

M(8) – 29 AUGUST 2023

Ordinary Council Meeting

Agenda

Notice is hereby given that the next **Ordinary Meeting** of the **Alpine Shire Council** will be held in the Council Chambers, Great Alpine Road, Bright on **29 August 2023** commencing at **5:00pm**.

Agenda

1.	Recording and livestreaming of Council meetings.....	3
2.	Acknowledgement of traditional custodians, and recognition of all people.....	3
3.	Confirmation of minutes	3
3.1	Ordinary Council Meeting – M(7) – 25 July 2023	3
4.	Apologies.....	3
5.	Obituaries / congratulations.....	3
6.	Declarations by Councillors of conflict of interest.....	4
7.	Public questions	4
8.	Mayors Report	5
8.1.1	Chief Executive Officer - Employment and Remuneration.....	5
9.	Presentation of reports by officers	8
9.1	Chief Executive Officer - Will Jeremy.....	8
9.1.1	Tawonga South Land Purchase.....	8
9.2	Director Assets – Alan Rees.....	12
9.2.1	Toms Road, Tawonga - Road Deviation and Land Exchange	12
9.3	Director Customer and Community – Helen Havercroft.....	17
9.3.1	Audit and Risk Committee Meeting Minutes and Recommendations.....	17
9.3.2	Instruments of Appointment and Authorisation - <i>Planning and Environment Act 1987</i>	20
9.3.3	Granting of 'Freedom of Entry' to the Alpine Shire	23
9.3.4	Community Satisfaction Survey 2023	26
9.3.5	Appointment of Audit and Risk Committee representative	30
9.3.6	Planning Application P.2023.031 - 63 Elgin Street, Myrtleford	32
9.3.7	Planning Application P.2021.195 - 228-230 Kiewa Valley Highway, Tawonga South	63
10.	Informal meetings of Councillors.....	103
11.	Presentation of reports by delegates	104
12.	General business	104
13.	Motions for which notice has previously been given	104

14. Reception and reading of petitions104

15. Documents for sealing105

1. Recording and livestreaming of Council meetings

The CEO will read the following statement:

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

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

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

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

The full meeting is 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

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

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

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

3. Confirmation of minutes

3.1 ORDINARY COUNCIL MEETING – M(7) – 25 JULY 2023

RECOMMENDATION

That the minutes of Ordinary Council Meeting M(7) held on 25 July 2023 as circulated be confirmed.

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

7. Public questions

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

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

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

8. Mayors Report

8.1.1 Chief Executive Officer - Employment and Remuneration

INTRODUCTION

This report relates to the findings of the CEO Employment and Remuneration Committee annual review in relation to CEO remuneration.

RECOMMENDATIONS

That:

- 1. The Chief Executive Officer be offered a 2.5% increase to his base salary; and*
- 2. The payment takes effect from 1 July 2023.*

BACKGROUND

The CEO Employment and Remuneration Committee (Committee) comprises of an independent chair and at least three councillors, one of whom must be the Mayor.

The Committee reviews the performance of the CEO against a set of formulated Key Performance Indicators (KPIs) on a quarterly basis. The Remuneration Package provided to the CEO forms part of the Committee's annual review in accordance with section (3) of the Act.

There is no clear formula or agreed sector-wide approach to establishing CEO salaries and annual increases to guide the Committee. In the development of the recommendations regarding the CEO remuneration, the following factors have been taken into consideration:

- CEO's performance
- CEO salaries for similar sized councils
- 2023-24 Rate Cap set by the Victorian Government at 3.5%.
- The 1 July 2023 Determination of the Victorian Independent Remuneration Tribunal to apply a 4% increase to the notional salary component of the remuneration bands for executives employed in public service bodies.

Council at its Ordinary Council Meeting held in June 2023 noted the assessment of the CEO's performance against KPIs documented in the CEO Annual Performance Plan 2022-2023 and adopted the CEO Annual Performance Plan 2023-2024.

The Committee endorses the proposed variation to the CEO's Remuneration Package and presents this recommendation to Council for consideration.

ISSUES

Nil

POLICY IMPLICATIONS

Employment of the Chief Executive Officer is governed by Part 3, Division 7 of the *Local Government Act 2020*, and further by Council's CEO Employment and Remuneration Policy.

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

- 5.3 Bold leadership, strong partnerships and effective advocacy

FINANCIAL AND RESOURCE IMPLICATIONS

The Remuneration Package provided to the CEO is in accordance with Section 45(3) of the Act.

RISK MANAGEMENT

Risk	Likelihood	Impact	Mitigation Action / Control
Poor performance by the CEO in delivering for Council in accordance with Section 46 of the Local Government Act.	Unlikely	Major	<ul style="list-style-type: none"> • Adoption of the CEO Employment and Remuneration Policy • Establishment of an Annual Performance Plan and periodic assessment and reporting against this Plan.

CONSULTATION

The CEO Employment and Remuneration Committee is responsible for ensuring that the CEO Annual Performance Plan and KPIs are in place in accordance with the CEO Employment and Remuneration Policy.

The CEO Employment and Remuneration Committee submits an Annual Review Report in June each year and makes recommendations for any variation to the CEO's Remuneration Package at that time.

CONCLUSION

That Council considers the recommendations of the Committee to increase the CEO's Remuneration Package in accordance with Council's CEO Employment and Remuneration 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.

- Mayor
- EA to CEO

ATTACHMENT

8.1.1 CEO Annual Performance Plan 2023/24

9. Presentation of reports by officers

9.1 CHIEF EXECUTIVE OFFICER - WILL JEREMY

9.1.1 Tawonga South Land Purchase

INTRODUCTION

This report relates to the purchase of land fronting the Kiewa Valley Highway in Tawonga South.

RECOMMENDATIONS

That Council:

- 1. Delegates to the CEO the authority to commit, subject to Contract, to the purchase of approximately 1,175m² of land comprising part of 244-252 Kiewa Valley Highway, Tawonga South, at a per square metre rate of \$336.20/m² exclusive of GST, Stamp Duty, conveyancing costs and statutory charges relating to the subdivision process, and inclusive of any further contribution from Council towards the costs associated with the subdivision of the land;***
- 2. Commits in developing the subject land to maintaining carriageway access to the rear of the remaining land comprising 244-252 Kiewa Valley Highway generally in accordance with the attached 'Tawonga South Amenities - preliminary concept plan'; and***
- 3. Authorises the Chief Executive Officer to sign the Contract of Sale.***

BACKGROUND

The local community has been calling for the provision of public toilets, increased parking and a picnic area within the town's main business area for a number of years.

Council received a petition containing 837 signatures in February 2018 and agreed to investigate options to develop new public toilets in Tawonga South, acknowledging there were limited options for council owned or managed land available. Since then, Council has explored a number of alternatives but not managed to secure a viable option.

The owners of 244-252 Kiewa Valley Highway, Tawonga South, approached Council in late 2021 to establish Council's interest in acquiring some of their land in order to establish amenities and associated infrastructure.

Council Officers engaged a landscape architect to establish a preliminary concept plan, taking into consideration the site constraints (easements, tree protection zones, electrical substation infrastructure). The purpose of the preliminary concept plan was to establish with confidence the land required in order to deliver the desired municipal infrastructure. The design is not finalised at this point, and if the purchase proceed successfully to completion then further work would be needed to firm up the final design to be delivered, including engagement with interested stakeholders.

1,175m² of the total parcel area of 8,749m² is proposed under this preliminary concept plan for development, including the establishment of public amenities, parking and a shared trail connection to the West Kiewa River. Of this 1,175m², approximately 19m² is encumbered by an electricity substation and unusable for development, and approximately 180m² is encumbered by an implied easement as a result of existing Council underground stormwater infrastructure. Approximately 976m² is unencumbered land. The subject site has frontage onto the Kiewa Valley Highway of approximately 29m.

The preliminary concept plan was used as the basis for securing an independent valuation of the site on behalf of Council. The preliminary concept plan was also used as the basis for estimating development costs for the site.

Negotiations between Council and the landowners have progressed over the ensuing months with both parties conceding ground from their initial negotiating position. The final offer from the landowners is as described in the recommendations to this report for consideration by Council.

ISSUES

In the event that this purchase/sale does not proceed, it appears likely that the land will be developed which will preclude any future opportunity for Council to acquire this land into the foreseeable future. The options remaining open to Council to establish public amenities in Tawonga South are then:

1. Establish public amenities within the road reserve, subject to consent from Regional Roads Victoria. The cost of doing so has been estimated in the region of \$350,000.
2. Await a future opportunity to purchase land for development in Tawonga South.
3. Establish amenities outside the immediate CBD of Tawonga South, for example on the corner of Kiewa Valley Highway and Embankment Drive (Jack Herberle Park) or through providing 24/7 access to amenities through the Visitor Information Centre.
4. Exploring purchase of land currently used for farming and located adjacent to the Crank Handle Brewery.

POLICY IMPLICATIONS

The following approval is being sought through the recommendations in this report:

- Exemption from the requirement under Council's Procurement Policy to publish an Invitation to Tender on Council's website which is open to a response from any supplier; and
- Authority to commit to expenditure which is greater than the financial delegation to the CEO under 'S5 Instrument of Delegation to CEO', being \$200,000 Ex GST.

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

- 4.5 Assets for our current and future needs

FINANCIAL AND RESOURCE IMPLICATIONS

Purchase of land in Tawonga South is unbudgeted in 2023/24 financial year. Based on Council's Financial Plan, Council has the financial capacity to commit to this individual purchase at the recommended price of \$336.20/m² Ex GST (equating to approximately \$395,000 based on the estimated land area of 1,175m²) without impacting significantly on its working capital ratio. This price does not include stamp duty, legal costs associated with the purchase or statutory fees associated with the subdivision of the land; however this price is inclusive of Council's contribution towards any further costs associated with the subdivision process required to create a separately titled parcel of land.

The estimated cost for fully developing this land as per the proposed Concept Plan is \$540,000, which includes public amenities, car parking, a 2.5m wide shared trail connection to the river, and associated landscaping. The development of the site could be staged, and there is the potential to secure external funding to contribute towards the cost of this development.

Annual maintenance costs have not been estimated.

RISK MANAGEMENT

Detail the key risks of the matter being addressed by the report and mitigation action / control.

Risk	Likelihood	Impact	Mitigation Action / Control
Council achieves poor value for money in securing purchase of the land.	Possible	Minor	<ul style="list-style-type: none"> Independent valuation. A purchase price which is inclusive of subdivision costs for Council mitigates the uncertainty in the cost of delivering the subdivision. Historic trend in land prices is not guaranteed to continue, however growth in land prices over time would mitigate the risk of overpaying.

CONSULTATION

Council received a petition containing 837 signatures in February 2018, and agreed to investigate options to develop new public toilets in Tawonga South, acknowledging

there were limited options for council owned or managed land available. Since then, Council has explored a number of alternatives but not managed to secure a viable option. The community has continued to advocate for the provision of amenities in Tawonga South throughout the intervening period.

CONCLUSION

There is demonstrated strong community support for Council to address the lack of public amenities in Tawonga South. There are very limited options available to address this gap, and none of the options explored to date has been viable. Council is currently presented with an opportunity to purchase a strategic parcel of land which is well situated within the CBD of Tawonga South. Due diligence has been carried out on the proposal, including an independent valuation of the site.

Considering the strategic value of this land given its location within the CBD of Tawonga South, Council is recommended to delegate to the CEO the authority to commit to the purchase of the land in accordance with the recommendations 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.

- Chief Executive Officer

ATTACHMENT(S)

9.1.1 Tawonga South Amenities - preliminary concept plan

9.2 DIRECTOR ASSETS – ALAN REES

9.2.1 Toms Road, Tawonga - Road Deviation and Land Exchange

INTRODUCTION

This report relates to the deviation of parts of a government road known as Toms Road, Tawonga and a land exchange with the respective adjoining owners.

RECOMMENDATIONS

That Council:

- 1. In accordance with its Governance Rules rescinds the resolution from the April 2022 Council Meeting item 9.2.4 recommendation 1 parts (a) to (f) and recommendation 2 parts (a) to (b).***

Northern section of Toms Road, Tawonga

- 2. Notes that it has entered into an agreement with the adjoining landowners to document the 'in principle' agreement between Council and the adjoining owners regarding the:***
 - a. proposed road deviation of part of Toms Road, Tawonga (North Road), which comprises the following:***
 - i. the part of the North Road shown hatched on the plan contained in Attachment 9.2.1.a. to this report (Unused North Road), which will be discontinued and vest in Council; and***
 - ii. the part of the North Road shown cross-hatched on the plan contained in Attachment 9.2.1.a. (New North Road), which will be designated as a 'road' pursuant to the Local Government Act 1989 (LGA1989) and vested in Council,***
(together, the North Road Deviation); and
 - b. the proposed subdivision and land exchange of the Unused North Road, New North Road and the adjoining owners' titles, which will result in:***
 - i. the land comprising the Unused North Road being registered in the name of the adjoining owners; and***
 - ii. the title to the New North Road (currently registered in the name of the adjoining owners) being registered in the name of Council,***
subject to Council carrying out the necessary statutory processes required by Council to proceed with the proposed road deviation and land exchange.
- 3. Commences the statutory procedures to carry out the road deviation referred to at paragraph 2(a) pursuant to clause 2 of Schedule 2 of Schedule 10 and sections 206, 207 and 223 of the Local Government Act 1989 (LGA1989).***

- 4. Commences the statutory procedures to carry out the land exchange referred to at paragraph 2(b) pursuant to section 114 of the Local Government Act 2020 (LGA2020), such land exchange being subject to the completion of the road deviation referred to in paragraph 2(a).**
- 5. Authorises the Chief Executive Officer to:**
 - a. give public notice of the proposed road deviation and land exchange, pursuant to sections 207A and 223 of the LGA1989, and section 114 of the LGA2020; and**
 - b. undertake the administrative procedures necessary to enable Council to carry out its functions under section 223 of the LGA1989 and section 114 of the LGA2020 in relation to this matter.**
- 6. Considers any public submissions received in respect of the proposed road deviation and land exchange at a future Council meeting with a date and time to be determined, pursuant to section 223 of the LGA1989 and section 114 of the LGA2020, and receive a further report following the completion of the procedures required under clause 2 of Schedule 10 and sections 207A and 223 of the LGA1989 and section 114 of the LGA2020, prior to making a final decision on whether to proceed with the proposed road deviation and land exchange.**

Southern section of Toms Road, Tawonga

- 7. Notes that it has entered into an agreement with the adjoining landowners to document the 'in principle' agreement between Council and the adjoining owners regarding:**
 - a. proposed road deviation of part of Toms Road, Tawonga (South Road), which comprises the following:**
 - i. the part of the South Road shown hatched on the plan contained in Attachment 9.1.2.b to this report (Unused South Road), which will be discontinued and vest in Council; and**
 - ii. the part of the South Road shown cross-hatched on the plan contained in Attachment 9.1.2.b (New South Road) which will be designated as a 'road' pursuant to the Local Government Act 1989 (LGA1989) and vested in Council,**
(together, the South Road Deviation); and
 - b. the proposed subdivision and land exchange of the Unused South Road, New South Road and the Adjoining owners' titles which will result in:**
 - i. the land comprising the Unused South Road being registered in the name of the adjoining owners; and**
 - ii. the title to the New South Road (currently registered in the name of the adjoining owners) being registered in the name of Council,**

- subject to Council carrying out the necessary statutory processes required by Council to proceed with the proposed road deviation and land exchange.*
- 8. Commences the statutory procedures to carry out the road deviation referred to at paragraph 7(a) pursuant to clause 2 of Schedule 2 of Schedule 10 and sections 206, 207 and 223 of the LGA1989.**
 - 9. Commence the statutory procedures to carry out the land exchange referred to at paragraph 7(b) pursuant to section 114 of the LGA 2020, such land exchange being subject to the completion of the road deviation referred to in paragraph 7(a).**
 - 10. Authorises the Chief Executive Officer to:**
 - a. give public notice of the proposed road deviation and land exchange, pursuant to sections 207A and 223 of the LGA1989, and section 114 of the LGA2020; and**
 - b. undertake the administrative procedures necessary to enable Council to carry out its functions under section 223 of the LGA1989 and section 114 of the LGA2020 in relation to this matter.**
 - 11. Considers any public submissions received in respect of the proposed road deviation and land exchange at a future Council meeting with a date and time to be determined, pursuant to section 223 of the LGA1989 and section 114 of the LGA2020, and receive a further report following the completion of the procedures required under clause 2 of Schedule 10 and sections 207A and 223 of the LGA1989 and section 114 of the LGA2020, prior to making a final decision on whether to proceed with the proposed road deviation and land exchange.**

BACKGROUND

Toms Road, Tawonga South, is 1.6km in length and maintained by Alpine Shire Council.

A contract for the upgrade of Toms Road was awarded at the February 2022 Council meeting. During the scoping phase of the project, it was identified that the formed road was not located entirely in the road reserve and that private infrastructure had been constructed on the road reserve following previous Council approval.

Survey work has been undertaken to establish title boundaries and determine land areas impacted and subject to the road discontinuance and land exchange.

At the April 2022 Council Meeting, Council resolved to commence a statutory process to carry out a road deviation and exchange of land in respect of the Roads.

Subsequently, Council Officers have established that the resolution does not accurately refer to Council's road deviation powers under the *Local Government Act 1989* (LGA 1989). Specifically, it refers to the incorrect provisions of the LGA 1989 in respect of Council's road deviation powers (being clause 2 of Schedule 10 to the LGA 1989, rather than clause 3).

On this basis, it is recommended that Council rescinds the resolution from the April 2022 Council Meeting and considers the revised recommendations as outlined in this report to commence a statutory procedure to deviate the road which refers to the correct provisions of the Act.

Whilst the error which was made in April 2022 appears administrative in nature, it is important for the road deviation process be followed very precisely according to the *Local Government Act 1989* in order to achieve an outcome which can be upheld under law.

ISSUES

None to report.

POLICY IMPLICATIONS

Council must ensure that it is complying with the relevant sections of the *Local Government Act 1989* and the *Local Government Act 2020* when undertaking road discontinuance, road deviation, and land exchange.

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

The administrative costs incurred to implement the discontinuation of the road and carry out a road deviation and land exchange will be covered from operational budgets.

RISK MANAGEMENT

None to report.

CONSULTATION

The Road Deviation and Land Exchanges will be placed on public exhibition for no less than 28 days.

Public submissions may be received during this exhibition period. Any person wishing to be heard in support of their submission may request to do so, in which case a committee of Councillors will be formed to hear these submissions.

All written submissions will be considered by Council.

CONCLUSION

It is recommended that the required deviation of the road and land exchanges are carried through to completion as outlined in the recommendations to this report to ensure the existing road alignment is within the road reserve in its entirety.

DECLARATION OF CONFLICT OF INTEREST

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

- Director Assets
- Manager Engineering and Assets
- Project Officer

ATTACHMENT(S)

9.1.2.a Plan – North Road.

9.1.2.b Plan – South Road

9.3 DIRECTOR CUSTOMER AND COMMUNITY – HELEN HAVERCROFT

9.3.1 Audit and Risk Committee Meeting Minutes and Recommendations

INTRODUCTION

The purpose of the report is to present the minutes of the Audit and Risk Committee meeting No.2023/24-01 held on 21 July 2023.

The key items presented to and considered by the Audit and Risk Committee (Committee) at this meeting related to the Victorian Auditor-General's Office (VAGO) Interim Management Letter, Year Ending 30 June 2023.

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

RECOMMENDATION

That Council receives and notes the unconfirmed minutes of the Audit and Risk Committee meeting No.2023/24-01 held on Friday 21 July 2023.

REPORT

VAGO Audit Strategy Memorandum and Interim Management Letter, Year Ending 30 June 2022

Auditors, Mahesh Silva, Partner, and Blessing Muncan, Senior Manager Chartered Accountant, RSD Audit, attended the meeting via video conference to discuss the VAGO Audit Strategy Memorandum and Interim Management Letter, Year Ending 30 June 2023.

The audit approach is to:

- assess risks - identify material transactions, balances, disclosures, and significant events and assess risks of material misstatements and controls in place to mitigate.
- respond to risks - execute procedures to obtain audit evidence including testing key manual and application controls.
- report - provide observations and recommendations for improvement to internal controls and other key deficiencies identified.

The key risks and areas of audit focus for 2022/23 are:

1. Valuation of property, infrastructure, plant, and equipment
2. Impact of COVID-19 pandemic on Council's financial report
3. Accounting for government grants
4. Reliance on IT systems and third- party service providers
5. Landfill rehabilitation provisions
6. Changes in personnel
7. Flood impact

The objective of the audit is for the Auditor-General to express an opinion on the financial report. Although the audit considers internal controls relevant to preparing the financial report, this is done in order to design audit procedures that are appropriate in the circumstances and not for the purpose of expressing an opinion on the effectiveness of those controls.

The Interim Management Letter provides a detailed overview of the matters raised by the auditors. There were no new findings during the audit, and it was noted that Council is continuing to make progress on resolving prior audit findings.

The Committee noted the VAGO Interim Management Letter year ending 30 June 2022 and Council's plan for addressing the findings.

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

Independent Audit and Risk Committee members receive a set fee for each meeting attended in accordance with the Audit and Risk Committee Charter and as set by Council in its annual budget. The fee is indexed annually by CPI All Groups Melbourne June Quarter to June Quarter.

RISK MANAGEMENT

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

CONCLUSION

The Audit and Risk Committee, being satisfied with the detail provided in its agenda and the officer reports, submits the unconfirmed minutes of its meeting No.2023/24-01 held on 21 July 2023 to Council for noting.

DECLARATION OF CONFLICT OF INTEREST

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

- Director Customer and Community

ATTACHMENT(S)

- 9.3.1 Minutes (unconfirmed) of Audit and Risk Committee Meeting No.2023/24-01,
21 July 2023

9.3.2 Instruments of Appointment and Authorisation - *Planning and Environment Act 1987*

File Number: Delegations register

INTRODUCTION

This report provides for a newly appointed position in Council's Planning department.

RECOMMENDATIONS

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

- 1. The following members of Council staff referred to in attachment 9.3.2a, 9.3.2b, 9.3.2c and 9.3.2d - "S11A – Instrument of Appointment and Authorisation – Planning & Environment Act 1987" (the instruments) be appointed and authorised as set out in the instruments;***
 - a. Planning Officer***
 - b. Engineering Coordinator***
 - c. Civil Development Engineer (1)***
 - d. Civil Development Engineer (2)***
- 2. The instruments comes into force immediately the common seal of Council is affixed to the instruments;***
- 3. The instruments be signed and sealed at the appropriate stage of this meeting.***
- 4. On the coming into force of the instruments, the previous "S11A – Instrument of Appointment and Authorisation – Planning and Environment Act 1987" for the following member of Council staff, as dated, be revoked;***
 - a. Compliance Coordinator, dated 26 April 2023***

BACKGROUND

Council staff involved in planning roles require current and accurate authorisations to fulfil their duties. Council has appointed a short-term Planning Officer who requires an Instrument of Appointment and Authorisation under the *Planning and Environment Act 1987* (the Act). A new Engineering Coordinator, and two Civil Development Engineers are also being authorised under the Act. The Instrument for the Compliance Coordinator (dated 26 April 2023) is being revoked as the officer no longer works for Council.

ISSUES

Authorised Officers

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.

Planning and Environment Act 1987

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.

POLICY IMPLICATIONS

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

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

- 5.2 A responsible, transparent and responsive organisation

FINANCIAL AND RESOURCE IMPLICATIONS

Council has an annual subscription to the Maddocks delegation and authorisation service that is provided for in Council's annual budget.

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

RISK MANAGEMENT

Risk	Likelihood	Impact	Mitigation Action / Control
Decisions are taken without the proper authorisations being in place.	Possible	Moderate	<ul style="list-style-type: none"> • Maintain up-to-date authorisations.

CONSULTATION

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

CONCLUSION

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

DECLARATION OF CONFLICT OF INTEREST

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

- Director Customer and Community
- Governance Officer

ATTACHMENT(S)

- 9.3.2.a S11A – Instrument of Appointment and Authorisation – Planning & Environment Act 1987 – Planning Officer
- 9.3.2.b S11A - Instrument of Appointment and Authorisation - Planning & Environment Act 1987 - Civil Development Engineer (1)
- 9.3.2.c S11A - Instrument of Appointment and Authorisation - Planning & Environment Act 1987 - Civil Development Engineer (2)

9.3.3 Granting of 'Freedom of Entry' to the Alpine Shire

INTRODUCTION

This report relates to the request to grant Freedom of Entry to the Alpine Shire to the 4th/19th Prince of Wales's Light Horse Regiment.

RECOMMENDATIONS

That Council:

- 1. Grants Freedom of Entry to Alpine Shire to the 4th/19th Prince of Wales's Light Horse Regiment; and***
- 2. Delegates authority to the Chief Executive Officer to apply the official seal to the town entry scrolls at the appropriate time in advance of the event.***

BACKGROUND

Freedom of Entry is a right which is granted upon a military unit by a local government, authorising that unit to march through the streets of a town on a ceremonial occasion.

Freedom of Entry is the highest honour that can be conferred on a military unit by local government. It is a symbolic honour that conveys no legal rights.

In 2022 an informal conversation was had between Cr Nicholas (then Mayor) and representatives from the Bright RSL Sub-branch in relation to offering Freedom of Entry to the 4th/19th Prince of Wales's Light Horse (PWLH) Regiment as part of the Sub-branch's 100th anniversary activities in 2023.

An in-principle agreement was made and the Bright RSL Sub-branch approached the 4th/19th PWLH with the offer.

In 2023 the request was remade to current Mayor, Cr Forsyth. A formal letter was sent by Cr Forsyth in April 2023 and the offer was accepted by the 4th/19th PWLH in July 2023.

The 4th/19th PWLH has a long history with a close connection to the Alpine Shire and surrounds and was deployed in the Alpine region during the 2019/2020 bushfires.

The Freedom of Entry ceremony is scheduled to take place in Bright on Saturday, 28 October 2023.

ISSUES

The timing, location and nature of the event will not contravene permitting conditions within the Events Strategy. However, the Myrtleford Show is scheduled to be held on the same weekend. The respective timing of both events should minimise any impact on attendance at either event.

Traffic Management

Traffic management will be required for the parade. The planned parade route will take place in the CBD of Bright and road closures will be required for Park Street, Bakers Gully Road and Ireland Street.

Parking will be restricted in Ireland Street from approximately 6am to 12pm on the day of the parade.

Closures will be communicated directly to affected residents and businesses prior to the event.

General Safety

The protocol and tradition tied to a Freedom of Entry ceremony requires that the soldiers march through town with bayonets fixed and swords drawn. Approximately 100 soldiers along with various military vehicles and horses are expected to take part in the ceremony.

Appropriate measures will be in place to ensure the safety of onlookers and participants before, during and after the ceremony.

POLICY IMPLICATIONS

The Freedom of Entry ceremony supports the objectives of the Events Strategy and creates a formal relationship between Alpine Shire and the 4th/19th PWLH that will establish a bond between the regiment and the community.

The recommendations are 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

The event is being coordinated by Council's Events Team. The costs for this ceremony will be covered by Bushfire Recovery funding through the Community Recovery Committee Support Package (CRC-LGA).

RISK MANAGEMENT

Risk	Likelihood	Impact	Mitigation Action / Control
Vehicle / pedestrian accidents	Rare	Moderate	<ul style="list-style-type: none"> • Implement traffic management plan

CONSULTATION

The offer of Freedom of Entry was made in consultation with the Mayor and Councillors, the Bright RSL Sub-branch and the 4th/19th PWLH. Victoria Police officers stationed in Bright have also been included in discussions.

As planning progresses, additional consultation will be sought from various departments within Council to develop and implement a traffic management plan and possible involvement in the community event.

CONCLUSION

An offer to grant Freedom of Entry to the 4th/19th PWLH will recognise the long and distinguished history of military involvement in our region and honour the local families of those who served in the Light Horse during World War I and World War II.

Formalising a connection between Alpine Shire and the 4th/19th PWLH will foster a bond between the community and the regiment and the possibility of future community events.

DECLARATION OF CONFLICT OF INTEREST

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

- Director Customer and Community
- Manager Customer Experience
- Development Officer (Event Operations)

ATTACHMENT(S)

Nil

9.3.4 Community Satisfaction Survey 2023

INTRODUCTION

This report shares the results of the 2023 Community Satisfaction Survey.

RECOMMENDATION

That Council notes Alpine Shire Council's results for the 2023 Community Satisfaction Survey.

BACKGROUND

Alpine Shire Council used the services of JWS Research to conduct its annual Community Satisfaction Survey. The survey is optional for councils across Victoria noting that three (3) of the measures in the survey are required under the Local Government Performance Reporting Framework (LGPRF).

The survey consisted of phone interviews with 400 residents selected to match the demographic profile of the Alpine Shire according to the most recently available Australian Bureau of Statistics estimates. Up to 60% of the survey calls were made to mobile phone numbers. Surveys were conducted from late January through to mid-March 2023.

Results are summarised through an 'Index Score' which is a weighted average of how many respondents responded against each possible survey response to each question, including 'very good', 'good', 'average', 'poor' and 'very poor'. Survey responses of 'can't say' were excluded from the Index Score. A higher index score indicates a more positive weighted response.

RESULTS

Measures	Alpine 2023	Alpine 2022	Small Rural 2023	State-wide 2023
OVERALL PERFORMANCE	52	59	55	56
VALUE FOR MONEY	47	56	49	49
OVERALL COUNCIL DIRECTION	41	53	47	46
CUSTOMER SERVICE	62	63	65	67
% respondents having contact with Council	65%	60%	66%	62%
WASTE MANAGEMENT	62	70	66	66
COMMUNITY DECISIONS	51	56	52	51

Measures	Alpine 2023	Alpine 2022	Small Rural 2023	State- wide 2023
CONSULTATION AND ENGAGEMENT	50	55	53	52
SEALED LOCAL ROADS	49	61	44	48

ISSUES

State-wide results

The State-wide report released by JWS Research, which compiles Community Satisfaction Survey (CSS) results across all participating Councils, states that in 2023 almost all councils that participated received lower overall performance index scores than in 2022.

The report suggests that the following influences may be driving some of this downward trend:

- Demographic or geographic cohorts who are particularly dissatisfied with aspects of their council's performance.
- External factors affecting individual councils or for the local government sector more broadly such as rate increases, changes to delivery of council services, and negatively viewed decisions and actions on infrastructure and development.

Alpine Shire Council results

Sealed local roads:

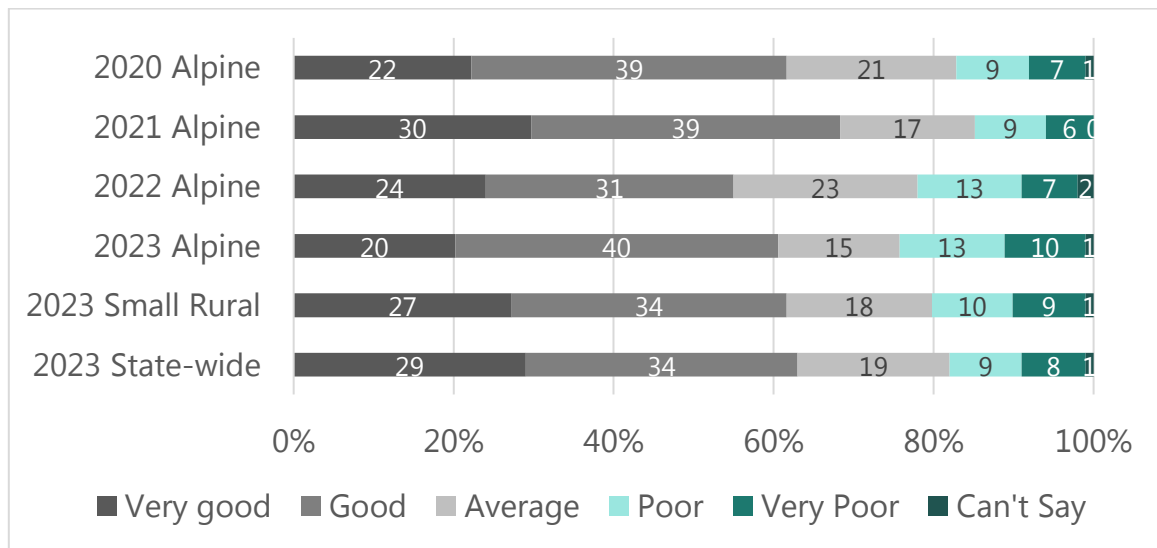
Satisfaction with sealed local roads has fallen compared to the previous year, however, remains as the one measure where Council is performing significantly higher than other Small Rural Councils. A wet Winter and Spring resulted in a deterioration of sealed road surfaces across the State. It is noted that arterial roads between towns are not under the control of Council.

Consultation and engagement, and community decisions

Community satisfaction with consultation and engagement, and with community decisions in 2023 declined compared to the previous year, reflective of a decrease in satisfaction with Council's performance across all Community Satisfaction Survey measures.

Customer Service

Satisfaction with customer service remained in line with results from the previous year, however, was significantly lower than the State-wide average. Two-thirds of residents have had contact with Council in the past 12 months, a slight increase on the previous year. 60% of residents considered customer service to be 'very good' or 'good'.



Areas for focus

The report suggests that community consultation and engagement should be a focus in 2023, as this is one of several areas that are now significantly lower than the Small Rural average.

The Chief Executive Officer publishes their Key Performance Indicators on the Alpine Shire Council website. The areas of focus are closely aligned.

Council has elected to conduct quarterly surveying in the 2023/24 year, rather than the single period of January-March. This aims to reduce seasonal / single issue impacts over results.

Full reports

- Council's full report and more in-depth analysis of results can be found in Attachment 8.2.4.
- State-wide comparative results can be found at: www.localgovernment.vic.gov.au/our-programs/council-community-satisfaction-survey.

POLICY IMPLICATIONS

While undertaking the Community Satisfaction Survey is not mandatory, the linkage between results for 'consultation and engagement', 'community decisions' and 'sealed local roads' with the Local Government Performance Reporting Framework (LGPRF) has meant that undertaking it not only gives Council an insight as to how the community thinks it is performing but means that Council is able to meet its annual reporting requirements.

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

- 5.1 Effective communication and engagement

FINANCIAL AND RESOURCE IMPLICATIONS

The annual cost to Council for the 'core' questions in the Community Satisfaction Survey was \$8,564 excluding GST.

RISK MANAGEMENT

Risk	Likelihood	Impact	Mitigation Action / Control
Failure to report on three LGPRF measures in Council's annual report	Unlikely	Insignificant	<ul style="list-style-type: none"> Council undertakes Customer Satisfaction Survey at least annually.
Failure to respond to results	Possible	Moderate	<ul style="list-style-type: none"> Council considers the results of the annual CSS and updates performance metrics as appropriate.

CONSULTATION

400 residents were surveyed by JWS Research (on behalf of Local Government Victoria and Alpine Shire Council) to gather the data for this survey. All interviews were conducted by phone. Surveys were conducted in January-March 2023.

The 2023/24 survey will be conducted quarterly in June, August/September, November, and February/March.

CONCLUSION

Perceptions of Council's overall performance declined significantly in 2023, with all results except Customer Service reducing compared to 2022 results. The report suggests that Council will need to focus on community consultation and engagement in 2023/24 to address the decline in performance this year.

DECLARATION OF CONFLICT OF INTEREST

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

- Director Customer and Community
- Governance Officer

ATTACHMENT(S)

9.3.4 2023 Local Government Community Satisfaction Survey - Alpine Shire Council

9.3.5 Appointment of Audit and Risk Committee representative

INTRODUCTION

The purpose of this report is to nominate a new Councillor representative to Council's Audit and Risk Committee (ARC).

RECOMMENDATIONS

That:

- 1. Cr Keeble be discharged from his role as Councillor representative on the Audit and Risk Committee;***
- 2. Mayor John Forsyth be elected to the Audit and Risk Committee as Councillor representative until November 2023; and***
- 3. The Audit and Risk Committee be formally notified of this change.***

BACKGROUND

Council operates and participates on a range of special, advisory and external committees and groups. The appointment of councillors to various committees and groups enables good governance and decision making.

At Council's Ordinary Council Meeting held in December 2022, Cr Simon Kelly and Cr Tony Keeble were appointed as the councillor representatives to the ARC for 2023.

Councillor representation on committees is required for Council's own committees to provide good governance.

The Audit and Risk Committee is an advisory committee of Council responsible for:

- Monitoring compliance of Council policies and procedures with the *Local Government Act A 2020*, regulations, governance principles and Ministerial directions.
- Monitoring Council financial and performance reporting.
- Monitoring and providing advice on risk management and fraud prevention systems and controls.
- Overseeing internal and external audit functions.

Council Advisory Committees

There is no formal decision making that can be made in an advisory capacity on behalf of Council, but rather, recommendations arising from the deliberations of the committee may be presented to Council for consideration, deliberation and final adoption.

Responsibilities

Regardless of the type of appointment, Councillors are bound by their Code of Conduct and must comply with requirements relating to:

- Declaring conflicts of interest.
- Maintaining confidentiality of information.

- Recognising and abiding by their extent of authority i.e. not making decisions on behalf of Council.

POLICY IMPLICATIONS

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

- 5.3 Bold leadership, strong partnerships and effective advocacy

FINANCIAL AND RESOURCE IMPLICATIONS

Councillors are paid an annual allowance and do not receive additional payments for their involvement on Council-appointed committees.

RISK MANAGEMENT

Risk	Likelihood	Impact	Mitigation Action / Control
Compliance with the Audit and Risk Committee Charter	Unlikely	Minor	<ul style="list-style-type: none"> • Appoint required number of representatives to the committee

CONSULTATION

Once Council has noted the change of representative, the Chair of ARC will be formally notified of the change in councillor representation.

CONCLUSION

As Cr Keeble is unable to commit as Council's representation due to the timing of these meetings and his existing work commitments a change in representative provides for the ongoing good governance of the ARC.

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
- Executive Assistant to CEO

ATTACHMENT(S)

Nil

9.3.6 Planning Application P.2023.031 - 63 Elgin Street, Myrtleford

Application number:	P.2023.031
Proposal:	Two-lot subdivision, and buildings and works for the construction of one two-storey dwelling on each lot.
Applicant's name:	Oxley and Company Ptd Ltd
Owner's name:	Damien Luke Jenvey and Justin Cade Jenvey
Address:	63 Elgin Street, Myrtleford (Lot 1 PS526369)
Land size:	Approximately 880m²
Current use and development:	Single dwelling and associated outbuildings
Site features:	<p>The site:</p> <ul style="list-style-type: none"> • is located to the south of Myrtleford • is accessed along the eastern side of Elgin Street • is irregular in shape • measures 880m² in size • slopes by 5m from the front to the rear (west to east direction) • contains an existing single storey dwelling, carport and a small, corrugated iron shed to the rear • is vegetated with mainly shrubs along the rear fence and immediately surrounding the dwelling and a mature plane tree is located in the road reserve to the front of the lot and the land.
Why is a permit required?	Clause 32.08-3 – GRZ1 – a permit is required to subdivide land
Zoning:	Clause 44.06-2 – BMO – a permit is required to subdivide land and to construct a building or construct or carry out works associated with the following uses: Accommodation
Overlays:	General Residential Zone (Schedule 1)
Restrictive covenants on the title?	Bushfire Management Overlay
Date received:	6 April 2023
Planner:	Contract Planner

RECOMMENDATION

That a Notice of Decision to grant a planning permit be issued for a two-lot subdivision, and buildings and works for the construction of one two-storey dwelling on each lot created at 63 Elgin Street, Myrtleford known s Lot 1 PS526369 in accordance with the conditions outlined in Appendix 9.3.6.a

PROPOSAL

The application seeks approval for the subdivision of land at 63 Elgin Street, Myrtleford into two lots, and buildings and works for the construction of one two-storey dwelling on each lot.

Subdivision

The proposal is to subdivide the land into two lots:

- Lot A is proposed to measure 507.59m² in size.
- Lot B is proposed to measure 372.17m² in size.

Dwellings:

The proposal is to construct one two-storey dwelling on each of the proposed Lots A and B with the following features:

- Ground floor consisting of two bedrooms one with WIR, WC, bathroom, garage and storage area, entry porch and entry way.
- First floor consisting of open plan living, kitchen and dining area, pantry, laundry, master bedroom and WIR, ensuite and WC, porch, and alfresco area.
- Modern architectural external appearance with external cladding consisting of Colorbond sheet metal, hardwood timber and charred timber.
- A varied colour scheme between the dwellings of muted tones of burnt orange, sandstone, grey and black.
- Designed to respond to the slope of the land presenting as two-storey dwellings to the front (western elevation) and one-storey to the rear (eastern elevation). To achieve this, significant cut and fill will need to be undertaken necessitating the construction of retaining walls to the north, east and south.
- Proposed maximum building height of 7.88m (Dwelling A) and 7.53m (Dwelling B) from the proposed ground level at the front of the lot, which will be subject to some cutting of topsoil.
- Front boundary setback to each of the proposed dwellings of more than 5m and approximately 15m from the road carriageway.
- Removal of the existing driveway and crossover, and construction of new driveways with a minimum width of 4m.

The existing mature plane tree in the road reserve was proposed to be removed to provide future access to one of the dwelling, but following revised plans circulated in July 2023, this is no longer proposed. The proponent proposes to plant an additional street tree in the road reserve.

The proposed site plan, floor plans and elevations are contained within Figures 1 to 9 below:

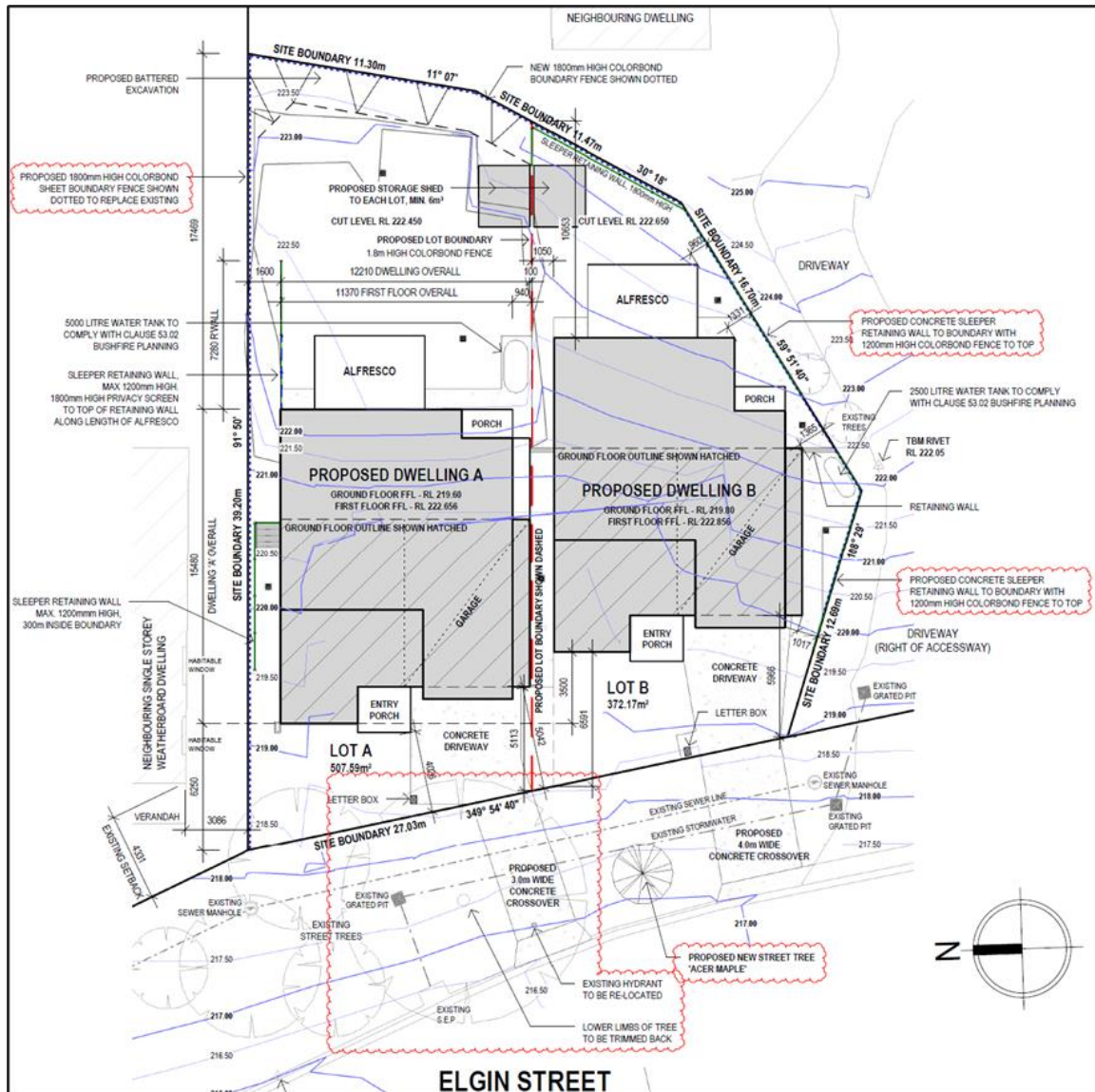


Figure 1: Proposed site plan

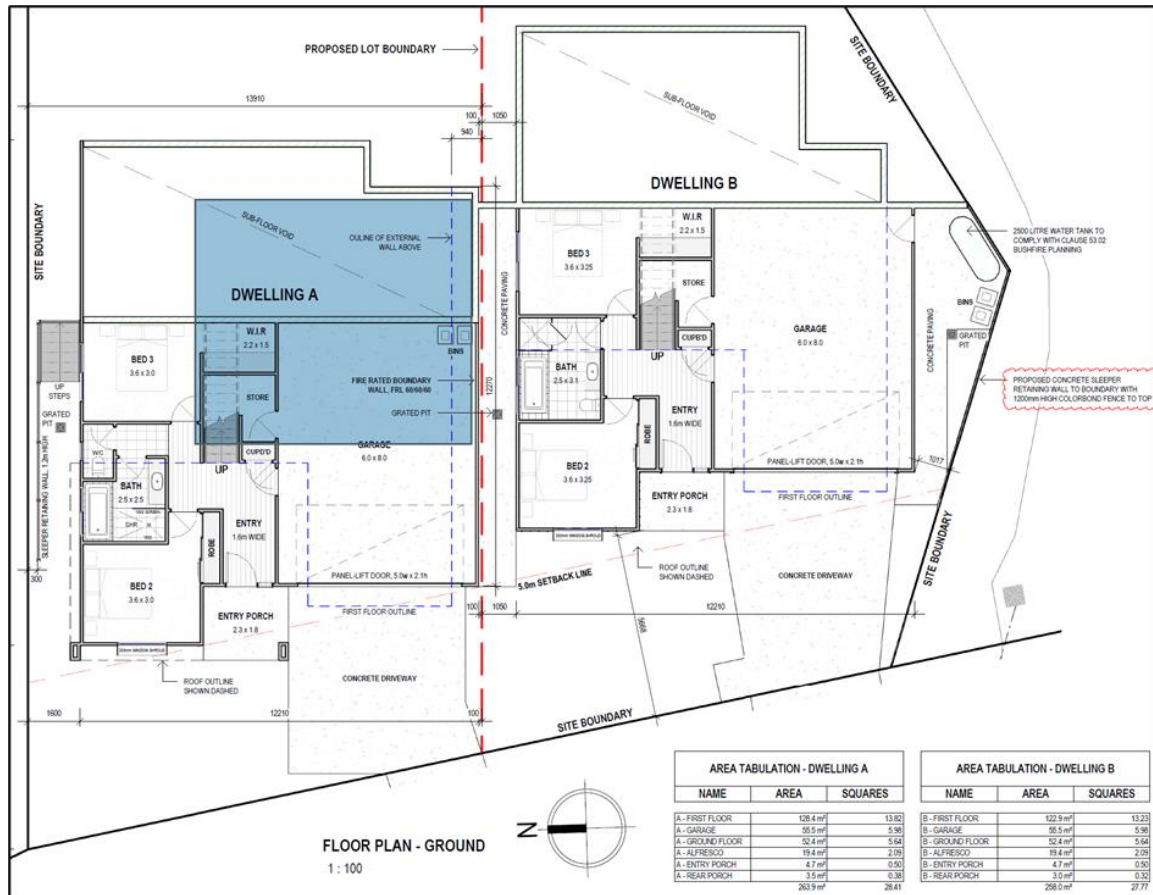


Figure 2: Proposed ground floor plan

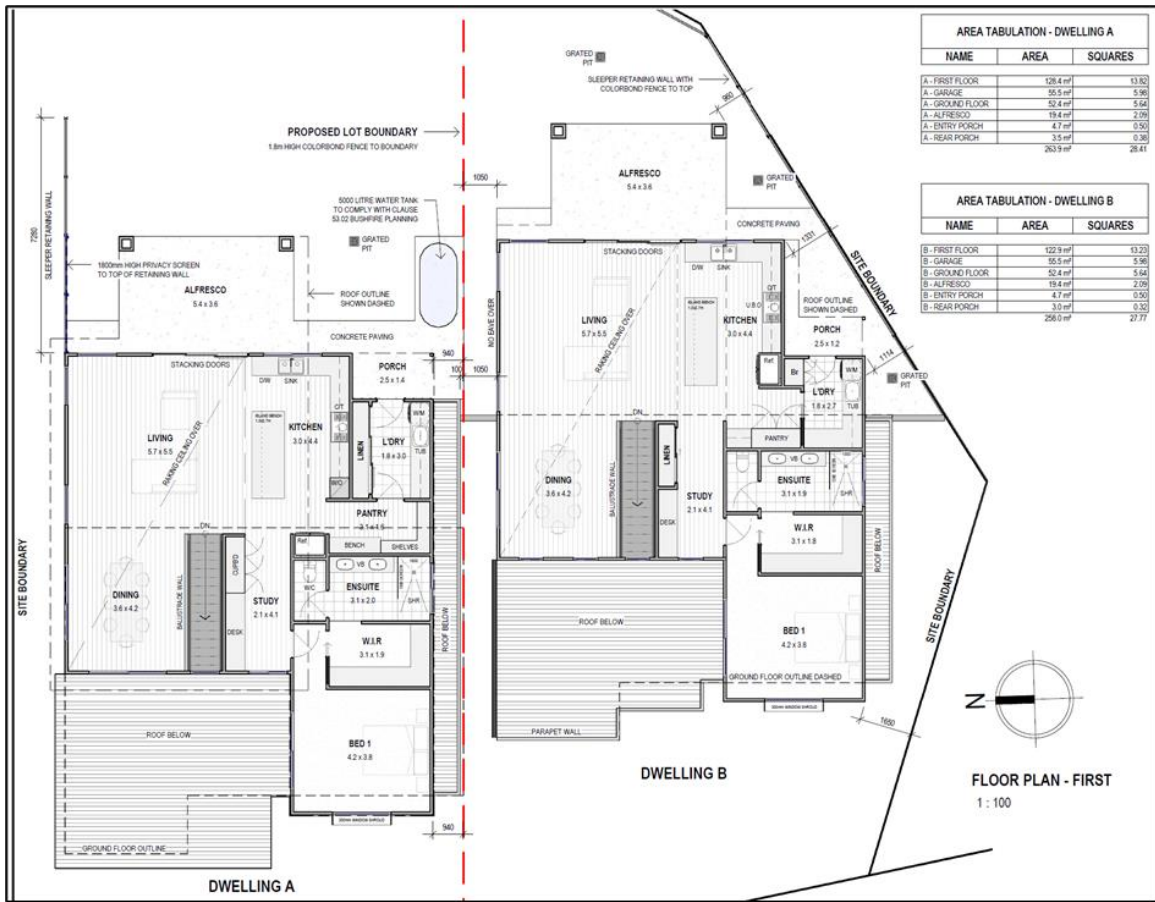


Figure 3: Proposed first floor plan

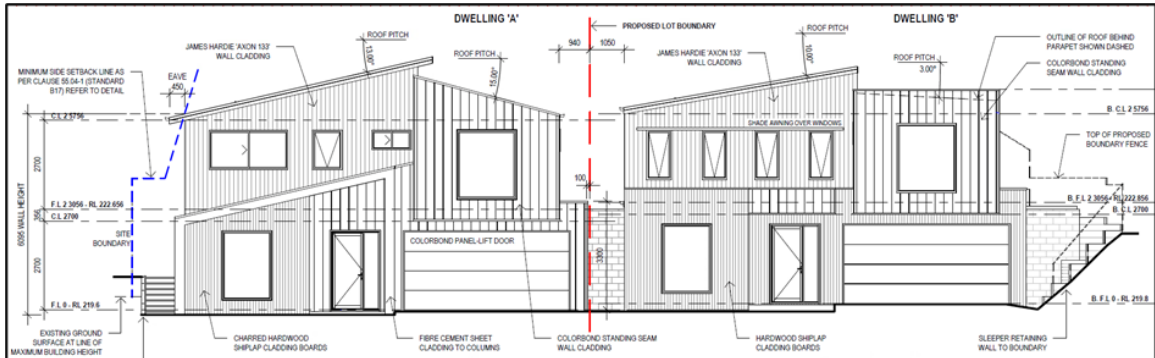


Figure 4: Proposed front (western) elevation

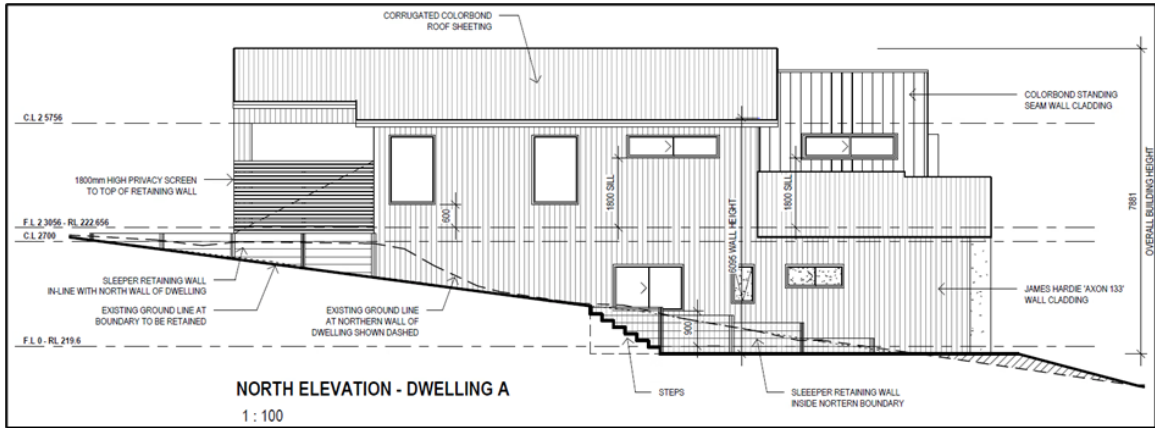


Figure 5: Proposed northern elevation of Dwelling A

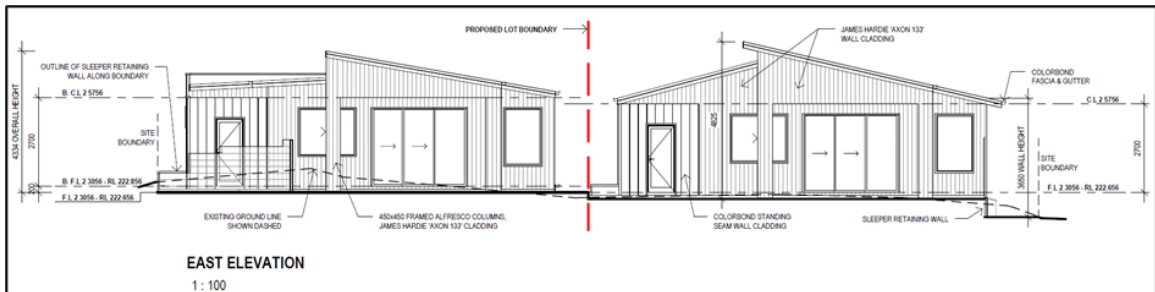


Figure 6: Proposed rear (southern) elevation

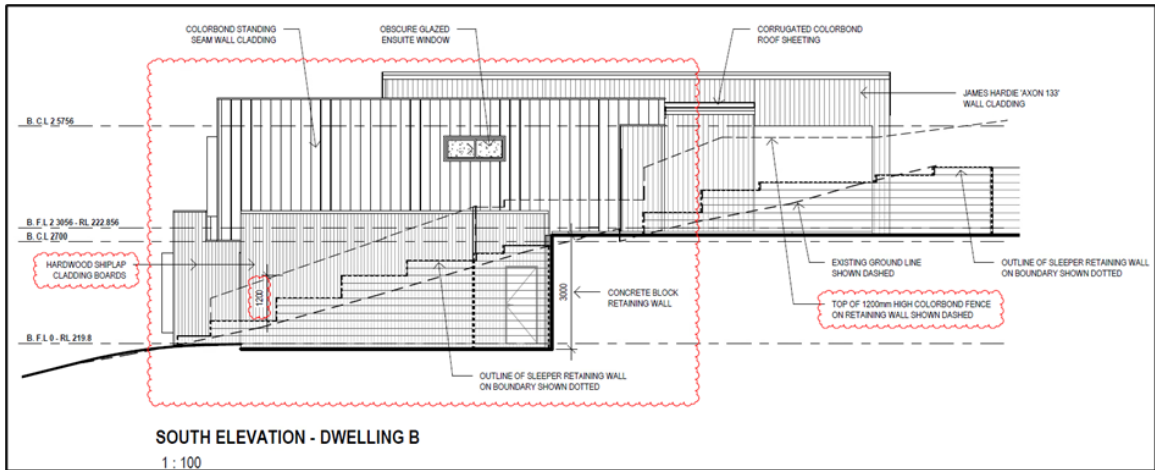


Figure 7: Proposed southern elevation of Dwelling B



Figure 8: Proposed landscaping plan



Figure 9: Proposed photo montage of the street front (western) and southern elevations

SUBJECT LAND AND SURROUNDS

The site is located to the south of Myrtleford and is accessed along the eastern side of Elgin Street, which largely runs parallel to the Great Alpine Road to the west. The site is irregular in shape, measures 880m² in size, and has a frontage measuring approximately 27.03m wide with a site depth of approximately 39.20m along the northern boundary.

The site contains an existing single storey dwelling, carport and a small, corrugated iron shed to the rear. The vegetation on the land consists mainly of shrubs along the rear fence and immediately surrounding the dwelling. A mature plane tree is located in the road reserve to the front of the lot and the land slopes by 5m from the front to the rear in a west to east direction.

The site is located in an established residential area with surrounding lots already developed or soon to be developed for residential purposes. Three lots to the south and south-east of the site are accessed via common property.

Elgin Street itself has two relatively distinct sections. The northern part of the street is wide, varies in width and contains a central median for part of its length with mature vegetation. The southern part of the street contains a single sealed lane and, although the road reserve cross section measures 20m in width, it appears to be narrower. The subject site is located at the point that these two sections meet.

The site and surrounding area are highlighted in Figure 10 below.



Figure 10: Subject land (highlighted in red)

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 and a sign was displayed on the subject land.

The notice erroneously stated that the proposal comprised two two-storey dwellings on each lot rather than one two-storey dwelling on each lot. This was clarified with all objectors who stated that they were aware of the error once they had reviewed the plans. In spite of this error, notification has been carried out correctly.

Council received six objections.

A mediation session was held from 2-3pm on Wednesday, 14 June 2023 with the applicant, applicant's consultant, and a majority of the objectors. Following mediation, the applicant agreed to propose design changes to the dwellings, which were circulated together with the applicant's response to objectors' concerns on 14 July 2023. Objectors were asked to consider this material and to respond to Council on or before Friday, 21 July 2023. A majority of objectors responded (three e-mails were received representing five of the six objectors) and indicated that their concerns remained. On 24 July 2023, Council officers contacted all objectors stating that they considered that all six objections stand and that officers would now undertake an assessment of the application before making a recommendation to Council on the application, which would then be considered at an ordinary Council meeting at a future date. On 25 July 2023, an e-mail was received from the final objector who indicated that they had been travelling, had considered the material circulated and that the concerns in their objection remained.

The objections are summarised in the table below alongside the planner's response to the issues raised.

Summary of concerns	Response
<p>Neighbourhood character impacts:</p> <ul style="list-style-type: none"> • Existing character is one of single-storey dwellings in a rural landscape setting • Does not align with the community's aspirations or vision for the township • Visible from Myrtleford town centre 	<p>As explored in detail within the body of this report, the subject site is located within an established residential area and is appropriately zoned for residential development.</p> <p>The existing character of Elgin Street and the immediately surrounding areas are not specifically protected by any overlays (i.e., the Design and Development Overlay, Significant Landscape Overlay, Heritage Overlay, etc.). There is also no specific vision for any future proposed neighbourhood character for the street or surrounding area included in the Municipal Planning Strategy or Planning Policy Framework of the Alpine Planning Scheme.</p> <p>As a result, the overarching principles for infill development outlined in the Municipal Planning Strategy or Planning Policy Framework for Myrtleford and the provisions of the General Residential Zone largely guide the assessment of this proposal.</p> <p>Respecting character does not mean preventing change. The neighbourhood character standard in Clause 55 is not intended to result in the replication of existing building stock or to stop change to the existing or proposed built form. Some areas will see significant changes as a result of new social and economic conditions, changing housing preferences and explicit housing policies. Typically, residential growth and change occurs within the General Residential Zone where there are no restrictive overlays or environmental and servicing constraints, which is the case here. In these areas, it is important that respecting character is not taken too literally, as a new character will naturally emerge in response to these new social and economic conditions.</p>

Summary of concerns	Response
	<p>In simple terms, respect for the character of a neighbourhood means that the development should try to 'fit in'. Depending upon the neighbourhood, there are two broad approaches to respecting character:</p> <ul style="list-style-type: none"> • respecting the scale and form of surrounding development; and • respecting the architectural style of surrounding development. <p>The section of Elgin Street south of Alice Street is considered to be distinct to that evident to the north and it includes a wide variety of lot sizes, two distinct road cross section treatments to the north and south, long, and short setbacks, lots with and without fences, and dwellings of a variety of ages. Of particular note, given that they have been raised in a number of submissions are setbacks. The setbacks on the west of the street are more consistent being long and affording space for gardens, whilst those on the east are not. The proposed setbacks of the dwellings are greater than that evident from the existing dwelling. Given the sloping nature of the site and the land further to the east and south-east, the two proposed dwellings will not be detrimentally visible from the town centre and will not dominate the natural landscape of the forest to the rear (east and south-east).</p> <p>For reasons outlined in this report, the proposed development is considered to suitably respect the existing character of the area.</p>
<p>Lot size, and visual bulk and siting of the buildings on the site:</p> <ul style="list-style-type: none"> • Density (small lots) • Height • Bulk and massing of the buildings • Setbacks from boundaries • No potential for tree planting to the side of the properties 	<p>As outlined earlier in this report, Elgin Street, south of Alice Street, contains allotments of varying sizes between 625-4,000m². Although the site is not within the 'medium density residential opportunity' area identified in the Myrtleford Structure Plan, considering the surrounding context, the density proposed is not considered to be inappropriate. As the site is situated within the General Residential Zone, a suitable balance must be achieved between residential growth, housing diversity, and maintaining the existing character of an area.</p>

Summary of concerns	Response
<p>Lack of appropriately sized garden areas or green space surrounding the dwellings</p>	<p>The dwellings have been designed to respond to the slope of the land presenting as two-storey dwellings to the front (western elevation) and one-storey to the rear (eastern elevation). At their maximum height at the front of the lot, the height of the proposed dwellings is no greater than two storeys and no greater than 11m in height, meeting the maximum height requirements under the zone. Whilst not prevalent within the surrounding area, two storey dwellings are not discouraged based on current planning controls, and the amenity of surrounding land will not be detrimentally impacted, as per the Clause 55 assessment in this report. The visual bulk of the dwellings will also be reduced by setbacks from the street and retention of existing significant vegetation within the road reserve.</p> <p>Changes to the front elevations or façades of the dwellings circulated following the mediation session in June 2023 sought to address submitters' concerns for more appropriate and sympathetic treatments given the site's close proximity to public land at Reform Hill. These materials are considered to be appropriate given the surrounding context. The changes help to ensure that the dwellings read as separate buildings and not one large dwelling.</p> <p>Although it is agreed that the side setbacks will not allow for significant vegetation to be planted, they largely align with the requirements of Clause 55. The slightly greater setback of both dwellings to that extant has allowed for a larger area to be landscaped in front of each dwelling. The dwellings have also been provided with sufficient private open space and secluded private open space to meet the future residents' needs. A landscaping plan was provided on 14 July 2023 and would be endorsed with any planning permit ensuring a high standard of landscaping maintenance.</p> <p>The bulk, scale and massing of the dwellings is considered to be sufficiently broken-up to ensure that the dwellings do not have a visually intrusive impact on the streetscape</p>

Summary of concerns	Response
Removal of the street tree	The existing mature plane tree in the road reserve was proposed to be removed to provide future access to one of the dwelling, but following revised plans circulated in July 2023, this is no longer proposed. The proponent proposes to plant an additional street tree in the road reserve to assist in screening the buildings and complementing the existing treed character of the street.
Boundary fencing and retaining walls	Submitters queried the appropriateness of the height of proposed boundary fences on top of proposed retaining walls, particularly that proposed for the southern boundary. The proponent has submitted revised material in July 20203 including a reduction in part of the southern boundary well from 1.8m to 1.2m. This is considered to be acceptable. Given the sloping nature of the site measuring approximately 5m from west to east, and the extent of cut and fill required, the proposal includes retaining walls to the east, north and south. Surface drainage pits and drainage to the backside of retaining walls will mitigate ponding of surface water on the site and divert it to the street stormwater drainage system. Council’s Engineering Department has assessed the proposal and provided conditional consent.
Reduced property values	Whilst of a personal concern, property value is not a relevant planning consideration. There is no evidence (such as a property valuation) to suggest that the proposal will devalue property.
Setting a new precedent	Similar with the above, approval of a permit does not ultimately lead to setting a precedent. Each permit application has its own site-specific considerations, facts, and merits.

Summary of concerns	Response
Increased traffic and road safety impacts for vehicles and pedestrians	<p>No issues were raised by the Engineering Department in relation to the capacity of the existing road network to accommodate additional traffic as a result of the proposed development. Elgin Street does not contain footpaths and pedestrians utilise the existing sealed road.</p> <p>The proposed development will not affect the sightlines from the common property access further to the south.</p> <p>In effect, the proposal will result in one additional dwelling, which is not considered to generate many additional vehicle movements per day and, for this reason, will not have the potential to detrimentally impact the surrounding area.</p>
Overlooking and impacts upon solar energy potential	<p>Overlooking impacts are mitigated by the provision of a 1.8m Colorbond fence and landscaping along the northern and eastern boundaries of the site.</p> <p>The development does not impact the solar access of neighbouring lots.</p> <p>No properties will be overshadowed as shown in the overshadowing drawing submitted with the revised material in July 2023 and solar panels are protected.</p> <p>The proposed dwelling on Lot B will be overshadowed from particular angles at a specific time of the day only but will still have solar access for the majority of the day. The living areas and secluded private open space of both dwellings have northern orientation. There is no southern glazing to the southern elevations which therefore reduces heat loss inside the dwellings during winter. This is considered to be acceptable.</p>
Setback required for 58 Elgin Street, Myrtleford	<p>The setback required for this property is not a consideration for the assessment of this planning permit.</p> <p>The existing dwelling is sited close to the existing road reserve and the proposed setback is sited slightly back into the site for each dwelling. The setbacks align with that evident at 59-61 Elgin Street.</p>
Insufficient car parking	<p>The proposal provides on and off-street car parking in accordance with Clause 52.06 of the Alpine Planning Scheme.</p>

Summary of concerns	Response
Views	One submission cited concerns that the views from the property to the south to the north and north-east through the subject site would be impacted upon by the proposed redevelopment. These views are not protected in the Alpine Planning Scheme and cannot be considered as part of this proposal.

REFERRALS

Referrals / Notice	Advice / Response / Conditions								
Section 55 referrals:	<table> <tr> <td>CFA</td> <td>conditional consent</td> </tr> <tr> <td>G-MW</td> <td>conditional consent</td> </tr> <tr> <td>NEW</td> <td>conditional consent</td> </tr> <tr> <td>SP Ausnet</td> <td>conditional consent</td> </tr> </table>	CFA	conditional consent	G-MW	conditional consent	NEW	conditional consent	SP Ausnet	conditional consent
CFA	conditional consent								
G-MW	conditional consent								
NEW	conditional consent								
SP Ausnet	conditional consent								
Internal / external referrals:	<table> <tr> <td>ASC ENG</td> <td>conditional consent</td> </tr> </table>	ASC ENG	conditional consent						
ASC ENG	conditional consent								

PLANNING ASSESSMENT

All applicable policy and decision guidelines can be found in Appendix 9.3.6.b.

Municipal Planning Strategy and Planning Policy Framework

The relevant Clauses from the Municipal Planning Strategy and Planning Policy Framework are contained within Appendix 9.3.6.b.

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

- The subject site is within the Myrtleford Township boundary and as such will not impact upon productive agricultural land resources. The site has access to all reticulated services and does not have any particular environmental constraints such as native vegetation, site contamination and the like that would restrict the development as proposed.
- The proposal suitably mitigates bushfire risk.
- The proposal will not detrimentally impact upon designated water supply catchments.
- The proposed subdivision achieves the intent of the policy by providing additional residential land to support the projected population growth expected in the Shire over the next 15 years.
- The proposal is an example of infill development within an established residential area of Myrtleford. It facilitates orderly development of the land, where residential growth is encouraged, and utility infrastructure and services are readily available.

- The existing allotment fronts onto and has access from Elgin Street, and this will not change as a result of the proposal.
- The proposed dwellings are of a modern appearance with a range of external cladding typically found within the surrounding area. Whilst not prevalent within the surrounding area, two storey dwellings are not discouraged based on current planning controls, and the amenity of surrounding land will not be detrimentally impacted.
- The dwellings maintain the detached character of existing dwellings within the surrounding area.

General Residential Zone

The subject land is zoned General Residential Zone. Permission is required under the zone to subdivide the land.

The proposal is consistent with the purpose and decision guidelines of the zone for the following reasons:

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

Bushfire Management Overlay

The Bushfire Management Overlay applies to the land. A permit is required to subdivide land and to construct a building or construct a building or construct or carry out works associated with accommodation.

The proposal is consistent with the purpose and decision guidelines of the Bushfire Management Overlay for the following reasons:

- The proposal generally supports and implements the Municipal Planning Strategy and the Planning Policy Framework, which have been discussed under separate subheadings above.
- The application was referred to the Country Fire Authority (CFA), which consented to the application (no Conditions).

Particular Provisions

Clause 52.06 – Car Parking

Table 1 to Clause 52.06-5 outlines the required number of car parking spaces for various land uses. The following extract of the table is applicable to the proposal.

Use	Rate Column A	Rate Column B	Car Parking Measure Column C
Dwelling	2	2	To each three or more-bedroom dwelling (with studies or studios that are separate rooms counted as a bedrooms)
	1	0	For visitors to every 5 dwellings for developments of 5 or more dwellings

Two three-bedroom and study dwellings are proposed, each providing for two covered car parking spaces within their respective garages. One visitor car parking space is proposed within each of the two accessways. As such, the proposal satisfies the car parking requirements of Table 1.

The plans provided show the necessary information required by Clause 52.06-8 and the proposal suitably meets the design standards under Clause 52.06-9.

- ***Clause 53.02 – Bushfire Planning***

The proposal has been assessed against the provisions of the clause and referred to the CFA, which did not object subject to conditions. For these reasons, it is considered that the proposal satisfactorily addresses bushfire risk to the site.

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

The objectives, standards and decision guidelines of Clause 55 are assessed. Objectives describe desired outcomes to be achieved in the completed development, standards

contain requirements to meet the objective and should normally be met; however, if satisfied that an alternative meets the objective, it may be considered. Decision guidelines set out the matters that the Responsible Authority must consider before deciding if it meets an objective/s.

The proposal must meet all of the objectives and should meet all of the standards.

The objectives of Clause 55 have all been satisfactorily met and overshadowing diagrams have shown minimal impact on private open space for adjacent properties and those proposed for within the site.

Clause 56 – Residential Subdivision

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

General Provisions

Clauses 65.01 and 65.02 of the Alpine Planning Scheme provide the general decision guidelines that must be considered before deciding on an application for development and subdivision respectively. The proposal can be supported considering the relevant decision guidelines of Clauses 65.01 and 65.02 as detailed below:

Decision Guideline	Response
The matters set out in Section 60 of the Act.	The proposal is appropriate considering the matters set out in Section 60 of the <i>Planning and Environment Act 1987</i> . Namely, the proposal satisfies the relevant provisions of the Alpine Planning Scheme, notification and referrals were undertaken, and there are no negative environmental, social, or economic effects. Six objections were received, which will be addressed in detail below.
Any significant effects the environment, including the contamination of land, may have on the use or development	The environment is unlikely to have any significant impacts on the proposed development. The site is unlikely to have been exposed to contaminants in the past and there are no environmental hazards other than bushfire that affect the land. Bushfire risk has been suitably addressed in the assessment above
The Municipal Planning Strategy and the Planning Policy Framework.	The environment is unlikely to have any significant impacts on the proposed development. The site is unlikely to have been exposed to contaminants in the past and there are no environmental hazards other

Decision Guideline	Response
	than bushfire that affect the land. Bushfire risk has been suitably addressed in the assessment above
The purpose of the zone, overlay or other provision.	The proposal is consistent with the purpose of the General Residential Zone, Bushfire Management Overlay, and the relevant Particular Provisions.
Any matter required to be considered in the zone, overlay or other provision.	The proposal is consistent with the relevant requirements and decision guidelines of the General Residential Zone, Bushfire Management Overlay, and the relevant Particular Provisions.
The orderly planning of the area.	The proposal provides for the residential growth in an area suitably zoned for such purposes, where reticulated services are available and bushfire hazard can be suitably mitigated. Whilst met with community resistance, the proposed is unlikely to undermine the existing character of the area for reasons discussed within the assessment above. As a result, the proposal is considered to be an example of orderly planning.
The effect on the environment, human health, and amenity of the area.	The proposal is unlikely to have any unreasonable negative effects on the environment, human health and amenity of the area given that dwellings are proposed, which is a sensitive land use and is compatible with surrounding residential uses
The proximity of the land to any public land.	The site does not have an interface with public land.
Factors likely to cause or contribute to land degradation, salinity or reduce water quality	The proposal is unlikely to contribute to land degradation, salinity, or reduced water quality. All stormwater and wastewater will be connected to reticulated services and no native vegetation is required to be removed.
Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site	The Engineering Department has reviewed the application and recommended a condition relating to the provision of a detailed drainage design for further assessment. No major issues were raised in relation to stormwater.
The extent and character of native vegetation and the likelihood of its destruction	N/A – no native vegetation will be impacted by the proposal.
Whether native vegetation is to be or can be protected,	N/A

Decision Guideline	Response
planted, or allowed to regenerate	
The degree of flood, erosion or fire hazard associated with the location of the land and the use, development, or management of the land to minimise any such hazard	The bushfire risk has been suitably mitigated as per the Clause 53.02 assessment.
The adequacy of loading and unloading facilities and any associated amenity, traffic flow and road safety impacts	The proposed new crossovers and accessways have been designed in accordance with the standards under Clause 52.06-9 and CFA requirements.
The impact the use or development will have on the current and future development and operation of the transport system	No issues were raised by the Engineering Department in relation to the capacity of the existing road network to accommodate additional traffic as a result of the proposed development.

CONCLUSION

The proposal has been assessed against the relevant provisions of the Alpine Planning Scheme, including the Municipal Planning Strategy, Planning Policy Framework, the General Residential Zone, Bushfire Management Overlay, the relevant Particular Provisions, and decision guidelines.

Having considered all relevant matters, the application is considered to be consistent with the Alpine Planning Scheme.

The application for the subdivision of land into two lots and development and use of one two storey dwelling on each lot created should be approved for the following reasons:

- The application is consistent with the Alpine Planning Scheme.
- The application is consistent with the objectives of planning in Victoria.
- There are no covenants or Section 173 Agreements applicable to the land that act to prevent or militate against the proposal.
- The concerns of objectors (as relevant and applicable to the specific planning permissions being sought) have been reasonably addressed.

It is recommended that a notice of decision to grant a planning permit should be issued subject to conditions.

DECLARATION OF CONFLICT OF INTEREST

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

- Director Customer and Community
- Manager Statutory Planning, Compliance and Local Laws
- Contract Planner

APPENDICIE(S)

9.3.6.a Conditions

9.3.6.b Policy and Planning Scheme Provisions

Appendix 9.3.6.a CONDITIONS

Endorsed Plans

1. 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.

CFA Conditions

2. Before the development starts, the Bushfire Management Plan prepared by Oxley and Co, dated 27/02/2023, version 2, Ref S9972 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.

G-MW Conditions

3. All construction and ongoing activities must be in accordance with sediment control principles outlined in 'Construction Techniques for Sediment Pollution Control' (EPA, 1991).
4. Each lot must be provided with connection to the reticulated sewerage system in accordance with the requirements of the relevant urban water authority.
5. Stormwater from the site must be discharged to a legal point as nominated by the Responsible Authority. All infrastructure and works to manage stormwater must be in accordance with the requirements of the Responsible Authority.
6. Any Plan of Subdivision lodged for certification must be referred to Goulburn-Murray Rural Water Corporation pursuant to Section 8(1)(a) of the *Subdivision Act 1988*.

NEW Conditions

7. The owner of the subject land (or applicant in anticipation of becoming the owner) is required to enter into a legal agreement with North East Water detailing the works to be constructed, and other requirements to be met, necessary for the provision of reticulated water supply to each of the lots and proposed dwellings, within the development, at the owners cost, to the satisfaction of North East Water, provided:
 - a. where the development is staged, a number of agreements may be required for separate stages; and
 - b. each agreement must be in accordance with North East Water policy and requirements applying at the time of entry into the relevant agreement.
8. The owner of the subject land (or applicant in anticipation of becoming the owner) is required to enter into a legal agreement with North East Water detailing the works to be constructed and other requirements to be met, necessary for the provision of reticulated sewerage services to each of the lots and proposed dwellings, within the development, at the owners cost, to the satisfaction of North East Water, provided:
 - a. where the development is staged, a number of agreements may be required for separate stages; and

- b. each agreement must be in accordance with North East Water policy and requirements applying at the time of entry into the relevant agreement.
9. Where the development (including any subdivision) occurs in stages the availability of water supply and sewerage services may be delayed having regard to NEW system capacity, conditions in relation to which shall be detailed in the relevant agreement for water supply and/or sewerage services.
10. The works required to be constructed for the provision of water supply and sewerage services must include, where so required by and to the satisfaction of, North East Water:
 - a. works external to the subject land to allow connection to the North East Water water supply and sewerage systems
 - b. the vesting at no cost of such of those works required by North East Water, to North East Water (“Developer Works”)
 - c. works to ensure compatibility with and allowance for, other developments being served through existing and future North East Water infrastructure, including the Developer Works and
 - d. internal or private works within the development, in accordance with applicable plumbing standards and providing adequate pressure and service levels.
11. Any modification to the development approved under this permit, including an increase or decrease in the number of dwellings or lots (or both) or the inclusion of additional land, requires the further consent of and may be subject to modified conditions, to the satisfaction of, North East Water.
12. Prior to the issue of a Statement of Compliance, the applicant must pay a new customer contribution determined in accordance with North East Water’s policy for development charges applicable to the water supply system currently servicing the area in which the subject land is located.
13. Prior to the issue of a Statement of Compliance, the applicant must pay a new customer contribution determined in accordance with North East Water’s policy for development charges applicable to sewers and disposal systems currently servicing the area in which the subject land is located.
14. The applicant must create easements to the satisfaction of and in favour of North East Water, over all existing and proposed sewerage facilities within the proposed subdivision.
15. The applicant must ensure that private water services do not traverse property boundaries and are independently supplied from a point of supply approved by North East Water.
16. The applicant must provide easements through other land, to the satisfaction of North East Water, if such easements are considered necessary for the efficient and economic servicing of the subject land.
17. That the applicant pays applicable charges determined in accordance with North East Water’s policy for development charges, applicable from time to time towards North East Water’s sewers and disposal systems servicing the area to which the permit applies.

18. Where the subject land is developed in stages, the North East Water conditions will apply to any subsequent stage of the subdivision.
19. Where an easement created in favour of North East Water is located within a proposed road reserve in a future stage, prior to the certification of the plan of subdivision for that stage, the applicant must formally remove the easement from the title to the land.
20. North East Water's consent to the issue of a Statement of Compliance under the Subdivision Act 1988 is conditional upon completion of all works, and meeting all requirements set out in this permit and any relevant agreement with, North East Water.
21. The plan of subdivision for certification must be referred to North East Water in accordance with Section 8 of the *Subdivision Act 1988*.

SP Ausnet Conditions

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

The applicant must:

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

Mandatory Clause 44.06 Conditions

23. Before the statement of compliance is issued under the Subdivision Act 1988 the owner must enter into an agreement with the responsible authority under Section 173 of the *Planning and Environment Act 1987*. The agreement must:
 - a. State that it has been prepared for the purpose of an exemption from a planning permit under Clause 44.06-2 of the Alpine Planning Scheme.
 - b. Incorporate the plan prepared in accordance with Clause 53.02-4.4 of this planning scheme and approved under this permit.
 - c. State that if a dwelling is constructed on the land without a planning permit that the bushfire protection measures set out in the plan incorporated into the agreement must be implemented and maintained to the satisfaction of the responsible authority on a continuing basis.

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

24. The bushfire protection measures forming part of this permit or shown on the endorsed plans, including those relating to construction standards, defendable 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.

Development to be Completed

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

Telecommunications

26. The owner of the land must enter into an agreement with:
- a. a telecommunications network or service provider for the provision of telecommunication services to each lot shown on the endorsed plan in accordance with the provider's requirements and relevant legislation at the time; and
 - b. a suitably qualified person for the provision of fibre ready telecommunication facilities to each lot shown on the endorsed plan in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.
27. Before the issue of a Statement of Compliance for any stage of the subdivision under the *Subdivision Act 1988*, the owner of the land must provide written confirmation from:
- a. a telecommunications network or service provider that all lots are connected to or are ready for connection to telecommunications services in accordance with the provider's requirements and relevant legislation at the time; and
 - b. a suitably qualified person that fibre ready telecommunication facilities have been provided in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.

Completion and maintenance of landscaping

28. Within 3 months of the occupation of the dwelling hereby approved or within the next planting season, whichever is the earlier; the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.
29. The landscaping must thereafter be maintained to the satisfaction of The Responsible Authority, including that any dead, diseased or damaged plants are to be replaced within 3 months or within the next planting season.

Development Engineering Conditions

Detailed Construction Plans

30. Prior to commencement of construction, detailed construction plans must be submitted to and approved by the Alpine Shire Council. Construction detail shall be generally in accordance with Council's Infrastructure Design Manual (www.designmanual.com.au). When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions, and shall include proposed construction detail, further information, or modifications to:
- a. Underground drainage system, with supporting computations
 - b. Vehicular crossings
 - c. Construction management plan.

Drainage

Urban Drainage Works

31. Prior to the issue of Statement of Compliance, 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. 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.
- The legal point of discharge is existing council drainage pipe in front of the lot on Elgin Street.

Drainage Discharge Plan

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

The information and plan must include:

- a. Details of how the works on the land are to be drained and retarded.
- b. Connection points for drainage for each lot
- c. Underground pipe drains conveying stormwater to the legal point of discharge for each allotment.
- d. A maximum discharge rate from the site is to be determined by computation to the satisfaction of Council to pre-dev flow Clause 19 of Infrastructure Design manual.
- e. Incorporation of water sensitive urban design in accordance with Clause 20 of the Infrastructure Design Manual or as otherwise approved in writing by the Responsible Authority.

Prior to the issue of the Statement of Compliance, all works constructed or carried out must be in accordance with those plans - to the satisfaction of Alpine Shire Council.

Vehicle Crossings

Urban Vehicle Crossing Requirements

33. Prior to issue of Statement of Compliance, vehicular crossings shall be constructed in accordance with the endorsed plan(s) to the satisfaction of the Alpine Shire Council, and shall comply with the following:
- a. Standard vehicular crossings shall be constructed at right angles to the road to suit the proposed driveways, and any existing redundant crossing shall be removed and replaced with concrete kerb and channel to match into the surrounding profile. The vehicle crossing must be constructed of plain grey concrete.
 - b. Any proposed vehicular crossing shall have satisfactory clearance to any side entry pit, power or Telecommunications pole, manhole cover or marker, or street tree. Any relocation, alteration or replacement required shall be in accordance with the requirements of the relevant Authority and shall be at the applicant's expense.
 - c. Crossings shall be constructed of concrete and be generally in accordance with IDM drawing SD240.

Subdivision

Easements to be Created

34. All existing and proposed easements and sites for existing and required utility services and roads must be set aside in favour of the relevant authority for which the easement or site is to be created on the plan of subdivision submitted for certification under the *Subdivision Act 1988*.

Prior to Commencement of Construction

35. Before any road/drainage works associated with the subdivision/development start, the following items must be satisfied:
- a. Issue of the certified Plan of Subdivision.
 - b. Approval of the construction plans.

An on-site meeting with officers of the municipality, the contractor and the developer or the developer's consultant to discuss matters such as roadside management, construction techniques, sedimentation controls, vegetation clearing controls and vegetated areas to be barricaded off prior to and during construction.

Construction Phase

Defect identification - Council's Assets

36. Prior to commencement of construction, the owner or developer must submit to the Alpine Shire Council a written report and photos of any prior damage to public

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

Construction Management Plan

37. 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 to be managed, on site, during the construction phase. Details of a contact person/site manager must also be provided, so that this person can be easily contacted should any issues arise.

No Mud on Roads

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

Tree Protection during Construction

39. Before the development (including demolition) starts, tree protection zone fencing must be erected around the existing street trees from the base of the trunk to define a 'Tree Protection Zone'. The fences must be constructed of (star pickets and chain mesh or similar) to the satisfaction of the responsible authority. The tree protection fencing must remain in place until construction is completed. The tree protection zone fencing is to be installed in accordance with Australian Standard AS 4970.
40. No vehicular or pedestrian access, trenching or soil excavation is to occur within any Tree Protection Zone without the written consent of the responsible authority. No storage or dumping of tools, equipment or waste is to occur within any Tree Protection Zone.
41. No excavation is allowed within the drip line of any existing street tree unless otherwise approved by the responsible authority. This permit does not authorise the applicant to remove, trim or otherwise damage street trees within the vicinity of works. Should a tree be damaged, all replacement or arborist's costs shall be borne by the applicant.
42. Any pruning that is required to be done to the canopy and/or root system of any street tree is to be done by a qualified arborist to Australian Standard – Pruning of Amenity Trees AS4373-1996. The existing street tree(s) must not be removed or damaged.

Expiry

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

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

44. This permit as it relates to subdivision will expire if either of the following circumstances arise:

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

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

- End of Conditions -

Planning Notes:

Building Approval Required

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

Road Opening/Non-Utility Minor Works on Municipal Road Reserve/Consent for Works on Road Reserves Permit Required

- A road opening/crossing permit must be obtained from the Alpine Shire Council prior to working in or occupying the road reserve with construction equipment or materials. Applications may be accessed via the following link [Work on Council land permit](#), or from the Alpine Shire Council website.

Appendix 9.3.6.b POLICY AND PLANNING SCHEME PROVISIONS

Municipal Planning Strategy and Planning Policy Framework

Clause 02.03-1 – Settlement

Clause 02.03-3 – Environmental Risks and Amenity

Clause 02.03-5 – Built Environment and Heritage

Clause 02.03-6 – Housing

Clause 02.03-9 – Infrastructure

Clause 11.01-1S – Settlement

Clause 11.01-1L-01 – Settlement

Clause 11.01-1L-03 – Myrtleford

Clause 11.02-1S – Supply of Urban Land

Clause 13.02-1S – Bushfire Planning

Clause 13.02-1L – Bushfire Planning

Clause 14.02-1S – Catchment Planning and Management

Clause 14.02-1S – Catchment Planning and Management

Clause 14.02-2S – Water Quality

Clause 14.02-2S – Water Quality

Clause 15.01-1S – Urban Design

Clause 15.01-1L-01 – Urban Design

Clause 15.01-2S – Building Design

Clause 15.01-3S – Subdivision Design

Clause 15.01-5S – Neighbourhood Character

Clause 16.01-1S – Housing Supply

Clause 16.01-2S – Housing Affordability

Clause 19.03-3S – Integrated Water Management

Clause 19.03-3L – Integrated Water Management

Zone

Clause 32.08 – General Residential Zone

Overlay

Clause 44.06 – Bushfire Management Overlay

Particular Provisions

Clause 52.06 – Car Parking

Clause 53.02 – Bushfire Planning

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

General Provisions

Clause 65.01 – Approval of an Application or Plan

Clause 65.02 – Approval of an Application to Subdivide Land

9.3.7 Planning Application P.2021.195 - 228-230 Kiewa Valley Highway, Tawonga South

Application number:	P.2021.195
Proposal:	Use and development of two food and drink premises (restaurant and bar), development of seven (7) dwellings, two shops and an office, licenced premises, alteration of access to a road in a Transport Zone 2 and reduction of car parking requirements.
Applicant's name:	Malcolm Lee
Owner's name:	Staser Pty Ltd
Address:	228-230 Kiewa Valley Highway, Tawonga South (Lot 1 PS 147907R)
Land size:	Approx. 3126sqm
Current use and development:	Vacant
Site features:	Discussed under the subject site and surrounds section below.
Why is a permit required?	Clause 32.04-1 – Section 2 Use (food and drink premises). Clause 32.04-6 – Construction of seven dwellings on a lot. Clause 32.04-9 – Buildings and works associated with a Section 2 Use. Clause 44.06-2 – Buildings and works associated with accommodation, office, and retail premises. Clause 52.06-3 – Reduction of car parking requirements. Clause 52.27 – Licensed Premises (Liquor Licence) Clause 52.29-2 – Create access to a road in a Transport Zone 2
Zoning:	Clause 32.04 – Mixed Use Zone
Overlays:	Clause 44.06 – Bushfire Management Overlay – Schedule 1
Particular Provisions:	Clause 52.06 – Car Parking Clause 52.27 – Licensed Premises Clause 52.29 – Land Adjacent to the Principal Road Network Clause 52.34 – Bicycle Facilities Clause 53.02 – Bushfire Planning Clause 53.18 – Stormwater Management in Urban Development Clause 55 – Two or More Dwellings on a Lot and Residential Buildings

<i>Restrictive covenants on the title?</i>	<i>Yes – Covenant J291220</i>
<i>Date received:</i>	<i>13 October 2021</i>
<i>Planner:</i>	<i>Consultant Planner</i>

RECOMMENDATION

That a Notice of Decision to grant a planning permit be issued for the use and development of two food and drink premises (restaurant and bar), development of seven (7) dwellings, two shops, and an office, licenced premises, alteration of access to a road in a Transport Zone 2 and reduction of car parking requirements subject to the conditions outlined in Appendix 9.3.7.b.

PROPOSAL

The proposal involves the use and development of two food and drink premises (restaurant and bar), development of seven (7) dwellings, two shops and an office, licenced premises, alteration of access to a road in a Transport Zone 2 and reduction of car parking requirements. The proposal is described in greater detail under the points below:

Dwellings

Development of seven dwellings with the following parameters:

- Dwelling 1 – Two storeys with a basement, one bedroom and one car parking space.
- Dwellings 2 & 4 – Two storeys, four bedrooms and two car parking spaces each.
- Dwellings 3 & 5 – Three storeys, four bedrooms and two car parking spaces each.
- Dwelling 6 – Two storeys, two bedrooms and one car parking space.
- Dwelling 7 – Three storeys, two bedrooms and one car parking space.

Shops

Development of two shops. Shop 1 has a leasable floor area of 23sqm, and Shop 2 has a leasable floor area of 25sqm. The shops are single storey and have a maximum building height of 4.45m (6.2m to the top of the chimney). The shops will have several outdoor display areas spread throughout the site. As the car parking demand assessment provided by the applicant treated these “market” spaces as ancillary to the shops, it will not be considered a separate land use. Conditions will be included on any permit issued to change the “market” annotations to “outdoor shop display” or similar.

Restaurant and office

Use and development of a restaurant with both internal and external dining options and a leasable floor area of 99sqm. Maximum patronage will be 39 persons at any given time. The restaurant building will have a maximum building height of 6m (6.8m to the top of

the chimney) and contain an office within the roof space above the restaurant (19sqm leasable floor area).

Rooftop bar

Use and development of a rooftop bar that will sit suspended on columns central to the site. The bar has a leasable floor area of 60.5sqm and a maximum building height of 10.3m. Maximum patronage will be 18 persons at any given time.

Licensed premises

A Licensed Premises for on-site liquor consumption for the restaurant and bar areas. It is anticipated that a maximum number of 57 patrons will be permitted under the proposed liquor licence.

Operating hours for the Licensed Premises, Bar, Shops and Restaurant is as follows:

- 10.00am to 11.00pm Mondays to Saturdays
- 11.00am to 11.00pm Sundays
- 12 noon to 11.00pm Good Friday and Easter Sunday

Transport Zone 2 access

Two existing access points to Kiewa Valley Highway will be utilised to provide vehicle and pedestrian access to all proposed buildings via a circular one-way internal driveway.

Car parking

A total of 22 on-site car parking spaces are proposed (11 spaces for dwellings and 11 for the commercial premises).

Landscaping

Hard and soft landscaping included within all open areas of the site.

Refer Appendix 8.2.7.a - Proposed plans.

SUBJECT LAND AND SURROUNDS

Subject land

The subject land comprises one parcel of land commonly known as 228-230 Kiewa Valley Highway Tawonga South and more formally as Lot 1 PS 147907R. Details of the subject site are summarised as follows:

- area of approx. 3126sqm
- frontage of 50m to Kiewa Valley Highway
- relatively regular in shape with slightly skewed boundaries and a corner cut out (northern corner)
- generally flat with no notable slope
- vacant
- no formal constructed access points to Kiewa Valley Highway

- no notable vegetation
- reticulated services are available given that the site is within an urban area
- located within a mixed-use precinct of Tawonga South, approximately 1km to the north west of the main commercial centre of Mount Beauty.
- The site is located within an Area of Aboriginal Cultural Heritage Sensitivity and is affected by bushfire and flooding (proposed LSIO), otherwise there no heritage sensitivities or natural hazards impacting the land.

Surrounds

Commensurate with current Mixed Use zoning, the surrounding land contains a mixture of different land uses. Namely, a caravan park abuts the site to the north east, a hotel (Settlers Tavern) abuts the site to the south east and a restricted retail premises (Rocky Valley Bikes & Snow Sports) abuts the site to the north west. A number of retail premises, including food and drink premises are located along Kiewa Valley Highway, opposite the site to the south west. The Kiewa River West Branch and Mount Beauty Pondage are located further to the east.

The site and surrounding area is highlighted within Figure 1 below.



Figure 1: Aerial image of subject land (highlighted in red) and surrounding area

RESTRICTIONS ON TITLE

Covenant J291220 is listed on the title which restricts the construction of any buildings, structures, or obstructions over the 2m wide sewerage easement adjacent to the north

eastern boundary of the site. The Covenant also requires payment to the relevant Water Authority for any costs incurred as a result of any buildings, structures or obstructions being placed on said piece of land.

The proposal provides a minimum 3m offset from the north eastern boundary to the closest building which is well clear of the restricted area. A driveway is proposed over the restricted area, but this is not considered to be an obstruction as it can easily be removed. North East Water did not raise any issues with the driveway being located over the easement. As such, the proposal does not breach the Covenant.

ABORIGINAL CULTURAL HERITAGE

Regulation 7 of the *Aboriginal Heritage Regulations 2018* states:

"A cultural heritage management plan is required for an activity if—

all or part of the activity area for the activity is an area of cultural heritage sensitivity and all or part of the activity is a high impact activity."

The subject site is within an Area of Cultural Heritage Sensitivity and is classified as a High Impact Activity. There are no exemptions that apply and as such, a Cultural Heritage Management Plan is required to be provided prior to the issue of a Planning Permit in accordance with Section 52 of the *Aboriginal Heritage Act 2006*. The applicant provided an approved Cultural Heritage Management Plan 18142 by Biosis addressing this requirement.

PUBLIC NOTIFICATION

Notice of the application was given in accordance with Section 52 of the *Planning and Environment Act 1987*. Notice of the application was sent to surrounding landholders and occupiers and a sign was displayed on the subject land.

Notification has been carried out correctly and Council received three objections.

A forum was held on 10 May 2023 between Council, the applicant, and the objectors. A number of concerns were discussed, predominantly relating to insufficient car parking, unsafe access and privacy/overlooking. Following the forum and further discussions held between the applicant and the objectors, one objection was withdrawn.

A late enquiry was received on 25 May 2023 querying setback and car parking requirements within the Planning Scheme. Council staff responded to the enquiry on 30 May 2023 and requested confirmation if the enquiry was to be treated as an objection. A response was never received. In spite of this, the car parking and setback concerns will be discussed below, alongside the other concerns raised by the objectors.

Summary of concerns	Planner's response
Shared use of access to the Highway (congestion and safety)	Both the Department of Transport and Councils Engineering Department did not raise any concerns with shared use of the crossover to Kiewa Valley Highway. Appropriate signage will be required to be installed upon approaching the crossovers to ensure that users are aware of the shared arrangement, as per conditions.
Reduction of car parking and impact on existing businesses. The street is already congested with traffic and insufficient car parking	As discussed in greater detail in the assessment below, the proposal provides adequate provision of off-street car parking and is supported by a Traffic Impact Assessment report.
Provision and maintenance of public toilets	As the land is privately owned, any toilets for patron/public use will be managed by the property owner/manager. Conditions should be included on any permit issued to ensure that toilets are made available during operating hours and maintained in good condition.
Drainage at the entrance to Settlers Tavern	A detailed drainage design will be required to be submitted as per conditions to ensure that stormwater from the proposed development is managed appropriately without impacting adjacent properties. Drainage issues along Kiewa Valley Highway are likely to be a broader issue requiring a capital works program that is undertaken by Council outside the scope of this application.
Setbacks	As per the Clause 55 assessment, the proposed setbacks are acceptable considering the nature of existing land uses within the surrounding area.

Summary of concerns	Planner's response
Height / visual dominance	As per the Clause 55 assessment appended to this report, conditions will be included on any permit issued for the height of the three storey dwellings (dwelling 3 and 5) to be reduced or the third level suitably recessed to accord with the existing character of the area and reduce amenity impacts to permanent residents within the caravan park.
Overshadowing	As per the Clause 55 assessment appended to this report, the proposal will not unreasonably overshadow the adjoining caravan and camping park.
Overlooking	As per the Clause 55 assessment appended to this report, suitable conditions will be included on any permit issued for Dwellings 2 – 5 to be appropriately screened/re-designed to mitigate unreasonable overlooking to the caravan park to the rear.
People noise	Standard domestic people noise is not a matter that can be enforced as part of a planning permit and is a police matter.

REFERRALS

Referrals / Notice	Advice / Response / Conditions
Section 55 referrals:	GMW – Conditional consent dated 23 November 2021 Head, Transport for Victoria - Conditional consent dated 2 February 2023 CFA - Conditional consent dated 8 March 2022
Section 52 referrals:	NECMA - Conditional consent dated 25 November 2021 AusNet - Conditional consent dated 1 November 2021 NEW – Consent, no conditions dated 1 April 2022

Referrals / Notice	Advice / Response / Conditions
Internal referrals:	ASC ENG – Conditional consent dated 5 April 2023 (received 26 July 2023) ASC EHO – Comments to be included as notes on any permit issued. ASC Waste – Concerns raised with insufficient space set aside for bins. A condition will be included on any permit issued for a detailed waste management plan and amended plans (if required) to address this.

PLANNING ASSESSMENT AND RESPONSE TO GROUNDS OF OBJECTION

All applicable policy and decision guidelines can be found in Appendix 9.3.7.b.

Municipal Planning Strategy and Planning Policy Framework

The relevant Clauses from the Municipal Planning Strategy and Planning Policy Framework are contained within Appendix 9.3.7.c.

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

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

Clause 11.01-1L-04 – Mount Beauty – Tawonga South

The subject site is situated within the Mount Beauty – Tawonga South settlement boundary as identified within the Mount Beauty – Tawonga South Structure Plan at Clause 11.01-1L-04. The site has access to all reticulated services and bushfire and flood risk can be suitably mitigated, as discussed in greater detail below. The site is ideally positioned within the mixed use zone and is surrounded by a mixture of complementary land uses such as retail premises, a tavern, caravan park, brewery and food and drink premises. Whilst the proposed development is the first of its kind within the area, it is considered to be appropriately zoned for such purposes.

Clause 02.03-3 - Environmental Risks and Amenity

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

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

Clause 13.07-1S - Land use compatibility

The proposal suitably responds to and reduces bushfire risk which is discussed in greater detail below under the BMO and Clause 53.02. The BAL rating is not greater 29 and therefore accords with the strategy under Clause 13.02-1L. NECMA have reviewed the application and issued conditional consent demonstrating that flood risk can be suitably mitigated, and the proposal is unlikely to have an adverse impact on the floodway function.

The proposal is not considered to result in any unreasonable noise impacts to sensitive land uses. The commercial premises and internal accessways have been carefully located at the road frontage and central to the site to maximise the separation distance from the caravan and camping park. In any instance, the permit holder will be required to meet the requirements of the Environment Protection Act 2017 in relation to odour, noise, hours of operation and the like ensuring that off-site amenity impacts are minimised.

Clause 14.02-1S & Clause 14.02-1L Catchment planning and management

Clause 14.02-2S & Clause 14.02-2L Water quality

The subject site is located within a Special Water Catchment and as such, the application was referred to GMW for consideration. No issues were raised, and conditional consent was provided. This demonstrates that the proposal will have a suitable impact on catchment health and function.

Clause 02.03-5 – Built Environment and Heritage

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

Clause 15.01-2S – Building Design

Clause 15.01-5S - Neighbourhood Character

Clause 15.03-2S – Aboriginal Cultural Heritage

The subject site is situated within an established mixed-use area. The area is not particularly recognised for its consistent character and there are no Local Policies or Overlays relating to the character of the area.

As mentioned earlier, the proposed development is the first of its kind within the local area in terms of the scale of the development and design. The existing character of the area is not consistent in terms of setbacks, building area and design/external appearance. However, existing development is all of a relatively low scale, being predominantly single storey. Applicable planning policy supports intensification of development in this location and as such, a suitable balance must be achieved between development intensification and supporting the existing character of the area.

From the street, the development presents an attractive and interactive façade, with the commercial premises located at the front of the site integrating with the public realm. The proposed buildings adjacent to the street frontage are relatively low scale (1-2 storeys) which provides an appropriate height transition from existing single storey development within the surrounding area. Of concern is the impact of the three-storey development at the rear of the site on the adjacent caravan and camping park. Whilst it is acknowledged that attempts have been made to limit the number of three storey buildings to two, the sheer height of the three storey dwellings and minimal setback to the rear is considered to be out of character with the area and will lead to adverse amenity impacts on the adjacent caravan and camping park. There is minimal articulation/recessing on the rear façade of the three storey dwellings which would assist in mitigating amenity impacts and reducing visual bulk. As such, conditions will be

included on any permit issued to either reduce the height or appropriately recess the third storey to address this.

The site layout is functional and allows for existing access to be utilised, on-site car parking, waste storage, stormwater management and services. Car parking and access will be discussed further under Clause 52.06 below. Landscaping is proposed within all open areas of the site which also includes an area of communal open space. This will assist in softening the appearance of the development when viewed from the street as well as provide for on-site amenity for residents. A detailed landscaping plan will be required as per conditions to ensure that plantings are suitable. Taking into consideration the above, the proposed built form outcome positively addresses the Clauses listed above.

Clause 02.03-6 – Housing

Clause 16.01-1S – Housing Supply

Clause 16.01-2S – Housing Affordability

The proposal provides for housing supply and dwelling diversity within an established mixed use area of Tawonga South, where the necessary services and infrastructure are available to support additional dwellings. The site is reasonably land and unutilised, making it ideal for increased housing opportunities to reduce the demand for dwellings in greenfield and productive agricultural areas. As such, the proposal positively responds to the objectives and strategies of these Clauses.

