



STRATHBOGRIE SHIRE COUNCIL

Notice is hereby given that a Special Meeting of the Strathbogrie Shire Council will be held on Tuesday 23 October 2018 at the Euroa Community Conference Centre commencing at 5.00 p.m.

Chair: Amanda McClaren (Mayor) (Lake Nagambie Ward)

Councillors: John Mason (Deputy Mayor) (Seven Creeks Ward)
Debra Bower (Lake Nagambie Ward)
Malcolm Little (Hughes Creek Ward)
Kate Stothers (Honeysuckle Creek Ward)
Alistair Thomson (Mount Wombat Ward)
Graeme (Mick) Williams (Seven Creeks Ward)

Officers: Steve Crawcour - Chief Executive Officer (CEO)
David Roff - Group Manager, Corporate and Community (GMCC)
Jeff Saker - Group Manager, Community Assets (GMCA)
Emma Kubeil - Manager, Planning and Investment (MPI)

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

Phil Howard - Director, Innovation and Performance (DIP)
4. Disclosure of Interests
5. Petitions
6. Reports of Council Officers
 - 6.1 Climate Change
 - 6.2 Infrastructure
 - 6.3 Private Enterprise
 - 6.4 Public Institutions
 - 6.5 Housing and Recreation
 - 6.6 Tourism
 - 6.7 Organisation

7. Urgent Business
8. Closure of Meeting to the Public to consider matters listed for consideration in accordance with Section 89(2)(d) of the Local Government Act 1989
9. Confirmation of 'Closed Portion' Decision/s

Steve Crawcour
CHIEF EXECUTIVE OFFICER

19 October 2018

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

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6. REPORTS

6.7 Organisation

6.7.1 Proposal to formally Declare the Road Reserve to be Public Highway, Rear of 127 High Street, Nagambie

Author and Department

Group Manager, Community Assets / Community Assets Directorate

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

Council received a request from a Nagambie landowner and developer, (Councillors have previously been provided with a copy of correspondence), to lease part of a subdivisional road reserve which abuts their land (refer attached plan).

The landowner's intention would be to utilise the land in the road reserve to accommodate traffic generated within his development, and to exclude public access to the leased part of the road reserve.

At the Ordinary Council meeting on 17 July 2018, Council resolved to undertake a section 223 (S223) submissions process calling for submission in relation to a proposal to formally declare a road reserve to be Public Highway in accordance with section 204(1) of the Local Government Act 1987 (the Act).

A public notice was published on 25 July 2018, with 25 August 2018 as the closing date for submissions. One submission was received. The submitter did not request to address Council in support of their written submission.

The submission was considered by Council at the Special Meeting of Council held on Tuesday 25 September 2018

This report brings forward the results of the S223 process for the consideration of Council.

RECOMMENDATION

That Council:

- 1. Resolve to retain the road reserve, providing through access to the rear of the allotments; Lot 6 PS418514, Lot 1 LP76491, Lot 2 PS525062, Lot 1 TP588301 and Lots 1 & 2 TP866991 in the Parish of Tabilk, as available to support existing and future development of the land, and not accede to the request to lease part of the reserve;**

6.7.1 Proposal to formally Declare the Road Reserve to be Public Highway, Rear of 127 High Street, Nagambie (cont.)

RECOMMENDATION (cont.)

2. **Formally declare the road reserve to be Public Highway in accordance with section 204(1) of the Local Government Act 1987 (the Act);**
3. **Advertise the Declaration of Public Highway;**
4. **Lodge the relevant documents in order to transfer Title for ROAD R1 LP60240 to Council, pursuant to Section 59(2) of the *Transfer of Land Act 1958*; and**
5. **Notify the applicant and the submitter of Council's decision.**

Background

The road reserve in question was created as part of a subdivision in 1872, (refer attached plan of subdivision). It provides access to the rear of the subdivisional allotments which otherwise front High Street.

The road has potential to support the further development of land in the area by way of:

1. Continued access to the rear of the allotments.
2. Through access to either Vickers Road or Nook Road.
3. Providing access for emergency services vehicles or alternative emergency routes.
4. Accommodating drainage or utility services to support further development, and
5. Providing access for service utilities, e.g., garbage collection required for further development.

