

Minutes

Special Meeting of Council

Tallangatta Council Chamber

Wednesday 1 February 2023

Our Community Vision

Towong Shire will be the ideal place to be: welcoming, vibrant and diverse communities with quality facilities and services.

This information is available in alternative formats on request

<p>MINUTES FOR THE SPECIAL MEETING OF COUNCIL HELD AT TOWONG SHIRE COUNCIL TALLANGATTA OFFICE ON WEDNESDAY 1 FEBRUARY 2023 COMMENCING AT 11.30AM.</p>
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Commonly Used Acronyms

ABBREVIATION	TITLE
Council Officers	
SAE	Senior Asset Engineer
CEO	Chief Executive Officer
DIE	Director Infrastructure and Environment
DCP	Director Community and Planning
DCOD	Director Corporate and Organisational Development
MF	Manager Finance
Government/Organisation	
ACSUM	Alliance of Councils and Shires of the Upper Murray
CH	Corryong Health (formerly Upper Murray Health and Community Services)
DJPR	Department of Jobs, Precincts and Regions
DOT	Department of Transport
DELWP	Department of Environment, Land, Water and Planning
GMW	Goulburn Murray Water
HRGLN	Hume Region Local Government Network
MAV	Municipal Association of Victoria
NECMA	North East Catchment Management Authority
NERPEN	North East Regional Procurement Excellence Network
NEW	North East Water
NEWRRG	North East Waste and Resource Recovery Group
RCV	Rural Councils Victoria
RDA	Regional Development Australia
RDV	Regional Development Victoria
THS	Tallangatta Health Service
VGC	Victorian Grants Commission

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The Mayor declared the meeting open, the time being 11.51am.

1 Opening Prayer

"Almighty God, we ask that you be present at this meeting to assist us in our service to the Community through Local Government.

We pray that our decisions will be wise and taken with goodwill and clear conscience.

Amen."

2 Councillor and Officer Presence at the Meeting

Crs Whitehead, Wortmann, Scales, Anderson and Dikschei

In Attendance:	Title:
Ms Phelps	Chief Executive Officer
Ms Pagan	Director Community and Planning
Ms Gadd	Director Infrastructure and Environment

3 Apologies and Granting of Leave of Absence

Nil

4 Disclosure of Conflicts of Interest

Section 130 of the *Act* requires that a 'Relevant person' (which means a person who is a Councillor, a member of a delegated committee who is not a Councillor or a member of Council staff) disclose any conflict of interest in the manner required by Council's *Governance Rules* and exclude themselves from the decision making process in relation to the matter including any discussion or vote on the matter at any Council meeting.

Council's *Governance Rules* state as follows:

A2 Obligations with regards to conflict of interest

Councillors, members of delegated committee, and Council staff are required to:

- a. Avoid all situations which may give rise to conflicts of interest;*
- b. Identify any conflicts of interest; and*
- c. Disclose or declare all conflicts of interest.*

A3 Disclosure of a conflict of interest at a Council meeting

A Councillor who has a conflict of interest in a matter being considered at a Council meeting at which he or she:

A3.1 is present must disclose that conflict of interest by explaining the nature of the conflict of interest to those present at the Council meeting immediately before the matter is considered; or

A3.2 intends to be present must disclose that conflict of interest by providing to the Chief Executive Officer before the Council meeting commences a written notice:

A3.2.1 advising of the conflict of interest;

A3.2.2 explaining the nature of the conflict of interest; and

A3.2.3 detailing, if the nature of the conflict of interest involves a Councillor's relationship with or a gift from another person, the:

- a. name of the other person;*
- b. nature of the relationship with that other person or the date of receipt, value and type of gift received from the other person; and*
- c. nature of that other person's interest in the matter, and then immediately before the matter is considered at the meeting announcing to those present that he or she has a conflict of interest and that a written notice has been given to the Chief Executive Officer under this sub-Rule.*

The Councillor must, in either event, leave the Council meeting immediately after giving the explanation or making the announcement (as the case may be) and not return to the meeting until after the matter has been disposed of.

There were no disclosures of any conflicts of interest

5 Land Use

5.1 Application to Amend a Planning Permit to allow for the conversion of a rural store to a dwelling 2021/016.2 (DCP 03/01/0004)

Disclosure of Interests (S.130):

This report was prepared by Ms Amanda Pagan, Director Community and Planning.

At the time of preparation of this report, the officer did not have a general or material conflict of interest in any matter to which the report or advice relates.

Purpose of Report:

A decision is required in relation to a Planning Permit application to convert a rural store to a dwelling. The permit application has been assessed by the planning officer and as it is the officer's view that the permit be refused. Where the planning officer is of the view that a permit be refused, it is Council policy that the application be referred to Council for consideration.

Summary:

An application has been received for a planning permit to convert an existing rural store (shed) into a dwelling at 1922 Burrowye Road Koetong. The land is within the Rural Activity Zone and is covered by the Bushfire Management Overlay. The site previously had a dwelling on it, however the dwelling was destroyed in a house fire prior to 2021, meaning no existing use rights apply to the site.

The application has been reviewed and several challenges have been identified including:

- There may be insufficient defensible space available to meet the requirements of the overlay and CFA requirements within the applicant's parcel of land;
- There is insufficient evidence that the dwelling can be adapted to meet a minimum Bushfire Attack Level of 29 (BAL-29);
- The dwelling is sited within 100m of an operational timber harvesting site that will limit the harvester's operations and may cause significant economic consequences.

Recommendation:

That the application be refused on the following grounds:

- There is insufficient evidence that the dwelling can be adapted to meet a minimum Bushfire Attack Level of 29 as is required under 13.02 in the Planning Scheme (Bushfire). This clause requires prioritisation of protection of human life; and
- The siting of a dwelling within 100m of an operational timber harvesting site will limit the harvester's operations and may cause significant economic consequences.

Attachments:

Nil

Background/History:

The subject site is located on the western side of Burrowye Road and is legally described as Lot 1 on Plan of Subdivision 139916. The site is irregular in shape and has a total area of approximately 0.99 hectares. The site currently contains remnants of the old dairy and two (2) outbuildings. The site also contains areas of scattered remnant vegetation throughout. Access is afforded to the site via an existing crossover located on Burrowye Road.

A dwelling on the site was destroyed by house fire prior to November 2018.

A planning permit was issued for the use and development of the land for a rural store. The permit was amended to allow the installation of a toilet and septic system. The application currently under consideration is to convert the existing rural store to a dwelling.

Relevant Law (s.9(2)(a)):

The *Planning and Environment Act 1987* requires planning permit applications to be assessed against the Towong Shire Planning Scheme, State and Local Planning Policy Framework, the requirements of the Rural Activity Zone, the Bushfire Management Overlay and the Decision Guidelines at Clause 65.01.

Rural Activity Zone

The land is within the Rural Activity Zone and a planning permit is required for the use and development of the land for a dwelling.

The purpose of the Rural Activity Zone is to provide for the use of the land for agriculture and to provide for other uses and development which are compatible with agriculture. It also aims to ensure that use and development does not adversely affect surrounding land uses and to encourage the use and development of land based on comprehensive and sustainable land management practices.

