



South Gippsland
Shire Council

Come for the beauty, Stay for the lifestyle

COUNCIL MINUTES

**ORDINARY MEETING NO. 278
WEDNESDAY, 7 NOVEMBER 2007
MIRBOO NORTH PUBLIC HALL, MIRBOO NORTH
COMMENCED AT 2.05PM**

PRESENT:

Mayor: Cr Jennie Deane
Councillors: Heather Bligh, Diane Casbolt, Nigel Hutchinson-Brooks
Kieran Kennedy, David Lewis, Robert Newton,
Clyde Paterson and Melanie Ryan

APOLOGIES:

OFFICERS:

Paul Bawden	Guy Wilson-Brown
Sharon van Ruyven	Tom Lovass
Johann Rajaratnam	Daniel Strachan
Jason Stubbs	Joel Templar
Chris Wightman	Rohan Puls
Ken Griffiths	
Janice Pouw	

MISSION

To effectively plan and provide for the social, built, economic and natural environments that ensure the future wellbeing of South Gippsland Communities.

SOUTH GIPPSLAND SHIRE COUNCIL

**ORDINARY MEETING NO. 278
WEDNESDAY 7 NOVEMBER 2007
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TABLE OF CONTENTS

SECTION H - CLOSED SESSION	2
H.1 INCOMMITTEE - TRANSFER OF LAND, 25-31 GRAY STREET, LEONGATHA	2
SECTION A - PRELIMINARY MATTERS	4
SECTION B - NOTICES OF MOTION AND/OR RESCISSION	7
B.1 NOTICE OF MOTION NUMBER 379 – DISCRETIONARY FUND ALLOCATIONS	8
B.2 NOTICE OF MOTION NUMBER 380 – DISCRETIONARY FUND ALLOCATIONS	9
B.3 NOTICE OF MOTION NUMBER 381 – DISCRETIONARY FUND ALLOCATIONS	10
B.4 NOTICE OF MOTION NUMBER 382 – DISCRETIONARY FUND ALLOCATIONS	12
B.5 NOTICE OF MOTION NUMBER 383 – DISCRETIONARY FUND ALLOCATION.....	13
B.6 NOTICE OF MOTION NUMBER 384 – DISCRETIONARY FUND ALLOCATIONS	14
B.7 NOTICE OF MOTION NUMBER 385 – DISCRETIONARY FUND ALLOCATIONS	15
SECTION C - GENERAL REPORTS	17
C.1 DWELLING DEVELOPMENT GRIP ROAD, TOORA – STRATEGIC CONTEXT	17

C.2	36 LAWSONS ROAD, TOORA (CROWN ALLOTMENTS 40, 42, 46 AND 46A, PARISH OF TOORA) – RE-SUBDIVISION INTO THREE LOTS (REF: 2006/122)	18
C.3	36 LAWSONS ROAD, TOORA (CROWN ALLOTMENTS 42, 46 AND 46A, PARISH OF TOORA) – USE AND DEVELOPMENT OF A DWELLING (REF: 2006/534)	22
C.4	36 LAWSONS ROAD, TOORA (CROWN ALLOTMENT 39) – USE AND DEVELOPMENT OF A DWELLING (REF: 2006/533)	27
C.5	MEENIYAN-PROMONTORY ROAD YANAKIE (LOT 1, PLAN OF SUBDIVISION 303664J, PARISH OF YANAKIE) – DESCRIPTION (REF: 2007/138)	29
C.6	LOCH POOWONG ROAD, LOCH (LOT 2 TP243610C, L3 TP243610C, L2 PS435511X, L3 PS435511X, PARISH OF JEETHO WEST) – RE-SUBDIVISION INTO THREE (3) ALLOTMENTS (REF: 2005/520)	32
C.7	10-14 BAIR STREET, LEONGATHA - EXTENSION TO EXISITNG PHARMACY AND WAIVING OF CAR PARKING REQUIREMENTS – (REF: 2007/127)	33
C.8	BUFFALO WARATAH ROAD, TARWIN LOWER (LOT 1 ON TP805426P) SUBDIVISION (REF:: 2006/151)	34
C.9	REPORT ON A PETITION FOR THE REALIGNMENT OF LIMONITE ROAD AT THE INTERSECTION WITH GRAND RIDGE ROAD	40
C.10	COUNCIL POLICY – FRAUD POLICY	41
C.11	CONTRACT SGC08/01 - PROVISION OF BUILDING MAINTENANCE SERVICES (VARIOUS TRADES) FOR COAL CREEK KORUMBURRA	42
	SECTION D - PROCEDURAL REPORT	43
D.1	COUNCILLOR EXPENDITURE	43
	SECTION E - COUNCILLOR REPORTS	44
	SECTION F - URGENT OR OTHER BUSINESS	45
	SECTION G - GENERAL QUESTION TIME	46
G.1	QUESTION TIME	46
G.2	ANSWERS TO PREVIOUS QUESTIONS ON NOTICE	47
	SECTION I - MEETING CLOSED	48

MOVED: Cr Ryan

SECONDED: Cr Paterson

THAT THE MEETING BE CLOSED TO MEMBERS OF THE PUBLIC IN ACCORDANCE WITH SECTION 89 OF THE LOCAL GOVERNMENT ACT 1989 AS THE ITEMS TO BE DISCUSSED RELATE TO CONTRACTUAL MATTERS AND OTHER MATTERS WHICH WOULD PREJUDICE THE COUNCIL OR ANOTHER PERSON.

CARRIED UNANIMOUSLY

PRESENT:

Mayor: Cr Jennie Deane

Councillors: Heather Bligh, Diane Casbolt, Nigel Hutchinson-Brooks, Kieran Kennedy, David Lewis, Robert Newton, Clyde Paterson and Melanie Ryan

APOLOGIES: Nil

SECTION H - CLOSED SESSION

Consideration of confidential matters under the Local Government Act 1989, Section 89(2).

According to Section 89 of the Local Government Act 1989 (the Act), Council may consider items in closed session. There must be a resolution to move 'In Committee' stating the reasons why the matter(s) need to be considered in this way. The reasons provided for within the Act are matters concerning staffing, personal hardship, industrial issues, contracts, proposed developments, legal advice or any other matter that Council considers would be prejudicial, to it or any other person.

Once 'In Committee' discussions and debate have concluded, a further resolution to resume open Council is required.

H.1 INCOMMITTEE - TRANSFER OF LAND, 25-31 GRAY STREET, LEONGATHA

MOVED: Cr Kennedy

SECONDED: Cr Newton

THAT OPEN COUNCIL BE RESUMED:

CARRIED UNANIMOUSLY

The Mayor adjourned the Council Meeting at 11.23pm.

The Council Meeting resumed at 2.05pm.

PRESENT:

Mayor: Cr Jennie Deane

**Councillors: Heather Bligh, Diane Casbolt, Nigel Hutchinson-Brooks,
Kieran Kennedy, David Lewis, Robert Newton,
Clyde Paterson and Melanie Ryan**

APOLOGIES: Nil

SECTION A - PRELIMINARY MATTERS

A.1 Opening Prayer

We pray to God to guide us so that the thoughts we have and the decisions we make this day, are in the best interests of the people of the South Gippsland Shire.

Amen

A.2 Apologies

NIL

A.3 Confirmation of Minutes

RECOMMENDATION

That the Minutes of the South Gippsland Shire Council Ordinary Meeting No. 277, held on 17 October 2007 in the Council Chamber, Leongatha be confirmed.

MOVED: Cr Kennedy

SECONDED: Cr Ryan

THAT THE MINUTES OF THE SOUTH GIPPSLAND SHIRE COUNCIL ORDINARY MEETING NO. 277, HELD ON 17 OCTOBER 2007 IN THE COUNCIL CHAMBER, LEONGATHA BE CONFIRMED.

CARRIED UNANIMOUSLY

A.4 Requests for Leave of Absence

NIL

A.5 Next Meeting

The next Ordinary Council Meeting open to the public will be held on 21 November 2007 commencing at 7pm in the Council Chamber, Leongatha.

A.6 Presentations / Submissions / Questions

Mr Leigh Semmens addressed Council seeking approval for Items C.2, C.3 and C4 – 36 Lawsons Road, Toora.

Mr Gary Chisholm from Beveridge Williams addressed Council on behalf of his client seeking approval for Items C.2, C.3 and C4 – 36 Lawsons Road, Toora.

Mr Gary Chisholm from Beveridge Williams addressed Council in support of the officer's recommendation for Item C.8 – Buffalo Waratah Road, Tarwin Lower.

Mrs Eve Jensen addressed Council speaking against the officers recommendation for Item C.5 – Meeniyen Promontory Road, Yanakie.

Mr Geoff Owen addressed Council with his concerns regarding the intersection of Limonite Road and Grand Ridge Road referred to in Item C.9 – Report on a petition for the realignment of Limonite Road at the intersection with Grand Ridge Road.

Mr Barry Fitzpatrick addressed Council with his concerns regarding the intersection of Limonite Road and Grand Ridge Road referred to in Item C.9 – Report on a petition for the realignment of Limonite Road at the intersection with Grand Ridge Road.

Mr Paul Norton addressed Council on the following matters:

- 1. Wished Manager Planning and Environment the best in his new role;**
- 2. Freedom of Information process;**
- 3. Police attendance; and**
- 4. Confirmation of Council Minutes.**

A.7 Petitions

NIL

SECTION B - NOTICES OF MOTION AND/OR RESCISSION

It is intended that the Notices of Motion listed in the recommendation below are of a nature that enables block adoption. Of course any Councillor has the right to ask questions on any Notice of Motion or to seek that a specific Notice(s) of Motion be considered separately.

