

ORDINARY MEETING OF COUNCIL

Minutes of the
Ordinary Meeting of Council held at the
Bungaree Community Facility,
279 Bungaree-Wallace Road, Bungaree
on Wednesday 4 June 2014,
at 5:00 p.m.

Members:

Cr. Paul Tatchell (Mayor)	Central Ward
Cr. Allan Comrie	East Moorabool Ward
Cr. David Edwards	East Moorabool Ward
Cr. John Spain	East Moorabool Ward
Cr. Tonia Dudzik	East Moorabool Ward
Cr. Tom Sullivan	West Moorabool Ward
Cr. Pat Toohey	Woodlands Ward

Officers:

Mr. Rob Croxford	Chief Executive Officer
Mr. Shane Marr	General Manager Corporate Services
Mr. Phil Jeffrey	General Manager Infrastructure
Mr. Satwinder Sandhu	General Manager Growth and Development
Mr. Danny Colgan	General Manager Community Services

Rob Croxford
Chief Executive Officer

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1. OPENING OF MEETING AND PRAYER

The Mayor, Cr. Tatchell, opened the meeting with the Council Prayer at 5.00 pm.

2. PRESENT

<i>Cr. Paul Tatchell</i>	<i>Central Ward</i>
<i>Cr. Allan Comrie</i>	<i>East Moorabool Ward</i>
<i>Cr. David Edwards</i>	<i>East Moorabool Ward</i>
<i>Cr. John Spain</i>	<i>East Moorabool Ward</i>
<i>Cr. Tonia Dudzik</i>	<i>East Moorabool Ward</i>
<i>Cr. Tom Sullivan</i>	<i>West Moorabool Ward</i>
<i>Cr. Pat Toohey</i>	<i>Woodlands Ward</i>

Officers:

<i>Mr. Phil Jeffrey</i>	<i>Acting Chief Executive Officer</i>
<i>Mr. Shane Marr</i>	<i>General Manager Corporate Services</i>
<i>Mr. Satwinder Sandhu</i>	<i>General Manager Growth and Development</i>
<i>Mr. Danny Colgan</i>	<i>General Manager Community Services</i>
<i>Ms. Sian Smith</i>	<i>Manager Statutory Planning and Community Safety</i>
<i>Mr. Troy Scoble</i>	<i>Manager Recreation and Youth Development</i>
<i>Ms. Deb Absolom</i>	<i>Minute Taker</i>

3. APOLOGIES

Nil.

4. CONFIRMATION OF MINUTES**4.1 Ordinary Meeting of Council – Wednesday 7 May 2014****Resolution:**

Crs. Sullivan/Spain

That Council confirms the Minutes of the Ordinary Meeting of Council held on Wednesday 7 May 2014.

CARRIED.

4.2 Special Meeting of Council – Wednesday 21 May 2014

Resolution:

Crs. Spain/Edwards

That Council confirms the Minutes of the Special Meeting of Council held on Wednesday 21 May 2014.

CARRIED.

5. DISCLOSURE OF CONFLICT OF INTEREST

Under the Local Government Act (1989), the classification of the type of interest giving rise to a conflict is; a direct interest; or an indirect interest (section 77A and 77B). The type of indirect interest specified under Section 78, 78A, 78B, 78C or 78D of the Local Government Act 1989 set out the requirements of a Councillor or member of a Special Committee to disclose any conflicts of interest that the Councillor or member of a Special Committee may have in a matter being or likely to be considered at a meeting of the Council or Committee.

Definitions of the class of the interest are:

- a direct interest
 - (section 77A, 77B)
- an indirect interest (see below)
 - indirect interest by close association (section 78)
 - indirect financial interest (section 78A)
 - indirect interest because of conflicting duty (section 78B)
 - indirect interest because of receipt of gift(s) (section 78C)
 - indirect interest through civil proceedings (section 78D)

Time for Disclosure of Conflicts of Interest

In addition to the Council protocol relating to disclosure at the beginning of the meeting, section 79 of the Local Government Act 1989 (the Act) requires a Councillor to disclose the details, classification and the nature of the conflict of interest immediately at the beginning of the meeting and/or before consideration or discussion of the Item.

Section 79(6) of the Act states:

While the matter is being considered or any vote is taken in relation to the matter, the Councillor or member of a special committee must:

- (a) leave the room and notify the Mayor or the Chairperson of the special committee that he or she is doing so; and
- (b) remain outside the room and any gallery or other area in view of hearing of the room.

The Councillor is to be notified by the Mayor or Chairperson of the special committee that he or she may return to the room after consideration of the matter and all votes on the matter.

There are important reasons for requiring this disclosure immediately before the relevant matter is considered.

- Firstly, members of the public might only be in attendance for part of a meeting and should be able to see that all matters are considered in an appropriately transparent manner.
- Secondly, if conflicts of interest are not disclosed immediately before an item there is a risk that a Councillor who arrives late to a meeting may fail to disclose their conflict of interest and be in breach of the Act.

6. PUBLIC QUESTION TIME

The Council has made provision in the business of the Ordinary Meetings of the Council for the holding of a Public Question Time.

Public Question Time is required to be conducted in accordance with the requirements contained within the Public Question Time Protocols and Procedural Guidelines as provided for in the *Local Law No. 8 Meeting Procedure Local Law* Division 8 . Clause 57.

The person asking the question is to stand and identify themselves by name and residential address before asking the question.

All questions are to be directed to the Mayor as Chairperson, who shall determine the appropriate person to respond to the question.

The person asking the question must be present in the gallery when the question is considered and may be asked for clarification by the Mayor.

At the discretion of the Mayor, a lengthy question may be required to be placed into writing by the person asking the question. The Mayor may accept a question on notice, in the event that research is required to provide a response. In the case of questions taken on notice, both the question and response shall be recorded in the Minutes of the Meeting.

7. PETITIONS

No petitions have been made to Council for consideration as part of this Agenda.

8. PRESENTATIONS / DEPUTATIONS

The Council has made provision in the business of the Ordinary Meetings of the Council for the making of presentations or deputations to Council in relation to matters presented on the agenda for Council consideration.

Presentations or deputations are required to be conducted in accordance with the requirements contained within the **Presentation/Deputations Protocols and Procedural Guidelines**.

Persons wishing to make a presentation or deputation to Council on a matter included in the agenda shall inform Council prior to the meeting by contacting the Chief Executive Officer's office and registering their name and agenda item being spoken to.

At the meeting the Mayor will invite the persons wishing to make a presentation or delegation to address the Council on the agenda item.

The person making the presentation or deputation is to stand and address Council on the item. No debate on the item is permitted between the person making the presentation or delegation and the Council.

A maximum of three minutes per presentation or delegation will be allocated. An extension of time may be granted at the discretion of the Mayor.

Councillors, through the Mayor, may ask the person making the presentation or delegation for clarification of matters presented.

The Mayor may direct that a member of the gallery ceases speaking if the above procedure is not followed.

List of Persons making Presentations/Deputations other than in relation to a planning item listed on the agenda:

Item No	Description	Name	Position
-	-	-	-

List of Persons making Presentations/Deputations to a planning item listed on the agenda:

Individuals seeking to make a presentation to the Council on a planning item listed on the agenda for consideration at the meeting will be heard by the Council immediately preceding consideration of the Council Officer's report on the planning item.

Item No	Description	Name	Applicant/ Objector
-	-	-	-

9. OFFICER'S REPORTS

9.1 CHIEF EXECUTIVE OFFICER

No reports for this meeting.

9.2 GROWTH AND DEVELOPMENT

9.2.1 Planning Permit Application: PA2013-318, 24 Crook Court, Ballan, Lot 14 on PS LP 209801, Keeping of Five (5) Racing Dogs

Application Summary:	
Application No:	PA2013-318
Lodgement Date:	20 December 2013
Planning Officer:	John Edwards
Earliest date the applicant may apply to VCAT for an appeal against Failure to Determine:	14 March 2014
Address of the land:	Lot 14 on LP209801 24 Crook Court, Ballan
Proposal:	Use and development of land for keeping of five (5) racing dogs
Lot size:	1.127 hectares
Why is a permit required?	32.01-1 R1Z Use for Animal Keeping (Racing Dogs) 32.01-6 R1Z Buildings and works 42.01-2 ESO1 Buildings and works
Public Consultation:	
Number of notices to properties:	4
Notices on site:	1
Notice in Moorabool Newspaper:	Nil
Number of Submissions:	2 written objections
Consultation meeting:	Not held

Policy Implications:	
Key Result Area -	Enhanced Infrastructure and Natural Built Environment.
Objective -	Effective and efficient land use planning and building controls.
Strategy -	Implement high quality, responsive, and efficient processing systems for planning and building applications Ensure that development is sustainable, resilient to change and respects the existing character.
Victorian Charter of Human Rights and Responsibilities Act 2006	
<p>In developing this report to Council the briefing officer considered whether the subject matter raised any human rights issues. In particular, whether the scope of any human right established by the Victorian Charter of Human Rights and Responsibilities is in any way limited restricted or interfered with by the recommendations contained in the report. It is considered that the subject matter does not raise any human rights issues.</p> <p>Officer's Declaration of Conflict of Interests</p> <p>Under section 80C of the Local Government Act 1989 (as amended), officers providing advice to Council must disclose any interests, including the type of interest.</p> <p><i>General Manager Growth and Development – Satwinder Sandhu</i> In providing this advice to Council as the General Manager, I have no interests to disclose in this report.</p> <p><i>Author –John Edwards</i> In providing this advice to Council as the Author, I have no interests to disclose in this report.</p>	
Executive Summary:	
<p>The application seeks approval for the use and development of the land at 24 Crook Court, Ballan for animal keeping (5 racing dogs).</p> <p>The subject land is located on the western side of Crook Court, 150m directly east of Geelong Ballan Road, 250m south of Old Melbourne Road/Inglis Street, with the entry to Crook Court being approximately 600m west of the Ballan Police Station on the corner of Bradshaw Street and Inglis Street.</p> <p>The land has an existing dwelling fronting Crook Court to the east, with a larger shed and smaller kennel complex at the rear and side where the existing greyhounds are kept.</p>	

The land owner currently has four greyhounds/ racing dogs on the subject land . two racing dogs, and two retired dogs.

The application is the result of the landowner becoming aware that a planning permit is required for keeping more than 2 dogs on the land. He has become aware of this as a result of Council receiving a complaint about the greyhounds from the neighbour. The operation has been in existence for several years with Council only becoming aware of its existence at the end of 2014 due to the complaint received.

In accordance with Section 52 of the Planning and Environment Act 1987, notification of the planning application was sent out via letters to surrounding land owners and occupiers. Two objections to the application were received.

Concerns were raised by the objectors with respect to:

- Amenity
- Noise
- Excessive number of racing dogs
- Inappropriate fencing
- Safety of children, pets and elderly parents
- Impact on sales for nearby new subdivision

With respect to the objections lodged it is considered that these concerns may be addressed via permit conditions. Accordingly the application should be supported subject to conditions.

The proposal has been assessed against the relevant components of the Moorabool Planning Scheme, particularly those set out in the State and Local Planning Policy Framework and Clause 32.01 . Residential 1 Zone and Clause 42.01 . Environmental Significance Overlay.

It is considered that the proposed application is generally consistent with the State and Local Planning Policies of the Moorabool Planning Scheme and the objectives of the Residential 1 Zone and Environmental Significance Overlay.

Summary Recommendation:

It is recommended that Council resolve to issue a Notice of Decision to Grant a Permit for this application pursuant to Section 61(1) of the Planning and Environment Act 1987, subject to conditions.

Proposal

Approval is sought to keep the maximum permitted five (5) racing dogs (greyhounds) upon the subject land at 24 Crook Court in Ballan.

Animal Keeping

The applicant proposes to keep his greyhounds at the premises. He is passionately involved in the racing of greyhounds and does not intend breeding to be a primary purpose in keeping these dogs.

There are currently four (4) greyhounds already housed on site. Two are actively used for racing, and two are retired from racing.

The animals are kept within the kennel and yards complex and some exercising is undertaken on-lead at the site and by walking along Ballan suburban streets. However, as a member of the Ballarat Greyhound Racing Club, the owner races the greyhounds on the exercise tracks at the Ballarat Greyhound racetrack during the week, which is their main form of exercise.

Kennel Complex

The subject housing currently consists of three kennel/sleeping areas with attached runs; and an open air+central corridor area with a secure locking gate at the entrance. A centrally located Office/Store area 3m x 3m (9m²) is also part of the kennel complex.

Kennel 1 has an indoor sleeping area 3m x 3m (9m²) attached to external run 3m x 2.4m (7.2m²). A total area of 16.2m². The external yard has no roof or mesh.

Kennel 2 has an indoor sleeping area 2.4m x 2.6m (6.24m²) attached to an external run 7m x 2.4m (16.8m²). A total area of 24m². The external yard has no roof or mesh.

Kennel 3 has an indoor sleeping area 1.7m x 2.0m (3.4m²) attached to an external run 8.7m x 3.1m (23.57m²). A total area of 26.97m². The easternmost 4.7m x 3.1m of the external yard has no roof or mesh.