Clause 35.08-5 requires consideration of the relevant decision guidelines. In relation to timber harvesting operations, the clause requires the following:

The plantation must not be within 100 metres of:

- *Any dwelling in separate ownership.*
- *Any land zoned for residential, commercial or industrial use.*
- *Any site specified on a permit which is in force which permits a dwelling to be constructed.*

Against the requirements of the rest of Clause 35.08-5, the applicant has provided evidence that all effluent can be managed on site. The application was referred to Goulburn Murray Water who have consented to the application.

The proposal is not compatible with adjoining and nearby land uses in that the dwelling will be less than 100m from the plantation. Once the plantation owner has harvested, the area available for replanting will be reduced to achieve a 100m setback from the dwelling. It is anticipated that approximately 5,500sqm of plantation will be lost. In preparing the response for this permit, legal advice was sought regarding the potential to have a Section 173 Agreement between the landowner, Council and the timber harvest operator. The legal advice was clear that such an agreement would be unenforceable, and the harvest operator would be unlikely to legally enter into such an agreement. Further the harvesting of the plantation may result in an amenity impact on the occupant of the dwelling through the emission of noise, dust, traffic and vibration.

The site is less than 1 ha in size and as a result the capacity of the land to sustain an agricultural use is limited. The applicant has not provided any integrated land management plan for the site, and has not demonstrated how the land will be used for agricultural purposes.

It is not anticipated that the conversion of the rural store to a dwelling will result in any additional loss or fragmentation of productive agricultural land. The proposed dwelling will be located 64m from the edge of the plantation. The access road to the plantation is located along the boundary of the land and 24m from the proposed dwelling.

Bushfire Management Overlay

The land is within the Bushfire Management Overlay and a planning permit is required to carry out buildings and works in association with the use of the land for a dwelling.

The applicant has not provided the required Bushfire Management Plan addressing the requirements of the CFA. A Bushfire Management Statement has been prepared but it does not meet the full requirements of a Bushfire Management Plan.

The CFA has consented to the issue of a planning permit provided the applicant can provide the following:

- Defendable space of 32m or the property boundary whichever is the lesser;
- Management of grass and vegetation around the proposed dwelling;
- The construction of the dwelling to a minimum of Bushfire Attack Level of 29 (BAL-29);
- Provision of 10,000 litre water supply for firefighting purposed together with the relevant couplings; and
- Access to the site must meet CFA standards.

The rural store has already been constructed and there is no information has been provided to demonstrate it is possible to retrofit the existing building to achieve a BAL 29.

State and Local Planning Policy Framework

Clause 11 of the Towong Planning Scheme provides context as to how planning operates within the Shire and how it is to anticipate and respond to the needs of both existing and future communities. Clause 11.01-1R identifies the need to support growth and developments within regional cities, such as Shepparton, Wangaratta, Wodonga and Benalla; whilst also noting the importance to preserve rural/agricultural land through appropriate developments and uses on said rural lands. One of the roles of planning is to prevent environmental, human health and amenity problems that may be created by siting incompatible land uses close together.

In a rural context, Clause 13 highlights the importance of planning for all potential environmental risks. In areas more prone to environmental risks, planning should strengthen the resilience and safety of communities by adopting a best practice environmental and risk management approach. Clause 13.02 aims to prioritise the protection of human life over all other policy considerations and to direct population growth and development to low-risk locations. Clause 13.07 aims to ensure that use or development of land is compatible with adjoining and nearby land uses. The role of planning, in these risk prone environmental regions, should be to avoid or minimise both natural and man-made environmental hazards, environmental

degradation and amenity conflicts. Additionally, the clause emphasises the constant need for planning to prepare for and respond to the impacts of climate change. The proposed conversion of a rural store to a dwelling within the Bushfire Management Overlay does not meet the intent of Clause 13. Koetong is an isolated area surrounded by forested crown land and plantation.

Clause 21.02 Towong Shire Strategic Framework Plan identifies Koetong as being within the preferred area for plantations. Clause 21.03 identifies the need to allocate additional rural living areas adjacent to existing settlements. Koetong is a location with no infrastructure (sewer), that is exposed to bushfire. It is not within an area that has been identified as being suitable for rural living and is not adjacent to an existing township or within proximity of urban facilities and services.

The application is not consistent with the policy or objectives of Clause 22.02 Rural Dwellings in that the proposal has not been sited to avoid the risk of bushfire or sited on that part of the land that has the least exposure to the hazard. There are other areas within the land where the dwelling could have been sited that would have reduced the risk. Despite this, it is generally acknowledged that the proposal is to convert a rural store to a dwelling and as such, impractical to request that the rural store be moved to reduce the bushfire risk.

The proposal also cannot provide the required 32m of defensible space within the property boundary. Nonetheless, CFA have consented that the property boundary is sufficient. This assessment has taken into account the existing cleared area on the timber harvesting operator's land. The timber operator has not consented to their land being used as defensible space.

The conversion of the existing rural store to a dwelling has the potential to create land use conflicts with the existing plantation to the north of the site. As previously mentioned, this would impact on the plantation's ability to replant within 100m of the dwelling, following harvesting. It is anticipated that approximately 5,500sqm of plantation will be lost.

Options – Best Outcomes for the Community (s.9(2)(b)):

The proposed development raises a number of key considerations in ascertaining whether the proposal should be refused on the basis of the best outcomes for the community.

Firstly, the application will effectively set a precedent on similar lands where the size of the land is small within the RAZ and there is known bushfire risk on adjoining land and/or active timber plantation operations. Koetong has several small lots that have similar features to the lot proposed for development. It is understood by that there

may be some interest in developing these lots for dwellings. At this stage it is not likely that there would be State Government support for creating a township in Koetong given the lack of services and bushfire risk. Conversely, it may be beneficial to the timber plantations to establish a small settlement near the sites to support ongoing employment within the plantation operations. This could be further explored but would require a strategic investment to justify the rezoning in the area.

Secondly, existing state policy and regulations require timber plantations to operate with a minimum clearance of 100 m from a dwelling. This is to ensure amenity is maintained and risk to life because of bushfire or other operational use is minimised. Approving an application that impacts the existing use of existing timber plantations may make investing in forestry in Koetong less attractive to current and future operators. This may result in a loss of jobs and other negative economic consequences.

Sustainability Implications (s.9(2)(c)):

The application does not meet the sustainability policies of the Planning Policy Framework. Koetong is in a remote location without reticulated water or sewer. The proposed use of the rural store for the purposes of a dwelling is not consistent with the Planning Policy Framework in that it increases the risk to life and property due to bushfire.

Community Engagement (s.9(2)(d)):

Not applicable.

Innovation and Continuous Improvement (s.9(2)(e)):

Not applicable.

Collaboration (s.9(2)(f)):

Not applicable.

Financial Viability/Budget Impact (s.9(2)(g)):

As with all planning matters, there is a risk that this matter may be prosecuted in the Victorian Civil Administrative Court (VCAT). It is the officer's view that proceeding to VCAT would have a budgetary impact. It is not possible to quantify the impact at this point in time.

Regional, State and National Plans and Policies (s.9(2)(h)):

The proposal fails to meet the Planning Policy Framework as discussed above.

Council Plans and Policies:

The proposal fails to meet the Local Planning Policy Framework as discussed above.

Transparency of Decision (s.9(2)(i)):

It is the officer's view that it is appropriate to consider this matter in a meeting that is open to the public.

Risk Assessment:

The Relevant Law section outlines many of the risks and challenges. In some areas the application does meet the requirements outlined in the Planning Scheme. However, it should be noted that planning must balance all aspects of the Planning Scheme so the fact that an application does not meet every aspect of the Scheme does not preclude it from being approved. Rather, all aspects of the Scheme should be assessed to ascertain the best outcome for the community that meets the objectives of the Scheme and minimises risks associated with the development proposal.

As discussed in the *Relevant Law* section of this report, the applicant has not been able to demonstrate:

- How the development can meet the requirements of the Rural Activity Zone and how the dwelling relates to agricultural use. Not meeting this requirement is not seen as a rationale to refuse the permit, as it is accepted that the land is of poor agricultural quality (due to the size) and that the proposal will not further fragment land;
- How the development can appropriately offset the bushfire risks, as required by the CFA, particularly in relation to the dwelling being able to achieve a BAL-29. It is possible that a permit could be issued with a condition that this would need to be provided before the land was developed. However, it is not a good planning outcome to issue a permit for a condition that may not be achievable. It is for this reason, that the proposal should be refused until a bushfire management plan, inclusive of being able to convert the rural store to a dwelling to a minimum BAL-29, can be provided; and
- Consent from the adjoining timber harvesting operator to maintain a clearing of 100m, following harvest, to reduce bushfire risk to the new dwelling.

Officers View:

The proposal does not meet the Planning Policy Framework, the decision guidelines of the Rural Activity Zone and the Bushfire Management Overlay and should be refused. Further consideration of the application could be undertaken if the applicant is able to provide:

- A Bushfire Management Plan and evidence that the rural store can be converted to a dwelling to meet a to a minimum of BAL-29, to achieve consent from the CFA;
- Consent from the adjoining timber harvesting operator to maintain a clearing of 100m, following harvest, to reduce bushfire risk to the new dwelling.

Council Resolution:

**CR WORTMANN
CR ANDERSON**

THAT THE APPLICATION BE REFUSED ON THE FOLLOWING GROUNDS:

- 1. THERE IS INSUFFICIENT EVIDENCE THAT THE DWELLING CAN BE ADAPTED TO MEET A MINIMUM BUSHFIRE ATTACK LEVEL OF 29 AS IS REQUIRED UNDER 13.02 IN THE PLANNING SCHEME (BUSHFIRE). THIS CLAUSE REQUIRES PRIORITISATION OF PROTECTION OF HUMAN LIFE; AND**
- 2. THE SITING OF A DWELLING WITHIN 100M OF AN OPERATIONAL TIMBER HARVESTING SITE WILL LIMIT THE HARVESTER'S OPERATIONS AND MAY CAUSE SIGNIFICANT ECONOMIC CONSEQUENCES.**

CARRIED

5.2 Section 173 Agreement – PM & EJ Scammell and Towong Shire Council (DCP - 03/01/0004)

Disclosure of Interests (S.130):

This report was prepared by Ms Amanda Pagan, Director Community and Planning.

At the time of preparation of this report, the officer did not have a general or material conflict of interest in any matter to which the report or advice relates.

Purpose of Report:

To obtain approval to remove a Section 173 Agreement.

Summary:

Planning Permit 2006/092, issued in November 2006, allowed for the subdivision of land at 97 Springdale Road Bethanga. The permit required a Section 173 Agreement to be signed between the landowner and Council to prevent future subdivision of the land whilst it remained in the same zone. At the time the permit was issued, the land was zoned Rural Farming (RF). The Section 173 Agreement was put in place to prevent further fragmentation of agricultural land.

The land was rezoned to Rural Activity Zone (RAZ) after the Section 173 Agreement was signed and registered on title (Reference: AE877957F).

The applicant has requested that the Section 173 Agreement be removed to facilitate a boundary realignment between 96 Springdale Road and 38 Talgarno Gap Road. Both properties are owned by the same landowner. The realignment will not result in additional lots or further fragmentation of agricultural land.

Under section 178A of the *Planning and Environment Act 1987*, a Section 173 Agreement may be ended wholly or in part or as to any part of the land by the Responsible Authority and all persons who are bound by any covenant in the agreement. To end an agreement, the following must be considered:

- (a) the purpose of the agreement;
- (b) whether and why the agreement is no longer required;
- (c) whether the ending of the agreement would disadvantage any person, whether or not a party to the agreement;
- (d) the reasons why the Responsible Authority entered into the agreement;

- (e) any relevant permit or other requirements the land is subject to under the *Subdivision Act 1988*; and
- (f) any other prescribed matter.

Recommendation:

That:

1. The removal of the Section 173 Agreement AE877957F from 97 Springdale Road Bethanga under Section 178E of the *Planning and Environment Act 1987* be approved; and
2. The Director Community and Planning be authorised to submit the prescribed Form 22 to end the Agreement and cancel the recording in the Register for the land.

Council Resolution:

**CR DIKSCHER
CR SCALES**

THAT:

- 1. THE REMOVAL OF THE SECTION 173 AGREEMENT AE877957F FROM 97 SPRINGDALE ROAD BETHANGA UNDER SECTION 178E OF THE *PLANNING AND ENVIRONMENT ACT 1987* BE APPROVED; AND**
- 2. THE DIRECTOR COMMUNITY AND PLANNING BE AUTHORISED TO SUBMIT THE PRESCRIBED FORM 22 TO END THE AGREEMENT AND CANCEL THE RECORDING IN THE REGISTER FOR THE LAND.**

CARRIED

5.3 Section 173 Agreement – OG & AE Johnstone, Goulburn Murray Water, and Towong Shire Council (DCP - 03/01/0004)

Disclosure of Interests (S.130):

This report was prepared by Ms. Amanda Pagan, Director Community and Planning.

At the time of preparation of this report, the officer did not have a general or material conflict of interest in any matter to which the report or advice relates.

Purpose of Report:

To obtain approval to sign and seal a Section 173 Agreement.

Summary:

Planning Permit 2022/031.1, issued on 20 October 2022, allowed for use and development of the land for a dwelling at Volume 08244 Folio 435 (1518 Murray Valley Highway Corryong).

Condition 18 of the permit requires:

"Prior to the building permit for the accommodation units being issued, the owner must enter into an agreement with the Responsible Authority and Goulburn-Murray Water under Section 173 of the Planning and Environment Act requiring that:

- a. *If a community effluent disposal system or reticulated sewerage system becomes available, all wastewater from the dwelling must be disposed of via this system and the on-site wastewater treatment and disposal system must be decommissioned.*
- b. *The owner of the property must enter into a contract with the relevant servicing agent for the lifetime of the wastewater management system entailing the following:*
 - i. *Three monthly (quarterly) service and maintenance inspections of the wastewater management system must be undertaken by the relevant servicing agent.*
 - ii. *All inspections, repairs and maintenance of the wastewater management system, and any pump out events of the holding tank, must be documented and report to the Responsible Authority on a 3 monthly (quarterly) basis.*

- iii. *The owner must meet the costs of all three monthly (quarterly) service and maintenance inspections, repairs, pump out events and reports.*
- c. *The owner shall meet the costs of the registration of the Agreement on the title of the land and provide evidence to Goulburn Murray Water of this occurring within 3 months.*
- d. *This agreement is cancelled if a. above is satisfied."*

The Parties acknowledge and agree that this Agreement has been entered into for the following reasons:

(a) Towong Shire Council and Goulburn Murray Water would not have consented to the issue of Statement of Compliance without requiring this Agreement; and

(b) the Landowner has elected to enter into this Agreement in order to take the benefit of the Permit.

This agreement may be ended wholly or in part or as to any part of the land by the Responsible Authority and all persons who are bound by any covenant in the agreement. The agreement must run with the land so that all successors in title are bound by the agreement. This agreement will be prepared to the satisfaction of the Responsible Authority and must be registered on title in accordance with *Section 181 of the Planning and Environment Act 1987*.

The Agreement has been prepared accordingly and requires sealing.

Recommendation:

The use of the Common Seal be authorised in accordance with *Local Law 1 – Common Seal and Miscellaneous Penalties* for the purpose of signing the Section 173 Agreement, relating to the land described as Volume 08244 Folio 435 (1518 Murray Valley Highway Corryong) that has been drafted in accordance with the requirements of Planning Permit 2022/031.1.

Council Resolution:

**CR DIKSCHEI
CR WORTMANN**

THAT:

THE USE OF THE COMMON SEAL BE AUTHORISED IN ACCORDANCE WITH LOCAL LAW 1 – COMMON SEAL AND MISCELLANEOUS PENALTIES FOR THE PURPOSE OF SIGNING THE SECTION 173 AGREEMENT, RELATING TO THE LAND DESCRIBED AS VOLUME 08244 FOLIO 435 (1518 MURRAY VALLEY HIGHWAY CORRYONG) THAT HAS BEEN DRAFTED IN ACCORDANCE WITH THE REQUIREMENTS OF PLANNING PERMIT 2022/031.1.

CARRIED

5.4 Application to approve Development Plan for Tallangatta Estate (DCP - 03/02/0003)

Disclosure of Interests (S.130):

This report was prepared by Amanda Pagan, Director Community and Planning.

At the time of preparation of this report, the officer did not have a general or material conflict of interest in any matter to which the report or advice relates.

Purpose of Report:

A decision is required in relation to a draft Development Plan (DP) with a recommendation that it be adopted as an approved DP, subject to the inclusion of notations, for the purposes of Clause 43.04 (Development Plan Overlay) of the Towong Planning Scheme.

While approval can be granted under delegation, it is considered appropriate that the Development Plan be presented to Council for consideration and adoption based on the scale and strategic significance of the site and decision.

Summary:

The planning team have received an application for the approval of a Development Plan for the land formally known as Lot 1, PS 733729. The land is within the General Residential 1 Zone and is covered by the Development Plan Overlay (Schedule 1). The planning team have assessed the application and identified several key considerations associated with the proposal which include:

- Interface with Lake Hume to the north and west;
- Interface with the farming land to the east;
- Impact on native vegetation;
- Presence of a scar tree within the site;
- Layout and connectivity of road network;
- Provision for pedestrian and bicycle links with the township; and
- Provision of public open space.

Recommendation:

The officer recommends that Development Plan be approved and adopted subject to the following notations being included in the plan:

- This Development Plan expires in ten years from the date of approval; and
- This Development Plan is conceptual and may be subject to minor change following further detailed design concerning stormwater treatment, provision of services, creation of access and the need to, where appropriate, retain existing native vegetation. Any subsequent subdivision plan must be in accordance with the approved Development Plan.

Attachments:

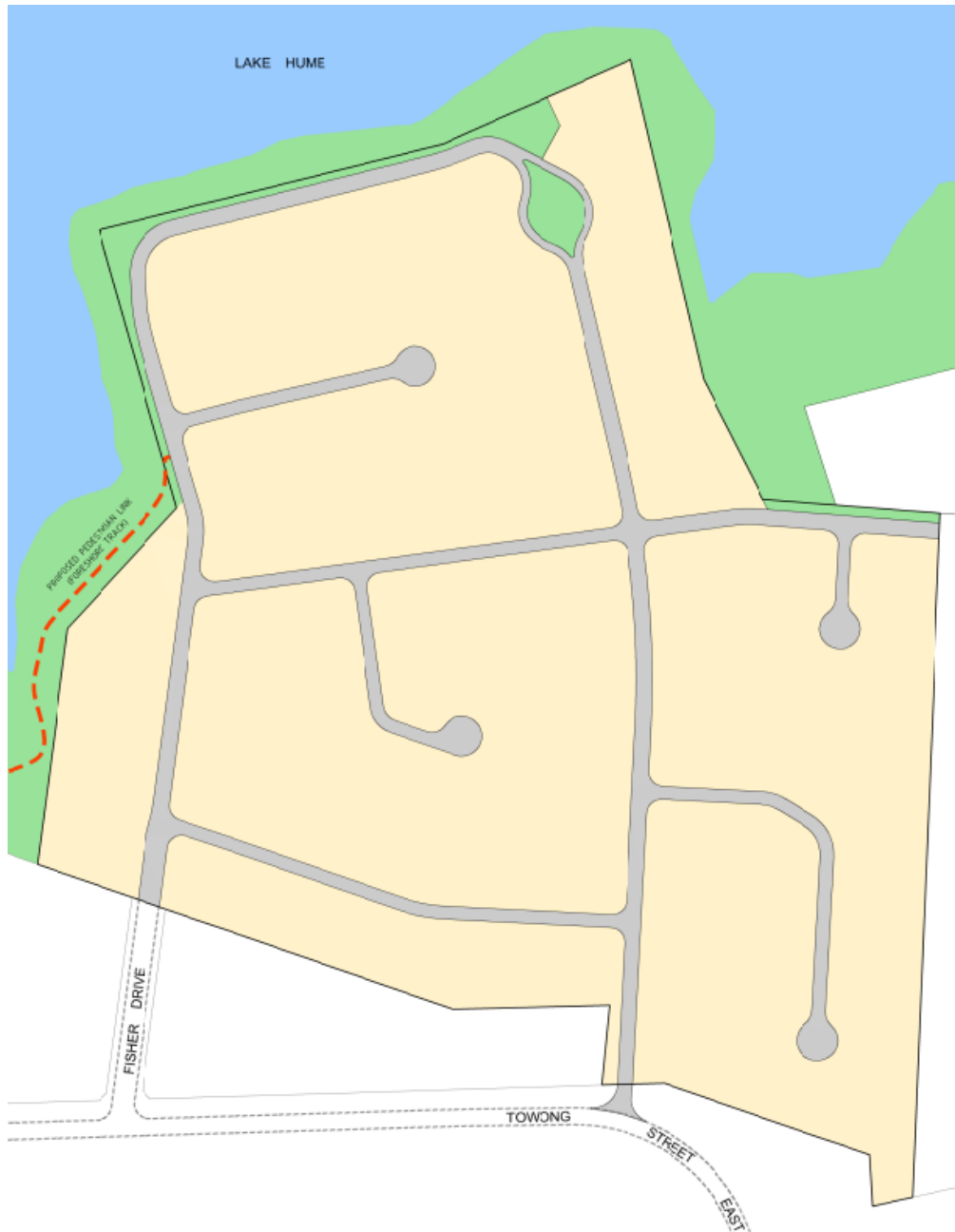
- **Appendix 1** - Development Plan
- **Appendix 2** - Bushfire Hazard Landscape Assessment
- **Appendix 3** - Native Vegetation Removal Report
- **Appendix 4** - Cultural Heritage Management Plan No. 16019 Approval
- **Appendix 5** - Stormwater Management Plan
- **Appendix 6** - Services Report

Additional confidential appendices regarding the application have been provided to the Councillors prior to the Meeting.