An inspection of the road reserve carried out on 19th June 2018 revealed the existence of some fencing across the reserve and some drainage pipe, and other material, stockpiled on the land.

The land forming part of the original subdivision abutting the road reserve from High Street is zoned General Residential, and has the potential for further subdivision.

6.7.1 Proposal to formally Declare the Road Reserve to be Public Highway, Rear of 127 High Street, Nagambie (cont.)

A section of the road reserve at the Vickers Road end abuts an approved subdivision proposal. The developer intends to construct a footpath within the road reserve to connect a new reserve, within the subdivision, to the Nagambie Recreation Reserve.

Historical subdivisional roads such as this are deemed to have become Public Highways under common Law through the process of dedication by the developer and acceptance, by way of use as access, over time.

At the Ordinary Council meeting on 17 July 2018, Council resolved to undertake a section 223 submissions process calling for submission in relation to a proposal to formally declare a road reserve to be Public Highway in accordance with section 204(1) of the Local Government Act 1987 (the Act).

A public notice was published on 25 July 2018, with 25 August 2018 as the closing date for submissions. One submission was received. The submitter did not request to address Council in support of their written submission.

The written submission received (attached), raised concern “*over the orientation of the subsequent houses that will be built on the adjoining subdivision allotments, in the future, were this road to go ahead*” and

“Subsequently we are writing to confirm that the access the road will bring to the subdivisional allotments will be restricted to the rear of the properties as outlined. It is our understanding that the front of these properties that abut ours will face inwards towards the centre of the subdivision and not outwards over our property

Five residential lots and a Council Reserve within the new development adjoin the road reserve. The road reserve includes an approved walking track (shown on the attached endorsed plans)

Each of these five residential lots have frontage with access from a new road within the subdivision (Hannah Crescent).

There is nothing in Councils Planning Scheme that specifically allows, or prohibits, vehicular access from this road reserve.

The subdivision does not include any restriction which would prevent vehicle access down the road reserve in question.

However: -

- If a future landowner wanted to have rear access (to get to a shed for example), this would be subject to approval Council.
- If Council were to receive an application for subdivision or multiple dwellings within one of the five residential lots, which required access from the road reserve, this would be advertised to adjoining land owners, giving them an opportunity to object.

6.7.1 Proposal to formally Declare the Road Reserve to be Public Highway, Rear of 127 High Street, Nagambie (cont.)

In the event that a section 204(1) declaration as Public Highway is made, the road would be included in the public road register. Council could allocate a road class of "0 – Fire Access" initially in the register, and maintain it to that standard. The footpath proposed to be provided by the developer would also be registered for maintenance by Council.

After declaration, Landowners would be requested to remove any obstructing fences and other stock-piled material, such as drainage pipes.

Road reserve land deemed to be, or formally declared to be, Public Highway, does vest in Council, giving Council the power to lease it. Any proposal to lease would also require a section 223 consultation process.

Alternative Options

Council has the option of: -

- Retaining the road reserve to provide access to existing and future development, or
- Proceeding to lease the land within the road reserve as requested, or
- Otherwise disposing of the land.

A section 223 consultative process would be required for each of these options.

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.

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

If Council were to proceed with declaring the road reserve as Public Highway, and classification of "0 – Fire Access", there would be an initial estimated cost of \$1,000 to bring it to this standard, and an ongoing estimated cost of \$500-\$1000 per annum to maintain it.

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.

6.7.1 Proposal to formally Declare the Road Reserve to be Public Highway, Rear of 127 High Street, Nagambie (cont.)

Community Implications

The author of this report considers that the recommendation has no significant community or social implications for Council or the broader community other than those described elsewhere in this report.

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

The author of this report considers that the recommendation has no legal or statutory implications which require the consideration of Council, other than those identified.

