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Minutes of the Open Section of the Meeting of the Shire of Campaspe Council, held in the Echuca Council Chamber, on the 8 February commencing at 7:00pm

PRESENT:

Councillors: John Elborough (Mayor), Kevin Simpson, Ian Maddison, Marion Riley, Murray McDonald, Judi Lawler and Neil Repacholi.

OFFICERS:

Keith Baillie - Chief Executive Officer

Jean Andrews - General Manager Community & Culture

Jon Aujard - General Manager Assets & Planning

Peter Mangan - General Manager Corporate Services

1. APOLOGIES:

Nil.

2. CONFIRMATION OF MINUTES:

COUNCILLORS RILEY/SIMPSON

That the minutes from the Council Meeting held on 25 January 2007 be accepted as a true and accurate record.

CARRIED

3. DECLARATION OF INTERESTS:

Nil.

Suspension of Standing Orders

COUNCILLORS REPACHOLI/RILEY

That Standing Orders be suspended to allow consideration of Item 10.5 Planning Application No. 2006-608.

CARRIED

Mr Paul Batchelor addressed Council on behalf of the objectors.

At the time of writing Council had received a total number 171 submissions including one petition containing 29 signatures.

Pursuant to the provisions of the Planning & Environment Act 1987, Council can receive objections up until the time a decision is made on the application.

The updated objection numbers are:

- Total - 185 objections.
- 3 petitions - 89 signatures

10.5 *Planning Application No. 2006-608, use and development of the land for a brothel, 7 Bilkey Court Echuca (Peter McKinnon, Team Leader Town Planning)*

1. Purpose

This report relates to Planning Application No. 2006-608, an application to use and develop the land for a brothel at 7 Bilkey Court, Echuca.

This report recommends that Council issue a Notice of Decision to grant a Planning Permit.

2. Subject Land

The subject site is located in an existing industrial area to the east of Echuca. Bilkey Court is a court bowl connecting to the east of Cornelia Creek Road, north of the Echuca-Toolamba railway. The site is rectangular, has an area of approximately 1921 m², with a frontage to Bilkey Court of 24.52 metres. The land is currently vacant and is located in the south-eastern most portion of the Court.

A locality plan is found in attachment 10.5a.

Bilkey Court is predominantly industrial in character. Some sites within the court are improved by buildings; however the majority of the lots are unoccupied and used for storage. Land immediately to the east and opposite the court to the north are used materials recycling with no permanent structures. The southern side of Bilkey Court contains two typical industrial buildings which help screen the subject land from the Cornelia Creek Road. Similarly, an industrial building on the northern side of Bilkey Court at the corner of the Cornelia Creek Road intersection limits visibility to the site from this main thoroughfare.

Immediately south of the land is the substantial 'Cedenco' industrial operation. The portion of the site closest to the subject land is used as outdoor storage, with no buildings in close proximity.

Description of the site and surrounds is attached 10.5b.

3. Background

In early 2004, the Shire received a planning application to use and develop the land for a brothel at 7 Bilkey Court. The application was advertised and a significant number of objections were made. Prior to Council making a decision on the application, it was identified the proposal was in breach of Section 72 of the Prostitution Control Act. In effect, the applicant had not obtained the appropriate licence from the Business Licensing Authority and therefore could not make an application for planning permit. The application was subsequently withdrawn in February 2004.

The applicant has since obtained the necessary licences as per the requirements of the Prostitution Control Act. It should be noted the Business Licensing Authority opposed the applicant from obtaining a licence, however this was appealed to VCAT. Via an order by VCAT's Occupational & Business Regulation List in October 2006, the applicant was granted a licence to carry on a business as a prostitution service provider. Council or the community are not a party to these proceedings.

In lieu of the above, the applicant has reapplied for a planning permit with almost identical supporting information as per the 2004 application. The fresh application was lodged on the 21 November 2006.

4. Owner/Applicant

The owner and applicant is Juy Hepner.

5. Key Issues

- 5.1 Decision Guidelines as per Planning Scheme and Prostitution Control Act.
- 5.2 Amenity, social and safety issues.
- 5.3 Not consistent with purposes of zone and industrial land use.
- 5.4 Community comment and level of opposition.
- 5.5 Negative perception or image of Echuca as a result of the use.

6. Zoning

- 6.1 The land is zoned Industrial 1.

7. Overlays

- 7.1 The land is subject to a Design & Development 1 Overlay.

8. Permit Trigger

Pursuant to Clause 33.01-1 of the Planning Scheme a permit is required to use the land for a brothel in the Industrial 1 Zone.

Pursuant to Clause 33.01-4 of the Planning Scheme a permit is required to construct or carry out works in relation to a permit required use.

Pursuant to Clause 43.02-2 of the Scheme a permit is required to construct or carry out works as per the provisions of the Design & Development 1 Overlay.

9. Proposal

The brothel will comprise six rooms and be housed within a single storey building located approximately 6.2 metres off the front boundary. Extensive landscaping opportunities exist at the front and eastern side of the proposed building, and the site will also include seventeen car spaces at the rear. It is proposed to operate the brothel between the hours of 11am and 7 am the following day, seven days a week. The building will incorporate the following components;

- Two customer entry points, one with discrete access from the rear car park.
- Cloak room and front reception desk adjacent to entry.
- Waiting and lounge area, including customer amenities.
- Staff room and amenities.
- Manager's office.

10. Consultation

10.1 Advertising:

Pursuant to Section 52 of the Planning and Environment Act 1987, the application was advertised via a sign on the site, a letter to nearby landowners and a public notice in the Riverina Herald.

Whilst the brothel use was required to be advertised and persons have an opportunity to object, the buildings and works component is exempt under the Planning Scheme from notice provisions.

10.2 Submissions

171 submissions were received objecting to the application. This number is inclusive of multiple submissions sent by the same individual, and several submissions sent from the same household. 118 submissions were received from individual households.

A petition containing 29 signatures rejecting the proposal has also been received on 25 January 2007.

Grounds of objections can be summarised as follows.

- A decrease in the level of safety in the area
- An increase in the level of crime
- Devaluation of surrounding areas
- Negative effect on the amenity of the area
- A decrease in the level of tourism
- A conflict of morals
- The degradation of women

- Increase the number of drugs in the area
- Decrease in social cohesion
- Strain on local medical services
- Against the vision of the community
- Negatively change the image of a 'family-friendly' place
- An increase in the level of child prostitution
- The workers of the brothel would be marginalised by the community
- Negatively affect residential growth
- Concerns of advertisements that would occur for the Brothel
- Close proximity to homes and businesses
- Decrease of economic activity for surrounding businesses
- Failure to satisfy Workplace Occupational Health and Safety
- Failure to meet objectives of the Shire of Campaspe Plan 2006-2010
- Is not in line with the Campaspe Mission Statement
- Is not in accordance with the Planning Framework
- Fails to meet the objectives of the Local Government Act 1989 No 11

10.3 Mediation / Information Sessions

It is considered that a formal mediation meeting was not beneficial regarding this proposal. The views of the objectors and the proponent are diametrically opposed, and it is extremely unlikely that any common ground between the two parties could be achieved.

10.4 Referrals

The Scheme does not require any formal referral for this type of application. Informal comment was sought from the Business Licensing Authority and the Victoria Police. Neither party objected to the proposal. Comment regarding loading/unloading, drainage and car parking was also sought from Council's Engineering Design Unit. Similarly, no objection was made to the proposed design and layout, including the car parking area.

11. Planning Scheme Provisions

The subject site is zoned Industrial 1 Zone as per the Campaspe Planning Scheme. The primary purpose of the zone is to implement the State and Local Planning Policy Frameworks (SPPF & LPPF) including the Municipal Strategic Statement (MSS), and to provide for manufacturing industry, the storage and distribution of goods and associated uses in a manner which does not affect the safety and amenity of local communities.

The land is also located within the Design & Development Overlay. This control is primarily focused on the design and built form and appearance of new development in relation to Echuca's major entrances. It is considered the design and built form is not a key consideration with regard to this application.

12. Planning Policy Framework

12.1 State Planning Policy Framework

Clause 11 of the Scheme requires authorities to take account of and give effect to both the general principles and specific policies applicable to uses before them and to ensure integrated decision making.

Clause 17.03 refers to Industry, the objective of this clause is;

- To ensure availability of land for industry to facilitate the sustainable development and operation of industry and research and development activity.

Statements of general implementation include;

- Industrial activity in industrial zones should be protected from the encroachment of unplanned commercial, residential and other sensitive uses which would adversely affect industry viability.
- Responsible authorities should not approve non-industrial land uses which will prejudice the availability of land for future industrial requirements in industrial zones.

Clause 19.04 refers to brothels and seeks to provide consistent planning controls for the establishment and expansion of brothels throughout Victoria co-ordinated with the provisions of the Prostitution Control Act 1994. Responsible authorities should consider the matters set out in Section 73 of the Prostitution Control Act before deciding on an application.

12.2 Local Planning Policy Framework

There are no specific policies in the LPPF which relate to brothels in the Shire. However the Framework does refer to industrial development in the municipality. Objectives include,

- To ensure adequate support is provided to existing and new industry to improve international, national and state competitiveness in order to capitalise on the Shire's local competitive advantage",

Strategies of this clause include to support the attraction of new industries to the Shire that are environmentally compatible and ecologically sustainable and establish industrial areas where industries are not likely to conflict with other land uses particularly residential and agricultural uses.

13. Balancing the Focus

Social:	<p>The proposal has attracted a significant number of objections which cite a host of social issues which may eventuate if the brothel is approved. These issues include increases in level of crime and violence and health related issues. It should be noted that the Planning & Environment Act directs planning authorities to consider social implications when assessing applications.</p> <p>Whilst these concerns may be genuine there has been no supporting documentation or research which verifies the comments related to social impacts. As there has been no substantiation or evidence to advance these concerns, it is difficult to assign significant weight to such arguments.</p>
Customer:	<p>The application has been extensively advertised and received a considerable amount of local media interest. An extremely high number of objections have been received which often reflects a significant degree of community concern with the proposal. It is considered formal mediation of this application would not result in common ground being reached.</p>
Environment:	<p>The site is located within an existing urban area, and it is considered there will be negligible environmental impacts.</p>
Business Processes:	No Impact.
Innovation & Learning:	No Impact.
Financial:	No Impact.
People / Human Resources:	No Impact.

14. Officer Comment / Assessment

By their very nature, brothels as a use have the capacity to conjure up a substantial number of opinions and views. Some views are liberal, others are fundamental, others again, extreme. Complex issues are raised, such as morality, social decay and negative images or perceptions of localities. These issues are not easily agreed upon and resolved, and the town planning framework and this planning application offers no ready-made solution to these heady matters.

A primary consideration regarding this application is the proximity of the proposed brothel to residential areas. As mentioned earlier the subject site and surrounds is zoned Industrial 1. The closest residential area is to the north, opposite Ogilvie Avenue. As the crow flies this zone is approximately 400 metres from the subject site. For the purposes of the Prostitution Control Act distances are measured according to any route which may reasonably be used for travelling. For this measurement the distance is approximately 630 metres. There is a dwelling used for residential purposes located approximately 330m as the crow flies north east of the subject site, however it should be noted that this dwelling is located within the Industrial 1 zone.

Sections 73 & 74 of the Prostitution Control Act are key assessment criteria for brothel applications. Section 73 of the Act limits the location of brothels from residential uses. A brothel must be more than 100 metres from a dwelling and 200 metres from a place of worship, hospital, school, kindergarten, children service's centre or any other facility regularly frequented by children. The proposal complies with these prescriptive requirements of the Act.

It is considered there are no facilities in the immediate vicinity which are frequently used by children. Uses in the area are typically industrial with heavy machinery, chemical storage other manufacturing activity prevailing. This type of activity assures a non-child friendly environment. Bilkey Court does not have footpaths so therefore pedestrian and cycling traffic near the site is likely to be infrequent.

Another consideration under the Prostitution Control Act is whether the proposed brothel will conflict with other land uses within the neighbourhood which involve similar hours of operation and creating similar amounts of noise or traffic. As the site is located within a developing industrial estate there are no nearby land use which would be affected by the hours of operation or conduct of the use.

The location of the brothel ensures the proposed brothel will be sited a considerable distance from Cornelia Creek Road. Visibility and exposure to the brothel will be restricted unless entering into Bilkey Court. A maximum of nine staff will be on site at any one time and the application proposes seventeen on site car spaces. This figure is considered to be adequate. It should be noted there are no explicit guidelines with regard to the amount of car spaces required for a brothel under the Planning Scheme. Similarly, generous landscaping opportunities have been incorporated into the design of the site.