Background/History:

The subject site is located on the fringe of the Tallangatta township, approximately one kilometre east of the main street. The land, which is irregular in its configuration, covers an area of 16.4 hectares, which has been used predominately for grazing purposes. The land exhibits a fall from the south down towards the north (Lake Hume). The property features two legal points of access from Towong Street East and Fisher Drive.

The land is bounded in part by Lake Hume to the north and west, farming land to the north and east; and residential properties and the High Country Rail Trail to the south.



Relevant Law (s.9(2)(a)):

The approval of a Development Plan sits outside the standard process for approving a planning permit application under the *Planning and Environment Act 1987*.

The trigger for this plan to be approved is a requirement of the Development Plan Overlay itself.

Clause 43.04-2 states, ' A permit must not be granted to use or subdivide land, construct a building or construct or carry out works until a development plan has been prepared to the satisfaction of the responsible authority.

This does not apply if a schedule to this overlay specifically states that a permit may be granted before a development plan has been prepared to the satisfaction of the responsible authority.

A permit granted must:

- *Be generally in accordance with the development plan.*
- *Include any conditions or requirements specified in a schedule to this overlay.'*

Consequently, a Development Plan to the satisfaction of the Council's delegate must be approved and adopted before any planning permit applications can be considered and approved for the subject land.

General Residential Zone

The land is within the General Residential Zone. There are no triggers within Clause 32.08 (General Residential Zone) to approve a development plan.

Any subsequent subdivision application following a Development Plans formal adoption will require consideration against the provisions of the zone.

Development Plan Overlay

The land is covered by a Development Plan Overlay (Schedule 1).

The Development Plan Overlay triggers the need to prepare a DP before a planning permit is granted for specific uses and/or development. A development plan is required to address a range of matters pertinent to the overlay being relationship with adjoining land, protection and management of areas of significance, provision of infrastructure and linkages, and management of soil and water runoff.

Development Plans are seen as most useful in areas where there needs to be strategic coordination between different developments, landowners, or across a development corridor or region.

Clause 43.04-4 outlines the requirements for the preparation of a Development Plan, specifically:

'The development plan may consist of plans or other documents and may, with the agreement of the responsible authority, be prepared and implemented in stages.

A development plan that provides for residential subdivision in the Neighbourhood Residential Zone, General Residential Zone, Residential Growth Zone, Mixed Use Zone, Township Zone, Comprehensive Development Zone and Priority Development Zone must meet the requirements of Clause 56 as specified in the zone.

The development plan must describe:

- *The land to which the plan applies.*
- *The proposed use and development of each part of the land.*
- *Any other requirements specified for the plan in a schedule to this overlay.*

The development plan may be amended to the satisfaction of the responsible authority.

An assessment against the requirements of the Development Plan Overlay and Schedule 1 is provided below.

Development Plan Overlay Schedule 1 Assessment

Schedule 1 of the Development Plan Overlay outlines a number of matters which must be considered in the assessment of a development plan. These considerations and an assessment of each are provided below:

- *Describe the relationship of uses proposed on the land to existing and proposed uses on adjoining land and identify any proposed buffer areas to separate them.*

Response

The documentation submitted with the application identifies that the land is located on the eastern fringe of the Tallangatta township. The land is bounded by Lake Hume to the north and west, farming land to the east and, in part, the north, and residential land to the south.

The Development Plan provides a contextual layout for a subdivision which provides for the sequential extension to the existing residential area to the south as well as connectivity to the existing road network with two connections extending from Fisher Drive and Towong Street East.

The Development Plan also provides a road for sections between the residential area and the Lake Hume, thus providing a buffer as well as the continuation for public access to the foreshore. The DP provides a continuation of access for the farming land to the east.

- *Identify any sites of conservation, heritage or archaeological significance and the means by which they will be managed.*

Response

While the property is mostly clear of vegetation, a number of scattered trees occupy the site together with two small stands of planted trees. A Biodiversity Assessment Report was submitted with the application and identified that the two stands of trees and seven of the scattered trees which will be removed as part of the development. A number of road reserves have been included on the Development Plan which will provide for the retention and protection of a few scattered native trees. The

particulars of the vegetation removal and provision of offsets will be addressed as part of the planning permit application assessment of the subdivision.

The application was also accompanied by a Cultural Heritage Management Plan (CHMP No. 16019), which was approved on 28 August 2019. The CHMP identifies a scar tree within the site as being culturally significant. The DP has been designed to enable the retention and protection of this tree through its incorporation into a traffic island.

- *Provide appropriate arrangements for the provision and funding of necessary physical and social infrastructure.*

Response

A Development Contribution Plan Overlay does not cover the land. Any contributions for public open space would be a requirement of a planning permit and would go towards the provision of recreation facilities in Tallangatta.

- *Identify the staging and anticipated timing of development.*

Response

The purpose of staging articulated in a Development Plan is relevant in instances where the land area is large, the lot yield is high, and the sequential implementation of infrastructure and community facilities (i.e. schools and recreation facilities) is more critical.

The Development Plan does not provide details in relation to the staging or the timing of the subdivision. It is recognised that the land comprises a conservative area of 16.4 hectares. Any development staging can be accommodated during the planning permit phase of development. The Development Plan identifies connections with Towong Street South and the extension of Fisher Drive which will support the sequential development and expansion of the residential area.

- *Provide an overall scheme of landscaping and any necessary arrangements for the preservation or regeneration of existing vegetation.*

Response

The Development Plan shows areas of road reserve and a traffic island which facilitate the preservation of the scar tree and several scattered eucalypts. An indicative landscape plan has been submitted with Development Plan which indicates both vegetation to be removed and the location of trees to be planted along road reserves. The provision of a more detailed landscaping plan can be addressed through the planning permit process.

- *Provide suitable linkages between the site using road, bicycle and pedestrian transport facilities to urban areas.*

Response

The Development Plan provides a road network connecting Towong Street South and an extension of Fisher Drive. The DP also has provision to allow access to the property to the east and the North East Water infrastructure.

The site benefits from the interface with Lake Hume to the north and the High Country Rail Trail towards the south east corner. A future pedestrian link has been shown to connect with the walking trail along Lake Hume to the west.

- *Provide a Soil and Water Management Plan (SWMP) to demonstrate the capacity of infrastructure to service the development, treat and retard stormwater, and reduce any impacts on soil and water downstream of the proposed development. Reference must be made to the publication – Soil and Water Management Guidelines for Subdivision, publication prepared jointly by Albury, Hume and Wodonga Councils, undated.*

Response

A Stormwater Management Plan and Services Report were submitted with the Development Plan. These plans state that the lots created from a future subdivision can be appropriately connected to reticulated water, sewerage, power, and telecommunication services. The detailed design and any upgrades of infrastructure to provide each service will be addressed through the planning permit process.

In relation to the management of stormwater, the Stormwater Management Plan notes that the stormwater leaving the site will be treated with a SPEL Ecoceptor and SPELFILTER Hydrosystem before flowing into Lake Hume for retention.

Municipal Strategic Strategy and Planning Policy Framework

Clause 02.01 (Municipal Planning Strategy) in relation to the settlement patterns within the Towong Shire recognise that the area exhibits modest settlement growth, predominantly in the western portion within easy commuting distance of Albury-Wodonga. The scheme recognises Council's aspirations to encourage population growth in the 'peri urban area' within a 40 minute commute of Albury-Wodonga.