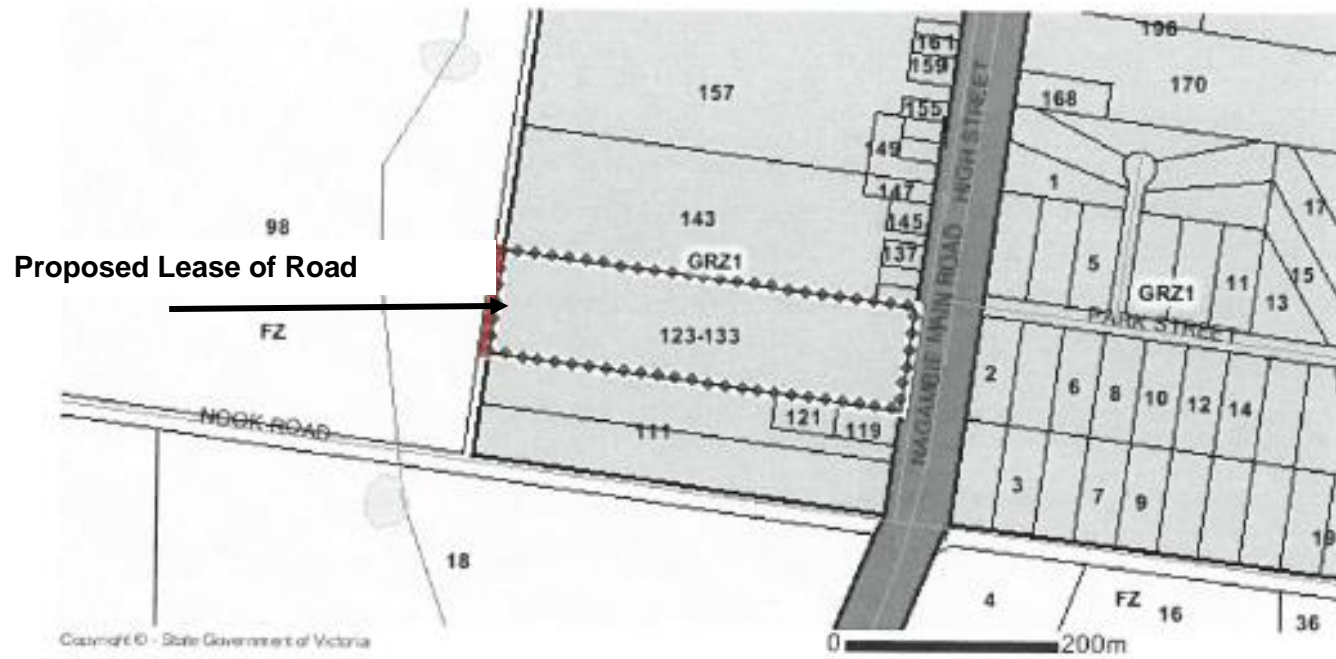
Consultation

Community consultation was conducted through the section 223 submission process.

