

M(6) – 5 JULY 2022

Ordinary Council Meeting

Minutes

The next **Ordinary Meeting** of the **Alpine Shire Council** will be held in the Council Chambers, Great Alpine Road, Bright on **5 July 2022** commencing at **5:00pm**.

PRESENT

COUNCILLORS

Cr Sarah Nicholas - Mayor

Cr Katarina Hughes - Deputy Mayor

Cr John Forsyth

Cr Ron Janas

Cr Tony Keeble

Cr Simon Kelley

Cr Kelli Prime

OFFICERS

Alan Clark - Acting Chief Executive Officer

William Jeremy - Director Assets

Helen Havercroft - Director Corporate Performance

APOLOGIES

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1. Recording and livestreaming of Council meetings

The Acting CEO 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 of course to hold us more accountable and improve transparency of council's decision making to our community.

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

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

The Mayor read the following statement:

The Alpine Shire Council acknowledges the Taungurung Traditional Owners and their ancestors as the Traditional Owners of the land we are now on, we pay our respect to Elders, past and present.

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(5) – 7 JUNE 2022

Cr Keeble

Cr Hughes

That the minutes of Ordinary Council Meeting M(5) held on 7 June 2022 as circulated be confirmed.

Carried

4. Apologies

5. Obituaries / congratulations

Refer to Alpine Shire Council's website www.alpineshire.vic.gov.au; for its YouTube live-streaming recording for responses to questions.

6. Declarations by Councillors of conflict of interest

Cr Katarina Hughes - Declared a General Conflict of Interest with respect to item 8.2.6 Planning Application 2021.175.1 - 7 Growlers Creek Road, Wandiligong and will abstain from voting and being present whilst this application is being considered.

7. Public questions

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

Questions on Notice can be written or from the floor.

Refer to Alpine Shire Council's website www.alpineshire.vic.gov.au; for its YouTube live-streaming recording for responses to questions.

8. Presentation of reports by officers

8.1 DIRECTOR ASSETS – WILLIAM JEREMY

8.1.1 Stockman Agreement

INTRODUCTION

This report relates to a vegetation offset agreement between Council and WHSP Stockman Pty Ltd.

Cr Forsyth

Cr Janas

That Council:

1. *Signs and seals Landowner Agreement VC_CFL-3752_01 between The Secretary to the Department of Environment, Land, Water and Planning and Alpine Shire Council at the appropriate stage of this meeting; and*
2. *Delegates authority to the Acting CEO to sign the Three Party Credit Trade Agreement between Round Oak Minerals Pty Ltd, Alpine Shire Council and PTA Plus Pty Ltd trading as Ecocentric Environmental Consulting.*

Carried

BACKGROUND

A confidential report was presented to the April 2014 Council Meeting which related to the provision of vegetation offsets at Dinner Plain.

At the Ordinary Council Meeting in August 2016, the following document was signed and sealed by Council:

Heads of Agreement with Independence Stockman Project Pty Ltd and Alpine Shire Council regarding vegetation offset provision at Dinner Plain.

In July 2020, an Assignment Deed was finalised which assigned the benefit of the Heads of Agreement to WHSP Stockman Pty Ltd. WHSP Stockman Pty Ltd is a subsidiary of Round Oak Minerals Pty Ltd, which itself is owned by Australian ASX listed company Washington H. Soul Pattison Pty Ltd.

At the July 2021 Council Meeting, Council adopted the recommendation for a six month extension to the Heads of Agreement 'Completion Date'.

At the December 2021 Council Meeting, Council adopted a recommendation for a further six-month extension to the Heads of Agreement 'Completion Date', with the revised 'Completion Date' being 2 August 2022.

ISSUES

In 2016, Council entered into a legally binding Heads of Agreement to secure offsets on Council-owned land in Dinner Plain, and to sell these offsets to a third party through a commercial arrangement.

Accordingly, Council Officers have engaged with Round Oak Minerals to progress the Landowner Agreement to the point of execution.

The 'Completion Date' for Council to execute the Landowner Agreement is 2 August 2022.

The Landowner Agreement has been prepared in accordance with Part 8 of the Conservation, Forests and Lands Act 1987. In entering into this Agreement, Council agrees to protect and improve the extent and quality of native vegetation on the nominated offset site on an ongoing basis. The Agreement provides for a ten year Site Management Plan designed to improve the condition of the offset site, and then to protect the site in perpetuity.

Upon signing and execution of the Landowner Agreement, The Environmental Offset Owner (Alpine Shire Council) and the Purchaser (Round Oak Minerals) will enter into a Three Party Credit Trade Agreement with the appointed Broker (PTA Plus Pty Ltd trading as Ecocentric Environmental Consulting) to facilitate the sale and purchase of the Environmental Offsets required by the Purchaser to demonstrate compliance with a regulatory requirement for the provision of an Environmental Offset.

POLICY IMPLICATIONS

The Landowner Agreement is made in accordance with Part 8 of the *Conservation, Forests and Lands Act 1987*.

The requirement for engagement with the community to inform the decision-making process has been assessed against the provisions contained within 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

Signing the Heads of Agreement triggered an entitlement for Council to receive annual payments from the counterparty to the Agreement. To date Council has received payments totalling \$65,000, which have been credited to the Dinner Plain Reserve.

Entering into the Landowner Agreement will entitle Council to payments totalling \$550,000 over a 10 year period, subject to Council meeting its obligations under the associated management plan which describes actions to improve the quality and condition of the native vegetation within the offset site. The cost of meeting these obligations over a 10 year period is estimated to be \$270,000.

To date, Council has incurred legal fees of approximately \$12,000 associated with the establishment and maintenance of the Heads of Agreement and the due diligence associated with the preparation of the Landowner Agreement.

The net financial benefit to Council of this offset agreement over the 10-year period of the management plan commitment is estimated to be \$333,000.

At the completion of the 10 year active management period, Council is required to continue to undertake management to maintain native vegetation quality and condition at the site in perpetuity. Having achieved the target improvements over the active management period, the ongoing annual cost of maintaining the offset sites is considered to be low, and able to be delivered through routine maintenance budgets.

CONSULTATION

Council's Community Engagement Policy states that 'Council will not engage when there is a decision to be made when feedback received through the community engagement is unable to impact decision making'. In 2016, Council entered into a legally binding agreement to secure offsets on Council-owned land in Dinner Plain, and to sell these offsets to a third party through a commercial arrangement. Feedback from the community is unable to change the terms of this agreement, and therefore the community has not been engaged in the process of arriving at the recommendations in this report.

CONCLUSION

In 2016, Council entered into a legally binding Heads of Agreement to secure offsets on Council-owned land in Dinner Plain, and to sell these offsets to a third party through a commercial arrangement. The Landowner Agreement has now been finalised and is ready for execution.

It is recommended that Council enters into an agreement with The Secretary to the Department of Environment, Land, Water and Planning by executing the Landowner Agreement.

It is recommended that Council Delegates authority to the CEO to commit Council to sign a Three Party Credit Trade Agreement between Round Oak Minerals Pty Ltd, Alpine Shire Council and PTA Plus Pty Ltd trading as Ecocentric Environmental Consulting;

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 Asset Development
- Project Officer

ATTACHMENT(S)

Nil

8.1.2 Mystic Lane Petition

INTRODUCTION

The purpose of this report is to inform Council and provide a response to a petition relating to access to Mystic Park.

Cr Hughes
Cr Prime

That Council:

- 1. Notes the petition relating to access to Mystic Park;*
- 2. Acknowledges the concerns of the Mystic Lane residents relating to access to Mystic Park;*
- 3. Commits to continue working with Alpine Community Plantation Inc. to support a successful outcome from the project funded through the Black Summer Bushfire Recovery Grant;*
- 4. Notes that decisions relating to the future development of Council-managed land will be taken in accordance with Council's Community Engagement Policy; and*
- 5. Advises the main proponent of the petition of Council's decision.*

Carried

BACKGROUND

Alpine Community Plantation Inc. (ACP) is an independent community-based organisation which was established in 2013. ACP is the result of an innovative public, private and community partnership, and is responsible for the recreational, educational and community use of almost 20,000 hectares of HVP Plantations land within the Alpine Shire, which includes Mystic Park.

Alpine Shire Council has representation on the Board of ACP, together with HVP Plantations, the Alpine Cycling Club, the North East Victoria Hang Gliding Club, and the Bright and District Chamber of Commerce.

On 14 February 2022, the Australian Government announced that ACP had successfully secured funding of \$1,348,642 through the Black Summer Bushfire Recovery Grants Program. The title of the funded project is 'Mystic MTB Park - Infrastructure for Bushfire Resilience'.

On 26 April 2022 Council received a letter from ACP seeking to secure Council's in-principle support to the development of land which is currently being managed by Council, for the purposes of facilitating the establishment of an alternative vehicular access point into Mystic Park.

On 12 May 2022, ACP met with representatives of the Mystic Lane residents, and shared a transparent update on the status of the project.

A petition was received on 15 May 2022 and noted at the June Council Meeting. The petition with 23 signatures contains the following requests:

- 1. That council ensures that funding for the BSBR Grant that was announced several weeks ago is used to fully address the issue of access to Mystic Park.*
- 2. That all planning and permits related to the BSBR grant and the operation of the park result in a designated access road to the mountain bike park; with a clear separation between all recreational activities and residential properties*
- 3. That the residential amenity of Mystic Lane experienced prior to 2013 be restored.*

ISSUES

The concerns raised by the residents of Mystic Lane are acknowledged. Council has invested significant funds over recent years to address these concerns, including:

- Funding the partial sealing of the access road in order to reduce the impact of dust;
- Contributing towards the funding of an automatic boom gate on the access road in order to control traffic numbers; and
- Funding the development of an in-park mountain bike shuttling pick-up point to reduce shuttle vehicle movements on Mystic Lane.

ACP is an independent organisation. Whilst Council has representation on the Board of ACP, Council does not direct the operations of ACP. ACP has entered into a grant funding agreement with the Australian Government, and ACP is responsible for meeting its obligations under this agreement.

POLICY IMPLICATIONS

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

- 2.1 Diverse reasons to visit

FINANCIAL AND RESOURCE IMPLICATIONS

There are no financial or resource implications associated with this recommendation.

CONSULTATION

ACP is responsible for engagement with the community in relation to the delivery of the project funded through the Black Summer Bushfire Recovery Grant.

Council is responsible for managing land which directly interfaces with Mystic Park. Council will make decisions in relation to the future development and use of this land in accordance with its Community Engagement Policy, a public document accessible through Council's website.

CONCLUSION

A petition containing 23 signatures has been received which relates to access to Mystic Park. Alpine Community Plantation is responsible for the management of Mystic Park, and has secured a grant from the Australian Government to deliver a project with the title 'Mystic MTB Park - Infrastructure for Bushfire Resilience'. Council has representation on the Board of ACP, and through this representation will support ACP to deliver a successful outcome to the project. Decisions relating to the development of Council-managed land which interfaces with Mystic Park will be made by Council in accordance with Council's Community Engagement Policy.

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)

8.1.2 Mystic Park Petition

8.1.3 Live Music Event

INTRODUCTION

This report relates to the award of a contract for a live music event to be held in the Alpine Shire prior to 31 January 2023.

Cr Forsyth
Cr Hughes

That Council awards Contract No. 2202101 "Live Music Event" to Live Nation for the lump sum price of \$180,000 (GST Exclusive).

Carried

BACKGROUND

Following the 2019-20 bushfires, Council has secured a cumulative total of \$2.3 million of State Government funding through the Bushfire Recovery Victoria 'Council Support Fund'. \$180,000 of this funding has been allocated towards delivering a live music event, with the objective being to engage and entertain younger members of Alpine Shire community, assisting with recovery from the 2019-20 bushfire event and two years of the COVID19 pandemic.

A tender was advertised in the Alpine Observer and Myrtleford Times on 11 May 2022, as well as on tenders.net and the Alpine Shire Council website. The tender documents were downloaded by eight prospective tenderers and three conforming responses were received by the closing date.

EVALUATION

The evaluation panel consisted of the Community Wellbeing Events Officer and Manager Economic Development.

The tender submissions were evaluated according to the key selection criteria listed in the Invitation to Tender:

- Price
- Qualifications and Previous Performance
- Delivery
- Social
- Environmental

Following assessment of the tender submissions, each tenderer was invited to a tender clarification meeting. After final tender assessments it was determined that the tender from Live Nation best met the requirements of the selection criteria.

ISSUES

A new State Government organisation, 'Always Live', has been formed to stimulate the music industry following the COVID-19 pandemic through the delivery of music events

throughout Victoria. Live Nation, a current partner of Always Live, is responsible for delivery of events through the new program. Council has received a proposal for an Always Live event to be delivered in the Alpine Shire featuring a significant headline artist. The proposal does not require additional funding from Council, however a possible condition of Council accepting this proposal may include the requirement to charge an entry fee. Council is currently engaging with Always Live to assess this proposal.

POLICY IMPLICATIONS

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

1.1 A community that is active, connected and supported

FINANCIAL AND RESOURCE IMPLICATIONS

There is sufficient allocation in the 2022/23 Budget to award this contract.

CONSULTATION

Three tender submissions were received through the tender process. All three tenderers were invited to attend a meeting to clarify their submissions.

CONCLUSION

Following a comprehensive assessment, the tender from Live Nation is considered to present the best value for Council. It is recommended that Council awards a contract to Live Nation and continues to explore the opportunity presented by Always Live to deliver a significant headline artist through this event.

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 Economic Development
- Community Wellbeing Events Officer

ATTACHMENTS

Nil

8.1.4 Energy Efficient Street Lighting - Hardware Installation

File Number: CT22031

INTRODUCTION

This report relates to the award of a contract for the installation of energy efficient street lighting across the Alpine Shire.

Cr Janas

Cr Prime

That Council awards Contract No. 2203101 for 'Energy Efficient Street Lighting Hardware Installation' to GPE HV Pty Ltd based on the tendered schedule of rates with an upper limiting value of \$380,000 (GST Exclusive).

Carried

BACKGROUND

Council adopted the Alpine Shire Council Climate Action Plan at the September 2021 Council Meeting, committing to climate change mitigation by reducing Greenhouse Gas (GHG) emissions from Council corporate operations to net zero by 2023.

As part of this commitment, Council joined the Victorian Energy Collaboration Renewable Power Purchase Agreement (VECO PPA) which now provides all of Council's electricity usage from 100% renewable energy. In addition to this, Council continues to pursue electricity use reduction, such as on-site solar PV and LED streetlights. These initiatives deliver the co-benefits of lower electricity bills, less reliance on the grid, freeing up renewable electricity supply for other users and demonstrating leadership to the community.

Upgrading streetlighting to improve efficiencies, reduce GHG emissions and introduce new technology is one of the actions identified in Council's Climate Action Plan.

An audit of Council's streetlights by Ironbark Sustainability, an independent industry expert, identified 1,333 out of 1,494 streetlights that would benefit from upgrading. These include 849 mercury-vapour and 403 sodium lights.