Clause 02.03-1 (Settlement) identifies that Tallangatta is a major township which benefits from reticulated water and sewerage services. The township provides a desirable location for residents due to its affordable housing, high level of amenity and proximity to Albury-Wodonga.

Clause 02.03-2 (Environmental and landscape values) considers the importance of the Lake Hume environment, which recognises the need to protect the lake for its

landscape significance and aquatic health. Clause 02.03-4 (Natural resource management) also reiterates the necessity of protecting water quality, particularly given the location being within a Declared Special Water Catchment.

The importance of protecting native vegetation for its biodiversity value is also an objective of Clause 02.03-2.

The unique scenic character of the Towong Shire is noted in Clause 02.03-5 (Built environment and heritage), as well as the importance of protecting archaeological sites, trees and other significant places that have aesthetic, cultural or social significance.

Clause 02.03-6 (Housing) recognises that most towns have sufficient land zoned to accommodate future growth.

The Development Plan seeks to facilitate the realisation and development of existing residential zoned land to support population growth and the expansion of the Tallangatta township.

The Development Plan recognises the sensitive interface with Lake Hume to the north and west and the farming land to the east. The plan has responded appropriately to the area by positioning roads acting as both a buffer and facilitating connectivity. In addition, road reserves have been utilised to accommodate the protection of native vegetation as well as the scar tree, which has been identified as being of aboriginal cultural significance.

Clause 11 (Settlement) of the Towong Planning Scheme provides the context of how planning sits within the Shire and must anticipate and respond to the needs of both existing and future communities. Clause 11.01-1R (Settlement Hume) identifies the need to support growth and developments within regional cities, such as Shepparton, Wangaratta, Wodonga and Benalla. Clauses 11.02-1S (Supply of urban land) and 11.02-3S (Sequencing of development) seek to ensure a sufficient supply of land available to accommodate residential uses and that a sequential approach is taken to the expansion of urban areas.

The Development Plan provides the opportunity for an underutilised site to be subdivided and additional vacant land in an area well serviced and connected. The DP provides for an appropriate connection with and expansion of the existing residential area located on the eastern fringe of the Tallangatta township.

Clause 12 of the Towong Planning Scheme provides the policy basis concerning 'Environmental and Landscape Values'. The policy contained in Cause 12.01 (Biodiversity) focuses on protecting Victoria's biodiversity, particularly from the unnecessary removal, destruction or lopping of native vegetation. Clause 12.03-1S (River and riparian corridors, waterways, lakes, wetlands and billabongs) seeks to ensure that water bodies such as lakes are not detrimentally impacted by land development, which can alter water flow and quality. It also seeks to encourage water systems to be promoted and valued as places for recreation, amenity, and natural

and cultural significance. Clause 12.05-2S (Landscapes) recognises the importance of protecting and enhancing significant landscapes and open spaces.

The subject property is located on the edge of Lake Hume and features several scattered eucalyptus trees. The supporting documentation provided with the Development Plan has demonstrated that consideration has been given to ensuring that the water runoff from the site can be appropriately treated before release into Lake Hume. The Biodiversity Assessment has identified the native vegetation that would need to be removed to facilitate the development and individual trees that can be retained. Thus only seven trees have been identified for removal.

Clause 13 (Environmental risk and amenity) highlights the importance of planning for all potential environmental hazards. In areas more prone to environmental risks, planning should strengthen the resilience and safety of communities by adopting a best practice environmental and risk management approach. Clause 13.02 (Bushfire) aims to prioritize protecting human life over all other policy considerations and direct population growth and development to low-risk locations. Clause 13.07 (Amenity, human health and and safety) aims to ensure that the use or development of land is compatible with adjoining and nearby land uses. The role of planning, in these environmental risk prone regions, should aim to avoid or minimise both natural and man-made environmental hazards, environmental degradation and amenity conflicts.

The land does not contain overlays identifying any increased risk from bushfire or flooding. It is noted that a Bushfire Assessment has been prepared for the site, which will be considered part of the planning permit assessment for the subdivision of land. The matter of potential land use conflict arising at the interface of Lake Hume or the farming land to the east has been addressed in the assessment against Schedule 1 of the Development Plan Overlay.

The policies contained in Clause 14 focus on 'Natural Resource Management'. In a similar context to the policies contained in Clause 12.03, Clause 14.02-1S (Catchment planning and management) seeks to promote the protection of catchment, waterways and water bodies. In particular the strategies provided within the policy focus on encouraging sensitive approaches to the management and treatment of runoff from constructions sites and developed areas.

The Development Plan has been accompanied by a Stormwater Management Plan, which outlines the anticipated ground and surface water flows from the site both pre and post development. The report articulates how the water runoff will be treated and filtered to ensure that the impact from discharge to Lake Hume is minimised.

Specific requirements concerning site management and the need for a Site Environmental Management Plan (SEMP), etc., will be addressed through the subsequent planning permit application assessment and permit conditions if approved.

Clause 15 outlines policies about 'Built Environment and Heritage'. Clause 15.01-1S (Urban design) encourages creating an urban environment that contributes positively to neighbourhood character, minimises detrimental amenity impacts and achieves safety for future residents and the community through good design. Furthermore, the policy seeks to promote energy and resource efficiency through improved building design, urban consolidation and promotion of sustainable transport. Clause 15.03-2S (Aboriginal Cultural Heritage) seeks to protect and conserve places of Aboriginal cultural heritage significance.

The subject property contains a number of areas that are considered to be of Aboriginal Cultural Heritage Sensitivity. The Development Plan was accompanied by a Cultural Heritage Management Plan, which identified the presence of a scar tree on the site. The response to the protection and preservation of this tree is to retain it within a traffic island that has been supported and approved.

Clause 18 concerning 'Land Use and Transport' focuses on the need for an integrated approach to transport and a shift towards promoting more efficient and sustainable forms of commuting and movement. Clause 18.01-1S (Land use and transport integration) seeks to ensure that the transport system and networks provide appropriate access to social, economic and cultural infrastructure and opportunities. It also seeks to ensure that transport provision does not disrupt amenities. The policies contained at Clause 18.02 (Movement networks) seek to encourage the establishment and connection of safe and efficient walking and cycling pathways which reduce the reliance on vehicles for short trips.

The Development Plan provides for an appropriate level of connectivity and road layout design within a residential area. The plan provides a mix of connector roads and cul-de-sacs to minimise the impact of traffic movements on the residential amenity. The Development Plan also extends the walking path along Lake Hume, which will provide a pedestrian and cycling link to the Tallangatta township. The location of the land within one kilometre of the main street encourages future residents to be less reliant on their vehicles. The land also benefits from the High Country Rail Trail adjoining the south east corner of the site.

Options – Best Outcomes for the Community (s.9(2)(b)):

The proposed Development Plan provides the opportunity for an underutilised site to be subdivided and provide for additional residential allotment in an area which is well serviced and connected. The Tallangatta township is recognised as a desirable area for residents due to housing affordability and proximity to Albury-Wodonga.

The Development Plan will facilitate the desired population growth within the municipality which has positive flow on effects for economic development and community participation.

Sustainability Implications (s.9(2)(c)):

The Development Plan is considered to meet the sustainability policies of the Planning Policy Framework. Tallangatta is a main township within the Towong Shire and as such it has the benefit of being well serviced. The site has some sensitivities that have informed the DP's configuration and layout. Overall, it is considered that the Development Plan and any subsequent application for subdivision of the land can provide an acceptable response to stormwater management, retention of trees and landscaping of the site, providing for energy efficient design and encouraging reduced reliance on vehicles.

Community Engagement (s.9(2)(d)):

Notice of the Development Plan was given to properties adjoining and adjacent to the subject land. The only opportunity for connecting property owners and occupiers to comment on the development of land covered by the Development Plan Overlay is during the consideration of the Development Plan.

Once a Development Plan has been approved, any subsequent application under any provision of this planning scheme is exempt from the notice requirements of section 52(1)(a), (b) and (d), the decision requirements of section 64(1), (2) and (3) and the review rights of section 82(1) of the Act.

Five submissions were received in response to the Development Plan being notified. The grounds of objections and a response to each matter are as follows:

- *Layout and interface with farming area.*

Response

The DP layout is considered acceptable as it provides appropriate connectivity to the existing road networks and the sequential expansion of Tallangatta's residential area to the east. Ideally, residential zoned land will be separated from farming land by an intermediate zone such as Low Density Residential or Rural Living. While it is a possibility that land use conflict could arise between the residential area and the operation of the rural land to the east, the number of allotments created along this interface will be less than 10% of the potential lot yield and as such the likelihood of such issues arising between the two is reduced.

- *Access to adjoining property and NEW pumping station; and Section 173 Agreement.*

Response

The land is subject to a Section 173 Agreement AM556148N which provides for access to the adjoining property at the north east corner. The DP shows a road connection extending to the land to the east which will maintain this access.

- *Impact of development on lifestyle and views from existing residential area.*

Response

The dwellings that the interface to the property have benefited from views across farming land and Lake Hume. The subject land is zoned General Residential and is covered by a Development Plan Overlay. Hence the land has been earmarked for future residential development. The land is not affected by any overlays which require consideration of view sharing.

- *Impact on natural resources*

Response

A requirement of the Development Plan is that it responds to sensitive areas and natural features. As discussed earlier, the layout of the Development Plan has been designed to respond to the Lake Hume interface and provide for retention and protection of the scar tree and a number of scattered eucalypts.

In addition the Stormwater Management Plan also outlines the runoff's treatment before it is released into Lake Hume.

- *Removal of planted trees*

Response

There are two strands of trees that have been planted on the property. No controls are protecting these trees, and there is no authority to require their retention.

- *The increase in residential development will place a strain on utility services.*

Response

The preparation and assessment of a Development Plan requires consideration for the future use to be serviced by the respective utility providers. The application was accompanied by a service report which demonstrated that any future subdivision could (subject to extension and any required upgrades) be appropriately serviced. The application was also referred to Goulburn Murray Water, North East Catchment Management Authority, North East Water and Regional Roads Victoria who have raised no concerns with the layout or intent of the Development Plan.

- *Development Plan provides insufficient information in relation to traffic, servicing and development of steep sites.*

Response

The purpose of a Development Plan is to provide a holistic and strategic framework to guide the detailed development or subdivision of land. The Overlay requires that specific reports accompany a Development Plan to ensure that there will be no issues in relation to the provision of services and infrastructure, and to ensure any significant features of the land are considered and protected from the onset.

While concerns have been raised concerning a lack of detail in the material which accompanied the Development Plan, it must be highlighted that such detail is not required at this phase of the process. Detailed assessment and design is a requirement of an application and the assessment of the planning permit for any future subdivision of the land.

Innovation and Continuous Improvement (s.9(2)(e)):

Not Applicable.

Collaboration (s.9(2)(f)):

Not applicable.

Financial Viability/Budget Impact (s.9(2)(g)):

As with all planning matters, there is a risk that this matter may be appealed pursuant to Section 149 of the Planning and Environment Act to the Victorian Civil Administrative Court (VCAT). It is the officer's view that proceeding to VCAT would have a budgetary impact. It is not possible to quantify this at this point in time. It is rare for a decision on a development plan to be appealed to VCAT.

Regional, State and National Plans and Policies (s.9(2)(h)):

The proposal meets the Planning Policy Framework as discussed above.

Council Plans and Policies:

The proposal meet the Municipal Strategic Strategy as discussed above.

Transparency of Decision (s.9(2)(i)):

It is the officer's view that it is appropriate to consider this matter in a meeting that is open to the public.

Risk Assessment:

The relevant law section outlines many of the sensitive considerations associated with the Development Plan. Upon assessment, it is considered that the Development Plan has provided an appropriate response to the Lake Hume and farming land interface, retention of the scar tree and minimising the loss of native vegetation. The Development Plan is considered to have addressed the Planning Scheme's requirements and other relevant laws.

Officer's View:

The site has been identified appropriate for the future expansion because it is zoned General Residential Zone and covered by a Development Plan Overlay.

The Municipal Strategic Strategy and Planning Policy Framework are clear in their objectives to encourage infill development on sites which are well serviced and are with proximity to activity centres. In addition, both are clear in their design policies stating that new development should make a positive contribution and should not compromise sensitive areas of natural and cultural significance.

It is considered that the proposed Development Plan is consistent with the Municipal Strategic Statement and the Planning Policy Framework and the relevant planning objectives by virtue of the site's position on the fringe of the Tallangatta township. Consequently the land benefits of being within close proximity of:

- Retail and commercial services of the Tallangatta township;
- Education facilities, including kindergarten and primary and secondary schools;
- Medical services;
- Public Open Space and recreation facilities; and
- Access to the Murray Valley Highway.

The land exhibits some sensitivities due to the interface with Lake Hume and the presence of a scar tree and native vegetation. The configuration of the Development Plan has sought to address and mitigate any risk posed and represents an acceptable design response. In addition, it is considered that the Development Plan provides for an appropriate expansion of the urban area and appropriate vehicle and pedestrian connections to the Tallangatta township.

On this basis, the Development Plan is considered to be an appropriate outcome for the site and locality. It is recommended that Council resolve to approve the Development Plan subject to the notes above being included on the plan.

- This Development Plan will expire in ten years of the date of approval; and
- This Development Plan is conceptual and maybe subject to minor change following further detailed design in relation to stormwater treatment, provision of services, creation of access and the need to where appropriate retain existing native vegetation. Any subsequent plan of subdivision must be generally in accordance with the approved Development Plan.

Council Resolution:

**CR SCALES
CR WORTMANN**

THAT:

THE DEVELOPMENT PLAN BE APPROVED AND ADOPTED SUBJECT TO THE FOLLOWING NOTATIONS BEING INCLUDED IN THE PLAN:

- **THIS DEVELOPMENT PLAN EXPIRES IN TEN YEARS FROM THE DATE OF APPROVAL; AND**
- **THIS DEVELOPMENT PLAN IS CONCEPTUAL AND MAY BE SUBJECT TO MINOR CHANGE FOLLOWING FURTHER DETAILED DESIGN CONCERNING STORMWATER TREATMENT, PROVISION OF SERVICES, CREATION OF ACCESS AND THE NEED TO, WHERE APPROPRIATE, RETAIN EXISTING NATIVE VEGETATION. ANY SUBSEQUENT SUBDIVISION PLAN MUST BE IN ACCORDANCE WITH THE APPROVED DEVELOPMENT PLAN.**

CARRIED

6 Council Policies (10/01/0007-CEO)

6.1 Policies for Review and Adoption

The following policy is being tabled for review and adoption and is presented at **Appendix 7** for adoption. Please note the recommended changes are shown in coloured text.