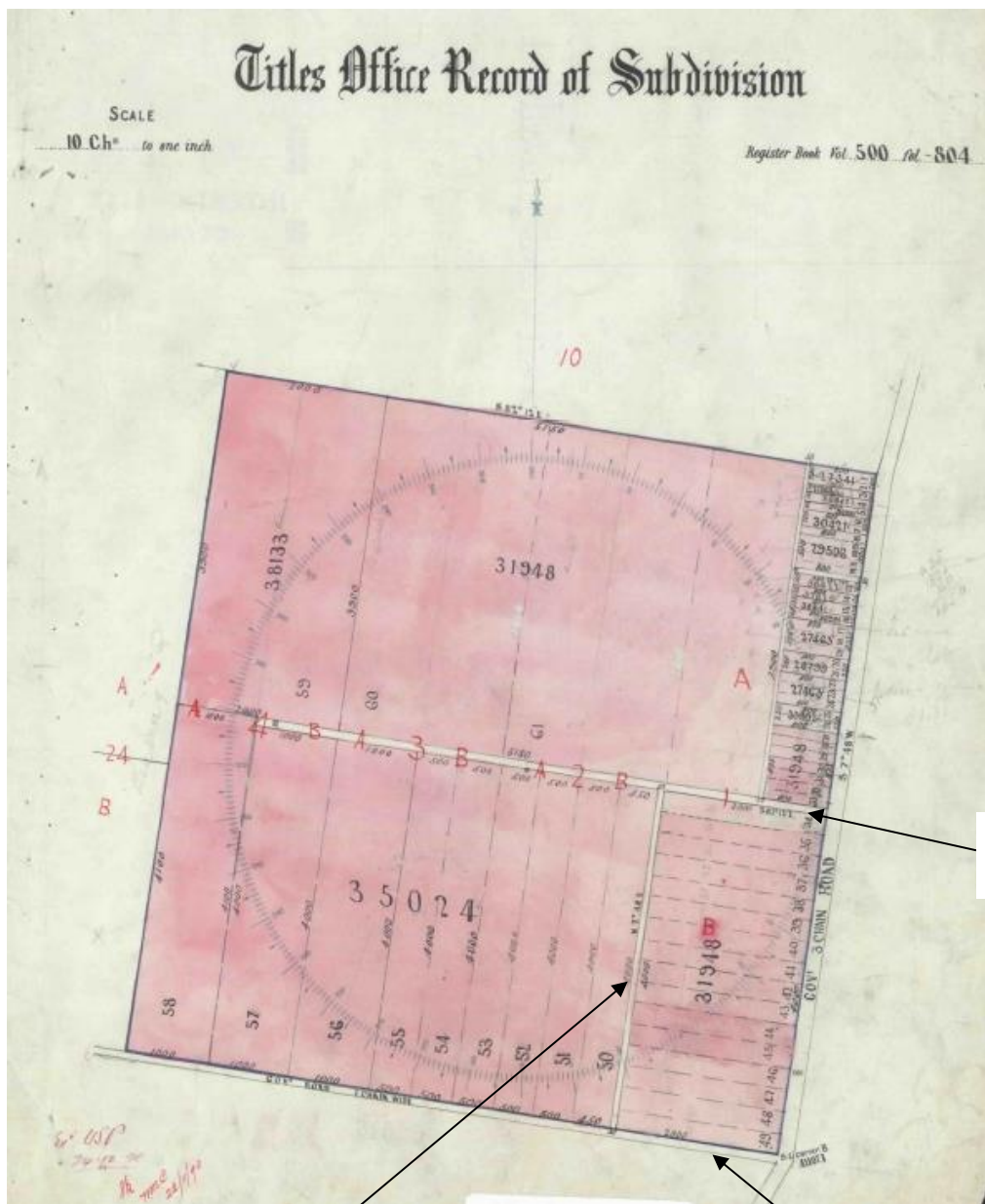
Attachments

- Site Plan – Proposed Lease of Road Reserve
- Original Subdivisional Plan
- Submission
- Endorsed Plans

Site Plan – Proposed Lease of Road Reserve



Original Plan of Subdivision



Original Subdivisional Road

Now Nook Road

Now Vickers Road

Submission

[REDACTED]

[REDACTED]

20 August 2018

Dear [REDACTED],

Please find our submission to your proposal of a public highway that abuts [REDACTED] [REDACTED], Nagambie as outlined in the Public Notice you forwarded to ourselves on the 25 July 2018.