Mercury-vapour technology is being phased out over the next two to five years under international agreements and will no longer be available.

Sodium and mercury-vapour lights are inefficient and have a high impact on the environment. These lights will be upgraded to LED technology which is more efficient and less harmful to the environment.

Overall project benefits will include:

- freeing up renewable electricity supply for other users which saves the equivalent of 420 tonnes CO₂ each year Alpine Shire Council
- saving of ~70% in energy consumption due to new technology and improved lighting efficiency

- safer roads, as a result of improved lighting where a decision is taken to install lighting with increased intensity compared to what is currently installed.
- At the April 2022 Council Meeting, Sylvania-Schreder was awarded a contract to supply the street lighting hardware for an upper limiting value of \$440,000 (ex GST).

A tender for lighting hardware installation was advertised in the Herald Sun on 3 May 2022, as well as on tenders.net and the Alpine Shire Council website. The tender documents were downloaded by eight prospective tenderers and two conforming responses were received by the closing date.

EVALUATION

The evaluation panel consisted of the Manager Asset Development, Project Officer, and a representative of Ironbark Sustainability.

The tenders were evaluated according to the key selection criteria listed in the Invitation to Tender:

- Price
- Qualifications and Previous Performance
- Delivery
- Social
- Environmental

Following the assessment of the tenders, it was determined that the tender from GPE HV best met the requirements of the selection criteria.

ISSUES

None to report.

POLICY IMPLICATIONS

The tender was advertised and evaluated in accordance with Council's Procurement Policy.

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

- 3.1 Decisive leadership to address the impacts and causes of climate change

FINANCIAL AND RESOURCE IMPLICATIONS

The financial return on investment analysis (excluding rebates) indicates a payback period between four and seven years.

Council will be accessing three rebate programs as part of this project as follows:

- Ausnet Mercury Vapour Decommissioning Program
- Victorian Energy Efficiency Commission Certificate Program
- Department of Transport Program

The financial impact of combining the savings from more energy efficient streetlights and accessing the three rebate programs reduces the payback period to two years.

CONSULTATION

The community will be informed of the lighting upgrades and associated benefits of LED lighting prior to installation commencing, which is planned for the second quarter of the 2022/23 financial year.

CONCLUSION

Upgrading streetlighting to improve efficiencies, reduce GHG emissions and introduce new technology is one of the actions identified in Council's Climate Action Plan.

Following a comprehensive assessment and evaluation of the tenders, the proposal from GPE HV is considered to present the best value option for Council.

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 Asset Development
- Project Officer

ATTACHMENT(S)

Nil

8.1.5 Tawonga Caravan Park - Roads and Carpark Construction

File Number: CQ22036

INTRODUCTION

This report relates to the award of a contract for the construction of roads and carparking as part of the Tawonga Caravan Park Upgrade project.

Cr Prime

Cr Janas

That Council awards Contract No. 2203601 for 'Tawonga Caravan Park - Roads and Carpark Construction' to Jackson's Earthmoving Pty Ltd for the lump sum price of \$151,627 (GST Exclusive).

Carried

BACKGROUND

The scope of the Tawonga Caravan Park Upgrade includes an upgrade to the internal driveway at the entrance of the park and the visitor parking. Additionally, due to the inground services works that have been completed throughout the park, several of the existing driveways have been trenched and need to be reinstated.

The package of works to be awarded delivers the following outcomes:

1. Realignment of the park entrance to suite larger vehicles and caravans.
2. Provision of a loading/waiting bay for check-ins.
3. Construction of a roundabout to allow vehicles to safely enter and exit the park.
4. Visitor and check-in carparking.
5. Footpaths and ramps connecting with the new office/kiosk building to allow DDA compliant pedestrian access to the area.

The invitation to tender was advertised in the Herald Sun on 11 May 2022, Tenders.net and the Alpine Shire Council website. The tender documents were downloaded by 18 prospective tenderers with four conforming tenders being submitted to Council.

EVALUATION

The evaluation panel consisted of the Manager Asset Development and the Project Officer.

The key selection criteria listed in the Invitation to Tender were:

1. Price
2. Qualifications and previous performance
3. Delivery
4. Social
5. Environmental Sustainability

Following the initial assessment, one tenderer was shortlisted for further evaluation. The tenderer was invited to clarify aspects of their tender, present their qualifications, and confirm their proposed methodology including their ability to meet the required timeframes.

The shortlisted tender was then reassessed in accordance with the selection criteria. Following the assessment of the shortlisted offer by the evaluation panel it was determined that the tender from Jackson's Earthmoving best met the selection criteria.

ISSUES

The delivery methodology incorporates an environmentally sustainable design initiative that involves recycling 500m² of the existing pavement material for re-use as part of the delivery of these works. If the existing pavement material is not suitable, it will be replaced in accordance with the contracted schedule of rates. The maximum additional cost if none of the existing pavement is reusable is \$14,755.

The construction works are planned to commence in early September and to be completed by 28 October 2022. The program includes contingency for delays due to weather, however a risk does exist that completion could be delayed beyond end October if unseasonable weather is experienced over long periods.

POLICY IMPLICATIONS

The tender was advertised and evaluated according to Council's procurement policy.

The recommendation is 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

There is sufficient allocation within the adopted 2022/23 Budget to deliver the scope of works recommended for award.

CONSULTATION

All aspects of the project including the need to construct the new park entrance driveways, carpark and associated footpaths have been communicated via the Project Control Group (PCG).

The PCG includes project representatives from:

- The State of Victoria - Department of Jobs, Precincts and Regions
- Crown Landowner - Department of Environment, Land, Water and Planning
- Council Officers

External consultation for the project has also occurred with several strategically aligned Authorities including:

- North East Water

- North East Catchment Management Authority
- Fire Rescue Victoria
- Ausnet
- Aboriginal Victoria

CONCLUSION

Following a comprehensive tender evaluation assessment, interviews and reference checks, the tender from Jackson's Earthmoving is considered to represent the best value for Council.

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 Asset Development
- Project Officer

ATTACHMENT(S)

Nil

8.2 DIRECTOR CORPORATE PERFORMANCE – HELEN HAVERCROFT

8.2.1 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, and an acting role in Council's Planning department.

Cr Forsyth
Cr Prime

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 8.2.1.a. & b. "S11A – Instrument of Appointment and Authorisation – Planning & Environment Act 1987" (the instrument) be appointed and authorised as set out in the instrument;*
 - a. *Senior Statutory Planning Officer*
 - b. *Acting Manager Planning and Amenity*
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. *Planning Officer, dated 12 November 2019.*
4. *The instrument be signed and sealed at the appropriate stage of this meeting.*

Carried

BACKGROUND

Council staff involved in planning roles require current and accurate authorisations to fulfil their duties. Council has appointed a new Senior Statutory Planning Officer, requiring a new Instrument of Appointment and Authorisation under the *Planning and Environment Act 1987*. The officer's previous position of Planning Officer is now vacant, so the Instrument of Appointment and Authorisation must be revoked. In addition,

Council's Manager Planning and Amenity is currently on leave, so authorisation must be provided to the person acting in the role.

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 2017-2021:

- A well planned and safe community

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.

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 Corporate Performance
- Manager Corporate
- Governance Officer

ATTACHMENT(S)

- 8.2.1a S11A – Instrument of Appointment and Authorisation – *Planning & Environment Act 1987* – Senior Statutory Planning Officer
- 8.2.1b S11A – Instrument of Appointment and Authorisation – *Planning & Environment Act 1987* – Acting Manager Planning and Amenity

8.2.2 Risk Management Policy and Governance and Risk Framework Review

File Number: Policy Register

INTRODUCTION

The purpose of this report is to present the 2022 review of Council's Risk Management Policy No. 54 and Governance and Risk Framework.

*Cr Kelley
Cr Forsyth*

That Council:

- 1. Notes that a review of the Risk Management Policy has been completed with the following modifications:
 - a. complete reformatting of the policy into current policy template without a change to the intent of the policy*
 - b. simplification of description of Council's risk appetite with detail duplicated in the Governance and Risk Framework removed*
 - c. minor language and typographical corrections*
 - d. updated references to legislation, supporting documents and standards.**
- 2. Revokes Alpine Shire Council Risk Management Policy No.54, version 4.*
- 3. Adopts Alpine Shire Council Risk Management Policy No.54, version 5.*
- 4. Signs and seals Alpine Shire Council Risk Management Policy No.54, version 5 at the appropriate time of the meeting.*
- 5. Notes that a review of the Governance and Risk Framework has been completed with the following modifications:
 - a. updated to recognise the Community Vision and Council Plan*
 - b. restructured to clearly address the three key elements of the Framework: governance, risk, and compliance*
 - c. documents the role of "owner" of governance, risk, and compliance obligations*
 - d. inclusion of monitoring and review requirements.**
- 6. Endorses Alpine Shire Council Governance and Risk Framework, version 2.*

Carried

BACKGROUND

Schedule 1 of the *Local Government (Planning and Reporting) Regulations 2020* require Council to have both a risk policy and risk management framework that outline its commitment and approach to minimising the risks to Council's operations.

Council has had a documented risk policy since 2005 and the most recent version, No.4, was adopted by Council in December 2019 following an extensive review and alignment with legislation and the Standard AS/NZS ISO 31000:2018 Risk Management Guidelines.

The Governance and Risk Framework was documented in its current form in 2019 and noted by council at the time. The framework documents the high-level processes and behaviours required to ensure that Council meets its intended purpose, complies with legislative provisions; and meets expectations of accountability and transparency.

ISSUES

Policy review

The content of the Risk Management Policy has been reviewed for compliance with relevant legislation and Standard AS/NZS ISO 31000:2018 and has been benchmarked against other local government risk management policies.

The review did not result in any notable change to the intent of the policy, that is, Council is committed to managing its resources effectively, achieving its goals as outlined in the Council Plan, and safeguarding its employees and the community.

Minor modifications are proposed to the policy including:

- simplification of the description of Council's risk appetite with detail duplicated in the Governance and Risk Framework removed
- minor language and typographical corrections
- updated references to legislation, supporting documents and standards
- complete reformatting of the policy into current policy.

Governance and Risk Framework review

The Framework has been reviewed, restructured, and updated to:

- recognise the Community Vision and Council Plan
- clearly address the three key elements of governance, risk, and compliance
- documents the role of "owner" of governance, risk, and compliance obligations to improve accountability
- include monitoring and review requirements.

Governance

The Governance section of the Framework has been:

- refined and restructured into five elements from seven:
 1. strategic direction
 2. management and oversight
 3. decision making
 4. accountability, and
 5. culture

- updated to include new legislative requirements of the *Local Government Act 2020* and *Gender Equality Act 2020*
- updated to reflect Council's current governance practices
- edited to reduce confusion and duplication.

Risk

In addition to updating references to the Local Government Act 2020 [Vic] and Local Government (Planning and Reporting) Regulations 2020 [Vic], the risk section of the Framework has also been updated as follows:

Risk management policy

An oversight in the current Framework, the review has referenced Council's Risk Management Policy.

Risk appetite

The table outlining the four risk appetite categories has been updated and streamlined with the main change relating to the fourth category "closed" being renamed to "minimal" and a change from "little to zero" interest to "minimal" interest in recognition that there may be existing risks that fall into this category that have been accepted by Council over a long period of time.

This section has also been updated to include a high-level articulation of Council's appetite for each of its risk categories.

Risk management process

The Framework has been updated to include a risk management process derived from the Standard - AS ISO 31000:2018 Risk Management – Guidelines which includes five key steps:

1. defining the scope and context
2. risk identification
3. risk analysis
4. risk evaluation
5. risk treatment

With continuous communication and consultation, and monitoring and review throughout the process.

Risk matrix

Council's risk assessment matrix was reviewed as part of the Health and Safety Management System review which recommended introducing a ranking of likelihood and impact, replacing the term catastrophic with severe and three changes to risk levels within the matrix. As well as more detail around the approach for each risk level. These changes have been included in the Framework.

Compliance

Council's compliance obligations refer to the laws, regulations, codes, policies and procedures with which Council and its employees are required to comply. This section of the Framework has been updated to reflect the obligations of Council's primary legal and authorising environment mandated by the *Local Government Act 2020 [Vic]* and simplified to remove operational content.

As Council has obligations under several other Acts and regulations the intention is that this section of the Framework will be continually updated to capture the obligations and ownership to improve accountability.

Roles and Responsibilities

The roles and responsibilities of various individual officers, committees and groups has been reviewed and updated with particular focus on nominated owners of governance, risk or compliance obligations and the Audit and Risk Committee to align with LGA 2020 requirements.

Monitoring and review

A new section on monitoring and review has been included in the Framework outlining at various levels reporting requirements, and identification and investigation of breaches.

POLICY IMPLICATIONS

When adopting a strategy, remember to also include reference to relevant sections of the Local Government Act 2020 and any other legislative requirements.

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

There are no financial implications with the implementation of the Risk Management Policy and Governance and Risk Framework.

CONSULTATION

Council's Audit and Risk Committee was consulted on the review and proposed changes of both documents. The Committee endorsed in principle the changes at its meeting on 18 February 2022 for finalisation and to be endorsed by Council.

Upon finalisation, the policy and framework will be communicated to all staff.

CONCLUSION

The review of the Risk Management Policy is now complete. While there is no change to the intent of the policy the review has provided an opportunity to clarify and simplify content and clearly articulate Council's position on risk management.

The review of the Governance and Risk Framework achieves compliance with a requirement of the *Local Government (Planning and Reporting) Regulations 2020 [Vic]* and assists with the integration of governance, risk management and compliance into Council's corporate planning, operational management, and reporting processes.

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 Corporate Performance
- Manager Corporate
- Health, Safety and Risk Officer

ATTACHMENT(S)

- 8.2.2.a. Alpine Shire Council Risk Management Policy No.54 version 5
- 8.2.2.b. Alpine Shire Council Governance and Risk Framework, version 2

8.2.3 Audit and Risk Committee Meeting Minutes

File Number: 0900.06

INTRODUCTION

The purpose of the report is to present the minutes of the Audit and Risk Committee meeting No.2021/22-5 held on 20 May 2022.

The key item presented to and considered by the Audit and Risk Committee (Committee) at this meeting related to management of road assets. Council's regular quarterly reports were also presented to the Committee.

Cr Keeble

Cr Hughes

That Council receives and notes the minutes of Audit and Risk Committee Meeting No.2021/22-5 held 20 May 2022.

Carried

REPORT

Welcomes and acknowledgement of contribution to Council and Committee

The Committee extended a welcome to new members of the management team, Manager Corporate, Dennis O'Keeffe and Acting Chief Executive Officer, Alan Clark.

The Committee also acknowledged the dedication, commitment and contribution of former CEO, Charlie Bird, to Council, the Committee, and the community.

Management of Road Assets

The Committee received a report on the management of Council's road assets including application of the Road Management Plan (RMP).