RECOMMENDATION

That Notices of Motion B.1, B.2, B.3, B.4, B.5, B.6 and B.7 be adopted.

MOVED: Cr Newton

SECONDED: Cr Kennedy

THAT NOTICES OF MOTION B.1, B.2, B.4, AND B.5 BE ADOPTED.

CARRIED UNANIMOUSLY

B.1 NOTICE OF MOTION NUMBER 379 – DISCRETIONARY FUND ALLOCATIONS

PURPOSE

Contribution to the following groups as detailed below in the motion.

MOTION

I, Councillor Kieran Kennedy, advise that I intend to submit the following motion to the Ordinary Council Meeting scheduled to be held on 7 November 2007.

'THAT THE FOLLOWING ALLOCATIONS BE MADE FROM CR KENNEDY'S 2007/08 DISCRETIONARY FUND:

1. \$350 TO THE VENUS BAY ANGLING CLUB AS A CONTRIBUTION TOWARDS THE COST OF A RAIN WATER TANK;
2. \$500 TO THE STONY CREEK RACING CLUB TO ASSIST WITH COMMUNITY BASED ACTIVITIES;
3. \$1000 TO THE VENUS BAY SURF LIFE SAVING CLUB FOR EQUIPMENT AND TO ASSIST THE LITTLE NIPPERS PROGRAM;
AND
4. \$500 PORT WELSHPOOL CARAVAN PARK TO ASSIST WITH THE SEADAYS FESTIVAL.'

NOTE: The recommendation was CARRIED UNANIMOUSLY as part of a single motion, refer to Section B.

B.2 NOTICE OF MOTION NUMBER 380 – DISCRETIONARY FUND ALLOCATIONS

PURPOSE

Contribution to the following groups as detailed below in the motion.

MOTION

I, Councillor Clyde Paterson, advise that I intend to submit the following motion to the Ordinary Council Meeting scheduled to be held on 7 November 2007.

‘THAT THE FOLLOWING ALLOCATIONS BE MADE FROM CR PATERSON’S 2007/08 DISCRETIONARY FUND:

1. \$400 TO THE STONY CREEK FOOTBALL CLUB AS A CONTRIBUTION TOWARDS THE COST OF A NEW SIREN;
2. \$400 TO THE SOUTH GIPPSLAND DISTRICT SCOUT ASSOCIATION AS A CONTRIBUTION TOWARDS THE COST OF CELEBRATIONS OF 100 YEARS OF SCOUTING EVENT (20-21 OCTOBER 2007);
3. \$200 TO THE KORUMBURRA AGRICULTURAL PASTORAL SOCIETY INCORPORATED AS A CONTRIBUTION TOWARDS THE RUNNING OF SHEEP DOG TRIALS (12-14 NOVEMBER 2007); AND
4. \$250 TO THE KORUMBURRA AMATEUR SWIMMING LIFESAVING CLUB INCORPORATED AS A CONTRIBUTION TOWARDS THE PURCHASE OF SWIMMING TRAINING EQUIPMENT.’

NOTE: The recommendation was CARRIED UNANIMOUSLY as part of a single motion, refer to Section B.

B.3 NOTICE OF MOTION NUMBER 381 – DISCRETIONARY FUND ALLOCATIONS

PURPOSE

Contribution to the following groups as detailed below in the motion.

MOTION

I, Councillor Nigel Hutchinson-Brooks, advise that I intend to submit the following motion to the Ordinary Council Meeting scheduled to be held on 7 November 2007.

‘THAT THE FOLLOWING ALLOCATION BE MADE FROM CR HUTCHINSON-BROOK’S 2007/08 DISCRETIONARY FUND:

1. \$500 TO THE SOUTH GIPPSLAND BRASS BAND TO ASSIST WITH THE PURCHASE OF SHEET MUSIC, UNIFORMS AND INSTRUMENT MAINTENANCE;
2. \$100 TO MITCHELL PRICE FOR SUPPORT TO ATTEND THE VICTORIAN COUNTRY INTELLECTUALLY DISABLED BASKETBALL SQUAD 2007/08;
3. \$250 TO THE FISH CREEK ART GROUP INC TO SUPPORT THE STAGING OF 25TH ANNIVERSARY ART EXHIBITION, (MUSIC, GALLERY HIRE AND ADVERTISING);
4. \$250 TO THE FISH CREEK PRIMARY SCHOOL AS A CONTRIBUTION TO THE ‘COOL SCHOOL’ PROGRAM;
5. \$450 TO THE MIRBOO NORTH TIMES TO ASSIST IN THE PURCHASE OF A REPLACEMENT PHOTOCOPIER; AND
6. \$200 TO THE MARDAN BOWLS CLUB TO ASSIST WITH THE PURCHASE OF HIGH VISIBILITY BOWLS.’

MOVED: Cr Newton

SECONDED: Cr Hutchinson-Brooks

Cr Lewis declared a Conflict of Interest as his wife is on the board of the Mirboo North Times.

THAT THE FOLLOWING ALLOCATION BE MADE FROM CR HUTCHINSON-BROOK'S 2007/08 DISCRETIONARY FUND:

- 1. \$500 TO THE SOUTH GIPPSLAND BRASS BAND TO ASSIST WITH THE PURCHASE OF SHEET MUSIC, UNIFORMS AND INSTRUMENT MAINTENANCE;**
- 2. \$100 TO MITCHELL PRICE FOR SUPPORT TO ATTEND THE VICTORIAN COUNTRY INTELLECTUALLY DISABLED BASKETBALL SQUAD 2007/08;**
- 3. \$250 TO THE FISH CREEK ART GROUP INC TO SUPPORT THE STAGING OF 25TH ANNIVERSARY ART EXHIBITION, (MUSIC, GALLERY HIRE AND ADVERTISING);**
- 4. \$250 TO THE FISH CREEK PRIMARY SCHOOL COUNCIL AS A CONTRIBUTION TO THE 'COOL SCHOOL' PROGRAM;**
- 5. \$450 TO THE MIRBOO NORTH TIMES TO ASSIST IN THE PURCHASE OF A REPLACEMENT PHOTOCOPIER; AND**
- 6. \$200 TO THE MARDAN BOWLS CLUB TO ASSIST WITH THE PURCHASE OF HIGH VISIBILITY BOWLS.**

Cr Lewis left the meeting at 2.54pm.

CARRIED UNANIMOUSLY

Cr Lewis entered the meeting at 2.55pm.

B.4 NOTICE OF MOTION NUMBER 382 – DISCRETIONARY FUND ALLOCATIONS

PURPOSE

Contribution to the following groups as detailed below in the motion.

MOTION

I, Councillor Heather Bligh, advise that I intend to submit the following motion to the Ordinary Council Meeting scheduled to be held on 7 November 2007.

‘THAT THE FOLLOWING ALLOCATIONS BE MADE FROM CR BLIGH’S 2007/08 DISCRETIONARY FUND:

1. \$200 TO THE WELSHPOOL TRANSACTION CENTRE TO SPONSOR AN EVENT AT THE WELSHPOOL DOG TRIALS TO BE HELD ON THE MELBOURNE CUP WEEKEND; AND
2. \$1000 TO THE FOSTER FOOTBALL CLUB AS A CONTRIBUTION FOR A COVER FOR THE GRASS CRICKET WICKET AT THE FOSTER SHOWGROUNDS.’

NOTE: The recommendation was CARRIED UNANIMOUSLY as part of a single motion, refer to Section B.

B.5 NOTICE OF MOTION NUMBER 383 – DISCRETIONARY FUND ALLOCATION

PURPOSE

Contribution to the following group as detailed below in the motion.

MOTION

I, Councillor Jennie Deane, advise that I intend to submit the following motion to the Ordinary Council Meeting scheduled to be held on 7 November 2007.

‘THAT THE FOLLOWING ALLOCATION BE MADE FROM CR DEANE’S 2007/08 DISCRETIONARY FUND, \$200 TO THE KORUMBURRA AGRICULTURAL PASTORAL SOCIETY INCORPORATED AS A CONTRIBUTION TOWARDS RUNNING THE ANNUAL SHEEP DOG TRIALS (12-14 NOVEMBER 2007).’

NOTE: The recommendation was CARRIED UNANIMOUSLY as part of a single motion, refer to Section B.

B.6 NOTICE OF MOTION NUMBER 384 – DISCRETIONARY FUND ALLOCATIONS

PURPOSE

Contribution to the following groups as detailed below in the motion.

MOTION

I, Councillor David Lewis, advise that I intend to submit the following motion to the Ordinary Council Meeting scheduled to be held on 7 November 2007.

‘THAT THE FOLLOWING ALLOCATIONS BE MADE FROM CR LEWIS’S 2007/08 DISCRETIONARY FUND:

1. \$300 TO THE MIRBOO NORTH SCOUTS AS A CONTRIBUTION TOWARDS THE COST OF CELEBRATIONS OF 100 YEARS OF SCOUTING EVENT (20-21 OCTOBER 2007); AND
2. \$200 TO THE SOUTH GIPPSLAND DISTRICT SCOUT ASSOCIATION AS A CONTRIBUTION TOWARDS THE COST OF CELEBRATIONS OF 100 YEARS OF SCOUTING EVENT (20-21 OCTOBER 2007).’

MOVED: Cr Newton

SECONDED: Cr Hutchinson-Brooks

THAT THE FOLLOWING ALLOCATIONS BE MADE FROM CR LEWIS’S 2007/08 DISCRETIONARY FUND:

1. **\$300 TO THE MIRBOO NORTH SCOUTS AS A CONTRIBUTION TOWARDS THE COST OF CELEBRATIONS OF 100 YEARS OF SCOUTING EVENT; AND**
2. **\$200 TO THE SOUTH GIPPSLAND DISTRICT SCOUT ASSOCIATION AS A CONTRIBUTION TOWARDS THE COST OF CELEBRATIONS OF 100 YEARS OF SCOUTING EVENT (20-21 OCTOBER 2007).**

CARRIED UNANIMOUSLY

B.7 NOTICE OF MOTION NUMBER 385 – DISCRETIONARY FUND ALLOCATIONS

PURPOSE

Contribution to the following groups as detailed below in the motion.