- Procurement Policy

Recommendation:

That the Procurement Policy as presented be adopted.

Council Resolution:

**CR DIKSCHER
CR WORTMANN**

THAT THE PROCUREMENT POLICY AS PRESENTED BE ADOPTED.

CARRIED

7 Environmental Sustainability

7.1 Environmental Sustainability Report (01/07/0004-DIE)

Disclosure of Interests (S.130):

This report was prepared by Mr. Anthony Dufty, Coordinator Environment.

At the time of preparation of this report, the officer did not have a general or material conflict of interest in any matter to which the report or advice relates.

Purpose of Report:

This report provides information on the management of leachate at the Corryong Landfill and seeks approval for the variation of Contract 2021/22-114 to the value of \$230,000 excluding GST for leachate removal to ensure site compliance.

Summary:

Greenchip Recycling were engaged in 2022 under Contract 2021/22-114 to remove leachate from the Corryong Landfill site. With the wet weather continuing in 2023 further leachate must be removed from the site to mitigate the risk of environmental contamination and remain compliant with EPA standards.

Recommendation:

That:

1. A variation to Contract 2021/22-114 to the value of \$230,000 excluding GST for leachate removal from the Corryong Landfill to ensure site compliance be approved;
2. The Chief Executive Officer be authorised to sign the contract variation; and
3. An emergency 2022/23 budget provision of up to \$380,000 excluding GST be approved for ongoing landfill leachate management at the Corryong landfill.

Attachments:

Not Applicable.

Background/History:

The Environmental Protection Authority's (EPA) guidance document 1563.1 '*Landfills Exempt from Licensing*' informs decisions on regulatory matters for the Corryong landfill. It specifies that a maximum of 300mm of leachate can accumulate at the base of any landfill cell. Council manages this by pumping leachate from the landfill cells to the on-site leachate dam which uses evaporation to reduce the leachate's volume. Due to excessive rainfall and low evaporation rates in 2021 and 2022 the leachate dam reached capacity and leachate began to accumulate in the landfill cells. A contractor was engaged under Contract 2021/22-114 to remove leachate from the site. With the wet weather continuing in 2023 further leachate must be removed from the site to mitigate the risk of environmental contamination and remain compliant with EPA standards.

The *Environmental Protection Act 2017* includes new regulations under the General Environmental Duty, including proactive requirements for wastewater and waste management to prevent contamination of the environment. In March 2022 it was evident that excess leachate had accumulated at the site and required offsite treatment to meet Council's General Environmental Duty. A provision of \$50,000 was made in the 2022/2023 budget for leachate removal to address this issue.

Greenchip Recycling were engaged under Contract 2021/22-114 in early 2022 to remove 0.4ML of leachate from the Corryong Landfill to a total value of \$50,000 excluding GST. In October 2022, a further \$130,000 excluding GST was approved as contract variation under emergency provisions to remove and treat a further 1.04ML of leachate.

Following an EPA inspection and subsequent repairs to the landfill liner in January 2023 it was found that the leachate had still not reduced to a compliant level within the cells and the leachate dam continued to be at capacity. In late January 2022 a further contract variation of \$20,000 excluding GST was approved to continue removing leachate. Approvals have now reached the delegated limit of the Chief Executive Officer. It is estimated that up to \$230,000 excluding GST of leachate removal is still urgently required.

Relevant Law (s.9 (2) (a)):

Local Government Act 2020
Environmental Protection Act 2017

Options – Best Outcomes for the Community (s.9 (2) (b)):

To maintain permit compliance and prevent environmental contamination at Corryong Landfill the options include:

Option 1 - Continue to transport leachate to an offsite treatment facility under a contract variation for Greenchip Recycling.

Option 2 – Retender the works.

Sustainability Implications (s.9 (2) (c)):

Economic

Further investment in the Corryong Landfill is necessary to maintain compliance with the *Environmental Protection Act 2017* and ensure continued operations.

Social

Compliance with the *Environmental Protection Act 2017* and ensuring the continued operations at the Corryong Landfill ensure waste management services can continue to be delivered for the community.

Environmental/Climate Change

Improved leachate management at Corryong Landfill will contribute positively towards the mitigation of Council's impact on the environment.

Community Engagement (s.9 (2) (d)):

Not applicable.

Innovation and Continuous Improvement (s.9 (2) (e)):

Not applicable.

Collaboration (s.9 (2) (f)):

Not applicable.

Financial Viability/Budget Impact (s.9 (2) (g)):

A provision of \$50,000 excluding GST was made in the 2022/2023 budget for leachate removal. Under emergency provisions a further \$150,000 excluding GST was approved under the Chief Executive Officer's delegation. It is estimated that a further 2ML of leachate removal will cost \$230,000 excluding GST. This amount is unbudgeted in 2022/2023 but is necessary for landfill compliance.

Regional, State and National Plans and Policies (s.9 (2) (h)):

Not applicable.

Council Plans and Policies:

All environmental sustainability activities are undertaken in accordance with the:

- *Procurement Policy*
- *Council Plan 2021-2025 - Environmental Sustainability;*
- *Climate Adaptation Policy.*

Transparency of Decision (s.9 (2) (l)):

It is the officer's view that it is appropriate to consider this report in an open meeting.

Risk Assessment:

A breach of leachate management requirements may result in significant environmental damage, fines for Council and revocation of the operational license for Corryong Landfill. Continued removal of leachate for off site treatment will mitigate this risk.

Officer's View:

The continued operation of Corryong Landfill provides valuable services to Towong Shire. Future operation requires sufficient financial investment to meet Council's General Environmental Duty. It is the officer's recommendation that Council approve a variation amount of \$230,000 under contract 2021/22-114 and undertake leachate removal works to ensure site compliance.

Greenchip Recycling have proven to be reliable contractor who were procured through the Council's *Procurement Policy* processes. They meet all EPA standards for the transport of leachate to a treatment facility.

Council Resolution:

**CR WORTMANN
CR SCALES**

THAT:

- 1. A VARIATION TO CONTRACT 2021/22-114 TO THE VALUE OF \$230,000 EXCLUDING GST FOR LEACHATE REMOVAL FROM THE CORRYONG LANDFILL TO ENSURE SITE COMPLIANCE BE APPROVED;**
- 2. THE CHIEF EXECUTIVE OFFICER BE AUTHORISED TO SIGN THE CONTRACT VARIATION; AND**
- 3. AN EMERGENCY 2022/23 BUDGET PROVISION OF UP TO \$380,000 EXCLUDING GST BE APPROVED FOR ONGOING LANDFILL LEACHATE MANAGEMENT AT THE CORRYONG LANDFILL.**
- 4. A REPORT BE PROVIDED ON THE COST OF OPERATING THE CORRYONG LANDFILL AND THE FUTURE VIABILITY OF OPERATING THE FACILITY AND POSSIBLE ALTERNATIVES THAT COULD BE CONSIDERED.**

CARRIED

There being no further business, the Mayor declared the meeting closed, the time being 12.31pm.

Minutes confirmed on 22 February 2023

Mayor