



# AGENDA

## ORDINARY MEETING OF COUNCIL

Tuesday, 16 September 2014

To be held  
Swan Hill Town Hall  
Council Chambers  
McCallum Street, Swan Hill  
Commencing at 7:00 PM

**COUNCIL:**

Cr LT McPhee – Mayor

Cr JN Katis

Cr GW Norton

Cr GI Cruickshank

Cr JA Kiley

Cr CM Adamson

Cr JB Crowe

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**SECTION A – PROCEDURAL MATTERS**

- **Open**
- **Acknowledgement to Country**
- **Prayer**
- **Apologies**
- **Confirmation of Minutes**
  - 1) Ordinary Meeting held on 19 August 2014
- **Declarations of Conflict of Interest**
- **Receptions and Reading of Petitions, Memorials, Joint Letters and Deputations**
- **Public Question Time**

## **SECTION B – REPORTS**

### **B.14.55 APPOINTMENT OF TWO COUNCILLORS TO SIGN ANNUAL FINANCIAL STATEMENTS**

**Responsible Officer:** Director Corporate Services  
**File Number:** 42-01-00  
**Attachments:** Nil

**Declarations of Interest:** Officer

David Lenton - as the responsible officer, I declare that I have no disclosable interests in this matter.

#### **Summary**

The Local Government Act requires that Council appoint two Councillors as authorised signatories for the Annual Financial, Standard and Performance Statements.

#### **Discussion**

The Local Government Act requires that Council appoint two Councillors to be the authorised signatories to the final set of Annual Statements, once the audit process has been completed.

The Annual Statements comprise of the General Purpose Financial Statements prepared in accordance with Australian Accounting Standards, Standard Financial Statements and Performance Statements prepared in accordance with the Act.

The Statements will be reviewed by the Auditor General's office and an Audit opinion issued. The two Councillors can then sign the statements enabling the Annual Report to be finalised.

A formal advertising process will then take place, with the Statements being adopted at a Special Meeting of Council, to be arranged for late October.

#### **Consultation**

Not applicable for this report.

#### **Financial Implications**

Nil

#### **Social Implications**

Nil

### **Economic Implications**

Nil

### **Environmental Implications**

Nil

### **Risk Management Implications**

Nil

### **Council Plan Strategy Addressed**

***Councillor and Staff accountability*** - We will represent the interests of our community and will conduct our affairs openly and with integrity, reflecting high levels of good governance.

### **Options**

1. Council may choose to appoint any two Councillors to sign the Statements; however, it is preferable that the appointed Councillors are able to attend Council offices at short notice.
2. Past practice has been that the Mayor is one of the appointed signatories.

### **Recommendation**

**That Council nominate and appoint two Councillors to be the authorised signatories to the final set of 2013/14 Annual Financial Statements incorporating the General Purpose, Standard and Performance Statements once those statements have been reviewed by Council's Auditor.**

## **B.14.56 IN-PRINCIPLE ADOPTION OF FINANCIAL STATEMENTS**

**Responsible Officer:** Director Corporate Services  
**File Number:** 42-01-00  
**Attachments:** 1 General Purpose Financial Statements

**Declarations of Interest:** Officer

David Lenton - as the responsible officer, I declare that I have no disclosable interests in this matter.

### **Summary**

The Local Government Act requires that Council adopt its Annual Statements incorporating the General Purpose Financial Statement, the Standard Financial Statement and Performance Statement “in principle” prior to the Auditor General issuing an Audit opinion on the Statements. Officers have prepared a draft set of Statements, ready for “in principle adoption”, and request that Council adopt these Statements “in principle”.

### **Discussion**

Officers have been working for some weeks to prepare Council’s annual Statutory Statements incorporating Council’s General purpose Financial Statements, Standard Financial Statements and Performance Statement for 2013/14. A draft set of these statements has been prepared and presented for Audit.

Council’s Audit Committee met to review the Draft Statements on 11 September 2014. The Audit Committee recommended that Council adopt the statements “in-principle”. Accordingly, as required under the Local government Act these draft statements are attached and are presented to Council for “in-principle” adoption.

The Auditor General and Local Government Victoria both accept that adoption is “in-principle” and is therefore not seen as a certification by Council as to the complete accuracy of the information being adopted.

It is anticipated that the final audit process will be completed by late September, at which time the Financial Statements will be available for signing by the two appointed Councillors. The statements can then be included in the Annual Report.

A formal advertising process will then take place, with the Annual Report being adopted at a Special Meeting of Council, to be arranged for late October 2014.

### **Consultation**

The statements form part of the Annual Report which will be advertised prior to adoption.

### **Financial Implications**

Nil

### **Social Implications**

Nil

### **Economic Implications**

Nil

### **Environmental Implications**

Nil

### **Risk Management Implications**

Nil

### **Council Plan Strategy Addressed**

***Councillor and Staff accountability*** - We will represent the interests of our community and will conduct our affairs openly and with integrity, reflecting high levels of good governance.

### **Options**

Failure to adopt the statements “in-principle” will delay the audit of the statements and may put Council outside the deadline for lodgement of the Annual report with the Local Government minister, which is 30 September 2014.

### **Recommendation**

**That Council adopt “in-principle” the Draft set of General Purpose Financial Statements, Standard Statements and Performance Statement for the 2013/14 financial year as presented.**

# Attachment

- General Purpose Financial Statements



### **B.14.57      LANEWAY CLOSURE – SECTION 12A, SWAN HILL**

**Responsible Officer:**            Director Infrastructure  
**File Number:**                    84-04-01  
**Attachments:**                    Nil

**Declarations of Interest:**      Officer

David Leahy - as the responsible officer, I declare that I have no disclosable interests in this matter.

#### **Summary**

A request has been received for the closure of the laneway in Section 12A (lane running behind Wilson Street) to through traffic. This report provides Council with a recommendation to close and consolidate the laneway in its entirety to adjacent landowner's titles.

#### **Discussion**

Council has been approached by landowner at 21 Wilson Street, Swan Hill requesting lane closure at rear of their property, and possibility of them purchasing the land.

#### **Consultation**

Initial investigations and consultation with adjacent landowners have been carried out by Council. In this process, they were asked whether they would be in favour of the lane closure and whether they were interested in acquiring any part of the land adjacent to their property.

Responses have been favourable to the lane closure in its entirety and also showing that majority of landowners would be in favour of consolidating part of laneway into their titles.

Public notice will be published in the Guardian newspaper.

#### **Financial Implications**

As the portion of land to be consolidated is already utilised by the abutting landowners and has not been constructed as part of the road reserve, Council and the public will not be disadvantaged in anyway.

Abutting landowners wanting to purchase land adjacent to their properties are to pay advertising costs, surveyor's costs and title office fees.

### **Social Implications**

Nil

### **Economic Implications**

Nil

### **Environmental Implications**

Nil

### **Risk Management Implications**

Nil

### **Council Plan Strategy Addressed**

***Infrastructure*** - We seek to ensure appropriate infrastructure is available to continue our economic growth.

### **Options**

Council can:

1. Close the lane in its entirety and sell land to abutting owners; or
2. Retain the lane.

### **Recommendations**

**That Council:**

1. **Being of the opinion that the road shown hatched on the plan is not reasonably required as a road for public use.**
2. **Discontinue the road; and**
3. **The land from the road is consolidated into the adjacent land, under Section 206 and Schedule 10 Clause 3 of the Local Government Act 1989. Statutory procedures be commenced to discontinue the road and that under Section 207A (a) and Section 223 of that Act, a public notice of the proposed discontinuance be advertised in the Guardian newspaper.**

## **B.14.58 PROPOSED CHANGE TO OCTOBER 2014 COUNCIL MEETING LOCATION**

**Responsible Officer:** Director Development and Planning  
**File Number:** 22-13-00  
**Attachments:** Nil

**Declarations of Interest:** Officer

Brett Luxford - as the responsible officer, I declare that I have no disclosable interests in this matter.

### **Summary**

The purpose of this report is to recommend to Council a change in location for the October 2014 Ordinary Council meeting from Piangil to Swan Hill.

### **Discussion**

Council is scheduled to meet on the 21 October 2014 at Piangil however the Piangil venue is unavailable due to renovations being in progress. A Piangil Ordinary Meeting will be scheduled at a later date.

### **Consultation**

Nil

### **Financial Implications**

Nil

### **Social Implications**

Nil

### **Economic Implications**

Nil

### **Environmental Implications**

Nil

### **Risk Management Implications**

Nil

### **Council Plan Strategy Addressed**

***Councillor and Staff accountability*** - We will represent the interests of our community and will conduct our affairs openly and with integrity, reflecting high levels of good governance.

### **Options**

Nil

### **Recommendation**

**That Council hold the Ordinary Meeting of Council in Swan Hill on the 21 October 2014.**

**B.14.59 PLANNING PERMIT APPLICATION 2014/34  
PROPOSED NIGHTCLUB (INCLUDING EXTENSION OF TRADING  
HOURS) AND ASSOCIATED BUILDINGS AND WORKS AT 133  
CAMPBELL STREET, SWAN HILL**

**Responsible Officer:** Director Development and Planning

**File Number:** 2014/34

**Attachments:** Nil

**Declarations of Interest:** Officer

Brett Luxford - as the responsible officer, I declare that I have no disclosable interests in this matter.

**Summary**

This report seeks a Council resolution to grant a notice of decision to grant a planning permit subject to conditions for the use of the land for a nightclub, extension to the existing building, amendment to the liquor licence area and extension of the liquor licence trading hours at 133 Campbell Street, Swan Hill (Lot 1 on TP 237486).

**Discussion**

This application has been referred to Council as one objection to the proposal has been lodged that was not withdrawn.

Location and existing conditions

The subject site is located on the eastern side of Campbell Street. The land is rectangular in shape with a frontage of 16 metres to Campbell Street, depth of 41.91 metres and an overall area of approximately 670 square metres. The land contains a double storey building with car parking at the rear. Access to the car parking is via laneway access to the north of the site. A dwelling is located on the upper level.

The subject site is located within the Swan Hill CBD with various shops and offices in the vicinity of the site. On the opposite side of Campbell Street is the Woolworths car park. To the north of the site is a wholesale food store. To the south of the site is a laneway and car parking associated with the National Australia Bank. On the other side of the laneway is H&R Block. The rear of 20-22 McCallum Street occupied by Logan and Hall also abuts the subject site to the south.

Background and Proposal

The application for a Planning Permit was received on 27 March 2014 for the use of the land for a nightclub, an extension to the existing building, extension to the existing liquor licence area and an extension to the existing liquor licence trading hours.

The definition of a Nightclub in accordance with Clause 74 of the Swan Hill Planning Scheme is '*A building used to provide entertainment and dancing. It may include the provision of food and drink for consumption on the premises. It does not include the sale of packaged liquor, or gaming.*'

The land is currently operating as "Barrels Nightclub" under Planning Permit 2004/212 which allowed for a '*licensed restaurant, wine bar and building renovations*'. The proposed change of use is to reflect the current use of the land as a nightclub. The applicant also proposes the following:

- To extend the trading hours (including the service of alcohol) on Saturday nights from 3am to 5am, and for Special Events as follows:
  - i) 25 January (Australia Day eve) Midday – 5.00am (following day)
  - ii) Good Friday eve Midday – 5.00am (following day)
  - iii) Good Friday 11.00pm – 5.00am (following day)
  - iv) Anzac Day Midday – 5.00am (following day)
  - v) Queen's Birthday Weekend (Friday, Saturday and Sunday) Midday – 5.00am (following day)
  - vi) Sunday before Melbourne Cup Midday – 5.00am (following day)
  - vii) Christmas Eve (24 December) Midday – 5.00am (following day)
  - viii) Christmas Day (25 December) Midday – 5.00am (following day)
  - ix) New Years Eve (31 December) Midday – 5.00am (following day)

It is not proposed to alter the existing patron numbers. These are as follows:

- A maximum of 116 persons in the building at any one time except as follows:
  - 320 persons after 6.00 pm Monday to Friday
  - 320 persons after 12.00 pm Saturday, and
  - 320 persons on Sundays and Public Holidays.
- Minor buildings and works including:
  - A 23.12m<sup>2</sup> extension to the smoking courtyard to the rear of the building. The extension will result in the rearrangement to the layout of the car park containing five spaces.
  - Construct a 6.84m<sup>2</sup> extension to the men's toilet.
  - Various internal rearrangements to reflect the change of use to a nightclub including the installation of a new "bar" service counter and toilets, removal of the pizza oven, take-away counter and food preparation facilities. These internal rearrangements do not trigger the requirement for a planning permit.
- Extension of the red line area to include the above extensions and cool room.

### Purpose of the zone

A permit is required pursuant to Clause 34.01-1 for the use of the land for nightclub (nested under Place of Assembly). A permit is also required under Clause 34.01-4 for buildings and works associated with a Section 2 use.

The purpose of the Commercial 1 Zone is:

- To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- To create vibrant mixed use commercial centres for retail, office, business, entertainment and community uses.
- To provide for residential uses at densities complementary to the role and scale of the commercial centre.

The proposed nightclub is consistent with this purpose. The land is in the core commercial area of Swan Hill with the closest residential zoned area over 200 metres away.

The proposed buildings and works are considered acceptable given the minor nature of the extensions and location at the rear of the building.

### State and local policies

#### *Clause 11 Settlement:*

Planning is to anticipate and respond to the needs of existing and future communities through provision of zoned and serviced land for housing, employment, recreation and open space, commercial and community facilities and infrastructure.

#### *Clause 17.01-1 Business:*

To encourage development which meet the communities' needs for retail, entertainment office and other commercial services and provides net community benefit in relation to accessibility, efficient infrastructure use and the aggregation and sustainability of commercial facilities.

#### *Clause 21.08 Economic development:*

This clause provides local content to support Clause 17 (Economic Development) of the State Planning Policy Framework.

The proposal is considered to be consistent with the relevant state and local planning policies.

### Particular Provisions

#### *Car Parking (Clauses 22.02 and 52.06)*

The total number of car parking spaces will not be altered from existing conditions. The car parking area containing five spaces will be rearranged as a result of the proposed buildings and works. From the existing planning permit (2004/212), the land has car parking credits of 24 spaces during business hours and 96 spaces outside of business hours.

Under Clause 22.02, a nightclub (nested under place of assembly) is required to provide one car space to every five persons the building can accommodate. Therefore, 23 car spaces are required to be provided during business hours and 64 car spaces outside business hours. In addition, one space is required to be provided for the dwelling located on the upper floor. A total of 24 spaces during business hours and 65 spaces outside business hours are therefore required to be provided.

Given the above, the applicant has sufficient car parking credits and onsite car parking. Accordingly, no additional car parking spaces are required.

#### *Licensed Premises (Clause 52.27)*

A permit is required under this Clause as:

- the hours of trading allowed under the licence are proposed to be extended; and
- the area that liquor is allowed to be consumed under a licence is proposed to be increased.

#### *Extension to Red Line Area:*

The extension to the existing red line area to include the toilet extension, cool room and the extension to the outdoor smoking area is considered to be acceptable and does not create any issues.

#### *Extension to hours of trading:*

The applicant proposes to extend the trading hours from 3am to 5am on Saturday nights (through to Sunday morning) as well as extend the trading hours for "special events" (as detailed in the "Background and Proposal" section above).

The decision guidelines under Clause 52.27 relate to the impact on the amenity of the surrounding area as a result of the extended operating hours.

The application has been referred to the Police who have objected to the extension of trading hours to 5am based on current anti-social behaviour arising as a result of the current liquor licence. They state that there is "a lack of management intervention capability and a systemic anti-social behavioural problem in and around this licensed premise" and that "There is no evidence attached in the application to



support the fact that a later closing time such as 5am will assist or limit the behavioural issues.”

The applicant’s report indicates that the amenity of the area will not be impacted as a result of the later trading hours given the following:

- There is a trend for the patrons to start their late night entertainment at later hours, and the premises reaches its capacity in terms of patron numbers at a later hour.
- At the current closing time of 3am there are still a large number of patrons at the premises resulting in large numbers of patrons vacating the premises at the same time.
- From experience of when the premises has been open until 5am under limited liquor licences, the number of patrons at the premises at 5am is significantly reduced than at 3am (generally to around 50 patrons instead of hundreds). Patrons generally leave in smaller groups over a two hour period rather than a large group therefore the potential risk of incidents/anti-social behaviour on the street is reduced. The demand for taxi services is also spread out over this time.
- The applicant argues that the later closing time has the potential to reduce anti-social behaviour and that it is unlikely that the amenity of the area will be reduced any further from existing conditions.

It is noted that the applicant has applied and had approved multiple limited licences extending the opening hours to 5am for special events under the previous planning permit. No complaints have been recorded by Council in relation to these incidents.

It is also noted that the site is located within the Commercial 1 Zone, and is well separated from residential areas. The closest residential zoned area is in excess of 200 metres from the subject site (Splatt Street).

For the above reasons it is considered that the extension to the operating hours will not further impact on the amenity of the surrounding area.

In addition to any approval by Council to extend the trading hours to 5am, the service of alcohol to 5am is subject to further approval from the Victorian Commission for Gambling and Liquor Regulation (VCGLR) for a liquor licence. The application has been referred to VCGLR who has not objected to the application but has stated that the decision to not object may inform, but is not determinative of, any decision the VCGLR may make pursuant to the *Liquor Control Reform Act 1998* in respect of an applicant’s liquor application.

## **Consultation**

### Public notification

The proposal was advertised by requesting the applicant to notify surrounding land owners and occupiers as well as displaying a sign on the property and placing an advertisement in The Guardian newspaper.

One joint objection was received from the occupants (Logan and Hall) and owner (Logall Nominees Pty Ltd) of the land at 20-24 McCallum Street, Swan Hill. Mediation was carried out on 22 July 2014. No resolution was reached between the parties. The key concerns raised were as follows:

- There is an existing gate which opens from the subject site onto the laneway/easement to the south of the land. Patrons exit from this gate. However this laneway is privately owned and not associated with subject land. This gate also appears to cross the boundary line.
- The above laneway is also often blocked with bins, vehicles and other items associated with the licensed premises. There is also a lockable gate at the entrance to the laneway.
- Are the drainage works conducted on the above laneway in accordance with Council requirements?
- Damage caused to property under current approvals

General amenity issues in and around their property as a result of the existing use relating to rubbish, vomiting/urinating etc.

The application was amended on 28 July 2014 to specify the days/dates when trading hours were to increase to 5am. The amended application was re-advertised to the owners and occupiers of the adjoining land. No changes were made to objections raised.

### Response to planning issues

- The existing gate on the south of the subject site opens on to a carriageway easement over private land. The subject land does not benefit from this easement. Any approval should limit access of customers to and from the subject site to legal access points and not over private land.
- As the "laneway" relates to private land and is not maintained or managed by Council, any issues relating to its obstruction, drainage and gates over the easement are an issue between the land owner and the affected parties.

- General issues relating to amenity and damage to property can be reduced through limiting the use of the rear gate so that customers are not exiting the property occupied by Logan and Hall.

## Referrals

### *External Referrals:*

#### Victorian Commission for Gambling and Liquor Regulation

Under Clause 66.03 the application was required to be referred to the Victorian Commission for Gambling and Liquor Regulation (VCGLR) as the nightclub proposes to operate after 1am. VCGLR is categorised as a “Determining Referral Authority”.

VCGLR advised that they have no objection to the proposed application.

#### Victoria Police

Under Clause 66.05 the application notice was required to be given to the Chief Commissioner of Victoria Police as the nightclub proposes to operate after 1am. Swan Hill Police have responded on the Chief Commissioners’ behalf and have advised that they object to the extended operating hours from that which is existing (3am).

### *Internal Referrals:*

#### Building Department

A building permit is required for this development

#### Health Department

All alterations/renovations must comply with the Food Act 1984 and Food Standards Code.

Smoking areas must comply with the Tobacco Act 1987 in the roofed areas must not have any more than 75% enclosed wall area.

#### Engineering Department

No objections

#### Local Laws Department

It is recommended that the footpath area be removed from the liquor licence.

Officer comment: The footpath has been removed from the liquor licence area on the plan pursuant to Clause 62.02 which exempts the requirement for a permit for the use of land in a road (including footpath) if the use is associated with the use of adjoining land and is authorised by Council under a local law.

### **Financial Implications**

There are no known financial implications.

### **Social Implications**

The nightclub use essentially already operates from this venue. It provides a late night entertainment option within the CBD area generally outside of normal business hours.

### **Economic Implications**

Support local business in expansion of operations.

### **Environmental Implications**

There are no known environmental implications.

### **Risk Management Implications**

There are no known risk management implications.

### **Council Plan Strategy Addressed**

***Existing business support*** - We will support existing businesses and encourage expansion through building business capacity.

### **Options**

Council has a number of options in relation to this application. Council can:

- 1) Issue a Notice of Decision to issue a planning permit subject to conditions,
- 2) Issue a Notice of Decision to issue a planning permit subject to conditions but refuse extension to trading hours; or
- 3) Refuse the application.

### **Recommendation**

**That Council issue a notice of decision subject to the following conditions:**

- 1. The layout of the site and the size of the buildings and works shall be generally in accordance with the attached endorsed plan and shall not be modified without the approval of the Responsible Authority.**

**Operating hours**

**2. The use may only operate between the following hours:**

- |    |                      |                                  |
|----|----------------------|----------------------------------|
| a. | Monday – Friday      | 12.00pm – 3.00am (following day) |
| b. | Saturday             | 12.00pm – 5.00am (following day) |
| c. | Sunday               | 12.00pm – 11.00pm                |
| d. | Anzac Day (25 April) | 12.00pm – 3.00am (following day) |

The serving of alcohol outside the above operating hours may be permitted through Limited Liquor Licenses, if approved in writing by the Responsible Authority prior to any extension of operating hours.

**3. In addition to the permitted hours in Condition 2, the use may operate from 12.00pm to 5.00am (the following day) for the following Special Events:**

- i. 25 January (Australia Day eve)
- ii. Good Friday eve and Good Friday
- iii. Queens Birthday Weekend (Friday, Saturday and Sunday)
- iv. Sunday before Melbourne Cup
- v. Christmas Eve and Christmas Day (24 and 25 December)
- vi. New Years Eve (31 December)

**Patron Numbers**

**4. The maximum number of patrons that may occupy the site at not exceed the following:**

- a. 116 patrons Monday to Friday 12.00pm – 6.00pm
- b. 320 persons at the following times:
  - after 6.00pm Monday to Friday
  - after 12.00pm Saturday
  - after 12.00pm Sunday and Public Holidays

**5. The gate located on the south side of the subject site must not be used for the movement of customers to and from the site to the satisfaction of the Responsible Authority.**

**6. The nightclub use must not detrimentally affect the amenity of the neighbourhood to the satisfaction of the Responsible Authority, including through the:**

- Transport of materials, goods or commodities to or from the land.
- Appearance of any building, works or materials.
- Emission of noise , artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil.

**7. Prior to the commencement of the use, provision is to be made for the parking of five vehicles on site. All land set aside for car parking, aisles and access ways is to be constructed with an all weather surface and drained to the satisfaction of the Responsible Authority.**

**8. The loading and unloading of vehicles and the delivery of goods to and from the premises shall at all times occur via the rear entrance to the building.**

**Permit Expiry**

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

- a) The development and the use are not commenced within two years of the date of this permit.**
- b) The development is not completed within four years of the date of this permit.**

**If the use or development allowed by this permit has not commenced by the date the permit lapses (two years), the permit holder may apply to the responsible authority before or within six months after the expiry date of the permit for an extension of time.**

**If the development allowed by this permit has lawfully commenced before the permit expiry date and has not been completed, the permit holder may apply to the responsible authority for an extension of time within 12 months after the permit expiry date.**

**If a request is made outside of the above time(s), the responsible authority cannot consider the request and the holder of this permit cannot apply to the Victorian Civil and Administrative Tribunal for a review of this matter.**

**NOTES FROM THE RESPONSIBLE AUTHORITY:**

- a) A Building Permit shall be obtained prior to the construction of the development. All work to comply with the requirements of the Building Code of Australia and Council Local Laws.**
- b) Compliance is required with the Food Act 1984 and Food Standards Code.**
- c) Compliance is required with the Tobacco Act 1987. Roofed smoking areas must not have any more than 75% enclosed wall area.**
- d) Any seating or service of liquor in the road reserve area (footpath) requires separate approval from Council's Local Laws department.**

## **B.14.60 DOMESTIC ANIMAL MANAGEMENT PLAN 2014-2016**

**Responsible Officer:** Director Development and Planning  
**File Number:** 08-02-00  
**Attachments:** 1 DAMP 2014

**Declarations of Interest:** Officer

Brett Luxford - as the responsible officer, I declare that I have no disclosable interests in this matter.

### **Summary**

This report seeks Council's adoption of the Swan Hill Rural City Council Domestic Animal Management Plan 2014-2016 (the Plan). The Plan outlines actions that Council is either undertaking or seeking to undertake to effectively manage domestic animals within our municipality. Once adopted the a copy of the Plan can then be forwarded to the Department of Environment and Primary Industries as required under the provisions of the Domestic Animals Act 1994 (the Act).

### **Discussion**

As indicated in the Plan, the Act requires every Council to prepare a domestic animal management plan. The Act also details what issues Council must address in the Plan.

Overall, the Plan aims to help ensure the effective management of domestic animals within the municipality. The actions that Council's Regulatory Services Department will implement in order to achieve this are listed throughout the Plan.

Council will endeavour to provide a service that meets both community expectations and compliance obligations under the Act. This will predominantly be achieved through community education around responsible pet ownership and enforcement. However, Council will also investigate the potential benefits of introducing Local Laws or Orders in order to improve and maintain safety within the community.

This plan has been developed based on the outcomes and learning's from the previous Domestic Animal Management Plan, as well as a review of the existing data in areas such as complaints, dog attacks, registrations and impoundments. Community feedback and consultations with key stakeholders including veterinarians, animal businesses and other service providers has also informed the plan. The predominant issues identified include:

- Increasing compliance with the Act.
- Identification of potential off-leash areas.
- Reduce the number of stray and wandering cats.
- Investigation and introduction of 'on-leash' and other local laws relating to dogs and cats towards responsible pet ownership.

- Increased education and enforcement in relation to domestic animal management.

Council is required to review the document annually, include any changes deemed necessary and publish the findings on the Plan in its Annual Report.

### **Consultation**

Consultations have taken place with key stakeholders including veterinarians, animal businesses and other service providers.

The Plan was also made available for public comment for a period of 21 days. No submissions were received.

### **Financial Implications**

It is anticipated that the strategies within the plan will be implemented within the existing budget and resources.

### **Social Implications**

The implementation of the plan will assist with maintaining and improving the safety within the community.

### **Economic Implications**

It is not expected that the plan will have a negative impact on the economy.

### **Environmental Implications**

The plan is not expected to have a negative impact on the environment.

### **Risk Management Implications**

The plan is not expected to have a negative impact on risk management.

### **Council Plan Strategy Addressed**

***Maintaining a safer community*** - In partnership with other agencies, we seek to ensure the everyday safety of our community.



## **Options**

Council can:

1. Adopt the recommendations outlined below; or
2. Choose not to adopt accept the report and the Plan.

## **Recommendation**

**That Council adopt the Swan Hill Rural City Council Domestic Animal Management Plan 2014-2017 and submit a copy to the Department of Environment and Primary Industries as required under the Domestic Animals Act 1994.**

# **Attachment**

- Domestic Animal Management Plan 2014-16

**B.14.61 APPLICATION TO AMEND PLANNING PERMIT 2013-44  
120 CHURCH ROAD, NYAH**

**Responsible Officer:** Director Development and Planning  
**File Number:** 2013/44  
**Attachments:** Nil

**Declarations of Interest:** Officer

Brett Luxford - as the responsible officer, I declare that I have no disclosable interests in this matter.

**Summary**

This report seeks a Council resolution to refuse an application to amend an existing planning permit which allows the “use and development of the land for a dwelling and Intensive Animal Husbandry in the Farming Zone and Buildings and Works within the Land Subject to Inundation Overlay” at 120 Church Road, Nyah (Lot 1 on PS137454). The proposal involves the amendment Condition 2 of the permit which requires the landowner to enter into a Section 173 agreement under the *Planning and Environment Act 1987* to ensure the ongoing use of the land is associated with agricultural activity.

**Discussion**

This application has been referred to Council as it is recommended that the amendment be refused.

At Council’s Ordinary Meeting on 20 August 2013 it was resolved to issue Planning Permit 2013/44 for the use and development of the land for a dwelling and Intensive Animal Husbandry in the Farming Zone and Buildings and Works within the Land Subject to Inundation Overlay.

On the 21 July 2014 an application was lodged to amend Condition 2 of the permit. Condition 2 states:

*“Prior to the commencement of any buildings and works associated with the dwelling, the owner must enter into an agreement with the Responsible Authority pursuant to Section 173 of the Planning and Environment Act 1987 to provide the following:*

- (i) That the use of the land for the intensive animal husbandry must have commenced prior to the commencement of the use of the dwelling, to the satisfaction of the Responsible Authority.*
- (ii) If the intensive animal husbandry use ceases to operate on the land, the dwelling and all associated infrastructure must be removed within **six months** of the animal husbandry use ceasing to the satisfaction of the Responsible Authority.*

*The owner under this permit must pay the reasonable cost of the preparation and registration of the Section 173 agreement.”*

The applicant proposes to amend the above condition to remove the requirement for a Section 173 agreement. It is proposed to retain the requirements in parts (i) and (ii) as conditions on the permit.

#### Assessment and relevant VCAT decisions

Condition 2 of the permit was imposed to ensure the ongoing link of the dwelling with the agricultural use of the land (intensive animal husbandry). It aimed to prevent the loss of productive agricultural land to a rural living use which is contrary to the purpose of the Farming Zone. The permit was issued for a dwelling on a lot less than 20 hectares (the lot size is 2.049 hectares). The need for a house on the small lot was justified by the need to have someone on site to manage the intensive animal husbandry use.

The use of a Section 173 agreement ensures that future owners are aware of the ongoing requirements relating to the use of the dwelling on the land. Without such a condition which links the dwelling to an agricultural land use, a permit for a dwelling on a small lot should not be recommended for approval.

Several Victorian Civil and Administrative Tribunal (VCAT) cases have shown that the use of a Section 173 agreement in these types of cases is appropriate, as follows:

- *White v South Gippsland SC [2011] VCAT 1676 (29 August 2011)*

This case related to an application to use land for calf rearing (intensive animal husbandry) and development and use of a dwelling in the Farming Zone. In its decision the member states:

*“... the primary reason I am allowing the dwelling is because in this case I am satisfied that it is reasonably required for the agricultural activity proposed. Therefore I find appropriate conditions in this case include:*

- *A requirement for the agricultural/farm infrastructure to be constructed and the calf rearing use to commence prior to the occupation of the dwelling; and*
- *A section 173 agreement that, if the intensive animal husbandry (calf rearing) ceases to operate on the land the dwelling and associated infrastructure must be removed within two months of the calf rearing use ceasing.”*

- *Clark v Bass Coast SC [2014] VCAT 651 (2 June 2014)*

This case relates to the construction of a dwelling on a lot less than 40 hectares in the Farming Zone and supports the inclusion of a section 173 agreement to ensure the ongoing use of the land for agricultural production, stating that:

*“The future owner and occupants of the land are unknown and hence their intended interest in the agricultural production is unclear...to strengthen the draft conditions by including a requirement for an agreement pursuant to s173 of the Planning and Environment Act 1987. The Agreement should require the commencement of the farm improvements prior to the construction of the dwelling. This would ensure the used and development of a dwelling do not detract from or remove the land from agricultural production. It would ensure the future landowners are aware that this approval is accompanied by expectations the agricultural productive capacity of this land is improved...”*

- *Gogg & Ors v Baw Baw SC [2011] VCAT839 (12 May 2011)*

In this case the applicant sought review of conditions issued for a permit for a dwelling in the Farming Zone. Condition 9 attempted to ensure the protection of agricultural activity which required the dwelling to be used in association with an intensive agricultural use (embryo transfer cattle breeding). Significantly, the member stated in the decision that the condition had merit but needed to go further, stating:

*“... it requires amendment to be actioned through a Section 173 agreement that will ensure that if the embryo transfer cattle breeding use ceases in the future that it should be demonstrated that the dwelling will still be required to support the continued agricultural use of the subject land. The agreement is an appropriate legal instrument that can bind future owners of the land to provide for such a future circumstance and action if required.”*

### **Consultation**

No public consultation or referral authorities were required to be consulted as part of the amendment process.

### **Financial Implications**

There are no known financial implications.

### **Social Implications**

There are no known social implications.

### **Economic Implications**

There are no known economic implications.

### **Environmental Implications**

There are no known environmental implications.

### **Risk Management Implications**

There are no known risk management implications.

### **Council Plan Strategy Addressed**

***Existing business support*** - We will support existing businesses and encourage expansion through building business capacity.

### **Options**

1. Refuse the application; or
2. Approve the amendment.

### **Recommendation**

**That Council refuse the application to amend for the following reason:**

- **Condition 2 in its current form is appropriate to ensure the ongoing use of the land is associated with an agricultural activity.**

## **B.14.62 PIONEER SETTLEMENT EVENT SPACES – FEES AND CHARGES**

**Responsible Officer:** Director Development and Planning  
**File Number:** 42-20-04  
**Attachments:** Nil

**Declarations of Interest:** Officer

Brett Luxford - as the responsible officer, I declare that I have no disclosable interests in this matter.

### **Summary**

During the development of the 2014/15 Annual Budget it was resolved that Council “prepare a report for the September 2014 Council meeting in relation to the fees for hiring facilities at the Pioneer Settlement”. This report outlines the bookings that have been received for the Lower Murray Inn and Dumosa Hall and discusses the current user fees and charges associated with the facilities. The report recommends no change to the user fees and charges that were adopted as part of the 2014/15 budget.

### **Discussion**

The function areas within the Pioneer Settlement have been developed to offer a space within a unique setting for hire. The development of these areas forms part of the Pioneer Settlements major redevelopment and has been highlighted as future opportunities for commercial lease holders. It is anticipated that these opportunities will be improved if Council is able to secure funding for an enhanced day and night visitor experience at the settlement.

In the interim the Pioneer Settlement has taken the opportunity to use these spaces to provide an additional revenue stream. It should be recognised that the Pioneer Settlement is a tourism business operating seven days a week, day and night. The use of hiring of these spaces is considered carefully especially in relation to the running of Sound & Light Show and other daily activations.

During the 2013/14 financial year the Lower Murray Inn was used on 46 occasions for events. Approximately 6100 people attended those events and the revenue gained by Council from bookings was \$20,360. These events included birthdays, weddings, reunions, Christmas functions and functions by various clubs. The interest shown in utilising the Lower Murray Inn has remained strong and Council has already received forward bookings through until March 2015.

Due to the uniqueness of the site the Lower Murray Inn requires cleaning both pre and post event. In addition, due to the location, lighting requirements and protection of the collection there is a need for an onsite duty officer while the event is operating and this has an operational cost of approx \$300 per night function.

In contrast there has been minimal interest in booking Dumosa Hall as an event space. In the 2013/14 financial year the space was booked on only five occasions for activities and these were mainly related to Council run or supported events such as the Great Debate during Pioneer Weekend. There was only one booking for a private day function which generated \$220.

During the consideration of the 2014/15 budget the user fees for both the Lower Murray Inn and Dumosa Hall were considered. Council adopted the schedule of fees and charges as outlined in Table 1.

<b>Service/Fee Type</b>	<b>2013-2014 FEES AND CHARGES</b>	<b>2014-2015 FEES AND CHARGES</b>	<b>Comments</b>
<b>Dumosa Hall</b>	\$660	\$680	4 hours hire Up to 110 people
	\$110	\$110	Additional one hour hire
<b>Lower Murray Inn</b>	\$660	\$680	4 hours hire Up to 110 people
	\$110	\$110	Additional one hour hire
	\$200	\$440	BBQ Area (Daytime)
	\$110	\$110	Additional one hour hire

**Table 1**

Given the costs Council incurs in providing the spaces and the associated demand for the spaces, particularly the Lower Murray Inn, the fees associated with the venues are considered reasonable. If Council was to consider reducing the fees for community or not for profit groups, this would limit the time the venues are available for full fee paying events and negatively impact on the revenue base.

The availability of both these venues may be limited into the future. Council is continuing to seek funding support to enhance both the day and night visitor experience at the Pioneer Settlement. Whether or not funding is secured, Council's preferred option is to seek a private operator to lease and run the Lower Murray Inn. Dumosa Hall has been identified as the preferred option for the Pioneer Settlement tea rooms. This project will proceed as soon as funding becomes available.

### **Consultation**

No consultation has been undertaken in the development of this report.



### **Financial Implications**

Any decision made on the user fees and charges may impact on the overall revenue for the Pioneer Settlement.

### **Social Implications**

Providing access to venues at the Pioneer Settlement at a reduced rate may provide some social benefit to local community groups. This may however negatively impact revenue.

### **Economic Implications**

There are no negative economic implications.

### **Environmental Implications**

There are no negative environmental implications.

### **Risk Management Implications**

There are no negative risk implications.

### **Council Plan Strategy Addressed**

***Responsible management of resources*** - We will continually improve the management of our finances, assets, systems and technology to achieve and maintain Best Value in our operations.

### **Options**

Council can adopt the recommendations as listed or make changes to the user fees and charges for the hiring of spaces at the Pioneer Settlement.

### **Recommendations**

#### **That Council:**

- 1. Note the report.**
- 2. Make no changes to the user fees and charges in relation to the Lower Murray Inn and Dumosa Hall as adopted in the 2014/15 Budget.**

**SECTION C – DECISIONS WHICH NEED ACTION/RATIFICATION**

**C.14.13 COUNCILLOR ASSEMBLIES - RECORD OF ATTENDANCE AND AGENDA ITEMS**

**Responsible Officer:** Director Development and Planning  
**File Number:** 22-13-12  
**Attachments:** 1 Councillor Assemblies Attendance and Agenda

**Declarations of Interest:** Officer  
Brett Luxford - as the responsible officer, I declare that I have no disclosable interests in this matter.

**Summary**

The Local Government Act 1989 requires that the details of Councillor Assemblies be reported to Council meetings on a monthly basis.

**Discussion**

The State Government has amended the Local Government Act 1989 which requires Council to report on Councillor Assemblies.

Whilst Minutes do not have to be recorded, Agenda items and those in attendance must be, and a report presented to Council.

An assembly of Councillors is defined as a meeting that is planned or scheduled at which at least half of the Council and one Officer are in attendance, and where the matters being considered that are intended or likely to be the subject of a Council decision.

No formal decisions can be made at an assembly but rather direction can be given that is likely to lead to a formal decision of Council.

Details of the most recent assemblies of Council are attached.

**Consultation**

Nil

**Financial Implications**

Nil

**Social Implications**

Nil

### **Economic Implications**

Nil

### **Environmental Implications**

Nil

### **Risk Management Implications**

Nil

### **Council Plan Strategy Addressed**

***Councillor and Staff accountability*** - We will represent the interests of our community and will conduct our affairs openly and with integrity, reflecting high levels of good governance.

### **Options**

Council must comply with the requirements of the Local Government Act 1989.

### **Recommendations**

**That Council note the contents of the report.**

**COUNCILLOR ASSEMBLIES ATTENDANCE AND AGENDA**  
**26 August at 1pm**  
**TOWN HALL (COUNCIL CHAMBERS), SWAN HILL**

**AGENDA ITEMS**

- Overland Sun Farming
- Closure of the Nyah West Night Soil Depot
- Former Nyah West Police Station
- Robinvale Visitor Information Centre
- Mediation (Butterworth Street Childcare application)

**ADDITIONAL ITEMS DISCUSSED**

- 

**ATTENDANCE**

Councillors

- Cr Jessie Kiley
- Cr John Katis
- Cr Jim Crowe
- Cr Les McPhee
- Cr Gary Norton
- Cr Greg Cruickshank

Apologies

- Cr Michael Adamson

Officers

- Dean Miller, Chief Executive Officer
- David Lenton, Director Corporate Services
- Brett Luxford, Director Development and Planning
- David Leahy, Director Infrastructure
- Mazen Aldaghstani, Manager Infrastructure
- David Soutar, Waste Enforcement Officer