While not legislated, Council has established and maintains a RMP that establishes a system and sets the standards for Council's road management functions. The Plan can be viewed at the following link:

https://www.alpineshire.vic.gov.au/sites/default/files/resources/ASC-Road-Management-Plan_2.pdf

The RMP documents:

1. Programmed inspection frequencies
2. Operational intervention levels
3. Maximum response times.

The Committee noted that Council is currently up to date with the inspections required under the RMP and has good visibility on the status of outstanding and overdue actions to address defects through its GIS interface. Also noted was the circumstances of unusually wet weather this year, together with several significant storm events in late 2021 and early 2022, has resulted in many defects being raised, particularly across the

unsealed road network and relating to roadside vegetation, where previously relatively few defects would be identified through the drier months. A reduced capacity in the Assets team coinciding with these factors has resulted in extended timeframes to address identified defects however the team is strongly focused on addressing these overdue defects in the shortest possible timeframe.

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

CONCLUSION

The Audit and Risk Committee, being satisfied with the detail provided in its agenda and the officer reports, submits the minutes of its meeting No.2021/22-5 held on 20 May 2022 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 Corporate Performance
- Manager Corporate
- Health, Safety and Risk Officer

ATTACHMENT(S)

8.2.3 Minutes of Audit and Risk Committee Meeting No.2021/22-5, 20 May 2022

8.2.4 2022/23 Insurance Portfolio

File Number: Insurance

INTRODUCTION

This report outlines Council's insurance portfolio for 2022/23 and seeks Council approval for the purchase of the recommended insurance policies and membership of mutuals and discretionary trust arrangements.

Cr Kelley

Cr Keeble

That:

1. *The 2022/23 Professional Indemnity, and Public and Products Liability cover be procured through the Liability Mutual Insurance (LMI) Scheme managed by MAV Insurance to the total value of \$287,696.20 (GST inclusive).*
2. *The 2022/23 Commercial Crime insurance be procured through MAV Insurance to the total value of \$4,447.56 (GST inclusive).*
3. *The 2022/23 WorkCover insurance be procured through the Authorised Agent of WorkSafe Victoria, DXC Integrated Services Victoria Pty Ltd, to the total estimated value of \$183,185.84 (GST inclusive).*
4. *The membership contribution to the Municipal Asset Protection Plan Discretionary Trust Arrangement (JMAPP) be paid to the scheme's broker JLT Public Sector to the total value of \$206,057.00 (GST inclusive).*
5. *The balance of the 2022/23 insurance portfolio, including Community Public and Products Liability; Councillors and Officers Liability; Motor Vehicle; Major Airport Owners and Operators Liability; Personal Accident; Corporate Travel; and brokerage service, be procured through JLT Public Sector to the total value of \$126,170.91 (GST inclusive, stamp duty and administration fees).*

Carried

BACKGROUND

Professional indemnity and public and products liability insurance

Sections 43 and 52 of *the Local Government Act 2020* (LGA) require Council to indemnify and keep indemnified councillors, members of delegated and asset committees, the Chief Executive Officer and all staff against all actions and claims arising in the performance of their duties and functions or exercise of power under the LGA and any other act, regulation, or local law.

Council is a member of the Liability Mutual Insurance (LMI) Scheme managed by the not-for-profit Municipal Association of Victoria (MAV) Insurance. The LMI scheme provides professional indemnity and public and products liability (PI and PPL) cover specifically tailored to meet the specific risks and exposures of local government and is backed by a portfolio of A-grade reinsurers. The scheme provides a reliable product at a steady price,

regardless of market conditions and the not-for-profit structure means any excess revenue is either kept in the fund to help keep premiums down or returned directly to members as a surplus distribution. As a member of the scheme, Council is bound by the Deed of Establishment, Rules, and Conditions of the Scheme.

Council's 2022/23 PI and PPL insurance premium is \$287,696.20 (GST inclusive).

Commercial crime insurance

MAV Insurance procure commercial crime cover on behalf of fund members to protect against any fraudulent or dishonest act committed by an employee or third-party including theft, forgery and computer fraud. The cover is placed with insurers based on the best terms and conditions available in the market.

Council's 2022/23 Commercial Crime premium is \$4,447.56 (GST inclusive).

WorkCover insurance

WorkCover insurance is regulated under the *Workplace Injury Rehabilitation and Compensation Act 2013*. The Act requires:

- Council to register with WorkSafe as an employer
- WorkSafe to provide Council with statutory insurance to cover Council for the cost of workplace injuries suffered by its workers
- Council to pay the WorkCover insurance premium (s430).

WorkSafe appoints a panel of agents to provide its WorkCover insurance through a tender process and then allocates Council to an agent from the panel.

Council's WorkCover registration is allocated to DXC Integrated Services Victoria Pty Ltd.

The primary factors considered in the calculation of Council's WorkCover insurance premium are:

- Remuneration - the wages, salaries, superannuation, and other benefits Council pays its workers - estimated to be \$12,725,000.00 in the 2022/23 budget.
- Industry classification rate - the claims experience for local government and other Council activities.
- Performance rating - Council's claims cost experience for the previous three years compared to the industry average.

Council's 2022/23 WorkCover insurance premium is estimated to be \$183,185.84 (GST inclusive).

Asset and property protection

The Municipal Asset Protection Plan Discretionary Trust Arrangement is a Victorian councils owned mutual, otherwise known as JMAPP. JMAPP is essentially a fund for property damage claims combining conventional property damage/business interruption insurance with a discretionary trust element that enables the trustees to make discretionary payments that would not have been otherwise covered under traditional property and asset insurance policies. The Discretionary Trust Arrangement is authorised

and classified by ASIC as a managed investment scheme and mutual risk product. It is neither authorised under, nor subject to, the *Insurance Act 1973 (Cth)* nor is it regulated by the Australian Prudential Regulation Authority ("APRA"). JLT Public Sector are the service provider and insurance broker for the scheme.

Council's 2022/23 membership contribution to the Municipal Asset Protection Plan Discretionary Trust Arrangement (JMAPP) is \$206,057.00 (GST inclusive)

Other classes of insurance

Brokerage services for other insurances

JLT Public Sector has been Council's insurance broker since the inception of the Council and provide continuity and a quality service. JLT, on behalf of Council, undertake market testing of all insurance policies other than: WorkCover; Professional Indemnity, and Public and Products Liability; and Commercial Crime.

Community Public and Products Liability

Provides liability cover for injury and property damage for uninsured hirers of Council facilities.

Councillors and Officers Liability

Provides cover for councillors and officers against claims from 'Wrongful Acts' committed in their official capacity including discrimination, sexual harassment, bullying and defamation allegations; breaches of various statutes; and mismanagement of assets/funds.

Motor Vehicle

Full comprehensive insurance for all road registered motor vehicles, plant and trailers owned, mortgaged under Hire Purchase Agreement, hired, or leased by Council.

Major Airport owners and Operators Liability

Provides liability cover for injury and property damage associated with the premises at, and operation of, Council's airfields at Mount Beauty and Porepunkah.

Personal Accident

Provides accident cover for the Mayor, councillors, employees, directors and voluntary workers while engaged in business/work for Council.

The total of the insurance premiums for Council's other 2022/23 policies and brokerage fee is \$126,170.91 (including GST).

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

FINANCIAL AND RESOURCE IMPLICATIONS

Procurement policy and cumulative spend

JLT Public Sector source a total of seven insurance policies on behalf of Council and while the policies are placed with various underwriters, JLT Public Sector invoice Council for each policy with a resultant cumulative spend in excess of \$330,000. This total spend requires Council approval as it is above the \$150,000 spend threshold delegated to the Chief Executive Officer in Council's Procurement Policy.

The recommended insurers and premiums, including GST, for 2022/23 are:

Class of Insurance	Insurer	Premium
Community Public Liability	QBE Insurance (Aust) Ltd (through Victor Insurance-CL)	\$2,248.32
Councillors and Officers Liability	XL Insurance Company SE	\$22,556.83
Motor Vehicle	AAI Ltd T/As Vero Insurance	\$72,883.89
Airport Owners and Operators Liability	QBE Aviation	\$4,757.50
Personal Accident	Chubb Insurance Australia Ltd (through Victor Insurance-PA)	\$1,564.17
Corporate Travel	Chubb Insurance Australia Ltd (through Victor Insurance-Travel)	\$160.20
JMAPP (Assets)	JLT Municipal Asset Protection Plan Discretionary Trust	\$206,057.00
Broker Fee	JLT	\$22,000.00
Total Cost		\$332,227.91

Council has allocated funds in its 2022/23 budget to cover its insurance premiums.

CONCLUSION

It is recommended that Council place its 2022/23: Professional Indemnity and Public and Products Liability, and Commercial Crime insurances with MAV Insurance; WorkCover Insurance with DXC Integrated Services Victoria Pty Ltd; and a suite of other insurances including motor vehicle insurance and asset protection through JLT Public Sector in line with the detail provided in this report.

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 Corporate Performance
- Manager Corporate
- Health, Safety and Risk Officer

ATTACHMENT(S)

Nil

8.2.5 Bright Western Gateway Development Plan making up Lots 1 and 2 on Plan of Subdivision 613866 and Lots 1, 2, 4, 5, 7, 8 and 9 on Title Plan 859376X, Bright

<i>Address</i>	<i>Great Alpine Road, Bright.</i>
<i>Proposal</i>	<i>Approval of Bright Western Gateway Development Plan (V06, June 2022) for the residential development of the land forming part of the Bright Western Gateway.</i>
<i>Proponents Name</i>	<i>Human Habitats</i>
<i>Owner's Name</i>	<i>Buffalo Valley Pty Ltd</i>
<i>Land Size</i>	<i>41.38 hectares</i>
<i>Site Features and surrounding land</i>	<i>The land consists of a steep upper terrace overlooking Great Alpine Road (GAR) and separated from the lower flatter part of the land by a steep escarpment. The land has an extensive frontage to the GAR and is flanked by Stackey Gully and Deep Creek. On steep land to the rear is a Pine Plantation. There are several windrows of poplars on the site which provide visual interest to the site.</i>
<i>Aspect</i>	<i>North-eastern (upper part), lower part is relatively flat.</i>
<i>Land Use</i>	<i>Vacant grazing land</i>
<i>Zoning</i>	<i>General Residential Zone 1</i>
<i>Overlays</i>	<i>Development Plan Overlay Schedule 3 Bushfire Management Overlay Land Subject to Inundation Overlay</i>
<i>Restrictive Covenants</i>	<i>None</i>
<i>Development constraints</i>	<i>Fire risk, flooding and drainage, access.</i>
<i>Date/s received</i>	<i>June 2022</i>
<i>Permission required</i>	<i>Approval of Development Plan</i>
<i>Issues</i>	<i>VCAT appeal P72/2022 lodged for failure to determine Development Plan (V01, November 2021) Visually prominent site in key location. Flooding and drainage Bushfire risk Access</i>

INTRODUCTION

The purpose of this report is to provide contextual background and assessment of compliance with the requirements of the Alpine Planning Scheme more precisely Development Plan Overlay Schedule 3 in relation to the Bright Western Gateway Development Plan (V06, June 2022) to inform Councillor decision making.

There is a previous development plan lodged in November 2021 that would have been refused on various grounds. This Council Report will not be focussing on the merits of that previous submission.

Cr Janas
Cr Kelley

That Council:

- 1. Approve the Bright Western Gateway Development Plan (V06 June 2022) for the purposes of DPO3 (as per Attachment 8.3.5.a).*
- 2. Requests the Applicant to withdraw its VCAT application (P72/2022) to review Council's failure to approve the development dated November 2021 as there is no longer a need to review the November 2021 development plan or alternatively, if the Applicant does not wish to withdraw the application, to join with the Applicant to seek orders by consent to:

 - a. substitute the (V06 June 2022) development plan for the November 2021 development plan and*
 - b. direct the approval of the (V06 June) development plan**
- 3. Note the requirements notated on the Bright Western Gateway Development Plan (V06, June 2022) to ensure prescribed works are completed to the satisfaction of Alpine Shire Council prior to planning permits or Certificate of Compliance being provided;*
- 4. In the event that the Applicant pursues approval of the November 2021 development plan, Council advise the Tribunal that Council would have refused the November 2021 development plan on following grounds:

 - a. staging of development and servicing*
 - b. Country Fire Authority consideration under DP03*
 - c. failure to address clause 56, and*
 - d. failure to address stormwater mitigation to Council's requirements**

Carried

PROPOSAL

The proposal encompasses Lots 1 and 2 on Plan of Subdivision 613866 and Lots 1, 2, 4, 5, 7, 8 and 9 on Title Plan 859376X, Bright, alternatively known as Bright Western Gateway Development Plan (referred to in Attachment 8.2.5.a.).

The broad intent of the Bright Western Gateway Development Plan is to provide for compliance with the provisions of Development Plan Overlay Schedule 3 (referred to in Attachment 8.2.5.d.).

The requirements of the Development Plan Overlay state that a permit must not be granted to use or subdivide land, construct a building or construct or carry out works until a development plan has been prepared to the satisfaction of the responsible authority.

SUBJECT LAND AND SURROUNDS

The land occupies 41.39 hectares of land on the western side of Bright and is broadly bordered by Great Alpine Road to the north and north-east, Stackey Gully Road to the south-east, and the Tower Hill escarpment to the south-west.

RELEVANT PLANNING HISTORY

In 2005 the subject site, along with land on the northern side of the Great Alpine Road were identified, through the Alpine Residential Land Review as the preferred area for the urban growth of Bright in order to facilitate additional residential development.

The rezoning of the land from Farming Zone to General Residential Zone was facilitated through the Alpine Planning Scheme Amendment C34, gazetted in August 2015. This amendment also applied Schedule 3 to the Development Plan Overlay (DPO3), the Land Subject to Inundation (LSIO) to the site as well as a Bushfire Management Overlay (BMO).



Image 1: DPO Schedule 3 Overlay, Bushfire Response & BMO Buffer (Source: Alpine Planning Scheme)



Image 2: Land Subject to Inundation on Subject Site (Source: VicPlan)

Timeline	Event
August 2005	Alpine Shire Residential Land Review identified the site as the preferred area for residential growth
August 2006	Planning Scheme Amendment C15 designates land around Great Alpine Road and Stackey Gully Road as Urban Growth Area 1
August 2015	Planning Scheme Amendment C34 rezones site subject to this report from FZ to GRZ with DPO3 and LSIO also applied

Timeline	Event
March 2021	Discussions commence between Council Officers and representatives of the land owners regarding preparation of a development plan
August 2021	Alpine Shire Council engage environmental consultants to undertake flooding and drainage study to inform any development plan
November 2021	Draft Development Plan (V01, November 2021) submitted to Alpine Shire Council
February 2022	Application lodged with VCAT under Section 149 (1) (d) of the <i>Planning and Environment Act 1987</i> . Hearing listed for 27 & 28 September 2022.
November 2021 to June 2022	Applicant and Alpine Shire Council collaborate on securing improvements to the Draft Development Plan as submitted in November 2021.

PUBLIC NOTIFICATION

The 2015 Proposed Planning Scheme Amendment (PSA) was subject to public exhibition with the convening of a planning panel prior to Ministerial approval and gazetting for PSA C34.

CONSULTATION

DPO3 Requirement	Advice / Response
Country Fire Authority	<p>At this stage in the approvals process CFA are not the determining authority. Their views are sought as part of the DPO3 requirements.</p> <p>Concerns raised and more comprehensive bushfire management assessment required at subdivision stage to enable more comprehensive response.</p>

Consideration of a Development Plan is not akin to a planning application for construction of one new house on a single lot of land zoned General Residential and as such the normal referrals process is not required. Seeking approval and or conditions for permitting or refusing building and works on the site will occur during the applications under the *Subdivision Act 1988*.

PLANNING ASSESSMENT

The Development Plan Overlay (DPO) is a planning tool used to guide the future use and development of a land. A schedule to the DPO is used to specify strategic development intentions for a particular location. Preparation of a Development Plan (DP) is a requirement of the DPO in order to coordinate development and/or subdivision before a planning permit can be granted.

The Development Plan Overlay Schedule 3 has applied to the site since August 2015.

The Development Plan is not expected to provide more than a high-level concept. Detailed design will still be required for areas such as drainage, highway and landscaping. This detailed design is determined at the planning permit stage once a DP has been applied to the site.

There are specific requirements of the DPO Schedule 3. These are listed together with an assessment of compliance against those criteria.

DPO Schedule 3 Requirement	Satisfied/ Partially Satisfied/ Not Satisfied	Further Assessment Information
<p>A condition requiring a Section 173 agreement to be registered on the land to provide for the recognition of the pine plantations and associated activity that surround the land. The agreement must state:</p> <ul style="list-style-type: none"> The surrounding land is used for plantation forestry. Plantation forestry is a farming activity which will generate noise (including night-time noise) at the time of harvest, as well as increased truck movements and possible associated dust. The removal of the tree crop will result in the loss of visual amenity and can result in increased water run-off. Chemicals can be applied to the plantation (including aerial application 200 metres from any residence) to control weeds and pests and to promote growth. 	Satisfied	Proponents will apply this to the relevant lots at their own cost.
Be generally in accordance with the Bushfire Response Outline Development Plan attached to this schedule (see Image 1 above).	Satisfied	
Provide for a 50m buffer distance between the Great Alpine Road and residential uses.	Satisfied	

DPO Schedule 3 Requirement	Satisfied/ Partially Satisfied/ Not Satisfied	Further Assessment Information
Outline how the layout and appearance of the subdivision will be in keeping with or enhance the site when viewed from the Great Alpine Road	Satisfied	
Identify any sites of conservation, heritage, archaeological significance or with landscape value and how they will be managed and/or protected.	Satisfied	
Provide a range of lot sizes and identify potential residential densities across stages of development with lot sizes generally increasing the south of the land with no lots of residential purposes being created, further south of any perimeter road along the southern boundaries of the land adjacent to the pine plantation.	Satisfied	
Show the conceptual layout of future internal roads and external roads, including at least two points of external road access to the land and a perimeter road around the full site and adjacent to the central drainage line generally as shown in the Bushfire Response Outline Development Plan.	Satisfied	
Landscaping - Provide an overall scheme of landscaping and any necessary arrangement for the preservation of regeneration of vegetation. The landscaping theme must be consistent with bushfire mitigation measures.	Satisfied	
Infrastructure - Soil and water report which demonstrates how stormwater is to be disposed of and where appropriate that downstream retardation works will be required to alleviate the inundation of properties, siltation of watercourses or soil erosion.	Satisfied	
Provide an Infrastructure report demonstrating that the site can be connected to reticulated water, sewerage and power. Comments from all servicing authorities should be submitted with this report.	Satisfied	

DPO Schedule 3 Requirement	Satisfied/ Partially Satisfied/ Not Satisfied	Further Assessment Information
<p>Staging - Provide for the overlay staging of development supply of services. In order to prevent leapfrog development and the oversupply of land, staging must be determined having regard to:</p> <ul style="list-style-type: none"> • Existing Land supply in the locality; and • Efficient use of the existing and future infrastructure • Where practical, list the anticipated timing of the development and indicate the manner in which the Development Plan can proceed in the event that the owner of the land is not able or intending to develop. 	Satisfied	
<p>Bushfire - Include a requirement that any dwelling constructed on lots located within 150m of the southern boundary of the subject land or on any lot which abuts the perimeter ring road along the southern boundaries of the land to be constructed to comply with BAL 29 in accordance with Sections 3 * 7 of AS3959-2009.</p>	Satisfied	
<p>Provide management plan for the land within the 53-metre buffer shown on the Outline Development Plan and all areas of the public open space or communal open space that ensure this land is managed for the purposes of defensible space.</p>	Satisfied	

DPO Schedule 3 Requirement	Satisfied/ Partially Satisfied/ Not Satisfied	Further Assessment Information
<p>Subdivision design that minimises the risk of house-to-house fire spread, including but not limited to:</p> <ul style="list-style-type: none"> • A graduation in size of the lots located south of the central swale drain and lots generally increasing in size the closer they are located to the southern boundary of the land • All lots that abut the southern perimeter road and all lots located within 150m of the southern boundary to the subject land: • Building envelopes being separated by at least 10m from each other • building envelopes being separated by at least 10m from the rear boundary of the lot • A prohibition of any buildings or other ancillary structures (other than water tanks constructed of metal or concrete) being constructed outside the building envelope. 	Satisfied	
<p>For all lots located south of the central swale drain include:</p> <ul style="list-style-type: none"> • A requirement that all outbuildings and other ancillary structures to be constructed of non-combustible materials. • A requirement for all fencing and screening devices to be constructed of non-combustible materials. • Address static water supply requirements of BMO. 	Satisfied	Further assessment and review will take place at the Subdivision stage.
<p>Describe the relationship of proposed development on the land to existing and proposed developments on adjoining land.</p>	Partially Satisfied	Further details provided below.
<p>Where appropriate include the provision of adequate and functional open space networks and recreational areas and linkages to nearby existing and proposed open space/recreational areas.</p>	Partially Satisfied	Further details provided below.

DPO Schedule 3 Requirement	Satisfied/ Partially Satisfied/ Not Satisfied	Further Assessment Information
<p>Clause 43.04 Condition - If a development plan has been prepared to the satisfaction of the responsible authority, an application under any provision of this planning scheme is exempt from the notice requirements of section 52(1)(a), (b) and (d), the decision requirements of section 64(1), (2) and (3) and the review rights of section 82(1) of the Act.</p>	Noted	
<p>The development plan may consist of plans or other documents and may, with the agreement of the responsible authority, be prepared and implemented in stages.</p> <p>A development plan that provides for residential subdivision in the Neighbourhood Residential Zone, General Residential Zone, Residential Growth Zone, Mixed Use Zone, Township Zone, Comprehensive Development Zone and Priority Development Zone must meet the requirements of Clause 56 as specified in the zone.</p> <p>The development plan must describe:</p> <ul style="list-style-type: none"> • The land to which the plan applies. • The proposed use and development of each part of the land. • Any other requirements specified for the plan in a schedule to this overlay. <p>The development plan may be amended to the satisfaction of the responsible authority.</p>	Satisfied	Further detail provided below.
<p>Prior to approval of a development plan the responsible authority must seek the views of the Country Fire Authority.</p>	Satisfied	Further details provided below.

INTERPRETATION OF CLAUSE 56

Clause 56 is a valuable control mechanism for residential development. With regards to development plans approved under a Design and Development Overlay, the development plan would not normally contain the level of detail to undertake a clause 56 assessment. It is important though that at the development plan stage, sufficient information is included in the development plan to provide comfort and a level of

certainty that, at the level of generality shown in the development plan, compliance with clause 56 will be achievable at the planning permit stage. It is considered that the proposed development plan sufficiently provides that comfort and degree of certainty.

DECISION MAKING CONSIDERATIONS

Most of the requirements of DPO3 are satisfied. Further explanation of the partially satisfied areas is provided here. Please note the below provides broader community and authority items to resolve rather than an assessment against the Victorian and Alpine Planning Scheme.

Country Fire Authority (CFA)

During consideration of the 2015 rezoning CFA requested a 100m offset. This was not accepted by Planning Victoria and did not form part of the Planning Scheme Amendment. Since 2015 planning policy has changed in relation to bushfire.

The Development Plan Overlay Schedule 3 states that prior to the approval of the Development Plan, the responsible authority must seek the views of the CFA. The draft DP was referred to the CFA who provided a response which recognised that the draft development plan likely meets the minimum requirements set out in DPO3 however questioned whether the bushfire response contained in the draft DP is sufficient to address bushfire policy contained in Clause 13.02-1S and the impact on the upper section of the Development Plan. The response also contained an informal request that the DP give a more detailed assessment of the proposal against Clause 13.02-1S, given the updates to policy since the area was placed in the DPO.

Bushfire assessment notations form part of the Bright Western Gateway (V06, June 2022) as Attachment 8.2.5.a. to provide issues are to be addressed at the planning permit stage. The notation stipulates that a bushfire assessment be provided to the satisfaction of CFA prior to the grant of a planning permit.

Whilst the CFA response (Attachment 8.3.5.b.) is acknowledged it is noted that approval of this development plan does not constitute approval of the development, use or subdivision of the site. To progress subdivision or development of the site any application must be further referred to the CFA under Section 55 of the Planning and Environment Act. The process of determining any proposed subdivision of the site will require the preparation of a bushfire management assessment against Clauses 13.02 Bushfire, Clause 44.06 Bushfire Management Overlay (BMO) and Clause 53.02 Bushfire Planning.

North East Water (NEW)

Alpine Shire Council sought commentary from North East Water (NEW) whose response is as per Attachment 8.2.5.c. Matters relating to capacity will need to be addressed and resolved by the applicant at the application for planning permit for subdivision stage.

Traffic Impact Assessment

The applicant submitted a traffic impact assessment as part of their proposed development plan. This assessment has broadly been accepted by the Department of Transport and the current Bright Western Gateway Development Plan complies with their requests.

It is noted that the current traffic impact assessment does not reflect current regular and periodic logging truck movements as they relate to Tower Hill Road and Stackey Gully Road.

Stormwater Impact Assessment

Alpine Shire Council has completed a Flooding and Drainage Study and a review of the infrastructure upgrade works that will be required to mitigate overland flow currently impacting the site and documented as an LSIO.

It is noted the applicant's submissions in removal of the LSIO and development in the lower section of the site is reliant on these works, as no alternative to the satisfaction of Alpine Shire Council has been provided. It is noted the detailed design of Stackey Gully Creek including further geotechnical investigation, flooding and drainage modelling is yet to occur and this work is required to mitigate the stormwater impact to the lower section of the site.

The applicant has indicated this can be accommodated in design, though flexibility in Plan of Subdivision design will be required. The proposed development plan includes a notation that these issues will be addressed at the planning permit stage. Council officers are satisfied that there is sufficient comfort and level of certainty in the proposed development plan.

Design & Public Open Space

The current Development Plan reflects several trees to be retained and Public Open Space on plan.

There are many positive outcomes from the Development Plan particularly as it relates to walkability, and bike connectivity, landscape and neighbourhood character that has been provided in supporting documentation, not forming part of the development plan. It is noted however, that Alpine Shire Council officers consider the useability and functionality of some of the Public Open Space areas provided is compromised.

This is due to significant slope in the central spine of the site, the proximity of some public space to the Great Alpine Road due to a 50m offset, as well as the Bushfire Management offset which will limit landscape treatment.

Considerations for these constraints and how they are integrated in design and end use of these spaces needs to be addressed in the detailed Civil and Landscape design at the application for planning permit for subdivision stage.

VCAT

An Application for Review No. P72/2022 has been lodged at VCAT by the proponent applying to Lots 1 and 2 on Plan of Subdivision 613866 and Lots 1, 2, 4, 5, 7, 8 and 9 on Title Plan 859376X, Bright.

The Application for Review is lodged pursuant to Section 149 (1) (d) of the *Planning and Environment Act 1987* (the Act).

Section 149(1) (d) is a provision that allows for an appeal against the amount of time taken for decision.

This hearing is listed for September 2022.

This report recommends that Council requests the Applicant to withdraw its VCAT application (P72/2022) to review Council's failure to approve the development dated November 2021 as there is no longer a need to review the November 2021 development plan or, alternatively, if the Applicant does not wish to withdraw the application, to join with the Applicant to seek orders by consent to:

- a. substitute the (V06 June 2022) development plan for the November 2021 development plan; and
- b. direct the approval of the (V06 June) development plan.

We expect this agreement and consent order to be supported by VCAT.

This report recommends Alpine Shire Council approve the development plan thereby permitting Alpine Shire Officers to seek a consent order from VCAT.

CONSULTATION

Due to the application of the Development Plan Overlay to the site in 2015 through Planning Scheme Amendment C34 there are no formal requirements for public notice to be given about an application on this site for development plan approval.

In recognition of this constraint Alpine Shire Council, Council officers and the applicants planning consultants have held informal discussions with a range of agencies and stakeholders including;

- Country Fire Authority
- VicRoads
- North East Catchment Management Authority
- North East Water
- Goulbourn Murray Water
- Environment Protection Authority Victoria
- Department for Environment, Land, Water and Planning

CONCLUSION

The Bright Western Gateway Development Plan (V06, June 2022) meets the requirements of the Overlay and, even though it contains notations that some issues (e.g. inundation, bushfire etc) are to be addressed at the application for planning permit stage, officers are satisfied that the proposed development plan contains sufficient detail as to give

comfort and level of certainty that those issues can be addressed at the planning permit stage without compromising the objectives and requirements of the Overlay

Alpine Shire Council and the applicants have continued to work collaboratively to improve the draft development plan since it was submitted in November 2021.

Unlike the November 2021 draft development plan the current Bright Western Gateway Development Plan (V06, June 2022) can broadly satisfy the requirements of the planning controls placed on the land for this stage of the planning process. All parties are cognisant that there remains significant work to complete before the site is ready for construction to commence.

The applicant has reserved their right to present the draft development plan submitted in November 2021 to VCAT at the scheduled September hearing rather than the Bright Western Gateway Development Plan (V06, June 2022) that is the subject of this Council Report.

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 Corporate Performance
- Manager Planning and Amenity
- Strategic Planning Coordinator
- Strategic Planner

ATTACHMENT(S)

- 8.2.5.a. Bright Western Gateway Development Plan (V06, June 2022)
- 8.2.5.b. CFA Referral Response
- 8.2.5.c. NEW Referral Response
- 8.2.5.d. DPO Schedule 3

Cr Hughes declared a conflict of interest with respect to item 8.2.6 and left Council Chambers at 6.28pm.

8.2.6 Planning Application P.2021.175 - 7 Growlers Creek, Wandiligong

Application number:	<i>P.2021.175</i>
Proposal:	<i>Buildings and Works for the construction of a Dwelling and an Outbuilding.</i>
Applicant's name:	<i>Mr Nick Vlahandreas (Mountain Planning)</i>
Owner's name:	<i>Andrew and Lesley Nixon</i>
Address:	<i>7 Growlers Creek Road, Wandiligong, VIC 3744 (Land in Plan of Consolidation 378915B)</i>
Land size:	<i>2032sqm</i>
Current use and development:	<i>Outbuilding (Shed)</i>
Site features:	<i>The site is of an irregular rectangular shape and relatively flat. There is existing post and rail fencing along the street and south-eastern lot boundary. The site is vacant with a small shed sited near the south-eastern lot boundary.</i>
Why is a permit required?	<i>Clause 42.03-2 Buildings and Works (SLO3) Clause 43.01-1 Buildings and Works (HO83) Clause 44.06-2 Buildings and Works (BMO)</i>
Zoning:	<i>Low Density Residential Zone (LDRZ)</i>
Overlays:	<i>Heritage Overlay - Schedule 83 (HO83) Significant Landscape Overlay - Schedule 3 (SLO3) Bushfire Management Overlay (BMO)</i>
Restrictive covenants on the title?	<i>None</i>
Date received:	<i>7 June 2022 (amended plans)</i>
Statutory days:	<i>28 days</i>
Planner:	<i>James Trimble</i>

Cr Janas
Cr Prime

That a Notice of Decision to grant a planning permit be issued for Buildings and Works for the construction of a dwelling and outbuilding in accordance with the conditions outlined in Appendix 8.2.6.a and the following summarised reasons:

- 1. The proposal generally meets the relevant provisions of the:

 - i. Planning Policy Framework;*
 - ii. Heritage Overlay - Schedule 83*
 - iii. Significant Landscape Overlay - Schedule 3*
 - iv. Bushfire Management Overlay*
 - v. Particular provisions including clause 52.06 Car Parking and 53.02 Bushfire Planning;*
 - vi. Decision Guidelines at Clauses 65.01.**
- 2. The proposal provides an appropriate design and respects the heritage place.*

Carried

PROPOSAL

The proposal involves Buildings and Works for the construction of a dwelling and outbuilding.

The proposed dwelling is setback 20 metres from the north-eastern lot boundary, 12.6 metres from the south-eastern lot boundary, 11.4 metres from Growlers Creek Road, and 3.27 metres from the north-western lot boundary.

The proposed dwelling is single storey and includes a 2 to 35-degree pitched roof, two (2) bedrooms, two (2) bathrooms, open plan meals/kitchen/lounge, separate laundry, north facing pergola, west facing verandah, a single attached carport and two (2) 5,000 litre water tanks. External materials and colours include Colorbond Woodland Grey roofing, Colorbond Surfsmist fascia, barge, gutters and downpipes, Dulux Vivid white verandah posts, Stone Chimney, Rendered hempcrete colour Dulux Buff It walls, and Scyon Axon colour Dulux Buff It walls. The associated onsite wastewater disposal area is in the street setback area.

A detached outbuilding is proposed with a setback of approximately 16.8 metres from north-eastern lot boundary, 0.6 metres from the south-eastern lot boundary, approximately 15.4 metres from the Growlers Creek Road lot boundary and more than 20 metres from the north-western lot boundary. The roof pitch of the outbuilding is 35 degrees. The outbuilding is single storey. External materials and colours include Colorbond colour Woodland grey roofing, Hardiflex sheet colour Woodland grey walls, Spotted gum doors, and Colorbond colour Surfsmist barge, fascia, gutters and downpipes.

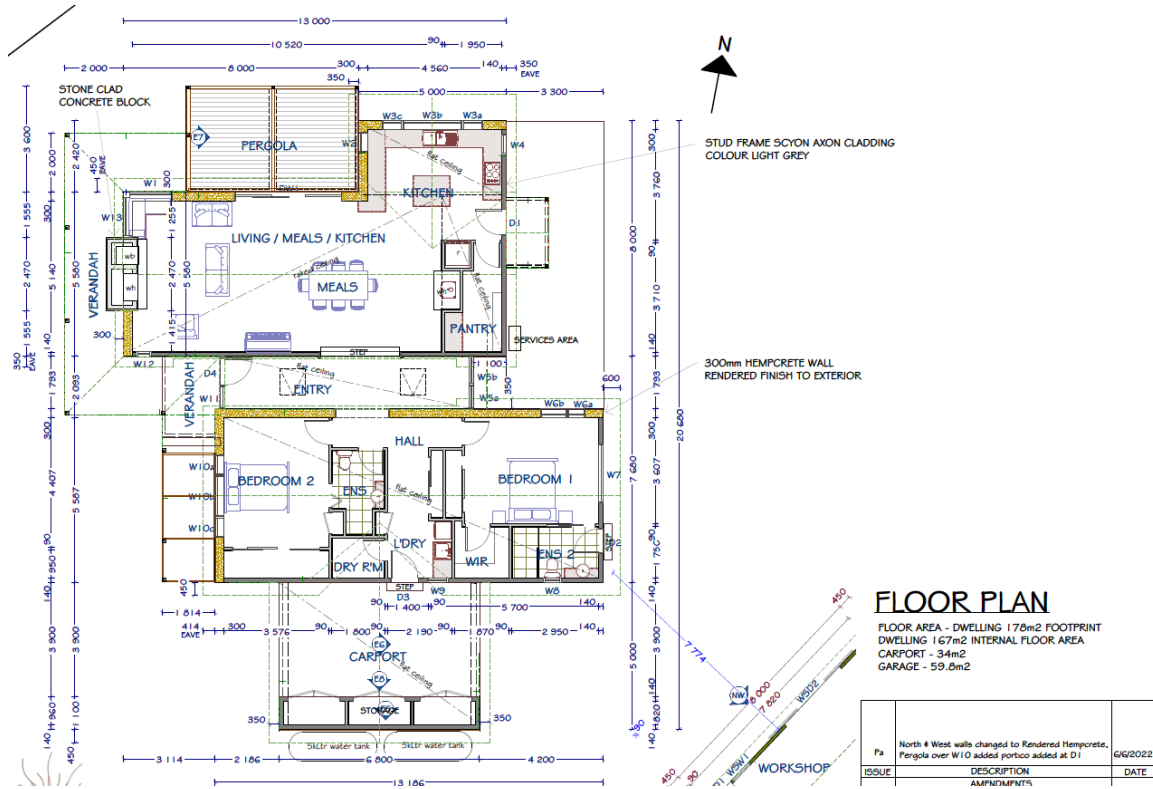
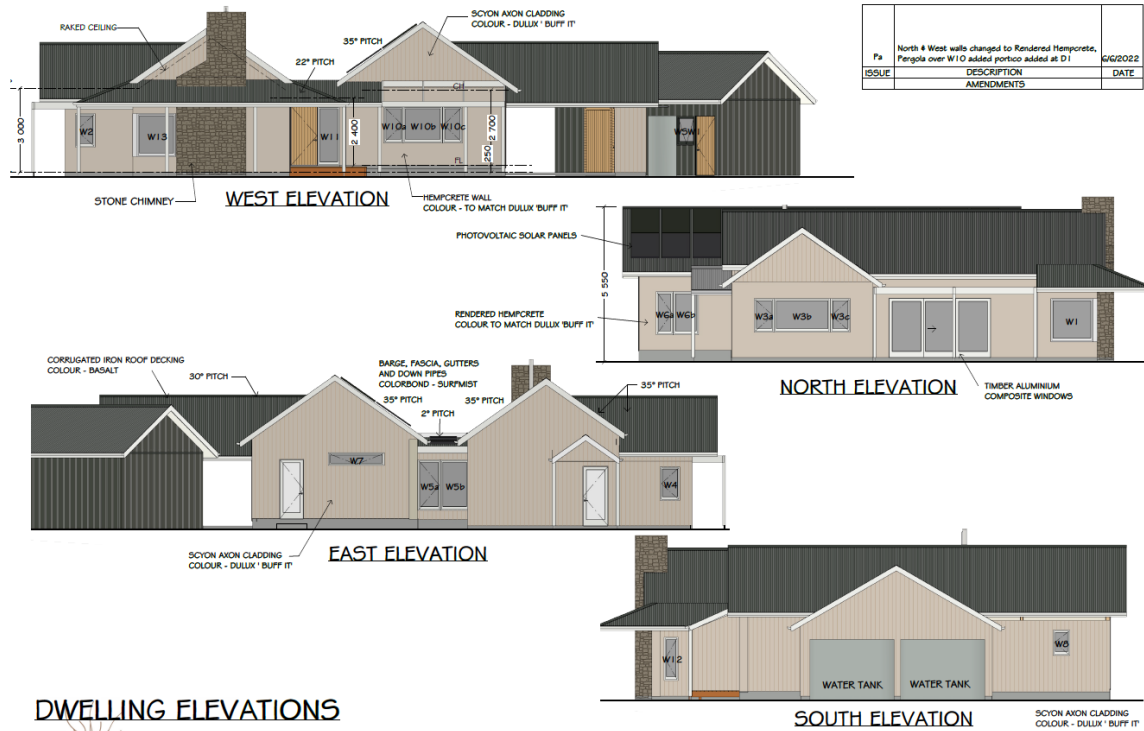


Figure 2: Floor Plan



DWELLING ELEVATIONS

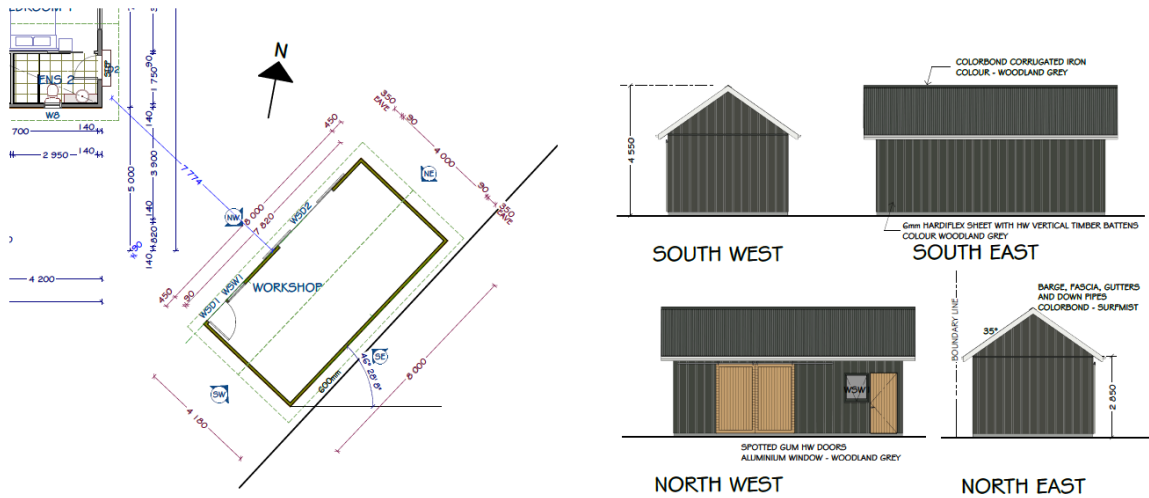









Figure 3: Elevations

DWELLING EXTERIOR MATERIALS AND COLOURS

-  DWELLING EXTERIOR SOUTH & EAST WALL CLADDING
SICHON AVION 133 TEXTURED
COLOUR - DULLX BUFF 11
-  DWELLING NORTH & WEST WALLS
RENDERED HEMPCRETE
APPROXIMATE COLOUR DULLX 'BUFF 11'
-  FIRE PLACE CHIMNEY
STONE CLADDING 'ECO OUTDOOR - FREEFORM'
COLOUR HOWQUA
-  VERANDAH POSTS
COLOUR DULLX - VIVID WHITE
-  MIGLAS ALUMINIUM COMPOSITE WINDOWS
COLOUR - DULLX ELECTRO FLAT WHITE
-  COLORBOND CORRUGATED IRON ROOF
COLOUR - WOODLAND GREY
-  FASCIA, BARGE, GUTTERS & DOWNPIPES
COLORBOND - SURFMIST

WORKSHOP EXTERIOR MATERIALS AND COLOURS





-  WORKSHOP EXTERIOR WALL CLADDING
JAMES HARDIE 6mm HARDIE FLEX CLADDING
WITH HARDWOOD VERTICAL EXTERIOR BATTENS
COLOUR - COLORBOND WOODLAND GREY
-  WORKSHOP DOORS
SPOTTED GUM,
CLEAR FINISH
-  COLORBOND CORRUGATED IRON ROOF & WINDOWS
COLOUR - WOODLAND GREY
-  FASCIA, BARGE, GUTTERS & DOWNPIPES
COLORBOND - SURFMIST

Figure 4: Proposed Colour Palette

SUBJECT LAND AND SURROUNDS

The site has a total area of 2032sqm, is an irregular rectangular shape and is relatively flat. There is existing post and rail fencing along the road and south-eastern lot boundary. The site is vacant with a small shed sited near the south-eastern lot boundary. The site does not have access to reticulated sewerage.

The site abuts Crown land to the north-east which is zoned Public Conservation and Resource Zone and contains native vegetation and a section of Growlers Creek. This land is affected by the same overlays as the subject site.

The site directly abuts an undeveloped government road reserve to the south-east.

Land further to the east, south and west is zoned Low Density Residential Zone, with the majority of sites containing a single dwelling and associated shedding. This surrounding land is affected by the same overlays as the subject site.

The Wandiligong Hotel is approximately 80 metres west of the subject site.



Figure 1: Subject land.

PUBLIC NOTIFICATION

The application was advertised in accordance with Section 52 of the *Planning and Environment Act 1987*. Notice of the application was sent to surrounding landholders and occupiers. A sign was displayed on the site. Two (2) objections were received and maintained. The matters raised in the objections have been summarised as follows:

1. Possible impact on native title artefacts
2. Proposed built form is not appropriate
3. Rammed earth wall cladding not appropriate

4. Having an attached carport is not appropriate as it creates excessive bulk
5. Lack of verandah on the eastern elevation
6. Outbuilding siting concerns, does not minimise presence and recede into the landscape
7. Outbuilding having the same wall and roof colour creates excessive bulk
8. Will create a negative precedent
9. Loss of view
10. Noise pollution and construction noise
11. Over population
12. Loss of native animal habitat

The applicant provided a response which is summarised below.

1. No response
2. No response
3. Rammed earth wall cladding - Hempcrete is not 'stabilised rammed earth'. The external hempcrete walls (north & west side of house) will be rendered. A rendered panel is permissible under the guidelines.
4. Attached carport - The design of the *attached* carport was done as the site had limitations of building placement. BAL rating (29), fire access requirements, and effluent field requirement (distance from creek line) required siting of the house in the centre of the block. If there is to be no carport attached to the house it would then be either attached to the shed or the shed would be increased in size to accommodate the extra car space. We note that there are other recently built homes/houses with carports in Wandiligong, either attached or fronting the street.
5. Verandah on the eastern elevation - A verandah as suggested on the east side of the house has no relevance to the guidelines. It is a personal design aesthetic of the objector.
6. Outbuilding siting concerns - The setback is currently at 0.6m which is allowable as long as the height of the building is < 3.6m.
7. Outbuilding colours - We are happy to review the colour combination of roof and walls.
8. No response
9. No response
10. No response
11. No response
12. No response

The assessing officer's response is provided as follows:

Possible impact on native title artefacts

1. An Aboriginal Cultural Heritage Management Plan is not required for the proposal. Separate legislation exists outside of the *Planning and Environment Act 1987* which includes specific controls around native title artifacts should any be identified on the site during construction.

Proposed built form is not appropriate

2. The proposal is considered to be generally in accordance with the relevant applicable planning controls and the built form is considered appropriate subject to conditions

Rammed earth wall cladding not appropriate

3. The proposed external dwelling materials include a mix of Scyon axon in colour Dulux Buff It, stone, rendered hempcrete in colour Dulux Buff It, and colourbond fascias in colour Surfemist. The Wandiligong Heritage Guidelines state that new buildings must utilize lightweight cladding – preferably square edged weather boards, corrugated iron or rendered panels. Brick or stone as accents is acceptable. Variety in use of cladding is encouraged.

Attached carport and bulk visual impact

4. The application was referred to Councils Heritage advisor and consent was provided. A single attached carport is proposed forward of the main dwelling. The design of the proposed carport is considered to be complimentary and consistent with the main dwelling.

No verandah on the eastern elevation

5. The eastern elevation does not include any verandah area and has minimal visibility from the street. Verandah and pergola areas are proposed on the western elevation which is visible from the street. A portico is proposed on the eastern elevation. The Wandiligong Heritage guidelines do not require a building to have verandahs and pergolas on all elevations

Outbuilding siting concerns

6. The outbuilding is proposed with a 0.6 setback to an adjoining government road to the south-east. As the government road cannot be developed with a dwelling, there is considered to be adequate separation distance between the proposed outbuilding and existing adjoining buildings

Outbuilding having the same wall and roof colour creates excessive bulk

7. The Wandiligong Heritage guidelines state that relatively dark muted colour schemes for roof and cladding with minimal contrasting details should be used. The proposed external colours are considered to be suitable subject to conditions.

Precedent impact

8. Every planning application is considered on its own merits, against the relevant legislation at the date of lodgement of the application.

Loss of view

9. There are no view controls through the relevant planning legislation that apply to the site. The proposal is considered to be generally in accordance with the provisions of Significant Landscape Overlay – Schedule 3

Noise pollution and construction noise

10. Suitable conditions included should the application be supported. Separate legislation exists beyond the *Planning and Environment 1987* which includes noise controls.

Over population

11. Pursuant to the LDRZ provisions that apply to the site, Use and Buildings and Works for the Construction of a Dwelling is permitted as of right on the site. A planning permit is required for the proposal pursuant to the BMO, HO, and SLO overlays that apply to the site.

Loss of native animal habitat

12. The site does not contain any native vegetation or other substantial vegetation. Pursuant to the LDRZ provisions that apply to the site, Use and Buildings and Works for the Construction of a Dwelling are permitted as of right on the site. A planning permit is required for the proposal pursuant to the BMO, HO, and SLO overlays that apply to the site.

REFERRALS

Referrals / Notice	Advice / Response / Conditions
Section 55 referrals	Country Fire Authority (CFA) - No objection, subject to conditions. Goulburn Murray Water (GMW) - No objection, subject to conditions.
Internal referrals:	Alpine Shire Council Heritage Advisor - No objection and no concerns. Alpine Shire Council Health Team - No objection, subject to conditions. Alpine Shire Council Engineering Team - No objection, subject to conditions.

PLANNING ASSESSMENT

All applicable policy and decision guidelines can be found in Appendix 8.2.6.b.

Planning Policy Framework

The following Planning Policy Framework (PPF) gives support to the proposal.

- Policy 11.01-1S - Settlement as the proposal limits urban sprawl and directs growth into existing settlements.
- Policy 11.01-1L-08 - Wandiligong as the proposal respects the historic semi-rural look and feel of Wandiligong.
- Policy 15.01-2S – Building Design as the proposal contributes positively to the local context.

- Policy 15.03-1S – Heritage Conservation as the proposal provides for appropriate development that respects the heritage place with identified heritage values.
- Policy 16.01-1S - Housing supply as the proposal facilitates well located and diverse housing and reduces the share of new dwellings in greenfield, and dispersed development areas.

Zoning

The subject land is zoned Low Density Residential Zone. The proposal is consistent with the purposes of the Low-Density Residential Zone as it provides for low density residential development which in the absence of reticulated sewerage, can treat and retain all wastewater.

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 CFA for comment. 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

Clause 52.06 of the Alpine Planning Scheme contains the state-wide car parking and access provisions. In accordance with the requirements of this clause at least one (1) car parking space is required on the site. More than one (1) car space is provided on the site. A detailed assessment of the proposal against the provisions of Clauses 52.06 is contained on the planning file – reference no. P.2021.175. The proposal is considered to be generally in accordance with the decision guidelines subject to conditions.

Clause 53.02 – Bushfire Planning

The application was referred to the CFA for comment. Conditional consent was provided. The application is considered to meet the relevant requirements of this clause subject to conditions.

General Provisions

Clause 65.01 of the Alpine Planning Scheme provides the general decision guidelines that must be considered before deciding on an application. A detailed assessment of the proposal against the provisions of Clauses 65.01 is contained on the planning file – reference no. P.2021.175. The proposal is considered to be generally in accordance with the decision guidelines.

CONCLUSION

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

1. The proposal generally meets the relevant provisions of the:
 - i. Planning Policy Framework;
 - ii. Heritage Overlay - Schedule 83
 - iii. Significant Landscape Overlay - Schedule 3
 - iv. Bushfire Management Overlay
 - v. Particular provisions including 52.06 Car Parking and 53.02 Bushfire Planning.
 - vi. Decision Guidelines at Clause 65.01.
2. The proposal provides an appropriate design and respects the heritage place.

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 Corporate Performance
- Manager Planning and Amenity
- Senior Planning Officer

APPENDICIES

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

8.2.6.a. Conditions**Amended Plans Required - Development**

1. Before the development start(s), 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. The plans must be generally in accordance with the plans submitted with the application but modified to show:
 - a. The water tanks having an external colour(s) consistent with the other building and works authorised by this permit.
 - b. The walls of the outbuilding having an external colour consistent with the external colour of the walls of the dwelling.
 - c. Consistency in the siting and design of the water tank/s.

Endorsed Plans

2. The layout of the site and the size of the proposed buildings and works must be generally in accordance with the endorsed plan/s which form part of this permit. The endorsed plan/s must not be altered or modified (whether or not to comply with any statutory rule or local law or for any other reason) without the prior written consent of the responsible authority.

External Materials and Colours

3. The external materials of the building(s) including the roof must be constructed in materials of muted colours, to the satisfaction of the responsible authority. No materials having a highly reflective surface shall be used. For the purposes of this condition 'highly reflective' includes but is not limited to unpainted zincalume.
4. All eaves and gutters must be ogee or quad profile and downpipes must be circular.
5. Roof cappings must be roll top and roll edge.

Garbage Storage

6. Provision must be made on the land for the storage and collection of garbage and other solid waste. This area must be screened from public view to the satisfaction of the responsible authority.

Construction Site Storage Area

7. An area for the storage of construction materials must be designated prior to the arrival of equipment and materials onsite. At the completion of construction all excess materials must be removed from the site to the satisfaction of the responsible authority.

Mandatory Bushfire Conditions

8. 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.

Disturbed Surfaces

9. All disturbed surfaces on the land resulting from the development must be stabilised to the satisfaction of the responsible authority.

- Goulburn Murray Water Conditions -

10. All construction and ongoing activities must be in accordance with sediment control principles outlined in 'Construction Techniques for Sediment Pollution Control' (EPA, 1991).
11. All wastewater from the proposed dwelling must be treated to a standard of at least 20mg/L BOD and 30mg/L suspended solids using a package treatment plant or equivalent. The system must be an EPA approved system, installed, operated and maintained in accordance with the relevant EPA Code of Practice and Certificate of Conformity.
12. All wastewater must be applied to land via pressure-compensating sub-surface irrigation installed along the contour.
13. The wastewater disposal area must be located at least 100 metres from the nearest waterway, 60 metres from any dams, 40 metres from any drainage lines and 20 metres from any bores.
14. The wastewater disposal area must be kept free of buildings, driveways, paths and service trenching and must be planted with appropriate vegetation to maximise its performance. Stormwater must be diverted away. A reserve wastewater disposal field of equivalent size to the primary disposal field must be provided for use in the event that the primary field requires resting or has failed
15. Stormwater run-off from buildings and other impervious surfaces must be dissipated as normal concentrated overland flow or directed to a storage tank or dam.
16. The shed must not encroach on the wastewater treatment system or disposal area, or breach the minimum setback distances specified in the relevant EPA Code of Practice – Onsite Wastewater Management. Stormwater run-off from the shed roof must not be directed towards the disposal area.
17. Prior to the building permit being issued, the owner must enter into an agreement with the Responsible Authority and Goulburn-Murray Water under Section 173 of the Planning and Environment Act requiring that:
 - a. If a community effluent disposal system or reticulated sewerage system becomes available, all wastewater from the dwelling must be disposed of via this system and the on-site treatment and disposal system must be decommissioned.
 - b. Unless connected to the reticulated sewerage system, a dwelling on this land must contain no greater than two bedrooms (or rooms that can be used as bedrooms).
 - c. Outbuildings must not contain bedrooms (or rooms that could be used as bedrooms) or any facilities with the potential to produce wastewater, including toilets, kitchens or other food preparation facilities.

- d. The wastewater treatment and disposal facility be installed, operated and maintained as required by the EPA.
 - e. The owner shall meet the cost of the registration of the agreement on the title of the land.
 - f. This agreement is cancelled if (a) above is satisfied.
18. The owner must provide evidence of registration of the Section 173 Agreement to Goulburn-Murray Water within three months of this occurring.

- Alpine Shire Council Environmental Health Team Conditions -

19. An application must be made for a Permit to Install a Septic Tank System to the satisfaction of Council's Environmental Health Officer prior to a building permit being issued in accordance with the requirements of the Building Act 1993. The septic system must comply with the Code of Practice – onsite Wastewater Management Publication 891.4 and AS1546.1 to 1546.4 and generally be in accordance with the Land Capability Assessment AN08042020-1A from Porta Environmental Pty Ltd.

- Country Fire Authority Conditions -

20. Before the development starts, the Bushfire Management Plan prepared by Mountain Planning (dated 7th September 2021, Rev 0) must be endorsed by the Responsible Authority. Once endorsed, the plan must not be altered unless agreed to in writing by CFA and the Responsible Authority.

-Alpine Shire Council Engineering Team Conditions -

21. Soil erosion control measures must be employed throughout the construction stage of the development to the satisfaction of the Alpine Shire Council. Issues such as mud on roads, dust generation and erosion and sediment control must be managed, on site, during the construction phase.
22. 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 from the subject land, to the satisfaction of the Alpine Shire Council.
23. Prior to occupation of the buildings and works authorised by this permit 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 (LPOD) for this site is an on-site infiltration pit with overflow to be dispersed on site. 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 to the satisfaction of the responsible authority.
24. Prior to the issue of a building permit, 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/or retarded.
- b. the discharge rate is to be restricted to the pre-development flowrate for a 20%AEP rainfall event
- c. infiltration pit designed to 20% AEP rainfall event with calculation
- d. underground pipe drains conveying stormwater to the legal point of discharge
- e. maintenance schedules for treatment elements.

Prior to occupation of the buildings and works authorised by this permit, all works constructed or carried out must be in accordance with those plans - to the satisfaction of Alpine Shire Council.

25. Prior to occupation of the buildings and works authorised by this permit, 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 reinstated to match into the surrounding profile.
 - b. Any proposed vehicular crossing shall have satisfactory clearance to any 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 are to be concrete or have a bituminous seal applied where they abut a sealed road. If the road is unsealed the crossing may remain an unsealed crushed rock pavement. Dimensions and roadside drainage treatments are to be generally in accordance with IDM drawing SD255.

Expiry

26. This permit will expire if one of the following circumstances applies:
 - i. the development is not started within two (2) years of the date of this permit.
 - ii. the development is not completed within four (4) years of the date of this permit.

The responsible authority may extend the periods referred to if a request is made in writing before the permit expires, or within six (6) months afterwards.

- End of Conditions -

Planning Notes

1. This permit does not grant approval for any existing buildings and works on the site.
2. This permit does not authorise approval under the Building Act. It is the responsibility of the applicant to determine if a building permit is required for the proposed buildings and works.

3. A road opening/crossing permit must be obtained from the responsible authority prior to working in or occupying the road reserve with construction equipment or materials. Applications may be accessed from the Alpine Shire Council website.
4. This permit does not grant approval for any fencing on the site.
5. This application has not been assessed against the provisions of clause 54 within the Alpine Planning Scheme.
6. The Site Plan provided is not a survey plan and may not show the correct boundary. The applicant is responsible for ensuring the development is sited within their freehold land.

8.2.6.b. POLICY AND DECISION GUIDELINES

All of the below mentioned relevant planning considerations from the Alpine Planning Scheme may be viewed at the following link: <https://planning-schemes.delwp.vic.gov.au/schemes/alpine>.

Planning Policy Framework

The Planning Policy Framework (SPPF) provides relevant direction to the proposal at the following clauses:

- 11.01-1S - Settlement
- 11.01-1L - Wandiligong
- 12.05-1L - Public-private land interface
- 12.05-2S – Landscapes
- 12.05-2L - Landscapes
- 13.01-1S – Natural Hazards and Climate Change
- 13.02-1S – Bushfire Planning
- 13.02-1L - Bushfire
- 14.02-1S – Catchment Planning and Management
- 14.02-1L - Catchment Planning and Management
- 14.02-2S – Water Quality
- 14.02-2L - Water Quality
- 15.01-1S - Urban Design
- 15.01-1L - Urban Design
- 15.01-2S – Building Design
- 15.01-5S – Neighbourhood Character
- 15.03-1S – Heritage Conservation
- 16.01-1S - Housing supply
- 19.03-2S – Infrastructure Design and Provision
- 19.03-2L - Infrastructure Design and Provision
- 19.03-3L - Integrated Water Management

Zone

The land is zoned Low Density Residential Zone.

Overlays

The land is covered by the:

- Bushfire Management Overlay,
- Significant Landscape Overlay - Schedule 3, and
- Heritage Overlay - Schedule 83.

Particular Provisions

52.06 Car Parking

53.02 Bushfire Planning

General Provisions

Clauses 65.01 within the Alpine Planning Scheme provides the general decision guidelines.

Cr Hughes re-entered Council Chambers at 6.33pm.

8.2.7 Amendment to Planning Application P.2019.152.3 - 650 Buffalo River Road, Buffalo River

Application number:	<i>P.2019.152.3</i>
Proposal:	<i>Amendment to planning permit P.2019.152.3 - Amended Plans, Conditions and what the permit allows</i>
Applicant's name:	<i>Mark Kennewell</i>
Owner's name:	<i>Yvonne E Kennewell</i>
Address:	<i>650 Buffalo River Road, Buffalo River VIC 3737 (Lot 1 PS 316685C)</i>
Land size:	<i>3733sqm</i>
Current use and development:	<i>The site is currently developed with shedding.</i>
Site features:	<i>The site is of an irregular shape and relatively flat. The site contains several sheds and is fenced on all sides. There is an existing crossover located near the southern corner of the site.</i>
Why is a permit required?	<i>Section 72 of the Planning and Environment Act 1987</i>
Zoning:	<i>Farming Zone (FZ)</i>
Overlays:	<i>Land Subject to Inundation Overlay (LSIO) Bushfire Management Overlay (BMO)</i>
Restrictive covenants on the title?	<i>None</i>
Date received:	<i>27 April 2022 (amended plans)</i>
Statutory days:	<i>69 days</i>
Planner:	<i>James Trimble</i>

*Cr Forsyth
Cr Kelley*

That a Notice of Decision to grant an amendment be issued for the proposed amendment to planning permit P.2019.152.3 in accordance with the conditions outlined in Appendix 8.2.7.a. and based on the following summarised reasons:

1. The proposal generally meets the relevant provisions of the:

- i. Planning Policy Framework;*
- ii. Farming Zone; and*
- iii. Decision guidelines at Clause 65.01*

Carried

BACKGROUND

Corrected planning permit 2019.152.2 was issued on 20 April 2020 for the development of agricultural sea containers and greenhouses (Building and Works) associated with an Aquaculture (Aquaponics) use on the site.

This application was considered by Council at the 3 March 2020 Ordinary Council Meeting. The development approved as part of P.2019.152.2 incorporates the construction of two sea containers with an awning attached to the northern sea container and one greenhouse to allow for the storage of aquaponics and associated equipment, testing and evaluating aquaponic systems. There is an associated endorsed landscaping plan and waste management plan.

Application P.2021.124 for Use and Buildings and Works for a Dwelling, and Alteration of Access to a Road in a Road Zone - Category 1 was refused at the 1 February 2022 Ordinary Council Meeting. That application is not being considered as part of this Council Report.

PROPOSAL

The current proposal involves an amendment to planning permit P.2019.152.3 by amending the currently endorsed plans, conditions and what the permit allows.

The proposed amendments to the currently endorsed plans include

- i. The addition of three (3) 10,000 litre rainwater tanks sited near the north-western corner of the site, in the current setback area between the shipping containers and the western lot boundary;
- ii. Minor (less than 1 metre) increases in the height/s of the sea containers (buildings and works) on the site to reflect what currently exists on the site; and
- iii. The deletion of the endorsed landscaping plan.

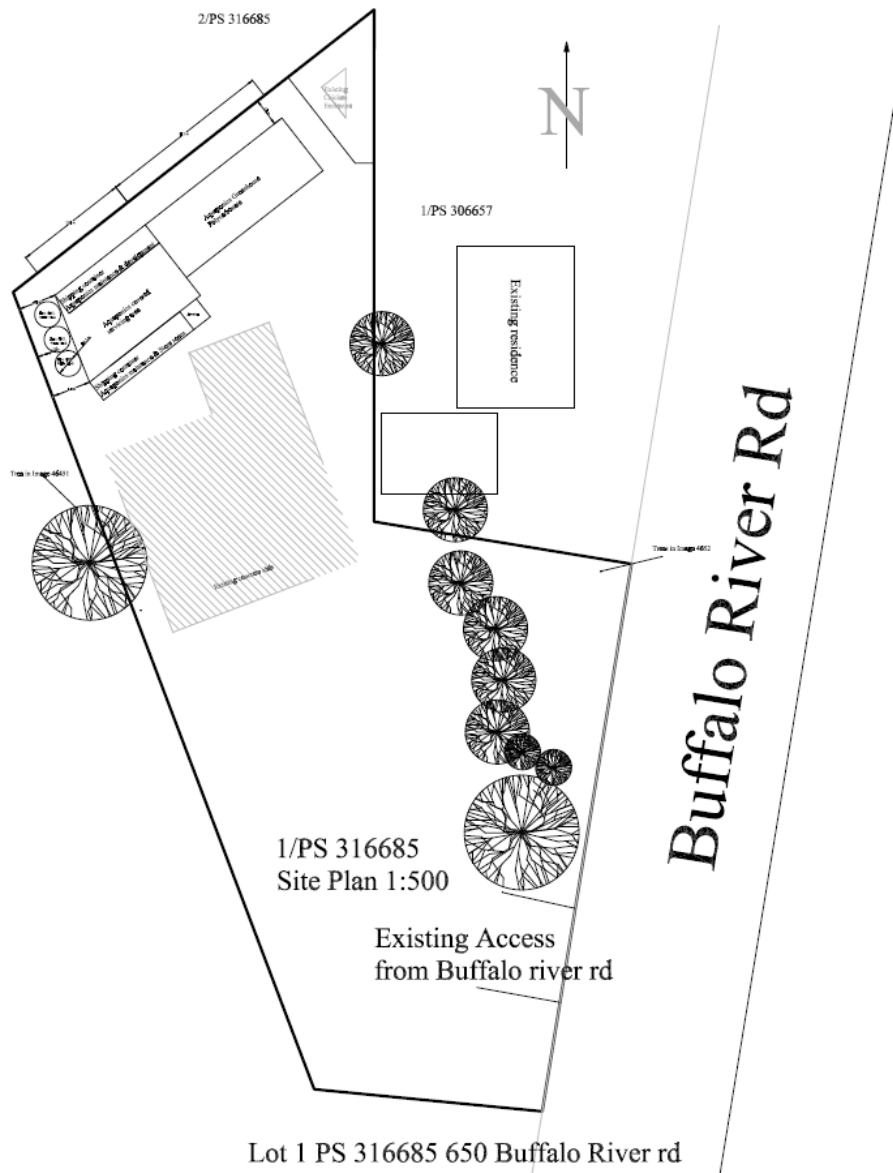


Figure 1: Proposed Site Layout

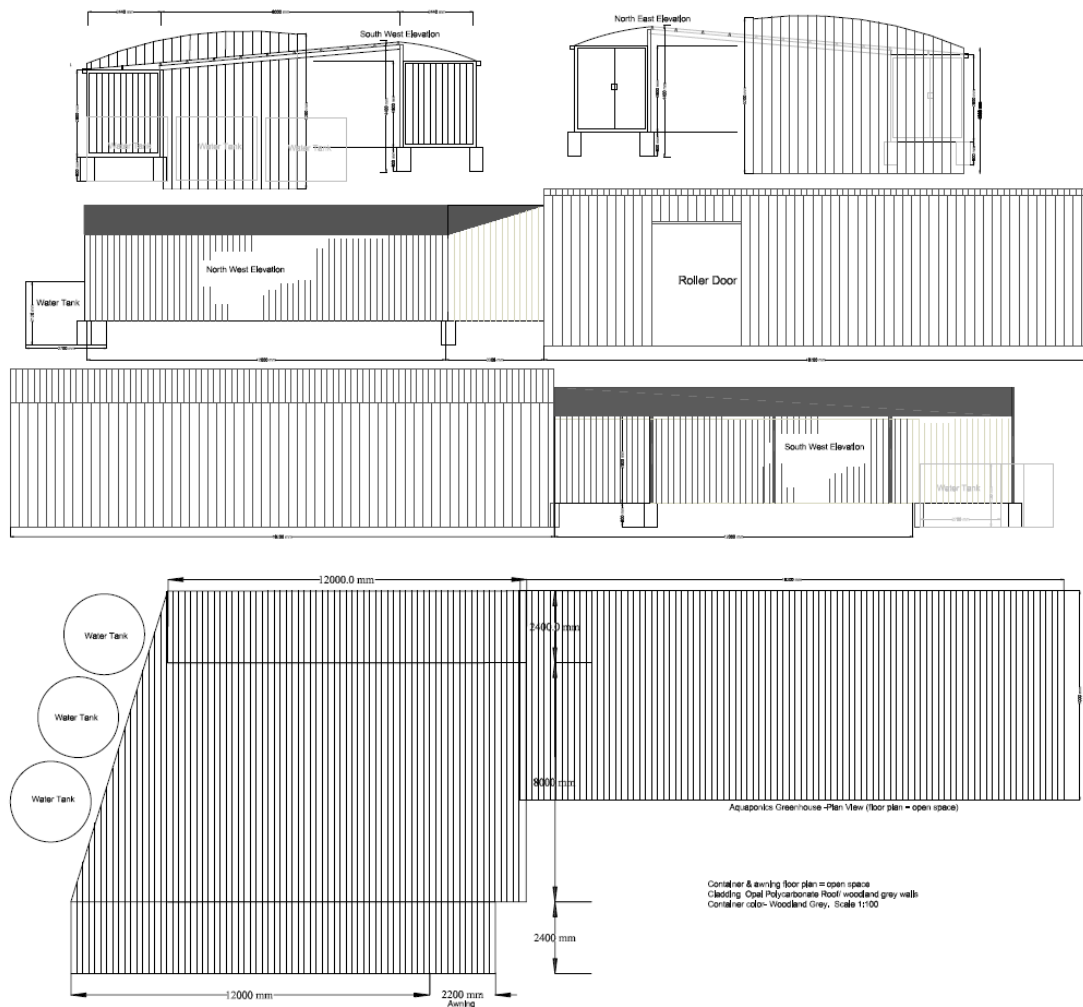


Figure 2: Shows the proposed amended plans

The proposal includes the deletion of the following three (3) conditions from the permit:

Landscape Plan

4. Before the development starts, a landscape plan must be submitted to and approved by the responsible authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and three copies must be provided. The plan must show:

- a. The area(s) set aside for landscaping;
- b. Details of surface finishes of pathways and driveways;
- c. A schedule of all proposed trees, shrubs and ground cover, which will include the location, number, height and spread at maturity of all plants, the botanical names of such plants and the location of all areas to be covered by grass, lawn or other surface material as specified;
- d. Planting required by any other Condition of this permit;

- e. Canopy trees (minimum two metres tall when planted) in the immediate areas surrounding buildings and works, which provides effective screening of the buildings from existing adjoining dwellings to the north and east of the site;*
- f. The means of watering/irrigation proposed to be used.*

Completion of Landscaping

- 5. Before the occupation of the development starts or by such later date as is approved by the responsible authority in writing, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the responsible authority.*

Landscaping Maintenance

- 6. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the responsible authority, including that any dead, diseased or damaged plants are to be replaced.*

What the permit allows is proposed to be amended by adding water storage tanks.

SUBJECT LAND AND SURROUNDS

The site is an irregular shape with the side boundaries measuring 77.65 metres (adjoining 648 Buffalo Rover Road, Buffalo River) and 178.65 metres (adjoining 642 Buffalo River Road, Buffalo River), with the front lot boundary measuring 58.13 metres. The site has an area of 3,733sqm, contains several sheds, fencing on all sides, a concrete pad, a driveway, a crossover and landscaping, and is relatively flat.

The site is surrounded by land of varied lot sizes within the Farming Zone (3,217sqm to 116,267sqm), and to the east of the site on the eastern side of Buffalo River Road the land is zoned Rural Living Zone. Most of the surrounding smaller sites are developed for the purpose of a single dwelling, and larger lots being used for agricultural purposes. The site abuts Buffalo River Road which is zoned Road Zone – Category 1, and is sited approximately 240 metres to the south, and 285 metres to the east of Buffalo River.



Figure 3: Subject land

PUBLIC NOTIFICATION

The application was advertised in accordance with Section 52 of the *Planning and Environment Act 1987*. Notice of the application was sent to surrounding landholders and occupiers. A sign was displayed on the site. Three (3) objections were received and maintained. The matters raised in the objections have been summarised as follows:

1. Environmental impacts of wastewater associated with aquaponics activity
2. The landscape screening in the permit should be required to minimise overlooking
3. Negative stormwater impacts and flooding adjoining properties
4. Tanks are wrong size for amount of water runoff from the existing roofing on the site
5. Tanks are sited in the wrong position to catch water from the roof and should not be sited near any water trust pipes
6. Impact on views
7. It will be an eyesore
8. Overlooking
9. Overshadowing

In response to the objections received the applicant submitted a response which is summarised below:

1. No response
2. Landscape Screening - We have had two (2) specialists visit the property and both believe the plants have been poisoned, additionally some of the subject plants moved to a different area are now thriving. The landscaping requirement in the planning permit has been troublesome due to sprays used along fence lines.
3. No response
4. Tanks are the wrong size - Not based on any factual basis.
5. Tanks are in the wrong place - Not based on any factual basis.
6. No response
7. It will be an eyesore - The amendment is to rectify inconsistencies in the previous applications, no physical changes will be made to the current buildings onsite. Structures onsite are no higher than the one's on adjoining properties. 5 meters is modest and even in a residential setting where 6 metres is common.
8. No response
9. No response

The assessing officer's response is provided as follows:

1. Environmental impacts of wastewater associated with aquaponics activity - The proposed amendment does not introduce any new wastewater producing fixtures and fittings on the site. Referral to Goulburn Murray Water (GMW) - conditional consent provided and Alpine Shire Council Environmental Health Team - no concerns raised.
2. Landscape screening removal - There is no valid planning reason for the current landscaping requirements in the permit to be deleted.
3. Negative stormwater impacts - The proposed amendment is not considered to result in substantial additional stormwater impacts. The permit currently includes the following condition which should be maintained - *All roof water from buildings and surface water from paved areas must be collected and conveyed to a drainage easement or to the legal point of discharge so as not to prevent stormwater nuisance to adjoining properties, to the satisfaction of the responsible authority.* The amendment application was referred to the North East Catchment Management Authority (NECMA) to provide specialist comments on associated flooding impacts and consent was provided.
4. Tanks are sited in the wrong place - As above, and the water trust pipes (if any exist on the site) are not protected by any formal easement or other legal agreement on the site.
5. Tanks are the wrong size - The tanks are not specifically required for stormwater mitigation. The permit currently includes the following condition which should be maintained - *All roof water from buildings and surface water from paved areas must be collected and conveyed to a drainage easement or to the legal point of discharge so as not to prevent stormwater nuisance to adjoining properties, to the satisfaction of the responsible authority.*
6. Impact on views - There are no specific view controls that apply to the site and surrounding sites.

7. It will be an eyesore - Subjective. There are no specific built form or design controls that apply to the site. The amendment is not considered to result in significant additional amenity impacts.
8. Overlooking - The site and surrounding sites are zoned farming. There are no specific overlooking controls that apply. The proposed amendment does not introduce any new habitable rooms or private open space associated with a dwelling on the site.
9. Overshadowing - The site and surrounding sites are zoned farming. There are no specific overshadowing controls that apply. The proposed increase in height is not considered to result in unacceptable amenity impacts on the existing adjoining dwellings.

REFERRALS

Referrals / Notice	Advice / Response / Conditions
Section 55 referrals	NECMA - No objection and no conditions. GMW - No objection, subject to conditions.
Internal referrals:	Alpine Shire Council Environmental Health Team - No concerns

PLANNING ASSESSMENT

All applicable policy and decision guidelines can be found in Appendix 8.2.7.b.

Planning Policy Framework

The following Planning Policy Framework (PPF) gives support to the proposal.

15.01-5S Neighbourhood character as the proposal respects the existing neighbourhood character.

The proposal is considered to be generally in accordance with the relevant PPF as it respects the rural character of the area and encourages diversified sustainable agricultural land use.

Zoning

The subject land is zoned Farming Zone. The proposal is considered to be generally in accordance with the purposes and decision guidelines of the Farming Zone as it provides for the use of land for agriculture.

Land Subject to Inundation Overlay`

The land is covered entirely by the Land Subject to Inundation Overlay. There is a planning permit trigger for the proposal at clause 44.04-2. The application was referred to the NECMA for comment. Consent was provided with no conditions. The application is considered to meet the relevant requirements of the Land Subject to Inundation Overlay.

Bushfire Management Overlay

The land is covered entirely by the Bushfire Management Overlay, however there is no planning permit trigger for the proposed amendments within the Bushfire Management Overlay.

General Provisions

Clause 65.01 of the Alpine Planning Scheme provides the general decision guidelines that must be considered before deciding on an application. A detailed assessment of the proposal against the provisions of Clause 65.01 is contained on the planning file – reference no. P.2019.152.3. The proposal is considered to be generally in accordance with the relevant provisions.

CONCLUSION

That a Notice of Decision to grant an amendment be issued for the proposed amendment to planning permit P.2019.152.3 the following summarised reasons. The proposal generally meets the relevant provisions of the:

1. Planning Policy Framework;
2. Farming Zone; and
3. Decision guidelines at Clause 65.01

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 Corporate Performance
- Senior Planning Officer

APPENDICIES

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

8.2.7.a. Conditions

Amended Plans

1. Before the development starts, amended plans must be submitted to, and approved by, the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must show:
 - a. The accurate dimensions of the width and length of the awning attached to the sea container.
 - b. The removal of the fence surrounding the chicken enclosure.
 - c. The removal of the chicken enclosure.
 - d. The external colour of all sea containers being dark green or a dark and muted colour to reduce the visual impact of the sea containers to the satisfaction of the responsible authority. **(Corrected 20 April 2020)**
 - e. The provision of evergreen screen landscaping around buildings and works, which provides effective screening from existing adjoining dwellings to the north and east of the site to the satisfaction of the responsible authority. **(Condition 1. e. amended 5 July 2022)**
 - f. The plans submitted for the amendment application P.2019.152.3 being in accordance with the currently endorsed plans date stamped 30/07/2020 with the following amendments:
 - i. The maximum height/s of the building and works being increased to those height/s as stated on most recent version of the plans submitted for the P.2019.152.3 amendment application;
 - ii. The inclusion of three (3) 10,000 litre rainwater tanks sited in the north-western corner of the site in the western setback area between the shipping containers and the western lot boundary;
 - iii. The maximum height of the rainwater tanks as referenced above at condition 1. f. ii. being less than the maximum height of the shipping containers above natural ground level. **(Condition 1. f. added 5 July 2022)**

Endorsed Plans

2. The layout of the site and the size of the proposed buildings and works must be generally in accordance with the endorsed plan/s which form part of this permit. The endorsed plan/s must not be altered or modified (whether or not to comply with any statute statutory rule or local law or for any other reason) without the consent of the responsible authority.

External Materials

3. The external materials of the shed including the roof and water tanks must be constructed in materials of muted colours. No materials having a highly reflective surface shall be used. For the purposes of this condition 'highly reflective' surfaces include unpainted aluminium, zinc or similar materials. **(Existing condition 3. amended 5 July 2022)**

Landscape Plan

4. Before the development starts, a landscape plan must be submitted to and approved by the responsible authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and three copies must be provided. The plan must show:
 - a. The area(s) set aside for landscaping;
 - b. Details of surface finishes of pathways and driveways;
 - c. A schedule of all proposed trees, shrubs and ground cover, which will include the location, number, height and spread at maturity of all plants, the botanical names of such plants and the location of all areas to be covered by grass, lawn or other surface material as specified;
 - d. Planting required by any other Condition of this permit;
 - e. Canopy trees (minimum two metres tall when planted) in the immediate areas surrounding buildings and works, which provides effective screening of the buildings from existing adjoining dwellings to the north and east of the site;
 - f. The means of watering/irrigation proposed to be used.

Completion of Landscaping

5. Before the occupation of the development starts or by such later date as is approved by the responsible authority in writing, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the responsible authority.

Landscaping Maintenance

6. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the responsible authority, including that any dead, diseased or damaged plants are to be replaced.

External Lighting

7. Any external lighting shall be installed and maintained so as to avoid distracting passing motorists or causing nuisance to neighbouring properties, to the satisfaction of the responsible authority.

Waste Management Plan

8. Prior to the commencement of the use of the buildings hereby permitted a Waste Management Plan shall be submitted for the approval of the Responsible Authority. The Plan shall detail the management of all wastes, including dead stock, generated by the use to the satisfaction of the Responsible Authority. The Plan must include, but not necessarily be limited to:
 - a. The designation of storage areas for all wastes.
 - b. Methods and frequency of collection and transportation of all waste products.
 - c. Methods to prevent vermin and fly infestation.
 - d. Collection and disposal of dead stock.

- e. Contingency plans for the storage and disposal of stock in the event of mass mortalities.
- 9. The storage, removal and disposal of garbage, stock and refuse must be undertaken in accordance with the Waste Management Plan referred to in this permit and in such a manner as to avoid any nuisance, pollution or loss of amenity to the surrounding area, to the satisfaction of the Responsible Authority.

Waste Storage Area Screening

- 10 Waste storage area(s) must be graded, drained and screened from public view to the satisfaction of the responsible authority.

Wastewater

- 11 Effluent must not drain directly or indirectly into any adjoining property, street or any watercourse or drain, to the satisfaction of the Responsible Authority.

Exposed Storage

- 12. No goods shall be stored or left exposed outside the buildings so as to be visible from any public road or thoroughfare.

Vehicle Access

- 13. Access to the site must be made to the satisfaction of Vic Roads and the Responsible Authority.

Loading and Unloading

- 14. The loading and unloading of goods must only be carried out on the land.

Stormwater

- 15. All roof water from buildings and surface water from paved areas must be collected and conveyed to a drainage easement or to the legal point of discharge so as not to prevent stormwater nuisance to adjoining properties, to the satisfaction of the responsible authority.

Use

- 16. The buildings and works authorized by the permit must not be used for human habitation and must not contain any wastewater producing fixtures.

External Fixtures and Fittings

- 17. All external fixtures and fittings including but not limited air conditioners and water pumps, which generate noise must be sited as far away from existing surroundings dwellings as reasonably practical, to the satisfaction of the responsible authority, or alternatively external fixtures and fittings must be acoustically treated or placed in soundproof housing to reduce noise to a level satisfactory to the responsible authority.

Plant/Equipment or Features on Roof

18. No plant, equipment, services or architectural features other than those shown on the endorsed plans are permitted above the roof level of the building(s) without the written consent of the responsible authority.

Security Alarms

19. All security alarms or similar devices installed on the land must be of a silent type in accordance with any current standard published by Standards Australia International Limited and be connected to a security service.

ENVIRONMENTAL HEALTH CONDITIONS

20. The development of the site must not compromise the existing septic tank system and disposal area.

NORTH EAST CATCHMENT MANAGEMENT AUTHORITY (NECMA) CONDITIONS

21. The shipping containers shall be erected on columns or piers to achieve a minimum finished floor level of RL 215.2 m AHD. For the purposes of these works a finished floor level a minimum 800 mm above the existing surface level will be deemed to comply with this condition.
22. The area beneath the shipping containers shall have the minimum of obstructions to flows, i.e. only bracing, steps and necessary building parts shall be permitted below floor level. The area beneath the structure shall not be subsequently enclosed in any way.
23. The foundations and support system for the shipping containers must be designed to withstand lateral loading from floodwaters, inclusive of potential hydrostatic, hydrodynamic and debris loads, allowing for design velocity 0.5 m/s and prevent dislodgment by floodwater.
24. No fill shall be placed on or allowed to spill to land with an existing surface level below RL 214.9m AHD.
25. Any chemicals, oil, fuel, grease, waste or other potential pollutants must be stored above RL 215.2 m AHD. Adequate storage areas and shelving must be provided for this purpose.
26. If electrical power is to be provided to the proposed greenhouse and shipping containers, all electrical wiring, power outlets, switches, etc. must, to the maximum extent possible, be located above RL 215.2 AHD. Any electrical below this level must be suitable for continuous submergence in water.

GOULBURN MURRAY WATER (GMW) CONDITIONS

27. All construction and ongoing activities must be in accordance with sediment control principles outlined in 'Construction Techniques for Sediment Pollution Control' (EPA, 1991).
28. No buildings are to be constructed within 30 metres of any waterways or on any drainage lines.

EXPIRY CONDITIONS

Time for starting and completion

29. This permit will expire if one of the following circumstances applies:

- a. If the development is not started within two years of the date of this permit.
- b. If the development is not completed within four years of the date of this permit.

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

End of Conditions

PLANNING NOTES:

1. There is a planning permit trigger for the chicken enclosure and fence if it involves more than post and wire and post and rail fencing.
2. This permit does not authorise approval under the Building Act. It is the responsibility of the applicant to determine if a building permit is required for the proposed buildings and works.
3. The Fisheries Division issues licences that permit the holder to use aquaculture equipment to culture fish as defined in the *Fisheries Act 1995*.
4. All sewage and sullage and polluted drainage must be treated in accordance with the requirements of the *Environment Protection Act 1970* and the *Health Act 1958*.
5. In Victoria any person or company that wishes to conduct aquaculture activity is required to hold an aquaculture licence issued under section 43 of the Fisheries Act 1995 (the Act). The holder of an aquaculture licence is bound by the conditions prescribed by the *Act and the Fisheries Regulations 1998* and conditions prescribed in the licence. Conditions of an aquaculture licence may vary depending on the type of activity being conducted, the species being farmed or any other reason that the Secretary considers appropriate. For licensing enquiries and application forms contact Commercial Licensing at (03) 8392 6861.
6. The placement of additional fill, permanent rainwater tanks, and/or an additional permanent water holding tank not sited within the greenhouse or sea containers on the site requires additional planning permit approval from the responsible authority.
7. Unless no permit is required under the planning scheme, no sign must be constructed or displayed without a further permit.
8. In regard to condition 1. f. the existing endorsed plans date stamped 30/7/2020 should be amended rather than the preparation of entirely new plans. **(Note added 5 July 2022).**

Date of Change	Description
20 April 2020	Due to a clerical error, condition 1(d) was corrected in accordance with Section 71 of the <i>Planning and Environment 1987</i> .

Date of Change	Description
5 July 2022	This permit has been amended pursuant to Section 72 of the <i>Planning and Environment Act 1987</i> . The currently endorsed plans have been amended with the following, addition of three (3) rainwater storage tanks sited near the north-western corner of the site, minor (less than 1 metre) increase in the heights of the buildings and works on the site, what the permit allows has been amended to include rainwater tanks and the conditions of the permit have been amended accordingly.

8.2.7.b. POLICY AND DECISION GUIDELINES

All of the below mentioned relevant planning considerations from the Alpine Planning Scheme may be viewed at the following link: <https://planning-schemes.delwp.vic.gov.au/schemes/alpine>.

Planning Policy Framework

The Planning Policy Framework (PPF) provides relevant direction to the proposal at the following clauses:

- 13.01-1S Natural hazards and climate change
- 13.03-1S Floodplain management
- 14.01-1S Protection of agricultural land
- 14.01-1L Protection of agricultural land
- 14.01-2S Sustainable agricultural land use
- 14.01-2L Sustainable agricultural land use
- 14.02-1S Catchment planning and management
- 14.02-1L Catchment planning and management
- 15.01-2S Building design
- 15.01-5S Neighbourhood character
- 15.01-6S Design for rural areas

Zone

The land is zoned Farming Zone.

Overlays

The land is covered entirely by the Land Subject to Inundation Overlay and Bushfire Management Overlay.

Particular Provisions

None

General Provisions

Clauses 65.01 within the Alpine Planning Scheme provides the general decision guidelines.

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.

Cr Hughes

Cr Forsyth

That the summary of informal meetings of Councillors for May / June 2022 be received.

Carried

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
31 May	Briefing Session
7 June	Briefing Session
14 June	Planning - Development Meeting
21 June	Briefing Session

Attachment(s)

- 9.0 Informal meetings of Councillors – May / June 2022

10. Presentation of reports by delegates

Refer to Alpine Shire Council's website www.alpineshire.vic.gov.au; for its YouTube live-streaming recording for responses to presentation of reports by delegates.

11. General business

Refer to Alpine Shire Council's website www.alpineshire.vic.gov.au; for its YouTube live-streaming recording for responses to general business.

12. Motions for which notice has previously been given

Nil

13. Reception and reading of petitions

Nil

14. Documents for sealing

*Cr Forsyth
Cr Prime*

That the following documents be signed and sealed.

- 1. S11A – Instrument of Appointment and Authorisation – Planning & Environment Act 1987 – Senior Statutory Planning Officer.*
- 2. S11A – Instrument of Appointment and Authorisation – Planning & Environment Act 1987 – Acting Manager Planning and Amenity.*
- 3. Section 173 Agreement – Lindsay David Smith and Lee Mary Smith. The Section 173 Agreement relates to Planning Permit 2019.78 for Three (3) Lot Subdivision in Two Stages, and the Creation/Alteration of Access to a Road in a Road Zone Category 1 at 35 Linlee Ridge Road, Buffalo River (Lot 12 on Plan of Subdivision 421408). Volume 10532 Folio 405. The agreement has specific wording and must explicitly exclude proposed lot 3 from any exemptions allowing the construction of a dwelling without a planning permit.*
- 4. Alpine Shire Council Risk Management Policy No.54, version 5*
- 5. Landowner Agreement VC_CFL-3752_01 between The Secretary to the Department of Environment, Land, Water and Planning and Alpine Shire Council*

Carried

15. Confidential Report

*Cr Forsyth
Cr Hughes*

That, in accordance with the provisions of s66(2)(a) of the Local Government Act 2020, the meeting be closed to the public for consideration of a confidential report deemed as confidential information as defined by s3 of the Local Government Act 2020, as they deal with Council business information, being information that would prejudice the Council's position in commercial negotiations if prematurely released.

Carried

The Ordinary Council Meeting closed at 7:01pm to hear an in-camera item and reopened to the public at 7:04pm.

There being no further business the Chairperson declared the meeting closed at 7:05p.m.

.....
Chairperson