The proposed hours of operation (11am to 7am the following day) will not impact adversely on the industrial surrounds. The applicant has submitted that the brothel would be managed and operated in strict accordance with the requirements of the Act and appropriate security systems will be put in place including video monitoring and security personnel. Appropriate management which is strictly governed via the Prostitution Control Act and relevant enforcement personnel should ensure that off site amenity and safety impacts are avoided. VCAT's Occupational and Business Regulation List have deemed the applicant to be a suitable person to hold a prostitution service provider licence.

A considerable number of objections argued that the proposal is not consistent with the purposes of the Industrial 1 Zone. Primarily this zone is set aside for the development of industrial and associated uses, and a brothel does not fit that category. However, a brothel is a permitted use within this zone provided the relevant legislative frameworks are complied with. As highlighted earlier it is considered the proposal satisfies the prescriptive requirements of the Planning Scheme and Prostitution Control Act.

Further, it is considered unlikely that the proposal will compromise future development on adjoining and nearby industrial land. From outside the site, the use will have the appearance of any other typical industrial building in the locale.

Taking a more strategic approach, there is ample land zoned for industrial purposes which is still awaiting development or use. Therefore, it is considered the use of 1921m² area of land for non-industrial purposes is highly unlikely to impact adversely on the supply of industrial land for Echuca.

Another less tangible issue raised is that the image and perception of Echuca will be tarnished if it has a licensed brothel. This particular issue is almost impossible to

quantify. Advice from the Victorian Business Licensing Authority indicates there are five existing licensed brothels outside of metropolitan Melbourne, three of which are located in Geelong, one in Morwell and one in Shepparton. If approved, then Echuca will be one of the smallest urban areas in the state to have such an establishment. This would be a somewhat dubious honour and may impact on the perception and image of the town.

The Council Plan and associated Mission Statements and the MSS indicate that the Council seeks to help create an environment which is dynamic, challenging and sustainable. However these documents contain broad overarching objectives and statements which do not explicitly deter certain uses such as brothels. Effectively these key strategic documents are silent on this matter and are considered to be of little assistance when assessing this application.

With regard to the potential diminution of the standing of and the creation of a negative perception of Echuca, the following is considered pertinent. The site is located in a conventional industrial area with some industrial uses presenting a poor image to Bilkey Court and other streets in the vicinity. The materials recycling uses immediately to the east and to the north of the subject site, by their very nature, do not provide for an aesthetically appealing streetscape or image. It is unlikely the proposed brothel will exacerbate these existing visual conditions. If anything, a well maintained, used and landscaped site is likely to have a positive visual impact on the street.

Most objections raised moral, social and health concerns regarding the proposal. Moral and health matters are not matters applicable for consideration in this application. Many of the objections raised were moral considerations, some were health considerations and others were thinly disguised moral issues which, whilst in themselves important to the objectors, are not matters which can be considered lawful or relevant to this proposal.

15. Conclusion

The application presents a sizable dilemma for Council. On the one hand there is a proposal which comfortably fits the prescriptive, tangible requirements as required by law. On the other, there is a proposal which ignites strong opposition by large sectors of the community and raises intangible issues such as the negative perception of Echuca and potential future 'social' impacts. Importantly, no evidence has been produced which sustains that the perception and negative image of Echuca will be adversely affected by the proposed use. Further, no evidence has been produced which substantiates the multitude of statements declaring this use will result in the nominated social, health and amenity issues.

The proposed brothel is sufficiently located well away from sensitive land uses or uses that might attract children. By virtue of its prohibition in most other zones, an industrial area is considered to be an appropriate location for a brothel as per the requirements of the Planning Scheme. Despite the moral objections that this use generates, when assessed against the relevant legislative framework, it is recommended that a Notice of Decision subject to conditions be issued.

RECOMMENDATION

That Council resolve to issue a Notice of Decision to Grant a Planning Permit for Lot 5 PS436714C, Parish of Echuca North, commonly known as 7 Bilkey Court, Echuca, to use and develop the land for a brothel:-

1. Prior to the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to, and approved by, the Responsible Authority. The

plans must be drawn to scale with dimensions and must be in accordance with the plans submitted to Council but modified to show:

- a) Location and details of all business identification signs
 - b) Location and details of all external onsite lighting.
 - c) A landscape plan and schedule prepared by a suitable qualified person including all fencing and paving
 - d) A schedule of materials, colours and finishes including colour samples
 - e) Increase of vehicle driveway from the width of 4.3m to 5.8m
 - f) Vehicle driveway and the existing kerb and channel fronting the property to be shown on plan
 - g) Correctly annotated elevations
 - h) Deletion of spa from Manager's office
2. The layout of the use and development as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.
 3. Once the use and development has started it must be continued and completed to the satisfaction of the Responsible Authority.
 4. Before occupation of the development areas set aside for the parking of vehicles and access lanes as shown on the endorsed plans must be:
 - a. constructed;
 - b. properly formed to such levels that they can be used in accordance with the plans;
 - c. surfaced with an all weather sealcoat;
 - d. drained;
 - e. line-marked to indicate each car space and all access lanes;
 - f. clearly marked to show the direction of traffic along the access lanes and driveways;

to the satisfaction of the Responsible Authority.

Car spaces, access lanes and driveways shown on the endorsed plans must not be used for any other purpose.

5. The landscaping as shown on the endorsed Landscape Plan must be completed to the satisfaction of the Responsible Authority before the development is occupied or at such later date as is approved by the Responsible Authority in writing. No later than seven (7) days after the completion of the landscaping, the permit holder must advise Council, in writing, that the landscaping has been completed.
6. The brothel may operate only between the hours of 11 am and 7 am the following day.
7. Outdoor and security lighting must be designed, baffled and located to the satisfaction of the Responsible Authority to prevent any adverse effect on adjoining land or roadways.

8. The amenity of the area must not be detrimentally affected by the use or development, through the conduct of patrons or the appearance of the land and buildings to the satisfaction of the responsible authority.
9. The land must be drained to the satisfaction of the Responsible Authority. All stormwater runoff must be disposed of to the satisfaction of the Responsible Authority.
10. The owner/applicant must provide for the stormwater drainage in respect to the development and all drainage works both within the development and to an approved point of discharge are to be constructed at full cost to the owner/applicant to the satisfaction of the Responsible Authority.
11. A vehicular crossing must be constructed to serve the development including a concrete driveway between the lot boundary and road carriageway in accordance with Responsible Authority specifications. Any existing vehicle crossing not being used in the development for access/egress is to be removed and replaced with concrete kerb and channel or as appropriate to the satisfaction of the Responsible Authority. Inspections are required prior to the removal of any existing concrete and prior to the pouring of any new work.
12. All car parking spaces must be designed to allow all vehicles to drive forwards both when entering and leaving the property.
13. Soil erosion control measures must be employed throughout the construction stage of the development to the satisfaction of the responsible authority.
14. This Permit will expire if:
 - a. The development and use does not start within two (2) years from the date of this Permit.

The Responsible Authority may extend the times referred to if a request is made in writing before this Permit expires or within three (3) months after the expiry date.

COUNCILLORS LAWLER/SIMPSON

Echuca is a small regional centre with a distinctly rural atmosphere and character. Echuca is an attractive destination for holiday makers, families and retirees. The Shire of Campaspe considers a brothel is not an appropriate land use for the town or the municipality. It has the potential to adversely alter the Shire and Echuca's reputation and image. This has been confirmed by the significant number of submissions objecting to the proposal, inclusive of social grounds.

That Council resolve to refuse the application on the following grounds:

- 1. The application does not accord with Clause 21.02-1 of the Planning Scheme in that the proposal will not further Council's commitment to passing on the Shire to the next generation its current social attributes.**
- 2. The application does not accord with Clause 21.02-2 of the Planning Scheme in that the proposal does not fulfil Council's Land Use Planning Vision.**
- 3. The application does not accord with Council's Settlement Overview (Clause 21.06) which seeks to promote Shire's growth industries (particularly tourism) and Echuca as an increasingly attractive retirement destination.**

4. The application does not accord with the Shire's various social needs and expectations as per Clause 11.03 of the Planning Scheme.

and further:

That Council investigate the possibility of amending the Planning Scheme to prohibit brothels in the Shire.

CARRIED UNANIMOUSLY

Resumption of Standing Orders

COUNCILLORS REPACHOLI/SIMPSON

That Standing Orders be resumed.

CARRIED

The Mayor welcomed the new CEO Mr Keith Baillie

4. PETITIONS:

No items in this section

5. INWARDS CORRESPONDENCE:

5.1 *Letters of thanks and appreciation (Sandra Ennis, Executive Officer)*

The following have been received:

- * Echuca Swimming Club - letter of thanks for support of Carnival held on 3 December 2006.
- * Lions Club Lockington - letter of thanks to Parks and Garden Staff for dedicated attention to Lockington parks and gardens, particularly in the lead up to the Lions District Convention.
- * Friends of Aileu - letter of thanks for \$500 donation towards the work of the Alternative Technology Association in Aileu District.
- * Family of Bill Long - letter acknowledging letter of sympathy on passing on Bill Long.
- * Echuca Moama Search and Rescue - letter of thanks for annual subsidy received.
- * Engineering Australia Bendigo - letter of thank for supporting the 2006 mentoring dinner for engineering students.
- * Hepburn Shire Council - letter of appreciation for hospitality extended during recent visit to Girgarre to discuss the community development program.
- * Wyuna Family History Group - letter of thanks for contribution towards printing of first book "Wyuna 1840 to 1940".
- * Australian Red Cross - letter of appreciation for support to 2006 Murray Marathon. Event a success raising close to \$300,000.
- * Tongala Football & Netball Club - letter of appreciation for organising to have the home team coach's box replaced before the start of last year's football season, and negotiating issues regarding insurance.

COUNCILLORS REPACHOLI/RILEY

That Council receive and note letters of thanks and appreciation as listed.

CARRIED

6. COUNCILLORS' REPORTS:

Cr Elborough reported on the following:

- Quarry meeting
- Port meetings
- CEO Discussions
- Northern Oval meeting
- MAV Drought Task Force
- Keith Baillie Ward visit
- CPA
- Kyabram Baptist Church opening
- Loddon Campaspe meeting - CEO Bendigo
- Friendship meeting Echuca and East Timor
- Paul Weller - Upper House Bridge meeting
- China & Vietnam meeting with Phil Pearce
- Cunningham Lodge land rezoning
- Murray River grouping of councils
- Australia Day presentations

Cr Repacholi reported on the following:

- Australia Day Celebrations at Tongala, Kyabram Valley and Koyuga 26/01
- Tongala Australia Day Committee Wrap up meeting 01/02
- Tongala Recreation Reserve Committee 02/02
- Tongala RSL Armoured memorial Committee 07/02

Cr Riley reported on the following:

- Australia Day at Girgarre, Stanhope, Toolleen - Community Service Award - Joan Correy and Rushworth 26/01
- Stanhope meeting - Stanhope Development Committee Chair 29/01
- Rushworth meeting - Recreation Reserve 29/01
- Colbinabbin CAG 29/01

- Echuca - Portfolios briefing 30/01
- MAV - Future of Local Government 31/01
- Waranga Steering Committee 01/02
- Echuca - Portfolio Briefing maintenance 02/02
- Waranga Regional Tourism Association meeting 07/02

Thanks to staff regarding installation of fence surrounding Fire Tower - Rushworth which was an initiative of the Rushworth Trader's.