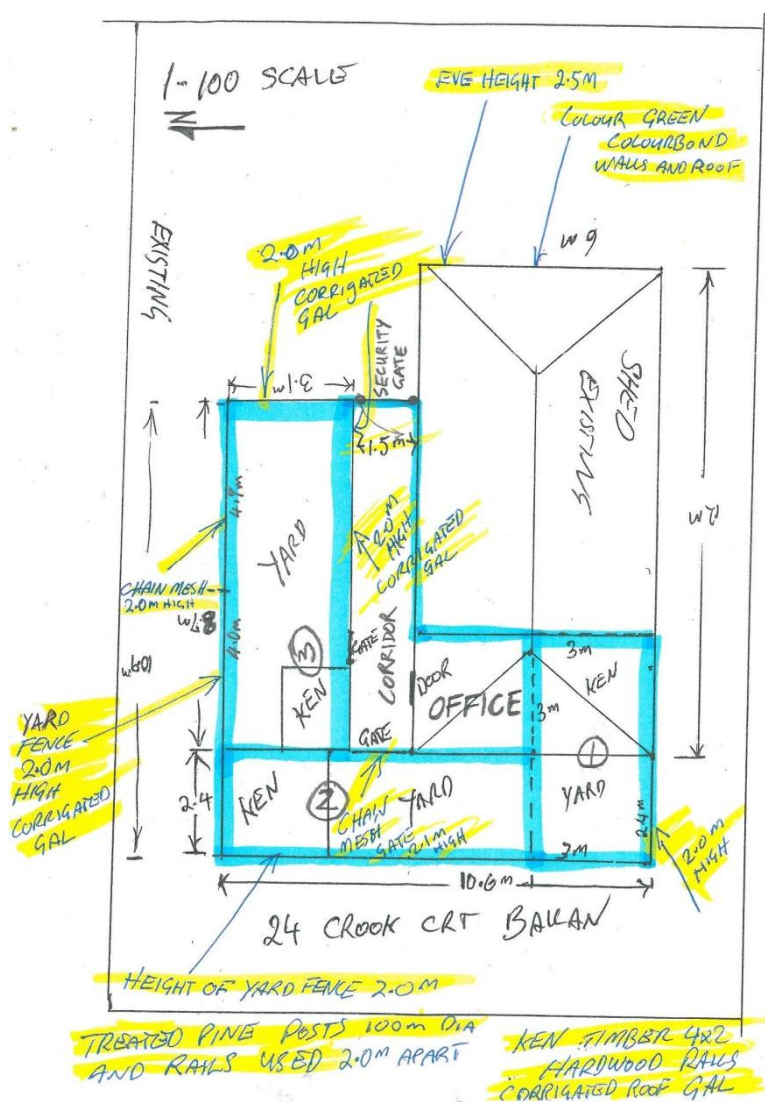
Entry to the central corridor is through the lockable 2.0m high (50mm squares heavy gauge mesh) swinging gate. The walls are horizontally installed corrugated zincalume sheeting and a chain mesh kennel entry gate (50mm holes) along the southern side of Kennel 3; and formclad colorbond green shed wall and Office/Store wall, plus a brown security screen access door access to the Office/Store.

The external pen walls are mostly 2.0m high metal cladding. Kennel 3 has 8.7m long northern wall, 4m in metal cladding and the easternmost 4.7m in (50mm holes) chainmesh fencing covered with shade cloth.

The flooring consists of square besa-brick pavers in the central corridor, Kennel 1, Kennel 2 and the metal walled area of Kennel 3. The easternmost portion of Kennel 3 is a dirt and gravelled floor.

A 2.0m high security gate at the entry to the central corridor will contain any dogs that may escape their individual pens during handling.

Rainwater runoff is currently dispersed onto the grassland. Some sections of the kennel roofing do not currently have spouting, but this will be rectified as a condition of any permit if issued.



Kennel Complex Floor Plan

General Care and Maintenance

Weatherproof sleeping areas are provided in each kennel with an individual raised bed for each greyhound. All three pens have enclosed indoor areas of 9m², 6.24m² and 3.4m² respectively. These include the sleeping area and exceed the minimum Sleeping Area requirement of 0.9m² per dog, as recommended in the *Code of Practice for the Operation of Greyhound Establishments*.

The same *Code* recommends minimum floor areas of 10m² with a minimum 1.2m width for the first dog in general racing or spelling kennels (indoor based). The three kennels are 16.2m², 24m² and 26.97m² respectively.

Each greyhound is supplied with a non-spillable individual water bowl and food bowl which are cleaned and replenished daily.

Dog faeces is collected daily, double bagged and disposed of in a refuse bin, for removal from the site.

The applicant washes kennel floors and the central corridor floor regularly to avoid any odour or insect problems.

Noise

The kennel complex is predominantly enclosed with 2m high metal walls which minimises greyhounds responding to external stimuli.

The greyhounds rarely bark, but there may be some minimal barking at the daily feeding time.

Site Description

The subject land is located at 24 Crook Court, Ballan and known as Lot 14 on LP209801. It is rectangular in shape and skewed towards the left. The eastern road frontage is 69.0m, the rear western boundary 75.5m, the southern side boundary 160.2m, and the northern side boundary 161.8m; covering approximately 1.13 hectares.

While it is a relatively large allotment, it is located within a Residential 1 Zone, and is also subject to an Environmental Significance Overlay Schedule 1 . Proclaimed Water Catchment Areas (ESO1).

The rear half of the allotment contains a well-established orchard. The view of the dwelling from the road is relatively obscured by several established trees and shrubs. There is no vegetation directly in front of the existing green colorbond shed.

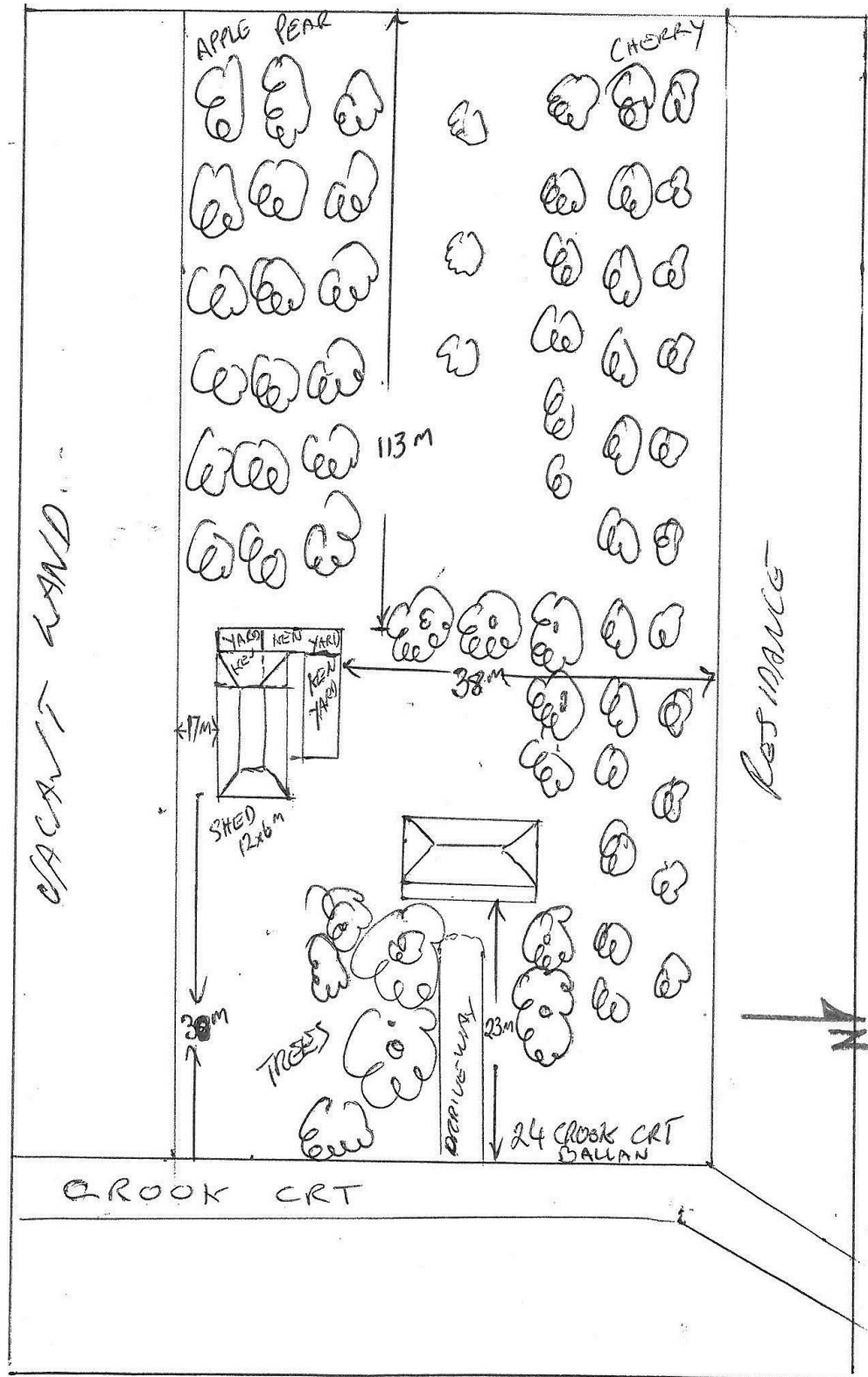
The existing dwelling is set back 23m from the road frontage and 16m from the northern side boundary.

The existing 12m x 6m green colorbond shed is sited 5m south of the dwelling in line with the rear of the dwelling. It is set back approximately 30m from the road frontage, and 17m from the southern side boundary.

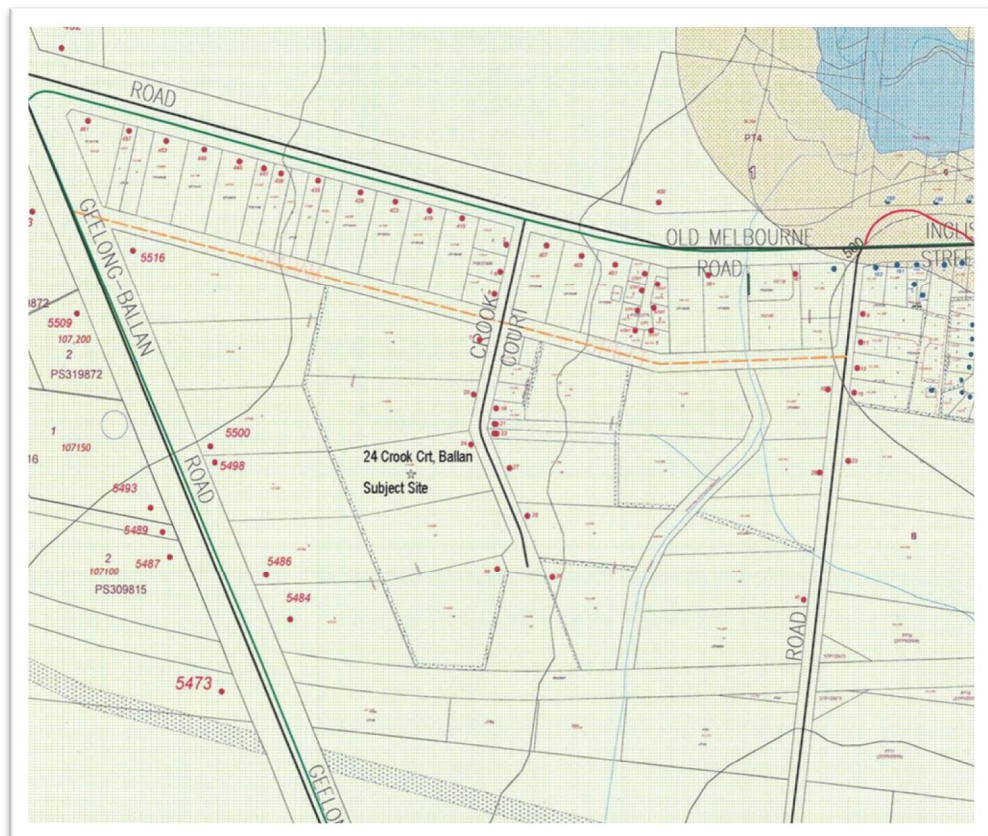
The existing kennel complex utilises the rear 3m of this shed and incorporates a central corridor along a portion of the northern wall; and weather proofed enclosure and open runs beside this and to the rear.

The allotment to the south is currently vacant land. All the other similar sized lots, fronting Crook Court and south of Graham Street, have established dwellings and associated buildings.

The abutting allotment to the north has an established dwelling and various ancillary buildings, as well as several caravans. There is the primary residence and the granny flat/dependent persons unit, both of which are approximately 65m from the site of the greyhound kennels.



Locality Map



Aerial View Map



Planning Scheme Provisions

Council is required to consider the State Planning Policy Framework (SPPF), the Local Planning Policy Framework (LPPF) and the Municipal Strategic Statement (MSS).