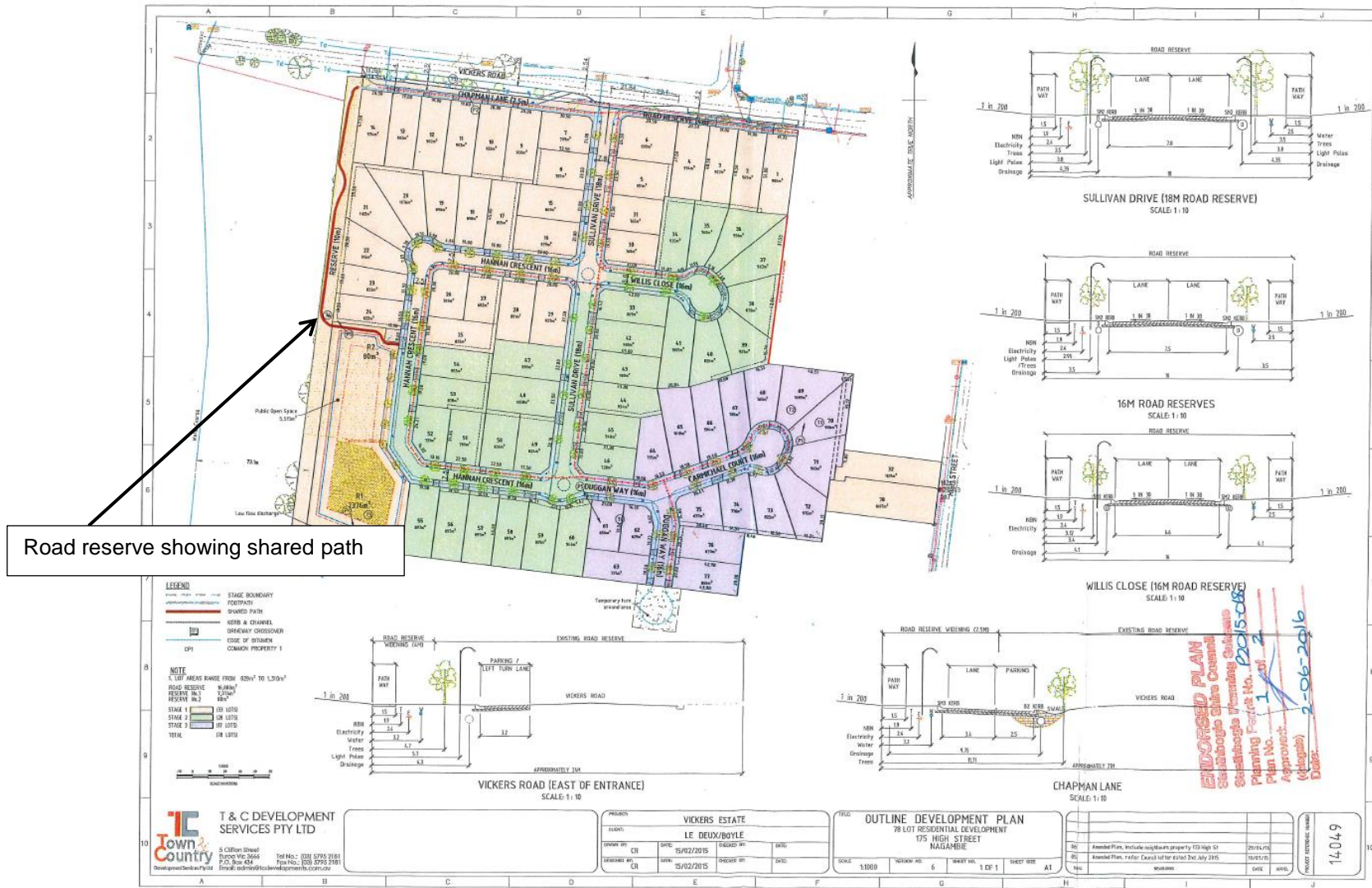
We are concerned over the orientation of the subsequent houses that will be built on the adjoining subdivision allotments, in the future, were this road to go ahead. Subsequently we are writing to confirm that the access the road will bring to the subdivisional allotments will be restricted to the rear of the properties as outlined. It is our understanding that the front of these properties that abut ours will face inwards towards the centre of the subdivision and not outwards over our property. The Public Notice does state that this is the case however we are concerned how this will be policed and monitored. We did not object to any of the conditions around the development of this subdivision as it was proposed however the declaration of this road may see property owners wishing to look outwards toward our allotment which we would strongly object to.

We are writing to request an assurance from the council that this will be the case and that it will be strictly adhered to in the course of this development.

Warm regards,

[REDACTED]

Endorsed Plans

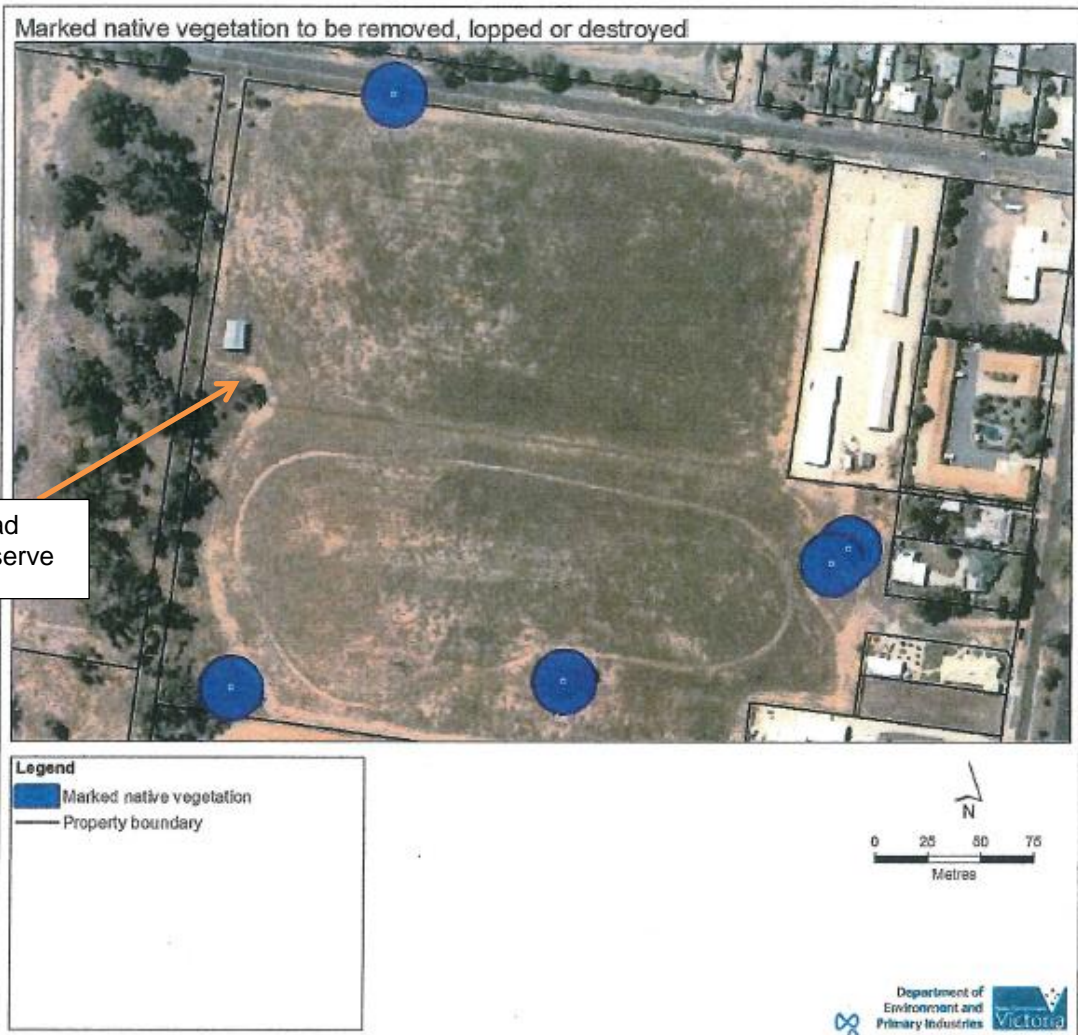


Road reserve showing shared path

Endorsed Plans

Biodiversity assessment report

Maps of marked native vegetation



ENDORSED PLAN
Strathbogie Shire Council
Strathbogie Planning Scheme
Planning Permit No. P2015-068
Plan No. 2
Approved: [Signature]
(delegated)
Date: 2-06-2016

7. URGENT BUSINESS

8. CLOSURE OF MEETING TO THE PUBLIC TO CONSIDER MATTERS LISTED FOR CONSIDERATION IN ACCORDANCE WITH SECTION 89(2) OF THE LOCAL GOVERNMENT ACT 1989

..... p.m.

CRS -

That Council, in conformance with Section 89(2) of the Local Government Act 1989, resolve to close the meeting to members of the public for the purpose of considering items relating to:-

- **Ground(s) under section 89(2):**
89(2)(d) *Contractual Matters*

C.P. 1 Contract No's. 18/19-08, 18/19-09 and 18/19-10 ~
Evaluation Report
- Operation and Management of Nagambie, Violet
Town and Avenel Swimming Pools

..... p.m.

CRS -

That Council open the meeting to members of the public and resume normal business.

9. CONFIRMATION OF 'CLOSED PORTION' DECISION/S

Closed Portion Decision/s -

RECOMMENDATION

CRS -

That the decision/s of Council's 'Closed Portion' considerations be confirmed.

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