It is recognised that a significant proportion of dwellings within the Municipality are not permanently occupied and are used for short term accommodation and holiday homes. Whilst there will be pressure for the proposed dwellings to be used for such purposes, the applicant has sought approval for the development of dwellings and if used for any other purpose in the future that requires a planning permit, enforcement action could be undertaken.

Clause 02.03-7 – Economic Development

Clause 17.01-1S & Clause 17.01-1L – Diversified Economy

Clause 17.01-1R – Diversified Economy - Hume

Clause 17.02-1S - Business

Clause 17.04-1S & Clause 17.04-1L - Tourism

Clause 17.04-1R – Tourism - Hume

The proposal will contribute to the economic diversity and growth of Mount Beauty – Tawonga South and surrounding regions as well as provide jobs and services to the local community. The site is ideally positioned within a mixed use area, surrounded with similar complementary businesses, as sought by Clause 17.02-1S.

The proposal includes a number of commercial premises such as a restaurant, bar and two shops that will assist in supporting the local tourism industry and economy more broadly.

*Clause 02.03-8 – Transport**Clause 18.02-4S - Roads*

The site has existing access to Kiewa Valley Highway which is a road in a Transport Zone 2. A Traffic Impact Assessment report by Spotto was provided in support of the application which concludes that the proposed development is anticipated to generate 15 vehicle trips per hour in peak periods, which will not have a significant impact on the performance of the surrounding road network (including nearby intersections) or warrant any upgrades.

The Department of Transport were referred the application and provided conditional consent. This demonstrates that the proposal will provide for the safe and efficient use of the road network.

*Clause 02.03-9 – Infrastructure**Clause 19.03-3S & Clause 19.03-3L – Integrated Water Management*

The subject site is situated within an urban area with all the necessary development infrastructure and services. The Engineering Department have reviewed the application and did not raise any issues in terms of stormwater management and recommended standard conditions relating to provision of detailed construction and drainage drawings. Wastewater will be directed to reticulated sewer infrastructure. As such, the proposal is considered to suitably manage water resources.

Zoning and land use

The subject land is zone Mixed Use Zone, and a planning permit is required under the Zone provisions for various components of the proposal as follows:

- Clause 32.04-2 - to use the land for a market and food and drink premises (restaurant and bar);
- Clause 32.04-6 – to construct seven dwellings on a lot; and
- Clause 32.04-9 – buildings and works associated with a Section 2 use (market and food and drink premises)

A planning permit is not required under the zone for the shops and office as the Section 1 condition is met as follows:

- The two shops have a combined leasable floor area of approximately 48sqm.
- The office has a leasable floor area of 19sqm.

As a result, these elements did not form part of the assessment against the provisions of the Mixed Use Zone.

The site abuts the General Residential Zone to the north east and Clause 32.04-10 requires that any buildings or works constructed on a lot that abuts land in the General Residential Zone, among other residential zones, must meet the several requirements of Clause 55 A full assessment of the proposal against the relevant provisions of Clause 55 has been undertaken.

Clause 32.04-11 states that a building must not be constructed that exceeds the maximum building height specified in a schedule to this zone. There is no maximum building height requirement specified within the zone or schedule to the zone.

The development is consistent with the purpose and decision guidelines of the zone for the following reasons:

- The proposal positively responds to the Municipal Planning Strategy and the Planning Policy Framework which have been discussed under separate subheadings above.
- The proposal accords with the purpose of the Mixed Use Zone including providing for a range of residential and commercial and other uses which complement the mixed-use function of the locality and to provide for housing at higher densities.
- The proposal generally supports the existing character of the area (with minor modifications).
- The site does not have an interface with any existing dwellings and as such, no existing rooftop solar energy systems will be overshadowed.
- The proposal suitably responds to the objectives, standards, and decision guidelines of Clause 55. A full assessment of the proposal against the provisions of Clause 55 has been undertaken.

Overlays:

Clause 44.06 – Bushfire Management Overlay

The site is included in the Bushfire Management Overlay and the application triggers a planning permit pursuant to Clause 44.06-2 as buildings and works associated with accommodation, office and retail premises are proposed.

The applicant provided a bushfire hazard site assessment, bushfire hazard landscape assessment, bushfire management statement and bushfire management plan addressing the application requirements of Clause 44.06-3.

The requirements of Clause 53.02 have been met and will be discussed further under the Particular Provisions Section below. The mandatory condition listed under Clause 44.06-5 will need to be included on any permit issued.

The application was referred to the CFA and conditional consent was provided. The application has been considered against the decision guidelines of Clause 44.06-8 and can be supported as it is considered that the proposal satisfactorily addresses bushfire risks and requirements of the overlay.

Particular Provisions

Clause 52.06 – Car Parking

Clause 52.06-5 outlines the required number of car parking spaces for various uses.

The proposal generates the following demand for car parking:

Use and rate of car parking spaces required		Number of Spaces
Bar - maximum 18 patrons	0.4 spaces/patron	7.2
Dwellings 3 x one-two bedroom 4 x four bedroom	1 space/1-2 bedroom dwelling 2 spaces/ 3+ bedroom dwelling 1 space/5 dwellings	12 (including 1 visitor space)
Office - 74sqm net floor area	3.5 spaces/100sqm net floor area	2.59
Restaurant - maximum 39 patrons	0.4 spaces/patron	15.6
Shop - 48sqm leasable floor area	4 spaces/100sqm leasable floor area	1.92
Total		39.31 (39 rounded down)

Twenty two car parking spaces are proposed (11 for residential and 11 for commercial), as such, a reduction of 17 spaces has been sought. In support of the provision of car parking, the applicant provided a Traffic Impact Assessment Report by Spotto, satisfying the application requirements of Clause 52.06-7.

The report includes a car parking demand assessment which considers the following:

- The Bar area is mainly for the in-house guests, and thus it is appropriate to discount this by 50%.
- The restaurant area is also likely to be used mainly by in-house guests, and a 50% discount is considered appropriate; and
- Customers at the Market Spaces are anticipated to be apartment guests or ancillary to the shop areas, and thus it is appropriate to discount this by 100%.
- There is a high likelihood of multi-purpose trips within the locality, particularly to the shops and restaurant, as the site is located within the township of Tawonga South, and patrons will tend to be tourists staying in Tawonga South or surrounds, accessing the site and other nearby developments.
- Parking demand for the dwellings has been adequately catered for off-street.
- The demand for public parking from restaurant/bar patrons and shop customers will tend not to coincide, with the demand from restaurant/bar patrons likely to be highest in the evening and the demand from the shops likely to be highest during the day.
- Long stay car parking is typically limited to the dwellings and short stay car parking is likely to be associated with the commercial premises. Car parking spaces will be adequately signed to ensure that spaces are reserved for their intended duration.

- Although few people would be expected to use public transport to access the site, bus services are available from the Kiewa Valley Highway, approximately 200m south of the site.
- Pedestrian footpaths are available on the Kiewa Valley Highway adjacent to the site, and it is anticipated that there would be significant access by pedestrians from Tawonga South and nearby areas.
- Whilst a majority of residents and staff are expected to travel by motor vehicle, restaurant/bar patrons and shop customers may walk or ride to the site, as patrons will tend to be tourists staying in Tawonga South or surrounds, accessing the site and other nearby developments.
- Adequate bicycle parking is provided – refer Clause 52.34 assessment below.

Based on this, the car parking demand assessment anticipated demand was reduced to a total of 26 spaces, thus resulting in a shortfall of only four spaces. There are six on-street car parking spaces immediately adjacent to the site to cater for this shortfall. Considering the findings of the car parking demand assessment, the reduction of car parking is considered to be acceptable.

The site plan shows the necessary information required by Clause 52.06-8 and the proposal suitably meets the design standards for car parking under Clause 52.06-9. Namely:

- Existing access will largely be utilised by the proposed development, with minor alterations proposed and supported by the Department of Transport.
- The accessway is at least 3m wide and allows vehicles to exit the site in a forward direction. There are no overhead obstructions.
- Issues have been identified with the direction of traffic flow along the internal accessway and the ease of entering the car parking spaces for dwellings 1 to 5 and retail spaces 1 to 3. Reverse entering to retail spaces 1 to 3 is required. Whilst there are no design standards explicitly stating that reverse entering is not permitted, this is a new development and in the interest of traffic flow and safety along the internal accessway, these car parking spaces should be relocated/reoriented to achieve forward entry, reverse exit (as per the engineering referral response). Minor adjustments to the dwelling driveways will address the access issues identified for these spaces. Conditions will need to be included on any permit issued to rectify this.
- Due to the ingress and egress only access arrangements, a passing bay at the entrance to the site is not considered to be necessary.
- Car parking spaces are at least 6m from the road carriageway.
- Retail car parking spaces meet the minimum dimensions required and there is no encroachment within the "clearance required".
- Where two car parks are required for a dwelling, at least one is under cover beneath the cantilevered upper level of the dwelling and small awning. Given that the car parking spaces will be of an open nature, their dimensions are considered to be appropriate.
- The Traffic Impact Assessment Report outlines that one disabled car parking space is required under the Building Code of Australia. It is stated that the disabled space would be ideally located on-street due to ease of access to the commercial premises

at the front of the site. Councils engineering department have reviewed the application and require the disabled space to be located on-site. This will need to be addressed by way of condition.

- As the site is relatively flat, there are no concerns raised in relation to gradients.
- All car parking spaces are located in a close and convenient location relative to the dwellings and commercial premises.
- Areas of car parking are located to the rear of the site and will predominantly be screened from view from the public realm by the proposed buildings. This is considered to be a positive urban design outcome.
- Landscaping is proposed to all open areas of the site to soften the appearance of hard paved surfaces and assist with climate control.
- Lighting detail has not been provided with the application. Conditions should be included on any permit issued for lighting details along the accessway to ensure a reasonable level of safety and amenity for residents.

Conditions should be included on any permit issued to ensure that the shared driveway and car parking spaces are suitably constructed, and line marked in accordance with Clause 52.06-11.

Clause 52.27 - Licensed Premises

A permit is required under Clause 52.27 as the sale and consumption of liquor is proposed. The purpose and decision guidelines of Clause 52.27 focus strongly on ensuring that licensed premises are suitably located, and due consideration is given to the amenity of the surrounding area.

The proposed red line area will cover the restaurant and bar, with the maximum patronage for both separate areas being 57 persons at any given time.

The hours of operation for the restaurant and bar (including the licensed premises) are as follows:

- 10.00am to 11.00pm Mondays to Saturdays
- 11.00am to 11.00pm Sundays
- 12 noon to 11.00pm Good Friday and Easter Sunday.

The site is located within a mixed-use area of Tawonga South and has commercial abuttals to the north west, south west and south east. The site abuts a caravan and camping park to the north east which is known to have permanent residents. In spite of this, it is considered that the amenity of the surrounding area will not be unreasonably impacted by the proposed licensed premises.

Noise from the licensed premises is not expected to be unreasonable. The licensed premises is located at the road frontage and central to the site, separated from the caravan and camping park by a row of four dwellings. The licensed premises will include the restaurant and bar where people noise is already likely to occur, and the hours of operation are fairly standard and unlikely to directly result in amenity issues.

At a maximum patronage of 57 people, it is a relatively small-scale premises where people behaviour can be suitable managed by the venue operator so as to minimise

impacts to the amenity of the surrounding area. The Victorian Commission for Gambling and Liquor Regulation are likely to impose their own requirements on the liquor licence under the *Liquor Control Reform Act 1998* in relation to behaviour management. Given the small-scale nature of the premises, it is unlikely to result in any cumulative impacts.

As such, the proposed licensed premises is considered to be acceptable considering the purpose and decision guidelines of Clause 52.27.

Clause 52.29 - Land Adjacent to the Principal Road Network

The application triggers a planning permit pursuant to Clause 52.29-2 to alter access to a road in a Transport Zone 2. The purpose of Clause 52.29 is to ensure appropriate access to the Principal Road Network or land planned to form part of the Principal Road Network.

The application was referred to the Department of Transport as the relevant road authority for Kiewa Valley Highway, pursuant to Section 55 of the *Planning and Environment Act 1987*. The Department of Transport have consented to the application and recommended conditions relating to the construction and ongoing maintenance of access points to Kiewa Valley Highway. This demonstrates that the proposal will have an acceptable impact on the operation of the road network in this location and road safety.

Clause 52.34 - Bicycle Facilities

Clause 52.34 applies to this application with the proposal generating a requirement for 1.31 on-site bicycle parking spaces.

The site plan shows a bicycle rack at the front of the site which can accommodate five bicycle spaces, thus meeting the requirements of Clause 52.34-5.

Conditions should be included on any permit issued to ensure that bicycle spaces are constructed in accordance with the requirements of Clause 52.34-6 and Clause 52.34-7.

Clause 53.02 – Bushfire Planning

As the proposal does not involve the construction of a single dwelling, the requirements of Clause 53.02-4 (Pathway 2) apply. This requires the Responsible Authority to consider the following measures:

Clause 53.02-4.1 – Landscape, siting, and design objectives

The proposed buildings are sited to ensure the maximum separation distance is achieved between the buildings and the bushfire hazard having regard to all relevant permit triggers and planning scheme objectives, commensurate with the objectives of the Clause.

While landscape risk cannot be eliminated, it is considered that suitable measures have been put in place to mitigate ember attack and direct fire attack as follows:

- Construction to BAL 12.5 level
- Location of buildings at an appropriate distance from classifiable vegetation
- Defendable space provided to the property boundary to respond to landscape risk

- On site water storage and
- The site abuts a main highway and access is provided for fire service vehicles.

The requisite defensible space, access, water supply and BAL requirements have been incorporated into the Bushfire Management Plan for approval. Based on the above, approved measures 2.1-2.3 are considered to be met and the underlying objectives have been achieved.

Clause 53.02-4.2 – Defendable space and construction objectives

Surrounding vegetation has been classified as low threat vegetation. In accordance with Table 2 to Clause 53.02-5, defensible space will be provided at 50m or to the property boundary, whichever is lesser, with a BAL 12.5 construction standard. The Bushfire Management Plan shows defensible space to the property boundary and a BAL 12.5 construction standard. The defensible space can easily be accommodated within the boundaries of the site and vegetation management will be achievable. A detailed landscaping plan will be required to be provided to demonstrate suitable plantings considering the vegetation management requirements for defensible space under Table 6 to Clause 53.02-5.

Clause 53.02-4.3 – Water supply and access objectives

Given the mixed-use nature of the proposed development, the CFA consider that the Clause 53.02-5 requirements do not adequately capture the water requirements of the proposed development and as a result have requested a 20,000L water supply in two separate above ground tanks. A static water supply of 2 x 10,000L has been shown on the Bushfire Management Plan for approval and as such, sufficient water supply for firefighting is provided. Vehicular access has been provided in accordance with the requirements.

Clause 53.02-4.5 – Decision guidelines

The decision guidelines of this Clause provide that a development can still be supported, even if one or more objectives are not met; having regard to the overall risk profile of the development. While it is trite to observe that the subject site is not immune from bushfire risk, the proposed mitigation measures captured through this development provide an appropriate level of defence to ensure that the risk is reduced to an acceptable level. The measures proposed can be readily and practically implemented on the site and the risk to the site overall is low in context of BMO planning applications. The CFA have reviewed the application and did not object subject to conditions.

For these reasons, it is considered that the proposal satisfactorily addresses bushfire risk to the site.

Clause 53.18 – Stormwater Management in Urban Development

Clause 53.18 applies to this application and has the purpose to ensure that stormwater in urban development, including retention and reuse, is managed to mitigate the impacts of stormwater on the environment, property, and public safety, and to provide cooling, local habitat, and amenity benefits.

Councils Engineering Department reviewed the application and did not raise any major issues in terms of stormwater management. Standard conditions were recommended relating to the provision of detailed construction and drainage plans for further assessment. These conditions will be included on any permit issued.

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

The objectives, standards and decision guidelines of Clause 55 are assessed in the Appendix 3. In summary, the proposal achieves suitable compliance with all relevant objectives of Clause 55.

General Provisions

Clause 65.01 of the Alpine Planning Scheme provides the general decision guidelines that must be considered, as appropriate, before deciding on an application for planning permit. The proposal can be supported considering the relevant decision guidelines of Clauses 65.01 as detailed below:

Decision Guideline	Response
The matters set out in Section 60 of the Act.	The proposal is appropriate considering the matters set out in Section 60 of the <i>Planning and Environment Act 1987</i> . Namely, the proposal satisfies the relevant provisions of the Alpine Planning Scheme, notification and referrals were undertaken, and there are no negative environmental, social, or economic effects. The objections received have been addressed in consideration of the application.
Any significant effects the environment, including the contamination of land, may have on the use or development	The environment is unlikely to have any significant effect on the proposed development. Bushfire and flooding have been addressed in the body of this report.
The Municipal Planning Strategy and the Planning Policy Framework.	The proposal is supported by the Municipal Planning Strategy and the Planning Policy Framework.
The purpose of the zone, overlay or other provision.	The proposal is consistent with the purpose of the Mixed Use Zone, Bushfire Management Overlay, Clauses 52.06, 52.27, 52.29, and 55, and the relevant Particular Provisions.
Any matter required to be considered in the zone, overlay or other provision.	The proposal is consistent with the relevant requirements and decision guidelines of the Mixed Use Zone, Bushfire Management Overlay, Clauses 52.06, 52.27, 52.29, and 55, and the relevant Particular Provisions.

Decision Guideline	Response
The orderly planning of the area.	The proposal provides for a functional mixed-use development on an unutilised site zoned for such purposes. Natural hazards have been suitably mitigated and there are unlikely to be any unreasonable off site amenity impacts (subject to conditions). As a result, the proposal is considered to be an example of orderly planning.
The effect on the environment, human health, and amenity of the area.	The proposal is unlikely to have any negative effects on the environment, human health, and amenity of the area.
The proximity of the land to any public land.	The site does not have an interface with public land.
Factors likely to cause or contribute to land degradation, salinity or reduce water quality	The proposal is unlikely to contribute to land degradation, salinity, or reduced water quality. All stormwater and wastewater will be connected to reticulated services and no native vegetation is required to be removed.
Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site	The Engineering Department has reviewed the application and recommended a condition relating to the provision of a detailed drainage design for further assessment.
The extent and character of native vegetation and the likelihood of its destruction	N/A – no native vegetation will be impacted by the proposal.
Whether native vegetation is to be or can be protected, planted, or allowed to regenerate	N/A
The degree of flood, erosion or fire hazard associated with the location of the land and the use, development, or management of the land to minimise any such hazard	Bushfire and flooding risk has been addressed in the assessment of this proposal.
The adequacy of loading and unloading facilities and any associated amenity, traffic flow and road safety impacts	On-site loading and unloading can be accommodated within the proposed car parking areas for small vans and a dedicated loading/unloading area has been included within the accessway for larger vehicles. As the location of the loading/unloading area will impede

Decision Guideline	Response
	traffic flow along the accessway, it will only be used at times when the accessway is least likely to be used (ie. before and after shop opening times and commuting).
The impact the use or development will have on the current and future development and operation of the transport system	The applicant provided a Traffic Impact Assessment Report demonstrating that traffic from the proposed development will not impact the current and future operation of the transport system. The application was referred to the Department of Transport and conditional consent was provided. This confirms that the proposal will have a suitable impact on the current and future operation of the transport system.

CONCLUSION

The application has been assessed against the relevant provisions of the Alpine Planning Scheme, including the Municipal Planning Strategy, Planning Policy Framework, the Mixed Use Zone, Bushfire Management Overlay, the relevant Particular Provisions, and decision guidelines.

Having considered all relevant matters, the application is considered to be consistent with the Alpine Planning Scheme.

The application for use and development of two food and drink premises (restaurant and bar), development of seven (7) dwellings, two shops and an office, licenced premises, alteration of access to a road in a Transport Zone 2 and reduction of car parking requirements is considered to be consistent with the Alpine Planning Scheme and should be approved for the following reasons:

- The application is consistent with the Alpine Planning Scheme.
- The application is consistent with the objectives of planning in Victoria.
- The proposal does not breach the restrictive covenant applicable to the land.
- The objectors' concerns (as relevant and applicable to the specific planning permissions being sought) have been considered reasonably addressed.

DECLARATION OF CONFLICT OF INTEREST

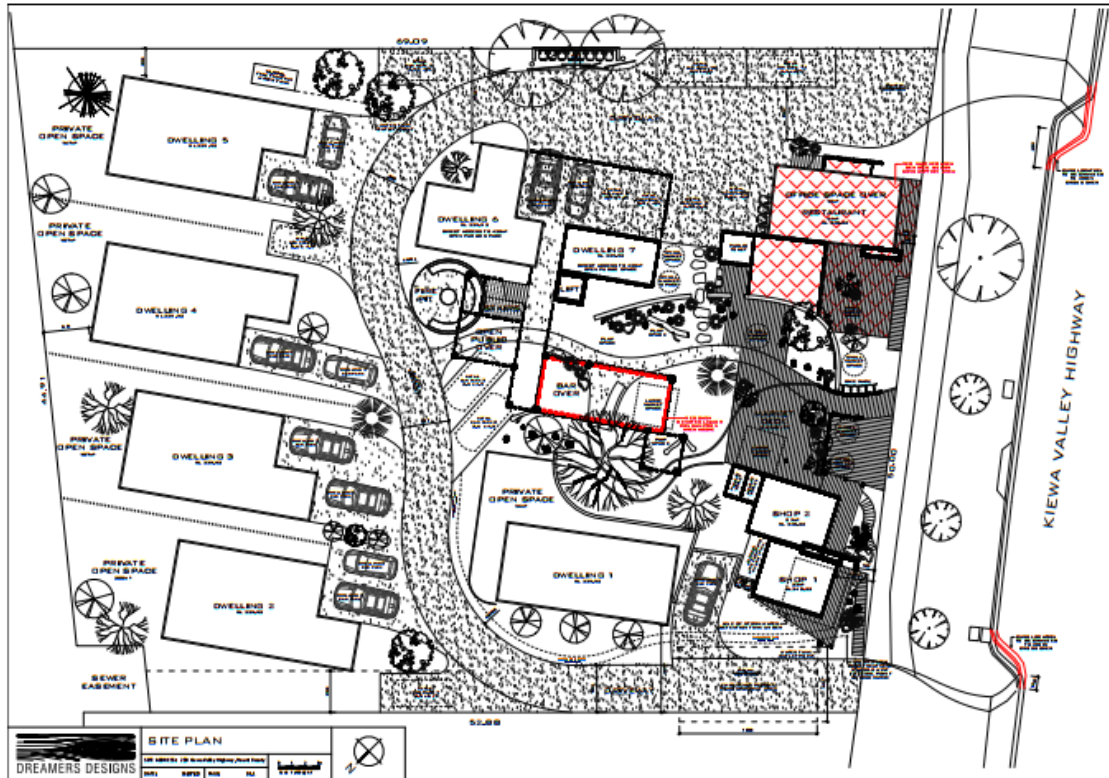
In accordance with section 130 of the *Local Government Act 2020*, and Chapter 7 section A6 of Council's Governance Rules, the following officers declare that they have no interests to disclose in providing this report.

- Director Customer and Community
- Manager Statutory Planning, Compliance and Local Laws
- Contract Planner

APPENDICE(S)

- 9.3.7.a Proposed Plans
- 9.3.7.b Conditions
- 9.3.7.c Policy and decision guidelines

Appendix 9.3.7.a. Proposed Plans



Plan 1: Site Plan



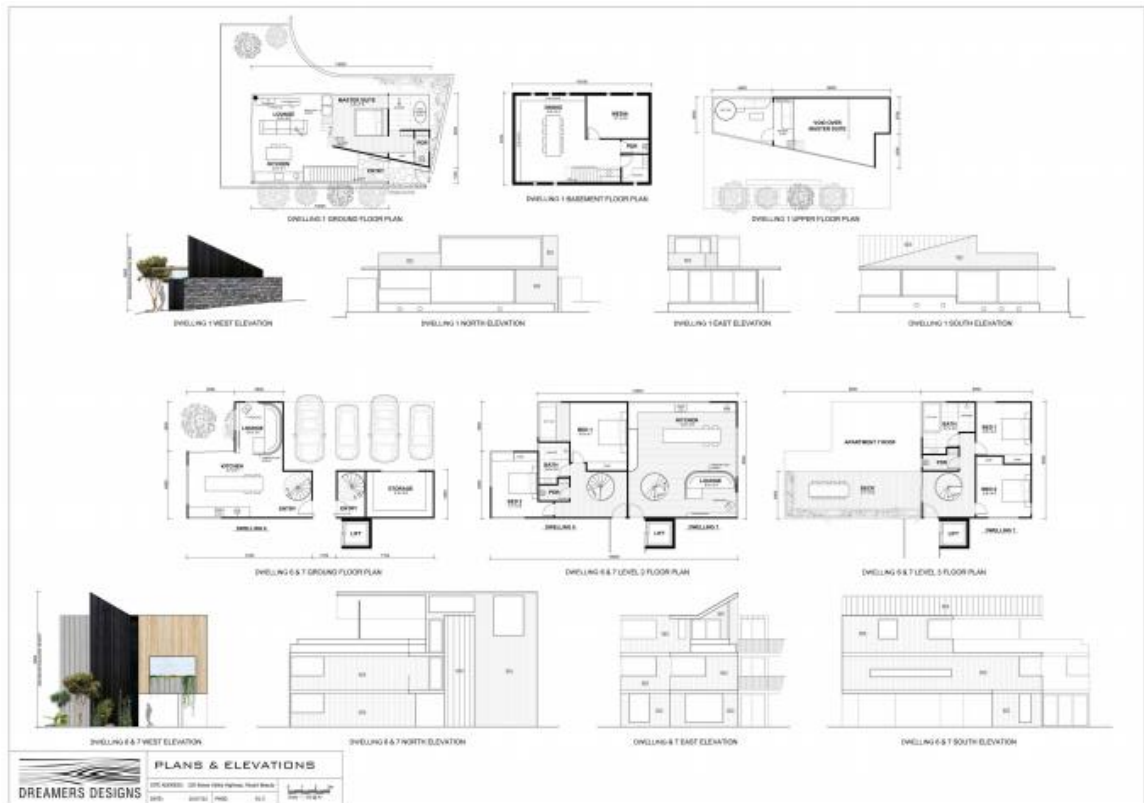
Plan 2: Site Context



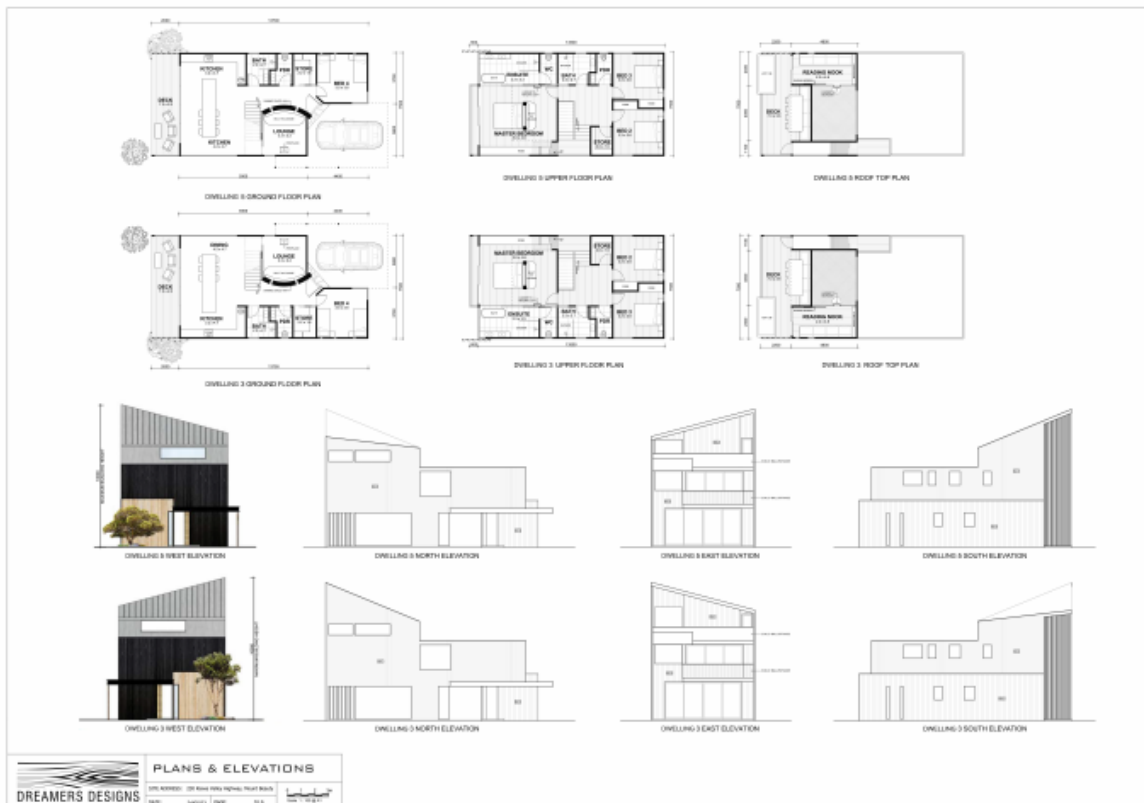
Plan 3: Streetscape



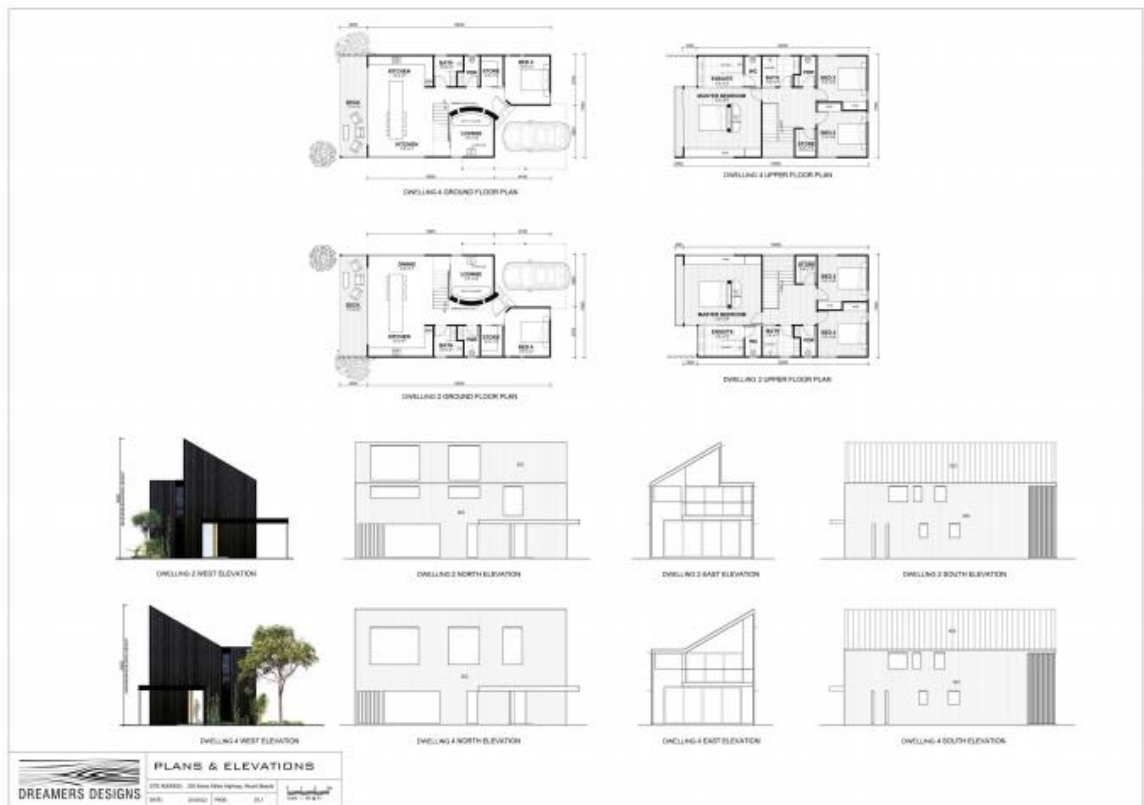
Plan 4: Plans and elevations – restaurant and shops



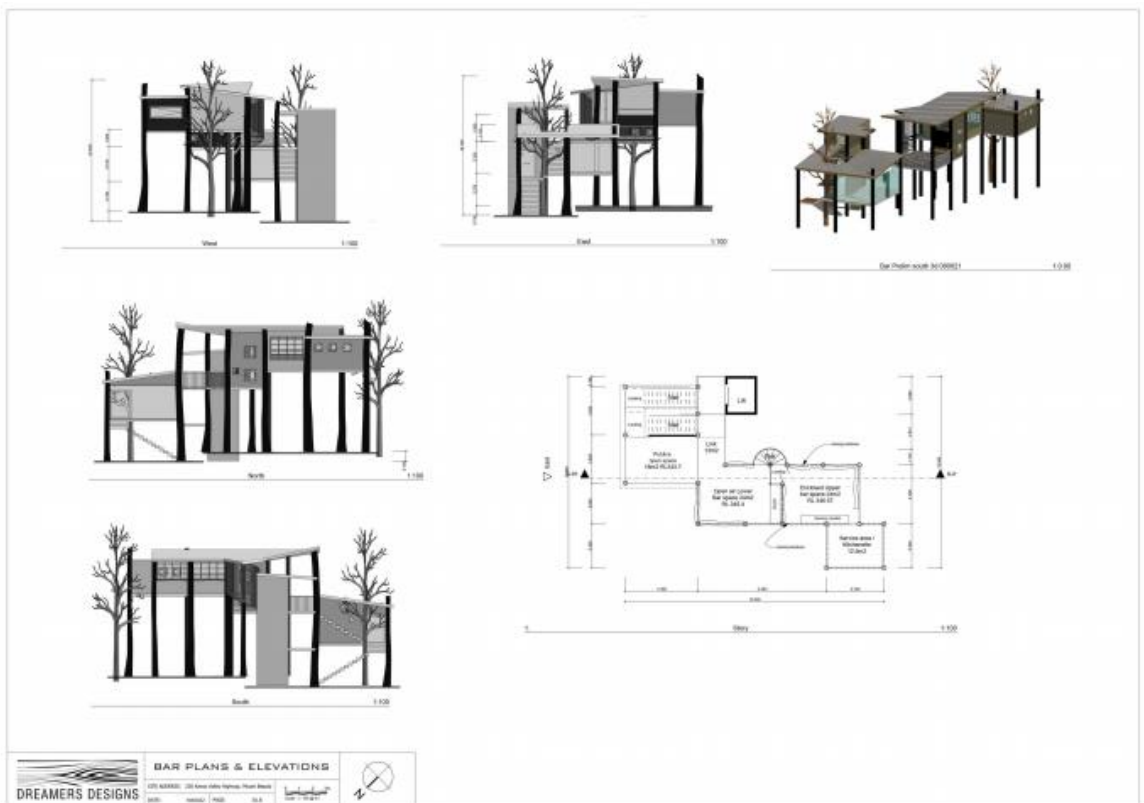
Plan 5: Plans and elevations – dwellings 1, 6 & 7



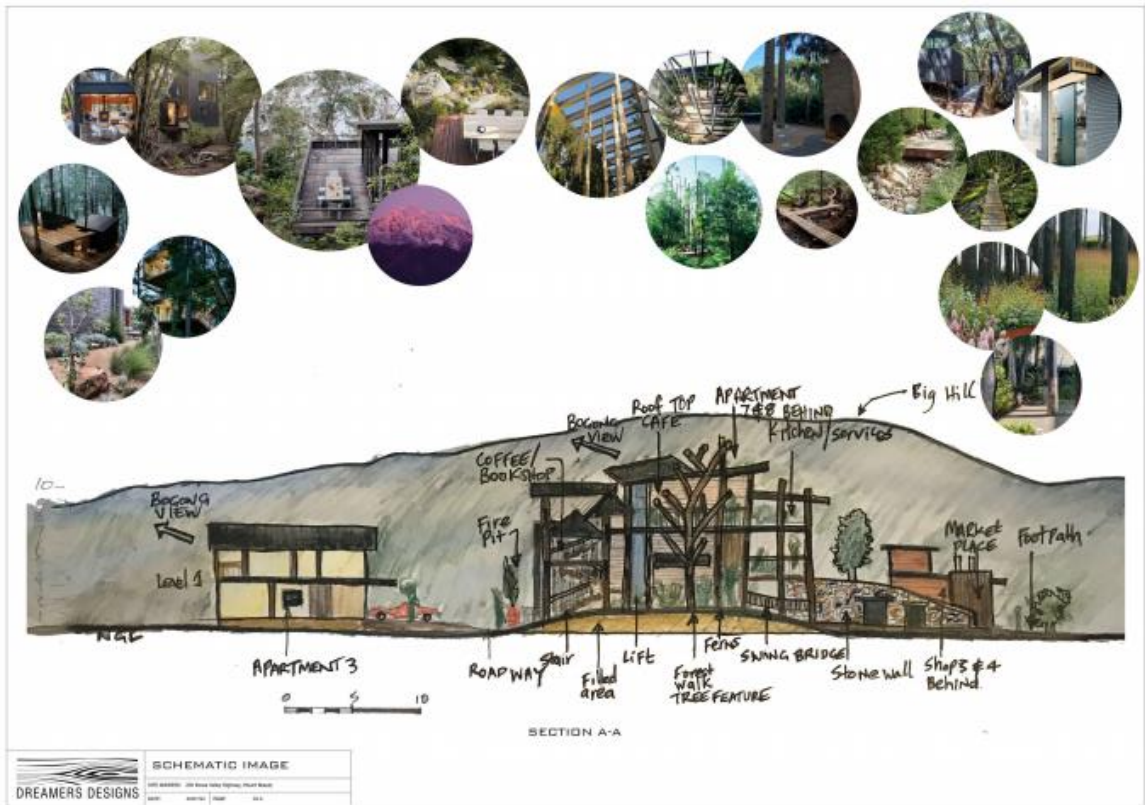
Plan 6: Plans and elevations – dwellings 3 & 5



Plan 7: Plans and elevations – dwellings 2 & 4



Plan 8: Plans and elevations - bar



Plan 9: Schematic image



Plan 10: Restaurant 3D visualisation

Appendix 9.3.7.b Conditions

Amended Plans

1. Before the endorsement of any plans, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and be generally in accordance with the plans submitted with the application but modified to show:
 - a. Remove any signage from the elevations.
 - b. Change the "Market" annotations to "Outdoor Shop Display".
 - c. Location and details of any lighting along the internal accessway.
 - d. Indicate the carport locations on the site plan.
 - e. Complete elevation of the stone wall that extends from the restaurant through the area of communal open space.
 - f. Location of mailboxes for the dwellings.
 - g. Amended elevations to correct errors/show missing detail as follows (note design changes required under point i):
 - i. Dwelling 2
 - Ground floor and upper floor windows do not match the floor plan for the northern and southern elevation.
 - East elevation does not show the balcony and windows in the correct location as per the floor plan.
 - The west elevation does not clearly show the location of all windows as per the floor plan.
 - Materials missing from east elevation.
 - ii. Dwelling 3
 - Upper level and rooftop windows are missing/not accurately shown on the western elevation.
 - The carport is not in the correct location on the western elevation as per the location on the ground floor plan.
 - Windows on all floors do not match the floor plan for the northern and southern elevation.
 - East elevation does not show the balcony, external doors and windows in the correct location as per the upper floor plan and roof top plan.
 - Roof line angle shown on the north and south elevations does not match the direction shown on the east and west elevation.
 - iii. Dwelling 4
 - Upper level WC window missing from south elevation.
 - Materials missing from east elevation.
 - iv. Dwelling 5
 - Upper level and rooftop windows are missing/not accurately shown on the western elevation.
 - The carport is not in the correct location on the western elevation as per the location on the ground floor plan.

- Lounge wall, bed 4 window, master bedroom window bed 2 window missing on the north elevation.
 - Reading nook windows not shown on the south elevation.
 - Roof line angle shown on the north and south elevations does not match the direction shown on the east and west elevation.
- v. Dwelling 6 & 7
- Missing Level 2 external door to dwelling 6 on the north elevation.
 - Dwelling 7 west elevation does not show windows as per the floor plan (lounge and bedroom windows not shown and kitchen window is not in correct location).
- h. Details of louvered screens to the rear sides of dwellings 2 to 5.
- i. To mitigate overlooking to the north east and achieve appropriate height transitions in accordance with Clause 55.03-2 and Clause 55.04-6 of the Alpine Planning Scheme, the following design changes are required:

Dwellings 2 to 5:

- i. Master bedroom balcony on the upper level removed and replaced with a window with a sill height no lower than 1.7m above the upper level FFL or alternatively a full window with fixed opaque glazing to a height no lower than 1.7m above the upper level FF ; or
- ii. Increase the height of the master bedroom balcony balustrade to a minimum height of 1.7m above the upper level FFL and include opaque glazing, louvres or suitable alternative to the satisfaction of the Responsible Authority.

Dwellings 3 and 5:

- iii. Remove the roof top; or
- iv. Offset the roof top a minimum distance of 9m from the north eastern boundary of the site.
- j. Landscaping plan as per Condition 2.
- k. Waste Management Plan as per Condition 3 and any alterations to plans to accommodate waste storage and collection in accordance with the Waste Management Plan.
- l. Any changes to the car parking layout as a result of Condition 19.

Landscape Plan required

1. Concurrent with the submission of plans required by Condition 1 and before the commencement of buildings and works, a detailed Landscape Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When the Landscape Plan is approved, it will become an endorsed plan forming part of this Permit. The Landscape Plan must incorporate:
 - a. A survey (including botanical names) of all existing vegetation to be retained and/or removed.

- b. A survey, including botanical names, of all existing trees on neighbouring properties where their Tree Protection Zones (calculated in accordance with AS4970-2009) encroach into the subject site.
- c. A planting schedule of all proposed trees, shrubs, and ground covers, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant. Plantings must achieve the vegetation management requirements under Table 6 to Clause 53.02-5.
- d. Landscaping to achieve a suitable buffer between dwelling 6 and the accessway.
- e. Landscaping and planting within all open areas of the site.
- f. Details of all proposed hard surface materials including pathways, patio, or decked areas.

Waste management plan

- 2. Concurrent with the plans required by condition 1, a Waste Management Plan (WMP) to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. Once approved, the plan will be endorsed and will form part of the permit.

The Waste Management Plan must provide for the following matters:

- a. Details on the number, volume, and location of waste receptacles.
- b. How appropriate management of the waste and recycling will be ensured.
- c. Detail of the bin storage area showing path of access, hard waste areas etc.
- d. Detail of the frequency of waste collections.
- e. Details of the appropriate waste contractor.

Endorsed Plans

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

Completion of Development

- 4. Once the development has commenced, it must be completed prior to occupation to the satisfaction of the Responsible Authority.

Completion and maintenance of landscaping

- 5. Prior to the commencement of the use approved herein or within the next planting season, whichever is the earlier; the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.
- 6. The landscaping must thereafter be maintained to the satisfaction of The Responsible Authority, including that any dead, diseased or damaged plants are to be replaced within 3 months or within the next planting season.

Mandatory Bushfire Management Overlay Condition

- 7. The bushfire protection 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.

Bushfire Emergency Management Plan

8. Before the use commences, a Bushfire Emergency Management Plan must be prepared by a suitably qualified person and submitted to the Responsible Authority for approval and endorsement. Once endorsed, the site must be managed in accordance with the plan. Apart from routine updates to ensure currency, the plan must not be altered unless agreed to in writing by the Responsible Authority. The plan should address the following matters:
 - a. A clear statement of the plans purpose and scope.
 - b. Details on the site and any emergency features/equipment.
 - c. A version control table and details on when and how the plan will be reviewed.
 - d. Details of the roles and responsibilities of the emergency control organisation (wardens).
 - e. Outline of training requirements for the emergency control organisation (wardens) and how often exercises will be conducted.
 - f. Details for onsite contacts, emergency services and neighbours.
 - g. Appropriate "action statements" for:
 - i. Before the Fire Danger Period.
 - ii. During the Fire Danger Period – including details of how the bushfire threat will be monitored.
 - iii. When a Code Red & Extreme Fire Danger Rating is forecast.
 - iv. When any other lower trigger point for action is forecast (as determined by the sites emergency control organisation/management).
 - v. When a bushfire threatens the site – including the trigger for sheltering in place or evacuation (as appropriate).
 - vi. After the bushfire threat passes.
 - vii. Details on evacuating staff, visitors, and guests from the site.

Amenity

9. The use and development must be managed so that the amenity of the area is not detrimentally affected, through the emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, wastewater, waste products, grit, or oil, or similar.

Control of Light Spill

10. External lighting must be designed, baffled, and located so as to prevent any adverse effect on adjoining land, to the satisfaction of the Responsible Authority.

Storage

11. No goods, equipment or materials may be stored outside of the building, unless allowed for on the endorsed plan.

Bicycle racks

12. Prior to the commencement of the use, the bicycle spaces indicated on the endorsed plans must be installed in accordance with design and signage requirements of Clause 52.34-6 and Clause 52.34-7 of the Alpine Planning Scheme, to the satisfaction of the Responsible Authority.

Communal Toilets

13. Communal toilets must be made available for patron/public use during operating hours and maintained by the owner(s)/occupier(s) to the satisfaction of the Responsible Authority.

Patron Numbers

14. The maximum number of patrons permitted within the bar at any given time must not exceed 18.
15. The maximum number of patrons permitted within the restaurant at any given time must not exceed 39.

Engineering Conditions*Detailed Construction Plans*

16. Prior to commencement of construction, detailed construction plans must be submitted to and approved by the Alpine Shire Council. Construction detail shall be generally in accordance with Council's Infrastructure Design Manual (www.designmanual.com.au). When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions, and shall include proposed construction detail, further information, or modifications to:
 - a. Pavement and proposed seal treatment of the internal accessway.
 - b. Underground drainage system, with supporting computations.
 - c. Landscape plans, including street tree locations and planting detail.
 - d. Vehicular crossings.
 - e. Access and parking.
 - f. Proposed signage.
 - g. Stormwater detention and quality treatments.

Drainage Discharge Plan

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

The information and plan must include:

- a. Details of how the works on the land are to be drained and retarded.
- b. Computations including total energy line and hydraulic grade line for the existing and proposed drainage as directed by Alpine Shire Council.

- c. Connection points for drainage for each dwelling/building.
- d. Underground pipe drains conveying stormwater to the legal point of discharge.
- e. Measures to enhance stormwater discharge quality from the site and protect downstream waterways, including the expected discharge quality emanating from the development and design calculation summaries of the treatment elements.
- f. A maximum discharge rate from the site is to be determined by computation to the satisfaction of Council.
- g. The details of the incorporation of water sensitive urban design designed in accordance with "Urban Stormwater Best Practice Environmental Management Guidelines" 1999.
- h. Maintenance schedules for treatment elements.

Car Park Construction Plan

18. Concurrent with the plans required by Condition 1, detailed layout plans demonstrating compliance with AustRoads Publication 'Guide to Traffic Engineering Practice: Part 11 Parking' and to the satisfaction of the relevant authority must be submitted to and approved by the Alpine Shire Council. The plans must be drawn to scale with dimensions and must show:
- a. A minimum of 22 on-site car parking spaces, including one disabled space on the site.
 - b. Disabled spaces designed in accordance with AS2890.6. The car spaces must be provided as close as practicable to suitable entrances of the building and must be clearly marked in accordance with the relevant Australian Standard.
 - c. All car parking spaces must be designed to allow vehicles to drive forwards when entering and leaving the property. A turning template is to be shown on the approved drawing which clearly indicates a B85 Passenger Car and 8.8m service vehicle is capable of achieving the required movements.
 - d. Any changes to dwelling driveways as a result of point c.
 - e. All parking space must be oriented such that it can be accessed with forward movement in accordance with the traffic direction.
 - f. Location and design of any directional and car parking signage. Signs must not exceed 0.3 square metres.
 - g. Location and design of any lighting within the accessways or car parking areas.

Completion of Urban Drainage Works

19. Prior to occupation of the development, all stormwater and surface water discharging from the site, buildings and works must be conveyed to the legal point of discharge by underground pipe to the satisfaction of the Alpine Shire Council. No effluent or polluted water of any type may be allowed to enter the Council's stormwater drainage system. The legal point of discharge for this site is Council Drainage system in Kiewa Valley Highway.
20. All roof water from buildings and surface water from paved areas must be collected and discharged to the point of discharge to avoid any nuisance discharge to adjacent land.

Completion of Car Parking Works

21. Prior to occupation of the development, the area(s) set aside for parking of vehicles and access lanes as shown on the endorsed plans must be:
- a. Surfaced with an appropriate bituminous surface (asphalt or spray seal) applied over an appropriate standard crushed rock pavement. Details of bituminous surface and pavement construction detail must be submitted and approved by the Alpine Shire Council prior to work commencing.
 - b. Drained in accordance with an approved drainage plan.
 - c. Line-marked to indicate each car space and all access lanes.
 - d. Properly illuminated with lighting designed, baffled, and located to the satisfaction of the Alpine Shire Council to prevent any adverse effect on adjoining land.
 - e. Measures taken to prevent damage to fences or landscaped areas of adjoining properties and to prevent direct vehicle access to an adjoining road other than by a vehicle crossing.
 - f. Provision of traffic control signage and or structures as required.
 - g. Provision of signage directing drivers to the area(s) set aside for car parking. Such signs are to be located and maintained to the satisfaction of the Alpine Shire Council. This sign must not exceed 0.3 square metres.

Loading and Unloading

22. The loading and unloading of goods from vehicles must only be carried out on the land subject to this permit, within the designated loading bay(s) and must not disrupt the circulation and parking of vehicles on the land, to the satisfaction of the Responsible Authority.

Construction Management Plan

23. Prior to the commencement of works, a Construction Management Plan shall be submitted to and approved by the Alpine Shire Council. Once approved, the plan will be endorsed and will form part of the permit. The plan must outline how issues such as mud on roads, dust generation and erosion and sediment control will be managed, on site, during the construction phase. Details of a contact person/site manager must also be provided, so that this person can be easily contacted should any issues arise.
24. The measures contained within the endorsed Construction Management Plan must be adhered to at all times to the satisfaction of the Responsible Authority.

Defect Identification – Council's Assets

25. Prior to commencement of construction, the owner or developer must submit to the Alpine Shire Council a written report and photos of any prior damage to public infrastructure. Listed in the report must be the condition of kerb and channel, footpath, seal, streetlights, signs, and other public infrastructure fronting the property and abutting at least two properties either side of the development. Unless identified with the written report, any damage to infrastructure post construction will be attributed to the development. The owner or developer of the subject land must pay

for any damage caused to Alpine Shire Council's assets/public infrastructure caused as a result of the development or use permitted by this permit.

Ausnet Conditions

26. As there are AusNet Services Underground Power Lines in the vicinity of the proposed construction, please note the following in regards to working near our assets:

AusNet Services refers to Energy Safe Victoria (ESV) for safety information and advice. ESV notes the following:

- As part of this process your builder will need to undertake a Dial Before You Dig before construction takes place.
- Go to the following for more info from the ESV on working near underground assets: <https://esv.vic.gov.au/technical-information/electrical-installations-and-infrastructure/no-go-zones/>

CFA Conditions

Amended Bushfire Management Plan Required

27. Before the development starts, an amended Bushfire Management Plan must be prepared to the satisfaction of the CFA and submitted to the Responsible Authority for endorsement. Once endorsed, the plan must not be altered unless agreed to in writing by CFA and the Responsible Authority.

The plan must be generally in accordance with the BMP prepared by Kusch Consulting Engineers (drawing No. B.200, revision 2, dated 11th February 2022) but modified but modified to replace the conditions for Defendable space and Water Supply with:

a. Defendable space

Defendable space for a distance of 50 metres around the proposed buildings (or to the property boundary, whichever is the lesser distance) must be provided where vegetation (and other flammable materials) will be modified and managed in accordance with the following requirements:

- Grass must be short cropped and maintained during the declared fire danger period.
- All leaves and vegetation debris must be removed at regular intervals during the declared fire danger period.
- Within 10 metres of a building, flammable objects must not be located close to the vulnerable parts of the building.
- Plants greater than 10 centimetres in height must not be placed within 3m of a window or glass feature of the building.
- Shrubs must not be located under the canopy of trees.
- Individual and clumps of shrubs must not exceed 5 sq. metres in area and must be separated by at least 5 metres.
- Trees must not overhang or touch any elements of the building.

- The canopy of trees must be separated by at least 5 metres.
 - There must be a clearance of at least 2 metres between the lowest tree branches and ground level.
- b. Water supply
- i. The water supply must show a minimum of 20,000 litres of effective water supply for firefighting purposes including:
 - The location of the CFA outlet, the occupier's outlet and the pipeline between the tank and the CFA outlet, and
 - The material of manufacture and nominal diameter of all piping and fittings.
 - 80 mm PVC (Class 12) or Copper (Class A) or 90 mm HDPE (PN 12.5).
 - ii. The water supply must be installed so that it meets the following requirements:
 - The static water supply must be stored in two above ground tanks constructed of concrete or metal.
 - The static water supply must be provided with an outlet for the CFA (CFA outlet) that includes a 64 mm CFA 3 thread per inch male coupling.
 - The static water supply must also include an outlet which incorporates a ball or gate valve separate to the CFA outlet for use by the owner/occupier of the land.
 - The CFA outlet must be:
 - Easily accessible by a firefighter in the event of a bushfire,
 - Clear of all vegetation for a distance of 1.5 metres,
 - Setback from flammable objects (including timber fences and timber retaining walls) for a minimum distance of 1.5 metres,
 - Located a minimum distance of 10 metres and no more than 60 metres from the dwelling, and
 - Oriented horizontally.
 - The internal diameter for the fitting connecting the tank to the pipeline must be equivalent to or greater than the internal diameter of the pipeline between the tank and the fire authority outlet.
 - The centreline of the CFA outlet must be:
 - A minimum of 300mm and maximum 600mm in height above the finished ground level, and
 - Located below the level of the outlet on the tank.
 - The riser for the CFA outlet must be supported by a galvanised steel post at least 50mm x 50mm or equivalent which is concreted in the ground to a depth of at least 450mm.
 - A 65mm British Standard Pipe (BSP) ball or gate valve must be provided at the CFA outlet to control the flow of water to the CFA coupling. Any other valves between the CFA outlet and the tank must be locked in the open position.
 - The CFA outlet must be easily identifiable from the entrance to the property or signage must be provided that meets the following requirements:

- Has an arrow pointing to the location of the fire authority outlet,
 - Has dimensions of not less than 310mm high and 400mm long,
 - Is red in colour, with a blue reflective marker attached, and
 - Is labelled with a 'W' that is not less than 15cm high and 3cm thick.
- The CFA outlet must include a fade-resistant or engraved sign that:
 - Is fixed to the post supporting the fire authority outlet riser,
 - Has a minimum height of at least 1.5m from the ground surface level, and
 - Includes the words "FIRE WATER TANK OUTLET" in lettering that is a minimum of 50mm in height and white on a red background.

Goulburn-Murray Water Conditions

- 28 All construction and ongoing activities must be in accordance with sediment control principles outlined in 'Construction Techniques for Sediment Pollution Control' (EPA, 1991).
29. All wastewater from the proposed development must be disposed of via connection to the reticulated sewerage system in accordance with the requirements of the relevant urban water authority.
30. Stormwater must be discharged to a legal point as nominated by the Responsible Authority. All infrastructure and works to manage stormwater must be in accordance with the requirements of the Responsible Authority.

Head, Transport for Victoria

31. Only two accesses will be permitted from the subject land to Kiewa Valley Highway as shown on the plan appended to the application.
32. Prior to commencement of the buildings and/or works, both the accesses must be constructed and sealed in accordance with VicRoads guideline drawing GD4010 Typical Access to Rural Properties to cater for the passenger vehicle as detailed in Table 2 - Access Setout Details to the satisfaction of and at no cost to the Head, Transport for Victoria.
33. The driveways must be maintained in a fit and proper state so as not to compromise the ability of vehicles to enter and exit the site in a safe manner or compromise operational efficiency of the road or public safety (eg. by spilling gravel onto the roadway).

North East Catchment Management Authority Conditions

34. The floor level of all buildings must be elevated above surrounding ground level to mitigate potential impact from Simmonds Creek breakout flows. Floor levels for the restaurant and retail stores (adjacent the Kiewa Valley Highway) must be elevated a minimum of 600 mm above surrounding finished surface level. For the remaining buildings (Apartments 1-7) a minimum floor level 300 mm above surrounding level is required.

35. Water resistant building materials that minimise the physical effects of flooding on the building structure must be used for foundations, footings and works below finished floor level.
36. All electrical wiring, power outlets, switches, etc. must, to the maximum extent possible, be located above floor level. Any electrical installation below this level must be suitable for continuous submergence in water.
37. No fill is to be introduced to the property without the prior written consent of the Authority. Any earthworks within the site utilizing existing material shall be designed and constructed to minimize the likely effects of flooding and must not divert or impede the flow of floodwater to the detriment of adjoining land.

Permit Expiry – Development

38. This permit will expire if one of the following circumstances applies:
 - a. The development is not started within two years of the date of this permit;
 - b. The development is not completed within four years of the date of this permit.
 - c. The use (including licensed premises) is not started within two (2) years after the completion of the development; or
 - d. The use (including licensed premises) is discontinued for a period of two (2) or more years.

The Responsible Authority may extend the time referred to if a request is made in writing before this Permit expires or within six months after the expiry date if the use/development has not commenced.

If the development has commenced, the responsible authority may extend the time referred to if a request is made in writing within twelve months of the expiry date.

- End of Conditions -

Council Planning Notes:

1. **Building Approval Required**
This permit does not authorize the commencement of any building construction works. Before any such development may commence, the applicant must apply for and obtain appropriate building approval.
2. **Road Opening/Non-Utility Minor Works on Municipal Road Reserve/Consent for Works on Road Reserves Permit Required**
A road opening/crossing permit must be obtained from the Alpine Shire Council prior to working in or occupying the road reserve with construction equipment or materials. Applications may be accessed via the Alpine Shire Council website.
3. **Access for People with Disabilities**
The facilities approved by this permit shall be constructed and maintained to accord with all relevant legislation (Federal or State), Australian Standards, or any other design requirements relating to access or other issues affecting people with disabilities to the satisfaction to the Alpine Shire Council.

4. Food Premises

All food premises as defined by the *Food Act 1984* must notify/register with Council's Environmental Health Unit prior to commencing operations. The food premises must be designed in accordance with the requirements of the FSANZ Food Standards Code and Australian Standard.

Head, Transport for Victoria Notes:

5. Separate consent for works within the road reserve and the specifications of these works may be required under the *Road Management Act*.

Appendix 9.3.7.c POLICY AND PLANNING SCHEME PROVISIONS

Municipal Planning Strategy and Planning Policy Framework

Clause 02.03-1 – Settlement

Clause 02.03-3 – Environmental Risks and Amenity

Clause 02.03-5 – Built Environment and Heritage

Clause 02.03-6 – Housing

Clause 02.03-7 – Economic Development

Clause 02.03-8 - Transport

Clause 02.03-9 – Infrastructure

Clauses 11.01-1L and 1S – Settlement

Clauses 13.02-1L and 1S – Bushfire Planning

Clauses 13.03-1L and 1S – Floodplain Management

Clause 1307-1S – Land Use Compatibility

Clauses 14.02-1L and 1S – Catchment Planning and Management

Clauses 14.02-2L and 2S – Water Quality

Clauses 15.01-1L-01 and 1S – Urban Design

Clause 15.01-2S – Building Design

Clause 15.01-5S – Neighbourhood Character

Clause 15.03-2S – Aboriginal Cultural Heritage

Clause 16.01-1S – Housing Supply

Clause 16.01-2S – Housing Affordability

Clauses 17.01-1L, 1R, and 1S – Diversified Economy

Clause 17.02-1S – Business

Clauses 17.04-1L, 1R, and 1S – Tourism

Clause 18.02-4S - Roads

Clauses 19.03-3L and 3S – Integrated Water Management

Zone

Clause 32.04 – Mixed Use Zone

Overlay

Clause 44.06 – Bushfire Management Overlay

Particular Provisions

Clause 52.06 – Car Parking

Clause 52.27 – Licensed Premises

Clause 52.29 – Land Adjacent to the Principal Road Network

Clause 52.34 – Bicycle Facilities

Clause 53.02 – Bushfire Planning

Clause 53.18 – Stormwater Management in Urban Development

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

General Provisions

Clause 65.01 – Approval of an Application or Plan

10. Informal meetings of Councillors

Introduction

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

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

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

RECOMMENDATION

That the summary of informal meetings of Councillors for July / August 2023 be received.

Background

The written records of the informal meetings of Councillors held during the previous month are summarised below. Detailed records can be found in Attachment 10.0 to this report.

Date	Meeting
18 July	Briefing Session
25 July	Briefing Session
8 August	Briefing Session
15 August	Briefing Session
22 August	Briefing Session

Attachment(s)

- 10.0 Informal meetings of Councillors – July / August 2023.

11. Presentation of reports by delegates

12. General business

13. Motions for which notice has previously been given

14. Reception and reading of petitions

15. Documents for sealing

RECOMMENDATION

That the following documents be signed and sealed.

1. S11A - Instrument of Appointment and Authorisation

- a. Planning Officer*
- b. Engineering Coordinator*
- c. Civil Development Engineer (1)*
- d. Civil Development Engineer (2)*

2. Section 173 Agreement – Desmond Charles Saunders

The Section 173 Agreement relates to conditions 3, 4, 17, and 18 of Planning Permit 2022.63 for a two (2) lot subdivision at 22 Station Street, Porepunkah (Lot 5 PS408974H).

The Agreement provides for bushfire management protection requirements including a Bushfire Management Plan and ensures a minimum finished floor level on Lot 2.

3. Section 173 Agreement – Mary Lynette Hall and Geoffrey Mervyn Hall

The Section 173 Agreement relates to conditions 11, 26, 27, and 28 of Planning Permit 2021.54 for a three (3) lot subdivision at 19 Martley Street, Porepunkah (Lot 4 PS741931R).

The Agreement provides for bushfire management protection requirements including a Bushfire Management Plan and requires access and driveway design for lots 2 and 3 to provide for vehicles to exit the site in a forward direction.

4. Section 173 Agreement – Mount Beauty Timber Industries Pty Ltd

The Section 173 Agreement relates to condition 3 of Planning Permit 2022.73 for a five (5) lot subdivision at 7 Embankment Drive, Mount Beauty (Lot S3 PS549580R).

The Agreement provides management of access between the land and the adjoining Mount Beauty Airfield.

There being no further business the Chairperson declared the meeting closed at _____p.m.

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Chairperson