SPPF		
Clause 14.02-1	Catchment Planning and Management	The proposal complies with the policy.
LPPF		
Clause 21.02-3	Water Catchment Management	The proposal can comply with the policy subject to permit conditions.
Clause 22.02	Water Supply Catchments	The proposal can comply with the policy subject to permit conditions.
Clause 22.04	Animal Keeping	<p>This policy discourages animal keeping in areas where there is a large number of dwellings within close proximity, suggest 500m setbacks, expects screening, fully contained facilities, and measures to prevent pollution or odour.</p> <p>While the Code recommends 500m setback for kennels this is written with full scale boarding and breeding kennels in mind. This is not achievable but not a major factor considering the small scale kennel seeking to keep only 5 racing dogs, Other measures are achievable.</p>

Zone

The subject site is located within a Residential 1 Zone (R1Z). In this zone a permit is required to keep more than two (2) animals under Section 2 of Clause 32.01-1. In addition a planning permit is required for any buildings and works associated with a Section 2 use.

Discussion

It is considered that the proposed use is not inconsistent with the purpose of the zone and the relevant decision guidelines.

The Residential 1 Zone acknowledges the keeping of up to five animals (Animal Keeping) as a permitted use for the zone.

The applicant has requested the keeping of ~~five~~ dogs greyhounds+, which under the provisions of the Moorabool Planning Scheme is known as Keeping of Racing Dogs, a subset of Animal Keeping.

The land use definition within the Moorabool Planning Scheme describes ~~%Animal Keeping+as %~~*land used to keep, breed, or board racing dogs*".

It is considered that animal keeping at this level is appropriate within the zone; it is appropriately located on a larger 1.13 hectare allotment within the Residential Zone, would be appropriately landscaped and fully contained with solid external wall materials which may be achieved through permit conditions.

Additionally, this permit seeks a permit to keep the existing four greyhounds (plus an additional fifth greyhound), and greyhounds have been present on the property for the last four years since the applicant moved to the property. A current a search of Council's records does not indicate any complaints regarding the keeping of greyhounds until this year.

It is considered that the relevant issues raised in the two written objections could be addressed through permit conditions.

Overlays

There is one planning scheme overlay that applies to the subject site and surrounds.

Environmental Significance Overlay Schedule 1 – Proclaimed Water Catchment Area

A planning permit is required for buildings and works associated with the keeping of five racing dogs within the ESO1.

In this instance no referrals were undertaken as the relevant buildings have existed for some time now.

General Provisions

Clause 65 . Decision Guidelines have been considered by officers in evaluating this application.

Further, Section 60(1a) (g) and (j) state that the Responsible Authority must consider any strategic plan, policy statement, code or guideline which has been adopted by a Minister, government department, public authority or municipal council, and any other relevant matter before deciding on an application.

In this instance, the *Code of Practice for the Operation of Greyhound Establishments* and the EPA Noise Control Guidelines, Section 4 which addresses Dog Kennels has been considered and addressed as appropriate.

EPA Noise Control Guidelines.

Section 4 of the Guidelines discusses Dog Kennels and states:

'The problems caused by the perpetual barking of dogs has been known to exist at distances as far as 500 metres from the actual source. A number of criteria for dog kennels have therefore been assembled to limit the physical stimuli to the dogs and the outbreak of noise from the kennels.'

These strategies are intended to respond to the nuisance caused by dogs in a larger scale context, particularly intensive breeding facilities and large boarding kennel scenarios.

This proposal is for keeping of five (5) greyhounds and there is a number of criteria that may be put in place that would limit both the physical stimuli and outbreak of noise from the kennels without the need to meet the 500 metre setback.

- Greyhounds are considered less prone to barking than other dog breeds in general;
- Minimum 2m high external walls should be provided on all kennels to minimise escape of noise , and minimise exposure to external stimuli such as other dogs, animals, traffic or passers-by;
- Access to kennels should be restricted solely to occupants of the dwelling;
- Feeding of the dogs should be restricted to the daytime hours of 7.00am . 6.00pm;
- Exercise of the dogs on site may only be performed between the hours of 9.00 am and 5.00 pm;
- A responsible person must be available on site 24 hours per day;
- Kennels should be constructed of materials so as to provide an appropriate reduction in the emission of noise.

Provision has already been made for visual screening on the site. There is significant tree coverage upon the land especially to the north and west, whilst the main objector is the neighbour directly to the north. The trees not only limit visual stimuli but also create a noise buffer to adjoining boundaries.

The current complex includes a section of chain mesh panelling covered with green shade cloth along the northern wall. This should be replaced with a solid structure such as metal fencing as per the remainder of the kennel complex external walls.

Code of Practice for the Operation of Greyhound Establishments

The Code and its provisions are to be observed by owners and operators and by the people who work in kennels that are required to be registered as Domestic Animal Businesses under the Act. All breeding and rearing establishments must comply with State and Local Government legislation and permits.

The Code is made under the provisions of Section 59 of Division 4 of the Domestic (Feral and Nuisance) Animals Act 1994 (~~The Act~~) and the purpose of the Code is to specify the minimum standards of accommodation, management and care which are appropriate for the physical and behavioural needs of greyhounds housed in establishments for breeding and rearing, boarding and training for greyhound racing.

The Code and its provisions are to be observed by owners and operators and by the people who work in greyhound establishments that are required to be registered Domestic Animal Breeders under the Act.

The proprietor is responsible for:

- The wellbeing of all greyhounds in the establishment;
- The supervision of staff;
- The maintenance and collation of records and statistics;
- Supervision of daily feeding, watering and inspection of all greyhounds;
- Supervision and examination of greyhounds upon entry;
- The overall level of hygiene in the establishment, including disposal of waste materials
- Provisions of prompt veterinary attention for greyhounds when required
- Notify owners of boarded greyhounds as soon as possible when an animal is observed to be ailing or injured or promptly after a veterinarian has examined the animal;
- One (1) fulltime attendant is required for every 30 greyhounds housed in Internal Boarding or Spelling kennels; or
- One (1) attendant is required for every 25 greyhounds kept in Racing or Breaking Kennels.

In context the keeping of five greyhounds/racing dogs is very different to an intensive greyhound breeding/training facility. None the less aspects of the Code must be addressed.

At this site, and at this level, it is accepted that some conditions may be imposed to address requirements that have not been stated in the application.

A site inspection established that the existing facilities are of an acceptable standard, subject to some minor improvements in stormwater collection. The existing kennels were clean and orderly. The dogs were observed to be in good condition, were well presented, healthy and sociable without being excitable.

The dogs were well trained and did not bark on arrival for inspection or whilst inspection was underway. The dogs appeared well kept, trained and appear to be kept so as to respond well to human presence and activity.

The *Code of Practice* states that greyhounds in minimum pen sizes (10m²) must be exercised, and those in enclosures larger than 20m² do not normally require additional exercise. Care must be taken to ensure that dogs being exercised are not in danger of attack or other injury.

Exercise can be provided by:

- Allowing access to an exercise or training area for at least 10 minutes twice daily, and/or
- Walking the greyhounds on a lead for at least 10 minutes twice daily, and/or
- Swimming, walking machine (treadmill), or galloping on an exercise or racing track.

The applicant demonstrates a good knowledge of how to care for the greyhounds and achieve suitable levels of nutrition, hygiene, exercise, housing and training.

The existing enterprise is already subject to annual audit and inspection by representatives of *Greyhound Racing Victoria* under the provisions of the *Code of Practice for the Operation of Greyhound Establishments*.

Clause 66 stipulates all the relevant referral authorities to which the application must be referred.

Referrals

No referrals were required for the application as no buildings or works were proposed. The keeping of greyhounds utilises the existing shed and kennel/runs, though some modifications and improvements will now be required.

Public Notice

Adjoining and adjacent properties were notified of the application by mail and a sign placed on site. Two written objections to the proposal were received.

Consideration has been given to the planning merit of the objections and to those who will be directly affected by the proposal.

Summary of Objections

The objections received with regards to the application are detailed below with officer's comments accompanying them:

Objection	Officer's response
<i>Objection received 3 March 2014</i>	Northern side neighbour
<i>Object to extra greyhounds, extra greyhounds means there is more chances of incident.</i>	This is a retrospective application. The applicant already keeps 4 greyhounds (2 racing dogs, and 2 retired racing dogs) on the subject land.
<i>The dogs are walked along the dividing fence.</i>	Ideally the dividing fence should be a minimum 1.8m high solid fence but the land owner is not prepared to contribute to paying for a 160m long fence when the existing 118cm high ring lock post and wire dividing fence is satisfactory for other normal residential use.

<p><i>Escape from handler, run free not muzzled, have had their front feet up on top of the fence, dividing fence is only 7-wire ring lock 118cm high.</i></p> <p><i>Spoke to owner about getting non-see through solid dividing fence but she refused.</i></p> <p><i>The tenant when spoken to [who owns the greyhounds] stated we had wrong fence and should replace it at our expense.</i></p> <p><i>Main concern is safety of my young son, our dog, and [elderly] family members.</i></p>	<p>The neighbour claims the greyhounds are walked along the dividing fence line without muzzles and rush at/try to climb over the fence if they can when they see activity (her young son, her dog, elderly parents) happening.</p> <p>This neighboursq concerns are over personal safety issues and do not mention greyhound housing or noise.</p> <p>Concern is expressed over increasing the number of dogs kept with respect to these same safety issues.</p> <p>The greyhound owner informed the Council Officer that the majority of exercising is done at the Ballarat Greyhound Track on the exercise tracks several times a week; with some walking on-lead on Ballan suburban streets, and very little walking on the site.</p> <p>In order to address these safety issues it will be recommended that the greyhounds be under direct control on-lead and muzzled at all times upon the property when not within the kennels; and to be walked more than 6m away from this neighboursq fence line when walked on the property.</p>
Objection received 14 March 2014	Opposite side of road, second property south.
<i>Object as the land is zoned residential and proximity to the town centre.</i>	<p>Keeping of racing dogs (greyhounds) is a permissible use in residential zones.</p> <p>The property at 24 Crook Court is 250 metres south of Inglis Street, and a further 600m west of the start of the main township business district along Inglis Street.</p> <p>This is considered a reasonable distance from the Ballan CBD.</p>
<i>The planned development would not be of benefit in attracting potential buyers to the court which currently under development [subdivision] next [opposite] to the property</i>	<p>Planning cannot take into account financial implications or changes to values of surrounding properties when considering applications before it.</p> <p>The kennel complex is not visible from the proposed subdivision currently under development.</p>
<i>Currently have greyhounds that are noisy enough without this being</i>	Council records indicated that prior early 2014 no complaints had been received with regard to noisy dogs on this site.

<p><i>increased to a level that would affect our whole families' quality of life – 2 shift workers.</i></p>	<p>The applicant is seeking to gain approval to keep greyhounds at the site as he has been made aware that a permit is needed to keep racing dogs (greyhounds) in a residential zone.</p> <p>The application is for the keeping of 5 racing dogs, and the property currently houses four greyhounds, and has had greyhounds on the property for four years now. This will be an increase of only one dog more. Greyhounds in general are known to bark less than other breeds of dog when kept in kennels.</p> <p>Greyhounds are to be kept within fully enclosed external walls to reduce exposure to external stimuli.</p> <p>At this property one portion of external kennel wall is currently chainmesh with shade cloth covering, but this is to be replaced with solid metal cladding similar to the rest of the kennels as part of this permit application. This should ultimately remove any direct exposure to external stimuli.</p>
<p><i>Reference is made to the existing state of the property and doubt as to whether the occupants could keep the property at the standard required to keep and house Racing Dogs.</i></p>	<p>The appearance of the property is a separate issue to the actual housing, care, hygiene and exercising of the dogs.</p> <p>The current greyhound kennel is subject to annual audit and inspection by Greyhound Racing Victoria and has been considered satisfactory.</p>

Financial Implications

The recommendation of approval does not have any financial implication for Council.

Risk & Occupational Health & Safety Issues

The recommendation of approval of this development does not implicate any risk or OH & S issues to Council.

Communications Strategy

Notice was undertaken for the application, in accordance with s.52 of the Planning and Environment Act 1987, and further correspondence is required to all interested parties to the application as a result of a decision in this matter. The objector and the applicant were invited to attend this meeting and invited to address Council if desired.

Conclusion

The proposal has been assessed against the relevant sections of the Moorabool Planning Scheme, and found to be supported by the policies therein. The application should be issued with a Notice of Decision to Grant a Permit.

Recommendation:

It is recommended that pursuant to Section 61(1) of the Planning and Environment Act 1987 that A Notice of Decision be Granted for Planning Application PA 2013-318 for Use and development of land for keeping of five (5) racing dogs, subject to the following conditions:

- 1. Within three months of the date of this permit, three copies of detailed site plan(s) must be submitted to, approved and endorsed by the Responsible Authority. Such plans must be generally in accordance with those submitted with the application but must show:**
 - a) The location of the treatment and disposal area for wash down water from the kennels.**
 - b) The location and size of the water tanks for the collection and storage of stormwater runoff from the kennels, or, the location of the pipes and connection point to the legal point of discharge for the stormwater runoff from the kennels.**

Once endorsed these plans will form part of this permit.

