

## **ORDINARY MEETING OF COUNCIL**

**Minutes** of the  
Ordinary Meeting of Council held at  
the James Young Room, Lerderberg Library,  
215 Main Street, Bacchus Marsh on  
Wednesday 15 May 2013 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**

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**1. OPENING OF MEETING AND PRAYER**

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

**2. PRESENT**

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

**In attendance**

<i>Mr. Rob Croxford</i>	<i>Chief Executive Officer</i>
<i>Mr. Shane Marr</i>	<i>General Manager Corporate Services</i>
<i>Mr. Phil Jeffrey</i>	<i>General Manager Infrastructure</i>
<i>Mr. Satwinder Sandhu</i>	<i>General Manager Growth and Development</i>
<i>Mr. Danny Colgan</i>	<i>General Manager Community Services</i>
<i>Mr. Peter Hawkins</i>	<i>Manager Planning and Building</i>
<i>Mr. Steve Ivelja</i>	<i>Manager Finance</i>
<i>Ms. Lace Daniel</i>	<i>Minute Taker</i>

**3. APOLOGIES**

*There were no apologies.*

**4. CONFIRMATION OF MINUTES****4.1 Ordinary Meeting of Council – Wednesday 1 May 2013**

**Resolution:**

**Crs. Sullivan/Dudzik**

*That Council confirms the Minutes of the Ordinary Meeting of Council held on Wednesday 1 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:**

<b>Cr Pat Toohey – Mayor's Report</b>	
<b>May 2013</b>	
<b>2 May</b>	<b>Meeting with Blackwood residents regarding their issues and concerns with sewerage at Blackwood (those in attendance included David Clements and Paul O'Donohue, Central Highlands Water; Ian Stewart, CFA Fire Captain; Don Nardella, Member for Melton).</b>
<b>7 May</b>	<b>Port Phillip &amp; Westernport Groundwater Atlas Stakeholder Reference Group Meeting</b>
<b>8 May</b>	<b>Civic reception commemorating the visit of His Excellency, The Honourable Alex Chernov AC QC, Governor of Victoria and Mrs. Elizabeth Chernov, at Pyrenees Shire Council, Beaufort</b>
<b>14 May</b>	<b>Citizenship Ceremony, Council Chambers, Ballan – 12 candidates were awarded their citizenship</b>
<b>15 May</b>	<b>Ordinary Meeting of Council</b>

**Resolution:**

**Crs. Edwards/Spain**

**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:*

<b>Cr. Dudzik</b>	
<b>May 2013</b>	
<b>7 May</b>	<b>Health and Wellbeing Plan Committee Workshop</b>
<b>7 May</b>	<b>Public Meeting - ANZAC Centenary Commemorations</b>
<b>9 May</b>	<b>Moorabool Family Violence Prevention Network</b>
<b>11 May</b>	<b>Indigenous Group Meeting (Michael Long Walk)</b>
<b>13 May</b>	<b>Women's Health Grampian's Meeting</b>
<b>14 May</b>	<b>Citizenship Ceremony</b>

<b>Cr. Spain</b>	
<b>May 2013</b>	
<b>7 May</b>	<b>Public Meeting - ANZAC Centenary Commemorations</b>
<b>9 May</b>	<b>Platypus Information Session</b>

<b>Cr. Tatchell</b>	
<b>May 2013</b>	
<b>5 May</b>	<b>Moorabool Landcare Advisory Committee</b>
<b>7 May</b>	<b>High Tea with Ballan Hospital Ladies Auxiliary</b>
<b>9 May</b>	<b>Regional Living Expo</b>
<b>10 May</b>	<b>Dunnstown Property Tour</b>



<b>Cr. Comrie</b>	
<b>May 2013</b>	
<b>11 May</b>	<b>Relay for Life Meeting</b>

<b>Cr. Edwards</b>	
<b>May 2013</b>	
<b>8 May</b>	<b>Bacchus Marsh Racecourse Reserve Committee of Management Meeting</b>
<b>14 May</b>	<b>Citizenship Ceremony</b>

<b>Cr. Sullivan</b>	
<b>May 2013</b>	
<b>6 May</b>	<b>Highlands Regional Waste Management Group Meeting</b>
<b>10 May</b>	<b>Timber Towns Victoria Meeting</b>

**Resolution:****Crs. Sullivan/Dudzik*****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 questions were responded to at the meeting:***

***Mr. Mike Allen – Blackwood – Tourism Moorabool Funding***

***Mr. Godwin Aquilina – Maddingley***

- 1. Request for Council to request RSPCA inspect fencing***
- 2. Actions resulting in permit conditions***
- 3. Request for meeting with Council officers.***

***Mr. Peter Toohey – Springbank – Road upgrade conditions on future planning permits for development in Gordon.***

**QUESTION ON NOTICE**

**Ms. Danielle Cooper raised the following question at the Ordinary Meeting of Council on Wednesday 1 May 2013, which was taken on notice by the Chair for further investigations to be undertaken:**

***Query in relation to space for Reconciliation Group, Darley.***

**RESPONSE TO QUESTION**

**In response to the question raised by Ms. Danielle Cooper at the Ordinary Meeting of Council on Wednesday 1 May 2013, Council's General Manager, Community Services has advised the following:**

***A report is to be prepared for Council's consideration on the future use of the space at the Darley Civic and Community Hub.***

**9. PETITIONS**

**Nil.**

## 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 Officer's office and registering their name and agenda item being spoken to.

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

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

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

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

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

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

Item No	Description	Name	Position
11.1.2	Consideration of the proposed 2013/2014 Annual Budget	Peter Toohey	Objector
11.2.1	Coal Exploration and Coal Seam Gas Mining	David Marnie	Objector
11.2.1	Coal Exploration and Coal Seam Gas Mining	Natasha Mills, MEG	Objector
11.2.1	Coal Exploration and Coal Seam Gas Mining	Penny Anne Shilling	Objector
11.2.1	Coal Exploration and Coal Seam Gas Mining	Rose De La Cruz	Objector
11.2.1	Coal Exploration and Coal Seam Gas Mining	Elissa McNamara	Objector
11.2.1	Coal Exploration and Coal Seam Gas Mining	Kate Tubbs	Objector

11.2.1	Coal Exploration and Coal Seam Gas Mining	Sarah Anderson	Objector
11.2.1	Coal Exploration and Coal Seam Gas Mining	Ben Courtice	Objector
11.2.1	Coal Exploration and Coal Seam Gas Mining	Neil Killeen	Objector
11.2.1	Coal Exploration and Coal Seam Gas Mining	Jenny Fraine	Objector
11.2.1	Coal Exploration and Coal Seam Gas Mining	Mark Shilling	Objector <i>(Did not address the meeting)</i>
11.2.1	Coal Exploration and Coal Seam Gas Mining	Jim Fraser	Objector
11.2.1	Coal Exploration and Coal Seam Gas Mining	Mark Farrell	Objector

**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.

Item No	Description	Name	Applicant/ Objector
11.2.2	Planning Application 2012-115; Lot 1 on PS110635, 144 Developmental Road, Bolwarrh	William McVey	Applicant
11.2.4	Planning Application 2006-057; Use and Development of a Dwelling and Outbuilding associated with Agriculture (crop raising and extensive animal husbandry) on property known as Part Crown Allotment 24, Section 12, Parish of Moorabool West, Dehnerts Road, Bunding	Archie Conroy	Applicant

## **11. OFFICER'S REPORTS**

### **11.1 CHIEF EXECUTIVE OFFICER**

#### **11.1.1 Consideration of the Ministerial Guidelines for Differential Rating**

##### **Introduction**

File No.: 07/01/012  
Author: Steve Ivelja  
General Manager: Shane Marr

##### **Background**

The recently released Ministerial Guidelines for Differential Rating require Council to review its differential rates prior to the release of the Draft 2013/14 Budget.

The Minister will have close regard to Council's proposed differential rates within draft budgets with the intention to utilise Sec 161(4) powers during the 28 day statutory draft budget public notice and consultation period in advance of Councils adopting their annual budgets. The Minister will utilise Sec 161(4) powers to prohibit any proposed differential rates which these Guidelines have identified as not appropriate types and classes of land for the application of differential rates.

In the context of the current Rating Strategy, the Minister will likely exercise her power under S161(4). In this event, Council will be required to re-advertise the Draft 2013/14 budget which will result in a significant delay of budget adoption till mid . late August. This will in turn result in a significant delay in the implementation of the Capital Works program in addition to the delay in the implementation of the Council plan and a number of new initiatives earmarked in the 2013/14 budget.

It is recommended that Council review the current differential rates in light of the release of the Ministerial guidelines and modify the existing differential rates to ensure that they are in line with both the Local Government Act and the Ministerial Guidelines for Differential Rating.

##### **Proposal**

Local Government Victoria released a discussion paper and draft Ministerial Guidelines on Differential Rates in January 2013. The discussion paper outlined the legislative framework in which Councils can levy differential rates and the types and classes of land appropriate for differential rating.

The release of the official guidelines was then released on the 10 April 2013 pursuant to Sec 161(2B) of the Local Government Act 1989. The guidelines impose that Council must have regard to the guidelines to avoid the risk of their decisions being found to be inconsistent under Sec 161(4) of the Act. Where differential rates are found to be inconsistent with the Guidelines, the Minister can seek an Order in Council under Sec 161(4) to prohibit Councils from applying such non-compliant differential rates.

The Minister will have close regard to Council's proposed differential rates within draft budgets with the intention to utilise Sec 161(4) powers during the 28 day statutory draft budget public notice and consultation period in advance of Councils adopting their annual budgets. The Minister will utilise Sec 161(4) powers to prohibit any proposed differential rates which these Guidelines have identified as not appropriate types and classes of land for the application of differential rates.

The intention of the guidelines is to provide clarity, consistency and transparency for Councils in their decision making for or with respect to:

- The objectives of differential rating
- Suitable uses of differential rating powers
- The types and classes of land that are appropriate for differential rating

The guidelines have set the following differential rate hierarchy:

1. Those categories that are **appropriate**;
2. Those that require **careful consideration**; and
3. Those that are **not appropriate**.

#### Hierarchy 1 - Appropriate Categories

The types and classes of land categories and their combination that are considered appropriate for differential rates include the following:

- General land;
- Residential land;
- Farm land;
- Commercial land;
- Industrial land;
- Retirement Village land;
- Vacant land;
- Derelict; and
- Cultural and Recreational.

Further to the above appropriate categories, the Guidelines stipulate that a Council **must give consideration** to reducing the rate burden through use of a reduced differential rate on the following classes of land categories:

- Farm land (as defined by the *Valuation of Land Act 1960*); and
- Retirement village land (as defined by the *Retirement Villages Act 1986*).



### Hierarchy 2 - Careful Consideration

The types and classes of land categories that must be carefully considered as to whether they are appropriate for the application of differential rates include (but are not limited to) the following categories:

- Holiday rental;
- Extractive;
- Landfill;
- Dry land farming;
- Irrigation farm land;
- Automobile manufacture land;
- Petroleum production land; and
- Aluminium production land.

The Guidelines suggest that the use of a differential rate applicable to very few property assessments within a municipality should be considered with caution, particularly in relation to setting of higher differential rates, and have regard to the impact on the land subject to the proposed rate and the consequential impact upon the broader municipality through consideration of equity. This is especially so in the case of differential rates applied to narrowly or specifically defined activities or land use types.

### Hierarchy 3 - Not Appropriate

The types and classes of land categories that would not be appropriate to declare a differential rate that is defined narrowly and applied specifically or exclusively to the following types and classes of land:

- Electronic gaming machine venues or casinos;
- Liquor licensed venues or liquor outlet premises;
- Business premises defined whole or in part by hours of trade;
- Fast food franchises or premises;
- Tree plantations in the farming and rural activity zones; and
- Land within the Urban Growth Zone without an approved Precinct Structure Plan in place.

The Guidelines go on to say that the use of differential rates to fund a specific service or benefit provided to the land subject to a particular rate is also not appropriate. In circumstances whereby additional services or special benefit are provided, a service rate or charge or alternatively a special rate or charge may be more appropriate as it can be targeted and correctly apportioned.

## **IMPLEMENTATION OF GUIDELINES**

As previously mentioned, the Minister for Local Government has issued the Guidelines under the provisions of Sec 161(2B) and the minister is empowered to make a recommendation to the Governor in Council to make an Order in Council to prohibit a differential rate if it is considered to be inconsistent with the Guidelines.

The Minister will have close regard to Council's proposed differential rates within draft budgets with the intention to utilise Sec 161(4) powers during the 28 day statutory draft budget public notice and consultation period in advance of Councils adopting their annual budgets. The Minister will utilise Sec 161(4) powers to prohibit any proposed differential rates which these Guidelines have identified as not appropriate types and classes of land for the application of differential rates.

## **WHAT THE GUIDELINES MEAN FOR MOORABOOL SHIRE**

Council must consider the Guidelines before declaring differential rates with specific reference to the already established Commercial Liquor License and Extractive Industry differential rates and show a demonstration to the implementation of a residential retirement villages rate.

### **Issue 1: Commercial Liquor Licence**

Based on the Guidelines deeming this differential rate as not appropriate, it is recommended that the properties within this differential rate be consolidated into the Commercial/Industrial differential rate. The general impact of this change results in the average rate increase for all non-Commercial Liquor licence differential categories moving from an average 5.5% rate increase to a 5.6% rate increase. **The impact of this change is shown in Model # 1 (attached).**

### **Issue 2: Residential Retirement Villages**

As previously mentioned, the Ministerial Guidelines require Councils to give regard to a separate differential at a reduced level rate for Residential retirement villages. The guidelines have identified residential retirement villages as a specific class of land use whereby relative rate disparities including access to services may justify the use of differential rate powers. **Rate Model # 2 (attached)** demonstrates the overall impact of creating a separate differential for retirement villages with the differential being set to 0.9 times the General rates.

### **Issue 3: Extractive Industries**

The Guidelines require that Council carefully consider whether to continue with the Extractive Industries differential rate. The Ministerial guidelines state that the use of a differential rate applicable to very few property assessments in a municipality should be considered with caution particularly in relation to the setting of higher differential rates, and have regard to the impact on the land subject to the proposed rate and the consequential impact upon the broader community through consideration of equity. Some of the specific issues Council should consider in making a decision are;

- The ministerial guidelines recommend caution in applying a differential rating category to a small number of assessments
- Can Council justify the differential rate proposed

The existence of a separate differential for Extractive industries in Councils current rating strategy has been premised on the direct impact that extractive industries and associated heavy plant and machinery have on Councils infrastructure assets, predominantly roads. If Council did decide to remove a separate differential for Extractive Industries, the removal of this differential rate would result in the 14 properties being rated in the Commercial/Industrial differential rate. **The impact of this change is shown in Model # 3 (attached).**

## Policy Implications

The 2013 . 2017 Council Plan provides as follows:

<b>Key Result Area</b>	Continuous Improvement in Council Services
<b>Objective</b>	Sound, long term financial management
<b>Strategy</b>	Develop and maintain a long term financial planning, management and reporting system, which ensures resources to deliver services and manage Council's assets.

## Financial Implications

The Ministerial guidelines have potential to delay the implementation of the CIP, the Council Plan and strategies and initiatives earmarked in the 2013/14 proposed budget if the Rating Strategy is found to be inconsistent with the Ministerial Guidelines for Differential Rating.

## Communications Strategy

Council's Rating differentials are contained within the Proposed 2013/14 Budget. After Council has accepted the Proposed 2013/14 Budget, an advertisement will be placed in local newspapers. The process includes giving public notice to allow 28 days for submissions to be made by members of the public and such submissions will be heard prior to Council adopting the 2013/14 Annual Budget.

## Victorian Charter of Human Rights and Responsibilities Act 2006

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

## 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 – Shane Marr*

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

*Author – Steve Ivelja*

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

## Conclusion

It is recommended that Council give careful consideration to the Ministerial Guidelines for Differential Rating. Moorabool's current Rating Strategy is inconsistent with the guidelines and it is recommended that Council alter the current Rating Strategy to ensure consistency with the guidelines. The potential for significant delay in the implementation of projects, services and initiatives as contained in the 2013/14 budget exists if Moorabool is required to re-advertise the Proposed Budget pursuant to the Minister exercising his powers under S161(4).

### Resolution:

#### Crs. Spain/Sullivan

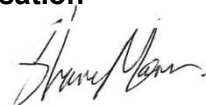
1. *That the differential rate for Commercial Liquor licence properties be consolidated into the Commercial / Industrial differential rate.*
2. *That a separate differential rate for Retirement villages be created and set at 0.9 times the general rate and incorporate the changes (if any) into the Draft 2013/14 budget.*
3. *That the differential rate for Extractive Industries be set at 3.2 times the general rate and incorporate the changes (if any) into the Draft 2013/14 budget.*

**CARRIED.**

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### Report Authorisation

Authorised by:



**Name:** Shane Marr  
**Title:** General Manager Corporate Services  
**Date:** Wednesday, 15 May 2013

## 11.1.2 Consideration of the Proposed 2013/14 Annual Budget

### Introduction

File No.: 07/01/012  
Author: Steve Ivelja  
General Manager: Shane Marr

### Background

This report relates to the commencement of the process for Council to adopt the 2013/14 Annual Budget, in accordance with Section 127 of the Local Government Act 1989 (as amended).

The process includes giving public notice to allow 28 days for submissions to be made by members of the public and such submissions will be heard prior to Council adopting the 2013/14 Annual Budget.

In accordance with Section 127 of the Local Government Act 1989 (the Act) and Regulation 8 of the Local Government (Finance and Reporting) Regulations 2004 (the Regulations), Council is required to commence the statutory process to adopt the Proposed 2013/14 Annual Budget.

The proposed budget recognises the importance of setting a clear direction for the future, achieving measurable objectives, encouraging community input and consultation, and being financially responsible. It is part of a five year Strategic Financial Plan that aims to secure a viable and sustainable path to achieve the Shire's objectives.

The budget proposal is for a 5.5% rate increase for 2013/14. The rate increase is to fund the capital improvement program, new initiatives, service growth and Council operations. The budget document appended to this report (Appendix A) provides detailed information with regard to the major impacts for 2013/14. It also provides details with regard to Council's financial management principles to ensure a financially sustainable future.

### Proposal

#### Key Influencing Trends:

#### Revenue

The 2013/14 budget includes a 5.5% rate increase. All other fees and charges will increase by 6%, except where the fees are set through legislation or where Council has agreed to vary the increase for selected services.

#### Expenditure

Total employee costs are budgeted to increase by 3.8% including the EBA increase, an allowance for banding increments, and other new positions as outlined in the budget document.

Expenditure on Materials and Consumables is budgeted to fall by \$3.11M as compared to the 2012/13 forecast due to the completion of flood works and the completion of grant funded programs being carried forward from 2011/12. All other expenses are budgeted to remain in line with the 2012/13 forecast with the exception of depreciation charges which are budgeted to increase by 726K. In addition, the 2013/14 budget will mark the 2<sup>nd</sup> year of the Federal Government's Carbon Tax and a further increase in the EPA levy.

### **Capital projects**

Council's Capital Works program maintains a mix between the need to maintain existing infrastructure and build new assets to meet community expectations. Included in the 2013/14 budget is \$5.505 million in asset renewal works and \$2.433 million for new assets and upgrades to existing assets.

### **Parameters**

The original budget parameters used in formulating the 2013/14 budget were a 5.5% rate increase, a projected CPI increase of 3.25%, an employee cost increase of 5% and new property growth within the shire of 2%. Council has made significant savings in Operating budget expenses to accommodate the 5.5% rate increase in the face of a difficult fiscal environment with major areas of Operating budget expenses increasing at a rate significantly lower than the original budget parameters.

### **Rates**

Rates will increase by an average of 5.5% in the 2013/14 budget raising total rates and charges of \$26.146 million. This includes rates raised through supplementary valuations, the various waste management charges and any special rate schemes.

### **Grant Funding**

Council's operating grants have increased by \$2.594M from the 2012/13 forecast. The increase is due in large part to the early payment of the 2012/13 Grants Commission funding which resulted in a 50% of the 12/13 grants being received in the 2011/12 financial year. The 2013/14 budget assumes no early payment of Grants Commission grants.

### **Loan Funding**

The 2013/14 budget includes new borrowings of \$2.845 million of which \$0.500M will be used to fund the creation of new assets. The residual amount of \$2.345M will be used to extinguish the unfunded superannuation liability from the 2011/12 financial year.

The 2012/13 budget also includes loan principle repayments of \$2.633 million.

### **Cash Management**

Overall, total cash and investments are forecast to increase by \$0.173 million to \$3.542 million as at 30 June 2014. Of this balance, there is \$2.567 million in restricted cash.

**Underlying result**

The underlying result excludes contributed assets, capital grants and the gain or loss on the sale of assets. The 2012/13 budget projects an underlying deficit of \$3.566 million, which is an improvement of \$5.528 million over the forecast underlying result for 2012/13. In the Strategic Financial Plan the underlying deficit reduces slightly over the next 5 years.

**Policy Implications**

The 2013 . 2017 Council Plan provides as follows:

<b>Key Result Area</b>	Continuous Improvement in Council Services
<b>Objective</b>	Sound, long term financial management
<b>Strategy</b>	Develop and maintain a long term financial planning, management and reporting system, which ensures resources to deliver services and manage Council's assets.

The proposal for consideration of the Proposed 2013/14 Annual Budget is consistent with the 2013-2017 Council Plan.

**Financial Implications**

The 2013/14 Budget contains details of the financial resources required to deliver the Council Plan.

**Communications Strategy**

After Council has accepted the Proposed 2013/14 Budget, an advertisement will be placed in local newspapers. The process includes giving public notice to allow 28 days for submissions to be made by members of the public and such submissions will be heard prior to Council adopting the 2013/14 Annual Budget.

**Victorian Charter of Human Rights and Responsibilities Act 2006**

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

## **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 – Shane Marr*

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

*Author – Steve Ivelja*

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

## **Conclusion**

The proposed budget presents Council's immediate and longer-term financial strategy and links the actions set out in the Council Plan. It also identifies the capital works and services the community can expect from Council during the 2013/14 financial year and beyond.

### ***Consideration of Deputations – Consideration of the Proposed 2013/14 Annual Budget***

***Mr. Peter Toohey addressed Council.***

***The business of the meeting then returned to the agenda.***

## **Recommendation:**

- 1.1 That having considered the details of the 2013/14 recurrent and capital budget appended to this report, which includes:
  - 1.1.1 – Mayor's Introduction**
  - 1.1.2 – Chief Executive Officer's Summary**
  - 1.1.3 – Overview**
  - 1.1.4 – Budget analysis**
  - 1.1.5 – Long term strategies, including Rating Strategy**
  - 1.1.6 - Appendix A – Budgeted Standard Statements**
  - 1.1.7 - Appendix B – Statutory Disclosures**
  - 1.1.8 - Appendix C –Capital Improvement Program**
  - 1.1.9 - Appendix D – Key Strategic Activities**
  - 1.1.10 - Appendix E – Fees and Charges****

**the proposed operating and capital budget 2013/14 be the budget prepared for the purposes of section 127 of Act.**

- 1.2 That in accordance Regulation 8 of the Regulations, Council declares its intention to borrow \$2.845m. Loan redemption for 2013/14 will be \$2.633m.**
- 1.3. General Rates**
  - 1.3.1 That in accordance with Section 158 of the Local Government Act 1989, Council declares a General Rate for the rating period commencing 1 July 2013 and ending 30 June 2014.**



- 1.3.2** It be further declared that the general rate be raised by the application of differential rates.
- 1.3.3** That subject to Council Report dated 15<sup>th</sup> May 2013 “Consideration of the Ministerial Guidelines for Differential Rating” and any changes adopted to Councils Rating Differentials, Differential Rating Categories, the relevant Cents in the dollar amount or any combination of these changes, a differential rate be respectively declared for rateable land having the respective characteristics specified in the Schedule to this resolution, which characteristics will form the criteria for each differential rate so declared:

<b>Category</b>	<b>Cents/\$CIV</b>
<b>Commercial &amp; Industrial Rate</b>	<b>0.006488</b>
<b>Commercial &amp; Industrial Vacant Land</b>	<b>0.010543</b>
<b>Extractive Industry Rate</b>	<b>0.012976</b>
<b>Farm Rate</b>	<b>0.003244</b>
<b>General Rate</b>	<b>0.004055</b>
<b>Vacant Land General</b>	<b>0.008515</b>
<b>Vacant Land FZ and RCZ</b>	<b>0.004055</b>
<b>Vacant Land R1Z or R2Z</b>	<b>0.010137</b>
<b>Residential Retirement Villages</b>	<b>0.003649</b>

- 1.3.4** Each differential rate will be determined by multiplying the Capital Improved Value (CIV) of each rateable land (categorised by the characteristics described in the Schedule to this Resolution) by the relevant percentages.
- 1.3.5** It be recorded that Council considers that each differential rate will contribute to the equitable and efficient carrying out of Council functions, and that:
- 1.3.5.1** the respective objectives of each differential rate be those specified in the Schedule to this Resolution; and
- 1.3.5.2** the respective types or classes of land which are subject to each differential rate be those defined in the Schedule to this Resolution; and
- 1.3.5.3** the respective uses and levels of each differential rate in relation to those respective types or classes of land be those described in the Schedule to this Resolution; and
- 1.3.5.4** the relevant
- (a) uses of;
  - (b) geographical locations of; and
  - (c) Planning Scheme zonings of; and
  - (d) types of buildings on the respective types or classes of land be those identified in the Schedule to this Resolution.

**1.4. Municipal Charge**

**1.4.1 It be confirmed that no municipal charge is declared in respect of the 2013/14 Financial Year.**

**1.5. Annual Service Charge**

**1.5.1 An annual service charge be declared in respect of the 2013/14 Financial Year.**

**1.5.1.1 The annual service charge be declared in respect of the period 1 July 2013 to 30 June 2014.**

**1.5.1.2 The annual service charge be declared for the collection and disposal and management of refuse from land.**

**1.5.1.3 The annual service charge be in the sum of, and be based on the criteria, set out below:**

- (i) \$142 per annum for each property that is within the defined urban service area to which a domestic waste collection service is available;**
- (ii) \$142 per annum for each property that is within the defined rural service area to which a domestic waste collection service is available;**
- (iii) \$142 per annum for each property that is not within a defined service area, to which a domestic waste collection service is provided;**
- (iv) \$92 per annum for all rateable properties in all Wards including:
  - (a) each rateable land that is "farm land" within the meaning of section 2(1) of the Valuation of Land Act 1960 and is a 'single farm enterprise' within the meaning of Section 159(8) of the Local Government Act 1989; and**
  - (b) each other rateable land, from which there is capable of being generated waste which can be deposited by a ratepayer or resident at a landfill or waste transfer station or any other litter facility.****
- (v) \$33 per annum for all rateable properties in all Wards including:
  - (a) each rateable land that is "farm land" within the meaning of section 2(1) of the Valuation of Land Act 1960 and is a 'single farm enterprise' within the meaning of Section 159(8) of the Local Government Act 1989; and**
  - (b) each other rateable land, from which there is capable of being generated waste which can be deposited by a ratepayer or resident at a landfill or waste transfer station or any other litter facility.****

**The defined service areas outlined above and the designated routes are defined on a plan, which can be viewed at the Council offices.**

## **1.6. Rebates & Concessions**

**1.6.1** It be recorded that Council grants to each owner of rateable land who is an "eligible recipient" within the meaning of the State Concessions Act 1986, a rebate of an amount determined by the Department of Human Services in respect of their principal place of residence. The criteria for "eligible recipient" is also determined by the Department of Human Services.

## **1.7. Payment**

**1.7.1** All rates and charges to be paid in four instalments, in accordance with Section 167 (1) and (2) of the Local Government Act 1989.

**1.7.2** Unless Council resolves otherwise, a person may only pay rates and charges as a lump sum if payment is made on or before 15 February 2014.

## **1.8. Consequential**

**1.8.1** It be confirmed that, subject to sections 171 and 172 of the Local Government Act 1989, Council will require a person to pay interest on any rates and charges which:

**1.8.1.1** that person is liable to pay;

**1.8.1.2** have not been paid by the date specified for their payment.

**1.9** That it is proposed that an amount of \$26,146,049 be declared as the amount Council intends to raise from the general rates and charges (including Supplementary and Special Rates) for the period from 1 July 2013 to 30 June 2014.

**1.10** That in accordance with Section 158 of the Act and Regulation 8 of the Regulations, detailed information concerning General Rates and Special Rates and charges is appended to this report.

**1.11** That as part of the public presentation process for the proposed budget, the following actions will be undertaken in accordance with:

**1.11.1** Sections 127 and 129 of the Act and Regulation 9 of the Regulations – that the proposed 2013/14 budget be made available for public inspection.

**1.11.2** Section 129 of the Act and Regulation 9 of the Regulations – that the Chief Executive officer be authorised to give public notice that the Proposed 2013/14 Annual Budget has been prepared and is available for public inspection.

**1.11.3** Sections 158 to 162 of the Act and Regulation 9 of Regulations - that Council give public notice and have ready for public inspection all prescribed information to be available from 21 May until 18 June 2013.

**1.11.4** That Council resolves to allow 28 days for submissions to be made by members of the public and that all submissions are to

be made in the prescribed manner. Council will hear submissions on Wednesday 26 June 2013 at the Special Meeting of Council, Council Chambers, Ballan.

- 1.12 That in accordance with Section 130 of the Act, Council resolves to notify and place on public notice its intention to adopt the 2013/14 Annual Budget on 3 July 2013 at a Meeting of Council to be held at the James Young Room, Lerderderg Library, Bacchus Marsh.

## **SCHEDULE**

### **Differential Rating Categories**

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#### **General Developed Land**

**Objective:**

To ensure that all rateable land makes an equitable financial contribution to the cost of carrying out the functions of Council, including the:

1. Construction and maintenance of public infrastructure; and
2. Development and provision of health and community services; and
3. Provision of general support services.

**Types and Classes:**

Rateable land having the relevant characteristics described in the below definition.

**Use and Level of Differential Rate:**

The differential rate will be used to fund some of those items of expenditure described in the Budget adopted by Council.

The level of the differential rate is the level which council considers is necessary to achieve the objectives specified above.

**Geographic Location:**

Wherever located within the municipal district.

**Use of Land:**

Any use permitted under the relevant Planning Scheme.

**Planning Scheme Zoning:**

The zoning applicable to each rateable land within this category, as determined by consulting maps referred to in the relevant Planning Scheme.

**Types of Buildings:**

All buildings which are now constructed on the land or which are constructed prior to the end of the Financial Year.

**Definition:**

**Any land:**

- on which a dwelling with an approved occupancy permit is erected and occupied for the principal purpose of physically accommodating persons; or
- which does not have the characteristics of:

- **Commercial/Industrial Land;**
- **Vacant Commercial/Industrial Land;**
- **Commercial Licensed Premises Land;**
- **Extractive Industry Land;**
- **Farm Land**
- **Vacant General Land;**
- **Vacant Farm (FZ) and Rural Conservation Zone (RCZ) Land;**
- **Vacant Residential 1 (R1Z) and Residential 2 Zone (R2Z) Land.**

### **Commercial/Industrial Land**

#### **Objective:**

To ensure that all rateable land makes an equitable financial contribution to the cost of carrying out the functions of Council, including the:

1. **Construction and maintenance of public infrastructure; and**
2. **Development and provision of health and community services; and**
3. **Provision of general support services.**

#### **Types and Classes:**

Rateable land having the relevant characteristics described in the below definition.

#### **Use and Level of Differential Rate:**

The differential rate will be used to fund some of those items of expenditure described in the Budget adopted by Council.

The level of the differential rate is the level which council considers is necessary to achieve the objectives specified above.

#### **Geographic Location:**

Wherever located within the municipal district.

#### **Use of Land:**

Any use permitted under the relevant Planning Scheme.

#### **Planning Scheme Zoning:**

The zoning applicable to each rateable land within this category, as determined by consulting maps referred to in the relevant Planning Scheme.

#### **Types of Buildings:**

All buildings which are now constructed on the land or which are constructed prior to the end of the Financial Year.

#### **Definition:**

Any developed land:

- which is occupied for the principal purpose of carrying out the manufacturing of productions of goods or services within an Industrial zone under the Moorabool planning scheme; or
- which is occupied for the principal purpose of carrying out trade in goods or services within a commercial zone under the Moorabool planning scheme; or
- which does not have the characteristics of;

- **Commercial Licensed Premises Land.**

### **Vacant Commercial/Industrial Land**

#### **Objective:**

To ensure that all rateable land makes an equitable financial contribution to the cost of carrying out the functions of Council, including the:

1. Construction and maintenance of public infrastructure; and
2. Development and provision of health and community services; and
3. Provision of general support services.

#### **Types and Classes:**

Rateable land having the relevant characteristics described in the below definition.

#### **Use and Level of Differential Rate:**

The differential rate will be used to fund some of those items of expenditure described in the Budget adopted by Council.

The level of the differential rate is the level which council considers is necessary to achieve the objectives specified above.

#### **Geographic Location:**

Wherever located within the municipal district.

#### **Use of Land:**

Any use permitted under the relevant Planning Scheme.

#### **Planning Scheme Zoning:**

The zoning applicable to each rateable land within this category, as determined by consulting maps referred to in the relevant Planning Scheme.

#### **Definition:**

Any developed land:

- which is located within an Industrial zone under the Moorabool Planning scheme which is not yet developed for the purpose of carrying out manufacturing of goods or services; or
- which is located within a commercial zone under the Moorabool Planning scheme which is not yet developed for the purpose of carrying out trade in goods or services.

### **Extractive Industry Land**

#### **Objective:**

To ensure that all rateable land makes an equitable financial contribution to the cost of carrying out the functions of Council, including the:

1. Construction and maintenance of public infrastructure; and
2. Development and provision of health and community services; and
3. Provision of general support services.

#### **Types and Classes:**

Rateable land having the relevant characteristics described in the below definition.

**Use and Level of Differential Rate:**

The differential rate will be used to fund some of those items of expenditure described in the Budget adopted by Council.

The level of the differential rate is the level which council considers is necessary to achieve the objectives specified above.

**Geographic Location:**

Wherever located within the municipal district.

**Use of Land:**

Any use permitted under the relevant Planning Scheme.

**Planning Scheme Zoning:**

The zoning applicable to each rateable land within this category, as determined by consulting maps referred to in the relevant Planning Scheme.

**Types of Buildings:**

All buildings which are now constructed on the land or which are constructed prior to the end of the Financial Year.

**Definition:****Any land:**

- which is used primarily for the extraction or removal of minerals, earth or stone including the treatment of minerals, earth or stone; or
- on which activities for the extraction or removal of minerals, earth or stone including the treatment of minerals earth or stone which have been discontinued but the land has not yet been rehabilitated to environmental standards as required by law.

**Farm Land****Objective:**

To ensure that all rateable land makes an equitable financial contribution to the cost of carrying out the functions of Council, including the –

1. Construction and maintenance of public infrastructure; and
2. Development and provision of health and community services; and
3. Provision of general support services.

**Types and Classes:**

Rateable land having the relevant characteristics described in the below definition.

**Use and Level of Differential Rate:**

The differential rate will be used to fund some of those items of expenditure described in the Budget adopted by Council.

The level of the differential rate is the level which council considers is necessary to achieve the objectives specified above.

**Geographic Location:**

Wherever located within the municipal district.

**Use of Land:**

Any use permitted under the relevant Planning Scheme.

**Planning Scheme Zoning:**

The zoning applicable to each rateable land within this category, as determined by consulting maps referred to in the relevant Planning Scheme.

**Types of Buildings:**

All buildings which are now constructed on the land or which are constructed prior to the end of the Financial Year.

**Definition:****Any land:**

- which is “farm land” within the meaning of section 2(1) of the Valuation of Land Act 1960;
- which is not a ‘single farm enterprise’ within the meaning of section 159(4) of the Local Government Act 1989.

**Vacant General Land****Objective:**

To ensure that all rateable land makes an equitable financial contribution to the cost of carrying out the functions of Council, including the –

1. Construction and maintenance of public infrastructure; and
2. Development and provision of health and community services; and
3. Provision of general support services.

**Types and Classes:**

Rateable land having the relevant characteristics described in the below definition.

**Use and Level of Differential Rate:**

The differential rate will be used to fund some of those items of expenditure described in the Budget adopted by Council.

The level of the differential rate is the level which council considers is necessary to achieve the objectives specified above.

**Geographic Location:**

Wherever located within the municipal district.

**Use of Land:**

Any use permitted under the relevant Planning Scheme.

**Planning Scheme Zoning:**

The zoning applicable to each rateable land within this category, as determined by consulting maps referred to in the relevant Planning Scheme.

**Definition:****Any land:**

- on which no dwelling with an approved occupancy permit is erected; and
- which does not have the characteristics of;



- **Vacant Farm and Rural Conservation Zone Land; or**
- **Vacant Residential 1 and Residential 2 Zone Land.**

### **Vacant FZ or RCZ Land**

#### **Objective:**

To ensure that all rateable land makes an equitable financial contribution to the cost of carrying out the functions of Council, including the:

1. **Construction and maintenance of public infrastructure; and**
2. **Development and provision of health and community services; and**
3. **Provision of general support services.**

#### **Types and Classes:**

Rateable land having the relevant characteristics described in the below definition.

#### **Use and Level of Differential Rate:**

The differential rate will be used to fund some of those items of expenditure described in the Budget adopted by Council.

The level of the differential rate is the level which council considers is necessary to achieve the objectives specified above.

#### **Geographic Location:**

Wherever located within the municipal district.

#### **Use of Land:**

Any use permitted under the relevant Planning Scheme.

#### **Planning Scheme Zoning:**

The zoning applicable to each rateable land within this category, as determined by consulting maps referred to in the relevant Planning Scheme.

#### **Definition:**

##### **Any land:**

- **on which no dwelling with an approved occupancy permit is erected; and**
- **which is located within a Farm Zone (FZ) under the Moorabool planning scheme; or**
- **which is located within a Rural Conservation Zone (RCZ) under the Moorabool planning scheme and**
- **which does not meet the criteria of property eligible to be rated in accordance with Council Farm differential rate.**

### **Vacant R1Z or R2Z Land**

#### **Objective:**

To ensure that all rateable land makes an equitable financial contribution to the cost of carrying out the functions of Council, including the:

1. **Construction and maintenance of public infrastructure; and**
2. **Development and provision of health and community services; and**
3. **Provision of general support services.**

**Types and Classes:**

Rateable land having the relevant characteristics described in the below definition.

**Use and Level of Differential Rate:**

The differential rate will be used to fund some of those items of expenditure described in the Budget adopted by Council.

The level of the differential rate is the level which council considers is necessary to achieve the objectives specified above.

**Geographic Location:**

Wherever located within the municipal district.

**Use of Land:**

Any use permitted under the relevant Planning Scheme.

**Planning Scheme Zoning:**

The zoning applicable to each rateable land within this category, as determined by consulting maps referred to in the relevant Planning Scheme.

**Definition:****Any land:**

- on which no dwelling with an approved occupancy permit is erected; and
- which is located within a Residential 1 Zone (R1Z) under the Moorabool planning scheme; or
- which is located within a Residential 2 Zone (R2Z) under the Moorabool planning scheme.

**Residential Retirement Villages****Objective:**

To ensure that all rateable land makes an equitable financial contribution to the cost of carrying out the functions of Council, including the:

1. Construction and maintenance of public infrastructure; and
2. Development and provision of health and community services; and
3. Provision of general support services.

**Types and Classes:**

Rateable land having the relevant characteristics described in the below definition.

**Use and Level of Differential Rate:**

The differential rate will be used to fund some of those items of expenditure described in the Budget adopted by Council.

The level of the differential rate is the level which council considers is necessary to achieve the objectives specified above.

**Geographic Location:**

Wherever located within the municipal district.

**Use of Land:**

Any use permitted under the relevant Planning Scheme.

**Planning Scheme Zoning:**

The zoning applicable to each rateable land within this category, as determined by consulting maps referred to in the relevant Planning Scheme.

**Types of Buildings:**

All buildings which are now constructed on the land or which are constructed prior to the end of the Financial Year.

**Definition:****Any land:**

- on which a dwelling with an approved occupancy permit is erected and occupied for the principal purpose of physically accommodating persons; or
- which is defined as a Retirement Village under the Retirement Villages Act 1986; or
- which does not have the characteristics of:
  - Commercial/Industrial Land;
  - Vacant Commercial/Industrial Land;
  - Commercial Licensed Premises Land;
  - Extractive Industry Land;
  - Farm Land
  - Vacant General Land;
  - Vacant Farm (FZ) and Rural Conservation Zone (RCZ) Land;
  - Vacant Residential 1 (R1Z) and Residential 2 Zone (R2Z) Land.

**Resolution:**

**Crs. Tatchell / Dudzik**

*That consideration of the draft 2013/14 budget be deferred until the next Ordinary Meeting of Council.*

**LOST.**

**Resolution:**

**Crs. Edwards/Spain**

**1.1 That having considered the details of the 2013/14 recurrent and capital budget appended to this report, which includes:**

**1.1.1 – Mayor’s Introduction**

**1.1.2 – Chief Executive Officer’s Summary**

**1.1.3 – Overview**

**1.1.4 – Budget analysis**

**1.1.5 – Long term strategies, including Rating Strategy**

**1.1.6 - Appendix A – Budgeted Standard Statements**

**1.1.7 - Appendix B – Statutory Disclosures**

**1.1.8 - Appendix C –Capital Improvement Program****1.1.9 - Appendix D – Key Strategic Activities****1.1.10 - Appendix E – Fees and Charges**

***the proposed operating and capital budget 2013/14 be the budget prepared for the purposes of section 127 of Act.***

- 1.2 That in accordance Regulation 8 of the Regulations, Council declares its intention to borrow \$2.845m. Loan redemption for 2013/14 will be \$2.633m.**

**1.3. General Rates**

**1.3.1 That in accordance with Section 158 of the Local Government Act 1989, Council declares a General Rate for the rating period commencing 1 July 2013 and ending 30 June 2014.**

**1.3.2 It be further declared that the general rate be raised by the application of differential rates.**

**1.3.3 That subject to Council Report dated 15<sup>th</sup> May 2013 “Consideration of the Ministerial Guidelines for Differential Rating” and any changes adopted to Councils Rating Differentials, Differential Rating Categories, the relevant Cents in the dollar amount or any combination of these changes, a differential rate be respectively declared for rateable land having the respective characteristics specified in the Schedule to this resolution, which characteristics will form the criteria for each differential rate so declared:**

<b>Category</b>	<b>Cents/\$CIV</b>
<b>Commercial &amp; Industrial Rate</b>	<b>0.006488</b>
<b>Commercial &amp; Industrial Vacant Land</b>	<b>0.010543</b>
<b>Extractive Industry Rate</b>	<b>0.012976</b>
<b>Farm Rate</b>	<b>0.003244</b>
<b>General Rate</b>	<b>0.004055</b>
<b>Vacant Land General</b>	<b>0.008515</b>
<b>Vacant Land FZ and RCZ</b>	<b>0.004055</b>
<b>Vacant Land R1Z or R2Z</b>	<b>0.010137</b>
<b>Residential Retirement Villages</b>	<b>0.003649</b>

**1.3.4 Each differential rate will be determined by multiplying the Capital Improved Value (CIV) of each rateable land (categorised by the characteristics described in the Schedule to this Resolution) by the relevant percentages.**

**1.3.5 It be recorded that Council considers that each differential rate will contribute to the equitable and efficient carrying out of Council functions, and that:**

- 1.3.5.1** *the respective objectives of each differential rate be those specified in the Schedule to this Resolution; and*
  - 1.3.5.2** *the respective types or classes of land which are subject to each differential rate be those defined in the Schedule to this Resolution; and*
  - 1.3.5.3** *the respective uses and levels of each differential rate in relation to those respective types or classes of land be those described in the Schedule to this Resolution; and*
  - 1.3.5.4** *the relevant*
    - (a)** *uses of;*
    - (b)** *geographical locations of; and*
    - (c)** *Planning Scheme zonings of; and*
    - (d)** *types of buildings on the respective types or classes of land be those identified in the Schedule to this Resolution.*
- 1.4. Municipal Charge**
- 1.4.1** *It be confirmed that no municipal charge is declared in respect of the 2013/14 Financial Year.*
- 1.5. Annual Service Charge**
- 1.5.1** *An annual service charge be declared in respect of the 2013/14 Financial Year.*
    - 1.5.1.1** *The annual service charge be declared in respect of the period 1 July 2013 to 30 June 2014.*
    - 1.5.1.2** *The annual service charge be declared for the collection and disposal and management of refuse from land.*
    - 1.5.1.3** *The annual service charge be in the sum of, and be based on the criteria, set out below:*
      - (i)** *\$142 per annum for each property that is within the defined urban service area to which a domestic waste collection service is available;*
      - (ii)** *\$142 per annum for each property that is within the defined rural service area to which a domestic waste collection service is available;*
      - (iii)** *\$142 per annum for each property that is not within a defined service area, to which a domestic waste collection service is provided;*
      - (iv)** *\$92 per annum for all rateable properties in all Wards including:*
        - (a)** *each rateable land that is "farm land" within the meaning of section 2(1) of the Valuation of Land Act 1960 and is a 'single farm enterprise' within the meaning of Section 159(8) of the Local Government Act 1989; and*

- (b) *each other rateable land, from which there is capable of being generated waste which can be deposited by a ratepayer or resident at a landfill or waste transfer station or any other litter facility.*
- (v) *\$33 per annum for all rateable properties in all Wards including:*
  - (a) *each rateable land that is "farm land" within the meaning of section 2(1) of the Valuation of Land Act 1960 and is a 'single farm enterprise' within the meaning of Section 159(8) of the Local Government Act 1989; and*
  - (b) *each other rateable land, from which there is capable of being generated waste which can be deposited by a ratepayer or resident at a landfill or waste transfer station or any other litter facility.*

*The defined service areas outlined above and the designated routes are defined on a plan, which can be viewed at the Council offices.*

## **1.6. Rebates & Concessions**

**1.6.1** *It be recorded that Council grants to each owner of rateable land who is an "eligible recipient" within the meaning of the State Concessions Act 1986, a rebate of an amount determined by the Department of Human Services in respect of their principal place of residence. The criteria for "eligible recipient" is also determined by the Department of Human Services.*

## **1.7. Payment**

**1.7.1** *All rates and charges to be paid in four instalments, in accordance with Section 167 (1) and (2) of the Local Government Act 1989.*

**1.7.2** *Unless Council resolves otherwise, a person may only pay rates and charges as a lump sum if payment is made on or before 15 February 2014.*

## **1.8. Consequential**

**1.8.1** *It be confirmed that, subject to sections 171 and 172 of the Local Government Act 1989, Council will require a person to pay interest on any rates and charges which:*

**1.8.1.1** *that person is liable to pay;*

- 1.8.1.2 have not been paid by the date specified for their payment.**
- 1.9 That it is proposed that an amount of \$26,146,049 be declared as the amount Council intends to raise from the general rates and charges (including Supplementary and Special Rates) for the period from 1 July 2013 to 30 June 2014.**
- 1.10 That in accordance with Section 158 of the Act and Regulation 8 of the Regulations, detailed information concerning General Rates and Special Rates and charges is appended to this report.**
- 1.11 That as part of the public presentation process for the proposed budget, the following actions will be undertaken in accordance with:**
- 1.11.1 Sections 127 and 129 of the Act and Regulation 9 of the Regulations – that the proposed 2013/14 budget be made available for public inspection.**
- 1.11.2 Section 129 of the Act and Regulation 9 of the Regulations – that the Chief Executive officer be authorised to give public notice that the Proposed 2013/14 Annual Budget has been prepared and is available for public inspection.**
- 1.11.3 Sections 158 to 162 of the Act and Regulation 9 of Regulations - that Council give public notice and have ready for public inspection all prescribed information to be available from 21 May until 18 June 2013.**
- 1.11.4 That Council resolves to allow 28 days for submissions to be made by members of the public and that all submissions are to be made in the prescribed manner. Council will hear submissions on Wednesday 26 June 2013 at the Special Meeting of Council, Council Chambers, Ballan.**
- 1.12 That in accordance with Section 130 of the Act, Council resolves to notify and place on public notice its intention to adopt the 2013/14 Annual Budget on 3 July 2013 at a Meeting of Council to be held at the James Young Room, Lerderderg Library, Bacchus Marsh.**

## **SCHEDULE**

### **Differential Rating Categories**

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#### **General Developed Land**

##### **Objective:**

**To ensure that all rateable land makes an equitable financial contribution to the cost of carrying out the functions of Council, including the:**

- 1. Construction and maintenance of public infrastructure; and**
- 2. Development and provision of health and community services; and**
- 3. Provision of general support services.**

**Types and Classes:**

**Rateable land having the relevant characteristics described in the below definition.**

**Use and Level of Differential Rate:**

**The differential rate will be used to fund some of those items of expenditure described in the Budget adopted by Council.**

**The level of the differential rate is the level which council considers is necessary to achieve the objectives specified above.**

**Geographic Location:**

**Wherever located within the municipal district.**

**Use of Land:**

**Any use permitted under the relevant Planning Scheme.**

**Planning Scheme Zoning:**

**The zoning applicable to each rateable land within this category, as determined by consulting maps referred to in the relevant Planning Scheme.**

**Types of Buildings:**

**All buildings which are now constructed on the land or which are constructed prior to the end of the Financial Year.**

**Definition:****Any land:**

- **on which a dwelling with an approved occupancy permit is erected and occupied for the principal purpose of physically accommodating persons; or**
- **which does not have the characteristics of:**
  - **Commercial/Industrial Land;**
  - **Vacant Commercial/Industrial Land;**
  - **Commercial Licensed Premises Land;**
  - **Extractive Industry Land;**
  - **Farm Land**
  - **Vacant General Land;**
  - **Vacant Farm (FZ) and Rural Conservation Zone (RCZ) Land;**
  - **Vacant Residential 1 (R1Z) and Residential 2 Zone (R2Z) Land.**

**Commercial/Industrial Land****Objective:**

**To ensure that all rateable land makes an equitable financial contribution to the cost of carrying out the functions of Council, including the:**

- 1. Construction and maintenance of public infrastructure; and**
- 2. Development and provision of health and community services; and**
- 3. Provision of general support services.**



**Types and Classes:**

**Rateable land having the relevant characteristics described in the below definition.**

**Use and Level of Differential Rate:**

**The differential rate will be used to fund some of those items of expenditure described in the Budget adopted by Council.**

**The level of the differential rate is the level which council considers is necessary to achieve the objectives specified above.**

**Geographic Location:**

**Wherever located within the municipal district.**

**Use of Land:**

**Any use permitted under the relevant Planning Scheme.**

**Planning Scheme Zoning:**

**The zoning applicable to each rateable land within this category, as determined by consulting maps referred to in the relevant Planning Scheme.**

**Types of Buildings:**

**All buildings which are now constructed on the land or which are constructed prior to the end of the Financial Year.**

**Definition:****Any developed land:**

- **which is occupied for the principal purpose of carrying out the manufacturing of productions of goods or services within an Industrial zone under the Moorabool planning scheme; or**
- **which is occupied for the principal purpose of carrying out trade in goods or services within a commercial zone under the Moorabool planning scheme; or**
- **which does not have the characteristics of;**
  - **Commercial Licensed Premises Land.**

**Vacant Commercial/Industrial Land****Objective:**

**To ensure that all rateable land makes an equitable financial contribution to the cost of carrying out the functions of Council, including the:**

- 1. Construction and maintenance of public infrastructure; and**
- 2. Development and provision of health and community services; and**
- 3. Provision of general support services.**

**Types and Classes:**

**Rateable land having the relevant characteristics described in the below definition.**

**Use and Level of Differential Rate:**

**The differential rate will be used to fund some of those items of expenditure described in the Budget adopted by Council.**

**The level of the differential rate is the level which council considers is necessary to achieve the objectives specified above.**

**Geographic Location:**

**Wherever located within the municipal district.**

**Use of Land:**

**Any use permitted under the relevant Planning Scheme.**

**Planning Scheme Zoning:**

**The zoning applicable to each rateable land within this category, as determined by consulting maps referred to in the relevant Planning Scheme.**

**Definition:****Any developed land:**

- **which is located within an Industrial zone under the Moorabool Planning scheme which is not yet developed for the purpose of carrying out manufacturing of goods or services; or**
- **which is located within a commercial zone under the Moorabool Planning scheme which is not yet developed for the purpose of carrying out trade in goods or services.**

**Extractive Industry Land****Objective:**

**To ensure that all rateable land makes an equitable financial contribution to the cost of carrying out the functions of Council, including the:**

1. **Construction and maintenance of public infrastructure; and**
2. **Development and provision of health and community services; and**
3. **Provision of general support services.**

**Types and Classes:**

**Rateable land having the relevant characteristics described in the below definition.**

**Use and Level of Differential Rate:**

**The differential rate will be used to fund some of those items of expenditure described in the Budget adopted by Council.**

**The level of the differential rate is the level which council considers is necessary to achieve the objectives specified above.**

**Geographic Location:**

**Wherever located within the municipal district.**

**Use of Land:**

**Any use permitted under the relevant Planning Scheme.**

**Planning Scheme Zoning:**

*The zoning applicable to each rateable land within this category, as determined by consulting maps referred to in the relevant Planning Scheme.*

**Types of Buildings:**

*All buildings which are now constructed on the land or which are constructed prior to the end of the Financial Year.*

**Definition:****Any land:**

- *which is used primarily for the extraction or removal of minerals, earth or stone including the treatment of minerals, earth or stone; or*
- *on which activities for the extraction or removal of minerals, earth or stone including the treatment of minerals earth or stone which have been discontinued but the land has not yet been rehabilitated to environmental standards as required by law.*

**Farm Land****Objective:**

*To ensure that all rateable land makes an equitable financial contribution to the cost of carrying out the functions of Council, including the –*

1. *Construction and maintenance of public infrastructure; and*
2. *Development and provision of health and community services; and*
3. *Provision of general support services.*

**Types and Classes:**

*Rateable land having the relevant characteristics described in the below definition.*

**Use and Level of Differential Rate:**

*The differential rate will be used to fund some of those items of expenditure described in the Budget adopted by Council.*

*The level of the differential rate is the level which council considers is necessary to achieve the objectives specified above.*

**Geographic Location:**

*Wherever located within the municipal district.*

**Use of Land:**

*Any use permitted under the relevant Planning Scheme.*

**Planning Scheme Zoning:**

*The zoning applicable to each rateable land within this category, as determined by consulting maps referred to in the relevant Planning Scheme.*

**Types of Buildings:**

**All buildings which are now constructed on the land or which are constructed prior to the end of the Financial Year.**

**Definition:****Any land:**

- **which is “farm land” within the meaning of section 2(1) of the Valuation of Land Act 1960;**
- **which is not a ‘single farm enterprise’ within the meaning of section 159(4) of the Local Government Act 1989.**

**Vacant General Land****Objective:**

**To ensure that all rateable land makes an equitable financial contribution to the cost of carrying out the functions of Council, including the –**

- 1. Construction and maintenance of public infrastructure; and**
- 2. Development and provision of health and community services; and**
- 3. Provision of general support services.**

**Types and Classes:**

**Rateable land having the relevant characteristics described in the below definition.**

**Use and Level of Differential Rate:**

**The differential rate will be used to fund some of those items of expenditure described in the Budget adopted by Council.**

**The level of the differential rate is the level which council considers is necessary to achieve the objectives specified above.**

**Geographic Location:**

**Wherever located within the municipal district.**

**Use of Land:**

**Any use permitted under the relevant Planning Scheme.**

**Planning Scheme Zoning:**

**The zoning applicable to each rateable land within this category, as determined by consulting maps referred to in the relevant Planning Scheme.**

**Definition:****Any land:**

- **on which no dwelling with an approved occupancy permit is erected; and**
- **which does not have the characteristics of;**
  - **Vacant Farm and Rural Conservation Zone Land; or**
  - **Vacant Residential 1 and Residential 2 Zone Land.**

**Vacant FZ or RCZ Land****Objective:**

*To ensure that all rateable land makes an equitable financial contribution to the cost of carrying out the functions of Council, including the:*

- 1. Construction and maintenance of public infrastructure; and*
- 2. Development and provision of health and community services; and*
- 3. Provision of general support services.*

**Types and Classes:**

*Rateable land having the relevant characteristics described in the below definition.*

**Use and Level of Differential Rate:**

*The differential rate will be used to fund some of those items of expenditure described in the Budget adopted by Council.*

*The level of the differential rate is the level which council considers is necessary to achieve the objectives specified above.*

**Geographic Location:**

*Wherever located within the municipal district.*

**Use of Land:**

*Any use permitted under the relevant Planning Scheme.*

**Planning Scheme Zoning:**

*The zoning applicable to each rateable land within this category, as determined by consulting maps referred to in the relevant Planning Scheme.*

**Definition:****Any land:**

- on which no dwelling with an approved occupancy permit is erected; and*
- which is located within a Farm Zone (FZ) under the Moorabool planning scheme; or*
- which is located within a Rural Conservation Zone (RCZ) under the Moorabool planning scheme and*
- which does not meet the criteria of property eligible to be rated in accordance with Council Farm differential rate.*

**Vacant R1Z or R2Z Land****Objective:**

*To ensure that all rateable land makes an equitable financial contribution to the cost of carrying out the functions of Council, including the:*

- 1. Construction and maintenance of public infrastructure; and*

2. **Development and provision of health and community services; and**
3. **Provision of general support services.**

**Types and Classes:**

**Rateable land having the relevant characteristics described in the below definition.**

**Use and Level of Differential Rate:**

**The differential rate will be used to fund some of those items of expenditure described in the Budget adopted by Council.**

**The level of the differential rate is the level which council considers is necessary to achieve the objectives specified above.**

**Geographic Location:**

**Wherever located within the municipal district.**

**Use of Land:**

**Any use permitted under the relevant Planning Scheme.**

**Planning Scheme Zoning:**

**The zoning applicable to each rateable land within this category, as determined by consulting maps referred to in the relevant Planning Scheme.**

**Definition:**

**Any land:**

- **on which no dwelling with an approved occupancy permit is erected; and**
- **which is located within a Residential 1 Zone (R1Z) under the Moorabool planning scheme; or**
- **which is located within a Residential 2 Zone (R2Z) under the Moorabool planning scheme.**

**Residential Retirement Villages**

**Objective:**

**To ensure that all rateable land makes an equitable financial contribution to the cost of carrying out the functions of Council, including the:**

1. **Construction and maintenance of public infrastructure; and**
2. **Development and provision of health and community services; and**
3. **Provision of general support services.**

**Types and Classes:**

**Rateable land having the relevant characteristics described in the below definition.**

**Use and Level of Differential Rate:**

**The differential rate will be used to fund some of those items of expenditure described in the Budget adopted by Council.**

**The level of the differential rate is the level which council considers is necessary to achieve the objectives specified above.**

**Geographic Location:**

**Wherever located within the municipal district.**

**Use of Land:**

**Any use permitted under the relevant Planning Scheme.**

**Planning Scheme Zoning:**

**The zoning applicable to each rateable land within this category, as determined by consulting maps referred to in the relevant Planning Scheme.**

**Types of Buildings:**

**All buildings which are now constructed on the land or which are constructed prior to the end of the Financial Year.**

**Definition:**

**Any land:**

- **on which a dwelling with an approved occupancy permit is erected and occupied for the principal purpose of physically accommodating persons; or**
- **which is defined as a Retirement Village under the Retirement Villages Act 1986; or**
- **which does not have the characteristics of:**
  - **Commercial/Industrial Land;**
  - **Vacant Commercial/Industrial Land;**
  - **Commercial Licensed Premises Land;**
  - **Extractive Industry Land;**
  - **Farm Land**
  - **Vacant General Land;**
  - **Vacant Farm (FZ) and Rural Conservation Zone (RCZ) Land;**
  - **Vacant Residential 1 (R1Z) and Residential 2 Zone (R2Z) Land.**

**CARRIED.**

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**Report Authorisation**

**Authorised by:**



**Name:** Shane Marr

**Title:** General Manager Corporate Services

**Date:** Wednesday, 15 May 2013

**CHANGE OF ORDER OF BUSINESS**

**With the consent of Council the Order of Business changed to consider Item 11.2.2, Item 11.2.3 and Item 11.2.4.**

## 11.2 GROWTH AND DEVELOPMENT

### 11.2.1 Coal Exploration and Coal Seam Gas Mining

#### Introduction

File No.: 20/01/012  
Author: Justin Horne  
General Manager: Satwinder Sandhu

#### Background

On Wednesday 3 April 2013, an Assembly of Council was held with representatives from the Earth Resources Development Division of the former Department of Primary Industries (DPI) and the Moorabool Environment Group (MEG) both groups presented on Coal and Coal Seam Gas issues.

A detailed Memorandum to Councillors outlining Coal and Coal Seam Gas (CSG) exploration issues in Moorabool was circulated on 28 March 2013.

This report aims to outline:-

- The benefits and risks of New Coal and Coal Seam Gas exploration and mining within the Shire.
- Council's statutory role in relation to new Coal and Coal Seam Gas exploration and mining operations within Moorabool Shire, and
- The impacts of Council signing a moratorium on new Coal and Coal Seam Gas exploration and mining within Moorabool Shire.

#### Coal Seam Gas Moratorium Proposal

From time to time Council develops policy positions on various issues. A policy position is only a guiding principle and as long as Council applied natural justice principles when making a decision there would be no implications for Council.

Council's current position regarding coal mining is outlined in Council's Advocacy Document. It states that:

1. Greater regulatory control should be provided through the Victorian Planning Provisions to require planning permission for a wider range of mining and extractive industry use and development that provides for:
  - More comprehensive rights of notice and appeal for any proposal;
  - Greater consideration to environmental factors such as the removal of native vegetation;
  - Greater consideration of local planning policies in respect to mining and mineral extraction and exploration; and
  - Ground water and aquifers to be considered.
2. Local Government in Victoria, as the bearer of the negative impacts of mining and mineral extraction, should be the beneficiary of financial compensation through a mechanism of royalty sharing or some other vehicle as determined by Parliament.



In April 2012, the Friends of the Earth Melbourne called on the Victorian Government to cease coal seam gas mining and new coal operations to protect rural landscapes and communities. A number of Councils, including Moorabool, have been approached to sign a moratorium on coal and coal seam gas exploration. Councils that have signed include, Bass Coast Shire Council, Colac-Otway Shire Council, City of Yarra, City of Moreland, City of Port Phillip and South Gippsland Shire Council.

In August 2012, the State Government announced a moratorium on coal seam gas related activities. This was an interim measure until a national framework had been considered. The potential for policy and legislative changes was also mooted at that time. The Commonwealth Government is presently developing such a framework. It is understood that the aim is to complete the National Harmonisation Regulation Framework by mid-2013. A draft is available the Federal Government's Standing Council on Energy and Recourses website [www.scer.gov.au/workstreams/land-access/coal-seam-gas/](http://www.scer.gov.au/workstreams/land-access/coal-seam-gas/).

As an alternative to signing the moratorium, or developing a specific policy, Council could write directly to the State Government outlining its concerns on these issues and requesting that Council be consulted with, and kept informed of, policy reform proposals and development activity relating to Coal Seam Gas.

#### **Benefits and Risks of New Coal and Coal Seam Gas exploration and mining.**

To assist in the assessment of the benefits and risks of new Coal and Coal Seam Gas exploration and mining within Moorabool Shire, a Triple Bottom Line approach has been applied, the results of which are outlined in table 1, below.

**Table 1: Triple Bottom Line assessment - New Coal and CSG**

	<b>Benefit</b>	<b>Risk</b>
<b>Economic</b>	<p>Increased employment opportunities (e.g. sand quarry at Merrimu).</p> <p>Increased economic growth of businesses associated with operations of the coal mine (e.g. transport of extracted materials).</p> <p>Increased business opportunities within the local community.</p>	<p>Impacts on market farms.</p> <p>Impacts on tourism opportunities within Bacchus Marsh.</p> <p>Short and long term impacts on agricultural viability.</p> <p>Impacts on bore water quality.</p> <p>Impacts on local housing prices.</p> <p>Impacts on the Moorabool Shire brand</p>
<b>Social</b>	<p>Potential for increased employment opportunities for local community.</p>	<p>Local and regional community opposition.</p>

	Potential support for local community groups	Impacts to landowners where exploration and extraction is or may be undertaken.  Impacts on community health and wellbeing.
<b>Environment</b>	When used in energy production, electricity generated from CSG is between 50-70% cleaner than electricity produced by Black or Brown coal (Queensland Government, May 2013)	Potential impacts on vegetation and species that are Nationally, Regionally and locally significant.  Potential short and long term impacts on waterways, bores and aquifers.

### Planning Application Process

Attachment A, outlines the current triggers for permits for the use of land by the earth and energy resources industry in the Special Use Zone 1 (SUZ 1) and Farming Zone (FZ).

In summary, the permit requirements for exploration and extraction of minerals within these two zones are outlined below.

#### Exploration:

Mineral exploration within Farming Zone and Special Use Zones is exempt from a planning permit.

In addition, section 43(3) of the Mineral Resources (Sustainable Development) Act 1990, reinforces this by outlining that despite anything in the planning scheme, the holder of an exploration licence is not prohibited from carrying out exploration on land covered by the licence.

#### Extraction:

Should a new coal mine or coal seam gas operation seek to be established within Moorabool Shire Council, the approval process for the construction of a coal mine is as follows:

- Apply through Department of Primary Industries (DPI) for a mining licence;
- Mining licence then granted subject to assessment from DPI;
- Meeting with all relevant parties including Council on requirements for a workplan to be developed;
- DPI assess the workplan to ensure it meets all their requirements;
- Workplan then goes to Department of Sustainability and Environment (DSE) for approval;
- DSE endorses workplan;
- Once the workplan is endorsed the company applies to Council for a planning permit; and
- Council assesses the planning permit.

It is important to note that a planning permit is required unless an Environmental Effects Statement (EES) has been prepared under the Environmental Effects Act 1978 and mining is exempt from the requirements to obtain a permit under Section 42 or Section 42A of the Mineral Resources (Sustainable Development) Act 1990.

Given the potential scale and operations of a new brown coal mine, it would appear likely that an EES would be required. However, the scale of any potential coal seam gas operations is currently unknown, so at this time it is unclear whether an EES will be required.

In addition, the Minister for Planning has the option to call in any development proposals.

### **Policy Implications**

The 2009. 2013 Council Plan provides as follows:

<b>Key Result Area 1</b>	Representation and Leadership in our Community
<b>Objective</b>	Services and Infrastructure that meets the Shire's existing and future needs
<b>Strategy</b>	Advocate on behalf of the community and primary industries to secure water resources
<b>Key Result Area 3</b>	Enhanced Natural and Built Environment
<b>Objective</b>	Effective and efficient land use planning and building control
<b>Strategy</b>	Develop and apply a Planning Scheme that facilitates land use and development to support the social, economic and environmental well-being of the Shire

The proposal to support reforms to the coal seam gas is consistent with the 2009-2013 Council Plan.

### **Financial Implications**

The recommendation of supporting the reforms to coal seam gas regulations does not represent any known financial implications to Council.

### **Risk & Occupational Health & Safety Issues**

The recommendation of support for reforms to coal seam gas regulations does not represent any known risk or OH&S issues to Council.

## **Communications and Consultation Strategy**

To inform the community of Council's position supporting the State and Federal Governments initiative to provide better regulation of the coal and coal seam gas industry, it is proposed that a media release be drafted that outlines Council's position on coal and coal seam gas.

## **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 – Justin Horne*

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

## **Conclusion**

Coal and coal seam gas exploration and mining is a contentious matter across Australia as the country progresses towards reducing and regulating greenhouse gas emissions and a Carbon neutral future.

The coal seam gas industry has developed rapidly in Australia, which has led to the Federal and State Governments taking action to better regulate this growing industry with the aim to reduce the impacts on primary producers and the environment. Actions undertaken thus far include commencement of the development of the National Harmonisation Regulation Framework for Coal Seam Gas. This is expected to be completed by mid-2013.

Also, the State Government has a coal seam gas moratorium in place until the outcomes of the National Harmonisation Regulation Framework for Coal Seam Gas can be considered.

In light of the existing moratorium and national framework development work it is concluded that Council should note the significant issues surrounding Coal Seam Gas and seek an update from the State Government on the current state of play and its potential impact on Moorabool Shire.

***Consideration of Deputations – Coal Exploration and Coal Seam Gas Mining***

***Mr David Marnie addressed Council.  
Ms Natasha Mills addressed Council.  
Ms Penny Anne Shilling addressed Council.  
Ms Rose De La Cruz addressed Council.  
Ms Elissa McNamara addressed Council.  
Ms Kate Tubbs addressed Council.  
Ms Sarah Anderson addressed Council.  
Mr Ben Courtice addressed Council.  
Mr Neil Kileen addressed Council.  
Ms Jenny Fraine addressed Council.  
Mr Jim Fraser addressed Council.  
Mr Mark Farrell addressed Council.***

***The business of the meeting then returned to the agenda.***

**Recommendation:**

**That Council resolves:**

- 1. To note the many legitimate concerns regarding the exploration for coal and coal seam gas and calls on the Victorian Government to address these issues including the impact on: -**
  - a. Water resources;**
  - b. Farmland and food security;**
  - c. Local communities and natural biodiversity; and**
  - d. Greenhouse emissions.**
  
- 2. To write to the State and Federal Ministers responsible for energy and earth resources requesting that Council be advised of**
  - a. Progress on discussions with the Federal Government on the National Harmonisation Regulation Framework for Coal Seam Gas;**
  - b. Any potential changes to legislation relating to mineral exploration or extraction for coal seam gas, and**
  - c. The potential impact of the draft framework and legislative and policy changes on Moorabool Shire.**

**Resolution:****Crs. Dudzik/Spain*****That Council resolves:***

1. ***To note the many legitimate concerns regarding the exploration for and extraction of coal and coal seam gas and calls on the Victorian Government to address these concerns including the impacts of coal and coal seam gas extraction on: -***
  - a. ***The sustainability of water resources including aquifers;***
  - b. ***Productive farmland and local food security;***
  - c. ***Local community health and wellbeing over the long term;***
  - d. ***Natural biodiversity; and***
  - e. ***Levels of greenhouse gas emissions.***
  
2. ***To write to the State and Federal Ministers responsible for energy and earth resources requesting that Council be advised of:***
  - a. ***Progress on discussions with the Federal Government on the National Harmonisation Regulation Framework for Coal Seam Gas;***
  - b. ***Any potential changes to legislation relating to mineral exploration or extraction of coal and coal seam gas, and***
  - c. ***The potential impact of the draft framework and legislative and policy changes on Moorabool Shire.***
  
3. ***To call on the Victorian Government to institute a moratorium on all new coal and on-shore unconventional gas operations until there has been a thorough, independent investigation into the likely impacts of this industry on water resources, farmland and food security, local communities, natural biodiversity and greenhouse emissions.***

**CARRIED.**

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**Report Authorisation****Authorised by:****Name:****Title:****Date:**  
Satwinder Sandhu

General Manager Growth and Development

Monday 3 December 2012

**11.2.2 Planning Application 2012-115; Development and use of a dwelling; Lot 1 on PS 110635, 144 Developmental Road, