



STRATHBOGIE SHIRE COUNCIL
PLANNING COMMITTEE
AGENDA

MEETING TO BE HELD ON TUESDAY 28 NOVEMBER 2017

AT THE EUROA COMMUNITY CONFERENCE CENTRE

COMMENCING AT 4.00 P.M.

| | | |
|---------------------|------------------------|--------------------------|
| Councillors: | Malcolm Little (Chair) | (Hughes Creek Ward) |
| | Amanda McClaren | (Lake Nagambie Ward) |
| | John Mason | (Seven Creeks Ward) |
| | Kate Stothers | (Honeysuckle Creek Ward) |
| | Debra Swan | (Lake Nagambie Ward) |
| | Alistair Thomson | (Mount Wombat Ward) |
| | Graeme (Mick) Williams | (Seven Creeks Ward) |

| | |
|------------------|--|
| Officers: | Steve Crawcour - Chief Executive Officer |
| | Phil Howard - Director, Sustainable Development |
| | Roy Hetherington - Director, Asset Services |
| | David Roff – Director, Corporate and Liveability |
| | Emma Kubeil – Manager, Sustainable Development |
| | Cameron Fraser – Principal Planner |
| | Trish Hall - Technical Officer, Planning |

Business:

1. Welcome
2. Acknowledgement of Traditional Land Owners
*'I acknowledge the Traditional Owners of the land on which we are meeting.
I pay my respects to their Elders, past and present'*
3. Apologies
4. Confirmation of Minutes of the Planning Committee meeting held on Tuesday 24 October 2017
5. Disclosure of Interests

6. Planning Reports
7. Other Business



Steve Crawcour
CHIEF EXECUTIVE OFFICER

17 November 2017

An audio recording of this meeting is being made for the purpose of verifying the accuracy of the minutes of the meeting, as per Local Law No. 1 - Meeting Procedure (2014) or as updated from time to time through Council Resolution

PLANNING COMMITTEE REPORTS INDEX

| Planning Committee Reports | | | | |
|-----------------------------------|--|---|-------------------------------------|-------------|
| 6. Planning Reports | | | | |
| Report No. | Application No. | Purpose of Application | Location | Page |
| 6.1 (TOP-TH) | P2017-074 | Use and Development of Land for a Dwelling, Studio and Shed | 1937 Harrys Creek Road, Marraweeney | 1 |
| 6.2 (PP-CF) | P2017-078 | Two (2) Lot Re-Subdivision | 682 Moglonemby Road, Riggs Creek | 20 |
| 7. Other Business | | | | |
| 7.1 (PP-CF) | Waiver of Planning Application Fees - Planning Permit Application P2017-125, 91 Nelsons Road, Euroa | | | 36 |
| 7.2 (DSD-PH) | Planning Applications Received - 11 October to 16 November 2017 | | | 39 |

PLANNING COMMITTEE REPORT NO. 1 (TECHNICAL OFFICER, PLANNING - TRISH HALL)

6. PLANNING REPORTS

**6.1 Planning Permit Application No. P2017-074
- Use and Development of Land for a Dwelling, Studio and Shed ~ 1937 Harrys Creek Road, Marraweeney**

Application Details:

| | |
|--|--|
| Application is for: | Use and development of land for a dwelling, studio and shed |
| Applicant's/Owner's Name: | T & C Developments - Troy Spencer |
| Date Received: | 8 September 2017 |
| Statutory Days: | 57 |
| Application Number: | P2017-074 |
| Planner: Name, title & department | Trish Hall Technical Officer- Planning Sustainable Development Department |
| Land/Address: | Lot 1 on Plan of Subdivision 608874W, Certificate of Title Volume 11050 Folio 833 1937 Harrys Creek Road, Marraweeney VIC 3669 |
| Zoning: | Farming Zone |
| Overlays: | Bushfire Management Overlay |
| Under what clause(s) is a permit required? | Clause 35.07-1 Clause 35.07-4 Clause 44.06-2 |
| Restrictive covenants on the title? | Yes AF158992F - Section 173 Agreement The owner will comply with the permit and no further subdivision of each or either Lot shall be made to permit the excision by subdivision of a dwelling which is otherwise permitted in the Farming Zone. |
| Current use and development: | Agriculture |

Disclosure of Conflicts of Interest in relation to advice provided in this report

The author of this report and officers/contractors providing advice in relation to this report do not have a direct or indirect interest, as provided in accordance with the *Local Government Act 1989*.

6.1 Planning Permit Application No. P2017-074
- Use and Development of Land for a Dwelling, Studio and Shed ~ 1937 Harrys Creek Road, Marraweeney (cont.)

Summary

- The application is for the use and development of the land at 1937 Harrys Creek Road, Marraweeney for a dwelling, studio and shed.
 - The site has an area of approximately 20.24 hectares, is located in the Farming Zone and is partly affected by the Bushfire Management Overlay and Erosion Management Overlay.
 - The application was advertised to adjoining owners and a sign placed on site, no objections have been received to date.
 - The application was referred internally to Council's Health Officer and Asset Services Department who offered no objection subject to conditions.
 - The application has been assessed within the 60 day statutory timeframe.
 - The application is being heard before Planning Committee for the following reasons:
 - the application proposes a dwelling on a lot under the minimum lot size for the area, i.e. 40 hectares.
 - The proposal meets the objectives of the State and Local Planning Policy Frameworks, the Farming Zone and the Bushfire Management Overlay.
 - It is recommended that Council grant a permit in accordance with the Officer's recommendation.
-

RECOMMENDATION

That Council

- **having caused notice of Planning Application No. P2017-074 to be given under Section 52 of the *Planning and Environment Act 1987* and or the planning scheme; and**

having considered all the matters required under Section 60 of the *Planning and Environment Act 1987* decides to Grant a Permit under the provisions of Clause 35.07-1, Clause 35.07-4 and Clause 44.06-2 of the Strathbogie Planning Scheme in respect of the land known as Lot 1 on Plan of Subdivision 608874W, Certificate of Title Volume 11050 Folio 833, 1937 Harrys Creek Road, Marraweeney VIC 3669, for the use and development of land for a dwelling, shed and studio in accordance with endorsed plans, subject to the following conditions:

Amended Plans:

1. **Prior to the commencement of works, plans to the satisfaction of the Responsible Authority must be submitted 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. Such plans must show:**

- a) **Amended floor plan of the shed/studio including the removal of the kitchen.**

- 6.1 Planning Permit Application No. P2017-074
- Use and Development of Land for a Dwelling, Studio and Shed ~ 1937 Harrys Creek Road, Marraweeney (cont.)

Endorsed Plans:

2. The use and development must be sited and constructed in accordance with the endorsed plans. These endorsed plans can only be altered or modified with the prior written approval of the Responsible Authority, or to comply with statutory requirements.

Land Management Plan:

3. Prior to the commencement of works for the dwelling, evidence must be provided to the satisfaction of the Responsible Authority that works detailed in the land management plan have commenced.

Section 173 Agreement:

4. Prior to the commencement of use, the owner must enter into an agreement with the Responsible Authority pursuant to Section 173 of the *Planning and Environment Act 1987* to the satisfaction of the Responsible Authority. Such agreement shall state:
- a) That the owner acknowledges and accepts that the possibility of nuisance from adjoining and/ or nearby agricultural operations may occur. The possible off site impacts include but are not limited to dust, noise, odour, waste, vibration, soot, smoke or the presence of vermin, from animal husbandry, animal waste, spray drift, agricultural machinery use, pumps, trucks and associated hours of operation.
 - b) That the use of the land will be carried out in association with the Land Management Plan endorsed as part of this permit.

A memorandum of the agreement is to be entered on the title and the cost of the preparation and execution of the agreement and entry on the title is to be paid by the owner.

Environmental Health Conditions:

5. All waste water and liquid is to be contained and treated on site by an approved septic tank system or equivalent. The system must be at least 60 metres from Portable water reservoir and 60 metres from any watercourse and/or dam (non-potable water supply), on the subject or neighbouring properties and must meet the Guidelines for Environmental Management: Code of Practice – Onsite Wastewater Management 891. 4 (2016).
6. A Low Risk Land Capability Assessment must be provided for this proposal to determine if wastewater can be contained on site before any further decision can be made by the Environmental Health Department.

Engineering Conditions:

7. Prior to the commencement of the use new or otherwise vehicular entrances to the subject land from the road shall be constructed at a location and of a size and standard satisfactory to the Responsible Authority.

6.1 Planning Permit Application No. P2017-074
- Use and Development of Land for a Dwelling, Studio and Shed ~ 1937 Harrys Creek Road, Marraweeney (cont.)

8. **The vehicular crossing shall have satisfactory clearance to any side-entry pit, power or Telecommunications pole, manhole cover or marker, or street tree. Any relocation, alteration or replacement required shall be in accordance with the requirements of the relevant Authority and shall be at the applicant's expense. The final location of the crossing is to be approved by the Responsible Authority via a Vehicle Crossing Permit. Refer to Clause 12.9.2 "Rural Vehicle Crossings" of the Infrastructure Design Manual and to standard drawing SD255.**
9. **Prior to the commencement of the use/issue of the Certificate of Occupancy/issue of the Certificate of Final Inspection all internal access roads must be constructed, formed and drained to avoid erosion and to minimise disturbance to natural topography of the land to the satisfaction of the Responsible Authority.**
10. **Internal access, including the turn-around areas for emergency vehicles, must be all weather construction with a minimum trafficable width of 4m.**
11. **All stormwater and surface water discharging from the site, buildings and works must be conveyed to the legal point of discharge drains to the satisfaction of the Responsible Authority/Goulburn Murray Water or dissipated within the site boundaries. No effluent or polluted water of any type may be allowed to enter the stormwater drainage system.**
12. **Appropriate steps must be taken to retain all silt and sediment on site during the construction phase to the satisfaction of the Responsible Authority, in accordance with the sediment control principles outlined in Construction Techniques for Sediment Pollution Control (EPA, 1991) and to the satisfaction of the Responsible Authority.**
13. **Any damage to the Responsible Authority's assets (i.e. sealed roads, kerb & channel, trees, nature strip etc), and boundary fences, must be repaired at the cost of the applicant all to the satisfaction of Responsible Authority. Driveway to access roadway perpendicular and at a suitable location to ensure adequate site distance in both directions.**

General Conditions:

14. **Access to the dwelling must be provided via an all-weather road with dimensions adequate to accommodate emergency vehicles.**
15. **The dwelling must be connected to a reticulated sewerage system or if not available, the waste water must be treated and retained on-site in accordance with the State Environment Protection Policy (Waters of Victoria) under the *Environmental Protection Act 1970*.**

6.1 Planning Permit Application No. P2017-074
- Use and Development of Land for a Dwelling, Studio and Shed ~ 1937 Harrys Creek Road, Marraweeney (cont.)

16. The dwelling must be connected to a reticulated potable water supply or have an alternative potable water supply with adequate storage for domestic use as well as for fire fighting purposes.
17. The dwelling must be connected to a reticulated electricity supply or have an alternative energy source.
18. The external cladding of the proposed buildings, including the roof, must be constructed of new materials of muted colours to enhance the aesthetic amenity of the area. Material having a highly reflective surface must not be used.

Country Fire Authority

Bushfire Management Plan endorsed

19. The Bushfire Management & Site Plan – 1937 Harrys Creek Road, Marraweeney (prepared by T&C Development Services, drawing no. 17047 Rev 01, dated 17/08/2017) must be endorsed to form part of the permit and must not be altered unless otherwise agreed in writing by the CFA and the Responsible Authority.

Mandatory condition to Clause 44.06-3 – Building and works

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

Permit Expiry:

21. This permit will expire if one of the following circumstances applies:
 - (a) The development is not started within two (2) years of the date of this Permit,
 - (b) The development is not completed within four (4) years of the date of this Permit.

The Responsible Authority may extend the periods referred to if a request is made in writing:

- before the permit expires; or
- within six months afterwards if the use or development has not yet started; or
- within 12 months after the permit expiry date, where the development allowed by the permit has lawfully started before the permit expires.

6.1 Planning Permit Application No. P2017-074
- Use and Development of Land for a Dwelling, Studio and Shed ~ 1937 Harrys Creek Road, Marraweeney (cont.)

Planning Notes:

- **This Permit does not authorise the commencement of any building construction works. Before any such development may commence, the Applicant must apply for and obtain appropriate Building approval.**
- **This Permit does not authorise the removal of any native vegetation including for access. Before any such works may commence, the Applicant must apply for and obtain appropriate Planning approval.**
- **A Land Capability Assessment may be required and should be undertaken by a suitability qualified person. The Responsible Authority reserves the right to accept, reject or amend the recommendations of an LCA report.**

Proposal

It is proposed to use and develop the land at 1937 Harrys Creek Road, Marraweeney, for a dwelling, studio and shed.

The dwelling is proposed to be single storey with a pitched roof. The exterior is proposed to be finished with Thermopanel and a Colourbond metal roof. It is proposed to be 36.2 metres in length and 20.2 metres wide at the widest point of the house. It is proposed to have five bedrooms, two bathrooms, two toilets an open plan living kitchen and dining space, a study, laundry, double car garage, verandah, decking and an outdoor entertaining area. Due to the downward slope of the land, part of the dwelling will be elevated allowing for a workshop at basement level. It is proposed the workshop will allow for vehicle access and measures 139 square metres.

The dwelling is proposed to be sited 53 metres from the south western boundary and 152 metres from the northern boundary of the site.

The site contains a shed which has been used for a dwelling with no current planning permission in place. It is proposed the existing shed will be formally converted in part into a studio. The existing shed is approximately 25 metres from Harrys Creek Road.

It is proposed to upgrade the existing internal access. Vehicular access is proposed to be gained via a crossover from Harrys Creek Road.

An effluent area has been sited appropriately for the dwelling. It is proposed to be 145 metres from Harrys Creek Road and 141 metres from the waterways on site.

The proposed Vegetation Management and Protection Area covers approximately two thirds of the subject site. The proposed Vegetation Management and Protection Area adjoins the properties to the north, east, south and west.

6.1 Planning Permit Application No. P2017-074
- Use and Development of Land for a Dwelling, Studio and Shed ~ 1937 Harrys Creek Road, Marraweeney (cont.)

The proposal includes a vegetation management and protection area along the eastern and southern boundary.

Subject site & locality

The subject site is located at 1937 Harrys Creek Road, Marraweeney. Formally identified as Lot 1 on Plan of Subdivision 608874W, Certificate of Title Volume 11050 Folio 833, the site measures 20.24 ha in area.

The site is within the Farming Zone and is affected by the Bushfire Management Overlay.

The land is typically rectangular in shape with the western boundary following the contours of Harrys Creek Road.

The subject site slopes away from Harrys Creek road in a north eastern direction towards the waterway, land on the opposite side is hilly and treed.

A waterway crosses the subject site in a north south direction. The site slopes from the east and west towards the waterway located in the centre of the subject land.

The site includes the existing shed and three water tanks. Two thirds of the site is heavily vegetated. The land in the north west is relatively clear with a few scattered areas of remnant vegetation remaining.

The road reserve along Harrys Creek Road is treed and the land slopes downwards away from the road.

Permit/Site History

A search of Council's electronic records shows the following permits have been issued previously for the subject site.

- P2006/075 was issued for the use and development of land for a dwelling. While the applicant took steps to act on this permit, it has expired as the development was not completed within the relevant timeframes.
- A Building Permit was decided on 30 September 2008 and allowed for the construction of a dwelling and shed.

Public Notification

The application has been advertised pursuant to Section 52 of the *Planning and Environment Act 1987*, by

- Sending letters to adjoining land owners
- Placing (a) sign on site

The notification has been carried out correctly.
Council has received no objections to date.

6.1 Planning Permit Application No. P2017-074
- Use and Development of Land for a Dwelling, Studio and Shed ~ 1937 Harrys Creek Road, Marraweeney (cont.)

Consultation

No consultation has been required to be undertaken.

Referrals

External Referrals/Notices required by the Planning Scheme:

| Referrals/Notice | Advice/Response/Conditions |
|----------------------|--|
| Section 55 Referrals | CFA – No objection, subject to conditions. |
| Section 52 Notices | Public Notice |

| Internal Council Referrals | Advice/Response/Conditions |
|----------------------------|-------------------------------------|
| Asset Services | No objection, subject to conditions |
| Environmental Health | No objection, subject to conditions |

Assessment

The zoning of the land and any relevant overlay provisions

Farming Zone

Purpose:

- *To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *To provide for the use of land for agriculture.*
- *To encourage the retention of productive agricultural land.*
- *To ensure that non-agricultural uses, including dwellings, do not adversely affect the use of land for agriculture.*
- *To encourage the retention of employment and population to support rural communities.*
- *To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.*

A planning permit is required for the use and development of land for a single dwelling, pursuant to Clause 35.07-1 and Clause 35.07-4 of the Farming Zone in the Strathbogie Planning Scheme as the site is less than 40 hectares in area.

The documentation provided with the application demonstrates that the land is currently used for light grazing and recreational purposes. The site is 20.24 hectares in area and is considered to be capable of accommodating the proposed dwelling.

Submitted with the application is a land management plan that has identified key actions the applicant intends to implement on the site with regard to environmental improvements.i.e. native vegetation enhancement, development of wildlife habitats and the eradication of pest plants and animals. Should a permit be issued, this land management plan will be endorsed and form part of the permit.

6.1 Planning Permit Application No. P2017-074
- Use and Development of Land for a Dwelling, Studio and Shed ~ 1937 Harrys Creek Road, Marraweeney (cont.)

The design of the dwelling is considered appropriate and consistent with the characteristics of the agricultural area. When assessing an application in the Farming Zone, consideration must be given to the Decision Guidelines at Clause 35.07-6. Below is an assessment against these decision guidelines:

| General Issues | Complies | Officers Comment |
|--|-----------------|---|
| <i>The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.</i> | Yes | Assessment against SPPF & LPPF is provided below. |
| <i>Any Regional Catchment Strategy and associated plan applying to the land.</i> | Yes | The proposal is not inconsistent with the Goulburn Broken Regional Catchment Strategy 2004. |
| <i>The capability of the land to accommodate the proposed use or development, including the disposal of effluent.</i> | Yes | The application has been referred to Council's environmental health department who have consented to this application, subject to conditions. Given this, it is considered the land is capable of treating effluent waste on site. |
| <i>How the use or development relates to sustainable land management.</i> | Yes | The nature of the subject site including its size, topography and location limit the capacity for agricultural production. The applicant has indicated in their application documentation they will participate in environmental improvements for the land. It is proposed two thirds of the land will be included in a vegetation management and protection area to improve biodiversity. |
| <i>Whether the site is suitable for the use or development and whether the proposal is compatible with adjoining and nearby land uses.</i> | Yes | The proposed use of the land for a dwelling, studio and shed is compatible with the surrounding land uses. Adjoining land to the east and south is used for agriculture with associated dwellings. It is noted that the site has previously had a planning permit issued for a dwelling. The land adjacent and adjoining the subject site is heavily vegetated, and the proposed dwelling is appropriately setback from adjoining boundaries. The development of a dwelling on this lot is unlikely to create a detrimental impact. |

6.1 Planning Permit Application No. P2017-074
- Use and Development of Land for a Dwelling, Studio and Shed ~ 1937 Harrys
Creek Road, Marraweeney (cont.)

| | | |
|---|-----------------|---|
| <i>How the use and development makes use of existing infrastructure and service.</i> | Yes | Access is proposed via the existing crossover from Harrys Creek Road. |
| Agricultural Issues | | |
| <i>Whether the use or development will support and enhance agricultural production.</i> | Yes | The proposal will support proposed environmental improvements of the land. |
| <i>Whether the use or development will permanently remove land from agricultural production.</i> | Yes | The subject site has limited agricultural potential and would add little value in consolidating with surrounding similarly constrained uses, due to the surrounding vegetation and topography of the area. |
| <i>The potential for the use or development to limit the operation and expansion of adjoining and nearby agricultural uses.</i> | Yes | It is considered the development will not limit the operation of adjoining and nearby agricultural uses given the undulating terrain and the high amount of vegetation on the site. |
| <i>The capacity of the site to sustain the agricultural use.</i> | Yes | The amount of vegetation and undulating terrain limits the agricultural productivity of the land. |
| <i>The agricultural qualities of the land, such as soil quality, access to water and access to rural infrastructure.</i> | Yes | The land is not identified as a significant piece of farming land. |
| <i>Any integrated land management plan prepared for the site.</i> | Yes | A land management plan has been prepared and submitted with the application documentation. This will be endorsed and form part of any permit issued for this proposal. Implementation of this plan will be required to have commenced prior to the construction of the dwelling proposed as part of this application. |
| Dwelling Issues | Complies | Officers Comment |
| <i>Whether the dwelling will result in the loss or fragmentation of productive agricultural land.</i> | Yes | The proposed dwelling, studio and shed will not result in the loss or fragmentation of productive agricultural land, as the site is considered to be currently removed from agricultural production. |

6.1 Planning Permit Application No. P2017-074
- Use and Development of Land for a Dwelling, Studio and Shed ~ 1937 Harrys
Creek Road, Marraweeney (cont.)

| | | |
|--|-----|---|
| <i>Whether the dwelling will be adversely affected by agricultural activities on adjacent and nearby land due to dust, noise, odour, use of chemicals and farm machinery, traffic and hours of operation.</i> | Yes | The use of the land for a dwelling is unlikely to impact on the surrounding agricultural properties. The dwelling has been sited on the lot away from the boundaries to ensure little to no impact is made to the adjoining agricultural properties from the dwelling. |
| <i>Whether the dwelling will adversely affect the operation and expansion of adjoining and nearby agricultural uses.</i> | Yes | The use of the land for a dwelling is very unlikely to limit the expansion of nearby agricultural entities. Given the site's terrain and vegetation, the site is unlikely to be viable for agricultural productivity in the future. |
| <i>The potential for the proposal to lead to a concentration or proliferation of dwellings in the area and the impact of this on the use of the land for agriculture.</i> | Yes | This dwelling is unlikely to contribute to a proliferation of dwellings in the area. A planning permit has previously been issued for a dwelling on this site |
| Environmental issues | | |
| <i>The impact of the proposal on the natural physical features and resources of the area, in particular on soil and water quality.</i> | Yes | The dwelling, studio and shed has been sited appropriately on the site. It has an existing access track, and no vegetation is required to be removed to construct the dwelling. In addition, the applicant has put forward information regarding a vegetation management and protection area. |
| <i>The impact of the use or development on the flora and fauna on the site and its surrounds.</i> | Yes | The proposal does not include the removal of any vegetation. The subject site has scattered vegetation which through the application documentation submitted for this application will be improved by the on-going occupants on the land. |
| <i>The need to protect and enhance the biodiversity of the area, including the retention of vegetation and faunal habitat and the need to revegetate land including riparian buffers along waterways, gullies, ridgelines, property boundaries and saline discharge and recharge area.</i> | Yes | The proposal does not include the removal of any vegetation. The application documentation includes information regarding a vegetation management and protection area. |

6.1 Planning Permit Application No. P2017-074
- Use and Development of Land for a Dwelling, Studio and Shed ~ 1937 Harrys
Creek Road, Marraweeney (cont.)

| | | |
|--|-----|--|
| <i>The location of on-site effluent disposal areas to minimise the impact of nutrient loads on waterways and native vegetation.</i> | Yes | On site effluent disposal will be carried out in accordance with the requirements of the Responsible Authority. |
| Design and siting issue | | |
| <i>The need to locate buildings in one area to avoid any adverse impacts on surrounding agricultural uses and to minimise the loss of productive agricultural land.</i> | Yes | The building envelope is located appropriately on site from the boundaries and in a clear area away from significant vegetation. The siting of the dwelling has considered the provision of defensible spaces which results in no vegetation loss. |
| <i>The impact of the siting, design, height, bulk, colours and materials to be used, on the natural environment, major roads, vistas and water features and the measures to be undertaken to minimise any adverse impacts.</i> | Yes | The proposed siting is considered appropriate. Should a permit be issued, a condition will be placed on the permit requiring muted tones on the exterior of the dwelling. |
| <i>The impact on the character and appearance of the area or features of architectural, historic or scientific significance or of natural scenic beauty or importance.</i> | Yes | The proposed dwelling is unlikely to detract from the existing character and amenity values of the area. |
| <i>The location and design of existing and proposed infrastructure including roads, gas, water, drainage, telecommunications and sewerage facilities.</i> | Yes | The proposed building envelope is considered to be appropriately located on the site away from significant vegetation, sightlines, and significant features. |
| <i>Whether the use and development will require traffic management measures.</i> | Yes | As the proposal is for a single dwelling, studio and shed, and the site has existing vehicular access, it is deemed not necessary for there to be traffic management measures implemented. |

Taking into consideration all of the above, it is considered this application is consistent with the purposes of the Farming Zone, meets the decision guidelines and is worthy of a planning permit to be issued.

6.1 Planning Permit Application No. P2017-074
- Use and Development of Land for a Dwelling, Studio and Shed ~ 1937 Harrys Creek Road, Marraweeney (cont.)

Bushfire Management Overlay

Purpose

- *To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *To ensure that the development of land prioritises the protection of human life and strengthens community resilience to bushfire.*
- *To identify areas where the bushfire hazard warrants bushfire protection measures to be implemented.*
- *To ensure development is only permitted where the risk to life and property from bushfire can be reduced to an acceptable level.*

Clause 44.06-1, *Building and works*, of the Strathbogie Planning Scheme states:

- *a permit is required to construct a building or construct or carry out works associated with accommodation.*

Clause 44.06-3, *Requirement of Clause 52.47*, states:

- *An application to subdivide land, construct a building or construct or carry out works must meet the requirements of Clause 52.47 unless a schedule to this overlay specifies otherwise.*

Pursuant to Clause 44.06-1 of the Strathbogie Planning Scheme, a planning permit is required for the development of land for a dwelling. The application has been referred to the CFA who offered no objection, subject to conditions.

In assessing an application of this nature, consideration must be given to the risk to human life and property and the steps undertaken to minimise this risk. It is considered that the siting of the dwelling with sufficient defendable space, water supply and access is appropriate. This has been confirmed by CFA via their referral response.

The application is considered to meet the relevant decision guidelines of Clause 44.06 of the Strathbogie Planning Scheme.

The State Planning Policy Framework (SPPF)

Clause 13.05-1, *Bushfire planning strategies and principles*, objective is relevant to this proposal:

- *To assist to strengthen community resilience to bushfire.*

The proposal was referred to the CFA who offered no objection, subject to conditions.

Clause 14.02-1, *Catchment planning and management*, is relevant to this proposal. The objective is:

- *To assist the protection and, where possible, restoration of catchments, waterways, water bodies, groundwater, and the marine environment.*

6.1 Planning Permit Application No. P2017-074
- Use and Development of Land for a Dwelling, Studio and Shed ~ 1937 Harrys Creek Road, Marraweeney (cont.)

The proposal was referred to the CFA who offered no objection, subject to conditions. The Bushfire Assessment Report that was lodged with this application also supported the proposal and provided the required information to ensure the proposal will strengthen community resilience to bushfire.

The use of the land for a dwelling in conjunction with ongoing land management is an appropriate land use for the site. The use is sustainable, and will endeavour to protect the biodiversity of the site from stock by appropriate fencing.

The proposal is considered to be consistent with this State planning policy as detailed in the Strathbogie Planning Scheme. Although this land is not identified as locally or regionally significant, the use of the land for a dwelling is considered appropriate to support ongoing management of the land in accordance with the application documentation. Improvement of the subject site in terms of land management will likely be of greater benefit to surrounding land owners. Given this, the proposal is considered appropriate.

The use of this property for a dwelling will assist in the management and conservation of environmental values on the land. .

Given this the proposal is considered consistent with this State planning policy as detailed in the Strathbogie Planning Scheme.

The Local Planning Policy Framework (LPPF) - including the Municipal Strategic Statement (MSS) and local planning policies

21.02-6 Building Material – Muted Tones

Overview

- *The Shire has significant natural landscapes and views which provide an important asset, and opportunity for tourism and economic development. Buildings can be intrusive in this type of environment if constructed of materials which are not sympathetic to the surrounding environment.*

Objective

- *To ensure that all structures blend in with the surrounding environment and that the aesthetic amenity of the area is preserved and/or enhanced.*

The dwelling is proposed to be constructed of new materials with non reflective surfaces condition will be included on any planning permit issued. The materials are unlikely to impact the aesthetic amenity currently enjoyed in the area. The proposal is considered to be consistent with this Local Planning policy within the Strathbogie Planning Scheme.

Clause 22.01-3 Dwellings on small lots in the Farming Zone

Policies:

- *The construction of a new dwelling on an existing small lot will be discouraged unless it meets all of the following requirements:*
 - *The lot is accessed by an all-weather road and has appropriate service provisions.*
 - *Emergency ingress and egress is at an appropriate standard.*
 - *The dwelling will not inhibit the operation of agriculture and rural industries.*

6.1 Planning Permit Application No. P2017-074
- Use and Development of Land for a Dwelling, Studio and Shed ~ 1937 Harrys Creek Road, Marraweeney (cont.)

- *The site must be able to contain and treat onsite effluent and wastewater in accordance with the relevant Code of Practice and Australian Standards, and;*
- *Meets at least one of the following requirements:*
 - *The dwelling should be associated with a sustainable rural pursuit that requires a dwelling on the land to manage that pursuit. The application should be supported by a farm management plan that justifies the need for a dwelling to assist in the operation of the farm.*
 - *The applicant can substantiate that the land has no agricultural potential due to environmental significance and the dwelling is to be used in conjunction with sustainable land management and the significant vegetation is protected on title.*
 - *The lot has been identified in the Strathbogrie Shire Rural Residential Strategy, 2004 as rural residential; implying that that there is an historic use and development pattern. Consideration should be given to the recommendations in the Strategy.*
 - *The applicant is proposing to consolidate one or more lots in the same ownership with the subject land prior to the construction of the dwelling.*

Although this dwelling is proposed to be on a lot less than 40 hectares, there is a need for a dwelling on this site to support the environmental management of this site. The proposed works will assist in the ongoing management and maintenance of this undulating site which is not considered capable of a sustainable agricultural pursuit. It is considered that this proposal will provide some benefit to surrounding properties by good land management practices.

It is generally policy within the Strathbogrie Planning Scheme that any permit issued for the use and development of a dwelling on a lot under the minimum size requires the permit holder enter into an agreement under Section 173 of the *Planning and Environment Act 1987* which prohibits further subdivision of the land. In this instance, such agreement prohibiting further subdivision is already in place as a result of the previous planning permit which was issued but not fully acted upon.

Relevant Particular Provisions

Clause 52.47, *Bushfire Protection*:

A Bushfire Management Statement was submitted with the application and it is considered the proposal meets the relevant requirements.

The proposal was referred to the CFA who offered no objection, subject to conditions.

6.1 Planning Permit Application No. P2017-074
- Use and Development of Land for a Dwelling, Studio and Shed ~ 1937 Harrys Creek Road, Marraweeney (cont.)

The decision guidelines of Clause 65

Clause 65.01, *Approval of an application or plan*, states that; *before deciding on an application or approval of a plan, the responsible authority must consider, as appropriate:*

- *The matters set out in Section 60 of the Act.*
- *The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *The purpose of the zone, overlay or other provision.*
- *Any matter required to be considered in the zone, overlay or other provision.*
- *The orderly planning of the area.*
- *The effect on the amenity of the area.*
- *The proximity of the land to any public land.*
- *Factors likely to cause or contribute to land degradation, salinity or reduce water quality.*
- *Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site.*
- *The extent and character of native vegetation and the likelihood of its destruction.*
- *Whether native vegetation is to be or can be protected, planted or allowed to regenerate.*
- *The degree of flood, erosion or fire hazard associated with the location of the land and the use, development or management of the land so as to minimise any such hazard.*

Other relevant adopted State policies/strategies – (e.g. Melbourne 2030.)

There are no relevant adopted State policies.

Relevant incorporated, reference or adopted documents

There are no relevant incorporated, reference or adopted documents.

Relevant Planning Scheme amendments

There are no relevant planning scheme amendments.

Risk Management

The author of this report considers that there are no significant Risk Management factors relating to the report and recommendation.

Strategic Links – policy implications and relevance to Council Plan

The author of this report considers that the report is consistent with Council Policies, key strategic documents and the Council Plan.

Summary of Key Issues

With regard to the Farming Zone: Although the lot is under the minimum lot size for a dwelling in the Farming Zone in this area of the Strathbogie Shire, the application is considered suitable when taking into account the lay of the land, surrounding uses and the limited viability of the land to withstand a viable agricultural entity.

6.1 Planning Permit Application No. P2017-074
- Use and Development of Land for a Dwelling, Studio and Shed ~ 1937 Harrys
Creek Road, Marraweeney (cont.)

With regard to the Bushfire Management Overlay: A bushfire management statement has been prepared and approved by the CFA. The development appropriately addresses bushfire risks associated with the site and is considered appropriate.

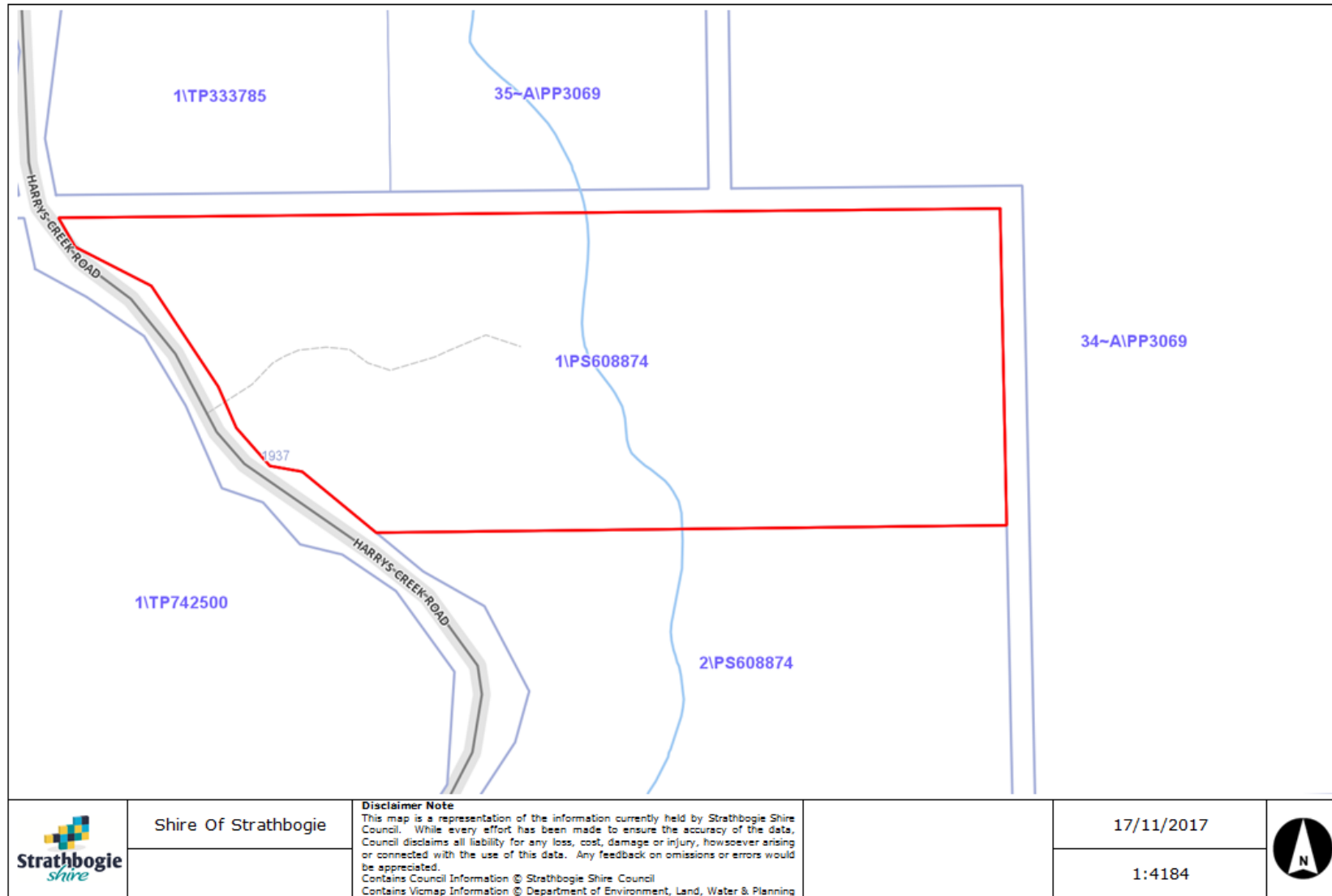
In summary, the proposal meets the objectives of the State Planning Policy Framework, Local Planning Policy Framework, Farming Zone and Bushfire Management Overlay.



Conclusion

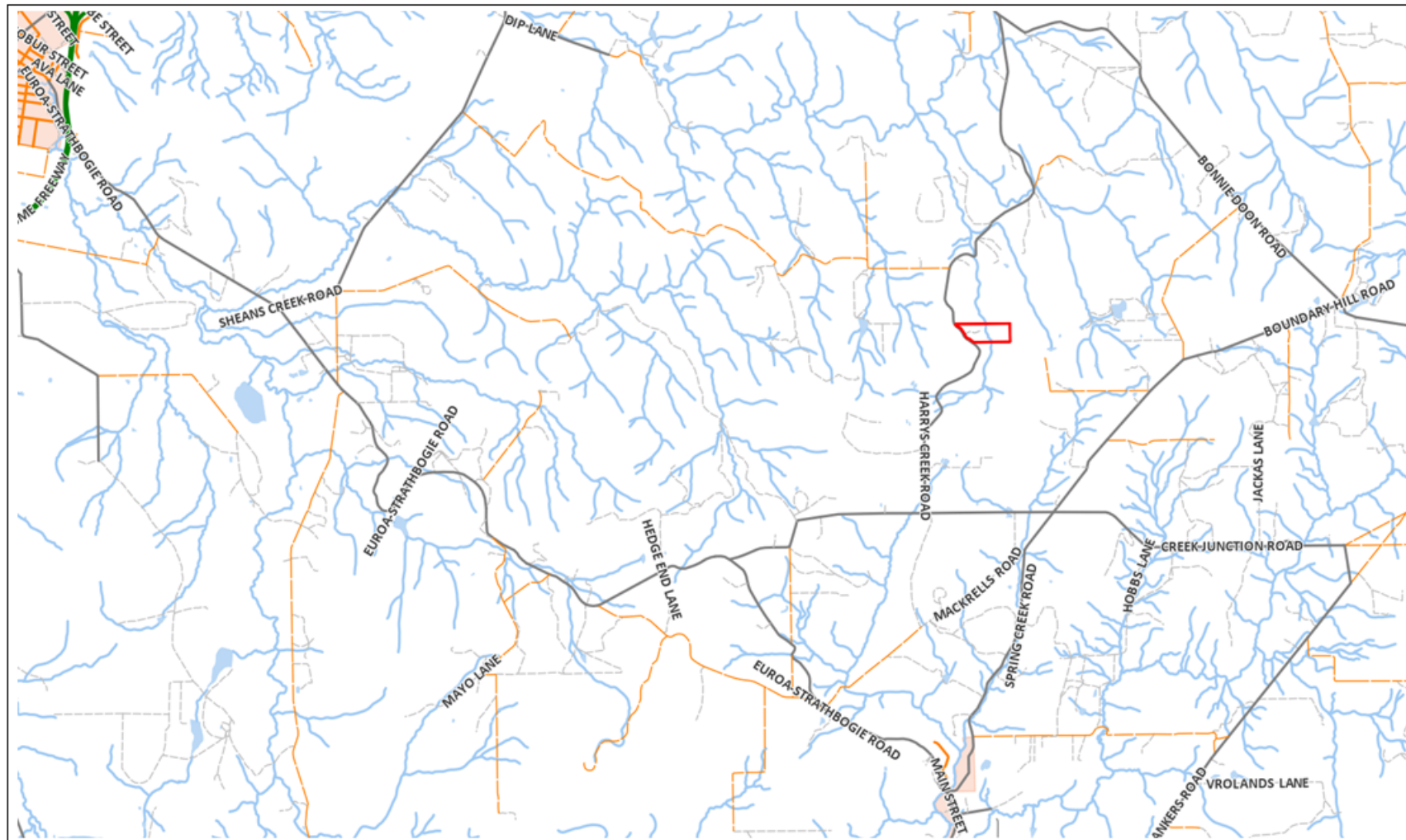
After due assessment of all the relevant factors, it is considered appropriate to grant a planning permit, subject to conditions.



Attachments

Site Plan



| | | | | |
|---|----------------------|--|------------|---|
|  | Shire Of Strathbogie | Disclaimer Note This map is a representation of the information currently held by Strathbogie Shire Council. While every effort has been made to ensure the accuracy of the data, Council disclaims all liability for any loss, cost, damage or injury, howsoever arising or connected with the use of this data. Any feedback on omissions or errors would be appreciated. Contains Council Information © Strathbogie Shire Council Contains Vicmap Information © Department of Environment, Land, Water & Planning | 17/11/2017 |  |
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| | Prepared By: Cameron Fraser | | 1:76099 | |

PLANNING COMMITTEE REPORT NO. 2 (PRINCIPAL PLANNER - CAMERON FRASER)

**6.2 Planning Permit Application No. 2017-078
- Two (2) Lot Re-Subdivision ~ 682 Moglonemby Road, Riggs Creek**

Application Details:

| | |
|--|---|
| Application is for: | Two (2) lot re-subdivision |
| Applicant's/Owner's Name: | T & C Developments-Troy Spencer |
| Date Received: | 25 July 2017 |
| Statutory Days: | 98 |
| Application Number: | P2017-078 |
| Planner: Name, title & department | Cameron Fraser Principal Planner Sustainable Development Department |
| Land/Address: | Crown Allotment 74 Parish of Moglonemby, Certificate of Title Volume 02781 Folio 002 and Crown Allotment 72A Parish of Moglonemby, Certificate of Title Volume 08351 Folio 715 682 Moglonemby Road, Riggs Creek VIC 3666 |
| Zoning: | Farming Zone |
| Overlays: | Land Subject to Inundation Overlay, Floodway Overlay |
| Under what clause(s) is a permit required? | Clause 35.07-3, Clause 44.03-2, Clause 44.04-2. |
| Restrictive covenants on the title? | No |
| Current use and development: | Agriculture |

Disclosure of Conflicts of Interest in relation to advice provided in this report

The author of this report and officers/contractors providing advice in relation to this report do not have a direct or indirect interest, as provided in accordance with the *Local Government Act 1989*.

Summary

- The proposal is for a two (2) lot re-subdivision of the land.
- It is proposed the existing house will remain on a lot area of 5.95 hectares and the balance lot will have an area of 177.39hectares.
- The site has a total area of approximately 183.34 hectares across two parcels and is located in the Farming Zone.
- The land is affected by the Floodway Overlay and the Land Subject to Inundation Overlay.

6.2 Planning Permit Application No. 2017-078
- Two (2) Lot Re-Subdivision ~ 682 Moglonemby Road, Riggs Creek (cont.)

- The application was referred internally to Council's Health Officer and Asset Services Department who offered no objection subject to standard conditions.
- The application was referred externally to Goulburn Murray Water (GMW), Goulburn Broken Catchment Management Authority (GBCMA) and Ausnet Services. All authorities have consented to the proposal.
- The application was advertised to adjoining landholders, 1 objection has been received.
- The objection raised issues in relation to:-
 - The iconic nature of the existing dwelling
 - The separation of the existing dwelling from the existing infrastructure
 - Minimum lot sizes should be in place for house lots
- An assessment against the relevant zone and overlay provisions as well as State and Local Policies indicates the proposal is consistent with these provisions of the Strathbogie Planning Scheme.
- The application is being presented to Planning Committee as a 1 objection has been received.
- The application has been assessed outside of the 60 day statutory time period.
- It is recommended that Council resolve to issue a Notice of Decision to Grant a Permit in accordance with the Officer's recommendation.

RECOMMENDATION

That Council

- having caused notice of Planning Application No. P2017-078 to be given under Section 52 of the *Planning and Environment Act 1987* and or the planning scheme; and

having considered all the matters required under Section 60 of the *Planning and Environment Act 1987* issues a Notice of Decision to Grant a Permit under the provisions of Clause 35.07-3, Clause 44.03-2 and Clause 44.04-2 of the Strathbogie Planning Scheme in respect of the land known as Crown Allotment 74 Parish of Moglonemby, Certificate of Title Volume 02781 Folio 002 and Crown Allotment 72A Parish of Moglonemby, Certificate of Title Volume 08351 Folio 715, 682 Moglonemby Road, Riggs Creek VIC 3666, for the Two (2) lot re-subdivision, in accordance with endorsed plans, subject to the following conditions:

Endorsed Plans:

1. The subdivision must be sited and constructed in accordance with the endorsed plans. These endorsed plans can only be altered or modified with the prior written approval of the Responsible Authority, or to comply with statutory requirements.

6.2 Planning Permit Application No. 2017-078
- Two (2) Lot Re-Subdivision ~ 682 Moglonemby Road, Riggs Creek (cont.)

Section 173 Agreement:

2. Prior to the issue of Statement of Compliance, the owner must enter into an agreement for the newly created Lot 1 with the Responsible Authority pursuant to Section 173 of the *Planning and Environment Act 1987* to the satisfaction of the Responsible Authority. Such agreement shall state:
 - (a) That the owner acknowledges and accepts that the possibility of nuisance from adjoining and/ or nearby agricultural operations may occur. The possible off site impacts include but are not limited to dust, noise, odour, waste, vibration, soot, smoke or the presence of vermin, from animal husbandry, animal waste, spray drift, agricultural machinery use, pumps, trucks and associated hours of operation.

A memorandum of the agreement is to be entered on title and the cost of the preparation and execution of the agreement and entry on the title is to be paid by the owner.

Environmental Health Conditions:

3. Prior to the certification of the plan, the applicant must demonstrate that all waste water and liquid is to be contained and treated on site by an approved septic tank system or equivalent. The system must be at least 100 metres from any watercourse and/or dam (non-potable water supply), on the subject or neighbouring properties, and must meet the Guidelines for Environmental Management: Code of Practice – Onsite Wastewater Management 891. 4 (2016) to the satisfaction of Council's Environmental Health Department. If on site waste water cannot be contained using the existing system, a new wastewater treatment system will be required.

Engineering Conditions:

4. All stormwater and surface water discharging from the site, buildings and works must be conveyed to the legal point of discharge drains to the satisfaction of the Responsible Authority/Goulburn Murray Water or dissipated within the site boundaries. No effluent or polluted water of any type may be allowed to enter the stormwater drainage system.
5. Appropriate steps must be taken to retain all silt and sediment on site during the construction phase to the satisfaction of the Responsible Authority, in accordance with the sediment control principles outlined in Construction Techniques for Sediment Pollution Control (EPA, 1991) and to the satisfaction of the Responsible Authority.
6. Any damage to the Responsible Authority's assets (i.e. sealed roads, kerb & channel, trees, nature strip etc), and boundary fences, must be repaired at the cost of the applicant all to the satisfaction of Responsible Authority.

6.2 Planning Permit Application No. 2017-078
- Two (2) Lot Re-Subdivision ~ 682 Moglonemby Road, Riggs Creek (cont.)

Goulburn Murray Water Conditions:

7. Any Plan of Subdivision lodged for certification must be referred to Goulburn-Murray Rural Water Corporation pursuant to Section 8(1)(a) of the Subdivision Act.
8. The existing on-site wastewater treatment and disposal systems for proposed new lot 1 must be wholly contained within the boundaries of the new lot created by subdivision.
9. All wastewater must be disposed of via connection to the existing septic tank system. If necessary, the system must be upgraded to the satisfaction of council's Environmental Health Department.

Ausnet Services Conditions:

10. The applicant must –
 - Enter in an agreement with AusNet Electricity Services Pty Ltd for supply of electricity to each lot on the endorsed plan.
 - Enter into an agreement with AusNet Electricity Services Pty Ltd for the rearrangement of the existing electricity supply system.
 - Enter into an agreement with AusNet Electricity Services Pty Ltd for rearrangement of the points of supply to any existing installations affected by any private electric power line which would cross a boundary created by the subdivision, or by such means as may be agreed by AusNet Electricity Services Pty Ltd.
 - Provide easements satisfactory to AusNet Electricity Services Pty Ltd for the purpose of "Power Line" in the favour of "AusNet Electricity Services Pty Ltd" pursuant to Section 88 of the Electricity Industry Act 2000, where easements have not been otherwise provided, for all existing AusNet Electricity Services Pty Ltd electric power lines and for any new power lines required to service the lots on the endorsed plan and/or abutting land.
 - Obtain for the use of AusNet Electricity Services Pty Ltd any other easement required to service the lots.
 - Adjust the position of any existing AusNet Electricity Services Pty Ltd easement to accord with the position of the electricity line(s) as determined by survey.
 - Set aside on the plan of subdivision Reserves for the use of AusNet Electricity Services Pty Ltd for electric substations.
 - Provide survey plans for any electric substations required by AusNet Electricity Services Pty Ltd and for associated power lines and cables and executes leases for a period of 30 years, at a nominal rental with a right to extend the lease for a further 30 years. AusNet Electricity Services Pty Ltd requires that such leases are to be noted on the title by way of a caveat or a notification under Section 88 (2) of the Transfer of Land Act prior to the registration of the plan of subdivision.
 - Provide to AusNet Electricity Services Pty Ltd a copy of the plan of subdivision submitted for certification that shows any amendments that have been required.

6.2 Planning Permit Application No. 2017-078
- Two (2) Lot Re-Subdivision ~ 682 Moglonemby Road, Riggs Creek (cont.)

- Agree to provide alternative electricity supply to lot owners and/or each lot until such time as permanent supply is available to the development by AusNet Electricity Services Pty Ltd. Individual generators must be provided at each supply point. The generator for temporary supply must be installed in such a manner as to comply with the Electricity Safety Act 1998.
- Ensure that all necessary auditing is completed to the satisfaction of AusNet Electricity Services Pty Ltd to allow the new network assets to be safely connected to the distribution network.

General Conditions:

11. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities, electricity and gas services to each lot shown on the endorsed plan in accordance with the authority's requirements and relevant legislation at the time.
12. All existing and proposed easements and sites for existing or required utility services and roads on the land must be set aside in the plan of subdivision submitted for certification in favour of the relevant authority for which the easement or site is to be created.
13. The plan of subdivision submitted for certification under the *Subdivision Act 1988* must be referred to the relevant authority in accordance with Section 8 of that Act.

Permit Expiry:

14. This permit will expire if one of the following circumstances applies:
 - (c) the subdivision is not started (Certification) within two (2) years of the date of this permit;
 - (d) the subdivision is not completed (Statement of Compliance) within five(5) years of the date of Certification under the *Subdivision Act 1988*.

The Responsible Authority may extend the periods referred to if a request is made in writing:

- before the permit expires; or
- within six months afterwards if the use or development has not yet started; or
- within 12 months after the permit expiry date, where the development allowed by the permit has lawfully started before the permit expires.

6.2 Planning Permit Application No. 2017-078
- Two (2) Lot Re-Subdivision ~ 682 Moglonemby Road, Riggs Creek (cont.)

Planning Notes:

- **This Permit does not authorise the commencement of any building construction works. Before any such development may commence, the Applicant must apply for and obtain appropriate Building approval.**
- **This Permit does not authorise the removal of any native vegetation including for access. Before any such works may commence, the Applicant must apply for and obtain appropriate Planning approval.**
- **This Permit does not authorise the creation of a new access way/crossover. Before any such development may commence, the Applicant must apply for and obtain appropriate approval from Council.**

Proposal

It is proposed to subdivide (boundary realignment) the land at 682 Moglonemby Road, Riggs Creek into two parcels as follows:

- Lot 1 is proposed to be 5.95 hectares in area and contain the existing dwelling on the site. This lot will gain access via the existing crossover Moglonemby Road.
- Lot 2 is proposed to be 177.39 hectares in area and will contain all the existing shedding and agricultural infrastructure on site. Lot 2 will continue to be used for agricultural purposes

The existing crossover located on Moglonemby Road will be widened to allow for shared access into each of the proposed lots. This access already services the existing dwelling and shedding on the site. A new internal driveway will be constructed within Lot 2 to link into the existing road internal driveway to provide access to the shed. The new internal driveway can be constructed at ground level avoiding the need for a permit and will not require the removal of any native vegetation.

Both lots are proposed to be irregular in shape due to the location of existing infrastructure on the property.

Subject site & locality

The subject site is located at 682 Moglonemby Road, Riggs Creek and is more formally identified as Crown Allotment 74 Parish of Moglonemby, Certificate of Title Volume 02781 Folio 002 and Crown Allotment 72A Parish of Moglonemby, Certificate of Title Volume 08351 Folio 715. There are no easements or encumbrances on the title.

The site is 183.34 hectares in area and irregular in shape. The land is within the Farming Zone and affected by both the Land Subject to Inundation Overlay and the Floodway Overlay in part.

6.2 Planning Permit Application No. 2017-078
- Two (2) Lot Re-Subdivision ~ 682 Moglonemby Road, Riggs Creek (cont.)

The site currently contains a dwelling and shedding located to the western side of the site, with vehicular access from Moglonemby Road. This dwelling is an 'as of right' use at this time. The land is relatively flat in topography with a number of paddock trees across the site. The land to the eastern side of the property that adjoins Faithfull Creek contains more dense vegetation.

The site is surrounded by agricultural land around the entire parcel, with Faithful Creek running along the eastern boundary of the property. The south of the property is bound by Walkers road, with the north being bound by Burnview Road. The west of the property is bound by Moglonemby Road and the land known as Crown Allotment 72A Parish of Moglonemby.

The site is located approximately 6.5 kilometres north of the township of Euroa.

Permit/Site History

A search of Council's electronic records resulted in no planning permits previously being issued for the subject site.

Public Notification

The application has been advertised pursuant to Section 52 of the *Planning and Environment Act 1987*, by

- Sending letters to adjoining land owners
- Placing (a) sign on site

The notification has been carried out correctly.

Council has received 1 objection to date. The key issues that were raised in the objection are:

- The iconic nature of the existing dwelling
- The separation of the existing dwelling from the existing infrastructure
- Minimum lot sizes should be in place for house lots as the size of the house lot is too small

Officers Response:

It is acknowledged that the proposed house lot is small in relation to the balance of the site. The application proposes a re subdivision which does not increase the number of lots but places the dwelling on a smaller parcel of land and separates it from the agricultural use of surrounding properties. The separation of the contemporary dwelling from the balance of the site is unlikely to compromise any existing architectural values of the dwelling. The subdivision has been designed to accommodate existing infrastructure on the site.

Consultation

Following receipt of the objection, a copy was forwarded to the applicant who provided a written response.

A copy of this response was forwarded to the applicant. To date, the objector has not withdrawn their objection.

6.2 Planning Permit Application No. 2017-078
- Two (2) Lot Re-Subdivision ~ 682 Moglonemby Road, Riggs Creek (cont.)

Referrals

External Referrals/Notices required by the Planning Scheme:

| Referrals/Notice | Advice/Response/Conditions |
|----------------------|---|
| Section 55 Referrals | GBCMA – no objections, no conditions GMW – no objections, subject to conditions AusNet Electricity – no objections, subject to conditions |
| Section 52 Notices | Public Notice |

| Internal Council Referrals | Advice/Response/Conditions |
|----------------------------|----------------------------|
| Asset Services | Standard Conditions |
| Environmental Health | Standard Conditions |

Assessment

The zoning of the land and any relevant overlay provisions

Farming Zone

Purpose:

- *To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *To provide for the use of land for agriculture.*
- *To encourage the retention of productive agricultural land.*
- *To ensure that non-agricultural uses, including dwellings, do not adversely affect the use of land for agriculture.*
- *To encourage the retention of employment and population to support rural communities.*
- *To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.*

A permit is required for the subdivision of land pursuant to Clause 35.07-3 of the Farming Zone. The minimum lot size for subdivision in this area of the municipality is 80 Hectares. Lot sizes under this minimum amount can be considered where the subdivision is a re subdivision of lots or a two lot subdivision which creates a lot for an existing dwelling.

Although this subdivision (re subdivision) is creating a lot smaller than the minimum lot size in the Schedule to the Farming Zone in the Strathbogie Planning Scheme, the subdivision is not prohibited under this clause as the re subdivision does not increase the number of lots and the small lot is being created to contain an existing dwelling. It is noted at this point that both lots currently exceed the minimum lot size. This proposal consolidates another parcel of land and will result in a lot double the minimum lot size.

This proposal is considered to be appropriate in this instance, as the balance of the land will be retained in one parcel well above the minimum lot size, and will continue to be used for agricultural purposes.

6.2 Planning Permit Application No. 2017-078
- Two (2) Lot Re-Subdivision ~ 682 Moglonemby Road, Riggs Creek (cont.)

The small lot containing the dwelling is not going to create a proliferation of dwellings in the area, nor will it compromise the agricultural uses or opportunities to expand in the area.

Given the dwelling has been located on the site for some time, it is unlikely to detrimentally impact any surrounding properties farming practices, nor is it likely to be impacted in any other way than what it is currently.

The dwelling is fully serviced, with all services for the dwelling remaining in the lot proposed to contain the dwelling.

Taking into consideration the above, the application is considered to be consistent with the purpose of the Farming Zone, as well as meeting the requirements of the Decision Guidelines at Clause 35.07-6 of the Farming Zone. Given this, it is considered the application is appropriate and should be worthy of Council support.

Floodway Overlay

Purpose:

- *To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *To identify land in a flood storage or flood fringe area affected by the 1 in 100 year flood or any other area determined by the floodplain management authority.*
- *To ensure that development maintains the free passage and temporary storage of floodwaters, minimises flood damage, is compatible with the flood hazard and local drainage conditions and will not cause any significant rise in flood level or flow velocity.*
- *To reflect any declaration under Division 4 of Part 10 of the Water Act, 1989 where a declaration has been made.*
- *To protect water quality in accordance with the provisions of relevant State Environment*
- *Protection Policies, particularly in accordance with Clauses 33 and 35 of the State Environment Protection Policy (Waters of Victoria).*
- *To ensure that development maintains or improves river and wetland health, waterway protection and flood plain health.*

A permit is required for the subdivision of land pursuant to Clause 44.03-3 of the Floodway Overlay.

This application has been referred to the Goulburn Broken Catchment Management Authority who have consented to the proposal. The area of the site affected by this overlay is located along the eastern boundary of the site where the creek is located. There are no expected flooding implications arising from this proposed subdivision.

6.2 Planning Permit Application No. 2017-078
- Two (2) Lot Re-Subdivision ~ 682 Moglonemby Road, Riggs Creek (cont.)

Land Subject to Inundation Overlay

Purpose:

- *To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *To identify land in a flood storage or flood fringe area affected by the 1 in 100 year flood or any other area determined by the floodplain management authority.*
- *To ensure that development maintains the free passage and temporary storage of floodwaters, minimises flood damage, is compatible with the flood hazard and local drainage conditions and will not cause any significant rise in flood level or flow velocity.*
- *To reflect any declaration under Division 4 of Part 10 of the Water Act, 1989 where a declaration has been made.*
- *To protect water quality in accordance with the provisions of relevant State Environment*
- *Protection Policies, particularly in accordance with Clauses 33 and 35 of the State Environment Protection Policy (Waters of Victoria).*
- *To ensure that development maintains or improves river and wetland health, waterway protection and flood plain health.*

A permit is required for the subdivision of land pursuant to Clause 44.04-3 of the Strathbogie Planning Scheme.

As part of the assessment of the application, consideration must be given to flooding implications arising from the proposal. The site is affected by the Land Subject to Inundation Overlay along the western and eastern sides of the property. While this has implications for the way the property is used and managed, the subdivision of the land as proposed is unlikely to result in any significant flooding implications. This application has been referred to the Goulburn Broken Catchment Management Authority who has consented to the proposal.

The State Planning Policy Framework (SPPF)

Clause 11.05-3 Rural productivity

Strategies:

- *Prevent inappropriately dispersed urban activities in rural areas.*
- *Limit new housing development in rural areas, including:*
 - *Directing housing growth into existing settlements.*
 - *Discouraging development of isolated small lots in the rural zones from use for single dwellings, rural living or other incompatible uses.*
 - *Encouraging consolidation of existing isolated small lots in rural zones.*

6.2 Planning Permit Application No. 2017-078
- Two (2) Lot Re-Subdivision ~ 682 Moglonemby Road, Riggs Creek (cont.)

Clause 13.02-1 Floodplain management

Objective

To assist the protection of:

- *Life, property and community infrastructure from flood hazard.*
- *The natural flood carrying capacity of rivers, streams and floodways.*
- *The flood storage function of floodplains and waterways.*
- *Floodplain areas of environmental significance or of importance to river health.*

Clause 14.01-1 Protection of agricultural land

Strategies:

- *In considering a proposal to subdivide or develop agricultural land, the following factors must be considered:*
 - *The impacts of the proposed subdivision or development on the continuation of primary production on adjacent land, with particular regard to land values and to the viability of infrastructure for such production.*
 - *The compatibility between the proposed or likely development and the existing uses of the surrounding land.*
- *Planning for rural land use should consider:*
 - *land capability; and*
 - *The potential impacts of land use and development on the spread of plant and animal pests from areas of known infestation into agricultural areas.*

Clause 14.01-2 Sustainable agricultural land use

Strategies:

- *Ensure agricultural and productive rural land use activities are managed to maintain the long-term sustainable use and management of existing natural resources.*
- *Encourage sustainable agricultural and associated rural land use and support and assist the development of innovative approaches to sustainable practices.*
- *Support effective agricultural production and processing infrastructure, rural industry and farm-related retailing and assist genuine farming enterprises to adjust flexibly to market changes.*

Clause 19.03-2 Water supply, sewerage and drainage

Objective:

- *To plan for the provision of water supply, sewerage and drainage services that efficiently and effectively meet State and community needs and protect the environment.*

The proposed re subdivision of land will not create any additional impacts to the property as there is no proposed changes which would alter the course of water on the property and therefore will not jeopardise the function of the floodway or have any significant flooding implications for the land. The application has been supported by Goulburn Broken Catchment Management Authority.

6.2 Planning Permit Application No. 2017-078
- Two (2) Lot Re-Subdivision ~ 682 Moglonemby Road, Riggs Creek (cont.)

The subdivision of the land will not impact on the ability to farm the subject site or surrounding properties. The existing dwelling will be fully contained within Lot 1 and will be separate from the existing agricultural use of what is proposed Lot 2. Proposed Lot 2 will be double the current minimum lot size for this area of the municipality. The proposed subdivision does not create any additional lots and as is discussed further into this report any perceived land use conflicts between the two parcels will be manageable.

The proposed two lot subdivision will allow for the ongoing agricultural use of the land. The area of land to within the smaller parcel is already used for residential purposes.

The Local Planning Policy Framework (LPPF) - including the Municipal Strategic Statement (MSS) and local planning policies

Clause 21.04-6 Flooding

Objective

- *To protect and manage floodplains.*

Strategies

- *Discourage development and subdivision of land subject to significant flooding.*
- *Ensure all new development maintains the free passage and temporary storage of floodwater, minimises flood damage, is compatible with flood hazard and local drainage conditions, and minimises soil erosion, sedimentation and silting.*
- *Ensure the Local Floodplain Development Plans are current and development proposals are consistent with these plans.*

The proposed house re subdivision will cause risk to life or property and will not jeopardise the function of the floodway. The application has been supported by Goulburn Broken Catchment Management Authority.

Policy

Re-subdivision (Including Boundary Realignment)

An application for re-subdivision will only be supported if the application meets the following requirements:

- *The proposal results in improved agricultural productivity through, for example, the adjustment of a boundary that accounts for existing infrastructure over 5 years old or topographic features on the site; and*
- *The proposal does not create lot/s for the sole purpose of creating a new lot which has the potential for a dwelling.*

The application states that the proposed lots are of a sufficient area to accommodate the existing uses within the proposed lot boundaries. The lot layout considers the existing infrastructure on site, including agricultural infrastructure.

6.2 Planning Permit Application No. 2017-078
- Two (2) Lot Re-Subdivision ~ 682 Moglonemby Road, Riggs Creek (cont.)

Lot 1 will contain the existing dwelling, with Lot 2 containing the existing shedding. All services including on site effluent are able to be provided and contained within the boundaries of the lot. Lot 2 will continue to be used for agricultural purposes separately from the existing dwelling which is within proposed Lot 1.

The minimum lot size for this area of the municipality is achievable on proposed Lot 2. It is acknowledged that the minimum lot size for subdivision is the same as the minimum lot size for dwellings as a Section 1 Use under the provisions of the zone. It is considered however that a lot of this size requires some form of land management, be it through agriculture or another form to ensure that the lot is managed. It is not considered in this instance that the proposed re subdivision of the land is creating a lot for the sole purpose of constructing a dwelling. It must be remembered that the proposal does not result in the creation of any additional lots but rather separates the existing dwelling from the balance of the existing agricultural property.

The re subdivision will not result in conflicts with adjoining land uses given the land uses are not proposed to change. Upon completion of the subdivision, it is possible that the land containing the existing dwelling could be sold. It is considered prudent in this instance to include a requirement for an agreement under Section 173 of the *Planning and Environment Act 1987* which acknowledges the use of surrounding parcels of land for agricultural uses and the potential amenity implications arising from this.

It is anticipated the proposal will increase the agricultural productivity. Considering the above, the application is considered to be consistent with this local policy of the Strathbogie Planning Scheme.

Relevant Particular Provisions

There are no particular provisions considered applicable to this application.

The decision guidelines of Clause 65

Clause 65.01, *Approval of an application or plan*, states that; *before deciding on an application or approval of a plan, the responsible authority must consider, as appropriate:*

- *The matters set out in Section 60 of the Act.*
- *The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *The purpose of the zone, overlay or other provision.*
- *Any matter required to be considered in the zone, overlay or other provision.*
- *The orderly planning of the area.*
- *The effect on the amenity of the area.*
- *The proximity of the land to any public land.*
- *Factors likely to cause or contribute to land degradation, salinity or reduce water quality.*
- *Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site.*

6.2 Planning Permit Application No. 2017-078
- Two (2) Lot Re-Subdivision ~ 682 Moglonemby Road, Riggs Creek (cont.)

- *The extent and character of native vegetation and the likelihood of its destruction.*
- *Whether native vegetation is to be or can be protected, planted or allowed to regenerate.*
- *The degree of flood, erosion or fire hazard associated with the location of the land and the use, development or management of the land so as to minimise any such hazard.*

Other relevant adopted State policies/strategies – (e.g. Melbourne 2030.)

There are no relevant adopted State policies.

Relevant incorporated, reference or adopted documents

There are no relevant incorporated, reference or adopted documents.

Relevant Planning Scheme amendments

There are no relevant planning scheme amendments.

Risk Management

The author of this report considers that there are no significant Risk Management factors relating to the report and recommendation.

Strategic Links – policy implications and relevance to Council Plan

The author of this report considers that the report is consistent with Council Policies, key strategic documents and the Council Plan.

Summary of Key Issues

With regard to the Farming Zone: the proposed re subdivision of the land to contain the dwelling on a smaller lot is considered to be an appropriate outcome as the balance lot will be larger than the minimum lot size for the Farming Zone in the Strathbogie Planning Scheme. The land will continue to be used for farming, with the dwelling on the small lot being able to operate incidentally of the balance lot.

With regard to the Land Subject to Inundation, Floodway Overlay: The Goulburn Broken Catchment Management Authority have provided their support for the application.

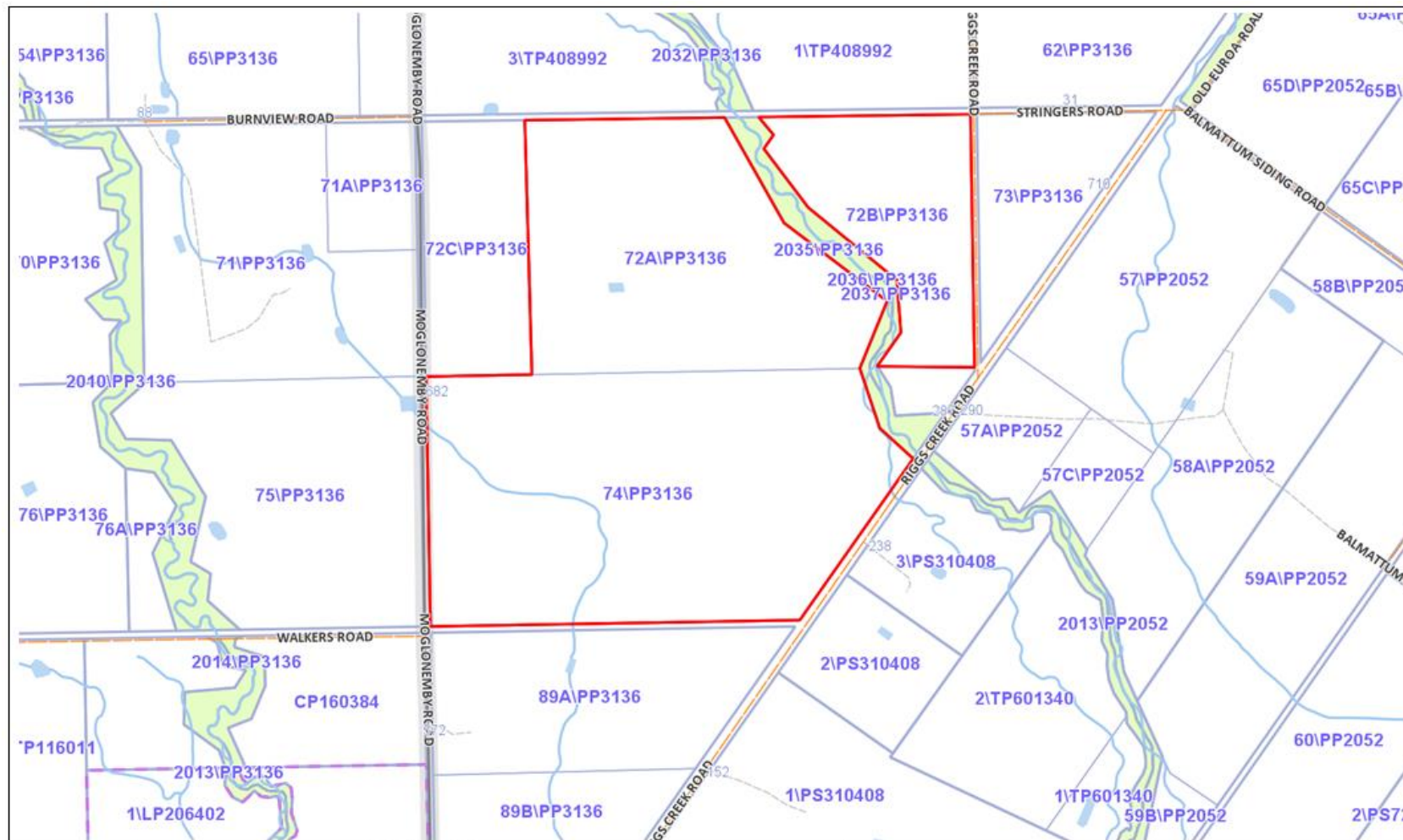
In summary, the proposal meets the objectives of the State Planning Policy Framework, Local Planning Policy Framework, Farming Zone and Land Subject to Inundation Overlay, Floodway Overlay.

Conclusion

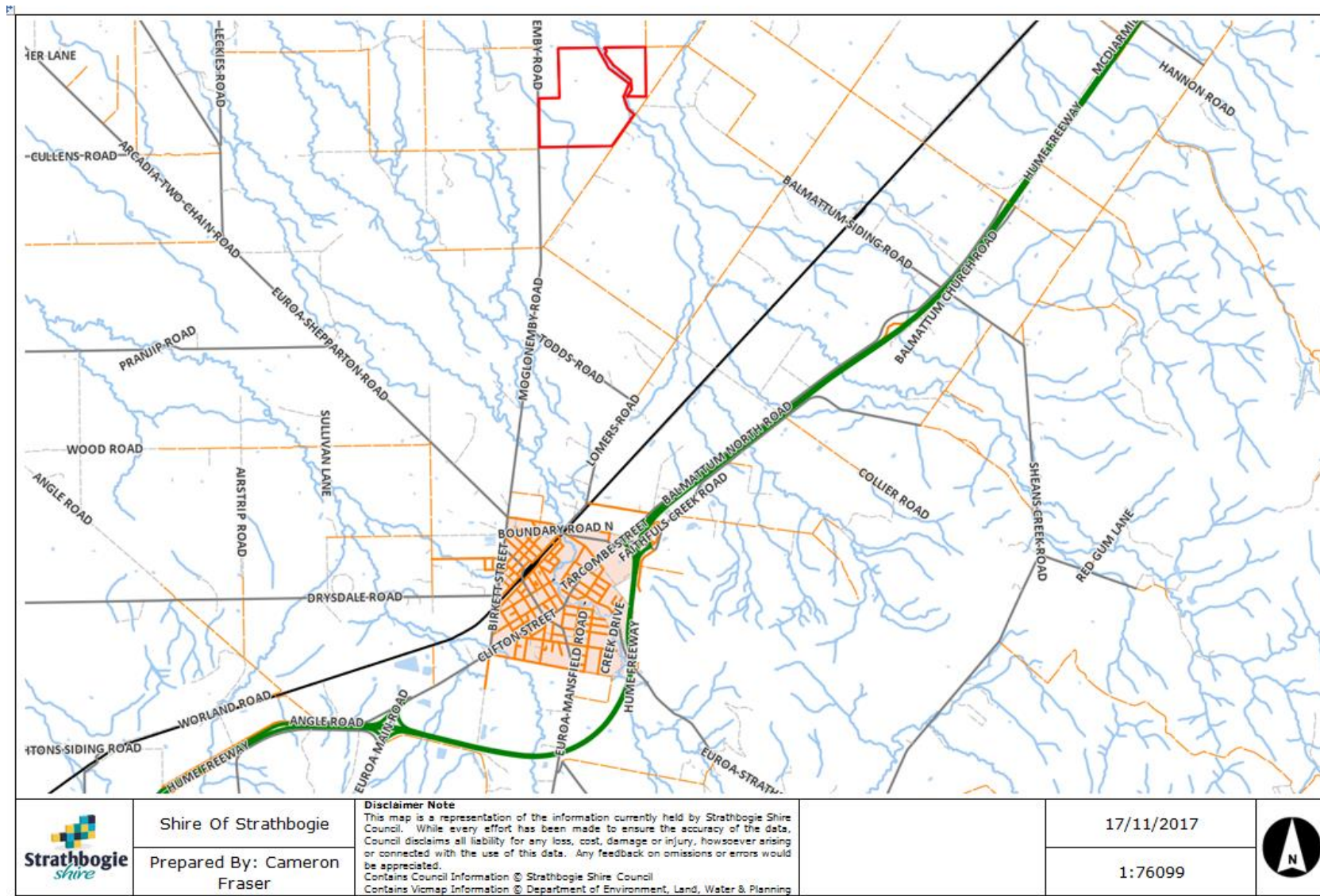
After due assessment of all the relevant factors, it is considered appropriate to issue a Notice of Decision to grant a planning permit, subject to conditions.

Attachments

Site Plan



| | | | | |
|---|-----------------------------|--|------------|---|
|  | Shire Of Strathbogie | Disclaimer Note This map is a representation of the information currently held by Strathbogie Shire Council. While every effort has been made to ensure the accuracy of the data, Council disclaims all liability for any loss, cost, damage or injury, howsoever arising or connected with the use of this data. Any feedback on omissions or errors would be appreciated. Contains Council Information © Strathbogie Shire Council Contains Vicmap Information © Department of Environment, Land, Water & Planning | 17/11/2017 |  |
| | Prepared By: Cameron Fraser | | 1:15959 | |



PLANNING COMMITTEE REPORT NO. 3 (PRINCIPAL PLANNER - CAMERON FRASER)

7. OTHER BUSINESS

**7.1 Waiver of Planning Application Fees
- Planning Permit Application P2017-125, 91 Nelsons Road, Euroa**

Author and Department

Principal Planner / Sustainable Development Department

Disclosure of Conflicts of Interest in relation to advice provided in this report

The author of this report and officers/contractors providing advice in relation to this report do not have a direct or indirect interest, as provided in accordance with the *Local Government Act 1989*.