Other

- Ben Barnett, Overland Sun Farming
- Brett Thomas, Overland Sun Farming

**CONFLICT OF INTEREST**

-

**COUNCILLOR ASSEMBLIES ATTENDANCE AND AGENDA**  
**2 September at 1:00pm**  
**TOWN HALL (COUNCIL CHAMBERS), SWAN HILL**

**AGENDA ITEMS**

- Mediation (Swan Hill Abattoirs extension)
- Swan Hill Incorporated Strategic Plan 2014-2019
- Swan Hill Incorporated Marketing Plan & Budget 2014-2015
- Aquatic Centres Management Contract
- Rural Land Use study
- Swan Hill Riverfront Masterplan update

**ADDITIONAL ITEMS DISCUSSED**

- 

**ATTENDANCE**

Councillors

- Cr Jessie Kiley
- Cr John Katis
- Cr Les McPhee
- Cr Gary Norton
- Cr Greg Cruickshank
- Cr Michael Adamson

Apologies

- Cr Jim Crowe

Officers

- Dean Miller, Chief Executive Officer
- David Lenton, Director Corporate Services
- Brett Luxford, Director Development and Planning
- David Leahy, Director Infrastructure
- Bruce Myers, Director Community & Cultural Services
- Steve Matthews, Economic & Community Development Manager
- Chris Renkin, Planning Officer
- Meagan Monk, Community Recreation & Grants Officer

Other

- Murray Ray, Swan Hill Inc
- Yvonne Jennings, Objector
- Paul Troja, Swan Hill Abattoirs
- Rebecca Dick, Executive Officer Swan Hill Inc

**CONFLICT OF INTEREST**

-

**COUNCILLOR ASSEMBLIES ATTENDANCE AND AGENDA**  
**9 September at 1:00pm**  
**TOWN HALL (COUNCIL CHAMBERS), SWAN HILL**

**AGENDA ITEMS**

- Annual Report
- Market Day
- Proposed Lane Closure – Wilson Street
- Major Projects Plan procedure
- Tour of the SuniTafe Swan Hill Campus

**ADDITIONAL ITEMS DISCUSSED**

- 

**ATTENDANCE**

Councillors

- Cr Jessie Kiley
- Cr John Katis
- Cr Jim Crowe
- Cr Gary Norton
- Cr Greg Cruickshank
- Cr Michael Adamson

Apologies

- Cr Les McPhee

Officers

- Brett Luxford, Director Development and Planning (Acting CEO)
- David Leahy, Director Infrastructure
- Bruce Myers, Director Community & Cultural Services
- Helen Morris, Organisational Development Manager

Other

- 

**CONFLICT OF INTEREST**

-

## **SECTION D – NOTICES OF MOTION**

### **D.14.2 MURRAY VALLEY HIGHWAY LAKE BOGA - SPEED LIMIT**

Having given due notice, **Councillor Les McPhee**

**MOVED that:**

**Council write to Vic Roads in support of Lake Boga Inc requesting a speed limit reduction on the Murray Valley highway, through Lake Boga from 80km/h to 60km/h.**

#### ***Preamble***

Studies undertaken in Lake Boga over the years have all shown the need for connectivity from the town centre to the lake.

Over the past few years there has been significant development of walking paths and tourist attractions in and around Lake Boga, which has increased pedestrian traffic between the town centre and the lake.

Recently there has been a fatal collision along this length of highway, along with serious injury collisions and numerous near misses.

For the above reasons Lake Boga Inc is seeking support from Council to their letter (see attached) to Vic Roads to have the speed limit on the Murray Valley Highway, from the caravan park to Lakeside Drive reduced to 60km/h.

This speed limit reduction is required to improve safety for pedestrians crossing the highway between the lake and the town centre. This will also improve safety for vehicles turning off the highway and entering the highway from the side roads.

14 August 2014

VicRoads Head Office Administration  
60 Denmark Street  
Kew VIC 3101



Dear Sir / Madam

**REQUEST TO REDUCE THE SPEED LIMIT  
ALONG THE MURRAY VALLEY HIGHWAY IN LAKE BOGA**

This letter has been tabled to your department to formally request the speed limit on the Murray Valley Highway through the township of Lake Boga be reduced to 60Kmh. Currently the minimum speed limit along the Murray Valley Highway through Lake Boga is 80km.

Over the past few years, there has been significant development in and around Lake Boga. Combining this with the increase traffic flows along the Murray Valley Highway, we as a community group believe it is time to change the minimum speed limit along the Murray Valley Highway through our Town.

The stretch of road in question goes past the lakeside Caravan Park, service station, the Yacht Club, Community Park, earmarked businesses and private residence homes. It also provides main access into the township and lake precinct & boat ramps, with limited space to pass turning traffic & minimal turning lanes in existence. A minimum speed limit of 60km would also make it safer for pedestrians to cross the highway.

The number of recent accidents and near misses along this road, highlighting the current dangers this presents, which is why Lake Boga Inc are now instigating this action. Travelling from Melbourne the 60Kmh limit could start just south of the caravan park and finish North of Lakeside drive; this would create a safer environment for motorists & pedestrians alike.

The speed limit reduction along the Murray Valley Highway through Lake Boga has been tabled as an action required in the Lake Boga Urban Design framework 2004, Lake Boga Community Plan and the Lake Boga Economic Development, Tourism Strategy 2013-17.

Lake Boga Inc is a community base organisation that represents the view, wants and needs of the Lake Boga community. It is with this in mind we look forward to your rapid response on this issue. Please do not hesitate contacting me either at the below address, or [cameronsmits@woodandco.com.au](mailto:cameronsmits@woodandco.com.au).

Kind regards,

Cameron Smits  
Lake Boga Inc President  
PO Box 249  
Lake Boga VIC 3584



**SECTION E – URGENT ITEMS NOT INCLUDED IN AGENDA**

**SECTION F – TO CONSIDER & ORDER ON COUNCILLOR REPORTS**

**SECTION G – IN CAMERA ITEMS**