- 2. Within three months of the date of this permit, three copies of a landscape plan must be submitted to, approved and endorsed by the Responsible Authority and must show:**
 - a) The location of trees and/or shrubs to visually screen the kennels.**
 - b) From surrounding properties, clearly identifying the locations of existing plantings and new plantings.**
 - c) The plant name, as well as width and height at maturity must be included.**
 - d) New plantings must be undertaken within three months of the date of this permit.**
 - e) Landscaping shown on the endorsed plans must be maintained to the satisfaction of the responsible authority – including the replacement of any dead, diseased or damaged plants.**

Once endorsed these plans will form part of this permit.

3. The development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.
4. Spouting is required to be affixed to collect all roof rainwater runoff; and the existing northern wall of chainmesh covered in shade cloth is to be replaced with 2m high metal cladding similar to that on the adjacent walls of the kennels. This must be done within one month of the date of this permit.
5. At all times during the use hereby approved, the following requirements must be met to the satisfaction of the responsible authority:
 - a) The greyhounds must be under the direct control of the owner or occupier of the land and must be muzzled at all times whenever they are exercised on lead upon the subject land.
 - b) The greyhounds must not be exercised off-lead upon the subject land, and must be under the direct control of the owner or occupier of the land at all times when not within the kennel complex, as the boundary fencing consists of low ring lock post and wire fencing. The greyhounds must not at any time be walked within 6 metres of the northern side boundary dividing fence.
 - c) Access to dogs must be restricted to the occupier of the land, a veterinary surgeon, a member of the land occupier's family, a person over the age 18 years entrusted with the care or effective control of the dogs ("a nominated responsible person").
 - d) The permit holder or nominated responsible person must be reasonably available 24 hours per day when dogs are present on the subject land. To this affect, a sign must be erected on the site, clearly visible from the road reserve, that contains a contact telephone number of a responsible adult who can attend the site in case of need.
 - e) The dogs must not be allowed within the subject land outside the enclosures shown on the endorsed plans unless on a leash or under the effective control of the permit holder or a nominated responsible person.
 - f) Unless with the prior written consent of the responsible authority, feeding of the dogs must only occur within the hours of 6.00am to 6.00pm and exercise of dogs must only occur between the hours of 7.00am and 5.00pm.
6. All wash down water is to be collected, filtered and disposed of into sub soil drainage.

7. **To the satisfaction of the Responsible Authority, the amenity of the area must not be detrimentally affected by the use or development, through the:**
 - a) **A transport of materials, goods or commodities to or from the land;**
 - b) **Appearance of any building, works or materials;**
 - c) **Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil;**
 - d) **Presence of vermin;**
8. **The occupier of the land or nominated responsible person must take all necessary steps to ensure that no noise including the unreasonable barking of dogs or other disturbance emanates from the premises which may cause a nuisance to adjoining occupiers or detriment to the amenity of the surrounding neighbourhood to the satisfaction of the Responsible Authority. To this end the person(s) will take all steps to ensure dogs are not unnecessarily stimulated to ensure no persistent barking occurs.**
9. **The permit holder or a nominated responsible person must adhere to the responsible authority's requirements under Local Laws for an annual audit and inspection or as otherwise required.**
10. **Storm water drainage from the proposed buildings and impervious surfaces must be retained and disposed of within the boundaries of the subject land to the satisfaction of the responsible authority.**
11. **Stormwater runoff must be collected and stored in appropriate water tanks or appropriately connected to the legal point of discharge. All roof areas of the kennels and yards must have spouting affixed for the collection of rainwater runoff. Any overflows from onsite storage systems must be directed away from any waste water disposal areas.**
12. **Unless otherwise approved by the responsible authority there must be no buildings, structures, or improvements located over proposed drainage pipes and easements on the property.**
13. **Any existing works affected by the development must be fully reinstated at no cost to and to the satisfaction of the responsible authority.**
14. **All dog faeces must be taken off site to the satisfaction of the Council's Environmental Health Officer.**

15. Water from the washing down of the kennels must drain to a disposal area that is dedicated for this purpose only and must be protected by being isolated from any building, driveway, livestock or vehicles.
16. The dog wash down disposal area must be planted with suitable grasses and other vegetation that will aid in moisture removal.
17. All storm water run-off from the kennels and any overflow from the water tank must be diverted away from the dog wash down disposal area and the effluent disposal area to the dwelling.
18. The dog wash down disposal area must be located well clear of any effluent disposal area for the dwelling.
19. This permit will expire if one of the following circumstances applies:
 - a) The development is not started within two years of the date of this permit;
 - b) The development is not completed within four years of the date of this permit.
 - c) The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires or within three months afterwards.

Resolution:

Crs. Dudzik/Sullivan

It is recommended that pursuant to Section 61(1) of the Planning and Environment Act 1987 that A Notice of Decision be Granted for Planning Application PA 2013-318 for Use and development of land for keeping of five (5) greyhound racing dogs, subject to the following conditions:

1. ***Within three months of the date of this permit, three copies of detailed site plan(s) must be submitted to, approved and endorsed by the Responsible Authority. Such plans must be generally in accordance with those submitted with the application but must show:***
 - a) ***The location of the treatment and disposal area for wash down water from the kennels.***
 - b) ***The location and size of the water tanks for the collection and storage of stormwater runoff from the kennels, or, the location of the pipes and connection point to the legal point of discharge for the stormwater runoff from the kennels.***

Once endorsed these plans will form part of this permit.

- 2. Within three months of the date of this permit, three copies of a landscape plan must be submitted to, approved and endorsed by the Responsible Authority and must show:***
 - a) The location of trees and/or shrubs to visually screen the kennels.***
 - b) From surrounding properties, clearly identifying the locations of existing plantings and new plantings.***
 - c) The plant name, as well as width and height at maturity must be included.***
 - d) New plantings must be undertaken within three months of the date of this permit.***
 - e) Landscaping shown on the endorsed plans must be maintained to the satisfaction of the responsible authority – including the replacement of any dead, diseased or damaged plants.***

Once endorsed these plans will form part of this permit.

- 3. The development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.***
- 4. Spouting is required to be affixed to collect all roof rainwater runoff; and the existing northern wall of chainmesh covered in shade cloth is to be replaced with 2m high metal cladding similar to that on the adjacent walls of the kennels. This must be done within one month of the date of this permit.***
- 5. At all times during the use hereby approved, the following requirements must be met to the satisfaction of the responsible authority:***
 - a) The greyhounds must be under the direct control of the owner or occupier of the land and must be muzzled at all times whenever they are exercised on lead upon the subject land.***
 - b) The greyhounds must not be exercised off-lead upon the subject land, and must be under the direct control of the owner or occupier of the land at all times when not within the kennel complex, as the boundary fencing consists of low ring lock post and wire fencing. The greyhounds must not at any time be walked within 6 metres of the northern side boundary dividing fence.***

- c) ***Access to dogs must be restricted to the occupier of the land, a veterinary surgeon, a member of the land occupier's family, a person over the age 18 years entrusted with the care or effective control of the dogs ("a nominated responsible person").***
 - d) ***The permit holder or nominated responsible person must be reasonably available 24 hours per day when dogs are present on the subject land. To this affect, a sign must be erected on the site, clearly visible from the road reserve, that contains a contact telephone number of a responsible adult who can attend the site in case of need.***
 - e) ***The dogs must not be allowed within the subject land outside the enclosures shown on the endorsed plans unless on a leash or under the effective control of the permit holder or a nominated responsible person.***
 - f) ***Unless with the prior written consent of the responsible authority, feeding of the dogs must only occur within the hours of 6.00am to 6.00pm and exercise of dogs must only occur between the hours of 7.00am and 5.00pm.***
6. ***All wash down water is to be collected, filtered and disposed of into sub soil drainage.***
7. ***To the satisfaction of the Responsible Authority, the amenity of the area must not be detrimentally affected by the use or development, through the:***
- a) ***A transport of materials, goods or commodities to or from the land;***
 - b) ***Appearance of any building, works or materials;***
 - c) ***Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil;***
 - d) ***Presence of vermin;***
8. ***The occupier of the land or nominated responsible person must take all necessary steps to ensure that no noise including the unreasonable barking of dogs or other disturbance emanates from the premises which may cause a nuisance to adjoining occupiers or detriment to the amenity of the surrounding neighbourhood to the satisfaction of the Responsible Authority. To this end the person(s) will take all steps to ensure dogs are not unnecessarily stimulated to ensure no persistent barking occurs.***

9. ***The permit holder or a nominated responsible person must adhere to the responsible authority's requirements under Local Laws for an annual audit and inspection or as otherwise required.***
10. ***Storm water drainage from the proposed buildings and impervious surfaces must be retained and disposed of within the boundaries of the subject land to the satisfaction of the responsible authority.***
11. ***Stormwater runoff must be collected and stored in appropriate water tanks or appropriately connected to the legal point of discharge. All roof areas of the kennels and yards must have spouting affixed for the collection of rainwater runoff. Any overflows from onsite storage systems must be directed away from any waste water disposal areas.***
12. ***Unless otherwise approved by the responsible authority there must be no buildings, structures, or improvements located over proposed drainage pipes and easements on the property.***
13. ***Any existing works affected by the development must be fully reinstated at no cost to and to the satisfaction of the responsible authority.***
14. ***All dog faeces must be taken off site to the satisfaction of the Council's Environmental Health Officer.***
15. ***Water from the washing down of the kennels must drain to a disposal area that is dedicated for this purpose only and must be protected by being isolated from any building, driveway, livestock or vehicles.***
16. ***The dog wash down disposal area must be planted with suitable grasses and other vegetation that will aid in moisture removal.***
17. ***All storm water run-off from the kennels and any overflow from the water tank must be diverted away from the dog wash down disposal area and the effluent disposal area to the dwelling.***
18. ***The dog wash down disposal area must be located well clear of any effluent disposal area for the dwelling.***
19. ***This permit will expire if one of the following circumstances applies:***
 - a) ***The development is not started within two years of the date of this permit;***
 - b) ***The development is not completed within four years of the date of this permit.***

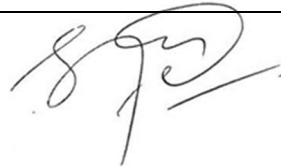
- c) *The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires or within three months afterwards.*

CARRIED.

Report Authorisation

Authorised by:

Name: Satwinder Sandhu
Title: General Manager Growth and Development
Date: Wednesday, 16 April 2014



9.2.2 Moorabool Shire Advocacy Document (May 2014 edition)

Introduction

File No.: 02/14/005
Author: Peter Forbes
Manager, Economic Development and Marketing
General Manager: Satwinder Sandhu
General Manager Growth & Development

Background

Since 2012, Council has used the Moorabool Shire Council Key Priority Projects document to assist in informing and lobbying stakeholders and decision makers about important funding and policy requirements for Moorabool Shire.

The document dated May 2014 has been updated in order to reflect Council's current priorities.

Regular review and updates are necessary to ensure the information is current, it accurately represents Council's views on the Shire's infrastructure and policy priorities and reflects the organisations preparedness.

Proposal

That Council review the latest version of the advocacy document and adopt it as an accurate reflection of the current key priority projects of Moorabool Shire Council.

Policy Implications

The 2013 - 2017 Council Plan provides as follows:

Key Result Area	Representation and Leadership of Our Community
Objective	Advocate for services and infrastructure that meets the Shire's existing and future needs.
Strategy	Advocate on behalf of the community to improve services and infrastructure within the Shire. Represent Council at a regional level to improve services and infrastructure within the shire

The proposal to produce and distribute the updated advocacy document is consistent with the 2013-2017 Council Plan.

Financial Implications

The revision of the document has been funded out of the existing 2013/14 marketing budget.

Risk & Occupational Health & Safety Issues

No OHS risk has been identified in the updating of the document.

Community Engagement Strategy

Once adopted, an electronic version will be made available to the local community and the general public via the Council website. Copies will be available for viewing at the Council Customer service centres in Darley, Bacchus Marsh and Ballan.

Level of Engagement	Stakeholder	Activities	Location	Date	Outcome
Collaborate	Councillors	Discussions	Various		Councillors provided feedback in formulating the proposal
		Council Meeting	Bungaree	04/06/14	
Inform	Community	Website	Various	June 2014	Community representatives able to be informed of the priorities of council and what they will be advocating for to State and Federal Government.
		Hard Copies	Ballan, Bacchus Marsh and Darley.	June 2014	
Collaborate	State and Federal Government	Discussion with decision makers and agencies about funding opportunities and policy alignment	Various		Awareness of Moorabool Shire's Key priority projects and funding requirements

Communications Strategy

Once adopted, the document will be used and distributed widely to policy makers and funding body representatives as a tool to assist efforts to advocate on behalf of Moorabool. It will be most commonly used by the CEO and Mayor in their meetings with the State and Federal Government, but is considered versatile enough to be used by other stakeholders to lobby with.

If adopted, the May 2014 version will be produced in a printable A4 version and an interchangeable A5 size card hard copy version printed for distribution and presentation in an A5 size Shire branded wallet.

An electronic version will be made available to the local community and the general public via the Council website. Copies will be available for viewing at the Darley, Bacchus Marsh and Ballan Service Centres.

Victorian Charter of Human Rights and Responsibilities Act 2006

In developing this report to Council, the officer considered whether the subject matter raised any human rights issues. In particular, whether the scope of any human right established by the Victorian Charter of Human Rights and Responsibilities is in any way limited, restricted or interfered with by the recommendations contained in the report. It is considered that the subject matter does not raise any human rights issues.

Officer's Declaration of Conflict of Interests

Under section 80C of the Local Government Act 1989 (as amended), officers providing advice to Council must disclose any interests, including the type of interest.

General Manager – Satwinder Sandhu

In providing this advice to Council as the General Manager, I have no interests to disclose in this report.

Author – Peter Forbes

In providing this advice to Council as the Author, I have no interests to disclose in this report.

Conclusion

The Moorabool Shire Council Key Priority Projects document has been reviewed and updated. When Council adopt the document, it can be printed and distributed as required.

Resolution:

Crs. Sullivan/Edwards

That Council:

- 1. *Endorse the MSC Key priorities (May 2014) document for advocacy and presentation to other levels of government and agencies.***
- 2. *Receive a further report at least annually on changes required to the advocacy document to reflect council priorities.***

CARRIED.

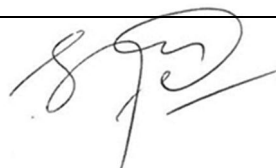
Report Authorisation

Authorised by:

Name: Satwinder Sandhu

Title: General Manager Growth and Development

Date: Tuesday, 27 May 2014



9.3 COMMUNITY SERVICES

9.3.1 Moorabool Hike and Bike Strategy

Introduction

File No.: 17/09/010
Author: Troy Scoble
General Manager: Danny Colgan

Background

The purpose of this report is to present the Council with the Moorabool Hike and Bike Strategy for adoption as contained in **Attachment 9.3.1(a)**.

The Shire's Recreation and Open Space Strategy 2007 recommended that Council prepare a Hike and Bike Strategy to develop a deliverable path network which is accessible for all residents of and visitors to the Moorabool Shire.

The Hike and Bike strategy will provide strategic direction for the planning and development of the hike and bike network throughout the Shire. The strategy will guide Council in its decision making for the future development, provision, management, maintenance, community education and marketing of hike and bike networks to support both the recreation and transport needs of Moorabool Shire residents and visitors.

A Draft Hike and Bike Strategy was presented to the Ordinary Meeting of Council 4 December 2013 seeking endorsement for the purposes of community engagement.

The Draft Hike and Bike Strategy was subsequently placed on Public Exhibition from 10 December 2013 to 14 February 2014.

During the public exhibition period the following activities were undertaken to seek community feedback on the Draft Plan.

- A discussion forum and submissions through the Have Your Say website, the Council's on-line engagement portal;
- Copies were available at Council's Customer Service locations, Lerderderg Library, Ballan Library and all rural library sites;
- Members of the Project Control Group were provided with the Draft Plan and asked to provide feedback.
- Community groups and Committees of Management were provided with the Draft Plan and asked to provide feedback
- The Bacchus Marsh and District Tracks and Trails Advisory Committee were provided with the Draft and asked to provide feedback.
- The public submission process was also advertised in the local newspaper and on the Council website

The key issues raised in the feedback provided include:

- The priority system was subjective and not a good representation of the needs of the community.
- The map representing Bacchus Marsh was difficult to read
- There was a need for more recreational routes to provide passive recreation opportunities
- New developments need to link into the current network
- In the future safe links between towns should be investigated
- Standards in path construction and ongoing maintenance need to be clearly defined and committed to.
- Signage and promotion of trails is important to attracting people and creating use of the hike and bike network
- Investigate working with key community stakeholders such as schools and bus companies to increase usage of the networks

A full summary of the feedback is contained in **Attachment 9.3.1(b)**.

Consideration was given to the feedback received and subsequently amendments were made to the Strategy document to better reflect community need.

As a result of the feedback received in relation to the priority classification system, changes have been made to ensure the Strategy is consistent with Council approval processes. The strategy outlines a program of capital works and projects to support the growth and utilisation of the Moorabool Hike and Bike Network. It is now noted that all projects recommended will be considered through Council's annual budget process and subject to both internal and external funding opportunities.

Recommendations have been listed and categorised as Primary (Shared path network, strategic linkages), Secondary (link destination points off the primary linkages including public transport routes) and Local (creating linkages toward primary network) rather than High, Medium and Low.

The mapping outlining the Hike and Bike Networks have also been amended to reflect the new classification of Primary, Secondary and Local routes.

Policy Implications

The 2013 - 2017 Council Plan provides as follows:

Key Result Area	Community Wellbeing
Objective	Participation in diverse sport, recreation and leisure activities
Strategy	Provide and promote walking and cycling trails for recreation and commuter use.

The Moorabool Hike and Bike Strategy is consistent with the 2013-2017 Council Plan.

Financial Implications

The Moorabool Shire Hike and Bike Strategy contains an action plan outlining key strategies and actions to be implemented over the next ten years. Officers will continue to source funding and resource opportunities both internally and externally including collaborative partnerships with other service providers to implement the action plan.

Risk & Occupational Health & Safety Issues

Risk Identifier	Detail of Risk	Risk Rating	Control/s
Community Needs	Service gaps if priorities in strategy are not implemented	High	Future strategic planning for high priority recommendations identified in context of other community priorities
Financial	Funding required to progress actions set out in strategy	Medium	Business cases will be prepared for consideration in future Council's budgets along with applications for external funding.

Community Engagement Strategy

The following community engagement activities have been undertaken, in accordance with the Council's Community Engagement Policy and Framework.

Plan Development

Level of Engagement	Stakeholder	Activities	Outcome
Consult	Community members	Have Your Say Moorabool online community engagement portal and newspaper articles	30 comments on Have Your Say 2 general comments received
Consult	Participants at Expo	Health and Wellbeing Expo wish box	
Collaborate	Bacchus Marsh and District Tracks and Trails Advisory Committee	Consultant attended a meeting with the committee	Feedback provided
Consult	Recreation Reserve Community Associations	Survey and discussions with individual groups	26 groups provided with opportunity to engage

Public Exhibition Period

Level of Engagement	Stakeholder	Activities	Outcome
Consult	Community	Discussion forum and submissions through the Have Your Say website	17 completed submissions via Have Your Say 223 people looked at the Plan
Consult	Community	Copies were available at Council's Customer Service locations, Lerderderg Library, Ballan Library and all rural library sites	Residents able to view the Plan
Collaborate	Bacchus Marsh and District Tracks and Trails Advisory Committee	Provided with a copy and asked to provide feedback.	Official submission received from the Advisory Committee
Consult	Community groups and Committees of Management	Provided with the Draft Plan and asked to provide feedback	2 submissions received
Consult	Community	Public submission process advertised in local newspaper and Council's website	4 submissions

Victorian Charter of Human Rights and Responsibilities Act 2006

In developing this report to Council, the officer considered whether the subject matter raised any human rights issues. In particular, whether the scope of any human right established by the Victorian Charter of Human Rights and Responsibilities is in any way limited, restricted or interfered with by the recommendations contained in the report. It is considered that the subject matter does not raise any human rights issues.

Officer's Declaration of Conflict of Interests

Under section 80C of the Local Government Act 1989 (as amended), officers providing advice to Council must disclose any interests, including the type of interest.

General Manager – Danny Colgan

In providing this advice to Council as the General Manager, I have no interests to disclose in this report.

Author – Troy Scoble

In providing this advice to Council as the Author, I have no interests to disclose in this report.

Conclusion

The Moorabool Hike and Bike Strategy is a strategy that provides strategic direction for the development of the hike and bike network throughout the Shire. The strategy will guide Council in its decision making for the future development, provision, management, maintenance, community education and marketing of hike and bike networks to support both the recreation and transport needs of Moorabool Shire residents and visitors.

Resolution:

Crs. Comrie/Spain

That Council adopts the Moorabool Hike and Bike Strategy.

CARRIED.

Report Authorisation

Authorised by:

Name:

Title:

Date:



Danny Colgan

General Manager Community Services

Tuesday, 20 May 2014

9.4 INFRASTRUCTURE SERVICES

9.4.1 Draft Waste Management and Resource Recovery Strategy

Introduction

File No.: 16/02/010
Author: Glenn Townsend
General Manager: Phil Jeffrey

Background

The purpose of the report is to recommend that the Council endorse the Draft Moorabool Waste Management and Resource Recovery Strategy for the purposes of public exhibition for a period of four weeks.

Moorabool Council has a Waste Policy (2007) that has been reviewed and revised however has never documented a Waste Management Strategy.

Moorabool is a rapidly growing municipality and the Moorabool Waste Management and Resource Recovery Strategy is a document that reviews management options and sets possible directions that could be taken to improve waste management outcomes by Council over the next 5 -10 years. Presently, Council provides waste management and resource recovery services via kerbside collection, transfer stations and litter and cleaning operations.

State legislation and policies are the main strategic drivers to implement this strategy document. Legislation governing waste management (Environment Protection and Sustainability Victoria Amendment Bill 2014) was passed in March 2014. This legislation is designed to implement the State Government Strategies such as *Getting full value - Victorian Waste and Resource Recovery Policy 2013* and the draft *State-wide Waste and resource recovery infrastructure Plan 2013 – 2043*.

The State Government has recently amalgamated the smaller Regional Waste Management Groups into 7 large Waste and Resource Recovery Groups across the state. Moorabool has become part of the Grampians Central West Waste and Resource Recovery Group. Therefore it is important that the documents feed into and reflect state, regional and local priorities.

The Shire~~s~~ has always had a user pays ideology when it comes to setting policy for waste management. This means that any waste services undertaken are done so on a full cost recovery basis through fees and charges and rate levies. It is intended that this ideology remain therefore the introduction of any new services considered in the strategy would need to be done so in light of the additional cost to ratepayers.

Proposal

The Draft Moorabool Waste Management and Resource Recovery Policy and Strategy encourage Council to focus on the following key principles:

- Waste minimisation
- Cost effectiveness and Best value
- Access to services
- Equity
- Innovation
- Continual Improvement
- Community engagement and communications.

The documents outline the key waste services provided by Council discussing the existing services, waste quantities and profile along with future waste projections and considerations. The key items are outlined below:

Kerbside Service

Moorabool Shire will continue to deliver kerbside garbage and recycling services to existing and new households in established collection areas. It is proposed to amend the criteria for compulsory and non-compulsory areas to match the land zonings rather than rely on percentage. Residential, Low Density Residential, Township and Rural Living Zones would be automatically compulsory. This ensures the higher density areas are serviced by waste collection when certificate of occupancy for the land has been issued. Any areas in the Farm Zone that are currently compulsory or non-compulsory will remain the same.

Further, it is proposed that Residential and Low Density Residential zoned properties receive a 120ltr bin collected weekly and the all other zones a 240ltr bin collected fortnightly. Recycling will remain 240ltr collected fortnightly regardless of the zoning.

The impact of this is that the LDRZ land at Greendale, surrounding Ballan, Gordon and Mt Egerton as well as Pykes Creek estate and Myrniong would become compulsory. These areas are already non-compulsory and have a high take up rate so the impact is not significant. In addition, Hopetoun Park would change to a weekly collection which will incur some additional cost. The contractors have been consulted and can accommodate the change within existing contracts.

Schools, Emergency Services and Community Groups

Council provides 4 recycling bins which are collected fortnightly from schools, emergency services and community groups. They must agree to commit for a minimum period of twelve months. There is no proposed change to this provision.

Recreation Reserves and Halls

Council provide a free waste service to Committees of Management for recreation reserves and halls within the municipality. The proposed allocation is:

- Category 1 reserves having 6 x 240ltr bins collected weekly
- Other reserves having 4 x 240ltr bins collected weekly (urban) and fortnightly (rural)
- Additional bins to be charged at a set rate.
- This is over and above litter bins placed at various reserves.

There is a proposed increase to the number of bins allocated at reserves in the policy to address frequent requests in recent years.

Commercial / Industrial Waste Service

Council provides a 240ltr waste collection service across the municipality. The service is user pays as set in the annual fees and charges schedule for waste i.e. number of bins x number of collections = \$cost. There is currently no recycling service provided for commercial premises. Transfer stations provide drop off of recyclables free of charge. There is no proposed change to this provision.

Transfer Stations

Council operate 3 transfer stations at Bacchus Marsh, Ballan and Mt Egerton that provide for the disposal of general waste, green waste, timber, mattresses and tyres for a cost recovery charge. The transfer stations also provide for resource recovery such as recyclables, metals, whitegoods, e-waste, automotive oil and chemical containers at no cost.

The strategy highlights some inequity to the gate fees at transfer stations whereby large loads are charged at a lower volume rate than small loads. The draft policy looks to correct this over time as part of the annual budget process.

Hard Waste

Council does not currently offer a hard waste collection other than access to transfer stations. Hard waste is accepted at the transfer stations for general disposal at the recovery cost. The policy proposes no change to hard waste but the strategy discusses available options and broad costs. It is not currently recommended to introduce hard waste however if it was considered into the future, the strategy could be used as a tool to engage with the community regarding whether there is sufficient demand from community members willing to pay for the service. The introduction of such a service would need to be considered in light of the user pays principle.

Green Waste and Organics

Council does not currently offer a green waste collection other than access to transfer stations. Green waste is accepted at the transfer stations for general disposal and is subsidised at half the standard gate fee. The policy proposes no change to green waste but the strategy discusses available options and models costs. It is not currently recommended to introduce green waste however if it was considered into the future, the strategy could be used as a tool to engage with the community regarding whether there is sufficient demand from community members willing to pay for the service. The introduction of such a service would need to be considered in light of the user pays principle.

Policy Implications

The 2013-2017 Council Plan provides as follows:

Key Result Area	Enhanced infrastructure and Natural and Built Environment
Objective	Effective management of municipal waste and recycling
Strategy	Implement the waste management policy and strategy. Promote recycling, reuse and minimisation of waste.

The proposal is consistent with the 2013-2017 Council Plan.

Financial Implications

Waste Management is based on cost recovery. It is a user pays system so the implementation of extra service will need to be on a cost recovery basis.

There are no financial implications associated with undertaking the public consultation process.

Risk & Occupational Health & Safety Issues

There are no risk or Occupational Health & Safety Issues associated with this report.

Communications and Consultation Strategy

The review of the Draft Moorabool Waste Management and Resource Recovery Strategy includes a proposed public consultation process, as outlined below:

- Advertising in local newspapers and other communication processes (Council's website) and how the community can make submissions to the draft version.
- Advertising on ~~the~~ Have Your Say Moorabool ~~also~~ as above.

- Public exhibition period would allow for community comments for a period of 28 days.
- All correspondence received would be documented and carefully considered prior to a final draft version being presented to Council for consideration.

Victorian Charter of Human Rights and Responsibilities Act 2006

In developing this report to Council, the officer considered whether the subject matter raised any human rights issues. In particular, whether the scope of any human right established by the Victorian Charter of Human Rights and Responsibilities is in any way limited, restricted or interfered with by the recommendations contained in the report. It is considered that the subject matter does not raise any human rights issues.

Officer's Declaration of Conflict of Interests

Under section 80C of the Local Government Act 1989 (as amended), officers providing advice to Council must disclose any interests, including the type of interest.

General Manager – Phil Jeffrey

In providing this advice to Council as the General Manager, I have no interests to disclose in this report.

Author – Glenn Townsend

In providing this advice to Council as the Author, I have no interests to disclose in this report.

Conclusion

The provision of waste management is an important service and is one of the largest financial commitments of the Shire. Good planning allows the Shire to anticipate and manage costs and find the most cost-effective ways to more sustainably manage waste. It represents significant environmental challenges and provides an opportunity through waste reduction and, resource recovery to improve environmental outcomes.

Recommendation:

That Council:

1. **Endorses “in principle” the Draft Moorabool Waste Management and Resource Recovery Strategy for the purposes of public exhibition for a period of four (4) weeks; and**
2. **Receives a further report at the conclusion of the exhibition period seeking adoption of the Moorabool Waste Management and Resource recovery Strategy.**

Resolution:**Crs. Sullivan/Toohey*****That Council:***

- 1. Endorses "in principle" the Draft Moorabool Waste Management and Resource Recovery Strategy for the purposes of public exhibition for a period of six (6) weeks; and***
- 2. Receives a further report at the conclusion of the exhibition period seeking adoption of the Moorabool Waste Management and Resource recovery Strategy.***
- 3. Copies of draft document be sent to Highlands Regional Waste Management Group and member Councils.***

CARRIED.

Report Authorisation**Authorised by:**

Name: Phil Jeffrey
Title: General Manager Infrastructure
Date: Tuesday, 20 May 2014



9.5 CORPORATE SERVICES

9.5.1 Renewal of Ground Lease to Vodafone Network Pty Limited - Bald Hill, Bacchus Marsh

Introduction

File No.: 460000; 460050
 Author: Michelle Morrow
 General Manager: Shane Marr

Background

Vodafone Network Pty Limited currently lease a small portion of land known as Bald Hill being land contained in Certificate of Title Volume 9620 Folio 610, that accommodates a 3m x 2.5m cabin which acts as a base station forming part of a telecommunications network. Other sites on Bald Hill are leased to Crown Castle and Telstra Corporation Limited (Telstra) with various sub leases off the main tower.

The current 20 year Vodafone Network Pty Limited lease expires on 31 July 2014 with the final years rent being \$2,406.65 (ex. GST). Vodafone are seeking further security on the Bald Hill site for their Company and have presented Council with renewed terms.

Proposal

Terms presented to Council from Vodafone Network Pty Limited are outlined below. These terms have been assessed by Council's Lawyers and are now presented to Council for consideration.

Rent Commencement as at 1 August, 2014	\$7,000.00 per annum (ex. GST)
Review of Rent	On each anniversary of the commencement date during the term, the Rent will be increased by 3%.
Lease Term	Twenty (20) years
Lease Expiry	31 July, 2034
Legal Costs	Vodafone will agree to reimburse Council's reasonable legal costs to a maximum of \$1,500 (+ GST) upon completion and return of the lease agreement.

Vodafone Network Pty Limited has offered to increase their annual lease rental as at 1 August 2014 from \$2,406.65 to \$7,000.00 per annum (+ GST) with annual increments at 3%. Using the above figures, for a new lease of 20 years, Council would receive \$188,092.62 (ex. GST).

Section 190 of the *Local Government Act* 1989 requires Council, where lease terms are 10 years or greater, to publish a public notice of the proposed lease at least 4 weeks before the lease is made with any persons having the right to make a submission under section 223 on the proposed lease.

It is therefore recommended that Council proceed under section 190 of the *Local Government Act* 1989 by giving public notice on the Council's page the Moorabool News of its intention to enter into a further lease agreement with Vodafone Network Pty Limited to extend the current lease by a further 20 years commencing on 1 August 2014 based on an annual commencement rental of \$7,000.00 (+ GST) with an annual 3% increment. The lease expiry date would be 31 July, 2034.

Policy Implications

The 2013. 2017 Council Plan provides as follows:

Key Result Area	Representation and Leadership of our Community
Objective	Sound, long term financial management
Strategy	Develop and maintain a long term financial planning, management and reporting system, which ensures resources to deliver services and manage Council's assets.

The proposal to enter into a new long term lease arrangement with a telecommunications supplier on Bald Hill is consistent with the 2013-2017 Council Plan.

Financial Implications

Council would receive income of \$7,000 per annum, indexed at 3% per annum from 2014 to 2034 equating to \$188,092.62 (ex. GST).

Risk & Occupational Health & Safety Issues

There are no risk and occupational health and safety issues identified in this report.

Communications Strategy

Where Council enters into a lease agreement for a term 10 years or greater then Council must comply with section 190 of the *Local Government Act* 1989. In complying with this section of the Act Council must give no less than 28 days public notice of the proposed lease allowing any person the right to make a submission under section 223 on the proposed lease.

Victorian Charter of Human Rights and Responsibilities Act 2006

In developing this report to Council, the officer considered whether the subject matter raised any human rights issues. In particular, whether the scope of any human right established by the Victorian Charter of Human Rights and Responsibilities is in any way limited, restricted or interfered with by the recommendations contained in the report. It is considered that the subject matter does not raise any human rights issues.

Officer's Declaration of Conflict of Interests

Under section 80C of the Local Government Act 1989 (as amended), officers providing advice to Council must disclose any interests, including the type of interest.

General Manager – Shane Marr

In providing this advice to Council as the General Manager, I have no interests to disclose in this report.

Author – Michelle Morrow

In providing this advice to Council as the Author, I have no interests to disclose in this report.

Recommendation:

That Council resolves to:

1. **give notice under section 190 of the *Local Government Act 1989* of its intention to enter into a new ground Lease Agreement with Vodafone Network Pty Limited for a ground lease accommodating a 3m x 2.5m base station situated on Bald Hill, Bacchus Marsh, based on the following conditions:**

- **New Lease Commencement Date – 1 August 2014**
- **Rental Commencement - \$7,000.00 per annum (exclusive GST)**
- **Annual Increases – 3.00% increment**
- **Lease Term – Twenty (20)**
- **Lease Expiry Date – 31 July 2034**
- **Legal Costs – Reimbursement of \$1,500 (+ GST) to Council**

by giving no less than 28 days public notice of the proposed lease in the local newspaper and seek any submissions under section 223 of the Act on the proposed lease; and

2. **authorise the signing and sealing of the Lease Agreement should no submissions be received at the conclusion of the section 223 process.**

Resolution:**Crs. Edwards/Dudzik*****That Council resolves to:***

- 1. give notice under section 190 of the Local Government Act 1989 of its intention to enter into a new ground Lease Agreement with Vodafone Network Pty Limited for a ground lease accommodating a 3m x 2.5m base station situated on Bald Hill, Bacchus Marsh, based on the following conditions:***

- New Lease Commencement Date – 1 August 2014***
- Rental Commencement - \$7,000.00 per annum (exclusive GST)***
- Annual Increases – 3.00% increment***
- Lease Term – Twenty (20)***
- Lease Expiry Date – 31 July 2034***
- Legal Costs – Reimbursement of \$1,500 (+ GST) to Council***

by giving no less than 28 days public notice of the proposed lease in the local newspaper and seek any submissions under section 223 of the Act on the proposed lease; and

- 2. authorise the signing and sealing of the Lease Agreement should no submissions be received at the conclusion of the section 223 process.***
- 3. that proceeds from this lease go into the East Moorabool Development ward fund.***

CARRIED.

Report Authorisation**Authorised by:****Name:** Shane Marr**Title:** General Manager Corporate Services**Date:** Tuesday, 27 May 2014

9.5.2 Renewal of Tower Site Lease to Telstra Corporation Limited (Telstra) - Bald Hill at Bacchus Marsh

Introduction

File No.: 460000; 460050
 Author: Michelle Morrow
 General Manager: Shane Marr

Background

Council would be aware that the land known as Bald Hill, being land contained in Certificate of Title Volume 9620 Folio 610, is currently leased to three telecommunication companies for both towers and base stations of which one tower site is leased to Telstra Corporation Limited (Telstra). The remaining sites are leased to Vodafone Network Pty Limited (ground lease) and Crown Castle with sub-leases off these towers.

The current 20 year Telstra lease expires on 31 May 2015 with final years rent being \$13,266.45 (ex. GST). Telstra are seeking further security on the Bald Hill site for their Company.

Proposal

Council has received new terms from Telstra as outlined below of which have been assessed by Council's Lawyers and are now presented to Council for consideration.

Rent Commencement as at 1 August, 2014	\$15,000.00 per annum (ex. GST)
Review of Rent	The rent is to be increased on each review date by 3% per annum during the term and any further term.
Lease Term	Ten (10) years with two (2) further terms of five (5) years each
Lease Expiry	31 July, 2034
Legal Costs	Telstra will agree to reimburse Council's reasonable legal costs to a maximum of \$1,500 (+ GST) upon completion and return of the lease agreement.

<u>Benefits to Council</u>	<u>Benefits to Telstra Corporation Limited (Telstra)</u>
<ul style="list-style-type: none"> • Council locks in a steady stream of annual income with an annual increment. 	<ul style="list-style-type: none"> • A long term lease is essential for Telstra to remain viable and the leasehold interest can be maintained with Council. • Customers are generally unwilling to invest money to upgrade equipment or to locate on towers once lease expiry approaches. Due to long term network planning and deployment lead-times this may be the case even if the lease has several years to run.

Telstra has offered to increase their annual lease rental as at 1 August 2014 from \$12,635.00 to \$15,000.00 per annum (+ GST) with annual increments at 3%.

Using the above figures, for a new lease of 10 years with two (2) five year further options Council would receive \$177,166.92 (ex. GST) over the first 10 years of the new lease, \$110,236.24 (ex. GST) for the first five year option and \$127,793.98 (ex. GST) for the second five year option making a total of \$415,197.14(ex. GST).

Section 190 of the *Local Government Act* 1989 requires Council where lease terms are 10 years or greater, to publish a public notice of the proposed lease for no less than 28 days after the date of publication with any persons having the right to make a submission under section 223 on the proposed lease.

It is therefore recommended that Council proceed under section 190 of the *Local Government Act* 1989 by giving public notice on Council's page of the Moorabool News of its intention to enter into a further lease agreement with Telstra Corporation Limited to extend the current lease by a further 20 years commencing on 1 August 2014 based on an annual commencement rental of \$15,000.00 (+ GST) with an annual 3% increment. The lease expiry date would be 31 July, 2034.

Policy Implications

The 2013. 2017 Council Plan provides as follows:

Key Result Area	Representation and Leadership of our Community
Objective	Sound, long term financial management

Strategy

Develop and maintain a long term financial planning, management and reporting system, which ensures resources to deliver services and manage Council's assets.

The proposal to enter into a new long term lease arrangement with a telecommunications supplier on Bald Hill is consistent with the 2013-2017 Council Plan.

Financial Implications

Council would receive income of \$15,000 per annum, indexed at 3% per annum from 2014 to 2034 equating to \$415,197.14 (ex. GST).

Risk & Occupational Health & Safety Issues

There are no risk and occupational health and safety issues identified in this report.

Communications Strategy

Where Council enters into a lease agreement for a term 10 years or greater then Council must comply with section 190 of the *Local Government Act* 1989. In complying with this section of the Act Council must give no less than 28 days public notice of the proposed lease allowing any person the right to make a submission under section 223 on the proposed lease.

Victorian Charter of Human Rights and Responsibilities Act 2006

In developing this report to Council, the officer considered whether the subject matter raised any human rights issues. In particular, whether the scope of any human right established by the Victorian Charter of Human Rights and Responsibilities is in any way limited, restricted or interfered with by the recommendations contained in the report. It is considered that the subject matter does not raise any human rights issues.

Officer's Declaration of Conflict of Interests

Under section 80C of the Local Government Act 1989 (as amended), officers providing advice to Council must disclose any interests, including the type of interest.

General Manager – Shane Marr

In providing this advice to Council as the General Manager, I have no interests to disclose in this report.

Author – Michelle Morrow

In providing this advice to Council as the Author, I have no interests to disclose in this report.

Recommendation:**That Council resolves to:**

1. give notice under section 190 of the *Local Government Act 1989* of its intention to enter into a new Lease Agreement with Telstra Corporation Limited for a site rental of telecommunications tower and equipment situated on Bald Hill, Bacchus Marsh, based on the following conditions:
 - New Lease Commencement Date – 1 August 2014
 - Rental Commencement - \$15,000.00 per annum (exclusive GST)
 - Annual Increases – 3.00% increment
 - Lease Term – Ten (10) years with two (2) further terms of five (5) years each
 - Lease Expiry Date – 31 July 2034
 - Legal Costs – Reimbursement of \$1,500 (+ GST) to Council

by giving no less than 28 days public notice of the proposed lease in the local newspaper and seek any submissions under section 223 of the Act on the proposed lease; and
2. authorise the signing and sealing of the Lease Agreement should no submissions be received at the conclusion of the section 223 process.

Resolution:

Crs. Dudzik/Comrie

That Council resolves to:

1. ***give notice under section 190 of the Local Government Act 1989 of its intention to enter into a new Lease Agreement with Telstra Corporation Limited for a site rental of telecommunications tower and equipment situated on Bald Hill, Bacchus Marsh, based on the following conditions:***
 - ***New Lease Commencement Date – 1 August 2014***
 - ***Rental Commencement - \$15,000.00 per annum (exclusive GST)***
 - ***Annual Increases – 3.00% increment***
 - ***Lease Term – Ten (10) years with two (2) further terms of five (5) years each***
 - ***Lease Expiry Date – 31 July 2034***
 - ***Legal Costs – Reimbursement of \$1,500 (+ GST) to Council***

by giving no less than 28 days public notice of the proposed lease in the local newspaper and seek any submissions under section 223 of the Act on the proposed lease; and

2. ***authorise the signing and sealing of the Lease Agreement should no submissions be received at the conclusion of the section 223 process.***
3. ***that proceeds from this lease go into the East Moorabool Development ward fund.***

CARRIED.

Report Authorisation

Authorised by:

Name: Shane Marr

Title: General Manager Corporate Services

Date: Tuesday, 27 May 2014



9.5.3 Instrument of Appointment and Authorisation of Council Officers under section 174(4) of the Planning and Environment Act 1987

Introduction

File No.: 02/06/002
Author: Michelle Morrow
General Manager: Shane Marr

Background

Under section 147(4) of the Planning and Environment Act 1987, Council must appoint relevant officers to be authorised officers for the purposes of the Planning and Environment Act 1987 and the regulations made under that Act.

Section 232 of the Local Government Act 1989 authorises the relevant officers generally to institute proceedings for offences against the Acts and regulations described within the proposed instrument of appointment and authorisation.

Proposal

In order to comply with the Planning and Environment Act 1987 and the Local Government Act 1989, an Instrument of Appointment and Authorisation is now presented to Council requesting that the officers named in that Instrument be hereby appointed for the purposes of section 147(4) of the Planning and Environment Act 1987 and the regulations made under that Act and section 232 of the Local Government Act 1989 for the purpose generally to institute proceedings for offences against the Acts and regulations described in the instrument.

The change to this Instrument reflects the commencement of a Statutory Planning Officer.

Policy Implications

The 2013 . 2017 Council Plan provides as follows:

Key Result Area	Representation and Leadership of our Community
Objective	Good governance through open and transparent processes and strong accountability to the community
Strategy	Ensure policies and good governance are in accordance with legislative requirements and best practice.

The preparation of this Instrument of Appointment and Authorisation of Council Officers under section 174(4) of the Planning and Environment Act 1987 is consistent with the 2013-2017 Council Plan.

Financial Implications

No financial implications to Council.

Risk & Occupational Health & Safety Issues

No Risk and Occupational Health and Safety issues apply to Council unless the relevant Council officers do not receive the appropriate instrument of appointment and authorisation from Council.

Victorian Charter of Human Rights and Responsibilities Act 2006

In developing this report to Council, the officer considered whether the subject matter raised any human rights issues. In particular, whether the scope of any human right established by the Victorian Charter of Human Rights and Responsibilities is in any way limited, restricted or interfered with by the recommendations contained in the report. It is considered that the subject matter does not raise any human rights issues.

Officer's Declaration of Conflict of Interests

Under section 80C of the *Local Government Act* 1989 (as amended), officers providing advice to Council must disclose any interests, including the type of interest.

General Manager – Shane Marr

In providing this advice to Council as the General Manager, I have no interests to disclose in this report.

Author – Michelle Morrow

In providing this advice to Council as the Author, I have no interests to disclose in this report.

Conclusion

Council is obliged to comply with section 147(4) of the Planning and Environment Act 1987 therefore the Instrument of Appointment and Authorisation is required to be approved under the Seal of Council.

Resolution:

Crs. Sullivan/Toohey

That Council approves under the common seal of Council, the Instrument of Appointment and Authorisation of Council officers under section 174(4) of the Planning and Environment Act 1987.

CARRIED.

Report Authorisation

Authorised by:



Name: Shane Marr
Title: General Manager Corporate Services
Date: Tuesday, 27 May 2014

9.5.4 Ingliston Drive, Ingliston – Proposed Declaration of Road to be a Public Highway

Introduction

File No.: 1533
Authors: Michelle Morrow / Sam Romaszko
General Manager: Shane Marr

Background

Ingliston Drive was created on LP115490 in 1975 at which time the owner of the land was a company which has since been deregistered. Due to this company being deregistered the road was subsequently vested to ASIC (Australian Securities and Investments Commission). A copy of a Title search has revealed the registered proprietor of this road as being the deregistered company.

Prior to the *Subdivision Act* 1988, ownership of any roads which were created on a plan of subdivision remained in the name of the subdividing landholder as registered proprietor. Under the *Subdivision Act* 1988, the ownership of roads created on a plan of subdivision is automatically vested in Council at the time of registration of the plan by Land Victoria (the Titles Office).

In 1993, Section 203 of the *Local Government Act* 1989 (the Act) was amended to cause all public highways on freehold land to vest in fee simple in the relevant municipal Council therefore making Council the owner. This provision now sits under Schedule 5 of the *Road Management Act* 2004 which states:

(4) Subject to sub-clause (6), a road vests in fee simple in the municipal council of the municipal district in which it is located upon becoming a road.

Section 3 of the *Local Government Act* 1989 defines a road as including rights of way and cul-de sacs. Ingliston Drive is identified as having both of these elements.

There are seven properties that front Ingliston Drive with four of the property owners having written to Council to request that Council assume full responsibility for Ingliston Drive. One of the owners has written to Council expressing safety concerns with the road and private road signage.

Proposal

In order to give certainty to the status of Ingliston Drive and Council's authority in respect to the road and to eliminate the concerns of four of the seven property owners of Ingliston Drive, it is now proposed for Council to declare Ingliston Drive to be a public highway as provided for under section 204(1) of the *Local Government Act* 1989 which states:

Council may declare a road to be a public highway or to be open to the public;

- (1) A Council may, by notice published in the Government Gazette, declare a road in its municipal district to be a public highway for the purposes of this Act.
- (2) A Council may, by resolution, declare a road that is reasonably required for public use to be open to public traffic.
- (3) A road does not become a public highway by virtue of a Council resolution made under sub-section (2).

In declaring a road to be a public highway the road will become a ~~road~~ and a ~~municipal road~~ for the purposes of the *Road Management Act 2004* and Council will become its coordinating road authority.

It should be noted that whilst Council may resolve to declare Ingliston Drive a public highway this, as shown in point (3) above, does not make it a ~~public road~~. Section 107 of the Road Management Act 2004 provides that:

A road authority does not have a statutory duty or a common law duty to perform road management functions in respect of a public highway which is not a public road or to maintain, inspect or repair the roadside of any public highway (whether or not a public road).

Council is in possession of the construction plans for Ingliston Drive dating from the time of the subdivision. The plans show the intention to construct and seal the road to a rural profile format, i.e. constructed traffic lanes and shoulders with road side drainage.

The road was inspected on 28 February 2014. The road formation and drainage are still in good condition, a remnant portion of the bitumen seal is still in existence for a short length of the road, and a section has been resurfaced using pre-mixed asphalt by one property owner adjacent to his property. This is presumably for dust suppression. The balance of the road has a pavement in moderate condition with a gravel surface.

Policy Implications

The 2013 - 2017 Council Plan provides as follows:

Key Result Area	Enhanced Infrastructure and natural and built environment
Objective	Management of assets and infrastructure
Strategy	Proactive maintenance of roads, bridges and footpaths at documented standards in the Road Management Plan.

The proposal to declare Ingliston Drive to be a public highway is consistent with the 2013-2017 Council Plan.

Financial Implications

Should Council determine, after the 28 day public submission period has concluded with no submissions received, to declare Ingliston Drive a %public highway+, this does not automatically make Ingliston Drive a %public road+for the purposes of the Road Management Act.

Whilst there is minimal financial impact with regard to Council declaring Ingliston Drive as a public highway at this time, the decision to include the 1 kilometre length of Ingliston Drive in the Register of Public Roads should be made in accordance with the principles of the Road Management Plan, i.e, based on traffic volume, usage and location. A cursory reading of the RMP suggests a Status of %Access 2+, with the consequent construction standard and intervention levels. Capital expenditure would amount to \$3,300 per annum based on resheeting every 20 years and maintenance expenditure \$2,000 per year.

There is no compulsion on Council, upon including the road in the register, to upgrade or carry out additional works beyond the requirements of the Road Management Plan.

Risk & Occupational Health & Safety Issues

Declaring Ingliston Drive to be a public highway, and then determining to include the road in the Register of Public Roads, will require Council to manage Ingliston Drive in accordance with the Road Management Plan.

This should in fact, reduce Council's exposure to risk, as the management regime will be undertaken in accordance with legally defensible policy and procedures.

Community Engagement Strategy

Under section 204(1) and (2) of the *Local Government Act* 1989, a person has the right to make a submission under section 223 of the Act in respect of Council declaring a road as a public highway and to be open to public traffic.

Section 223 of the Act allows Council to advertise its intentions in a newspaper circulating generally within the Municipality inviting public submissions for a period of no less than 28 days after the date of the publication of the public notice in the newspaper and on Council's website. Council must then consider any submissions received in accordance with the Act.

Council has notified all proximate properties to Ingliston Drive of their right to make a submission to Council's proposal should they wish to do so. This will ensure that all property owners who may be affected by this proposal to have a guaranteed right to participate in the Council's decision making process.

Victorian Charter of Human Rights and Responsibilities Act 2006

In developing this report to Council, the officer has considered whether the subject matter raised any human rights issues. In particular, whether the scope of any human right established by the Victorian Charter of Human Rights and Responsibilities is in any way limited, restricted or interfered with by the recommendations contained in the report. It is considered that the subject matter does not raise any human rights issues.

Officer's Declaration of Conflict of Interests

Under section 80C of the Local Government Act 1989 (as amended), officers providing advice to Council must disclose any interests, including the type of interest.

General Manager – Shane Marr

In providing this advice to Council as the General Manager, I have no interests to disclose in this report.

Authors – Michelle Morrow and Sam Romaszko

In providing this advice to Council we, as the Authors, have no interests to disclose in this report.

Conclusion

In order to give certainty to the status of Ingliston Drive and Council's authority in respect to the road and to eliminate the concerns of four of the seven property owners of Ingliston Drive, it is proposed for Council to advertise its intention to declare Ingliston Drive to be a public highway as provided for under section 204(1) of the *Local Government Act 1989*.

Recommendation:

That Council:

- 1. advertises its intention to declare Ingliston Drive (as shown attached) to be a public highway in accordance with section 204(1) of the *Local Government Act 1989* in order to give certainty to the status of the road;**
- 2. under the requirements of section 204(1) and (2) of the *Local Government Act 1989*, advertises that any submissions made under Section 223 may be submitted no less than 28 days after the date of publication in a newspaper circulating generally within the Municipality and on Council's website; and**
- 3. following the completion of the public submission process receives an officer's report to be presented to Council considering all public submissions received.**

Resolution:

Crs. Sullivan/Edwards

That the item be deferred and returned to Council with a map.

CARRIED.

Report Authorisation

Authorised by:



Name: Shane Marr
Title: General Manager Corporate Services
Date: Tuesday, 27 May 2014

10. OTHER REPORTS

10.1 Assembly of Councillors

File No.: 02/01/002

Section 76(AA) of the Local Government Act 1989 defines the following to be Assemblies of Councillors; an advisory committee of the Council that includes at least one Councillor; a planned or scheduled meeting of at least half the Councillors and one member of council staff which considers matters that are intended or likely to be:

- the subject of a decision of the Council; or
- subject to the exercise of a Council function, power or duty by a person or committee acting under Council delegation.

It should be noted, an assembly of Councillors does not include an Ordinary Council meeting, a special committee of the Council, meetings of the Council's audit committee, a club, association, peak body or political party.

Council must ensure that the written record of an assembly of Councillors is, as soon as practicable .

- a) reported to the next ordinary meeting of the Council; and
- b) incorporated in the minutes of that council meeting. (s. 80A(2))

Council also records each Assembly of Councillors on its website at www.moorabool.vic.gov.au

A record of Assemblies of Councillors since the last Ordinary Meeting of Council is provided below for consideration:

- Assembly of Councillors . Wednesday 7 May 2014 . Leisure Services Contract
- Assembly of Councillors . Wednesday 7 May 2014 . Council Land Update
- Assembly of Councillors . Wednesday 7 May 2014 . Audit and Risk Committee Update
- Assembly of Councillors . Wednesday 7 May 2014 . Property Update
- Assembly of Councillors . Wednesday 7 May 2014 . New Governance Arrangements for AOCs.
- Assembly of Councillors . Wednesday 21 May 2014 . Advocacy Document Update
- Assembly of Councillors . Wednesday 21 May 2014 . Update on Peri Urban Group of Rural Councils

Resolution:**Crs. Comrie/Toohey*****That Council receives the record of Assemblies of Councillors as follows:***

- ***Assembly of Councillors – Wednesday 7 May 2014 – Leisure Services Contract***
- ***Assembly of Councillors – Wednesday 7 May 2014 – Council Land Update***
- ***Assembly of Councillors – Wednesday 7 May 2014 – Audit and Risk Committee Update***
- ***Assembly of Councillors – Wednesday 7 May 2014 – Property Update***
- ***Assembly of Councillors – Wednesday 7 May 2014 – New Governance Arrangements for AOCs.***
- ***Assembly of Councillors – Wednesday 21 May 2014 – Advocacy Document Update***
- ***Assembly of Councillors – Wednesday 21 May 2014 – Update on Peri Urban Group of Rural Councils***

CARRIED.

10.2 Section 86 - Advisory Committees of Council - Reports

Section 86 Advisory Committees are established to assist Council with executing specific functions or duties.

Advisory Committees of Council currently have no delegated powers to act on behalf of Council or commit Council to any expenditure unless resolved explicitly by Council following recommendation from the Committee. Their function is purely advisory.

Section 86 Advisory Committees are required to report to Council at intervals determined by the Council.

Councillors as representatives of the following Section 86 . Advisory Committees of Council present the reports of the Committee Meetings for Council consideration.

Committee	Meeting Date	Council Representative
Lal Lal Falls Reserve Advisory Committee of Management	10 April 2014	Cr. Sullivan

Resolution:

Crs. Sullivan/Toohey

That Council receives the reports of the following Section 86 Advisory Committees of Council:

- ***Lal Lal Falls Reserve Advisory Committee of Management meeting of Thursday 10 April 2014.***

CARRIED.

11. NOTICES OF MOTION

11.1 Cr Tatchell: N.O.M. No. 242 – Ballan Red Cross Centenary Seat

Motion:

That \$1,700 be made available from the Development Works Central Ward Reserve Fund to the Ballan Red Cross to support the purchase of a bench seat and plaque for the 100 year centenary of the Australian Red Cross. The seat is to be installed in Inglis Street, Ballan outside the Ballan Mechanics Institute. The Ballan Red Cross will contribute to the purchase of the plaque.

The Australian Red Cross held their first meeting on the 13 August, 1914. The Ballan Red Cross held their first meeting on the 20th August, 1914 in the Ballan Mechanics Institute. In the State of Victoria there are only 20 branches celebrating their 100 year centenary in 2014.

The Ballan Red Cross has raised a lot of money for the community over the last 100 years and have provided support in many emergencies including the provision of food and care as well as bedding and clothing for people who have lost their homes in a fire.

To commemorate this effort, the Ballan Red Cross would like to provide a lasting tribute to the people of Ballan and district who have worked for and supported the Ballan Red Cross over this period. The bench seat and plaque in the main street of Ballan will provide this tribute to the community.

Preamble:

The Ballan Red Cross are seeking funds from Council to install a bench seat and plaque in Inglis Street, Ballan outside the Ballan Mechanics Institute, to commemorate the 100 year centenary of the Ballan Red Cross and to pay tribute to the work and support by the community for the Ballan Red Cross during this time. The total project cost is \$1,700.

Resolution:**Crs. Sullivan/Comrie**

That \$1,700 be made available from the Development Works Central Ward Reserve Fund to the Ballan Red Cross to support the purchase of a bench seat and plaque for the 100 year centenary of the Australian Red Cross. The seat is to be installed in Inglis Street, Ballan outside the Ballan Mechanics Institute. The Ballan Red Cross will contribute to the purchase of the plaque.

The Australian Red Cross held their first meeting on the 13 August, 1914. The Ballan Red Cross held their first meeting on the 20th August, 1914 in the Ballan Mechanics Institute. In the State of Victoria there are only 20 branches celebrating their 100 year centenary in 2014.

The Ballan Red Cross has raised a lot of money for the community over the last 100 years and have provided support in many emergencies including the provision of food and care as well as bedding and clothing for people who have lost their homes in a fire.

To commemorate this effort, the Ballan Red Cross would like to provide a lasting tribute to the people of Ballan and district who have worked for and supported the Ballan Red Cross over this period. The bench seat and plaque in the main street of Ballan will provide this tribute to the community.

CARRIED.

12. MAYOR'S REPORT

Since the last Ordinary Meeting of Council, the Mayor, Cr. Tatchell, attended the following meetings and activities:

Cr. Tatchell - Mayor	
May 2014	
9 May, 2014	Ballan Hospital Auxiliary and Friends Mothers' Day High Tea, Mechanics Hall, Ballan Meeting with Catherine King, Federal Member for Ballarat
13 May, 2014	Meeting with The Hon Tim Bull, Minister for Local Government Annual General Meeting of the Ballan & District Community House and Adult Education Inc.
16 May	Lunch Celebrating National Volunteer Week with MSC Volunteers
19 May, 2014	Rural Advisory Committee Meeting
21 May, 2014	Funding Announcement by The Hon Damian Drum, Minister for Sport and Recreation and Minister for Veterans' Affairs for the Ballan Recreation Reserve Oval Redevelopment Project S86 Rural Growth Strategy Committee Meeting Assembly of Councillors – Advocacy Document Update Assembly of Councillors – Update on Peri Urban Group of Rural Councils Special Meeting of Council
22 May, 2014	Meeting with Bacchus Marsh Pool Consortium and Council
26 May, 2014	Australian Citizenship Ceremony, Bacchus Marsh
2 June, 2014	Funding Announcements by Simon Ramsay, Member for Western Victoria
3 June, 2014	Community Grants Summer Presentation Evening
4 June, 2014	Assembly of Councillors – Bungaree Committee of Management Update Ordinary Meeting of Council

Resolution:

Crs. Comrie/Sullivan

That the Mayor's report be received.

CARRIED.

13. COUNCILLORS' REPORTS

Since the last Ordinary Meeting of Council, Councillors have attended the following meetings and activities:

Cr. Toohey	
June 2014	
2 June	"Shaping the Water Future" Conference, Ballarat

Cr. Edwards	
June 2014	
May - June	Plan Melbourne meetings

Cr. Dudzik	
May/June 2014	
13 May	Moorabool Municipal Fire Management Planning Committee Meeting (MFMP) Moorabool Municipal Emergency Management Planning Committee Meeting (MEMPC)
21 May	Bacchus Marsh Primary School
28 May	Audit and Risk Committee Meeting
31 May	Marsh Food Bus Fundraiser
2 June	Funding Announcement Simon Ramsay, MP
3 June	Community Grants Summer Presentation

Resolution:

Crs. Sullivan/Spain

That the Councillors' reports be received.

CARRIED.

14. URGENT BUSINESS

Bacchus Marsh Primary School has requested use of the road and car park near the Eastern Pavilion at Masons Lane Reserve as an additional school drop off and pick up point. This request was made following numerous complaints from parents and traffic, parking and safety around the school.

The Masons Lane Reserve committee of Management have not endorsed use due to concerns about safety and the condition of the road and car park within Masons Lane.

Resolution

Crs. Dudzik/Edwards

That Council Officers write a report and provide an assessment of the proposal and also other options to alleviate traffic issues at Bacchus Marsh Primary School which may include allowing Bacchus Marsh Primary School to use Masons Lane Reserve as a possible additional school pick up and drop off point, to reduce school traffic and improve safety. That this officer report and recommendation return to Council for consideration at a Bacchus Marsh Ordinary Council Meeting.

CARRIED.

15. CLOSED SESSION OF THE MEETING TO THE PUBLIC**ADJOURNMENT OF MEETING 5.59PM**

Crs. Sullivan/Edwards

That the meeting now stand adjourned for a period of 16 minutes.

CARRIED.

RESUMPTION OF MEETING 6.15PM

Crs. Sullivan/Comrie

That the meeting now be resumed.

CARRIED.

CLOSURE OF THE MEETING TO THE PUBLIC – 6.15PM**15.1 Confidential Report****15.2 Confidential Report**

Resolution:

Crs. Sullivan/Edwards

That pursuant to the provisions of the Local Government Act 1989, the meeting now be closed to members of the public to enable the meeting to discuss matters, which the Council may, pursuant to the provisions of Section 89(2) of the Local Government Act 1989 (the Act) resolve to be considered in Closed Session, being a matter contemplated by Section 89(2) of the Act, as follows:

- (a) personnel matters;*
- (b) the personal hardship of any resident or ratepayer;*
- (c) industrial matters;*
- (d) contractual matters;*
- (e) proposed developments;*
- (f) legal advice;*
- (g) matters affecting the security of Council property;*
- (h) any other matter which the Council or special committee considers would prejudice the Council or any person;*
- (i) a resolution to close the meeting to members of the public*

CARRIED.

RESOLUTIONS TO OPEN SESSION OF COUNCIL**Item 15.2 Dog Investigation Matter****Resolution:****Crs. Toohey/Comrie*****That Council:***

- 1. Acknowledges the decision by Magistrate Mithen on 27 May 2014 to refuse the destruction of the dog as requested by the prosecution and ruled that the owners are on notice to "manage the dog at all times";***
- 2. Proposes that the dog "Mack" be released to the owners generally in accordance with the following conditions:***
 - a. Will be kept in a secure location on the owners property when not working***
 - b. Wear a muzzle when not working on the owners property or if there are visitors, not normally residing at the property, on the property***
 - c. Will not be in contact with any public arriving at the property***
 - d. Will be on lead and muzzled if not working on private property***
 - e. Will be also muzzled if not on the owners property***
 - f. Should any of these conditions be breached the dog will be seized***
- 3. The agreement must include provisions relating to the consequence of a breach of the agreement and will outline a consequence of declaring Mack as a dangerous dog/destroyed under the Domestic Animals Act 1994 and indemnity and release provisions;***
- 4. Council delegates to the General Manager Growth and Development to negotiate a contractual agreement with the Owners based upon the conditions above. This binding agreement must be signed and to the satisfaction of all parties before the dog is released;***
- 5. Failing to reach agreement on the conditions above with the Owners within 14 days Council will declare the dog dangerous under the provisions of the Domestic animals Act 1994;***
- 6. Make the details of the resolution publically available.***

CARRIED.

16. MEETING CLOSURE

The meeting closed at 8.38 pm.

Confirmed.....Mayor.