Cr Lawler reported on the following:

- Australia Day Breakfast at Aquatic Reserve - Echuca 26/01
- Discussion with Rev Tony Wicking re issues in Echuca 29/01
- Discussion regarding second bridge across the Murray River at Echuca with Upper House National and Liberal members 06/02
- Discussion with staff re possible development of Alton Reserve 07/02
- Discussion with Mike Bruty re Echuca projects 07/02
- Community forum with CEO Phil Pearce of Mildura regarding the China Trade Fair 07/02
- Discussion with Echuca Community for the Aged regarding expansion possibilities 08/02

Cr McDonald reported on the following:

- Australia Day - Girgarre 100 people
- Rochester Lions Club 280 breakfast
- Dinner that night Ross McPherson guest speaker, David Park junior citizen of the year also Shire junior citizen
- MAV environmental meeting - presentation from DSE on Vic Land Health and Biodiversity Whitepaper - draft guideline end February whitepaper early 2008 - Applying to Greenhouse Commission for grant to convert street lights - large numbers - also Westernport Climate Change Study - emission of methane from beef and dairy cattle talking about grazing patterns.
- Reclamation of landfills
- Tongala good establishment of grass but Goulburn Valley Water sheep got in for 5 days and grazed it out
- Rushworth - going to use hessian and mulch to try to establish plants and prevent erosion
- Trust for Nature - met with environmental staff - about covenants and rate rebate

- Random House Rochester - met with Regional Action Group
- Rochester Hospital CEO and Campaspe News
- Greenhouse Alliance - carbon trading, carbon emission, carbon audits

Cr Simpson reported on the following:

- Council meeting 14/12
- Riverina Christmas Breakfast 15/12
- Public meeting - Brothel issue 19/12
- CEO Interviews 20/12
- VicRoads - Sturt/Ogilvie Intersection 20/12
- Northern Highway Town Entrance Committee 20/12
- EMFM meeting 21/12
- Shire Staff Breakfast 22/12
- Shire Staff BBQ 22/12
- Saleyards Opening 10/01
- Bridge Discussion - Paul Weller 10/01
- Scout Jamboree Civic Reception 11/01
- Girgarre Market 14/01
- Riverwatch meeting 18/01
- Port Authority meeting 24/01
- Briefing session - Rochester 25/01
- Council meeting 25/01
- Australia Day Breakfast 26/01
- Little Big Band Fundraiser 26/01
- CEO Briefing 01/02
- Lutheran Church Paster Installation 04/02
- Bridge Briefing with State Politicians 06/02
- Alton Reserve Refurbishment meeting 07/02
- Echuca Capital Works briefing 07/02

-
- China Relationship Information session 07/02
 - Echuca Community for the Aged meeting 08/02
 - Community Planning Update 08/02
 - Briefing session 08/02

7. CHIEF EXECUTIVE OFFICER'S REPORT:

Acting Chief Executive Officer reported on the following:

- Flag raising - Aquatic Centre 26/01
- Colbinabbin CAG 29/01
- Waranga Hospital Steering Committee 01/02
- East Timor Association meeting 05/02
- Second Bridge discussion - Paul Weller 06/02
- Community forum with CEO Phil Pearce of Mildura regarding the China Trade Fair 07/02

COUNCILLORS RILEY/SIMPSON

That the Councillors' Reports and Acting Chief Executive Officer's Report be received and noted.

CARRIED

8. SOCIAL**8.1 Minutes Received - Citizen Advisory Groups (S. Ennis – Executive Officer)**

Name	Meeting held
Colbinabbin Advisory Group	27 November 2006
Lockington Community Advisory Group	16 November 2006
Nanneella Timmering Action Group	16 November 2006, 4 January 2007
Rochester Community Advisory Group	16 January 2007
Rushworth Community Advisory Group	15 January 2007
Tongala Citizen Advisory Group	13 December 2006

Copy of CAG Minutes have been forwarded to Councillors according to Wards.

COUNCILLORS MADDISON/RILEY

That reports by the Citizen Advisory Groups be received and noted.

CARRIED

8.2 *Echuca Community Hub Development Options (Jenny Mustey, Library Services Manager)*

1. Purpose

To present the findings of the Echuca Community Hub Development Options Study conducted by Urban Enterprise and the Inspection Report conducted by Ainley Engineering.

2. Background

On 27 May 2006 Council purchased the former IGA supermarket located at 249-259 Anstruther Street Echuca. The property was purchased for \$3,070,000. The property was purchased with the view to develop the new Echuca Community Hub Library which would include the regional library and a range of community facilities. Architects Stephenson and Turner provided their professional advice and experience with similar projects to assist Council with making the decision to purchase the former supermarket. The need for a new library for Echuca has been identified through a range of feasibility studies, surveys and community consultation.

Prior to the purchase, Macroplan Australia completed a study to determine the requirements of a new library and multipurpose facility on a greenfield site on Sturt Street, Echuca. Macroplan Australia, together with a number of potential stakeholders, identified the components and the spatial requirements of the facility. During the Macroplan Australia study it was realised that the Sturt St site would not be released to Council. Macroplan Australia's study was still valid as it provided valuable demographic data and best case examples of similar facilities. The Macroplan Australia study also included community consultation that provided the steering committee with a clearer idea of what the community needs and expectations were for the new facility.

Soon after the purchase of the Anstruther St property, Council identified that the site had strategic importance and therefore a review of development options for the site and precinct should be completed. The main aim of this review was to minimise any exposure to financial risk for Council and ensure that any financial return to Council was maximised.

On 25 August 2006 the Shire of Campaspe appointed Urban Enterprise to undertake a viability analysis of development options for the proposed Echuca Community Hub Library. This involved a review of development options for the precinct in the Echuca CBD which includes the former supermarket at 249-259 Anstruther Street, the High Street Car Park at 438-454 High Street and Caltex Service Station at 456-464 High Street.

Urban Enterprise presented their final report to the Steering Committee (comprising of Acting Chief Executive Officer, Library Services Manager, Building and Contracts Manager, Acting Community and Culture General Manager, Economic Development Manager, Planning Manager and Councillors Simpson, Repacholi and Lawler) on 13 December 2006. This report as previous distributed to Councillors in November/December. Following discussions with Urban Enterprise it was deemed appropriate to engage Ainley Engineering to provide a structural analysis of the proposed and preferred option of the Steering Committee. Ainley Engineering Inspection Report appears at Attachment 8.2a.

3. Content

A summary of the Urban Enterprise report is as follows.

After consideration of the Macroplan Australia recommended spatial requirements and discussions with the steering committee, including a Service Based benchmark study completed by the Library Services Manager it was determined that the Echuca Community Hub Library will require 1955 sqm of floor space. This includes all library components, plus offices, toy library, family history, toilets, consulting rooms, circulation space (1840 sqm) and business incubator space (115sqm).

A site option analysis confirmed that the only viable development option in the short to medium term is the development of the supermarket site on its own. Commercial space demand exists for food retail and speciality shops which would align well with the Community Hub and highlights that a retail arcade through the site under consideration would be viable given the good linkage to the High Street Car Park.

The Urban Enterprise review provided seven development options for the former supermarket building site with estimated costing. These include:

Option 1 – Community Hub at ground floor and first floor and office space on part of the first floor, (includes extension on first floor and office space on first floor).

Net floor area = 2878, Total building cost \$7,170,500, Projected income \$144,450, Capitalized value \$1,538,333, Net cost to Council \$5,632,166.

Option 2 – Community Hub at ground floor and first floor, 2 retail spaces at ground floor, office space at first floor (includes extension on first floor, retail on ground and office space on first floor).

Net floor area = 2878, Total building cost \$7,170,500, Projected income \$156,450, Capitalized value \$1,938,333, Net cost to Council \$6,112,166.

Option 3 – Community Hub on half of ground floor and first floor, 6 retail spaces at ground floor with arcade (includes extension on first floor and retail arcade on ground floor).

Net floor area = 2878, Total building cost \$7,188,523, Projected income \$150,000, Capitalized value \$2,400,000, Net cost to Council \$4,631,459.

Option 4 – Community Hub only at ground and first floor (no extension, no commercial tenancies).

Net floor area = 2234, Total building cost \$4,719,500, Projected income \$47,850, Capitalized value \$465,000, Net cost to Council \$4,248,500.

Option 5 – Community Hub at ground floor and first floors with 3 retail spaces @ ground floor (includes no extension, retail on ground floor).

Net floor area = 2258, Total building cost \$4,819,500, Projected income \$66,000, Capitalized value \$1,010,000, Net cost to Council \$3,803,500.

Option 6 – Community Hub at ground floor and first floor, 4 retail spaces at ground floor, office space (includes extension on first floor, retail on ground and office on first floor).

Net floor area = 2878, Total building cost \$7,170,500, Projected income \$174,450, Capitalized value \$2,140,833, Total cost to Council \$5,023,666.

Option 7 – Community Hub at ground floor and first floor, 4 retail spaces at ground floor, office space at first and second floors (includes extension on first floor, retail at ground floor, and office on first and second floor).

Net floor area = 3633, Total building cost \$9,058,000, Projected income \$281,700, Capitalized value \$3,596,666, Total cost to Council \$5,455,333.

Urban Enterprise recommended that Option 5 should be the preferred development option. It would be the lowest net cost to Council; this option includes 303 sqm of retail space at the ground floor, 1201 sqm of Community Hub at the ground floor, and 754 sqm of Community Hub at the first floor. On page 33 of the Urban Enterprise report it states that "Option 5 scores the highest against the objectives for the Community Hub as it does provide an on-going income stream to Council and that the retail uses can complement the Community Hub use'. Please refer to pages 35-36 of Attachment A for two concept designs based on the recommended option. According to the Urban Enterprise report these concepts incorporate a link between the High St Car Park and Anstruther Street which would encourage pedestrian traffic movement and custom to the tenancies and library. The concept also creates a vibrant link space, library security can be maintained, natural light can penetrate into the building through a skylight, active street frontage and arcade space with café, retail spaces and ATMs.

In the Business 1 Zone (B1Z) a planning permit is required for buildings and works and use of the land for a Place of Assembly (Library) and for a reduction or waiving of car parking requirements.

Based on applying the Echuca Parking Study (which is less demanding than the State Planning Provisions) the preferred option results in a requirement for 23 spaces (the existing credit is 37 spaces).

Urban Enterprise presented their recommendation of Option 5 to the Steering Committee. The Steering Committee considered the concept designs of Option 5 but it also raised the need to consider the possibility of incorporating additional office space for Shire of Campaspe staff on a second floor extension which aligns more with option 7. Council's Engineering Design and Local Laws Departments currently work from office space leased by Council at the cost of \$27,000 per annum. A review of available office space in Council offices is currently being undertaken. This review may identify further opportunities for Council.

Initial findings from the Stephenson and Turner report indicated that there is an opportunity to extend the building at the first floor. They suggested that an extension of this type would require demolition of the existing roof and supporting structure, a new supporting structure, footings at the ground floor and additional redesign of the space. However, Stephenson and Turner and Urban Enterprise agree that an extension would not necessarily take advantage of the existing value in the current building.

Ainley Engineering were engaged to provide the structural analysis which would provide comment on the stability of the building and verify whether the existing roof and floor structure could support a first floor extension to the existing building. Ainley Engineering provided information that would support three different extension proposals that vary in complexity and expense. The Ainley Engineering Report appears at Attachment 8.2a.

A summary is as follows.

Ainley Engineering provided three extension proposals:

1. Provided a second story extension at the front of the building and retain the current second floor level. This includes the installation of a new steel column installed in a 7000 square grid similar to that at the rear of the building. Steel beams will be installed with timber or steel joists spanning between the main beams. Additional pad footings are needed to support the internal column, new bored pier footing or footing thickenings doveled to existing footing around the perimeter of the building. The existing roof trusses could be dismantled initially and reused for the roof structure once the new floor is installed or the roof structure could be lifted first and raised to the required level. Columns would be strengthened so support the required load. Temporary braces and props will provide stability to the building during installation of new first floor.
2. Provided a second and third storey extension at the front of the existing building and retain the current second floor level. This would be constructed in a similar process as in option one, but lifting the roof first may be difficult and costly due to the height required and the extent of strengthening and stabilizing. An additional temporary structure would be required to stabilize the building during construction which would make the new floor structures difficult to build.
3. Provide a third storey extension on top of the existing second storey, and leave the existing lower roof structure intact. Existing internal steel columns could remain, steel floor beams and floor joists to be welded to existing columns to form new floor system. Perimeter wall columns could be increased in size to support the new loads and the roof dismantled and reinstated. Load capacity of existing floor structure will support additional loads. Existing footing and soil type and capacity below concrete columns need to be verified by a geotechnical engineer.

Ainley Engineering concludes that the building is structurally sound with no visible evidence of structural deterioration or distress. The existing building would support any of the three different proposed extensions.

Council officers have now organised for a geotechnical report to be completed. This report will support and confirm the information that has been provided by Ainley Engineering.

4. Issues

4.1 Financing

Prior to the purchase of the Anstruther St property in May 2006, Council were briefed on how the purchase of the building and refurbishment would be financed. The information from the Confidential Council Report in May 2006 has been included in this report and is as follows.

“From the table below If Council purchased the building in 2005/06 for \$3.5 million it would need to pay a deposit of 10% or \$350K. This could be funded from the capital works vote of \$182K and Accumulated Surplus of \$168K. The reality is that the total cost will be shown in 2005/06 if Council purchases the property on the week end.

The remaining \$3.15 million would be funded from the rest of the Accumulated surplus \$379K, the Capital works vote \$270K and loan borrowings \$2,501K.

This would involve additional loan repayments that are not in the draft budget of \$218K.

In 2007/08 it is anticipated that the refurbishment of the building would take place. Based on an additional capital cost of \$4.5 million being funded from grant \$1,000K and loans \$3.5 million. This will add an additional \$306K of debt servicing and redemption costs.

Library - cash outflows					
<i>Description</i>	<i>March Budget 2005/06</i>	<i>Forecast 2006/07</i>	<i>Forecast 2007/08</i>	<i>Forecast 2008/09</i>	<i>Forecast 2009/10</i>
Recurrent Income					
Grants		-	1,000,000		
Revenue Total	-	-	1,000,000	-	-
Recurrent Expenditure					
Depreciation	-	-	150,000	150,000	150,000
Debt Servicing	-	153,276	363,582	353,326	342,416
Expenditure Total	-	153,276	513,582	503,326	492,416
Net Projected Surplus/(Deficit)	-	(153,276)	486,418	(503,326)	(492,416)
Capital Income					
Depreciation	-	-	150,000	150,000	150,000
Loan Borrowings		2,501,354	3,500,000		
Sub Total Capital Income	-	2,501,354	3,650,000	150,000	150,000
Capital Expenditure					
Asset Expenditure	350,000	3,150,000	4,500,000		
Debt Redemption	-	65,268	160,770	171,026	181,936
Sub Total Capital Expenditure	350,000	3,215,268	4,660,770	171,026	181,936
Net Capital Result	(350,000)	(713,914)	(1,010,770)	(21,026)	(31,936)
Net Budget Result	(350,000)	(867,190)	(524,352)	(524,352)	(524,352)
Use of Accumulated Surplus	168,354	378,646			
Overall Budget Result	(181,646)	(488,544)	(524,352)	(524,352)	(524,352)

The total debt servicing costs of the loans would be \$524K from 2007/08. Part of this could be financed from the Capital works budget of \$300K in 2007/08 and \$330K for the years after 2007/08 for the Library building. The use of the additional Grants Commission funding \$125K would also be needed but this would still leave a shortfall of \$69K which would need to be found in 2008/09 on and \$99K to be found in 2007/08.

4.2 State Government Funding

It should be noted that the Library Services Manager has been advised by the Department of Victorian Communities that it is highly likely that additional Living Libraries grants will be available in 2007/08. This will be confirmed through the State Government budget process.

4.3 External Interest

Prior to the sale of the Anstruther Street property in May 2006, there was keen interest shown by other property developers in developing the site. Recently Council has been approached by an additional developer who has expressed interest in developing the site to:

- a) Meet Council's requirements for a Community Hub/Library
- b) Establish additional retail/office space in the Central Business District

Therefore the development of the Anstruther St precinct has the potential to be a desirable and highly sought after project.

Council Officers will be required to develop a strategic plan that will assist in the process of preparing a brief for potential developers.

This brief should address the following:

- Spatial requirements for the Community Hub/Library
- Spatial requirements for other Council staff
- Requirement for an 'icon' building
- Safe and accessible day and after hours for community use
- Ability to subdivide
- Planning requirements
- Car parking requirements
- Incorporation of sustainable design principles
- Developer access to an architect with experience in library and community building design
- Project time frame/milestones

5. Balancing the Focus

Social:	A new vibrant multi-purpose facility for customers and staff.
Customer:	A facility that will be central and accessible to all.
Environment:	Enhance the built environment in the CBD and will work towards ESD principles.
Business Processes:	Providing a best case example of library and community hub facility.
Innovation & Learning:	Aligns with Council's vision of being a leader in Local Government.

Financial: Net costs range from \$3,803,500 to \$6,112,166.
Gross costs range from \$4,719,500 to \$9,058,000
Potential for savings of \$27,000 per annum.

People / Human Resources: Staff location needs considered.

6. Consultation

A wide range of consultation from Real Estate Agents, Developers, Consultants, Property Consultants, officers from Planning and Economic Development and local business.

7. Officer Comment

An extremely worthwhile feasibility study and structural analysis which provide detailed reports on way forward. The interest indicated by external developers has the potential to assist Council with its financial outlay and commitment.

COUNCILLORS SIMPSON/MADDISON

That Council:

- 1. Approve Option 7 as described by Urban Enterprise. Option 7 – Community Hub at ground floor and first floor, 4 retail spaces at ground floor, office space at first and second floors (includes extension on first floor, retail at ground floor, and office on first and second floor);**
- 2. Prepare a strategic plan/design brief; and**
- 3. Advertise for expressions of interest from potential developers.**

CARRIED

9. ORGANISATION

9.1 *Shire of Campaspe Enterprise Agreement 2007 Negotiations Status (Renee Waters, Organisational Development/Human Resources Manager & Peter Kesson, HR/IMF Coordinator)*

1. Purpose

To provide Council with an update on the status of negotiations for the 2007 Enterprise Agreement.

2. Background

The Shire of Campaspe Enterprise Agreement 2004 is valid until 17 February 2007. The Staff Consultative Committee commenced negotiations on the 2007 Agreement in June 2006 with the relevant Unions and representatives of Non Union Employees.

The Unions involved in the negotiations are:

- ASU (Australian Services Union, which now incorporates the previous MEU), covers indoor, outdoor and home care staff;
- APESMA (Australian Professional Engineers Scientists and Management Association);
- ANF (Australian Nurses Federation), represents maternal and child health nurses and immunisation nurses; and
- AEU (Australian Education Union) represents Pre School Teachers.

Due to the Work Choices Legislation, Awards can no longer be "Called Up" in agreements and it was agreed with Unions that Awards would be preserved with "Prohibited Content" removed. Hence, the new Agreement consists of five parts with a total of 354 pages. The five parts are:

- Part A -The main body of the document which covers all employees of the Shire of Campaspe. Part A also includes clauses for specific conditions in the following areas:
 - Public Works Department
 - Aged & Disability Services
 - Maternal & Child Health Nurses
 - Early Childhood Teachers
 - Port of Echuca
- Part B – Shire of Campaspe Enterprise Agreement, Victorian Local Authorities Award 2001;
- Part C - Shire of Campaspe Enterprise Agreement, Nurses (ANF Victorian Local Government) Award 2002;

- Part D - Shire of Campaspe Enterprise Agreement, Early Childhood Teachers Multi-Employer Certified Agreement 2005;
- Part D - Shire of Campaspe Enterprise Agreement, Early Childhood Assistants-Victoria Award 1999.

3. Content

Negotiations have formally been completed with Part A of the 2007 Agreement very similar in content to the 2004 Agreement. Negotiations focused mainly on a number of core areas, being:

- Quantum, with the following agreed: 4.0% or \$29 per week on the 18 February 2007, 4.0% or \$29 per week on the 18 February 2008 and 4.0% or \$29 on the 18 February 2009;
- Paid Parental Leave, with the following agreed: Maternity 13 weeks Feb 2008, Paternity 2 weeks Feb 2008;
- Adjustment of Allowances, with the following agreed: Allowance to be adjusted by 3.0% annually on the date of quantum increases;
- Redeployment/Redundancy, with the following agreed: 5 weeks pay in lieu of notice, severance pay cap increased from 48 to 52 weeks, no payout of sick leave.

The process moving forward is as follows:

1. Final draft is to be sent to the Office of the Employment Advocate (OEA) for pre lodgement check for prohibited content (current turnaround is 6-8 weeks)
2. OEA confirms that the Agreement contains no prohibited content
3. Information sessions held throughout the Shire to inform staff of changes in new EB
4. Copies of EB distributed to all staff for review (must have access to document for at least 7 days)
5. Staff Vote is held
6. All parties sign the EB
7. EB is lodged with the OEA (this must occur within 14 days of the vote)
8. Notification to be received from the OEA confirming lodgement. EB is effective from date of lodgement
9. Formal notification sent to staff advising that EB is operative

4. Issues

A decision on the implementation of the new Agreement needs to be made. The next quantum pay increases are due on 18 February 2007, however the agreement will not be lodged prior to this date. VECCI have advised that Council proceed with implementation as the new conditions have been agreed upon. It would also reduce the burden on payroll by eliminating the need for back pay.

5. Balancing the Focus

Social:	No Impact.
Customer:	Positive impact on service levels due to staff satisfaction.
Environment:	No Impact.
Business Processes:	Will impact on the types of leave and payments available for staff to access.
Innovation & Learning:	Additional flexibility in models of employment will improve the Shire's position as an employer of choice.
Financial:	Increased cost to Council due to salary increases (which have been budgeted for) and an increase in paid Parental Leave.
People / Human Resources:	Increases the benefits and entitlements available to staff.

6. Consultation

Staff and the Unions have been consulted during negotiations through the Consultative Committee. VECCI have been consulted and have advised Council during negotiations. CMT have also been regularly consulted throughout the progress.

COUNCILLORS LAWLER/REPACHOLI

That Council

- 1. Receive and note the report; and**
- 2. Authorise the signing and sealing of the agreement following satisfactory completion of the process.**

CARRIED

10. ENVIRONMENT

10.1 *General Local Law Number Seven (Richard Whiting, Manager Planning and Development)*

1. Purpose

To recommend that Council adopt General Local Number 7 (Amended) and four Codes of Practice entitled Livestock, Waste, Trading and Building and Works.

2. Background

Council, at its Meeting on 13 December 2005, resolved to adopt General Local Law No. 7 2005 and Codes of Practice entitled Waste, Trading Activities, Livestock and Buildings & Works. Local Laws 2, 3, 4 and 5 were revoked.

Since then a request was received from the High Street and Heritage Traders to amend the Local Law in relation to street furniture.

Further there has been a request to reconsider the maximum number of animals (and in particular pigeons) that can be kept without a permit.

In addition, other administrative issues have been identified through the operation of the Local Law that requires amendment.

Lastly there was a request to consider skips on roads.

Following this review, Council at its meeting on 9 November 2006 resolved to:

- a) Amend Local Law entitled General Local Law No.7 and the Trading, Buildings and Works and Livestock Codes of Practice pursuant to Part 5 of the Local Government Act 1989 in accordance with the recommended amendments;
- b) Give notice of the amended Local Law No.7 and Codes of Practice under Section 119 of the Local Government Act 1989 in local newspapers circulating in the municipality and Government gazette and to community groups and organisations;
- c) Authorise the Manager of Planning and Development to carry out Administrative procedures necessary to enable Council to carry out its functions under Section 223 (3) of the Local Government Act 1989, noting that submissions will be received up to close of business on 11 January 2007 and that submitters requesting to be heard will appear before Council at its meeting in Echuca on 25 January 2007 at 8:00pm;
- d) Rebate fifty percent of the prescribed fee for applications for planning permits for animal keeping or training in accordance with Section 13 of the Planning & Environment Act 1987, Planning & Environment (Fees) Regulations 2000 No.72;
- e) That the fees for local laws permits are zero unless they are for permits as set out in the schedule below; and Local Laws 2006/2007 Charges Incl. GST

Local Laws	2006/2007 Charges Incl. GST
Grazing Permit - 3mths	\$45.00
Street Furniture - All areas excl. Echuca per setting (table and 4 chairs)	\$65.00

Street furniture - Echuca Only per setting (table and 4 chairs)	\$105.00
A Boards (per board)	\$55.00
Goods for Sale Permit - All areas excl. Echuca	\$55.00
Goods for Sale Permit - Echuca Only	\$105.00

f) Notify the Poultry Fanciers Association.

3. Issues

The objective of a Local Law is to provide for:

1. The peace, order and good governance of the municipality,
2. A safe and healthy environment so that the community can enjoy a quality of life that meets its expectations,
3. The safe and equitable use and enjoyment of public places,
4. The protection and enhancement of the amenity and environment of the municipality,
5. The fair and reasonable use and enjoyment of private land, and
6. The uniform and fair administration of this Local law.

The amendments comprise:-

Trading Code of Practice

Clause 9 - Heritage Areas of the Shire

9.2 Street Furniture

Delete "Heritage Advisory Committee" and

Add "Colours are to be chosen from a palette of 6, being:

- Taubmans
- Brown Mitchell Brown (closest to Hamersley Brown)
- Grey Woolstone Grey
- Light Stone Kirribilli
- Green Mid Bristol Green
- Red Phillip
- Cream Lachlan Cream

Replace with "Planning & Development Department generally in accordance with seating type and lettering style guidelines attached to the application form".

Add "Windbreaks will not be permitted where outstands and bollards have been constructed"

Add "Plastic chairs are not permitted"

The above amendments appear in attachment 10.7 to this report entitled Local Law No.7 and Codes of Practice – version 2).

2. Animal Keeping

The current maximum number of animals that can be kept in a residential area without a permit is four or of a particular type as follows:

Type of Animal	Maximum allowed in residential areas.
Dogs	2
Cats	2
Poultry	8 Fowls or 2 Turkeys or 2 Geese or 2 Ducks
Pigs	None Allowed
Horses, Donkeys, Camels, Cattle, Sheep, Goats	None Allowed
Ferrets	None allowed except where otherwise determined by Council in each individual application for a permit
Guinea Pigs	6
Domestic Birds	6
Domestic Rabbits	2
Other Animal Types	None allowed except where otherwise determined by Council in each individual application for a permit
Roosters	None allowed unless the person keeping the rooster(s) is a member of the Victorian Poultry Fanciers Association and complies with their Code of Practice.

The new maximum number of animals that can be kept in a residential area without a permit is four or of a particular type as follows:

Type of Animal	Maximum allowed in residential areas.
Dogs	2
Cats	2
Poultry	8 Fowls or 2 Turkeys or 2 Geese or 2 Ducks
Pigs	None Allowed
Horses, Donkeys, Camels, Cattle, Sheep, Goats	None Allowed
Ferrets	None allowed except where otherwise determined by Council in each individual application for a permit
Guinea Pigs	6

Domestic Birds (other than pigeons)	6
Pigeons	50
Domestic Rabbits	2
Other Animal Types	None allowed except where otherwise determined by Council in each individual application for a permit
Roosters	None allowed unless the person keeping the rooster(s) is a member of the Victorian Poultry Fanciers Association and complies with their Code of Practice.

3. Administrative Changes

The following administrative changes which were advertised are:

Clause 1.6 - Definitions (page 2)

Add " 'Council land" - means any land owned by or vested in or under care and control of council, and includes, all roads, reserves, water courses and reservations"

Add "Drain" - means a system for the collection, storage and removal of stormwater developed and maintained by Council."

Clause 2.1 - Behaviour (page 5).

Clause 2.1.1 (a) Interfere with another person's reasonable use and enjoyment of that public place, add "including, but not limited to, using indecent language or fighting"

Clause 3.2 Open Air Burning (page 13).

Clause 3.2.3

Delete- "in a residential area", including an owner or occupier of land, must not allow to be lit or remain alight, a fire in an incinerator,

Add "unless on private land of more than 2 hectares in area located in a rural area".

Clause 3.3 - Interference with Council Drains, Pits or Footpaths (page 14).

Clause 3.3.3

Add "(c) Obstruct the flow of stormwater to a drain or pit".

Clause 3.4.6 Campfires (page 15).

Add "(v) Solid fuel does not exceed 1 metre in length".

Clause 3.5 - Heavy and Unregistered Vehicles (page 16).

(a) Park, keep or repair on any land a, add "commercial" vehicle weighing more than 4.5 tonnes gross vehicle mass on land in a residential area

Clause 4.1 - Dogs and Cats (page 18)

Clause 4.1 (a) An owner or occupier of land must not, add “without a permit”, keep or allow to be kept more than two dogs and/or two cats on that land.

Clause 4.2 (a) Keeping Animals in Residential Areas (page 18)

Amend (b) Sub clause (a) does not apply where a planning permit has been obtained for land used for the purposes of animal boarding, by deleting “or” breeding, and adding “keeping or training”.

Schedule 1 - Consumption of Liquor in Public Places

Replace maps (Echuca and Colbinabbin) and description (Echuca) with revised boundaries.

Livestock Code of Practice

Re-number Clauses.

Add “(b) Ensure that any mud, waste, injurious material or substances are removed from the surface of the road after stock have crossed”.

Building and Works Code of Practice

Clause 1 - Preamble

Delete “Since the inception of Building permits issued by Private Building Surveyors”.

Reword as “The standard of building sites in the Shire of Campaspe has fallen below a level acceptable to the community. Unsafe practices have been observed and are a cause of concern to the community and Council”.

Clause 5.2 A building site must be provided with site fencing.

Add “An authorised officer may exempt a residential building site from this requirement for the duration of building works if other dwellings are not situated nearby”.

4. Rubbish Skips

In relation to Containers left on roads, commonly known as skips (Clause 2.10 page 9), the wording remains unaltered following the receipt of legal advice.

5. Livestock

There are no changes to the existing requirements for livestock on roads, movement of livestock or stock crossings.

4. Balancing the Focus

Social: Local Laws provide Council with the mechanism to meet community need and expectations through regulatory control.

Customer: Section 119 of the Local Government Act sets out the minimum extent and format of consultation required.

Environment:	Providing leadership, resources and services to ensure a sustainable environment that will meet the needs of the community.
Business Processes:	Offering best value to the community through a process of review of existing services and development of new services.
Innovation & Learning:	No Impact.
Financial:	A negligible effect on income for town planning fees for the 50% rebate for planning permits for animal keeping is expected.
People / Human Resources:	No Impact.

5. Consultation

5.1 Advertising

Public Notice of the amendments to the Local Law and Codes of Practice was advertised by placing notices in local papers circulating within the Shire and a notice Victorian Government Gazette on 23 November 2006 as required pursuant to Section 119 (2) of the Local Government Act.

The amendments to the Local Law and Codes of Practice were referred to Parks Victoria, Victoria Police, The Campaspe Ratepayers Association and Community Advisory Committees and the Poultry Fanciers Association.

A copy of the proposed Local Law and Codes of Practice was placed at Service Centres and on the website.

5.2 Submissions

No submissions were received.

6. Officer Comment

The amendments address issues raised by community groups, Council and officers with the benefit of testing the new provisions. Specifically, matters raised by the High Street and Heritage Traders have been addressed with the guidance of Council's Heritage Advisor.

Fees and charges for Local Law permits have been revised and rebate of fees, in part, for planning permit applications for animal keeping put in place in accordance with Council's resolution.

It is considered Council should take the lead role in enacting its vision for the port precinct by more stringently regulating the use of public spaces under its control. A key component of this process is engaging the community in efforts to preserve the precincts heritage consistent with capital works commitments and funding applications to refurbish the Echuca wharf, build a state of the art interpretive centre, enhance employment opportunities through increased private sector employment based on the stimulation of the tourism market, undertaking streetscape works in the precinct, undergrounding powerlines and improving access thereby providing an economic boost to the region through reinvigoration of the tourism market.

Other changes are administrative and considered minor and non controversial.

RECOMMENDATION

That Council:-

1. Adopt the amendments to General Local Law No. 7 2005 pursuant to Part 5 of the Local Government Act 1989;
2. Adopt the amendments to Codes of Practice Entitled Waste, Trading, Livestock and Building & Works pursuant to Part 5 of the Local Government Act 1989; and
3. Give notice in the Victorian Government Gazette and local newspapers circulating in the Shire of the adoption of General Local Law No. 7 2005 (Amended) and Codes of Practice entitled waste, livestock, trading and building & works.

COUNCILLORS RILEY/REPACHOLI

That having considered a late submission following public notice Council:

1. **Adopt the amendments to General Local Law No. 7 2005 pursuant to Part 5 of the Local Government Act 1989;**
2. **Adopt the amendments to Codes of Practice entitled Waste, Trading, Livestock and Building & Works pursuant to Part 5 of the Local Government Act 1989 subject to the following:**

Trading Code of Practice

Amend part 9.2 - Corporate sponsorship not exceeding 30% of the surface area may be permitted for advertising purposes on screens and umbrellas only in accordance with the specifications set out in the application form to the satisfaction of Council.

Delete part 17 - High Barrier Screens

3. **Give notice in the Victorian Government Gazette and local newspapers circulating in the Shire of the adoption of Amendments to General Local Law No. 7 2005 and Codes of Practice entitled Waste, Livestock, Trading and Building & Works.**

CARRIED

10.2 *Council Contribution to McSwain Service Road, Northern Highway (Anne Howard, Design Services)*

1. Purpose

To determine whether Council will make financial contribution to the construction of the future service road, located to the north of McSwain Road, west side of the Northern Highway, and other future service roads.

2. Background

Council is currently contributing 50% to the total project cost of constructing a service road on the west side of the Northern Highway. The service road fronts three properties owned by Morley Ford, Sandville (Geo. Harvey Motors) and Andrew Crowe. The remaining 50% of costs is being funded by these three parties. This contribution by Council is consistent with the Special Charge Scheme Policy which provides for up to a 50% contribution based on public / private benefit.

During planning of this project, over a number of years, Peter McSwain was given the opportunity to be part of this current service road project and therefore obtain the benefit from Council's contribution. At the time, Peter McSwain chose not to participate in the project. This was disappointing as some temporary works are now required at the entrance, and the opportunity to realise economy of scale has not been available.

The corner allotment owned by Peter McSwain has a planning permit 2006-465 for a two lot subdivision effectively separating the residential zone from the business zone. The property is currently being offered for sale.

Peter McSwain is now requesting that Council give a guarantee to contribute to the future service road that will ultimately be required in front of his property. No commitment is offered by Peter McSwain regarding the timing of the construction works.

3. Content

In 2005 Council and VicRoads agreed on the concept layout for the ultimate development of the Northern Highway, south of Ogilvie Avenue. This layout includes the development of service roads on both sides of the highway. In addition to this Northern Highway work it is also recognised that the Murray Valley Highway requires service roads to be constructed, east of Sturt Street (both sides) and north of Ogilvie Avenue (west side).

Council does not have a specific policy in relation to its contribution to these future service roads, although it does have policies in relation to Special Charge Schemes and Developer Contribution Toward Road Construction. To date Council and/or VicRoads has placed planning permit conditions on developers along the Northern Highway to pay for the full construction of service roads fronting their properties, or sign Section 173 Agreements to do so in the future.

In the absence of specific policy it is difficult for Council Officers to give Peter McSwain a clear indication of whether Council will contribute anything to any future service road constructed in front of his property.

4. Issues

Any decision that Council makes without the adoption of a specific policy could be seen as reinforcing the precedent set by contributing to the current project. This precedent may be taken further by developers than just construction of service roads but may lead to requests for contribution to other infrastructure. It may also be seen as being contradictory to Council's policy regarding Developer Contribution Toward Road Construction (ie full cost to the developer) and weaken the policy as it creates uncertainty.

5. Options

1. Council can advise Peter McSwain of it's decision without adopting a specific policy and run the risk of further uncertainty about this issue and similar issues.
2. To develop a specific policy in relation to the construction of service roads if Council believes that service roads have a higher degree of public benefit than other roads relating to development, prior to advising Peter McSwain of Council's decision.
3. To apply its current policies to the request, that could result in Peter McSwain paying between 50% - 100% of the total costs of the service road project.

6. Balancing the Focus

Social:	Construction of service roads provide safer traffic flows, and improves the appearance of the town's entrances.
Customer:	Provides a clear direction in respect to Council's contribution to future service roads.
Environment:	No Impact.
Business Processes:	Clear and consistent policies to assist Council Officers assessing request for contribution to service roads.
Innovation & Learning:	No Impact.
Financial:	That Council potentially will contribute in the order of 50% of all future service roads across the Shire.
People / Human Resources:	No Impact.

7. Consultation

General Manager Assets & Planning. No external consultation is required at this stage.

COUNCILLORS MADDISON/LAWLER**That Council:**

1. **Develop a specific policy in relation to the construction of service roads outlining the criteria for Council's contribution prior to advising Peter McSwain of Council's decision.**
2. **Advise Peter McSwain accordingly.**
3. **Apologise to Mr McSwain for naming him in the report.**

CARRIED

10.3 *Planning Applications Determined Under Delegated Authority December 2006 & January 2007 (Judy Reither, Planning Administration Officer)*

Application	Applicant	Property	Development	Date of Decision (Issued unless otherwise stated)
2006-075	Shire Of Campaspe	176 McKenzie Road Echuca 3564	Subdivision Of The Land Into Twenty Seven Lots (Staged)	21-DEC-06
2006-535	Rocci Luvara	40 Darby Road Waranga 3612	Use And Development Of The Land For Holiday Accommodation	LAPSED
2006-549	Wayne Witheridge	Glyn Road Echuca 3564	Variation Of Restrictive Covenant And Use And Develop Land For An Outbuilding	10-JAN-07
2006-551	Planright	126 Mackay Street Rochester 3561	Subdivision Of Land Into Two Lots	21-DEC-06
2006-575	Planright	17 Cohen Street Rochester 3561	1. Subdivision Of The Land Into Two Lots 2. Development Of The Land For A Dwelling	02-JAN-07
2006-587	Ray Lewis	93-95 Baynes Street Rochester 3561	Development Of The Land By Extensions To An Existing Industrial Building	21-DEC-06
2006-593	Ray & Sheila Kemp	66 High Street Rochester 3561	Development Of The Land For A Dwelling	15-DEC-06
2006-596	James McLaurin	14 Stanhope Road Rushworth 3612	Subdivision Of Land Into Two Lots	04-JAN-07
2006-601	David Merrett	178-180 Annesley Street Echuca 3564	Development Of The Land By Alterations To An Existing Building	19-DEC-06
2006-605	Neil Brady	2033 Watson Road Tongala 3621	Whole Farm Plan	18-DEC-06
2006-609	Adrian Hansen	58-60 Northcote Street Rochester 3561	Development Of The Land For An Extension Of A Dwelling	14-DEC-06
2006-612	Planright	132 Bolitho Road Kyabram 3620	Subdivision Of The Land Into Two Blocks	10-JAN-07
2006-613	Goulburn Murray Water	622 Old Corop Road Wanalta 3612	Removal Of Part Of Condition In The Nature Of An Easement In A Crown Grant	17-JAN-07
2006-616	Neil Brown	Clarkes Bridge Road Burrumboot 3559	Whole Farm Plan	18-JAN-07
2006-629	Planright	230 Restdown Road Rochester 3561	Subdivision Of The Land Into Two Lots - House Lot Excision	16-JAN-07
2006-631	Alister Kilpatrick	121 Edis Street Kyabram 3620	Use And Development Of The Land For A Vehicle Store (One School Bus)	15-DEC-06
2006-632	Bernadette Cowley	Scobie Road Tongala 3621	Use And Development Of The Land For A Dwelling	15-JAN-07

Application	Applicant	Property	Development	Date of Decision (Issued unless otherwise stated)
2006-634	Planright	63&65 Bennett Road Nanneella 3561	Subdivision Of The Land Into Two Lots - House Lot Excision	11-JAN-07
2006-635	Steven Haw	Bangerang Road Echuca 3564	Whole Farm Plan	24-JAN-07
2006-639	Moresheld Pty Ltd,	Northern Highway Echuca 3564	Development Of The Land For A Shed	03-JAN-07
2006-641	Planright	3511 Heathcote-Rochester Road Colbinabbin 3559	Re Subdivision Of The Land Into Two Lots	12-JAN-07
2006-642	Shire Of Campaspe	High Street Rushworth	Removal Of Vegetation In A Heritage Overlay	15-JAN-07
2006-643	Adrian Hansen	71 High Street Rochester 3561	Development Of The Land By Alterations To An Existing Dwelling	04-JAN-07
2006-644	Dale Denham	170 Albion Street Kyabram 3620	Development Of The For An Outbuilding	15-DEC-06
2006-646	Teggelove, Jacintia	366 High Street Echuca 3564	Use Of The Land For A Medical Centre (Naturopathy)	19-JAN-07
2006-649	Greg Patterson	Unit 1/13 Crofton Street Echuca 3564	Removal Of Native Vegetation	21-DEC-06
2006-651	Janita Norman	531 High Street Echuca 3564	Signage	21-DEC-06
2006-652	Wilson, Ernie And Dot	23 Baynes Street Rochester 3561	Development Of The Land For A Shed	20-DEC-06
2006-656	Hansen, Adrian	Unit 1/2 Riverina Parade Echuca 3564	Development Of The Land For Three Open Verandahs	22-DEC-06

Cr McDonald left the meeting at 8.25pm.

COUNCILLORS REPAHCOLI/LAWLER

That the Planning Applications determined and Whole Farm Plans certified under delegated authority be received and noted.

CARRIED

- 10.4 *Planning Application No. 2006-571, Development of the land by alterations to an existing dwelling and associated outbuildings at 227-235 Campaspe Esplanade, Echuca. (Andrew Cowin, Senior Land Use Planner).*

1. Purpose

This report relates to Planning Application No. 2006-571, development of the land by alteration to an existing dwelling and associated outbuildings at 227-235 Campaspe Esplanade, Echuca.

This report recommends that Council resolve to refuse to grant a planning permit.

2. Subject Land

The subject land is located on the north western corner of Anstruther Street and Campaspe Esplanade, Echuca. The land is irregularly shaped with a frontage of 28 meters to Anstruther Street and a depth along Campaspe Esplanade of 104 metres. The site contains a total area of 3790 square metres.

A single storey detached dwelling is located on the south eastern corner of the site. The dwelling is setback approximately 8.3 metres from each street frontage but is oriented towards Campaspe Esplanade.

The subject and surrounding lands are located within the floodplain of the Campaspe River. Dwellings are sparsely scattered throughout this area due to this area being subject to heavy flooding. Attachment 10.4a.

3. Background

A previous planning permit 1999-278 was issued on the 15 October 1999 for an alteration to the existing dwelling. This application proposed a second storey extension to the existing dwelling.

Amended plans were later submitted which revised the development to a ground floor extension only. The extension provided for a larger living space with an area of 15.4 square metres.

4. Owner/Applicant

The applicant is Adrian Hansen Pty Ltd.

The owner is M & T Burtchell.

5. Key Issues

- 5.1 Zoning of the subject site.
- 5.2 Local Floodplain Development Plan (LFPDP).

6. Zoning

- 6.1 The land is zoned Urban Floodway (UFZ).

7. Permit Trigger

Clause 37.03-2 of the Campaspe Planning Scheme states that a permit is required to construct or carry out works.

8. Proposal

The application seeks a further extension to the existing dwelling of approximately 82 square metres. The extension incorporates two additional bedrooms, an ensuite and lounge. In addition the application proposes a fully enclosed garage and swimming pool. Attachment 10.4b.

9. Consultation

9.1 Advertising:

Pursuant to Section 52 of the Planning and Environment Act 1987, the application was not advertised.

9.2 Referrals:

The application was not referred to the North Central Catchment Management Authority as pre application advice was obtained from the authority in relation to the flood level and the appropriate floor level for any development. A copy of this letter of consent from the authority was provided with the application.

Discussion with the NCCMA following receipt of the application indicated that the CMA had not considered the LFPDP and incorrectly identified the subject land as being in the Floodway Overlay. The authority was asked to provide an amended response. Subsequently a response was received indicating that the proposal will need to be redesigned to suit the LFPDP.

10. Planning Policy Framework

10.1 State Planning Policy Framework

Clause 15.01 Protection of catchments, waterways and groundwater

Clause 15.02 Floodplain Management

- 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.

10.2 Municipal Strategic Statement

Clause 21.04 Environment

- To protect waterways, wetlands and floodplain area of environmental significance; protect life, health, safety and community well being from flood hazard; to minimise the impact of flooding on the community; and to implement local floodplain development plans.

11. Incorporated Document

Campaspe Local Floodplain Development Plan

- The construction of the floor area of any building extension (single or multiple) must not be more than 20 square metres greater than the ground floor area of the pre-existing building on 1 October 1998; and
- New buildings must not obstruct natural flow paths or drainage lines on land located within the zone.

12. Balancing the Focus

Social:	No Impact.
Customer:	The applicant has been advised that the application is not supported by the LFPDP. However the applicant wishes to proceed with the application.
Environment:	The works are unsupported by the LFPDP and are considered to raise flood levels and increase the velocity of flow on adjoining properties.
Business Processes:	No Impact.
Innovation & Learning:	No Impact.
Financial:	No Impact.
People / Human Resources:	No Impact.

13. Officer Comment / Assessment

The Campaspe LFPDP has been developed from historic flood levels, aerial photos and surface level information and provides a performance-based approach to decision making. Varying controls (Land Subject to Inundation Overlay [LSIO], Floodway Overlay [FO], and Urban Floodway Zone [UFZ]) have been implemented depending on the degree of flood risk. The extent of risk has been determined by such factors as flood depth, velocity, natural storage, flood frequency and flood duration.

The subject land being located within the UFZ is considered at higher risk of both flooding and resultant flood damage. Clause 37.03-4 of the Planning Scheme specifies the application requirements for development within the Urban Floodway zone. More specifically Clause 37.03-4 requires that 'if a local floodplain development plan has been developed for the area and has been incorporated into this scheme, an application must be consistent with the plan.'

The Campaspe LFPDP – Precinct of Echuca, specifies the development requirements within the UFZ. In particular 'the construction of the floor area of any building extension (single or multiple) must not be greater than 20 square metres greater than the ground floor area of the pre-existing building on 1 October 1998.'

As detailed above, a previous permit has been issued for an extension to the dwelling. This approval permitted an extension of 15.4 square metres to the existing dwelling. Subsequently, in accordance with the requirements of the LFPDP an extension at ground floor area of 4.6 square metres is permissible only. An application to extend the existing dwelling by a further 82 square metres is therefore inconsistent with the requirement of Clause 37.03-4 and the requirements of the LFPDP – Precinct of Echuca.

Correspondence provided from the North Central Catchment Management Authority provided no objection to the proposed extension. The authority simply provided a flood level requiring the finished floor level of the works to match that level. The authority did not provide any assessment of the application in relation to the LFPDP and considered that such an assessment was the responsibility of the Responsible Authority.

The decision guidelines at Clause 37 require the Responsible Authority to consider both the LFPDP and any comments from the relevant floodplain management authority. In this instance the application clearly does not comply with the provisions of the LFPDP.

14. Conclusion

Considering the above, the Campaspe Planning Scheme through the LFPDP, sets limits in relation to extensions of existing buildings within the UFZ. These restrictions are put in place for the protection of life, health and safety and for the protection and passage of overland flows during time of flood.

Given the history and the previously permitted and constructed development the proposed extension exceeds the prescribed limit. Subsequently the application fails to comply with the requirements of the LFPDP and the decision guidelines of the UFZ.

COUNCILLORS REPACHOLI/RILEY

That Council Refuse to Grant a Permit for the development of the land by extensions to an existing dwelling and associated outbuildings at Crown Allotments 10 & 11, Section Q, Parish of Wharparilla, commonly known as 227-235 Campaspe Esplanade, Echuca on the following grounds:

- 1. The application is inconsistent with the Campaspe Local Floodplain Development Plan – Precinct of Echuca as the application seeks an extension greater than 20sqm.**
- 2. The application is inconsistent with Clauses 15.02 (Floodplain Management) and 37.03 (Urban Floodway Zone) of the Campaspe Planning Scheme.**

Cr McDonald returned to the meeting at 8.28pm.

CARRIED

10.5 *Planning Application No. 2006-608, use and development of the land for a brothel, 7 Bilkey Court Echuca (Peter McKinnon, Team Leader Town Planning)*

1. Purpose

This report relates to Planning Application No. 2006-608, an application to use and develop the land for a brothel at 7 Bilkey Court, Echuca.

This report recommends that Council issue a Notice of Decision to grant a Planning Permit.

2. Subject Land

The subject site is located in an existing industrial area to the east of Echuca. Bilkey Court is a court bowl connecting to the east of Cornelia Creek Road, north of the Echuca-Toolamba railway. The site is rectangular, has an area of approximately 1921 m², with a frontage to Bilkey Court of 24.52 metres. The land is currently vacant and is located in the south-eastern most portion of the Court.

A locality plan is found in attachment 10.5a.

Bilkey Court is predominantly industrial in character. Some sites within the court are improved by buildings; however the majority of the lots are unoccupied and used for storage. Land immediately to the east and opposite the court to the north are used materials recycling with no permanent structures. The southern side of Bilkey Court contains two typical industrial buildings which help screen the subject land from the Cornelia Creek Road. Similarly, an industrial building on the northern side of Bilkey Court at the corner of the Cornelia Creek Road intersection limits visibility to the site from this main thoroughfare.

Immediately south of the land is the substantial 'Cedenco' industrial operation. The portion of the site closest to the subject land is used as outdoor storage, with no buildings in close proximity.

Description of the site and surrounds is attached 10.5b.

3. Background

In early 2004, the Shire received a planning application to use and develop the land for a brothel at 7 Bilkey Court. The application was advertised and a significant number of objections were made. Prior to Council making a decision on the application, it was identified the proposal was in breach of Section 72 of the Prostitution Control Act. In effect, the applicant had not obtained the appropriate licence from the Business Licensing Authority and therefore could not make an application for planning permit. The application was subsequently withdrawn in February 2004.

The applicant has since obtained the necessary licences as per the requirements of the Prostitution Control Act. It should be noted the Business Licensing Authority opposed the applicant from obtaining a licence, however this was appealed to VCAT. Via an order by VCAT's Occupational & Business Regulation List in October 2006, the applicant was granted a licence to carry on a business as a prostitution service provider. Council or the community are not a party to these proceedings.

In lieu of the above, the applicant has reapplied for a planning permit with almost identical supporting information as per the 2004 application. The fresh application was lodged on the 21 November 2006.

4. Owner/Applicant

The owner and applicant is Juy Hepner.

5. Key Issues

- 5.1 Decision Guidelines as per Planning Scheme and Prostitution Control Act.
- 5.2 Amenity, social and safety issues.
- 5.3 Not consistent with purposes of zone and industrial land use.
- 5.4 Community comment and level of opposition.
- 5.5 Negative perception or image of Echuca as a result of the use.

6. Zoning

- 6.1 The land is zoned Industrial 1.

7. Overlays

- 7.1 The land is subject to a Design & Development 1 Overlay.

8. Permit Trigger

Pursuant to Clause 33.01-1 of the Planning Scheme a permit is required to use the land for a brothel in the Industrial 1 Zone.

Pursuant to Clause 33.01-4 of the Planning Scheme a permit is required to construct or carry out works in relation to a permit required use.

Pursuant to Clause 43.02-2 of the Scheme a permit is required to construct or carry out works as per the provisions of the Design & Development 1 Overlay.

9. Proposal

The brothel will comprise six rooms and be housed within a single storey building located approximately 6.2 metres off the front boundary. Extensive landscaping opportunities exist at the front and eastern side of the proposed building, and the site will also include seventeen car spaces at the rear. It is proposed to operate the brothel between the hours of 11am and 7 am the following day, seven days a week. The building will incorporate the following components;

- Two customer entry points, one with discrete access from the rear car park.
- Cloak room and front reception desk adjacent to entry.
- Waiting and lounge area, including customer amenities.
- Staff room and amenities.
- Manager's office.

10. Consultation

10.1 Advertising:

Pursuant to Section 52 of the Planning and Environment Act 1987, the application was advertised via a sign on the site, a letter to nearby landowners and a public notice in the Riverina Herald.

Whilst the brothel use was required to be advertised and persons have an opportunity to object, the buildings and works component is exempt under the Planning Scheme from notice provisions.

10.2 Submissions

171 submissions were received objecting to the application. This number is inclusive of multiple submissions sent by the same individual, and several submissions sent from the same household. 118 submissions were received from individual households.

A petition containing 29 signatures rejecting the proposal has also been received on 25 January 2007.

Grounds of objections can be summarised as follows.

- A decrease in the level of safety in the area
- An increase in the level of crime
- Devaluation of surrounding areas
- Negative effect on the amenity of the area
- A decrease in the level of tourism
- A conflict of morals
- The degradation of women
- Increase the number of drugs in the area
- Decrease in social cohesion
- Strain on local medical services
- Against the vision of the community
- Negatively change the image of a 'family-friendly' place
- An increase in the level of child prostitution
- The workers of the brothel would be marginalised by the community
- Negatively affect residential growth
- Concerns of advertisements that would occur for the Brothel
- Close proximity to homes and businesses

- Decrease of economic activity for surrounding businesses
- Failure to satisfy Workplace Occupational Health and Safety
- Failure to meet objectives of the Shire of Campaspe Plan 2006-2010
- Is not in line with the Campaspe Mission Statement
- Is not in accordance with the Planning Framework
- Fails to meet the objectives of the Local Government Act 1989 No 11

10.3 Mediation / Information Sessions

It is considered that a formal mediation meeting was not beneficial regarding this proposal. The views of the objectors and the proponent are diametrically opposed, and it is extremely unlikely that any common ground between the two parties could be achieved.

10.4 Referrals

The Scheme does not require any formal referral for this type of application. Informal comment was sought from the Business Licensing Authority and the Victoria Police. Neither party objected to the proposal. Comment regarding loading/unloading, drainage and car parking was also sought from Council's Engineering Design Unit. Similarly, no objection was made to the proposed design and layout, including the car parking area.

11. Planning Scheme Provisions

The subject site is zoned Industrial 1 Zone as per the Campaspe Planning Scheme. The primary purpose of the zone is to implement the State and Local Planning Policy Frameworks (SPPF & LPPF) including the Municipal Strategic Statement (MSS), and to provide for manufacturing industry, the storage and distribution of goods and associated uses in a manner which does not affect the safety and amenity of local communities.

The land is also located within the Design & Development Overlay. This control is primarily focused on the design and built form and appearance of new development in relation to Echuca's major entrances. It is considered the design and built form is not a key consideration with regard to this application.

12. Planning Policy Framework

12.1 State Planning Policy Framework

Clause 11 of the Scheme requires authorities to take account of and give effect to both the general principles and specific policies applicable to uses before them and to ensure integrated decision making.

Clause 17.03 refers to Industry, the objective of this clause is;

- To ensure availability of land for industry to facilitate the sustainable development and operation of industry and research and development activity.

Statements of general implementation include;

- Industrial activity in industrial zones should be protected from the encroachment of unplanned commercial, residential and other sensitive uses which would adversely affect industry viability.
- Responsible authorities should not approve non-industrial land uses which will prejudice the availability of land for future industrial requirements in industrial zones.

Clause 19.04 refers to brothels and seeks to provide consistent planning controls for the establishment and expansion of brothels throughout Victoria co-ordinated with the provisions of the Prostitution Control Act 1994. Responsible authorities should consider the matters set out in Section 73 of the Prostitution Control Act before deciding on an application.

12.2 Local Planning Policy Framework

There are no specific policies in the LPPF which relate to brothels in the Shire. However the Framework does refer to industrial development in the municipality. Objectives include,

- To ensure adequate support is provided to existing and new industry to improve international, national and state competitiveness in order to capitalise on the Shire's local competitive advantage",

Strategies of this clause include to support the attraction of new industries to the Shire that are environmentally compatible and ecologically sustainable and establish industrial areas where industries are not likely to conflict with other land uses particularly residential and agricultural uses.

13. Balancing the Focus

Social:

The proposal has attracted a significant number of objections which cite a host of social issues which may eventuate if the brothel is approved. These issues include increases in level of crime and violence and health related issues. It should be noted that the Planning & Environment Act directs planning authorities to consider social implications when assessing applications.

Whilst these concerns may be genuine there has been no supporting documentation or research which verifies the comments related to social impacts. As there has been no substantiation or evidence to advance these concerns, it is difficult to assign significant weight to such arguments.

Customer:

The application has been extensively advertised and received a considerable amount of local media interest. An extremely high number of objections have been received which often reflects a significant degree of community concern with the proposal. It is considered formal mediation of this application would not result in common ground being reached.

Environment:	The site is located within an existing urban area, and it is considered there will be negligible environmental impacts.
Business Processes:	No Impact.
Innovation & Learning:	No Impact.
Financial:	No Impact.
People / Human Resources:	No Impact.

14. Officer Comment / Assessment

By their very nature, brothels as a use have the capacity to conjure up a substantial number of opinions and views. Some views are liberal, others are fundamental, others again, extreme. Complex issues are raised, such as morality, social decay and negative images or perceptions of localities. These issues are not easily agreed upon and resolved, and the town planning framework and this planning application offers no ready-made solution to these heady matters.

A primary consideration regarding this application is the proximity of the proposed brothel to residential areas. As mentioned earlier the subject site and surrounds is zoned Industrial 1. The closest residential area is to the north, opposite Ogilvie Avenue. As the crow flies this zone is approximately 400 metres from the subject site. For the purposes of the Prostitution Control Act distances are measured according to any route which may reasonably be used for travelling. For this measurement the distance is approximately 630 metres. There is a dwelling used for residential purposes located approximately 330m as the crow flies north east of the subject site, however it should be noted that this dwelling is located within the Industrial 1 zone.

Sections 73 & 74 of the Prostitution Control Act are key assessment criteria for brothel applications. Section 73 of the Act limits the location of brothels from residential uses. A brothel must be more than 100 metres from a dwelling and 200 metres from a place of worship, hospital, school, kindergarten, children service's centre or any other facility regularly frequented by children. The proposal complies with these prescriptive requirements of the Act.

It is considered there are no facilities in the immediate vicinity which are frequently used by children. Uses in the area are typically industrial with heavy machinery, chemical storage other manufacturing activity prevailing. This type of activity assures a non-child friendly environment. Bilkey Court does not have footpaths so therefore pedestrian and cycling traffic near the site is likely to be infrequent.

Another consideration under the Prostitution Control Act is whether the proposed brothel will conflict with other land uses within the neighbourhood which involve similar hours of operation and creating similar amounts of noise or traffic. As the site is located within a developing industrial estate there are no nearby land use which would be affected by the hours of operation or conduct of the use.

The location of the brothel ensures the proposed brothel will be sited a considerable distance from Cornelia Creek Road. Visibility and exposure to the brothel will be restricted unless entering into Bilkey Court. A maximum of nine staff will be on site at any one time and the application proposes seventeen on site car spaces. This figure is considered to be adequate. It should be noted there are no explicit guidelines with regard to the amount of car spaces required for a brothel under the Planning Scheme.

Similarly, generous landscaping opportunities have been incorporated into the design of the site.

The proposed hours of operation (11am to 7am the following day) will not impact adversely on the industrial surrounds. The applicant has submitted that the brothel would be managed and operated in strict accordance with the requirements of the Act and appropriate security systems will be put in place including video monitoring and security personnel. Appropriate management which is strictly governed via the Prostitution Control Act and relevant enforcement personnel should ensure that off site amenity and safety impacts are avoided. VCAT's Occupational and Business Regulation List have deemed the applicant to be a suitable person to hold a prostitution service provider licence.

A considerable number of objections argued that the proposal is not consistent with the purposes of the Industrial 1 Zone. Primarily this zone is set aside for the development of industrial and associated uses, and a brothel does not fit that category. However, a brothel is a permitted use within this zone provided the relevant legislative frameworks are complied with. As highlighted earlier it is considered the proposal satisfies the prescriptive requirements of the Planning Scheme and Prostitution Control Act.

Further, it is considered unlikely that the proposal will compromise future development on adjoining and nearby industrial land. From outside the site, the use will have the appearance of any other typical industrial building in the locale.

Taking a more strategic approach, there is ample land zoned for industrial purposes which is still awaiting development or use. Therefore, it is considered the use of 1921m² area of land for non-industrial purposes is highly unlikely to impact adversely on the supply of industrial land for Echuca.

Another less tangible issue raised is that the image and perception of Echuca will be tarnished if it has a licensed brothel. This particular issue is almost impossible to quantify. Advice from the Victorian Business Licensing Authority indicates there are five existing licensed brothels outside of metropolitan Melbourne, three of which are located in Geelong, one in Morwell and one in Shepparton. If approved, then Echuca will be one of the smallest urban areas in the state to have such an establishment. This would be a somewhat dubious honour and may impact on the perception and image of the town.

The Council Plan and associated Mission Statements and the MSS indicate that the Council seeks to help create an environment which is dynamic, challenging and sustainable. However these documents contain broad overarching objectives and statements which do not explicitly deter certain uses such as brothels. Effectively these key strategic documents are silent on this matter and are considered to be of little assistance when assessing this application.

With regard to the potential diminution of the standing of and the creation of a negative perception of Echuca, the following is considered pertinent. The site is located in a conventional industrial area with some industrial uses presenting a poor image to Bilkey Court and other streets in the vicinity. The materials recycling uses immediately to the east and to the north of the subject site, by their very nature, do not provide for an aesthetically appealing streetscape or image. It is unlikely the proposed brothel will exacerbate these existing visual conditions. If anything, a well maintained, used and landscaped site is likely to have a positive visual impact on the street.

Most objections raised moral, social and health concerns regarding the proposal. Moral and health matters are not matters applicable for consideration in this application. Many of the objections raised were moral considerations, some were health considerations and others were thinly disguised moral issues which, whilst in themselves important to the objectors, are not matters which can be considered lawful or relevant to this proposal.

15. Conclusion

The application presents a sizable dilemma for Council. On the one hand there is a proposal which comfortably fits the prescriptive, tangible requirements as required by law. On the other, there is a proposal which ignites strong opposition by large sectors of the community and raises intangible issues such as the negative perception of Echuca and potential future 'social' impacts. Importantly, no evidence has been produced which sustains that the perception and negative image of Echuca will be adversely affected by the proposed use. Further, no evidence has been produced which substantiates the multitude of statements declaring this use will result in the nominated social, health and amenity issues.

The proposed brothel is sufficiently located well away from sensitive land uses or uses that might attract children. By virtue of its prohibition in most other zones, an industrial area is considered to be an appropriate location for a brothel as per the requirements of the Planning Scheme. Despite the moral objections that this use generates, when assessed against the relevant legislative framework, it is recommended that a Notice of Decision subject to conditions be issued.

RECOMMENDATION

That Council resolve to issue a Notice of Decision to Grant a Planning Permit for Lot 5 PS436714C, Parish of Echuca North, commonly known as 7 Bilkey Court, Echuca, to use and develop the land for a brothel:-

1. **Prior to the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to, and approved by, the Responsible Authority. The plans must be drawn to scale with dimensions and must be in accordance with the plans submitted to Council but modified to show:**
 - a) **Location and details of all business identification signs**
 - b) **Location and details of all external onsite lighting.**
 - c) **A landscape plan and schedule prepared by a suitable qualified person including all fencing and paving**
 - d) **A schedule of materials, colours and finishes including colour samples**
 - e) **Increase of vehicle driveway from the width of 4.3m to 5.8m**
 - f) **Vehicle driveway and the existing kerb and channel fronting the property to be shown on plan**
 - g) **Correctly annotated elevations**
 - h) **Deletion of spa from Manager's office**
2. **The layout of the use and development as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.**

3. Once the use and development has started it must be continued and completed to the satisfaction of the Responsible Authority.
4. Before occupation of the development areas set aside for the parking of vehicles and access lanes as shown on the endorsed plans must be:
 - a. constructed;
 - b. properly formed to such levels that they can be used in accordance with the plans;
 - c. surfaced with an all weather sealcoat;
 - d. drained;
 - e. line-marked to indicate each car space and all access lanes;
 - f. clearly marked to show the direction of traffic along the access lanes and driveways;

to the satisfaction of the Responsible Authority.

Car spaces, access lanes and driveways shown on the endorsed plans must not be used for any other purpose.

5. The landscaping as shown on the endorsed Landscape Plan must be completed to the satisfaction of the Responsible Authority before the development is occupied or at such later date as is approved by the Responsible Authority in writing.
No later than seven (7) days after the completion of the landscaping, the permit holder must advise Council, in writing, that the landscaping has been completed.
6. The brothel may operate only between the hours of 11 am and 7 am the following day.
7. Outdoor and security lighting must be designed, baffled and located to the satisfaction of the Responsible Authority to prevent any adverse effect on adjoining land or roadways.
8. The amenity of the area must not be detrimentally affected by the use or development, through the conduct of patrons or the appearance of the land and buildings to the satisfaction of the responsible authority.
9. The land must be drained to the satisfaction of the Responsible Authority. All stormwater runoff must be disposed of to the satisfaction of the Responsible Authority.
10. The owner/applicant must provide for the stormwater drainage in respect to the development and all drainage works both within the development and to an approved point of discharge are to be constructed at full cost to the owner/applicant to the satisfaction of the Responsible Authority.

11. A vehicular crossing must be constructed to serve the development including a concrete driveway between the lot boundary and road carriageway in accordance with Responsible Authority specifications. Any existing vehicle crossing not being used in the development for access/egress is to be removed and replaced with concrete kerb and channel or as appropriate to the satisfaction of the Responsible Authority. Inspections are required prior to the removal of any existing concrete and prior to the pouring of any new work.
12. All car parking spaces must be designed to allow all vehicles to drive forwards both when entering and leaving the property.
13. Soil erosion control measures must be employed throughout the construction stage of the development to the satisfaction of the responsible authority.
14. This Permit will expire if:
 - a. The development and use does not start within two (2) years from the date of this Permit.

The Responsible Authority may extend the times referred to if a request is made in writing before this Permit expires or within three (3) months after the expiry date.

Refer to page 10781

10.6 *Planning Application No 2006-625, East of Cantwell Road, Murray Valley Highway, Echuca, Subdivision of the land into two lots – house lot excision. (John Ciavarella, Land Use Planner)*

1. Purpose

This report relates to Planning Application No. 2006-625.

This report recommends that Council resolve to issue a Refusal to Grant a Permit.

2. Subject Land

Lot 1, LP73005, Parish of Wharparilla, commonly known as Murray Valley Highway, Echuca. Attachment 10.6a.

The subject land is located approximately ten kilometres north-west of Echuca in a dryland farming area outside the irrigation district. The site, with a current area of 46.7 hectares, is immediately south of an existing rural residential enclave.

The site is predominantly flat and treeless with a dry creek or depression meandering through the north-western corner. Access is derived from the Murray Valley Highway via an existing access point for both proposed lots.

3. Background

A chronology of events from the approval date for a dwelling to the lodging of the current application is given below.

- On the 18 February 2003, Planning Permit 2003-007 was issued for a dwelling on the subject land.
- An application for planning permit was lodged on the 24 May 2006 to excise the previously approved dwelling. Given an Occupancy Permit had not been issued for the dwelling, the applicant was advised the application was premature.
- On the 23 November 2006 an Occupancy Permit was issued.
- A fresh application for planning permit was lodged on the 5 December 2006 to excise the dwelling.

4. Owner/Applicant

The applicant is Brian Harland, Planright.

The owner is SE & SM Keele.

5. Key Issues

- 5.1 Minimum lot size in the Rural Zone of 100 hectares.
- 5.2 Residential enclaves in rural areas.
- 5.3 Purpose of the rules for a house lot excision.

6. Zoning

6.1 The land is zoned Rural.

7. Overlays

7.1 The land is partly subject to a Floodway overlay.

7.2 The land is partly subject to a Land Subject to Inundation Overlay.

8. Permit Trigger

8.1 Under clause 35.01-4 (Rural Zone) a permit is required to subdivide land.

8.2 Under clause 44.03-2 (Floodway Overlay) a permit is required to subdivide land.

8.3 Under clause 44.04-2 (Land Subject to Inundation Overlay) a permit is required to subdivide land.

9. Proposal

It is proposed to subdivide the existing parcel of land into two lots. The purpose of the subdivision is to excise the existing dwelling and lot of approximately 2.9 hectares and retain the residual 43.7 hectares for agricultural use. Attachment 10.6b.

The proposed house lot is to have a frontage of approximately 175 metres to the Murray Valley Highway and a depth of approximately 208 metres.

10. Consultation

10.1 Advertising:

Pursuant to section 52 of the Planning and Environment Act 1987, the application was advertised via mail to surrounding landowners. No submissions were received.

10.2 Referrals

The application was referred pursuant to Section 55 of the Planning and Environment Act 1987 to the North Central Catchment Management Authority. The authority provided no objection to the application and requested no conditions.

The application was referred pursuant to Section 52 of the Planning and Environment Act 1987 to Council's Engineering Design Unit who provided no objection subject to standard conditions relating to stormwater.

The application was referred pursuant to Section 52 of the Planning and Environment Act 1987 to Vic Roads who provided no objection subject to conditions relating to location of vehicular access points.

11. Planning Policy Framework

11.1 State Planning Policy Framework

Clause 17.05 Agriculture

In considering a proposal to subdivide or develop agricultural land, the following factors must be considered:

- The desirability and impacts of removing the land from primary production, given its agricultural quality and productivity.
- 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.
- Assessment of the land capability.

11.2 Local Planning Policy Framework

Clause 22.01 Agricultural Policies

- Discouraging subdivision of high quality agricultural land.
- Discourage low density residential development on high quality agricultural land.

11.3 Municipal Strategic Statement

Clause 21.05 Agriculture

- Promote farm consolidation by using legal agreements to ensure that the price of rural land is not distorted by the potential for further dwellings and further subdivision of consolidated land.
- Ensure the excision of dwellings does not create 'rural living' enclaves which may jeopardise the right to farm.
- Restrict the subdivision of agricultural land.
- Restrict rural living and low-density residential development to areas identified as appropriate.
- Limit non-agricultural use and development in rural areas especially on Main Roads

12. Balancing the Focus

Social: The subdivision does not promote the purpose of the rural zone through the encouragement of more sustainable agricultural practices or promoting efficient land management techniques.

Customer:	The applicant has been advised of Council officer concerns regarding the proposal but resolved to proceed with the application. To suggest, as the applicant does, that the dwelling is no longer required for ongoing maintenance of the farm is spurious. There has never been a nexus between the farm and the dwelling. Therefore, it is considered that the applicant's case for excising this dwelling is merely a flaunting of the rules and should not be supported.
Environment:	The rural zone sets a minimum lot size of 100 hectares within non-irrigated areas. The subject land is substantially below the minimum lot size.
Business Processes:	No Impact.
Innovation & Learning:	No Impact.
Financial:	No Impact.
People / Human Resources:	No Impact.

13. Officer Comment / Assessment

The proposal for this site does not satisfy Clause 22.01 of the Campaspe Planning Scheme "to promote appropriate land use and development by discouraging non-agricultural use and development in all rural areas". Rather, this proposal encourages non-agricultural use of land by creating a rural living opportunity.

The purpose of a house lot excision is primarily to remove an existing dwelling previously held in conjunction with an agricultural pursuit on the lot. The Municipal Strategic Statement promotes farm consolidation stating that:

"One way to encourage farm consolidation is to allow for the excision of existing houses from farms. This needs to be carefully monitored to ensure that it does not create rural living enclaves which may jeopardise the right to farm..."

A permit was issued for a dwelling on the subject land on 18 February 2003. Given the dwelling has only been erected recently, it is difficult to make any historical connection between the dwelling and agricultural use on the subject land. As a result, it is considered this subdivision is merely creating a rural living opportunity and should not be supported.

The MSS identifies to "adopt minimum lot sizes to reflect the trend to larger farming units". The minimum lot size in the Rural Zone outside the irrigation district is 100 hectares. This proposal provides a balance lot of 43.74 hectares and subsequently is not of a sufficient size to be considered as a viable parcel of dry agricultural land.

A number of old and inappropriate rural residential subdivisions exist in the vicinity of the subject site 'paving the way' for further rural residential development in the future. This proposal creates an additional rural living opportunity that is not supported by either the rural zone provisions or the Municipal Strategic Statement. The existence of a residential enclave in this area should not be viewed as a rationale for further rural residential development.

14. Conclusion

The application seeks to take advantage of the dwelling excision provision which aims at promoting farm consolidation, however neglects to consider the purpose for which this provision applies.

The proposed subdivision is not considered to offer any significant positive outcomes with regard to maintaining or promoting agricultural activity but simply seeks to take advantage of a provision within the scheme.

The proposal is considered to be a rural living opportunity, an unambiguous flaunting of the rules and should therefore not be supported.

RECOMMENDATION

That Council Refuse to Grant a Permit for the subdivision of the land into two lots at Lot 1, LP73005, Parish of Wharparilla, commonly known as Murray Valley Highway, Echuca on the following grounds:

1. The proposal is inconsistent with Clause 22.01 (Agricultural Policies) of the Campaspe Planning Scheme.
2. The proposal is inconsistent with Clause 21.05 (Agriculture) of the Campaspe Planning Scheme.
3. The proposal is inconsistent with the Decision Guidelines at Clause 35.01 (Rural Zone (General and Rural issues) of the Campaspe Planning Scheme.

Note: This application was withdrawn by the applicant.

11. **ECONOMIC**

No items in this section

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12. URGENT BUSINESS / NOTICES OF MOTION
 13. TENDER EVALUATION REPORTS
 14. CONFIDENTIAL BUSINESS

 15. RATIFICATION OF CONFIDENTIAL ITEMS MOVED TO OPEN MINUTES
 16. QUESTION TIME

There being no further business, the meeting concluded at 8.30pm.

Confirmed this 8 March 2007

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CR JOHN ELBOROUGH
MAYOR