

ORDINARY MEETING OF COUNCIL

Minutes of the
Ordinary Meeting of Council to be held at
Council Chambers, 15 Stead Street, Ballan on
Wednesday 5 June 2013,
commencing at 7:00 p.m.

Members:

Cr. Pat Toohey (Mayor)	Woodlands 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. Paul Tatchell	Central Ward
Cr. Tom Sullivan	West Moorabool 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

AGENDA

1.	OPENING OF MEETING AND PRAYER	4
2.	PRESENT.....	4
3.	APOLOGIES	4
4.	CONFIRMATION OF MINUTES	4
4.1	<i>Ordinary Meeting of Council – Wednesday 15 May 2013.....</i>	<i>4</i>
5.	DISCLOSURE OF CONFLICT OF INTEREST	5
6.	MAYOR’S REPORT	7
7.	COUNCILLORS' REPORTS.....	8
8.	PUBLIC QUESTION TIME.....	11
9.	PETITIONS.....	13
10.	PRESENTATIONS / DEPUTATIONS	14
11.	OFFICER'S REPORTS.....	15
11.1	CHIEF EXECUTIVE OFFICER.....	15
11.1.1	<i>Moorabool Shire Council Film Policy Review.....</i>	<i>15</i>
11.2	GROWTH AND DEVELOPMENT	20
11.2.1	<i>Amendment C06 – Part 2 - Bacchus Marsh Heritage Study.....</i>	<i>20</i>
11.3	COMMUNITY SERVICES.....	49
11.4	INFRASTRUCTURE SERVICES	50
11.4.1	<i>Draft Asset Management Plan: Part A – General Information</i>	<i>50</i>
11.4.2	<i>Draft Asset Management Plan: Part B –Transport Assets.....</i>	<i>53</i>
11.5	CORPORATE SERVICES.....	56
12.	OTHER REPORTS	57
12.1	<i>Assembly of Councillors.....</i>	<i>57</i>
12.2	<i>Section 86 - Delegated Committees of Council - Reports</i>	<i>59</i>
12.3	<i>Section 86 - Advisory Committees of Council - Reports.....</i>	<i>60</i>
13.	NOTICES OF MOTION.....	61
14.	URGENT BUSINESS	62

15.	CLOSED SESSION OF THE MEETING TO THE PUBLIC	63
15.1	<i>Confidential Report</i>	63
16.	MEETING CLOSURE	65

1. OPENING OF MEETING AND PRAYER

The Mayor, Cr. Toohey, opened the meeting with the Council Prayer at 7.00pm.

2. PRESENT

Cr. Pat Toohey (Mayor)	Woodlands 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. Paul Tatchell	Central Ward
Cr. Tom Sullivan	West Moorabool Ward

In attendance

Mr. Rob Croxford	Chief Executive Officer
Mr. Shane Marr	General Manager Corporate Services
Mr. Phil Jeffrey	General Manager Infrastructure
Mr. Danny Colgan	General Manager Community Services
Mr. Damien Drew	Senior Strategic Planner
Mr. Keith Linard	Manager Assets
Ms. Lisa Gervasoni	Strategic Planning Coordinator
Ms. Lace Daniel	Minute Taker

3. APOLOGIES

<i>Mr. Satwinder Sandhu</i>	<i>General Manager Growth and Development</i>
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4. CONFIRMATION OF MINUTES**4.1 Ordinary Meeting of Council – Wednesday 15 May 2013**

Resolution:

Crs. Comrie/Sullivan

That Council confirms the Minutes of the Ordinary Meeting of Council held on Wednesday 15 May 2013.

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.

Nil.

6. MAYOR'S REPORT

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

Cr Pat Toohey – Mayor's Report	
May/June 2013	
16 May	Post Budget Luncheon with Simon Ramsay, MP, Member for Western Victoria and The Hon. Michael O'Brien MLA, Treasurer of Victoria
20 May	Community Grant Award Presentation Evening, Council Chambers, Ballan
21 May	Triss O'Keefe, Wendy Grayland, Tracey Sherriff and James Hay, Ballan District Health & Care re Ballan Bush Nursing Home RDV Application
22 May	Meeting with Paul Roth (Office of the Minister for Public Transport and Roads) and Sarah McDermott, VicRoads re Bacchus Marsh Eastern Interchange
29 May	Community Consultation Meeting – Draft Budget, Dunnstown
4 June	Community Consultation Meeting – Draft Budget, Council Chambers, Ballan
5 June	Assembly of Council – Proposed Bacchus Marsh Indoor Aquatic Centre Assembly of Council – Domestic Wastewater Management Plan Assembly of Council – Process for Reviewing Objections in Relation to Infringements Assembly of Council – Port Phillip Catchment Management Authority Ordinary Meeting of Council

Resolution:

Crs. Comrie/Dudzik

That the Mayor's report be received.

CARRIED.

7. COUNCILLORS' REPORTS

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

Cr. Spain	
May/June 2013	
20 May	Community Grants Presentation
21 May	Bacchus Marsh and District Trails Advisory Committee
23 May	AGM Bacchus Marsh Community College
4 June	Budget Community Consultation Meeting

Cr. Sullivan	
May/June 2013	
16 May	MAV State Council Meeting
29 May	Budget Community Consultation Meeting

Cr. Comrie	
May/June 2013	
16 May	Visitor Information Centre Volunteer Lunch
17 May	Relay for Life Launch
28 May	Blacksmith's Cottage and Forge Advisory Committee of Management Meeting
4 June	State and Local Government Partnership Workshop

Cr. Dudzik	
May/June 2013	
16 May	Visitor Information Centre Volunteer Lunch
17 May	Relay for Life Launch
20 May	Community Grants Presentation
27 May	Journey to Recognition – Indigenous Walk (Bacchus Marsh)
28 May	Journey to Recognition – Indigenous Walk (Ballan)
29 May	Audit and Risk Committee Meeting
4 June	Budget Community Consultation Meeting

Cr. Edwards	
May 2013	
20 May	Community Grants Presentation
31 May	Peri Urban Meeting

Cr. Tatchell	
May/June 2013	
17 May	Relay for Life Launch
20 May	Community Grants Presentation
25 May	Ballan Hospital Auxiliary Ball
28 May	Journey to Recognition – Indigenous Walk (Ballan)
29 May	Budget Community Consultation Meeting
4 June	Budget Community Consultation Meeting
4 June	Ballan Caravan Park Homeless Group Meeting
4 June	Ballan Autumn Festival AGM

Resolution:

Crs. Sullivan/Edwards

That the Councillors' reports be received.

CARRIED.

8. 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**.

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.

Procedural Guidelines – Public Question Time

A maximum of two questions may be asked by any one person at any one time.

If a person has submitted 2 questions to a meeting, the second question: may, at the discretion of the Mayor, be deferred until all other persons who have asked a question have had their questions asked and answered; or may not be asked if the time allotted for public question time has expired.

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

The Mayor will nominate the appropriate person to respond to each question. In the event that the question is directed for response by a Council Officer, it shall be referred through the Chief Executive Officer.

The Mayor may disallow any question, which is considered:

To relate to a matter outside the duties, functions and powers of Council;

To be defamatory, indecent, offensive, abusive, irrelevant, trivial or objectionable in language or substance;

To be confidential in nature or of legal significance;

To deal with a subject matter already answered; To be aimed to embarrass any person;

To relate to personnel matters;

To relate to the personal hardship of any resident or ratepayer;

To relate to industrial matters;

To relate to contractual matters;

To relate to proposed developments;

To relate to legal advice;

To relate to matters affecting the security of Council property; or

To relate to any other matter which Council considers would prejudice the Council or any person.

The Mayor has the discretion to seek clarification of the question if deemed necessary but otherwise the person asking the question is not permitted to enter into debate with or directly question the Mayor or Chief Executive Officer.

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

The following question was taken on notice by the Chair at the meeting:

Mr. Bernie Reimert – Ballan – Ballan Structure Plan – Request for extension of public consultation time.

Further investigations are to be undertaken in regard to this question and a written response will be provided in the next Council Minutes upon completion of the investigations.

The following questions were responded to at the meeting:

Mr. Eric Sharkey and Mr Chris Sharkey – Balliang East – Request for justification for rating increase

Ms. Jane Dennithorne – Ballan – Street trees in Ballan.

Ms. Danielle Cooper – Darley – Request for Community Groups to be notified of upcoming community consultation.

9. PETITIONS

Ms. Jane Dennithorne presented a petition in relation to Street trees in Ballan to Council.

10. 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 Officers 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:

Nil.

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 Officers report on the planning item.

Nil.

11. OFFICER'S REPORTS

11.1 CHIEF EXECUTIVE OFFICER

11.1.1 Moorabool Shire Council Film Policy Review

Introduction

File No.: 17/05/005
Author: Peter Forbes
Manager: Rob Croxford

Background

The current Moorabool Shire Council Film Policy has been reviewed to ensure it remains relevant and current for its purpose of facilitating film activity within Moorabool Shire Council.

Moorabool Shire has been the location for various feature films since this policy has been in place. Feature films like *'Charlotte's Webb'*, television series such as *'RUSH'* and television commercials such as *'Good Year'* tyres.

Since the last review of this policy in September 2010, Moorabool Shire has been the location for mini-series such as the *'Dr Blake Mysteries'*, a documentary for the Discovery Channel, *'Behind Mansion Walls'* and a television commercial for the *'Traffic Accident Commission'*.

The film industry is labour and resource intensive, with potential to generate additional jobs and investment into the local economy.

Prior to Council adopting the current Moorabool Shire Council Film Policy, Council's dealings with the film industry were undertaken by the Business Development Officer without policy or protocols. Since the implementation of the Moorabool Shire Council Film Policy, Council now have clear policies and protocols to guide actions and responses.

The original Film Policy was formally considered and adopted by Council at the Ordinary Meeting of Council on Wednesday 19 April 2006 and last reviewed and adopted on 1 September 2010.

Many enquires have been reviewed via this policy since the last review, culminating in approximately 8 location permits being issued. No serious incidents have been documented from the issuing of these permits.

The current policy has brought benefits to Moorabool Shire Council as predicted in the report to establish establishing the Film Policy.

Specifically the development of a Film Policy has allowed Council to:

- Present a clear statement of intent in respect of filming within the Shire;
- Promote the Shire as a film friendly location to local, state-wide, national and international film makers;
- Have a co-ordinated approach to the conduct of Council and its officers in relation to filming within the Shire;
- Develop opportunities to promote and market the Shires natural and built features for films and film crews; and
- Allow all stakeholders (including local government, public authorities, the community, producers and production companies) to understand precisely their commitments and expectations when filming within Moorabool Shire.

Strategies listed and developed within the Film Policy have provided positive outcomes for the film and television industry, Moorabool Shire and the community, including:

- A balance between residential, business and film and television industry needs and interests;
- Streamlined promotion of and access to Moorabool Shire for the film and television industry;
- Recognition of Moorabool Shire as a film-friendly and premier filming location in Victoria;
- An increase in film and television productions using Moorabool Shire as a location;
- Enhanced reputation and profile for Moorabool Shire as offering a coordinated, high quality service;
- Contribution to building Moorabool Shire's capacity as a centre for arts and cultural activities;
- Greater visitor awareness of Moorabool Shire's geographical, environmental and heritage assets;
- Minimised risk of litigation and insurance claims for Moorabool Shire, and increased protection for the Council's reputation; and
- Recognition of the cultural value and economic benefits to be derived from the attraction of filming activity.

As part of the review, feedback was sought from Film Victoria and The Film Cluster of Film Ballarat and Beyond. Both confirmed the current policy was adequate from a film industry and a film liaison perspective.

Council considered the proposed policy on 1 May, 2013 and resolved that the policy lay on the table for further consideration and adoption at the Ordinary Meeting of Council, 5 June 2013.

Proposal

The current Moorabool Shire Council Film Policy be retained and be endorsed as appropriate for future use, subject to very minor alterations to reflect the current staffing, practise, structures and resources.

Policy Key Elements

It is proposed that the Film Liaison Officer responsibilities should reside with the Tourism Officer and the permit signed off by the Manager, PR, Marketing and Tourism or its equivalent.

The strategic alliance with the Local Governments of Ballarat, Ararat, Northern Grampians, Pyrenees, Hepburn and now Golden Plains has offered greater attractiveness and variety for film makers. This partnership cluster has led to increased promotional opportunities and profile for Moorabool at minimal cost to Council.

The co-funded film website is Council's main tool in which to communicate with film and television professionals to select film locations in the seven participating Councils. It is recommended that this alliance continue to be an integral part of Council's Film Policy and Strategy.

In order to facilitate timely investigation and resolution of filming applications, delegation of authority for issuing permits over all areas should continue to reside with the Film Liaison Officer.

The policy includes a ~~No~~ Fees position for processing of filming permits, which is consistent with the approach of all the seven member Councils in the Ballarat and Beyond Film Partnership Cluster.

The no fees position only applies to the permit itself. Council fees and charges for other activities resulting from the filming activities, such as, for example, road management, filming on Council land where a fee would normally apply, supervisory personal if required, and any other costs incurred in the facilitation of the application, still apply and will be borne by the applicant.

In addition, a bond may also be required for filming activity in buildings and on or around property owned by Council. A bond is refundable and will act as a security deposit to be paid to Moorabool Shire Council subject to the conditions of the Film Permit.

The no fees policy for filming permits is based on the rationale that the net fee return is likely to be insubstantial compared with the increased attraction of promoting the entire region as a no Filming Permit Fees. Additionally where no permit fee charged, Council may consider itself a sponsor of the film on a case by case basis. Council may therefore receive promotional benefits of this approach.

Scope of Policy

After review, it is recommended that the scope of the Moorabool Shire Council Film Policy remain as per the following:

- Policy coverage to all areas of Moorabool Shire to coordinate filming activity occurring on land under its care and management; and
- A framework within which applications for filming and, stills photography will be reviewed and processed. (Refer Film Policy and appendices 1,2,3,4,5 for process)

Consideration

The policy protocol relating to the consideration of items which affect beyond the current year is applied for consideration of matters whose impact or influence will extend to directly affect the activities and/or financial planning of Council for a period beyond the term of the Current Council Budget, and whether relating to Council policy pronouncements or specific projects.

Policy Implications

The 2009. 2013 Council Plan provides as follows:

Key Result Area	Community Wellbeing
Objective	A strong and diverse local economy
Strategy	Encourage tourism initiatives through local and regional groups

The review of the Moorabool Shire Council Film Policy is consistent with the 2009-2013 Council Plan.

Financial Implications

There are no financial implications as a result of the review of this policy

Risk & Occupational Health & Safety Issues

There are no risk or Occupational Health and Safety issues as a result of a review of this policy.

Communications Strategy

There is no communications strategy required for the review of this policy.

Consideration

The policy protocol relating to the consideration of items which affect beyond the current year is applied for consideration of matters whose impact or influence will extend to directly affect the activities and/or financial planning of Council for a period beyond the term of the Current Council Budget, and whether relating to Council policy pronouncements or specific projects.

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.

Manager – Rob Croxford

In providing this advice to Council as the 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

Having previously resolved that the policy lay on the table for further consideration and adoption at the next Ordinary Meeting of Council, the Film Policy (HS004 - Version 003) is now placed before the Council for its endorsement.

Resolution:

Crs. Sullivan/Dudzik

That Council, in accordance with Moorabool Shire Council Policy Protocol, Consideration of Items which affect beyond the Current Year, now endorses the Film Policy (HS004 – Version 003).

CARRIED.

Report Authorisation

Authorised by:

Name: Rob Croxford

Title: Chief Executive Officer

Date: Wednesday 5 June 2013



11.2 GROWTH AND DEVELOPMENT

11.2.1 Amendment C06 – Part 2 - Bacchus Marsh Heritage Study

Introduction

File No.: 13/06/007
Author: Damien Drew
General Manager: Satwinder Sandhu

Background

Moorabool Planning Scheme Amendment C06 Part 2 seeks to implement the recommendations of the *Bacchus Marsh Heritage Study 1995*. Council has received the Panel Reports in relation to the Amendment, which affects approximately 80 properties. A list of the properties to be included in the Amendment as recommended by the Panel are included in Attachment 1.

The Bacchus Marsh Heritage Study was prepared by Richard Peterson and Daniel Catrice for the (former) Shire of Bacchus Marsh and the (former) Historic Buildings Council in 1995.

This Study recommended that a number of culturally significant heritage places be included in the Planning Scheme (Heritage Overlay) to provide statutory protection from unplanned demolition and inappropriate development or alterations, which could adversely affect their cultural significance.

The Heritage Overlay has a focus on *'those elements which contribute to the significance of heritage places'* and ensuring *that development does not adversely affect the significance of heritage places.'*

Most of the heritage places identified in the Study are within the localities of Bacchus Marsh and Maddingley, although some places are located within Balliang, Merrimu, Myrniong, Pentland Hills, and Rowsley.

At its Ordinary Meeting held on 20 December, 2006, Council resolved to seek authorisation from the Minister for Planning to prepare and exhibit a planning scheme amendment (C06) to implement the recommendations of the *Bacchus Marsh Heritage Study 1995*.

Amendment C06 was initially authorised in 2008 with internal reviews occurring through this period, and on 23 March, 2010, the Minister for Planning reauthorised Moorabool Shire Council to prepare the Amendment.

The Amendment was subsequently prepared and included the implementation of the recommendations of the Bacchus Marsh Heritage Study 1995 by amending the Heritage Overlay to introduce an additional 145 places of heritage significance. All of the heritage places are within the boundaries of the former Shire of Bacchus Marsh.

Amendment C06 was placed on public exhibition between 14 April and the 25 June, 2010, including notices in local papers and individual letters to all affected property owners. A total of 46 submissions were received in response to the amendment during the public exhibition period, which included, 33 of opposition, seven (7) offering no objection but requesting alterations/changes, one (1) offering no position and four (4) indicating support or no objection for the amendment.

Two (2) late submissions were received after the Council Meeting held on 17 November, 2010. One of the late submissions objected to the inclusion of a property in the Heritage Overlay, and the other did not object but requested alterations/changes to the amendment.

The submissions were evaluated and consultation with the submitters was undertaken. Following this process a summary report and officer recommendations were presented to Council on 18 August, 2010. The resolution of this meeting was to defer consideration of the recommendation.

Council reconsidered the Amendment at its Meeting on 17 November, 2010. Further officer advice was provided in relation to the splitting of the amendment into two parts as follows:

- a) public buildings and corrections to the existing heritage overlay; and
- b) private residences and sites with unresolved objections.

At this Meeting, Council resolved to split Moorabool Planning Scheme Amendment C06 into two parts and to adopt Amendment C06 Part 1. Eight submissions were resolved, and one submission was partially resolved, via the splitting of the Amendment and adoption of Part 1.

Amendment C06 Part 1, which included 60 sites of heritage significance (predominantly public buildings and places of assembly, geographical places of significance and commercial buildings) in the Heritage Overlay, was incorporated in the Moorabool Planning Scheme on 9 February, 2012 when that part of the Amendment was gazetted.

Amendment C06 . Part 2 comprises the balance of places (approximately 80 properties) not included within Part 1, such as, private residences and private properties with unresolvable submissions (objections). Thirty four (34) submissions remained unresolved including objections and requests for alterations/changes, in relation to 34 properties proposed to be included in the Heritage Overlay and two sites already included in the Overlay.

In relation to Part 2, the Council resolution stated:

- a) *to develop a policy on selection criteria for inclusion in the Heritage Overlay for amendment C06 to the Moorabool Planning Scheme for Private Residences.*
- b) *review of the Planning Scheme Amendment work program having taken into consideration recommendation 4a) of this report and available resources and other identified priorities.*

In accordance with the resolution of 17 November, 2010, the strategic planning department work initiated the review of the Bacchus Marsh

Heritage Study comprising two separate reports, revised citations where there have been unresolvable objections, and a review of the criteria for the application of the Heritage Overlay to private residences.

The reports include *Moorabool Shire Council Planning Scheme Amendment C06 – Part 2, Application of Heritage Overlay, Revised citations for Properties recommended for inclusion in the Heritage Overlay, July 2012q* and *Bacchus Marsh Heritage Study Review – C06 Part 2, Significance Threshold Policy & Peer Review of Residential Places July 2012q* both prepared by Samantha Westbrooke Pty Ltd.

Under the provisions of Section 30(1)(a) of the Planning and Environment Act 1987, Part 2 of the Amendment was due to lapse on 29 April, 2012. The Minister for Planning has granted Council a twelve-month extension for the adoption of Amendment C06 - Part 2 until 29 April, 2013. A further twelve-month extension has since been granted until 29 April, 2014.

On 19 September, 2012, Council resolved to request the appointment of a Planning Panel by the Minister for Planning to consider the submissions received. Council resolved to submit the exhibited amendment to the Panel, subject to the recommended changes.

The Amendment

Amendment C06 - Part 2 seeks to include the following places in the Heritage Overlay of the Moorabool Planning Scheme:

Bacchus Marsh

1. HO80, 48 Grant Street, Bacchus Marsh (Office)
2. HO204, 48A Grant Street, Bacchus Marsh (Dwelling)
3. HO56, Part Lot A on TP6085, Bacchus Marsh Road, Bacchus Marsh (Saint Patrick's House Broadlands Estate)
4. HO58, 12 Boyd Street, Bacchus Marsh (Dwelling)
5. HO59, 33 Clarinda Street, Bacchus Marsh (Former Hospital Manager Residence)
6. HO60, 18 Crook Street, Bacchus Marsh (Dwelling)
7. HO61, 4 Dugdale Street, Bacchus Marsh (Dwelling)
8. HO65, 38 Gisborne Road, Bacchus Marsh (Dwelling)
9. HO66, 40 Gisborne Road, Bacchus Marsh (Dwelling)
10. HO67, 42 Gisborne Road, Bacchus Marsh (Dwelling)
11. HO68, 48 Gisborne Road, Bacchus Marsh (Dwelling)
12. HO69, 52 Gisborne Road, Bacchus Marsh (Dwelling)
13. HO70, 63 Gisborne Road, Bacchus Marsh (Dwelling)
14. HO71, 14 Graham Street, Bacchus Marsh (Dwelling, Webster Brothers Yard and the Mason Church)
15. HO72, 21 Graham Street, Bacchus Marsh (Dwelling)
16. HO73, 22 Graham Street, Bacchus Marsh (Dwelling)
17. HO77, 10 Grant Street, Bacchus Marsh (Dwelling)
18. HO78, 18 Grant Street, Bacchus Marsh (Former Hospital and Surgery Ashley)
19. HO85, 14 & 16 Lerderberg Street, Bacchus Marsh (Dwelling)
20. HO86, 15 Lerderberg Street, Bacchus Marsh (Former Caroline Chisholm Society)
21. HO87, 29 Lerderberg Street, Bacchus Marsh (Dwelling)

22. HO88, 42 Lerderderg Street, Bacchus Marsh (Dwelling)
23. HO89, 48 Lerderderg Street, Bacchus Marsh (Dwelling)
24. HO93, 69 Lerderderg Street, Bacchus Marsh (Dwelling)
25. HO94, 80 Lerderderg Street, Bacchus Marsh (Dwelling)
26. HO95, 86 & 89-92 Lerderderg Street, Bacchus Marsh (Two Dwellings
%Hoblers Cottage+and %Riverton+)
27. HO96, 89 Lerderderg Street, Bacchus Marsh (Former AMF Officers
Shed)
28. HO98, 51 Main Street, Bacchus Marsh (Dwelling)
29. HO99, 70-72 Main Street, Bacchus Marsh (Dwelling, Garden and
Former Office)
30. HO100, 85-87 Main Street, Bacchus Marsh (Dwelling)
31. HO101, 88-90 Main Street, Bacchus Marsh (Dwelling and garden)
32. HO102, 91 Main Street, Bacchus Marsh (Dwelling)
33. HO103, 97 Main Street, Bacchus Marsh (Shop, Former Garage)
34. HO104, 105, 105A & Lot 1 & 2 on LP216877 Main Street, Bacchus
Marsh (Shop and Dwelling)
35. HO114, 239 Main Street, Bacchus Marsh (Dwelling %Wison+)
36. HO115, 263 Main Street, Bacchus Marsh (Conifer Hedge and
Windbreak)
37. HO116, 267 Main Street, Bacchus Marsh (Dwelling %Aratah+)
38. HO117, 271-273 Main Street, Bacchus Marsh (Dwelling %Sunnyside+)
39. HO118, 5B Millbank Street, Bacchus Marsh (Former Kelvin Grove
Private Hospital)
40. HO119, 22 Candeloro Street, Bacchus Marsh (Dwelling)
41. HO120, 5 Pilmer Street, Bacchus Marsh (Dwelling %Baronscourt+)
42. HO121, 13 Sydney Street, Bacchus Marsh (Dwelling)
43. HO122, 2 White Avenue, Bacchus Marsh (Dwelling)
44. HO123, 16 Young Street, Bacchus Marsh (Dwelling %The White
Cottage+)
45. HO125, 28 Young Street, Bacchus Marsh (Dwelling)
46. HO145, 375 Bacchus Marsh Road, Bacchus Marsh (Dwelling)

Balliang

47. HO128, 1419 Bacchus Marsh-Balliang Road, Balliang (Farmhouse
%The Gables+)
48. HO130, 51 Dukelows Road, Balliang (Farmhouse)
49. HO131, 92 Lees Road, Balliang (Farmhouse)
50. HO132, 99 McMahons Road, Balliang (Farmhouse)

Balliang East

51. HO133, 3105 Geelong . Bacchus Marsh Road, Balliang East
(Dwelling)

Darley

52. HO141, 70 Lerderderg Gorge Road, Darley (Farmhouse)
53. HO142, 325 Lerderderg Gorge Road, Darley (Farmhouse %Morven+)
54. HO143, 377 Lerderderg Gorge Road, Darley (Farmhouse)
55. HO144, 2 Wellington Street, Darley (Former Presbytery)

Long Forest

- 56. HO155, 61 Moonah Drive, Long Forest (Dwelling)
- 57. HO156, 18 Red Box Court, Long Forest (Dwelling)
- 58. HO157, 33 Wattle Court, Long Forest (Dwelling)

Maddingley

- 59. HO160, 40 Fiskin Street, Maddingley (Dwelling ~~Naheehs~~)
- 60. HO165, McCormacks Road, Maddingley (Drystone Wall)
- 61. HO166, 25 Rowsley Station Road, Maddingley (Industrial Building)
- 62. HO169, 18 Taverner Street, Maddingley (Two Dwellings)
- 63. HO170, 22 Taverner Street, Maddingley (Dwelling and Osage Orange Avenue)
- 64. HO173, 176 Werribee Vale Road, Maddingley (Farmhouse ~~Blinkbonnie~~ and Dethridge Irrigation Wheel)
- 65. HO174, 289 Werribee Vale Road, Maddingley (Farmhouse)
- 66. HO175, 360 Werribee Vale Road, Maddingley (Farmhouse)
- 67. HO176, 520 Werribee Vale Road, Maddingley (Farmhouse ~~Errindale~~)

Merrimu

- 68. HO147, 705 Bacchus Marsh Road, Hopetoun Park (Former W Symington House and Symington ~~g~~ Brewery)
- 69. HO179, 20 Lerderderg Park Road, Merrimu (Farmhouse ~~Lerderderg Park~~, concrete silo and concrete water tank)
- 70. HO180, 21 Lerderderg Park Road, Merrimu (Former Djerriwarrh State School)

Myrniong

- 71. HO182, 229 Long Point Road, Myrniong (Farmhouse ~~Woodlands~~, windmills and landscape)
- 72. HO186, 29 Main Street, Myrniong (Dwelling and Former Police Station and Cells)
- 73. HO187, 45 Main Street, Myrniong (Dwelling ~~Girraween~~)
- 74. HO188, 55 Main Street, Myrniong (Dwelling)
- 75. HO189, 61 Main Street, Myrniong (Dwelling, Former Milk Factory)
- 76. HO190, 90 Mt Blackwood Road, Myrniong (Dwelling)
- 77. HO193, 61 Muddy Lane, Myrniong (Farmhouse ~~Clifton~~)

Parwan

- 78. HO194, 75 Browns Lane, Parwan (Dwelling)
- 79. HO195, 52 Bucklers Road, Parwan (Outbuildings)

Pentland Hills

- 80. HO198, 81 Condons Lane, Pentland Hills (Farmhouse ~~Hilton~~)

Rowsley

- 81. HO202, 44 Paces Lane, Rowsley (Dwelling)

In addition, the Amendment proposes to correct the following error, which currently exists within the schedule to the Heritage Overlay:

- HO15 . change the address description to 13-17 Franklin Street, Maddingley.

Discussion

Pre-Amendment C06 review

The following review process occurred prior to the exhibition of Amendment C06:

- In 2001-2002, Council officers and consultants consulted the owners and occupiers of most places identified in the 1995 Heritage Study. Sixty-two submissions requested that properties not be included in an amendment;
- From the recommended 171 places, 48 were short listed (presumably for inclusion in the Heritage Overlay) by the consultants;
- Council officers met with Heritage Victoria representatives in February 2002 who advised that:
 - the full list of places should be included in the formal amendment.
 - heritage places are identified on the basis of their heritage significance, and the inclusion or otherwise of a property in a control is based on merit, and not solely based on the owners preference. Heritage Victoria, as the principal external funding body for heritage studies, was keen to see that the integrity of the study recommendations would be maintained, and
 - the correct forum for any 'culling' of the list would be at a Panel hearing.
- Due to the long delays in implementing the findings of the 1995 Heritage Study, a 'ground truthing' exercise was carried out in 2005 by Richard Allen (former Heritage Consultant). It found that 12 former heritage places no longer existed.
- After a Councillor Workshop in March 2005, inspections of places proposed for inclusion in the HO were undertaken to confirm they retain their heritage integrity.

Public Exhibition Process

Amendment C06 was exhibited in accordance with the provisions of the Planning and Environment Act 1987 between 14 April and 25 June, 2010. Notice was provided to all relevant Government Departments, Statutory Authorities and affected landowners and occupiers. Notices were placed in the Moorabool News, Council's web site, Government Gazette and the Moorabool Matters publications.

In addition, the public exhibition processes included the preparation of a public information brochure, which was distributed to all affected landowners/occupiers.

During the public exhibition period, Council officers met with many affected landowners.

A total of 48 submissions, including two (2) late submissions, were received in response to Amendment C06, of which four (4) supported the amendment or offered no objection, seven (7) offering no objection but requesting alterations/changes, one (1) offering no position, and 34 opposed the inclusion of individual properties in the Amendment.

Submissions not supporting the amendment primarily related to:

- impacts on a specific property;
- potential adverse impacts on property values and development potential;
- the need to obtain planning approval to make changes to properties;
- perceived lack of heritage significance of more recent (Post World War II) dwellings; and
- recent changes to individual buildings reducing their heritage significance.

After the splitting of the amendment, 34 submissions remain unresolved, including objections and requests for alterations/changes, in relation to 34 properties proposed to be included in the Heritage Overlay and two (2) sites already included in the Overlay.

The Part 2 review process

When Council resolved to split the Amendment (17 November 2010) it resolved for Part 2:

- *To develop a policy on selection criteria for inclusion in the Heritage Overlay for amendment C06 to the Moorabool Planning Scheme for Private Residences.*
- *Seek a review of the Planning Scheme Amendment work program having taken into consideration recommendation 4a) of this report and available resources and other identified priorities.*

A review of the heritage places in Amendment C06 . Part 2 was undertaken in a three-tier process. The initial process included a Council officer and the heritage adviser visiting the property and, in the majority of cases, meeting with the property owner on site. This process has assisted the affected community members in understanding the implications of the Heritage Overlay and ensured that all necessary information was provided to the heritage advisor reviewing each submission.

The second review process was revision of the full citations for 22 sites where Council Officers and Heritage Advisor recommended the retention of the place in the HO following the first stage of the review process. It was recommended these properties should remain in Part 2 to the amendment and be forwarded to the planning panel for consideration and recommendation to Council.

The third tier was the development of a threshold policy to provide a basis for the inclusion of private residences in the Heritage Overlay. It included a review of 50 private residences, which were not subject to submissions against the threshold policy, to verify their heritage significance.

Of the 50 properties reviewed, 48 met the requirements of the threshold policy and were recommended to be retained within Amendment C06 . Part 2, with two sites recommended for removal. Revised statements of significance were prepared for the 48 properties recommended for retention in the Amendment.

Thus, the process of review responded to issues raised by submitters in relation to the justification for the inclusion of private residences within the HO by re-examining the policy and criteria that informed the property specific evaluations. Council's heritage consultants Samantha Westbrooke Pty Ltd prepared the following reports:

- *'Bacchus Marsh Heritage Study Review – C06 Part 2, Significance Threshold Policy & Peer Review of Residential Places July 2012' (the Threshold Policy report).*
- *'Moorabool Shire Council Planning Scheme Amendment C06 – Part 2, Application of Heritage Overlay, Revised citations for Properties recommended for inclusion in the Heritage Overlay, July 2012'.*

The report notes:

"Heritage assessments and studies are usually carried out by qualified and experienced professionals following the principles outlined in the Burra Charter (Australia ICOMOS Charter for the Conservation of Places of Cultural Significance). Assessment reports generally include a history and description of the site, an assessment of the condition and integrity of the place, and a comparative analysis to substantiate the significance of the place. The Statement of Significance generally identifies 'what' is historically important and 'why' it is important."

Sites recommended to be removed from the Amendment

At the conclusion of the first stage of the review process, the heritage advisor recommended the following sites to be removed from the amendment:

1. 38 Gisborne Road, Bacchus Marsh (HO65, Submitter 2)
2. 40 Gisborne Road, Bacchus Marsh (HO66, Submitter 42)
3. 42 Gisborne Road, Bacchus Marsh (HO67, Submitter 27)
4. 48 Gisborne Road, Bacchus Marsh (HO68, Submitter 8)
5. 52 Gisborne Road, Bacchus Marsh (HO69, Submitter 19)
6. 63 Gisborne Road, Bacchus Marsh (HO70, Submitter 24)
7. 91 Main Street, Bacchus Marsh (HO111, Submitter 25 & 26)
8. 2 White Avenue, Bacchus Marsh (HO122, Submitter 20)
9. 61 Moonah Drive, Long Forest (HO155, Submitter 21)

As part of the second stage of the review process, the heritage advisor recommended that a further two places be removed from the amendment. The two properties recommended for removal were:

1. 18 Red Box Court, Long Forest (HO156)
2. 33 Wattle Court, Long Forest (HO157)

Council submitted to the Panel that all of the above properties should be removed from the Amendment C06 Part 2.

Following the Panel Hearing a final inspection of properties has been undertaken, which revealed that the farmhouse at 92 Lees Road, Balliang (HO131) has been demolished. Thus, this property should be removed from the Amendment.

Panel Process

An Independent Panel was appointed by the Minister for Planning to consider and hear submissions in response to Amendment C06 Part 2 on 14 December, 2012, under the provisions of Sections 153 and 155 of the *Planning and Environment Act 1987*.

It is important to note that the basic role of a panel is to:

- give submitters an opportunity to be heard in an independent forum and in an informal, non-judicial manner. A panel is not a court of law.
- give independent advice to the planning authority (Council) and the Minister for Planning about an amendment and about submissions referred to it. A panel makes a recommendation to the planning authority. It does not formally decide whether the amendment is to be approved.

All submitters were notified of the Panel Hearing by Planning Panels Victoria and given the opportunity to present to the Panel. All submissions were considered by the Panel, even if the submitter did not make a presentation at the Hearing.

The Panel reviewed the merits of the Amendment, including the basis for defining the heritage value of individual properties. In addition, the Panel recognised that Council responded to submissions by supporting changes to the Amendment and the Panel process has provided an opportunity for those affected to present their views.

Prior to the Panel Hearing, Council officers identified several drafting and mapping discrepancies and suggested a number of improvements to the exhibited documentation, which formed part of Council's submission to the Panel.

The Panel conducted its public hearing over a period of three days on 4 March, 2013 to 5 March, 2013 and 3 April, 2013. In addition to Council and its expert witness, seven parties made written and oral submissions at the hearing. Expert evidence was presented on behalf of two submitters, Devine Communities (heritage) and the Calleja Group of Companies (heritage and planning).

This gap between the hearing days primarily occurred due to a request from the Calleja Group for an adjournment of the Panel Hearing. The adjournment was requested to allow further time for the preparation of expert witness reports in relation to the former CSR Mill in Rowsley Station Road.

To ensure that progress on the implementation of other elements of the Amendment (Part 2) was not delayed, the Panel agreed to provide an Interim Report. The interim report considered submissions heard on Days 1 and 2 of the hearing, and those submissions where a request had not been made to be heard (by a submitter).

Submissions addressed on Day 3 (and to be addressed in the Final Panel report) relate to: ~~4~~Woodlandsq 229 Long Point Road, Myrning (HO182); 33 Clarinda Street, Bacchus Marsh (HO59); 91 Main Street, Bacchus Marsh (HO102); and 25 Rowsley Station Road, Maddingley (HO166).

Council received an Interim Report from the Panel on 10 April, 2013 which presented the Panel findings on Amendment provisions relating to 77 of the 81 places included in Amendment C06 Part 2. The Interim Panel Report was publicly released by DPCD on 9 May, 2013.

It is noted that the Panel's assessment of the submissions made when the hearing reconvened on 3 April, 2013 are not addressed in the Interim Report but were provided in the Final Report.

Council received the Final Panel Report on 13 May, 2013. It deals only with the submissions heard on Day 3 relating to HO166, HO59, HO102 and HO182. The conclusions and recommendations of the interim report are not altered by the final report.

Panel Findings and Recommendations

In summary, the Panel supports the amendment and endorses the 1995 Heritage Study, and Council's position on the significance of the majority of places proposed for inclusion in the Heritage Overlay.

The Panel acknowledged that criteria and practice in the assessment of heritage places has evolved since the 1995 Heritage Study that underpins Amendment C06 was undertaken.

However, it was satisfied that the methodology adopted in the 1995 Heritage Study is sound and the extensive reviews undertaken preceding and through the Amendment/Panel processes have provided a significant level of scrutiny of the 1995 assessments. Overall, the Panel found that the basis provided by the study has been verified and revisions have been identified where necessary.

The Panel recommended that Council consider undertaking further work to address a number of remaining 'gaps'. It emphasised that this work should not delay the approval of Amendment C06, which is important to establish a framework to protect the places of identified heritage significance. In addition, the Panel endorsed the expert evidence that the citations for places to which the HO was applied under Part 1 of Amendment C06 should be reviewed and updated if necessary.

Further, the Panel noted that it is best practice to include statements of significance in an incorporated document to provide certainty for the decision making process. It recommended that Council should consider undertaking these further pieces of work.

Consolidated Recommendations

The Panel recommended that Amendment C06 Part 2 to the Moorabool Planning Scheme be adopted as exhibited, subject to a number of recommendations. The Panel recommendations and Council officer's response are outlined below:

Final Report

1. ***Reduce the extent of HO166 (JBD Industrial Park, Maddingley) on the west, north and east of the site to:***
 - ***Exclude the new buildings on the west of the site;***
 - ***Exclude the chipper house (building 5 shown on Figure 2 of this report); and***
 - ***Encompass only the other elements identified in the statement of significance as contributing to the heritage significance of the complex, plus a distance of five metres from the contributory around the perimeter of each contributory building (where these do not directly abut more recent buildings).***

Officer comment

Council submitted to the Panel that the JBD Industrial Park (former CSR Timbrock Mill), Maddingley should be retained in the Amendment, in accordance with the resolution of the OMC Meeting held on 19 September, 2012.

Expert evidence presented at the Panel hearing on behalf of Council and the property owner (Calleja Group) concurred that the factory complex has heritage significance, however, the evidence differed on the extent of the area of significance.

The Panel accepted the consensus view that the complex is of local heritage significance, but recommended exclusion of the chipper house from the HO as it is a relatively minor component of the original factory complex.

Officers agree with the Panel recommendation as it clarifies and refines the extent of significance, and will revise the relevant amendment documentation accordingly.

2. ***Council consider implementing HO166 as a separate part of the Amendment to enable the addition of an incorporated plan that is agreed between Council and the owner within three months of advice to the owner of Council's response to this recommendation (if agreement cannot be reached on a management plan within the nominated timeframe, the application of HO166 should proceed without a management plan).***

Officer comment

Officers agree with the Panel recommendation to implement HO166 as a separate part of the Amendment (splitting the Amendment into Parts 2 and 3) to enable the addition of an incorporated plan for this site. An incorporated plan would assist the property owner by providing certainty and appropriate exemptions from permit requirements.

In addition, it is considered appropriate that preparation of an incorporated plan, which is agreed between Council and the owner within three months of advice to the owner of Council's response to this recommendation.

Officers have revised the relevant amendment documentation accordingly.

3. Remove the following properties from Amendment C06 Part 2:

- **33 Clarinda Street (HO59); and**
- **91 Main Street (HO102).**

Officer comment

Council submitted to the Panel that the property at 91 Main Street (HO102) should be removed from the Amendment and that the property at 33 Clarinda Street (HO59) should be retained in the Amendment.

The Panel has recommended that Council should undertake *“a review of places from the Post World War 2 era to determine the relative value of houses from this period, including houses that have been deleted during the process leading up to the Amendment and this report.”* (See Recommendation 14 below).

It is considered that removing the property at 33 Clarinda Street (HO59) from the Amendment is consistent with the approach adopted for the other Post World War 2 properties included in the Amendment.

Therefore, officers agree with the Panel recommendation and have revised the relevant amendment documentation accordingly.

4. Alter the address in the schedule entry for HO182 – Farmhouse ‘Woodlands’, windmills and landscape – to 229 Long Point Road, Myrniong and amend the HO mapping to identify the correct property (excluding the row of pines to the south of the homestead complex, which are located on the adjoining property).

Officer comment

Council submitted to the Panel that these changes were required to ensure that the correct property was identified in the HO Schedule and mapping.

Officers agree with the Panel recommendation and will revise the relevant amendment documentation accordingly.

5. If the draft incorporated plan for the property at 229 Long Point Road, Myrniong can be finalised to the satisfaction of the owner and Council within the timeframe for adoption and approval of Amendment C06 Part 2, include it as part of the amendment.

Officer comment

Officers agree with the Panel recommendation and have commenced a process to finalise the incorporated plan.

Furthermore, it is recommended that HO182 be implemented as a separate part of the Amendment, in conjunction with HO166, to enable the finalisation of an incorporated plan that is agreed between Council and the property owner.

- 6. *Alter the description in the HO schedule for HO95 to 'Riverton' and amend the mapping to identify the correct location on the property (as proposed by Council).***

Officer comment

Council submitted to the Panel that these changes were required to ensure that the correct property was identified in the HO Schedule and mapping.

Officers agree with the Panel recommendation and will revise the relevant amendment documentation accordingly.

- 7. *Council consider preparing a document that compiles the revised statements of significance provided to the Panel (with the further revisions identified during the Hearing process) for incorporation in the planning scheme as part of Amendment C06.***

Officer comment

Officers agree with the Panel recommendation and will revise the relevant amendment documentation accordingly. If Council resolves to split the Amendment as recommended by the Panel, it is considered that this document should be incorporated in the planning scheme as part of Amendment C06 Part 3.

Interim Report

- 8. *Alter the description of the following places in the schedule to the HO:***
- ***8 Crook Street, Bacchus Marsh (HO60) to 'Carisbrook';***
 - ***Refer to 'Nerowie Outbuildings' (HO195) and the mapping for the site should be altered as proposed by Council;***
 - ***80 Lerderderg Street, Bacchus Marsh (HO94) to delete reference to the orchard complex;***
 - ***44 Paces Lane, Rowsley (HO202) to 'Willowbank'; and***
 - ***Combine 48 and 48A Grant Street, Bacchus Marsh (HO80 and HO204) into a single listing.***

Officer comment

Council submitted to the Panel that the majority of these changes should be made to the description of the places in the schedule to the HO.

Officers agree with the Panel recommendation and will revise the relevant amendment documentation accordingly.

- 9. *Remove the following properties from Amendment C06 Part 2:***
- ***2 White Avenue, Bacchus Marsh (HO122);***
 - ***61 Moonah Drive, Long Forest (HO155);***
 - ***Drystone Wall at McCormacks Road, Maddingley (HO165);***
 - ***18 Red Box Court, Long Forest (HO156);***
 - ***33 Wattle Court, Long Forest (HO157); and***

- **38, 40, 42, 48, 52 and 63 Gisborne Road, Bacchus Marsh (HO65-HO70).**

Officer comment

Council submitted to the Panel that all of these properties, except the drystone wall at McCormacks Road, Maddingley, should be removed from the Amendment.

The Panel noted that the integrity of the drystone wall has deteriorated since it was first identified in 1989-90, and that there has been a significant loss of fabric since 2009. It determined that the HO should not be applied to this drystone wall. However, it suggested that Council should consider applying Clause 52.07 to all drystone walls in the Shire, as an interim measure pending the outcomes of a drystone wall study for municipality.

Officers agree with the Panel recommendation and have revised the relevant amendment documentation accordingly.

10. Revise the HO mapping for:

- **289 Werribee Vale Road, Maddingley (HO174) to reduce the area (as recommended in Mr Peter Lovell's statement of evidence dated 22 February 2013);**
- **48 and 48A Grant Street, Bacchus Marsh (HO80 and HO204) to combine the HO into a single site;**
- **89 Lerderderg Street, Bacchus Marsh (HO96) to cover the whole of the former military hut; and**
- **97 Main Street, Bacchus Marsh (HO103) to cover the whole of the former garage building, as proposed by Council.**

Officer comment

Council submitted to the Panel that the HO mapping for all of these properties required revision to clarify the areas of significance.

Officers agree with the Panel recommendation and will revise the relevant amendment documentation accordingly.

11. Council review the tree control provisions for consistency with citations and delete tree controls from the schedule to the HO where trees are not identified as significant in the citation for the place.

Officer comment

Officers agree with the Panel recommendation and have revised the relevant amendment documentation accordingly.

12. Defer action relating to the following properties pending the submission of this Panel's final report:

- **'Woodlands', 229 Long Point Road, Myrniong (HO182);**
- **33 Clarinda Street, Bacchus Marsh (HO59);**
- **91 Main Street, Bacchus Marsh (HO102); and**

- **25 Rowsley Station Road, Maddingley (HO166) (the former CSR Wood Panels Bacchus Marsh Mill, also known as JBD Industrial Park).**

Officer comment

Recommendations in relation to these properties were included in the Final Panel Report. See the Officer comments in response to those recommendations (Recommendations 1 . 5) above.

Other Recommendations

- 13. Amend the 'What is significant?' section of the statement of significance for 55 Main Street, Myrniong (HO188) to record that the rear hip-roofed section of the building is not significant.**

Officer comment

Officers agree with the Panel recommendation and will revise the relevant statement of significance accordingly.

- 14. Council give consideration to further revision of the citation for 44 Paces Lane, Rowsley (HO202) to improve the consistency of its description of the style of the house.**

Officer comment

Officers agree with the Panel recommendation and will revise the relevant citation accordingly.

- 15. Council consider undertaking the following further work:**
 - **Evaluate precincts, such as in Lerderderg Street and Grant Street;**
 - **An examination of drystone walls of the Shire to determine whether or not Clause 52.37 should be invoked;**
 - **Review of places from the Post World War 2 era to determine the relative value of houses from this period, including houses that have been deleted during the process leading up to the Amendment and this report;**
 - **Prepare up to date statements of significance for those properties already included in the Heritage Overlay through Part 1 of Amendment C06 that are currently still relying on the statements of significance provided in the Bacchus Marsh Heritage Study, 1995; and**
 - **Advance the introduction of protection for potential heritage precincts, such as in Lerderderg and Grant Streets.**

Officer comment

Officers agree with the Panel recommendation and will seek to progress these actions subject to the availability of funding.

This work could be appropriately carried out as part of Council's heritage program to review and assess identified heritage sites, which are yet to be protected by Heritage controls.

16. Council consider introducing tree controls through a separate Amendment where trees are identified as important to the significance of the place.

Officer comment

Officers agree with the Panel recommendation and will seek to progress these actions subject to the availability of funding.

This work could be appropriately carried out as part of Council's heritage program to review and assess identified heritage sites, which are yet to be protected by Heritage controls.

17. Establish a potential heritage place list which includes the places identified in the Bacchus Marsh Heritage Study 1995 as being of Interest.

Officer comment

Officers agree with the Panel recommendation and will establish a potential heritage place list accordingly.

Strategic basis of the Amendment

The Panel considered a number of issues relating to the strategic basis of the Amendment, which were raised in submissions. These general issues related to: planning restrictions on owners, the protracted process and age of the 1995 Heritage Study underpinning the Amendment; whether thresholds of heritage significance for particular places were appropriate; the inconsistent treatment of tree controls and the need for further work required to address gaps (such as, precincts and drystone walls) or dated citations.

Planning restrictions on owners

The Panel commented that the HO is an appropriate mechanism to advance the objectives of planning for Victoria, State Planning Policy, Local Planning Policy and DPCD guidelines. This framework for planning in Victoria and the Moorabool Shire clearly establishes a basis for protecting heritage places via application of the HO, where appropriate assessment establishes that places are of significance to the local community or wider population.

Limitations are imposed by the HO through permit requirements, with associated costs and processes. However, the Overlay provides a range of exemptions intended to avoid unnecessary demands on landowners where proposed building or works are unlikely to affect the heritage significance of the property.

The protracted process and dated Heritage Study

It was acknowledged by the Panel that criteria and practice in the assessment of heritage places has evolved, as distinct from being transformed, since the 1995 Heritage Study. The same can be said for the assessment of places included in Part 2 of Amendment C06, which were the subject of the Panel's consideration.

The Panel noted comments in the submission presented by the National Trust at the hearing that their representative was not aware of any other heritage amendment process, which had involved so many levels of review and verification and so much additional work.

As noted earlier in this report, the Panel was satisfied that there have been extensive review processes undertaken by Council, prior to the preparation of the Amendment and through the Amendment submission and Panel processes, which have provided a significant level of scrutiny of the 1995 assessments. Overall, the basis provided by the study has been verified and revisions were recommended where necessary.

Thresholds

Various submissions argued that the level of change to the original fabric of their property compromised its heritage values to a point where its inclusion in the HO was not justified.

Assessment of significance is based on established methodology used in Australian jurisdictions, which the Panel was satisfied has been applied in this case. However, an element of expert judgement is required in the assessment process.

The submission and Panel processes allow review of that judgement. Consideration of this issue in relation to specific properties is provided in the Panel report.

Tree controls

The National Trust identified a significant number of inconsistencies between citations and Amendment C06 provisions relating to tree controls.

The Panel suggests that Council review the tree control provisions for consistency with citations. Where trees are not identified as significant in the citation, the tree control should be deleted from the schedule to the HO for the place.

Where trees are identified as significant components of the place, tree controls should be applied. However, in the interests of procedural fairness the Panel does not support the introduction of tree controls as a post-exhibition process, other than by agreement with owners. Therefore, the introduction of additional tree controls will require a separate Amendment.

Other further work

During the course of the Panel hearing (and inspections), the following gaps and/or need for further work have been identified:

- A more comprehensive examination of drystone walls of the Shire would determine whether Clause 52.37 should be invoked.
- A number of post-World War 2 heritage houses have been deleted from the Amendment due to reservations about the assessment and the comparative analysis in particular. A further review of places from this era would be desirable to determine the relative value of houses from this period, including houses which have been deleted during the process leading up to the Amendment and this report.
- Council's expert witness expressed some reservations about citations associated with places previously included in the HO via Part 1 of Amendment C06. This view was expressed in the evidence statement: *"Due to the protracted nature by which Amendment C06 has come about, a number of properties are now included in the Heritage Overlay without up to date statements of significance. And, as a result of the Peer Review commissioned by Moorabool Shire in 2012 for the private properties, which form part of C06 Part 2, up to date statements of significance have been prepared for all of these properties. Therefore to provide consistency and for all properties included in the Heritage Overlay it is recommended that up to date statements of significance be prepared for those properties already included in the Heritage Overlay that are currently still relying on the statements of significance provided in the Bacchus Marsh Heritage Study, 1995."*
- The original proposals for the inclusion of heritage precincts have not been translated into Amendment C06. It is the Panel's understanding that this resulted in the places within precincts that were of heritage significance but did not align with the precinct objectives being individually identified, whereas places of comparable (or greater) significance that contributed to the overall precinct heritage values were not included in the HO. The Panel's inspections confirmed that there are heritage places in the Lerderberg Street and Grant Street areas with conspicuous heritage values that remain unprotected. It agreed with recommendation of Council's expert witness that ~~a~~ Heritage Overlay Precinct be pursued for the protection of the substantially intact collection of Victorian and Edwardian buildings in Lerderberg Street, Bacchus Marsh. In addition, consideration should be given to other potential heritage precincts, such as, in Grant Street.
- Council advised the Panel that it was aware of individual places where there appears to be a prima facie case for heritage protection, which were not included in the Amendment. Again, the Panel's inspections confirmed that this is the case. It agreed with recommendation of Council's expert witness that: *A potential heritage list be commenced which includes the places identified in the Bacchus Marsh Heritage Study, 1995 as being of Interest.*

Property Values

The Panel stated that the effect of property values is not a relevant consideration when considering whether places are of sufficient heritage significance to warrant being listed under the Heritage Overlay.

The interim Panel Report is included as Attachment 2. The final Panel Report is included as Attachment 3.

Policy Implications

The 2009. 2013 Council Plan provides as follows:

Key Result Area	Enhanced Natural and Built Environment
Objective	Effective and efficient land use planning and building control
Strategy	Develop and apply a Planning Scheme that facilitates land use and development to support the social, economic and environmental well-being of the Shire.
	Preserve local heritage through planning controls.
Supporting Strategic Document and/or Projects -	Bacchus Marsh Heritage Study

The proposed amendment is consistent with the 2009 - 2013 Council Plan.

Planning and Environment Act 1987

Council has prepared the heritage study and amendment to meet its responsibilities and duties as a Planning Authority under the provisions of the *Planning and Environment Act 1987*. Section 4(d) of the Act includes and objective to *“to conserve and enhance those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value.”*

Section 12 of the Act outlines the duties and power of planning authority (council) under the Act:

12(1) A planning authority must—

- (a) implement the objectives of planning in Victoria;*
- (d) prepare amendments to a planning scheme for which it is a planning authority;*

State Planning Policy Framework

The identification and protection of places of cultural significance is clearly the intent within the following State planning policy.

Clause 11 of the Scheme sets out the goals and principles of State planning policy and provides that:

“The State Planning Policy Framework seeks to ensure that the objectives of planning in Victoria (as set out in section 4 of the Planning and Environment Act 1987) are fostered through appropriate land use and development planning policies and practices which integrate relevant environmental, social and economic factors in the interests of net community benefit and sustainable development.”

The State Planning Policy for Heritage, as identified at Clause 15.03-1 - Heritage Conservation, of the Moorabool Planning Scheme has the following objective:

- *To ensure the conservation of places of heritage significance.*

The implementation of the above objective includes planning and responsible authorities through strategies, including:

- *Identify, assess and document places of natural and cultural heritage significance as a basis for their inclusion in the planning scheme.*
- *Provide for the protection of natural heritage sites and man-made resources and the maintenance of ecological processes and biological diversity.*
- *Provide for the conservation and enhancement of those places which are of, aesthetic, archaeological, architectural, cultural, scientific, or social significance, or otherwise of special cultural value.*
- *Encourage appropriate development that respects places with identified heritage values and creates a worthy legacy for future generations.*
- *Retain those elements that contribute to the importance of the heritage place.*
- *Encourage the conservation and restoration of contributory elements.*
- *Ensure an appropriate setting and context for heritage places is maintained or enhanced.*
- *Support adaptive reuse of heritage buildings whose use has become redundant.*

Local Planning Policy Framework

The following Local Planning Policies within the Moorabool Planning Scheme provides strong support for the further identification and protection of significant heritage places.

1.01 Municipal Context

Moorabool Shire is characterised by its townships in rural settings and its distinctive rural landscapes which comprise a diversity of vast ranges, plains, ancient gorges, and areas of intensive horticulture. The varied and rich topographical features are integral environmental, agricultural, and recreational resources for the Shire.

These environmental assets, as well as existing built form, historic buildings and landscapes, contribute to the Shire’s numerous places of natural and cultural heritage significance.”

2.01.01-2 Key Issues

Key issues that direct land use planning in Moorabool Shire are:

...

Environment

...

The environmental assets (including the Brisbane Ranges National Park, Lerderderg State Park, Werribee Gorge State Park, the Wombat State Forest, and Long Forest Nature Conservation Reserve), as well significant waterways, historic buildings, rural townscapes, and landscapes contribute to the Shire's numerous places of natural and cultural heritage significance. These features inter-twine to form the character and lifestyle opportunities that attract people to Moorabool Shire."

2.01.03 Settlement and Housing

...

2.01.03-4 Objective—Landscape and Neighbourhood Character

To ensure new development in all zones respects the existing character, landscape setting and amenity of the local area.

Strategies

- *Infill development should protect and enhance the existing character, built form and natural environment of the Shire's towns and villages including the country town scale and rural atmosphere of each town.*
- ...
- *Protect and reinforce the Shire's built and natural heritage as identified in heritage studies for the Shire."*

2.01.04 Economic Development and Employment

2.01.04-1 Key Issues and Influences

...

Local employment

...

Tourism development draws on many aspects of the Shire including recreation, leisure activities, environment, wineries, mineral springs, heritage and landscape features.

...

2.01.04-5 Objective—Local Employment

Support the development and facilitation of increased local employment opportunities in order to strengthen the local economy.

Strategies

- *Facilitate development of the tourism sector by protecting the natural environment, heritage and town character.*

Clause 21.06- Heritage

The objective of this clause is to preserve, promote and enhance places of heritage significance in the Shire. The strategies to achieve this objective are:

- *To preserve, promote, and enhance places of heritage significance including those of historical, aesthetic, architectural, scientific, and/or social value.*
- *Ensure new development is sympathetic to existing heritage places and makes a positive contribution to its heritage value.*
- *Where a permit is required for demolition/significant alterations of a heritage place, an application must be supported with documentation which demonstrates:*
 - *That the demolition/alterations will contribute to the long-term conservation of the significant fabric and/or part of the building.*
 - *That the demolition/alterations involve later inappropriate modifications to the heritage place.*
 - *That any cultural heritage significance of the place will be enhanced.*
 - *That any significant fabric to be unavoidably removed as part of the demolition/alterations can be re-instated.*
 - *A heritage impact statement may be required to be prepared, by a person/s of suitable experience and qualification in heritage architecture/interpretation.*
- *Protect important landscape features, views and built heritage including conservation of natural environment that have significant geological, botanical, zoological or other scientific importance.*
- *Encourage replanting of a similar type of tree where the removal of a significant tree is unavoidable.*
- *Protect known and identified sites of Aboriginal cultural heritage, including archaeological and historical places.*
- *Protect significant built heritage assets and streetscapes especially in Bacchus Marsh, Ballan, Blackwood, Gordon, and Mt Egerton.*

The implementation action is to:

- *Apply the Heritage Overlay (HO) to protect significant buildings, heritage precincts, sites, areas, and trees identified in relevant heritage studies.*

Clause 21.07- Bacchus Marsh

Clause 21.07 describes many attributes, which define the character of Bacchus Marsh, included is the significant heritage buildings. Clause 21.07 seeks to facilitate further growth within Bacchus Marsh while maintaining those key attributes that make Bacchus Marsh a unique and attractive place to live.

The amendment will have positive social effects through the protection of places of cultural heritage significance for the benefit of current and future generations. It will have a positive effect on the environment through the retention of significant heritage places, and promotion of sustainable development by conserving valuable resources and embedded energy in existing development.

Planning Scheme

Heritage Overlay

The Heritage Overlay (HO) is the planning scheme tool used to achieve objectives to conserve and enhance heritage places. It has a focus on *'those elements which contribute to the significance of heritage places'* and ensuring *'that development does not adversely affect the significance of heritage places.'*

Permit requirements under the HO are the primary mechanism in the planning scheme to provide statutory protection for heritage places from unplanned demolition and inappropriate development or alterations, which could adversely affect their cultural significance.

The Heritage Overlay controls do not affect routine maintenance, or internal works or renovations (except where the schedule requires it) and specifically, the following minor works do not require a planning approval:

- Repairs or routine maintenance, which do not change the appearance of a heritage place. The repairs must be undertaken to the same details, specifications and materials.
- Anything done in accordance with an incorporated plan specified in a schedule to the overlay.

In summary, permit requirements relate proposals to subdivide land; to demolish or remove a building; to construct a building or construct or carry out works, and to externally paint an unpainted surface. In some cases, the schedule activates provisions, such as, whether prohibited uses may be considered and controls relating to external painting, internal alterations, trees, outbuildings and fences.

Inclusion of a site within the Heritage Overlay does not automatically prevent changes from occurring on a the site. Rather, the planning scheme sets in place a process to consider any proposed change against its impact on heritage significance.

In circumstances where there is little impact on key elements of significance a planning permit (under the Heritage Overlay) is likely to be issued. Where there is a greater impact on significance this needs to be evaluated and a decision made in relation to net community impact.

If a planning permit application is refused, it is possible to have that decision reviewed by the Victorian Civil and Administrative Tribunal.

Financial Implications

Substantial financial assistance has been provided to Council by the Commonwealth and State Governments to enable the preparation of the Bacchus Marsh Heritage Study and Amendment C06.

Council has recently received assistance from the Department of Planning and Community Development's Rural Planning Flying Squad to progress this Amendment.

The Department is funding the preparation of draft Council reports and draft submissions/presentations to Planning Panels Victoria, which has enabled staff resources to be dedicated to other projects on the strategic planning work program.

The new heritage listings are likely to generate additional planning permit applications, however, it is expected that the increase will not exceed the capacity of Council to continue to meet its statutory obligations.

Risk & Occupational Health & Safety Issues

Adopting a planning scheme amendment is a normal part of the planning process and thus there are unlikely to be any risks if Council resolves to adopt Amendment C06 in accordance with the recommendations of the Planning Panel.

As Council may be aware, the Minister for Planning makes the ultimate decision in regard to a Planning Scheme Amendment. To ensure that the support of the Minister can be gained for the approval of an amendment, a planning authority (Council) must follow the correct procedures and protocols, in accordance with the provisions of the *Planning and Environment Act 1987*.

Under the provisions of the Act, a Panel is appointed by the Minister for Planning to hear submissions made about amendments to planning schemes, and to make recommendations or provide expert advice about whether or not the amendment should proceed. The Act requires Council to carefully consider the recommendations of a Planning Panel prior to deciding whether the amendment is to proceed.

To minimise any risk, it is recommended that Council be guided by the Panel's findings. Any decision countering the recommendations received would need to be carefully measured given the risk of conflicting with the *Planning and Environment Act 1987*.

If Council chooses to adopt the Amendment without following the Panel's recommendations, the Minister would require significant justification to consider approving the Amendment. In addition, if Council cannot provide appropriate justification for not following the Planning Panel's recommendations, its decision may be deemed to be inconsistent with a number of the objectives of planning in Victoria.

If Council disregards the recommendations of the Planning Panel when submitting Planning Scheme Amendment C06 Part 2 for Ministerial approval, it could be subjected to further procedural delays or even possible changes by the Minister, under Section 35 (1) (b) of the *Planning and Environment Act 1987*.

Considerable financial support has been provided by the Commonwealth and State Governments to enable Council to prepare the Study and Amendment. These grants have been provided on the basis that the implementation of the Study would occur via its incorporation into the planning scheme.

Thus, if the Amendment does not progress to the approval phase, the ability to obtain State Government assistance to complete the West Moorabool Heritage Study could be jeopardised, which would affect Council's ability to implement its strategic planning objectives and key result areas of the Council Plan.

Furthermore, if the Heritage Overlay is not in place to protect the Shire's heritage assets, there is a risk of the potential loss of significant buildings over time, ultimately eroding the heritage significance and character of Bacchus Marsh, which is highly valued by the community.

There are unlikely to be any occupational health and safety implications for Council in relation to this amendment.

Communications and Consultation Strategy

Considerable consultation with affected landowners has occurred since the preparation of the Bacchus Marsh Heritage Study commenced in the early 1990s.

This planning scheme amendment has undergone a rigorous consultation process. Public exhibition was undertaken in accordance with the provisions of the *Planning and Environment Act 1987*. The exhibition process is outlined in the Discussion Section of this report.

All submitters will be notified of the outcome regarding the consideration of this report. Council officers will continue to work with affected property owners to seek the implementation of Amendment C06 Part 2.

The Independent Panel conducted its public hearings in Bacchus Marsh and Ballan, and provided the opportunity for submitters to attend the hearing and make a presentation to the Panel. The Panel hearing was the culmination of all previous consultation undertaken in relation to the BMHS and Amendment C06.

In addition, there are many people and groups in the wider community with an interest in heritage. Many have been involved with the BMHS or Stage 1 of the WMHS. There was significant media interest last year in the progress of heritage studies in the Shire.

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 – Damien Drew

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

Conclusion

Heritage provides an essential link with the past and contributes to the creation of a sense of place for our community. The Bacchus Marsh Heritage Study has assisted Council in identifying the Shire's significant heritage places.

The only means to provide statutory protection for important heritage assets identified in the Heritage Study is through an amendment to the Moorabool Planning Scheme, which applies the Heritage Overlay to the significant sites.

Protection of these places by applying the Heritage Overlay will benefit the community through a better understanding of the Bacchus Marsh area's rich cultural history, recognising and realising the positive contribution that culturally significant places make to the Moorabool Shire, and fostering a sense of local identity.

Following the public exhibition of Amendment C06, a number of issues identified in submissions remained unresolved. In response to concerns raised in submissions, a rigorous review of Amendment C06 . Part 2 was undertaken. This review confirmed the validity of the Bacchus Marsh Heritage Study 1995 and that the majority of the properties identified meet the current criteria for protection under the Heritage Overlay.

To provide direction to Council as to how best to proceed with the amendment, a Planning Panel was appointed to consider these issues. All submitters were notified of the Panel Hearing by Planning Panels Victoria and given the opportunity to present to the Panel. All submissions were considered by the Panel, even if the submitter did not make a presentation at the Hearing.

The Panel reviewed the merits of the Amendment, including the basis for defining the heritage value of individual properties. In addition, the Panel recognised that Council responded to submissions by supporting changes to the Amendment and the Panel process has provided an opportunity for those affected to present their views.

The Panel Hearing process and findings provides a significant planning milestone for Council. It represents a culmination of a significant planning process, which commenced in 1994-95. A significant amount of community and stakeholder engagement has occurred to the stage of enabling the amendment to be considered for adoption.

Therefore, it is considered that the Panel's Report, which endorses the adoption of the Amendment, is a significant step towards providing greater certainty regarding the protection of heritage places in Bacchus Marsh and surrounds, and meeting Council's requirement as a planning authority to conserve places of heritage significance.

Whilst the Panel has recommended that the Amendment be adopted by Council, subject to some minor changes, it is noted that most of these changes were suggested in Council's Panel submission.

Furthermore, adopting Amendment C06 Part 2 will bring the Amendment closer to its conclusion, ultimately resolving uncertainty in the community in relation to the protection of places of heritage significance in Bacchus Marsh and surrounds.

This report recommends adoption of Amendment C06 Part 2, modified in accordance with the Panel recommendations. It is recommended that the modified amendment be submitted to the Minister for Planning for approval.

Resolution:

Crs. Comrie/Spain

That Council, having considered the recommendations of the Planning Panel's Interim and Final Reports regarding Moorabool Planning Scheme Amendment C06 Part 2 pursuant to Section 27 of the Planning and Environment Act 1987, resolves to:

- 1. *Remove the following properties from Amendment C06 Part 2:***
 - a. 33 Clarinda Street (HO59);***
 - b. 91 Main Street (HO102);***
 - c. 2 White Avenue, Bacchus Marsh (HO122);***
 - d. 61 Moonah Drive, Long Forest (HO155);***
 - e. Drystone Wall at McCormacks Road, Maddingley (HO165);***
 - f. 18 Red Box Court, Long Forest (HO156);***
 - g. 33 Wattle Court, Long Forest (HO157);***
 - h. 38, 40, 42, 48, 52 and 63 Gisborne Road, Bacchus Marsh (HO65-HO70); and***
 - i. 92 Lees Road, Balliang (HO131).***

2. ***Split Amendment C06 Part 2 into two parts in the form outlined in Attachment 1 to this report;***
3. ***Adopt Amendment C06 Part 2, with changes as recommended by the Panel as follows:***
 - a. ***Alter the description of the following places in the schedule to the HO:***
 - i. ***86 – 92 Lerderderg Street, Bacchus Marsh HO95 to ‘Riverton’ and amend the mapping to identify the correct location on the property as proposed by Council;***
 - ii. ***8 Crook Street, Bacchus Marsh (HO60) to ‘Carisbrook’;***
 - iii. ***Refer to ‘Nerowie Outbuildings’ (HO195) and the mapping for the site should be altered as proposed by Council;***
 - iv. ***80 Lerderderg Street, Bacchus Marsh (HO94) to delete reference to the orchard complex;***
 - v. ***44 Paces Lane, Rowsley (HO202) to ‘Willowbank’; and***
 - vi. ***Combine 48 and 48A Grant Street, Bacchus Marsh (HO80 and HO204) into a single listing.***
 - b. ***Revise the HO mapping for:***
 - i. ***289 Werribee Vale Road, Maddingley (HO174) to reduce the area (as recommended in Mr Peter Lovell’s statement of evidence dated 22 February 2013);***
 - ii. ***48 and 48A Grant Street, Bacchus Marsh (HO80 and HO204) to combine the HO into a single site;***
 - iii. ***89 Lerderderg Street, Bacchus Marsh (HO96) to cover the whole of the former military hut; and***
 - iv. ***97 Main Street, Bacchus Marsh (HO103) to cover the whole of the former garage building, as proposed by Council.***
 - c. ***Review the tree control provisions for consistency with citations and delete tree controls from the schedule to the HO where trees are not identified as significant in the citation for the place.***
4. ***Submit the adopted Amendment C06 Part 2, together with the prescribed information, to the Minister for Planning requesting approval pursuant to Section 31(1) of the Planning and Environment Act 1987.***

5. ***Consider the adoption of Amendment C06 Part 3 at the Ordinary Council Meeting on 18 September, 2013.***

CARRIED.

Report Authorisation

Authorised by:

Name:

Satwinder Sandhu

Title:

General Manager Growth and Development

Date:

Wednesday 5 June 2013

11.3 COMMUNITY SERVICES

No reports for this meeting.

11.4 INFRASTRUCTURE SERVICES

11.4.1 Draft Asset Management Plan: Part A – General Information

Introduction

File No.: 08/01/002
Author: Keith Linard
General Manager: Phil Jeffrey

Background

Council is responsible for some \$365 million worth of infrastructure assets that include the roads and street network, underground drains, buildings and facilities and parks and recreational facilities. Council seeks to ensure that these infrastructure assets are effectively managed so as to meet current and future service delivery goals.

To assist this, an Asset Management Plan is being prepared which addresses all major asset groups, sectioned in separate parts as follows:

- " Part A - General Information: Background or information common to all assets
- " Part B . Road Asset Management Plan
- " Part C . Buildings & Structures Asset Management Plan
- " Part D . Drainage Asset Management Plan
- " Part E . Recreation and Open Space Asset Management Plan

Part A, this document, contains supporting information common to each of the subsequent parts of the overall asset management plan, in particular the demographic, economic, business and commercial factors which drive the demand for Council services. It sets out the general principles of life cycle asset management and summarises the asset management practices being implemented in Council.

Proposal

That Council adopt the Asset Management Plan: Part A - General Information.

Policy Implications

The 2009. 2013 Council Plan provides as follows:

Key Result Area

Key Result Area 3 . Enhanced Natural and Built Environment

Objective

Long term asset management

Strategy Develop long term Strategic Asset Management Plans for all Council assets to manage current and future assets needs.

The proposal is consistent with the 2009-2013 Council Plan.

Financial Implications

There are no financial implications associated with the recommendation within this report.

Risk & Occupational Health & Safety Issues

There are no risk or OH&S implications associated with the recommendation within this report.

Communications and Consultation Strategy

There has been no direct community consultation in the preparation of this plan required. However, all parts of this plan identify and take into account data on community aspirations and feedback from diverse sources including surveys, customer requests and representations to Council.

This plan will be available on Council's website and at Council offices.

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 – Keith Linard

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

Conclusion

Although not a legislated requirement, Asset Management Plans are considered best practice and is a criterion under the National Asset Management Assessment Framework (NAMAF) and the MAV STEP Asset Management Program. Given the content of the plans, endorsement by Council is considered warranted and is being recommended.

Resolution:

Crs. Sullivan/Comrie

That Council:

1. ***Endorses the Asset Management Plan: Part A – General Information (Version 1.0 dated May 2013).***
2. ***Makes the document publically available by placing a copy on Council's website.***
3. ***Requests Officers to undertake a review of the document within 24 months of endorsement.***

CARRIED.

Report Authorisation

Authorised by:

Name: Phil Jeffrey
Title: General Manager Infrastructure
Date: Wednesday 5 June 2013

11.4.2 Draft Asset Management Plan: Part B –Transport Assets

Introduction

File No.: 08/01/002
 Author: Keith Linard
 General Manager: Phil Jeffrey

Background

Council is responsible for some \$264 million worth of transport related assets including roads (pavement, seal, shoulder, kerb & channel), pathways, car parks and, bridges. Council seeks to ensure that these infrastructure assets are effectively management so as to meet current and future service delivery goals.

Part B . Transport Asset Management Plan addresses:

- " Ownership and control of transport assets within the Shire
- " The quantity and value of Council's asset portfolio
- " Expected future demand for new or upgraded transport assets
- " The expected service life of these assets
- " Life cycle management of these assets
- " The current condition of Council transport assets and the associated renewal budget requirements
- " The %renewal gap+between renewal needs and budget available.

The report also notes areas for improvement in Council's transport asset management. These will form part of an ongoing asset management improvement program.

The data in this document will inform the ongoing review of Council's long term financial plan.

Proposal

That Council adopt the Asset Management Plan: Part B . Transport Assets.

Policy Implications

The 2009. 2013 Council Plan provides as follows:

Key Result Area	Key Result Area 3 . Enhanced Natural and Built Environment
Objective	Long term asset management
Strategy	Develop long term Strategic Asset Management Plans for all Council assets to manage current and future assets needs.

The proposal is consistent with the 2009-2013 Council Plan.

Financial Implications

There are no financial implications associated with the recommendation within this report.

Risk & Occupational Health & Safety Issues

There are no risk or OH&S implications associated with the recommendation within this report.

Communications and Consultation Strategy

There has been no direct community consultation in the preparation of this plan required. However, all parts of this plan identify and take into account data on community aspirations and feedback from diverse sources including surveys, customer requests and representations to Council.

This plan will be available on Council's internet site and at Council offices.

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 – Keith Linard

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

Conclusion

Although not a legislated requirement, Asset Management Plans are considered best practice and is a criterion under the National Asset Management Assessment Framework (NAMAF) and the MAV STEP Asset Management Program. Given the content of the plans, endorsement by Council is considered warranted and is being recommended.

Resolution:

Crs. Sullivan/Dudzik

That Council:

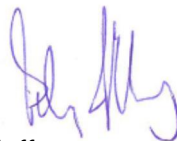
- 1. *Endorses the Asset Management Plan: Part B – Transport Assets (Version 2.1 dated May 2013).***
- 2. *Makes the document publically available by placing a copy on Council's website.***
- 3. *Requests Officers to undertake a review of the document within 24 months of endorsement.***

CARRIED.

Report Authorisation

Authorised by:

Name: Phil Jeffrey
Title: General Manager Infrastructure
Date: Wednesday 5 June 2013



11.5 CORPORATE SERVICES

No reports for this meeting.

12. OTHER REPORTS

12.1 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 15 May 2013 . Regional Catchment Strategy
- Assembly of Councillors . Wednesday 15 May 2013 . Planning Scheme C06
- Assembly of Councillors . Wednesday 15 May 2013 . Destination Management Plan 2013 . 2018
- Assembly of Councillors . Wednesday 15 May 2013 . Youth Strategy Discussion Paper
- Assembly of Councillors . Wednesday 15 May 2013 . Customer Service Strategy
- Assembly of Councillors . Wednesday 15 May 2013 . Top Level Asset Management Plan and Road Asset Management Plan
- Assembly of Council . Wednesday 22 May 2013 . Structure Plan Updates

Resolution:**Crs. Comrie/Edwards**

That Council receives the record of Assemblies of Councillors as follows:

- ***Assembly of Councillors – Wednesday 15 May 2013 – Regional Catchment Strategy***
- ***Assembly of Councillors – Wednesday 15 May 2013 – Planning Scheme C06***
- ***Assembly of Councillors – Wednesday 15 May 2013 – Destination Management Plan 2013 – 2018***
- ***Assembly of Councillors – Wednesday 15 May 2013 – Youth Strategy Discussion Paper***
- ***Assembly of Councillors – Wednesday 15 May 2013 – Customer Service Strategy***
- ***Assembly of Councillors – Wednesday 15 May 2013 – Top Level Asset Management Plan and Road Asset Management Plan***
- ***Assembly of Council – Wednesday 22 May 2013 – Structure Plan Updates***

CARRIED.

12.2 Section 86 - Delegated Committees of Council - Reports

Section 86 Delegated Committees are established to assist Council with executing specific functions or duties. By instrument of delegation, Council may delegate to the committees such functions and powers of the Council that it deems appropriate, utilising provisions of the Local Government Act 1989. The Council cannot delegate certain powers as specifically indicated in Section 86(4) of the Act.

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

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

Committee	Meeting Date	Council Representative
Maddingley Park Committee of Management	26 March 2013	Community Members
Maddingley Park Committee of Management	30 April 2013	Community Members

Resolution:

Crs. Spain/Dudzik

That Council receives the reports of the following Section 86 - Delegated Committees of Council:

- ***Maddingley Park Committee of Management meeting of Tuesday 26 March 2013.***
- ***Maddingley Park Committee of Management meeting of Tuesday 30 April 2013.***

CARRIED.

12.3 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
Moorabool Landcare Advisory Committee	8 April 2013	Cr. Edwards Manager Strategic & Sustainable Development

Resolution:

Crs. Edwards/Comrie

That Council receives the report of the following Section 86 Advisory Committee of Council:

- ***Moorabool Landcare Advisory Committee meeting of Monday 8 April 2013.***

CARRIED.

13. NOTICES OF MOTION

No notices of motion have been received for consideration as part of this Agenda.

14. URGENT BUSINESS

Resolution:

Crs. Sullivan / Tatchell

That Council write to the Department of Sustainability and Environment and the relevant Ministers, outlining the works carried out over the past six months at the Ballan Caravan Park and request that monies received in lieu of rent be returned to the committee.

CARRIED.

15. CLOSED SESSION OF THE MEETING TO THE PUBLIC**15.1 Confidential Report****ADJOURNMENT OF MEETING 7.54PM**

Crs. Sullivan/Comrie

That the meeting now stand adjourned for a period of 15 minutes.

CARRIED.

RESUMPTION OF MEETING 8.09PM

Crs. Comrie/Sullivan

That the meeting now be resumed.

CARRIED.

CLOSURE OF THE MEETING TO THE PUBLIC – 8.09PM

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.

Item 15.1 is a confidential item
and therefore not included
as part of these Minutes.

RETURN TO OPEN SESSION – 8.32PM

Resolution:

Crs. Edwards/Comrie

That the Meeting now return to Open Session.

CARRIED.

16. MEETING CLOSURE

The meeting closed at 8.32pm.

Confirmed.....Mayor.