MOTION

I, Councillor Robert Newton, advise that I intend to submit the following motion to the Ordinary Council Meeting scheduled to be held on 7 November 2007.

‘THAT THE FOLLOWING ALLOCATIONS BE MADE FROM CR NEWTON’S 2007/08 DISCRETIONARY FUND:

1. \$250 TO THE STONY CREEK FOOTBALL CLUB AS A CONTRIBUTION TOWARDS THE COST OF A NEW SIREN;
2. \$200 TO THE MEENIYAN PROGRESS ASSOCIATION TO ASSIST WITH CHRISTMAS BANNERS;
3. \$100 TO THE KORUMBURRA AGRICULTURAL PASTORAL SOCIETY INCORPORATED AS A CONTRIBUTION TOWARDS THE RUNNING OF SHEEP DOG TRIALS (12-14 NOVEMBER 2007);
4. \$200 TO THE FISH CREEK ART AND CRAFT SHOW TO ASSIST WITH THE ART SHOW ADVERTISING; AND
5. \$500 TO THE STONY CREEK RACING CLUB TO ASSIST WITH COMMUNITY BASED ACTIVITIES.’

MOVED: Cr Newton

SECONDED: Cr Hutchinson-Brooks

**THAT THE FOLLOWING ALLOCATIONS BE MADE FROM
CR NEWTON'S 2007/08 DISCRETIONARY FUND:**

- 1. \$250 TO THE STONY CREEK FOOTBALL CLUB AS A CONTRIBUTION TOWARDS THE COST OF A NEW SIREN;**
- 2. \$200 TO THE MEENIYAN PROGRESS ASSOCIATION TO ASSIST WITH CHRISTMAS BANNERS;**
- 3. \$100 TO THE KORUMBURRA AGRICULTURAL PASTORAL SOCIETY INCORPORATED AS A CONTRIBUTION TOWARDS THE RUNNING OF SHEEP DOG TRIALS (12-14 NOVEMBER 2007);**
- 4. \$200 TO THE MEENIYAN ART AND CRAFT SHOW TO ASSIST WITH THE ART SHOW ADVERTISING; AND**
- 5. \$500 TO THE STONY CREEK RACING CLUB TO ASSIST WITH COMMUNITY BASED ACTIVITIES.**

CARRIED UNANIMOUSLY

SECTION C - GENERAL REPORTS

C.1 DWELLING DEVELOPMENT GRIP ROAD, TOORA – STRATEGIC CONTEXT

Author: Chris Wightman

Manager: Johann Rajaratnam

PURPOSE/INTRODUCTION

The purpose of this report is to provide a summary and analysis of the strategic context for the assessment of various applications for dwelling development in the vicinity of the old Crown Township area of Grip Road, Toora. Council has also received correspondence from the Minister for Planning that makes specific reference to prospective development activity in the Grip Road area.

MOVED: Cr Bligh

SECONDED: Cr Casbolt

THAT COUNCIL NOTES:

- **THE STRATEGIC CONTEXT RELATING TO THE ASSESSMENT OF DWELLING DEVELOPMENT IN THE VICINITY OF THE OLD CROWN TOWNSHIP AREA OF GRIP ROAD, TOORA.**
- **CORRESPONDENCE RECEIVED FROM THE MINISTER FOR PLANNING IN CONSIDERATION OF APPLICATIONS FOR DWELLING DEVELOPMENT IN THE OLD CROWN TOWNSHIP AREA OF GRIP ROAD, TOORA.**

CARRIED UNANIMOUSLY

C.2 36 LAWSONS ROAD, TOORA (CROWN ALLOTMENTS 40, 42, 46 AND 46A, PARISH OF TOORA) – RE-SUBDIVISION INTO THREE LOTS (REFERENCE 2006/122)

Author: Daniel Strachan

Manager: Johann Rajaratnam

PURPOSE/INTRODUCTION

This report summarises the above planning permit application to re-subdivide four existing allotments at 36 Lawsons Road, Toora, into three new allotments, and seeks Council's ratification of the recommendation below.

This report is prefaced by a 'Strategic Context' report submitted to Council separately. That report sets up the strategic issues affecting the Grip Road area, as well as bringing to Council's attention recent correspondence from the Minister for Planning regarding development of the area.

The application has been brought before Council due to a recommendation for refusal being made. This report should be read in tandem with reports for applications 2006/534 and 2006/533 which affect the same land tenement. Those two applications seek approval for the use and development of dwellings on the land.

The present application seeks to utilise two existing Crown Allotments to facilitate the creation of an additional rural-residential lot. The two Crown Allotments proposed to be re-located are deemed to have no capacity to be built on at present for the following reasons:

- The land being zoned for farming purposes;
- The high risk of inundation;
- No access is currently available to the lots;

In this regard, it is not considered appropriate to use these parcels of land to facilitate the development of a rural-residential lifestyle block.

Of more importance, the proposed re-alignment is clearly contrary to the purpose and intent of the Farming Zoning as there is no perceivable benefit to the farming activities on the land as a result of the proposed re-subdivision of the land. Furthermore, Council is directed by the Municipal Strategic Statement (MSS) to consider the restructure and consolidation of these existing Crown Allotments to facilitate the intended agricultural use by forming larger, more sustainable lot sizes. The MSS is consistent with the directions of the State Planning Policy Framework, which also encourages the re-structure of inappropriate subdivisions on productive agricultural land. Furthermore, the SPPF states that in coastal areas residential and other urban development should be contained within defined settlement boundaries to prevent linear urban sprawl along the coastal edge. The subject land is

outside the township of Toora and is identified as land suitable for farming and not for future urban settlement.

In addition, the land is subject to significant levels of inundation and potentially contains acid sulphate soils. When considering these reasons as well as the matters above, it is considered that the area as a whole is not suitable for broad scale rural-residential style development and any application which seeks to facilitate this type of development should strongly resisted.

MOVED: Cr Bligh

SECONDED: Cr Kennedy

THAT STANDING ORDERS BE SUSPENDED AT 3.11PM TO ALLOW FULL DISCUSSION ON ITEMS C.2, C.3 AND C.4.

CARRIED UNANIMOUSLY

Cr Paterson declared an interest on Items C.2, C.3 and C.4 as he has an objection to the permits.

Cr Newton left the meeting at 3.11pm.

Cr Newton entered the meeting at 3.13pm.

Cr Hutchinson-Brooks left the meeting at 3.20pm.

Cr Hutchinson-Brooks entered the meeting at 3.21pm.

Cr Casbolt left the meeting at 3.25pm.

Cr Casbolt entered the meeting at 3.26pm.

MOVED: Cr Kennedy

SECONDED: Cr Ryan

THAT STANDING ORDERS BE RESUMED AT 3.31PM.

CARRIED UNANIMOUSLY

MOVED: Cr Paterson

SECONDED: Cr Newton

THAT COUNCIL ISSUES A NOTICE OF REFUSAL TO GRANT A PERMIT FOR APPLICATION 2006/122 FOR THE RE-SUBDIVISION OF LAND INTO THREE ALLOTMENTS AT 36 LAWSONS ROAD, TOORA, BASED ON THE FOLLOWING GROUNDS:

GROUNDS OF REFUSAL

- 1. APPROVAL OF THE PROPOSAL WOULD COMPROMISE THE ABILITY OF THE LAND TO BE RESTRUCTURED IN ACCORDANCE WITH CLAUSE 17.05 OF THE STATE PLANNING POLICY FRAMEWORK WHICH ENCOURAGES THE RESTRUCTURE OF OLD AND INAPPROPRIATE SUBDIVISIONS, AND THE MUNICIPAL STRATEGIC STATEMENT WHICH IDENTIFIES THE LAND IN THE VICINITY OF GRIP ROAD AS REQUIRING INVESTIGATION FOR RESTRUCTURE;**
- 2. THE PROPOSAL IS CONTRARY TO THE DIRECTION OF THE LOCAL PLANNING POLICY FRAMEWORK TO DISCOURAGE THE DEVELOPMENT OF DWELLINGS ON SMALL LOTS IN OLD CROWN TOWNSHIP AREAS.**
- 3. THE PROPOSAL IS INCONSISTENT WITH THE PROVISIONS OF THE FARMING ZONE WHICH SEEK TO PROTECT LAND FOR AGRICULTURAL PRODUCTION AND PREVENT THE PROLIFERATION OF DWELLINGS;**
- 4. APPROVAL OF THE PROPOSAL WOULD FACILITATE RURAL/RESIDENTIAL DEVELOPMENT OUTSIDE A SETTLEMENT BOUNDARY AND WOULD ENCOURAGE URBAN SPRAWL ALONG THIS COASTLINE, CONTRARY TO THE PROVISIONS OF CLAUSE 15.08 OF THE STATE PLANNING POLICY FRAMEWORK.**
- 5. THE PROPOSAL SEEKS TO CREATE THREE DEVELOPABLE ALLOTMENTS FROM LOTS THAT CANNOT CURRENTLY BE REASONABLY FURTHER DEVELOPED;**
- 6. THE PROPOSAL IS INCONSISTENT WITH THE DIRECTIONS OF THE STATE PLANNING POLICY FRAMEWORK TO AVOID DEVELOPMENT IN AREAS SUSCEPTIBLE TO FLOODING AND WHERE THERE IS POTENTIAL TO DISTURB COASTAL ACID SULPHATE SOILS.**

CARRIED UNANIMOUSLY

C.3 36 LAWSONS ROAD, TOORA (CROWN ALLOTMENTS 42, 46 AND 46A, PARISH OF TOORA) – USE AND DEVELOPMENT OF A DWELLING (REFERENCE 2006/534)

Author: Daniel Strachan

Manager: Johann Rajaratnam

PURPOSE/INTRODUCTION

This report summarises the above planning permit application to use and develop the land for a dwelling at 36 Lawsons Road, Toora, and seeks Council's ratification of the recommendation below.

This report is prefaced by a 'Strategic Context' report submitted to Council separately. That report sets up the strategic issues affecting the Grip Road area, as well as bringing to Council's attention recent correspondence from the Minister for Planning regarding development of the area.

The application has been brought before Council due to a recommendation for refusal being made. This report should be read in tandem with reports for applications 2006/533 and 2006/122 which affect the same land tenement. Application 2006/122 seeks approval to re-subdivide part of the land, while application 2006/533 seeks approval for the use and development of an additional dwelling on the land.

The present application seeks approval to use and develop combined Crown Allotments 42, 46 and 46A for a dwelling (the combined land area forming the premise of application 2006/122). In summary, the application is considered to not accord with the South Gippsland Planning due to:

- The land being zoned for farming purposes and a dwelling not being reasonably required to undertake an agricultural activity on the land;
- A directive of Council's Municipal Strategic Statement being for Council to investigate the restructure of the Grip Road area.
- An unreasonable cumulative impact caused by a large number of dwellings in the area in terms of the impact on agricultural production and views of the coastline
- Environmental impacts through wastewater systems and the potential disturbance of acid sulphate soils

The proposed development is clearly contrary to the purpose and intent of the Farming Zoning as there is no perceivable benefit to the farming activities on the land as a result of a dwelling being constructed on the land. Furthermore, Council is directed by the Municipal Strategic Statement (MSS) to consider the restructure and consolidation of these existing Crown Allotments to facilitate the intended agricultural use by forming larger, more sustainable lot sizes. The MSS is consistent with the directions of the State Planning Policy Framework, which also encourages the re-structure of inappropriate

subdivisions on productive agricultural land. Furthermore, the SPPF states that in coastal areas residential and other urban development should be contained within defined settlement boundaries to prevent linear urban sprawl along the coastal edge. The subject land is outside the township of Toora and is identified as land suitable for farming and not for future urban settlement.

In addition, the land is subject to significant levels of inundation and potentially contains acid sulphate soils. When considering these reasons as well as the matters above, it is considered that the area as a whole is not suitable for broad scale rural-residential style development and any application which seeks to facilitate this type of development should be strongly resisted.

MOVED: Cr Bligh

SECONDED: Cr Casbolt

The Mayor adjourned the meeting at 3.45pm to allow for conditions to be prepared.

The Mayor resumed the meeting at 3.55pm.

THAT COUNCIL ISSUE A NOTICE OF DECISION TO GRANT A PERMIT FOR APPLICATION 2006/534 FOR THE USE AND DEVELOPMENT OF A SINGLE DWELLING AT 36 LAWSONS ROAD, TOORA (CROWN ALLOTMENTS 42, 46 AND 46A, PARISH OF TOORA), SUBJECT TO THE FOLLOWING CONDITIONS:

CONDITIONS

1. a) **PRIOR TO ANY DEVELOPMENT OR WORKS COMMENCING ON SITE, 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 THREE COPIES MUST BE PROVIDED.**

THE PLANS MUST BE GENERALLY IN ACCORDANCE WITH THE PLANS SUBMITTED WITH THE APPLICATION, BUT MODIFIED TO SHOW THE DWELLING CONSTRUCTED TO THE REQUISITE AHD LEVEL SPECIFIED BY THIS PERMIT.

- b) **PRIOR TO ANY DEVELOPMENT OR WORKS COMMENCING ON SITE THE APPLICANT/OWNER MUST SUBMIT A REPORT TO DEMONSTRATE THAT THE PROPOSED BUILDING AND WORKS WILL HAVE NO ADVERSE ENVIRONMENTAL**

IMPACTS THROUGH THE ACTIVATION OF COASTAL ACID SULPHATE SOILS (CASS). THE REPORT MUST BE UNDERTAKEN BY A SUITABLY QUALIFIED PROFESSIONAL WITH EXPERIENCE IN THE AREA OF CASS AND MUST BE TO THE SATISFACTION OF THE RESPONSIBLE AUTHORITY.

- c) PRIOR TO ANY DEVELOPMENT OR WORKS ON SITE, TESTS BY A SUITABLY QUALIFIED PROFESSIONAL MUST BE SUBMITTED TO COUNCIL DEMONSTRATING THAT THE SITE CAN TREAT AND CONTAIN EFFLUENT FROM THE PROPOSED DWELLING IN ACCORDANCE WITH THE STATE ENVIRONMENT PROTECTION AUTHORITY, TO THE SATISFACTION OF THE RESPONSIBLE AUTHORITY.**
- 2. THE LAYOUT OF THE DWELLING AS SHOWN ON THE APPROVED PLAN/S, MUST NOT BE ALTERED OR MODIFIED WITHOUT THE CONSENT IN WRITING OF THE RESPONSIBLE AUTHORITY.**
- 3. THE FLOOR LEVEL OF THE DWELLING MUST BE CONSTRUCTED AT OR ABOVE THE NOMINAL FLOOD PROTECTION LEVEL OF 2.5 METRES AHD. ACCESS TO THE BUILDING ENVELOPE MUST BE PROVIDED OFF LAWSON ROAD AND MUST BE CONSTRUCTED AT NO LESS THAN 1.1 METRES AHD. WHERE THE ACCESS WAY IS RAISED ABOVE GROUND LEVEL TO MEET 1.1 METRES AHD, SUITABLE PROVISION MUST BE MADE FOR THE PASSAGE OF FLOODWATERS UNDER THE ACCESS WAY TO THE SATISFACTION OF THE WEST GIPPSLAND CATCHMENT MANAGEMENT AUTHORITY.**
- 4. PRIOR TO THE ISSUE OF A CERTIFICATE OF OCCUPANCY FOR THE DWELLING, A SINGLE TITLE FOR THE CONSOLIDATED SITE (COMPRISING OF CROWN ALLOTMENTS 42, 46 AND 46A, PARISH OF TOORA) MUST HAVE BEEN ISSUED BY THE TITLES OFFICE TO THE SATISFACTION OF THE RESPONSIBLE AUTHORITY.**
- 5. WITHIN 3 MONTHS OF COMPLETION OF DEVELOPMENT, THE OWNER/APPLICANT MUST ESTABLISH NATIVE PLANT SPECIES FROM THE ATTACHED PLANTING GUIDE "INDIGENOUS PLANTS OF SOUTH GIPPSLAND SHIRE" GENERALLY ENCIRCLING THE AREA OF THE DWELLING SO AS TO FORM AN EFFECTIVE SCREEN OF THE DWELLING FROM ADJOINING LOTS AND FROM THE COAST. PLANTING SHOULD CONSIST OF LOWER, MIDDLE AND UPPER CANOPIES. THE LANDSCAPING MUST BE MAINTAINED UNTIL ESTABLISHED AND ANY DEAD OR DISEASED PLANTS MUST BE REPLACED IMMEDIATELY. ALL WORK MUST BE TO THE SATISFACTION OF THE RESPONSIBLE AUTHORITY.**
- 6. PRIOR TO THE ISSUE OF A CERTIFICATE OF OCCUPANCY AN AGREEMENT UNDER SECTION 173 OF THE PLANNING AND ENVIRONMENT ACT MUST BE ENTERED INTO BETWEEN THE OWNER OF THE LAND AND THE SOUTH GIPPSLAND SHIRE**

COUNCIL THAT ACKNOWLEDGES THE FLOOD PRONE NATURE OF THE LAND

- 7. CARE SHALL BE UNDERTAKEN TO ENSURE THAT THE CONSTRUCTION OF THE DWELLING AND ANCILLARY WORKS, AND THEIR ONGOING USE, DO NOT CAUSE EROSION OR DEGRADATION OF THE SUBJECT OR SURROUNDING LAND TO THE SATISFACTION OF THE RESPONSIBLE AUTHORITY.**
 - 8. THE EXTERNAL FINISHES OF THE DWELLING, INCLUDING WALLS AND ROOF MATERIALS, SHALL BE COLOUR TREATED AND MAINTAINED IN MUTED NON-REFLECTIVE TONES TO THE SATISFACTION OF THE RESPONSIBLE AUTHORITY.**
 - 9. PRIOR TO THE OCCUPATION OF THE DWELLING THE DRIVEWAY MUST BE FORMED / UPGRADED TO THE FOLLOWING STANDARD**
 - LAYOUT OF DRIVEWAY MUST BE IN ACCORDANCE WITH COUNCIL'S STANDARD DRAWING 60-15A (COPY ATTACHED).**
 - DRIVEWAY MUST HAVE A MINIMUM CONSOLIDATED PAVEMENT DEPTH OF 100 MM THICK CRUSHED ROCK OR 2ND GRADE GRAVEL ON A SUITABLY PREPARED AND FIRM SUBGRADE BETWEEN THE ROAD AND THE PROPERTY BOUNDARY.**
 - INSTALL MINIMUM 300 MM DIAMETER REINFORCED CONCRETE CULVERT**
 - THE REMAINDER OF THE DRIVEWAY MUST BE CONSTRUCTED, AND THEREAFTER MAINTAINED, TO AN ALL-WEATHER STANDARD (GRAVEL, CRUSHED ROCK OR EQUIVALENT).**
 - ALL DRIVEWAY WORK MUST BE TO THE SATISFACTION OF THE RESPONSIBLE AUTHORITY.**
 - 10. ALL WASTES EMANATING FROM THE DWELLING MUST BE ADEQUATELY CONTAINED AND TREATED WITHIN THE BOUNDARIES OF THE PROPERTY IN ACCORDANCE WITH THE STATE ENVIRONMENT PROTECTION POLICY (WATERS OF VICTORIA) UNDER THE ENVIRONMENT PROTECTION ACT 1970, TO THE SATISFACTION OF THE RESPONSIBLE AUTHORITY.**
 - 11. THE DWELLING MUST BE CONNECTED TO RETICULATED ELECTRICITY AND WATER, OR BE PROVISIONED WITH AN ALTERNATIVE SUPPLY TO THE SATISFACTION OF THE RESPONSIBLE AUTHORITY.**
 - 12. THIS PERMIT WILL EXPIRE IF ONE OF THE FOLLOWING APPLIES:**
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- a) **THE DEVELOPMENT IS NOT STARTED WITHIN TWO YEARS OF THE DATE OF THIS PERMIT.**
- b) **THE DEVELOPMENT IS NOT COMPLETED WITHIN FIVE YEARS OF THE DATE OF THIS PERMIT.**

THE RESPONSIBLE AUTHORITY MAY EXTEND THE ABOVE PERIODS IF A REQUEST IS MADE IN WRITING BEFORE THE PERMIT EXPIRES OR WITHIN THE FOLLOWING THREE MONTHS.

FOOTNOTES INCLUDED ON PERMIT:

- 1. **THIS PERMIT ALLOWS THE ABOVE LAND TO BE USED OR DEVELOPED FOR THE PURPOSE SPECIFIED. IT IS THE PERMIT HOLDER'S RESPONSIBILITY TO ENSURE THAT ANY OTHER RELEVANT APPROVALS ARE OBTAINED PRIOR TO THE COMMENCEMENT OF THE USE OR DEVELOPMENT.**
- 2. **THE OWNER/APPLICANT IS ENCOURAGED TO CHECK WITH THE RELEVANT SERVICE AUTHORITIES BEFORE ANY EXCAVATION WORK IS UNDERTAKEN (EG: TELSTRA, TXU).**

FOR: Crs Bligh, Casbolt, Lewis, Newton, Ryan, Kennedy and Hutchinson-Brooks

AGAINST: Crs Paterson and Deane

CARRIED

C.4 36 LAWSONS ROAD, TOORA (CROWN ALLOTMENT 39) – USE AND DEVELOPMENT OF A DWELLING (REFERENCE 2006/533)

Author: Daniel Strachan

Manager: Johann Rajaratnam

PURPOSE/INTRODUCTION

This report summarises the above planning permit application to use and develop the land for a dwelling at 36 Lawsons Road, Toora, and seeks Council's ratification of the recommendation below.

This report is prefaced by a 'Strategic Context' report submitted to Council separately. That report sets up the strategic issues affecting the Grip Road area, as well as bringing to Council's attention recent correspondence from the Minister for Planning regarding development of the area.

The application has been brought before Council due to a recommendation for refusal being made. This report should be read in tandem with reports for applications 2006/534 and 2006/122 which affect the same land tenement. Application 2006/122 seeks approval to re-subdivide part of the land, while application 2006/534 seeks approval for the use and development of an additional dwelling on the land.

The present application seeks approval to use and develop Crown Allotment 39 for a dwelling. In summary, the application is considered to not accord with the South Gippsland Planning due to:

- The land being zoned for farming purposes and a dwelling not being reasonably required to undertake an agricultural activity on the land;
- A directive of Council's Municipal Strategic Statement being for Council to investigate the restructure of the Grip Road area;
- An unreasonable cumulative impact caused by a large number of dwellings in the area in terms of the impact on agricultural production and views of the coastline; and
- Environmental impacts through wastewater systems and the potential disturbance of acid sulphate soils.

The proposed development is clearly contrary to the purpose and intent of the Farming Zoning as there is no perceivable benefit to the farming activities on the land as a result of a dwelling being constructed on the land. Furthermore, Council is directed by the Municipal Strategic Statement (MSS) to consider the restructure and consolidation of these existing Crown Allotments to facilitate the intended agricultural use by forming larger, more sustainable lot sizes. The MSS is consistent with the directions of the State Planning Policy Framework, which also encourages the re-structure of inappropriate subdivisions on productive agricultural land. Furthermore, the SPPF states that in coastal areas residential and other urban development should be

contained within defined settlement boundaries to prevent linear urban sprawl along the coastal edge. The subject land is outside the township of Toora and is identified as land suitable for farming and not for future urban settlement.

In addition, the land is subject to significant levels of inundation and potentially contains acid sulphate soils. When considering these reasons as well as the matters above, it is considered that the area as a whole is not suitable for broad scale rural-residential style development and any application which seeks to facilitate this type of development should be strongly resisted.

MOVED: Cr Bligh

SECONDED: Cr Kennedy

THAT COUNCIL DEFER THIS ITEM TO THE NEXT COUNCIL MEETING AT LEONGATHA ON 21 NOVEMBER 2007 INCLUDING CONDITIONS FOR APPROVAL BEING PREPARED.

CARRIED UNANIMOUSLY

C.5 MEENIYAN-PROMONTORY ROAD YANAKIE (LOT 1, PLAN OF SUBDIVISION 303664J, PARISH OF YANAKIE) – DESCRIPTION (REFERENCE NUMBER 2007/138)

Author: Eldon Sawyers

Manager: Johann Rajaratnam

PURPOSE/INTRODUCTION

This report summarises the above planning permit application to use and develop the land at Meeniyan-Promontory Road Yanakie, for the purpose of a dwelling on the land and seeks Council's ratification of the recommendation below.

The application has been brought before Council due to a recommendation for refusal being made. The key failings of the proposal can be summarised as follows:

- Approval of a dwelling on the lot will result in an unreasonable permanent loss of productive agricultural land;
- The lot does not reasonably require a dwelling to maintain an agricultural activity on the land;
- Approval of a dwelling on the land would restrict the expansion of adjoining and nearby legitimate farming enterprises; and
- The proposal will lead to a concentration of dwellings in the area, which will likely affect the long-term operations of adjoining and nearby legitimate farming enterprises.

The application gives rise to additional issues involved in the use of rural land for the purpose of facilitating the development of dwellings where they are not genuinely required, including:

- Escalation of rural land prices
- Changes to the outlook of rural land
- Increased traffic on rural roads
- Additional costs associated with the servicing of spatially disaggregated populations
- Conflict between 'lifestyle' property owners and genuine farming activities

The South Gippsland Planning Scheme identifies the need to control the development of dwellings in rural areas where there is no legitimate need for a dwelling in connection with a genuine agricultural activity occurring on the land. This report will seek to present Council with an account of the planning controls applicable in such circumstances, and will set out the arguments as to why the proposal has been deemed inconsistent with the South Gippsland Planning Scheme.

MOVED: Cr Newton

SECONDED: Cr Kennedy

THAT COUNCIL ISSUE A PERMIT FOR APPLICATION 2007/138 FOR THE USE AND DEVELOPMENT OF A SINGLE DWELLING AND ASSOCIATED OUTBUILDING (SHED) AT LOTS 1 AND 2, PLAN OF SUBDIVISION 303664J, PARISH OF YANAKIE, SUBJECT TO THE FOLLOWING CONDITIONS:

CONDITIONS

- 1. PRIOR TO ANY DEVELOPMENT OR WORKS COMMENCING ON SITE, 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 THREE COPIES MUST BE PROVIDED.**

THE PLANS MUST BE GENERALLY IN ACCORDANCE WITH THE PLANS SUBMITTED WITH THE APPLICATION, BUT MODIFIED TO SHOW:

- a) THE PROPOSED DWELLING AND SHED POSITIONED ON CONSOLIDATED LOTS 1 AND 2, PS303664J; AND**
 - b) EMPHASISED LANDSCAPING AS REQUIRED BY CONDITION 4.**
 - 2. THE LAYOUT OF THE DEVELOPMENT AS SHOWN ON THE APPROVED PLAN/S, MUST NOT BE ALTERED OR MODIFIED WITHOUT THE CONSENT IN WRITING OF THE RESPONSIBLE AUTHORITY.**
 - 3. PRIOR TO THE ISSUE OF A CERTIFICATE OF OCCUPANCY FOR THE DWELLING, A SINGLE TITLE FOR THE CONSOLIDATED SITE (COMPRISING OF LOTS 1 AND 2, PS303664J) MUST HAVE BEEN ISSUED BY THE TITLES OFFICE TO THE SATISFACTION OF THE RESPONSIBLE AUTHORITY.**
 - 4. WITHIN 3 MONTHS OF COMPLETION OF DEVELOPMENT, THE OWNER/APPLICANT MUST ESTABLISH NATIVE PLANT SPECIES FROM THE PLANTING GUIDE 'INDIGENOUS PLANTS OF SOUTH GIPPSLAND SHIRE' GENERALLY ENCIRCLING THE AREA OF THE DWELLING AND ALONG THE FRONT (SOUTHERN) BOUNDARY OF THE PROPERTY SO AS TO FORM AN EFFECTIVE SCREEN OF THE DWELLING FROM ADJOINING LOTS AND FROM THE ROAD, AS INDICATED ON THE ENDORSED PLANS. PLANTING MUST CONSIST OF LOWER, MIDDLE AND UPPER CANOPIES. THE LANDSCAPING MUST BE MAINTAINED UNTIL ESTABLISHED AND ANY DEAD OR DISEASED PLANTS MUST BE REPLACED IMMEDIATELY. ALL WORK MUST BE TO THE SATISFACTION OF THE RESPONSIBLE AUTHORITY.**
-

5. CARE SHALL BE UNDERTAKEN TO ENSURE THAT THE CONSTRUCTION OF THE DWELLING AND ANCILLARY WORKS, AND THEIR ONGOING USE, DO NOT CAUSE EROSION OR DEGRADATION OF THE SUBJECT OR SURROUNDING LAND TO THE SATISFACTION OF THE RESPONSIBLE AUTHORITY.
6. THE EXTERNAL FINISHES OF THE DWELLING, INCLUDING WALLS AND ROOF MATERIALS, SHALL BE COLOUR TREATED AND MAINTAINED IN MUTED NON-REFLECTIVE TONES TO THE SATISFACTION OF THE RESPONSIBLE AUTHORITY.
7. ALL WASTES EMANATING FROM THE DWELLING MUST BE ADEQUATELY CONTAINED AND TREATED WITHIN THE BOUNDARIES OF THE PROPERTY IN ACCORDANCE WITH THE STATE ENVIRONMENT PROTECTION POLICY (WATERS OF VICTORIA) UNDER THE ENVIRONMENT PROTECTION ACT 1970, TO THE SATISFACTION OF THE RESPONSIBLE AUTHORITY.
8. THE DWELLING MUST BE CONNECTED TO RETICULATED ELECTRICITY AND WATER, OR BE PROVISIONED WITH AN ALTERNATIVE SUPPLY TO THE SATISFACTION OF THE RESPONSIBLE AUTHORITY.
9. THIS PERMIT WILL EXPIRE IF ONE OF THE FOLLOWING APPLIES:
 - a) THE DEVELOPMENT IS NOT STARTED WITHIN TWO YEARS OF THE DATE OF THIS PERMIT.
 - b) THE DEVELOPMENT IS NOT COMPLETED WITHIN FIVE YEARS OF THE DATE OF THIS PERMIT.

THE RESPONSIBLE AUTHORITY MAY EXTEND THE ABOVE PERIODS IF A REQUEST IS MADE IN WRITING BEFORE THE PERMIT EXPIRES OR WITHIN THE FOLLOWING THREE MONTHS.

FOOTNOTES INCLUDED ON PERMIT:

1. THIS PERMIT ALLOWS THE ABOVE LAND TO BE USED OR DEVELOPED FOR THE PURPOSE SPECIFIED. IT IS THE PERMIT HOLDER'S RESPONSIBILITY TO ENSURE THAT ANY OTHER RELEVANT APPROVALS ARE OBTAINED PRIOR TO THE COMMENCEMENT OF THE USE OR DEVELOPMENT.
2. THE OWNER/APPLICANT IS ENCOURAGED TO CHECK WITH THE RELEVANT SERVICE AUTHORITIES BEFORE ANY EXCAVATION WORK IS UNDERTAKEN (EG: TELSTRA, TXU).

CARRIED UNANIMOUSLY

C.6 LOCH POOWONG ROAD, LOCH (LOT 2 TP243610C, L3 TP243610C, L2 PS435511X, L3 PS435511X, PARISH OF JEETHO WEST) – RE-SUBDIVISION INTO THREE (3) ALLOTMENTS (REFERENCE 2005/520)

Author: Daniel Strachan

Manager: Johann Rajaratnam

PURPOSE/INTRODUCTION

This report summarises the above planning permit application to re-subdivide the land into 3 allotments, and seeks Council's ratification of the recommendation below.

The application has been brought before Council due to a recommendation for refusal being made.

The application seeks to re-locate two existing Crown Allotments to more desirable locations to facilitate the creation of two rural/residential lots. The Crown Allotments proposed to be re-located are deemed have no capacity to be built on at present for the following reasons:

- The land being zoned for farming purposes;
- No access is currently available to the lots;
- The history of the lots being two old Crown Allotments forming part of the Bass River reserve, until sold to the present owners. It is understood that the lots were not created for the purpose of developing dwellings, nor do they carry that right.

In this regard, it is not considered appropriate to use these parcels of land to facilitate the development of two rural-residential lifestyle blocks. The proposed re-alignment is clearly contrary to the purpose and intent of the Farming Zoning as there is no perceivable benefit to the farming activities on the land as a result of the proposed re-subdivision of the land. Ultimately, the proposal would undermine the farming potential of this land and would encourage the rural/residential use of farming land, which is actively discouraged by the South Gippsland Planning Scheme .

MOVED: Cr Kennedy

SECONDED: Cr Ryan

THAT COUNCIL DEFER ITEM C.6 ALLOWING ADEQUATE NOTIFICATION TO THE OBJECTORS PROVIDING THEM WITH THE OPPORTUNITY TO ATTEND THE NEXT ORDINARY COUNCIL MEETING TO BE HELD IN LEONGATHA ON 21 NOVEMBER 2007.

CARRIED UNANIMOUSLY

C.7 10-14 BAIR STREET, LEONGATHA - EXTENSION TO EXISTING PHARMACY AND WAIVING OF CAR PARKING REQUIREMENTS – (REFERENCE 2007/127)

Author: Stephan Mouton

Manager: Johann Rajaratnam

PURPOSE/INTRODUCTION

This report summarises the above planning permit application to extend the existing pharmacy building with an area of 107 square metres as well as a request for the waiving of 8 car parking spaces. The application has been brought before Council due to a recommendation for refusal being made on the following basis:

- The application cannot meet the required minimum car parking spaces that need to be provided in terms of either the State or the Local requirements. An additional 8 spaces for the extension should be provided in terms of the State requirements (or 6 spaces if applying Council's local car parking policy.)
- In addition to the application to dispense spaces as outlined above, the proposal represents a net-loss of car parking spaces. The present car parking capacity is intended to be reduced from 6 spaces to 3 spaces. This therefore represents an overall total deficit of 11 spaces should the development move ahead.
- The application fails to ensure that the use of the land generally caters for car parking demand through on-site provision of car parking spaces, in accordance with the requirements of the planning scheme.

Officers seek Council's ratification of the recommendation below.

MOVED: Cr Hutchinson-Brooks SECONDED: Cr Kennedy

THAT COUNCIL DEFER ITEM C.7 TO THE NEXT ORDINARY COUNCIL MEETING TO BE HELD IN LEONGATHA ON 21 NOVEMBER 2007 TO ALLOW FOR FURTHER CONSULTATION WITH THE APPLICANT.

CARRIED UNANIMOUSLY

**C.8 BUFFALO WARATAH ROAD, TARWIN LOWER (LOT 1 ON TP805426P) –
SUBDIVISION (REFERENCE: 2006/151)**

Author: Daniel Strachan

Manager: Johann Rajaratnam

PURPOSE/INTRODUCTION

This matter is currently before the Victorian Civil and Administrative Tribunal, where an application has been lodged by the permit applicant to review an earlier decision of the South Gippsland Shire Council to refuse the subdivision of the subject land into 5 lots. This report summarises a proposed amendment to the subdivision in order to realise 4 lots as opposed to 5 lots. This has been necessitated by the recent introduction of the Farming Zone.

Council previously considered this matter on 21 March 2007, where the Planning Department recommended that the proposal be approved, subject to the removal of the small lot known as Lot 1. However, Council resolved to refuse the grant of a permit for the whole of the subdivision. The permit applicant subsequently applied to the Victorian Civil and Administrative Tribunal to have Council's decision reviewed.

On the 12 July 2007, the Minister for Planning introduced the Farming Zone to the South Gippsland Planning Scheme. The Farming Zone replaced all areas previously zoned Rural. Under the provisions of the Farming Zone, the form of subdivision originally proposed is no longer permissible. As such, the Tribunal would legally be unable to consider the proposal in such a form.

The applicant has therefore submitted to Council an amended proposal that is permissible within the Farming Zone. This is essentially a four-lot subdivision relatively consistent with the initial proposal, save for the deletion of the small lot (Lot 1).

Officers are of the view that – despite Council's refusal of the previous proposal – the revised proposal is consistent with the provisions of the South Gippsland Planning Scheme and should be supported. The recommendation of Officers therefore follows as set out below.

Should Council adopt the recommendation to approve the proposal, it is likely that the permit applicant will apply to the Tribunal for a consent order, as there are no other parties to the proceedings. In this case, Council would likely be directed to issue a planning permit for the 4-lot subdivision.

MOVED: Cr Newton

SECONDED: Cr Hutchinson-Brooks

THAT COUNCIL NOTIFIES THE VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL THAT IT OFFERS NO OBJECTION TO THE PROPOSED SUBDIVISION OF THE LAND INTO 4 LOTS, AT BUFFALO WARATAH ROAD, TARWIN LOWER (LOT 1 ON TP805426P) SUBJECT TO THE FOLLOWING CONDITIONS:

- 1. THE LAYOUT OF THE SUBDIVISION, AS SHOWN ON THE APPROVED PLAN, MUST NOT BE ALTERED OR MODIFIED WITHOUT THE CONSENT IN WRITING OF THE RESPONSIBLE AUTHORITY.**
- 2. PRIOR TO THE ISSUE OF A STATEMENT OF COMPLIANCE AN AGREEMENT UNDER SECTION 173 OF THE PLANNING AND ENVIRONMENT ACT 1987 MUST BE ENTERED INTO WITH THE OWNER OF EACH LOT CREATED WHICH ENSURES THAT ALL FUTURE LAND OWNERS ARE ADVISED THAT THE LOTS HEREBY APPROVED ARE LOCATED IN CLOSE PROXIMITY TO THE FUTURE 'BALD HILLS' WIND ENERGY FACILITY AND AS SUCH, RESIDENTS ON THE LOTS MAY EXPERIENCE DETRIMENTAL AMENITY AFFECTS ARISING FROM THE FACILITY SUCH AS NOISE, BLADE GLINT AND BLADE FLICKER.**

THE AGREEMENT MUST BE REGISTERED ON TITLE PURSUANT TO SECTION 181 OF THE PLANNING AND ENVIRONMENT ACT 1987. ALL COSTS RELATING TO THE PREPARATION AND REGISTRATION OF THE AGREEMENT SHALL BE BORNE BY THE APPLICANT. THE APPLICANT IS RESPONSIBLE FOR UNDERTAKING THE REGISTRATION OF THE AGREEMENT ON TITLE, AND MUST PRESENT TO COUNCIL A DEALING NUMBER OR SIMILAR FROM THE TITLES OFFICE PRIOR TO COUNCIL RELEASING THE STATEMENT OF COMPLIANCE.

- 3. THE OWNER/APPLICANT MUST COMPLY WITH THE FOLLOWING T-SQUARED CONDITIONS:**
 - 3.1 THE PLAN OF SUBDIVISION SUBMITTED FOR CERTIFICATION MUST BE REFERRED TO SPI ELECTRICITY PTY LTD IN ACCORDANCE WITH SECTION 8 OF THE SUBDIVISION ACT 1988.**
 - 3.2 ENTER INTO AN AGREEMENT WITH SPI ELECTRICITY PTY LTD FOR THE EXTENSION, UPGRADING OR REARRANGEMENT OF THE ELECTRICITY SUPPLY TO LOTS ON THE PLAN OF SUBDIVISION AS REQUIRED BY SPI ELECTRICITY PTY LTD. A PAYMENT TO COVER THE COST OF SUCH WORK WILL BE REQUIRED AND EASEMENTS INTERNAL AND EXTERNAL TO THE SUBDIVISION AND PROVISION OF SITES FOR SUBSTATIONS MAY ALSO BE REQUIRED.**

4. THE OWNER/APPLICANT MUST COMPLY WITH THE FOLLOWING TELSTRA CONDITIONS:

4.1 THAT THE PLAN OF SUBDIVISION SUBMITTED FOR CERTIFICATION MUST BE REFERRED TO TELSTRA IN ACCORDANCE WITH SECTION 8 OF THE SUBDIVISION ACT 1988.

4.2 THE APPLICANT MUST PAY TELSTRA THE REASONABLE COSTS OF ANY WORKS NECESSARY, AS A RESULT OF THE SUBDIVISION, TO REMOVE, OR ALTER THE POSITION OF ANY EXISTING FACILITY ON THE SUBDIVISION, OR ON ANY ADJACENT LAND OR GOVERNMENT, PURSUANT TO CLAUSE 53 OF SCHEDULE 3 OF THE TELECOMMUNICATIONS ACT 1997. REFER TO DIAL BEFORE YOU DIG, PHONE 1100.

5. THIS PERMIT WILL EXPIRE IF:

a) THE SUBDIVISION IS NOT COMMENCED WITHIN 2 YEARS OF THE DATE OF THIS PERMIT; OR

b) THE SUBDIVISION IS NOT COMPLETED WITHIN 5 YEARS OF THE DATE OF COMMENCEMENT.

THE RESPONSIBLE AUTHORITY MAY EXTEND THE PERIODS REFERRED TO, IF A REQUEST IS MADE IN WRITING BEFORE THE PERMIT EXPIRES OR WITHIN 3 MONTHS AFTERWARDS.

THE STARTING OF THE SUBDIVISION IS REGARDED BY SECTION 68 (3A) OF THE PLANNING AND ENVIRONMENT ACT 1987 AS THE CERTIFICATION OF A PLAN, AND COMPLETION IS REGARDED AS THE REGISTRATION OF THE PLAN.

FOOTNOTES:

1. THE PROPERTY OWNER SHOULD CHECK WITH THE RELEVANT SERVICE AUTHORITIES (EG: TELSTRA, SPI ELECTRICITY) FOR THE LOCATION OF UNDERGROUND SERVICES BEFORE ANY EXCAVATION WORK IS UNDERTAKEN.

2. THE OWNER/APPLICANT SHOULD CARRY OUT A 'DIAL BEFORE YOU DIG' ENQUIRY TO CHECK THE LOCATION OF UNDERGROUND SERVICES BEFORE ANY WORKS ARE COMMENCED ON SITE.

AMENDMENT

MOVED: Cr Casbolt

SECONDED: Cr Kennedy

1. THAT COUNCIL NOTIFIES THE VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL THAT IT OFFERS NO OBJECTION TO THE PROPOSED SUBDIVISION OF THE LAND INTO 4 LOTS, AT BUFFALO WARATAH ROAD, TARWIN LOWER (LOT 1 ON TP805426P) SUBJECT TO THE FOLLOWING CONDITIONS:

a) THE LAYOUT OF THE SUBDIVISION, AS SHOWN ON THE APPROVED PLAN, MUST NOT BE ALTERED OR MODIFIED WITHOUT THE CONSENT IN WRITING OF THE RESPONSIBLE AUTHORITY.

b) PRIOR TO THE ISSUE OF A STATEMENT OF COMPLIANCE AN AGREEMENT UNDER SECTION 173 OF THE PLANNING AND ENVIRONMENT ACT 1987 MUST BE ENTERED INTO WITH THE OWNER OF EACH LOT CREATED WHICH ENSURES THAT ALL FUTURE LAND OWNERS ARE ADVISED THAT THE LOTS HEREBY APPROVED ARE LOCATED IN CLOSE PROXIMITY TO THE FUTURE 'BALD HILLS' WIND ENERGY FACILITY AND AS SUCH, RESIDENTS ON THE LOTS MAY EXPERIENCE DETRIMENTAL AMENITY AFFECTS ARISING FROM THE FACILITY SUCH AS NOISE, BLADE GLINT AND BLADE FLICKER.

THE AGREEMENT MUST BE REGISTERED ON TITLE PURSUANT TO SECTION 181 OF THE PLANNING AND ENVIRONMENT ACT 1987. ALL COSTS RELATING TO THE PREPARATION AND REGISTRATION OF THE AGREEMENT SHALL BE BORNE BY THE APPLICANT. THE APPLICANT IS RESPONSIBLE FOR UNDERTAKING THE REGISTRATION OF THE AGREEMENT ON TITLE, AND MUST PRESENT TO COUNCIL A DEALING NUMBER OR SIMILAR FROM THE TITLES OFFICE PRIOR TO COUNCIL RELEASING THE STATEMENT OF COMPLIANCE.

c) THE OWNER/APPLICANT MUST COMPLY WITH THE FOLLOWING T-SQUARED CONDITIONS:

i) THE PLAN OF SUBDIVISION SUBMITTED FOR CERTIFICATION MUST BE REFERRED TO SPI ELECTRICITY PTY LTD IN ACCORDANCE WITH SECTION 8 OF THE SUBDIVISION ACT 1988.

ii) ENTER INTO AN AGREEMENT WITH SPI ELECTRICITY PTY LTD FOR THE EXTENSION, UPGRADING OR REARRANGEMENT OF THE ELECTRICITY SUPPLY TO LOTS ON THE PLAN OF SUBDIVISION AS REQUIRED BY SPI ELECTRICITY PTY LTD. A PAYMENT TO COVER THE COST OF SUCH WORK WILL BE REQUIRED AND EASEMENTS INTERNAL AND EXTERNAL TO THE

**SUBDIVISION AND PROVISION OF SITES FOR
SUBSTATIONS MAY ALSO BE REQUIRED.**

- d) THE OWNER/APPLICANT MUST COMPLY WITH THE FOLLOWING TELSTRA CONDITIONS:**
- i) THAT THE PLAN OF SUBDIVISION SUBMITTED FOR CERTIFICATION MUST BE REFERRED TO TELSTRA IN ACCORDANCE WITH SECTION 8 OF THE SUBDIVISION ACT 1988.**
 - ii) THE APPLICANT MUST PAY TELSTRA THE REASONABLE COSTS OF ANY WORKS NECESSARY, AS A RESULT OF THE SUBDIVISION, TO REMOVE, OR ALTER THE POSITION OF ANY EXISTING FACILITY ON THE SUBDIVISION, OR ON ANY ADJACENT LAND OR GOVERNMENT, PURSUANT TO CLAUSE 53 OF SCHEDULE 3 OF THE TELECOMMUNICATIONS ACT 1997. REFER TO DIAL BEFORE YOU DIG, PHONE 1100.**
- e). THIS PERMIT WILL EXPIRE IF:**
- i) THE SUBDIVISION IS NOT COMMENCED WITHIN 2 YEARS OF THE DATE OF THIS PERMIT; OR**
 - ii) THE SUBDIVISION IS NOT COMPLETED WITHIN 5 YEARS OF THE DATE OF COMMENCEMENT.**

THE RESPONSIBLE AUTHORITY MAY EXTEND THE PERIODS REFERRED TO, IF A REQUEST IS MADE IN WRITING BEFORE THE PERMIT EXPIRES OR WITHIN 3 MONTHS AFTERWARDS.

THE STARTING OF THE SUBDIVISION IS REGARDED BY SECTION 68 (3A) OF THE PLANNING AND ENVIRONMENT ACT 1987 AS THE CERTIFICATION OF A PLAN, AND COMPLETION IS REGARDED AS THE REGISTRATION OF THE PLAN.

FOOTNOTES:

- a) THE PROPERTY OWNER SHOULD CHECK WITH THE RELEVANT SERVICE AUTHORITIES (EG: TELSTRA, SPI ELECTRICITY) FOR THE LOCATION OF UNDERGROUND SERVICES BEFORE ANY EXCAVATION WORK IS UNDERTAKEN.**
 - b) THE OWNER/APPLICANT SHOULD CARRY OUT A 'DIAL BEFORE YOU DIG' ENQUIRY TO CHECK THE LOCATION OF UNDERGROUND SERVICES BEFORE ANY WORKS ARE COMMENCED ON SITE.**
- 2. COUNCIL NOTIFIES VCAT IT IS CONCERNED THIS APPLICATION BREAKS UP THE LARGE FARMING AREA AND POTENTIALLY PREPARES FOR 8 BLOCKS FOR LIFESTYLE ALLOTMENTS.**

Amendment withdrawn by Councillor Casbolt.

Original Motion became the Motion before the Chair.

**FOR: Crs Hutchinson-Brooks, Ryan, Newton, Deane, Lewis and
 Bligh**

AGAINST: Crs Kennedy, Paterson and Casbolt

CARRIED

**C.9 REPORT ON A PETITION FOR THE REALIGNMENT OF LIMONITE ROAD
AT THE INTERSECTION WITH GRAND RIDGE ROAD**

Author: Keith Simcock

Manager: Anthony Seabrook

INTRODUCTION

The purpose of this report is to advise Council regarding a petition received from concerned road users (not necessarily ratepayers) on what is required to fully investigate any proposal to realign the intersection of Limonite Road with Grand Ridge Road in response to safety concerns particularly relating to heavy vehicle movements.

MOVED: Cr Lewis

SECONDED: Cr Ryan

**THAT COUNCIL REFERS CONSIDERATION OF THIS PROJECT TO THE
CAPITAL WORKS PROGRAM FOR THE 2008/09 AND 2009/10
FINANCIAL YEARS.**

CARRIED UNANIMOUSLY

C.10 COUNCIL POLICY – FRAUD POLICY

Author: Tom Lovass

Manager: Sharon van Ruyven

PURPOSE/INTRODUCTION

To consider the revised policy for fraud in accordance with the bi annual cyclical review schedule.

As fraud constitutes a significant risk to any organisation, the intent of the policy is to ensure that all Councillors, staff and community are aware of the importance of what constitutes appropriate ethical conduct, and responsibilities in dealing with instances of potential fraudulent activities that may come to their attention.

MOVED: Cr Hutchinson-Brooks SECONDED: Cr Paterson

THAT COUNCIL ADOPTS THE UPDATED FRAUD POLICY.

MOVED: Cr Lewis

SECONDED: Cr Kennedy

THAT COUNCIL DEFER ITEM C.10 TO THE NEXT ORDINARY MEETING TO BE HELD IN LEONGATHA ON 21 NOVEMBER 2007 TO CLARIFY THE REPORTING OPTIONS FOR FRAUD.

FOR: Crs Hutchinson-Brooks, Kennedy, Ryan, Newton, Deane, Lewis, Casbolt and Bligh

AGAINST: Cr Paterson

CARRIED

C.11 CONTRACT SGC08/01 - PROVISION OF BUILDING MAINTENANCE SERVICES (VARIOUS TRADES) FOR COAL CREEK KORUMBURRA

Author: Anthony Seabrook

Manager: Anthony Seabrook

PURPOSE/INTRODUCTION

The ongoing maintenance of buildings and structures within Coal Creek is critical to the parks long term viability, and a high priority to Council

Due to the nature and timeliness of the works, it was deemed appropriate that Council seeks access to additional trades and labour resources.

MOVED: Cr Hutchinson-Brooks SECONDED: Cr Ryan

THAT COUNCIL:

- 1. ACCEPT THE TENDER FROM STOREY AND HOGAN BUILDERS PTY LTD FOR THE RATES STATED IN SCHEDULES 2, 3 AND 4 OF THEIR SUBMISSION;**
- 2. ACCEPT THE TENDER FROM MICHAEL JAMES FITZPATRICK FOR THE RATES STATED IN SCHEDULES 2, 3 AND 4 OF THEIR SUBMISSION; AND**
- 3. AUTHORISES THE CHIEF EXECUTIVE OFFICER TO SIGN AND SEAL THE CONTRACTS UPON STOREY AND HOGAN BUILDERS PTY LTD AND MICHAEL JAMES FITZPATRICK SIGNING AND SEALING THE CONTRACTS.**

CARRIED UNANIMOUSLY

SECTION D - PROCEDURAL REPORT

D.1 COUNCILLOR EXPENDITURE

Author: Stuart Smith

Manager: Tom Lovass

PURPOSE/INTRODUCTION

The purpose of this report is to provide Council with a quarterly update on Councillor expenditure from the start of the financial year until 30 September 2007.

MOVED: Cr Bligh

SECONDED: Cr Kennedy

THAT COUNCIL RECEIVES AND NOTES THE COUNCILLOR EXPENDITURE REPORT FOR THE PERIOD 1 JULY 2007 TO 30 SEPTEMBER 2007.

CARRIED UNANIMOUSLY

SECTION E - COUNCILLOR REPORTS

The Mayor on behalf of Council thanked the Manager Planning and Environment Mr Johann Rajaratnam for the huge amount of work he has done for Council and the professional manner in which he has advised Council.

CR KENNEDY

Cr Kennedy spoke on Municipal Fire Prevention involving Mr Geoff Meredith who attended a previous Council Meeting and described it as a 'great outcome'.

Cr Kennedy read a letter on behalf of the Waratah Bay Residents and Ratepayers Association who are requesting the toilet block at Waratah Bay be connected to the sewerage system. The Chief Executive Officer advised he would provide a reply to Councillors.

Cr Kennedy requested that the issue of the number of deers roaming in the areas of Tarwin Lower, Walkerville, Fish Creek and Sandy Point be raised at the upcoming VicRoads meeting, with a request for signage to be installed.

CR DEANE

MAV State Conference

A Notice of Motion from Council regarding volunteers and police checks was listed on the agenda for the MAV State Conference. Wellington and Baw Baw Shire supported the Motion. The MAV will now investigate with the outcomes being provided in due course.

It was recognised that Local Government need to work in partnership with the State and Federal Government and with the communities.

CR NEWTON

Strzelecki Ward Reports

It is noted that 30% of items in this report are due to trees on roads. Council should consider allowing the removal of trees from roadsides, preventing additional work for Council officers and removing the danger for the public.

SECTION F - URGENT OR OTHER BUSINESS

Council thank the Mirboo North Hall Committee for supplying the meal at this meeting.

Cr Newton raised the following questions and requested written responses:

- 1. Can you inform me why Ward Councillors were not notified of the intended destruction of the buildings at Coal Creek. That this course of action was to occur.**
- 2. Who owns the buildings?**
- 3. Why were contractors called in on a weekend?**

Attended Annual General Meeting of Friends of Coal Creek where approximately 50 people attended. A Motion was moved to serve a Notice of Injunction on the Shire prohibiting any removal of buildings. It is coincidental that the works happened that weekend.

Cr Kennedy left the meeting at 5.30pm.

Cr Bligh left the meeting at 5.32pm.

Cr Kennedy entered the meeting at 5.32pm.

Cr Bligh entered the meeting at 5.33pm.

The Chief Executive Officer responded to the above questions:

- 1. Officers were implementing a resolution of Council. This differs from a situation where an unanticipated event or action occurs or there is a significant decision by another level of government.**
- 2. Question 2 will be taken on notice and a response will be provided.**
- 3. The timing was based on the availability of the contractor.**
- 4. Council officers are unaware of any meeting of the Friends of Coal Creek where such a motion was moved.**

Cr Newton advised that he did not say that Council officers had done anything wrong, it is coincidental that Council's decision was acted upon at this time.

SECTION G - GENERAL QUESTION TIME

G.1 QUESTION TIME

NIL

G.2 ANSWERS TO PREVIOUS QUESTIONS ON NOTICE

Mr Geoff Meredith addressed Council at the Ordinary Meeting held on 17 October 2007 with his concerns regarding pine trees bordering part of his property and Council's responsibility to remove them and asked the following questions:

1. Are Pine trees classified as environmental weeds and are they the responsibility of the Shire to remove if they are bordering private property and causing nuisance to the private property owner?

Answer: The Pine trees are classified as an environmental weed but they are generally only removed following a risk assessment and a conclusion that there is a high probability of a risk to public.

2. Is contamination of water supply in the form of pine tree pollen and pine needles considered nuisance?

Answer: Any evidence of contamination to the water supply should be provided to Council for consideration.

3. Is large amounts of debris under pine trees and on private property bordering such trees considered nuisance in the form of fire hazard?

Answer: The fire fuel under the pine trees has been assessed and is not considered a significant fire hazard. However our Parks team will conduct some maintenance to help improve the situation.

4. Is the management of crown land bordering private property the responsibility of the Shire of South Gippsland, if so is it the shires policy that any amount of debris on crown land bordering private property cannot be assessed by the shires fire prevention officer as being a fire hazard?

Answer: Council is prepared to accept a basic level of care with respect to the Crown Land however the Council is of the view that ultimately DSE are responsible as the land owner. As mentioned previously the fire hazard has been assessed.

5. Is it the case as with private property that long grass is the only condition that a fire hazard notice or order to clean up, would be issued?

Answer: Fire hazard assessments are based on the assessment of fine ground fuel loadings. According to CFA guidelines, fine fuels are defined as material of less than 6mm. This could include grass, branches, leaf litter, pine needles etc.

6. Is it a By-Law of the Shire of South Gippsland that only long grass is considered fire hazard and any amount of debris does not constitute the same risk?

Answer: No.

SECTION I - MEETING CLOSED

The meeting closed at 5.35pm.

CONFIRMED:

Cr Jennie Deane, Mayor

DATE: