Action / Control   |
|--|------------|----------|---|
| Authorisations are not in place or are out of date | Possible   | Moderate | <ul style="list-style-type: none"> <li>Ensure that all Council officers have up-to-date authorisations to ensure that they can undertake their duties.</li> </ul> |

**CONSULTATION**

The relevant staff and Director have been consulted during the preparation of the IoAAs. There is no requirement to consult the community in the preparation of these instruments.

**CONCLUSION**

The appropriate appointment of authorised officers to enforce the *Planning and Environment Act 1987* is required to ensure that Council officers can undertake their statutory roles.

**DECLARATION OF CONFLICT OF INTEREST**

In accordance with section 130 of the *Local Government Act 2020*, and Chapter 7 section A6 of Council's Governance Rules, the following officers declare that they have no interests to disclose in providing this report.

- Director Customer and Community
- Governance Officer

**ATTACHMENT(S)**

8.3.2 S11A – Instrument of Appointment and Authorisation – *Planning & Environment Act 1987* – Compliance Coordinator

### 8.3.3 Audit and Risk Committee Meeting Minutes

#### INTRODUCTION

The purpose of the report is to present the minutes of the Audit and Risk Committee meeting No.2022/23-4 held on 24 February 2023.

The key item presented to and considered by the Audit and Risk Committee (Committee) at this meeting related to the Victorian Local Government Inspectorate Report *Checking Compliance: A Review of Local Government Polices*.

Council's regular quarterly reports were also presented to the Committee.

#### **RECOMMENDATION**

***That Council receives and notes the unconfirmed minutes of the Audit and Risk Committee meeting No.2022/23-04 held on Friday 24 February 2023.***

#### REPORT

##### ***Local Government Inspectorate Report - A review of Council Policies***

The Committee received a report on the Victorian Local Government Inspectorate Report *Checking Compliance: A Review of Local Government Polices*. This review measured the success of each of the 79 Victorian councils in meeting the requirements of the *Local Government Act 2020* to develop or adopt a suite of new policies and update or amend existing policies within set time frames.

The Committee noted that Council is compliant with the Act requirements and acknowledged that Council's policy format was presented in the review as an example of good practice.

#### POLICY IMPLICATIONS

The recommendation is in accordance with the following Strategic Objective of the Council Plan 2021-2025:

- 5.2 A responsible, transparent and responsive organisation

#### RISK MANAGEMENT

| Risk   | Likelihood | Impact | Mitigation Action / Control   |
|--|------------|--------|---|
| Failure to meet reporting requirements of <i>Local Government Act 2020</i> and Committee Charter | Unlikely   | Minor  | <ul style="list-style-type: none"> <li>• Standing items on Committee agenda</li> <li>• Documented annual Committee meeting program</li> </ul> |

## **CONCLUSION**

The Committee, being satisfied with the detail provided in its agenda and the officer reports, submits the unconfirmed minutes of its meeting No.2022/23-04 held on 24 February 2023 to Council for noting.

## **DECLARATION OF CONFLICT OF INTEREST**

In accordance with section 130 of the *Local Government Act 2020*, and Chapter 7 section A6 of Council's Governance Rules, the following officers declare that they have no interests to disclose in providing this report.

- Director Customer and Community
- Manager Corporate
- Health, Safety and Risk Officer

## **ATTACHMENT(S)**

- 8.3.3 Minutes (unconfirmed) of Audit and Risk Committee Meeting No.2022/23-04, 24 February 2023

### 8.3.4 Community Budget Submissions

File Number: 2022/23 Budget

#### **INTRODUCTION**

The purpose of this report is to respond to the submissions received as part of the Community Budget submission process conducted by Council prior to the development of the draft Budget 2023/24.

#### **RECOMMENDATION**

***That Council:***

- 1. Considers written and verbal submissions received on the Community Budget process in accordance with Council's Community Engagement Policy, in relation to the Alpine Shire Council draft 2023/24 Budget.***
- 2. Includes the following submissions as part of the Alpine Shire Council draft Budget 2023/24:***

| <b><i>Submission</i></b>                                       | <b><i>Value proposed in draft budget 2023/24</i></b> |
|--|--|
| <b><i>Mount Beauty - Pebble Beach public toilet</i></b>        | <b><i>\$80,000</i></b>                               |
| <b><i>Bright - Bright Skate Park Upgrade</i></b>               | <b><i>\$35,000</i></b>                               |
| <b><i>Bright - Cobden Street upgrade.</i></b>                  | <b><i>\$25,000</i></b>                               |
| <b><i>Mount Beauty - Big Hill Trail Head Power Upgrade</i></b> | <b><i>\$10,000</i></b>                               |

- 3. Notes the following submissions are either currently being progressed, or will be progressed in 2023/24 financial year without the allocation of a specific budget amount:***

| <b><i>Submission</i></b> | <b><i>Proposed Activity in 2023/24</i></b>   |
|--------------------------|--|
| <b><i>RV Dump</i></b>    | <b><i>Council has confirmed public access to the dump point at the Tawonga Caravan Park (free for guests, and a \$5 fee for visitors).<br/>Council will engage North East Water to explore flexibility in their required operating model for public dump points.</i></b> |



| <b><i>Submission</i></b>  | <b><i>Proposed Activity in 2023/24</i></b>   |
|---|--|
| <b><i>Mount Beauty Scout Hall restumping</i></b>  | <b><i>Council to implement the recommendations of the building condition assessment completed in 2022/23.</i></b>  |
| <b><i>Reopen Myrtleford Toy Library</i></b>   | <b><i>Council Officers are supporting the CWA in their ambitions to reopen the toy library.</i></b>  |
| <b><i>Myrtleford Showground lights</i></b>  | <b><i>Council will conduct an Expression of Interest process for the McNamara Reserve redundant lighting poles.</i></b>  |
| <b><i>Myrtleford Bowls Club - Bowling Green Canopy and conversion of natural grass to synthetic surface</i></b> | <b><i>Council will direct the proponent towards grant writing support services.</i></b>  |
| <b><i>Annual hard rubbish collection</i></b>  | <b><i>Council is seeking funding to trial a tip shop.</i></b>  |
| <b><i>Full kangaroo proof fencing of Mount Beauty Airfield</i></b>  | <b><i>Council is seeking to address a gap in the provisions to manage direct access from adjacent properties onto the airport.</i></b>   |
| <b><i>Purchase of the Alpine Shire tractor and bat wing slasher for Mount Beauty Airport</i></b>                | <b><i>Council to make available its redundant tractor for use at the Mount Beauty Airport, and to support the Mount Beauty Airport Management Association (MBAMA) in the purchase of an appropriate slasher using MBAMA funds.</i></b> |
| <b><i>Renewal and upgrade of Delany Avenue, Bright</i></b>  | <b><i>Council will progress the Tree Avenue Management and Replacement Plan.</i></b>   |
| <b><i>Improved management of weeds across the Shire</i></b>   | <b><i>Council will explore options to deliver an update to the weed guide.</i></b>   |
| <b><i>Public toilet upgrade for Dederang</i></b>  | <b><i>Council will assess suitability of the existing toilet facilities and identify any work required to bring either facility to a standard appropriate for 24/7 public access.</i></b>  |

| <b><i>Submission</i></b>  | <b><i>Proposed Activity in 2023/24</i></b>  |
|---|---|
| <b><i>Multi-user trail connection between Damms Road and the Rockpool Road entrance to Alpine National Park</i></b> | <b><i>Council is exploring options to import material to improve drainage issues along the unformed section of Fredas Lane.</i></b> |
| <b><i>Installation of toilet facilities in Tawonga South commercial strip</i></b>                                   | <b><i>Council will continue to pursue the opportunity to deliver amenities in Tawonga South.</i></b>                                |
| <b><i>Extension of Kiewa River trail to Damms Road</i></b>  | <b><i>Council will continue to pursue opportunities for external funding.</i></b>   |

4. ***Notes the following submissions do not result in funding in the Alpine Shire Council draft 2023/24 Budget and are not being progressed by Council in the 2023/24 financial year:***

| <b><i>Submission</i></b>  | <b><i>Proposed response to Proponent to Community Budget Submission</i></b>  |
|---|--|
| <b><i>Bright CBD gardens &amp; footpath upgrades</i></b>  | <b><i>These submissions covers multiple topics. Council to provide a written response to the proponents' questions.</i></b>  |
| <b><i>Tawonga South - various infrastructure issues</i></b>   |  |
| <b><i>Upgrade of storage area and display of 1924 Halford truck - Kiewa Valley Historical Society</i></b> | <b><i>Council to demolish the derelict toilet block located outside the Visitor Information Centre at the same time as the Tawonga Scout Hall is demolished.</i></b> |
| <b><i>Bright to Harrietville shared path - reroute</i></b>  | <b><i>Add to Tracks and Trails Masterplan scope and add to Project Pipeline.</i></b>   |
| <b><i>Tawonga to Mount Beauty shared trail</i></b>  |  |
| <b><i>Mystic Lane precinct, Bright pedestrian safety upgrade including footpaths</i></b>                  | <b><i>Add to Footpath Register for prioritisation.</i></b><br><b><i>Include in Pioneer Park master planning considerations.</i></b>                                  |
| <b><i>Bright outdoor basketball court</i></b>   | <b><i>Capture in the Pioneer Park Masterplan.</i></b>  |
| <b><i>Asphalt Pump Track - Bright</i></b>   |  |

| <b><i>Submission</i></b>   | <b><i>Proposed response to Proponent to Community Budget Submission</i></b>   |
|--|---|
| <b><i>Footpaths in Tawonga - Cooper and Charles Street, and Hore's Lane</i></b>                | <b><i>Add to Footpath Register for prioritisation.</i></b>  |
| <b><i>Connecting Buffalo Creek walking track</i></b>   | <b><i>Capture in the Tracks and Trails Masterplan.</i></b>  |
| <b><i>Myrtleford Recreation Reserve - upgrade Judges Box/Grandstand</i></b>                    | <b><i>Capture in the Sport and Active Recreation Masterplan. Direct the proponents towards DEECA funding sources.</i></b>   |
| <b><i>Construction/ Replacement of the Grandstand at the Myrtleford Recreation Reserve</i></b> |   |
| <b><i>Myrtleford Recreation Reserve - major drainage upgrade</i></b>                           |   |
| <b><i>Myrtleford Recreation Reserve - upgrade internal road infrastructure</i></b>             |   |
| <b><i>Bright Playgrounds - refresh</i></b>   | <b><i>Continue to maintain the existing playground facilities in a safe condition for users.<br/>Capture playground replacement in future master planning for riverside precinct.</i></b> |
| <b><i>Myrtleford Bowls Club - additional parking</i></b>                                       | <b><i>Council will assess parking provision following completion of the Myrtleford Splash Park project.</i></b>   |
| <b><i>Dome roof on Mount Beauty swimming pool</i></b>  | <b><i>Capture in future aquatics strategy.</i></b>  |
| <b><i>Improve sound quality in the hall at the Myrtleford Senior Citizens Centre</i></b>       | <b><i>Add to Project Pipeline.</i></b>  |
| <b><i>Bee belts for beautification and biodiversity</i></b>                                    | <b><i>This is not a priority for Council's operational teams at this time.</i></b>  |
| <b><i>Harrietville Hall upgrade</i></b>  | <b><i>No commitment of Council funds to this project.</i></b>   |
| <b><i>Business case for Gundowring Hall &amp; Reserve upgrade</i></b>                          | <b><i>Direct proponent back to DEECA</i></b>  |
| <b><i>Mini Golf Myrtleford</i></b>   | <b><i>Not a priority for Council at this time. This activity is better delivered through private enterprise.</i></b>  |

***5. Notifies in writing each person or persons who made a Community Budget submission of the outcome of their submission.***

**BACKGROUND**

Section 96(1) of the *Local Government Act 2020* provides for Council to develop the budget in accordance with financial management principles and Council's Community Engagement Policy.

In December 2022, Council commenced a Community Budget submissions process, asking the local community what they would like to see in the next Council Budget. This was a different approach to previous years, where Council had sought the views of the community on a prepared draft Budget. This year Council sought the community's views to help shape the Budget before the draft stage. This was to ensure that funded proposals were identified and incorporated into the draft Budget early, and the community's voice heard during the preparation of this important document.

**CONSULTATION**

With the commencement of the *Local Government Act 2020* each Council is required to conduct consultation of the Budget in accordance with its Community Engagement Policy. This enables Councils to create innovative ways to encourage community input into the development of the draft Budget.

Council opened the Community Budget process on 12 December 2022, with submissions closing on 12 February 2023. Community pop-up sessions were held at community markets in Harrietville, Bright, Myrtleford, and Mount Beauty during January and February 2023, to provide the community with the opportunity to speak with Councillors and staff about their ideas.

The application process was via an online platform, with a staff member available to provide extra advice or assistance. Submitters could request to be heard before a panel of Councillors in support of their submission.

Council had received a total of 41 Community Budget submissions, with 21 submitters presenting their submissions in person before a panel of Councillors on 7 and 14 March 2023.

The 41 Community Budget submissions received this year is more than double the previous year (15 submissions received in 2022/23), suggesting the engagement approach taken has achieved its purpose, in seeking ideas from the community prior to the draft Budget preparation.

The community will have a further opportunity to comment on the Alpine Shire draft 2023/24 Budget once it is released for public exhibition.

**POLICY IMPLICATIONS**

The Budget is prepared in accordance with the *Local Government Act 2020* and the *Local Government (Planning and Reporting) Regulations 2020*. Submissions have been sought in accordance with Council's Community Engagement Policy.

The recommendation is in accordance with the following Strategic Objective of the Council Plan 2021-2025:

- 5.2 A responsible, transparent and responsive organisation

**FINANCIAL AND RESOURCE IMPLICATIONS**

Council undertook the consultation on the Community Budget submissions utilising current staff and software packages available, and prepares its draft Budget with the objective of balancing long term financial sustainability and prioritised delivery against the adopted Council Plan 2021-2025.

**RISK MANAGEMENT**

| Risk  | Likelihood | Impact   | Mitigation Action / Control   |
|---|------------|----------|---|
| Community Budget submission process does not result in meaningful opportunities in the draft Budget | Possible   | Moderate | <ul style="list-style-type: none"> <li>• Ensure that the opportunity to participate in Community Budget submissions are advertised widely.</li> <li>• Ensure that submissions are assessed and prioritised into Council's Budget or future Project Pipeline where appropriate.</li> <li>• Ensure submitters are advised of the result of their submission.</li> </ul> |

**CONCLUSION**

Council commenced a Community Budget consultation process on the Alpine Shire draft 2023/24 Budget in December 2022.

All submissions received have been considered by Council. This report reflects the Officers' recommendations to Council following a review of the cost and scope of each submission, and overall deliverability of the full scope of 2023/24 work.

A further period of public consultation will commence once the Alpine Shire draft 2023/24 Budget is placed on public exhibition.

### **DECLARATION OF CONFLICT OF INTEREST**

In accordance with section 130 of the *Local Government Act 2020*, and Chapter 7 section A6 of Council's Governance Rules, the following officers declare that they have no interests to disclose in providing this report.

- Director Customer and Community
- Manager Corporate
- Governance Officer

### **ATTACHMENT(S)**

Nil

## 8.3.5 Dinner Plain Special Rate (2023/2024) Public Notice of Proposed Declaration

### INTRODUCTION

The purpose of this report is to recommend that public notice be given of a proposed declaration of a Special Rate for the Dinner Plain village applicable to Commercial / Industrial land in the 2023/2024 financial year.

### **RECOMMENDATION**

#### ***That Council:***

- 1. Gives public notice in accordance with s163 of the Local Government Act 1989 of the intention to declare a special rate for the period 1 July 2023 to 30 June 2024 as follows:***
  - a. a special rate (the Dinner Plain Special Rate) be declared for the purpose of defraying any expenses in relation to the provision of services of special benefit to the owners of Commercial / Industrial land within the Dinner Plain village;***
  - b. the Dinner Plain Special Rate will apply to Commercial / Industrial land within the Dinner Plain village as defined in attachment 8.3.3;***
  - c. the definition of Commercial / Industrial land is the definition provided in the Alpine Shire Council Revenue and Rating Plan;***
  - d. the amount of the Dinner Plain Special Rate to be levied is determined as 43% of the general rate as provided in the Alpine Shire Council draft Budget Report for the financial year 2023/2024;***
  - e. the amount of the Dinner Plain Special Rate to be levied for the period 1 July 2023 to 30 June 2024 is estimated to be \$172,000, or such other amount as is lawfully raised as a consequence of this Resolution;***
  - f. the amount of the Special Rate will be the amount shown as due and payable in any notice sent to a person required to pay the Dinner Plain Special Rate;***
  - g. each person liable to pay the Dinner Plain Special Rate is to pay by instalments in line with Council's general rate payment requirements each year; and***
  - h. the total cost of the performance of this function is estimated to be \$290,000 over one year, and based on inclusion of the following services:***
    - i. The Dinner Plain to Hotham winter bus service \$140,000 or transport subsidies to an equivalent value;***
    - ii. Marketing for Dinner Plain \$90,000; and***
    - iii. Events support to Dinner Plain \$60,000.***

- 2. Invites written submissions from the public in relation to the proposed declaration of the Dinner Plain Special Rate in accordance with s163A and s223 of the Local Government Act 1989, with submissions closing at 5pm on Wednesday May 31 2023;**
- 3. Forms a committee according to Section 223 (1)(b) of the Local Government Act 1989, if required, consisting of Councillors for the purpose of hearing submissions in relation to the proposed declaration of the Dinner Plain Special Rate; and**
- 4. Considers the Dinner Plain Special Rate for 2023/2024 declaration at an Ordinary Council Meeting on 27 June 2023.**

## **BACKGROUND**

A Council may declare a special rate for the purpose of defraying the expenses of performing a function that is of special benefit to the persons required to pay the special rate. The declaration of a special rate is a requirement of the Local Government Act 1989, Section 163.

The Dinner Plain village has for some time been subject to a Special Rate to defray the expenses associated with services of special benefit to Dinner Plain Commercial / Industrial ratepayers.

A declared Special Rate for Dinner Plain reduced to 43% in 2017/18. In 2018/19, the Special Rate was aligned to the differential rate for Commercial / Industrial Land in the rest of the shire and was only paid by ratepayers who own Commercial / Industrial land in the Dinner Plain village (including holiday lets).

This approach has continued since 2018/2019. In 2023/2024 it is proposed that it be maintained for the declaration of a Special Rate to be made.

In the Alpine Shire Council's draft Council Budget 2023/2024, it is expected that income of an estimated \$172,000 will be received and this will be allocated to defray the following expenses:

- the Dinner Plain to Hotham winter bus service or transport subsidies to an equivalent value (\$140,000);
- marketing for Dinner Plain (\$90,000); and
- events support to Dinner Plain (\$60,000).

## **ISSUES**

The Dinner Plain village operates on a total cost recovery basis. If there is a deficit or surplus based on the difference between:

- a. all general and Special income attributable to Dinner Plain and
- b. all general and Special costs attributable to Dinner Plain,

this is allocated to a reserve, namely the 'Dinner Plain Reserve'.



Therefore, the Dinner Plain Special Rate and the expenses it is raised to meet are all placed in the Dinner Plain Reserve.

This is inclusive of all relevant income and costs, including, for example, the general rates paid by Dinner Plain ratepayers; an apportionment of general Council grants; Council services relevant to Dinner Plain (including roadways snow clearing and cross-country snow grooming); an apportionment of Council overheads; all Special Rate costs; and all capital works expenditure in Dinner Plain.

Based on current forecasts, Dinner Plain expenditure will continue to exceed income in 2023/2024.

On 30 June 2024, the Dinner Plain Reserve is estimated to be \$574k.

It is noted that in the 2019/20 Dinner Plain Special Rate declaration, Council committed to delivery of \$1.5m new and upgrade capital works within Dinner Plain by 2027. It is estimated that by 30 June 2023 this commitment will be met. However, significant capital works will continue to be delivered in Dinner Plain over the financial year 2023/2024.

### **POLICY IMPLICATIONS**

The preparation of the Dinner Plain Special Rate 2023/2024 is on accordance with the:

- Special Rate and Charges, Ministerial Guidelines, September 2004,
- *Local Government Act 1989*, and
- Alpine Shire Council Revenue and Rating Plan.

The recommendation is in accordance with the following Strategic Objective of the Council Plan 2021-2025:

- 5.2 A responsible, transparent and responsive organisation

### **FINANCIAL AND RESOURCE IMPLICATIONS**

Based on current property valuations across the Alpine Shire, the Dinner Plain Special Rate for 2023/2024 is estimated to raise \$172,000 over the 12-month period.

This is significantly less revenue than the cost of the Special Rate services which are estimated to cost \$290,000 over the same period.

## RISK MANAGEMENT

| Risk   | Likelihood | Impact   | Mitigation Action / Control   |
|--|------------|----------|---|
| The Dinner Plain Special Rate declaration is not undertaken in accordance with the Act, invalidating the Rate charge | Unlikely   | Moderate | <ul style="list-style-type: none"> <li>Each stage of the declaration process is checked to ensure it meets the requirements of the Act, Revenue and Ratings plan and Ministerial Guidelines.</li> </ul> |

## CONSULTATION

Under Section 163 of the *Local Government Act 1989*, a Council must give public notice of its intention to make a special rate declaration at least 28 days before making the declaration and that notice must contain information detailed in the Act.

Under Section 223 of the *Local Government Act 1989* a person has a right to make a submission on the proposed Dinner Plain Special Rate for 2023/2024 and any submission must be considered before adoption of the budget by Council. Council must allow a minimum 28 days after the public notice to receive submissions. A person has the right to have their submission heard at a committee formed according to Section 223 (1)(b) of the *Local Government Act 1989*, if required, consisting of Councillors for the purpose of hearing submissions.

## CONCLUSION

Public notice of the intention to declare a special rate is a requirement of the *Local Government Act 1989*.

Council is giving public notice of the intent to declare a Dinner Plain Special Rate. It is proposed to declare the Dinner Plain Special Rate at an Ordinary Council Meeting on 27 June 2023.

## **DECLARATION OF CONFLICT OF INTEREST**

In accordance with section 130 of the *Local Government Act 2020*, and Chapter 7 section A6 of Council's Governance Rules, the following officers declare that they have no interests to disclose in providing this report.

- Director Customer and Community
- Manager Corporate
- Rates Coordinator

## **ATTACHMENT(S)**

8.3.5 Dinner Plain Village Special Rate Map

## 8.3.6 Draft 2023/24 Budget Report

### INTRODUCTION

The purpose of this report is to receive the draft 2023/2024 Budget for the Alpine Shire Council.

### RECOMMENDATION

*That Council:*

- 1. Prepares the draft Alpine Shire Council 2023/2024 Budget annexed to this resolution and featuring a 3.5% rate increase, for the purposes of section 94(1) of the Local Government Act 2020;**
- 2. Authorises the Chief Executive Officer to:**
  - a. give public notice of the preparation of the draft Alpine Shire Council 2023/2024 Budget in accordance with Council's Community Engagement Policy;**
  - b. make available for public inspection the information required in accordance with the Local Government (Planning and Reporting) Regulations 2020;**
- 3. Invites written submissions from the public on any proposal contained in the budget, with submissions closing at 5pm, Wednesday 31 May 2023, noting that any submitter may request to be heard in person in support of their submission;**
- 4. Forms a committee, if required, consisting of Councillors for the purpose of hearing submissions in relation to the draft Alpine Shire Council 2023/2024 Budget; and**
- 5. Considers a recommendation to adopt the 2023/2024 Budget at an Ordinary Council Meeting on 27 June 2023.**

### ISSUES

Council has prepared the draft Alpine Shire 2023/2024 Budget. It is aligned to the Community Vision 2040 in the Alpine Shire Council Plan 2021-2025.

Through continued strong cost management, the draft Budget provides a prudent financial position which enables Council to continue to deliver critical services and projects as conditions evolve.

This draft Budget projects a surplus of \$4.33m which is influenced by:

- a. A Rate increase of 3.5%, in line with the Fair Go Rates System which caps Victorian Council rate increases in line with inflation;
- b. Capital works expenditure totalling \$12.6m, a significant Capital Works Program reflecting a steady pipeline of asset renewal and increased development activity from successful grant applications totalling \$6.6m;
- c. An increased material and services budget reflecting inflationary impact on costs and the costs of the new FOGO kerbside waste service; and

- d. A modest increase in staff numbers resulting from an organisational restructure implemented in January 2023.

Council is intending to introduce a new kerbside collection service from July 2023. Council has entered long-term contracts following a collaborative procurement process to provide waste service for the community. All kerbside services are being charged to ratepayers on a cost recovery basis in conjunction with a Waste Management Charge covering investment in waste infrastructure and remediation of the closed landfill sites.

In addition, a review of Council fees and charges has been conducted. Fees have been increased in line with movements in the actual costs to provide various services.

Further detail on the operating result, strategic objectives, services, cash position and investments, capital works, financial sustainability, and rates, charges and fees can be viewed in the attachment 8.3.5 draft Alpine Shire 2023/2024 Budget.

## **BUDGET HIGHLIGHTS**

As part of the draft 2023/24 Budget, Council plans to deliver another significant capital expenditure program totalling \$12.6 million, supported by Government grant funding of \$6.6 million.

- Major projects include:
- Annual Road Renewal Program (\$2m)
- Dinner Plain Activation (\$1.1m)
- Dinner Plain Snowmaking (\$1m)
- Myrtleford Splashpark (\$0.86m)
- Myrtleford Savoy Soccer Club Upgrade (\$0.76m)
- Nimmo Pedestrian Bridge (\$0.75m)
- Ablett Pavilion Upgrade (\$0.72m)
- Myrtleford Memorial Hall (\$0.51m)
- Tawonga Memorial Hall Upgrade (\$0.2m)
- Tronoh Dredge Hole Precinct design (\$0.17m)
- East Ovens Pedestrian Bridge (\$0.18m)

Further supporting Council's commitment to climate change mitigation and reduction of greenhouse gas emissions, a number of key projects will be delivered to improve the efficiency and environmental impacts of Council infrastructure.

These vital projects include:

- Energy efficient projects (\$0.2m)
- Vehicle renewal including \$0.128m of EV upgrades (\$0.280m)
- Mount Beauty Landfill Rehabilitation Design (\$0.150m); and
- the roll out of the kerbside collection service for Food Organics, Green Organics (FOGO).

**POLICY IMPLICATIONS**

The draft Alpine Shire Council 2023/2024 Budget is prepared in accordance with the *Local Government Act 2020* and the *Local Government (Planning and Reporting) Regulations 2020*.

The draft Budget covers a four-year period, including the budget year 2023/2024, and the subsequent three financial years.

Rating provisions remain in the *Local Government Act 1989*. The Victorian government has released the final report and government response on the Local Government Rating System Review, however, this has not yet translated to legislative change.

The draft Budget is aligned to the Strategic Objectives identified in the Alpine Shire Council Plan 2021-2025. Major Initiatives are identified that will contribute to the delivery of the Strategic Objective. Council's progress in the delivery of these major initiatives will be reported in the corresponding Annual Report.

The recommendation is in accordance with the following Strategic Objective of the Council Plan 2021-2025:

- 5.2 A responsible, transparent and responsive organisation

**FINANCIAL AND RESOURCE IMPLICATIONS**

Council prepares its draft Budget with the objective of balancing long term financial sustainability and prioritised delivery against community needs. The draft Alpine Shire Council 2023/2024 Budget forecasts an operating surplus of \$4.33 million and a working capital ratio of 3.49.

Materials and services expenditure has increased reflecting inflationary impact on costs and the costs of the new FOGO kerbside waste service. Departmental budgets have largely been managed to remain flat or have increased with the Consumer Price Index.

**RISK MANAGEMENT**

| Risk                    | Likelihood | Impact | Mitigation Action / Control   |
|-------------------------|------------|--------|---|
| Poor financial prudence | Unlikely   | Major  | <ul style="list-style-type: none"> <li>• Each budget account is scrutinised for its validity and reported against quarterly.</li> <li>• Council routinely updates its operational long term financial plan to test whether spending is sustainable over the medium to long term.</li> </ul> |

## CONSULTATION

Section 96(1) of the *Local Government Act 2020* provides for Council to develop the budget in accordance with the financial management principles and Council's Community Engagement Policy.

Special Rates remain governed by the requirements of the *Local Government Act 1989* and must include a statutory public consultation process, including the ability for a submitter to request to be heard in person. It is considered prudent that Council mirrors this process for public consultation and submissions regarding the draft 2023/2024 Budget, as the draft 2023/2024 Budget contains assumptions based on the inclusion of a Dinner Plain Special Rate.

Council commenced a Community Budget consultation process on the budget for 2023/2024 in December 2022. Full details regarding the Community Budget submissions are detailed in a report earlier in this agenda.

A further period of public consultation will commence once a draft Budget 2023/2024 is placed on public exhibition.

The final step is for Council to adopt the budget after receiving and considering all submissions from interested parties. The budget is required to be adopted by 30 June 2023.

## CONCLUSION

The draft Alpine Shire Council 2023/2024 Budget has been prepared in accordance with the Alpine Shire Council Plan 2021-2025 Strategic Objectives and the *Local Government Act 2020*. The draft Budget Report is presented for Council's consideration and public exhibition.

## DECLARATION OF CONFLICT OF INTEREST

In accordance with section 130 of the *Local Government Act 2020*, and Chapter 7 section A6 of Council's Governance Rules, the following officers declare that they have no interests to disclose in providing this report.

- Director Customer and Community
- Director Assets
- Manager Corporate
- Financial Accountant

## ATTACHMENT(S)

8.3.6 Alpine Shire Council Draft 2023/2024 Budget

## 9. Informal meetings of Councillors

### Introduction

In accordance with Chapter 8, section A1 of Council's Governance Rules, if there is a meeting of Councillors that:

- is scheduled or planned for the purpose of discussing the business of Council or briefing Councillors;
- is attended by at least one member of Council staff; and
- is not a Council meeting, Delegated Committee meeting, or Community Asset Committee meeting;

the Chief Executive Officer must ensure that a summary of the matters discussed at the meeting are tabled at the next convenient Council meeting, and are recorded in the minutes of that Council meeting.

### **RECOMMENDATION**

***That the summary of informal meetings of Councillors for February / March 2023 be received.***

### Background

The written records of the informal meetings of Councillors held during the previous month are summarised below. Detailed records can be found in Attachment 9.0 to this report.

| Date       | Meeting             |
|------------|---------------------|
| 28th March | Briefing Session    |
| 29th March | Planning Forums x 3 |
| 11th April | Briefing Session    |
| 18th April | Briefing Session    |

### Attachment(s)

- 9.0 Informal meetings of Councillors – March / April 2023



**10. Presentation of reports by delegates**

**11. General business**

**12. Motions for which notice has previously been given**

**13. Reception and reading of petitions**

## 14. Documents for sealing

### **RECOMMENDATION**

***That the following documents be signed and sealed.***

#### **1. Section 173 Agreement - Clinton Morrison**

*This Section 173 Agreement relates to condition 3 of Planning Permit 2022.065 for the construction of a dwelling and outbuilding 29 Morrisons Lane, Barwidgee being the land referred to in Certificate of Title Volume 12100 Folio 905 and described as Lot 2 PS210703J.*

*Under the Agreement the owner covenants and agrees that:*

*there must not be any Underground Structures constructed on the Subject Land in association with the Dwelling authorised by the Planning Permit;*

*the Owner must grant access to any environmental monitoring company engaged by Council to complete methane measurements on the Subject Land within the new building structures constructed on the Subject Land in accordance with the Planning Permit:*

*on completion of the new building structures;*

*six (6) months after the date of completion of the new building structures; and*

*twelve (12) months after the date of completion of the new building structures.*

*the Owner must grant access to any environmental monitoring company engaged by Council to complete testing of any waterways or evident ground water on the Subject Land if such ground water is present a minimum of four (4) times in any 12 month period;*

*that any and all costs incurred by Council in engaging an environmental monitoring company to carry out testing referred to in clause 5.1.2 or clause 5.1.3 must be reimbursed to Council by the Owner of the Subject Land within 14 days of a request by Council for such payment; and*

*that the Owner acknowledges and accepts any and all risks associated with exceedances of gas emissions or an increase in analytes in waterways or ground water on the Subject Land.*

#### **2. Instrument of Appointment and Authorisation (Planning and Environment Act 1987) Compliance Coordinator - Luke Gillam April 2023**

#### **3. Instrument of Delegation. Council to Chief Executive Officer. April 2023**

#### **4. Lease of Real Estate - Porepukah Hangar to McGillivray.**

#### **5. Lease of Real Estate - Porepukah Hangar to Duvoisin.**

There being no further business the Chairperson declared the meeting closed at \_\_\_\_\_p.m.

.....

Chairperson