Summary

This report is presented to Council for decision in relation to the waiver of fees for a planning permit application. This request has been made due to the owner having lost their dwelling, shed and all contents by fire earlier this year.

The proposal is minor in nature for consideration as the application for the works will replace the home lost by fire which is an established existing use in the same location as it was previously located.

This application cannot proceed until a decision is made.

RECOMMENDATION

For Decision.

Background

An application has been received for the replacement of a dwelling at 91 Nelsons Road, Euroa. The application has been registered and given the application number P2017-125.

As part of this application, a request has also been received for the waiver of planning application fees. This request has been made due to the owner having lost their dwelling, shed and all contents which were destroyed by fire earlier this year.

Risk Management

The author of this report considers that there are no significant Risk Management factors relating to the report and recommendation.

Strategic Links – policy implications and relevance to Council Plan

The author of this report considers that the report is not inconsistent with Council Policies, key strategic documents and the Council Plan.

7.1 Waiver of Planning Application Fees
- Planning Permit Application P2017-125, 91 Nelsons Road, Euroa (cont.)

Best Value / National Competition Policy (NCP) / Competition and Consumer Act 2010 (CCA) implications

The author of this report considers that the report is consistent with Best Value, National Competition Policy and Competition and Consumer Act requirements

Financial / Budgetary Implications

The author of this report considers that the request, other than the immediate cost of \$1,237.10 in fees which would not be received, has no significant financial/budgetary implications for Council or the broader community in the long term.

Economic Implications

The author of this report considers that the recommendation has no significant economic implications for Council or the broader community.

Environmental / Amenity Implications

The author of this report considers that the recommendation has no significant environmental or amenity implications for Council or the broader community

Community Implications

The author of this report considers that the recommendation has no significant community or social implications for Council or the broader community

Victorian Charter of Human Rights and Responsibilities Act 2006

The author of this report considers that the recommendation does not limit any human rights under the Victorian Charter of Human Rights and Responsibilities Act 2006.

Legal / Statutory Implications

In considering a request to waive fees for an application lodged under Section 47 of the *Planning and Environment Act 1987*, a fee can only be waived in the following circumstances pursuant to Section 20 of the *Planning and Environment Regulations (Fees) 2016*:

- (a) *an application is withdrawn and a new application is submitted in its place; or*
- (b) *in the opinion of the responsible authority or the Minister the payment of the fee is not warranted because—*
 - (i) *of the minor nature of the consideration of the matter decided or to be decided; or*
 - (ii) *the requested service imposes on the responsible authority or the Minister (as the case may be) no appreciable burden or a lesser burden than usual for supplying that service; or*
- (c) *in the opinion of the responsible authority or the Minister (as the case may be) the application or determination assists—*
 - (i) *the proper development of the State, region or municipal district; or*
 - (ii) *the proper development of part of the State, region or municipal district; or*

7.1 Waiver of Planning Application Fees
- Planning Permit Application P2017-125, 91 Nelsons Road, Euroa (cont.)

- (iii) *the preservation of buildings or places in the State, region or municipal district which are of historical or environmental interest; or*
- (d) *the application relates to land used exclusively for charitable purposes.*

Officers consider that the circumstances highlighted in Sections 20(a), 20(c) and 20(d) of the regulations are not applicable in this instance.

Section 20(b)(ii) of the regulations can be considered as the proposal is minor in nature for consideration as the application for the works will replace the home lost by fire which is an established existing use in the same location as it was previously located. The nearest privately owned land outside of the property from the development site is over 600 metres. It is considered that the application will not need to be advertised as it will not impact on the amenity of surrounding land owners or occupiers.

As part of the assessment of the application, in addition to administration and assessment, referrals will be required to both the Goulburn Broken Catchment Management Authority and Council's Environmental Health Department.

Attachments

Nil

PLANNING COMMITTEE REPORT NO. 4 (DIRECTOR, SUSTAINABLE DEVELOPMENT - PHIL HOWARD)

**7.2 Planning Applications Received
- 11 October to 16 November 2017**

Following are listings of Planning Applications Received for the period 11 October to 16 November 2017.

RECOMMENDATION

That the report be noted.

THERE BEING NO FURTHER BUSINESS, THE MEETING CLOSED AT P.M.

Planning Applications Received

Thursday, 12 October 2017

| Site Address | Application Number Display | Application Description | Applicant Name | Cost Of Works |
|-------------------------------------|----------------------------|---|----------------|---------------|
| 279 Moglonemby Road, Euroa VIC 3666 | P2017-110 | Development of land for a roof over existing yearling yards | Donald Newnham | \$93,000.00 |

Friday, 13 October 2017

| Site Address | Application Number Display | Application Description | Applicant Name | Cost Of Works |
|------------------------------------|----------------------------|--|----------------------------------|---------------|
| 317 High Street, Nagambie VIC 3608 | P2016-109 - 1 | Use and Development of existing building for accommodation | Bruce Mactier Building Designers | \$0.00 * |

Monday, 16 October 2017

| Site Address | Application Number Display | Application Description | Applicant Name | Cost Of Works |
|------------------------------------|----------------------------|--|---------------------------------|---------------|
| 244 High Street, Nagambie VIC 3608 | P2017-111 | Five (5) lot subdivision, removal of three trees and the development of a replacement shed | T & C Developments-Troy Spencer | \$0.00 * |

Tuesday, 17 October 2017

| Site Address | Application Number Display | Application Description | Applicant Name | Cost Of Works |
|---------------------------------------|----------------------------|----------------------------------|----------------|---------------|
| 10-12 Tarcombe Street, Euroa VIC 3666 | P2017-112 | Use of land for a liquor licence | Jane Murphy | \$0.00 * |

Wednesday, 18 October 2017

| Site Address | Application Number Display | Application Description | Applicant Name | Cost Of Works |
|---------------------------------------|----------------------------|--|---------------------------------|---------------|
| 20 Kirkland Avenue, Euroa VIC 3666 | P2017-113 | Development of land for a deck and pergola | Gayle Mawson | \$10,000.00 |
| 256 Jefferies Road, Locksley VIC 3665 | P2017-114 | Two (2) lot subdivision | T & C Developments-Troy Spencer | \$0.00 * |

Tuesday, 24 October 2017

| Site Address | Application Number Display | Application Description | Applicant Name | Cost Of Works |
|-----------------------------|----------------------------|--|----------------|---------------|
| Penny Lane, Gooram VIC 3666 | P2017-082 - 1 | Development of land for a crossover, access track, shed and water tank | Ashley Tokhi | \$0.00 * |

Wednesday, 25 October 2017

| Site Address | Application Number Display | Application Description | Applicant Name | Cost Of Works |
|--|----------------------------|---------------------------------|------------------|---------------|
| 5 Callaghan Court, Nagambie VIC 3608 | P2017-115 | Development of land for a jetty | Norman Hastings | \$25,000.00 |
| Bridge No 120, Brookleigh Rd, Strathbogie VIC 3666 | P2017-116 | Removal of native vegetation | Roy Hetherington | \$1,500.00 |

Thursday, 26 October 2017

| Site Address | Application Number Display | Application Description | Applicant Name | Cost Of Works |
|--|----------------------------|---|-------------------------------|---------------|
| 271B High Street, Nagambie VIC 3608 | P2017-118 | Two (2) lot subdivision | Katherine Purbrick C/- Spiire | \$0.00 * |
| 427 Mitchellstown Road, Mitchellstown VIC 3608 | P2013-114 - 2 | Use & development of land for a dwelling and machinery shed | Will Shelmerdine C/-Spiire | \$0.00 * |

Monday, 30 October 2017

| Site Address | Application Number Display | Application Description | Applicant Name | Cost Of Works |
|--|----------------------------|--|-------------------|---------------|
| 371 High Street, Violet Town VIC 3669 | P2017-119 | Development of land for an extension to a dwelling | NOY, Matthew John | \$41,000.00 |
| Creightons Creek Road, Creightons Creek VIC 3666 | P2017-117 | Use & development of land for a dwelling and shed | Susan Vaughan | \$325,000.00 |

Wednesday, 1 November 2017

| Site Address | Application Number Display | Application Description | Applicant Name | Cost Of Works |
|--|----------------------------|---|----------------|---------------|
| 1208 Reedy Lake Road, Whroo VIC 3612 | P2017-121 | Use and development of land for staged Group Accommodation and Outdoor Recreation | Sam McCardel | \$750,000.00 |
| 73-103 Kirkland Avenue, Euroa VIC 3666 | P2017-120 | Use & development of land for the installation of a pool | Peter Winch | \$61,640.00 |

Monday, 6 November 2017

| Site Address | Application Number Display | Application Description | Applicant Name | Cost Of Works |
|-------------------------------------|----------------------------|---|----------------|---------------|
| 101 Coombs Road, Mangalore VIC 3663 | P2016-006-1 | Use and development of land for a single dwelling | Sam Hull | \$0.00 * |
| 380 Drysdale Road, Euroa VIC 3666 | P2017-122 | Native vegetation removal (1 Tree) | Philip Szepe | \$0.00 * |

Wednesday, 8 November 2017

| Site Address | Application Number Display | Application Description | Applicant Name | Cost Of Works |
|----------------------------------|----------------------------|---|----------------|---------------|
| 199 Odwyer Road, Tabilk VIC 3607 | P2017-123 | Development of land for a steel side canopy | Paul Gavarella | \$64,900.00 |

Thursday, 9 November 2017

| Site Address | Application Number Display | Application Description | Applicant Name | Cost Of Works |
|------------------------------------|----------------------------|---|----------------|---------------|
| 85 Vickers Road, Nagambie VIC 3608 | P2017-127 | Use and development of land for a dwelling and a shed | Jim Verge | \$450,000.00 |
| 91 Vickers Road, Nagambie VIC 3608 | P2017-126 | Use and development of land for a dwelling and a shed | Jim Verge | \$450,000.00 |

Friday, 10 November 2017

| Site Address | Application Number Display | Application Description | Applicant Name | Cost Of Works |
|---------------------------------|----------------------------|---|----------------|---------------|
| 91 Nelsons Road, Euroa VIC 3666 | P2017-125 | Use and development of land for a dwelling and a shed | Greg Carlson | \$380,000.00 |

Tuesday, 14 November 2017

| Site Address | Application Number Display | Application Description | Applicant Name | Cost Of Works |
|-----------------------------------|----------------------------|--|----------------|---------------|
| 10 Deanes Road, Wahring VIC 3608 | P2017-129 | Development of land for an extension to a dwelling | James Mowat | \$90,000.00 |
| 274 Drysdale Road, Euroa VIC 3666 | P2017-128 | Use and development of land for an extension to an existing shed | Philip Szepe | \$150,000.00 |

*NB – '\$0.00 in Cost of Works means either no development, endorsement of plans or amendment to the original permit

| Example Legend | Description |
|----------------|---|
| P2014-001 | Planning permit application |
| P2014-001-1 | Proposed amendment to a planning permit |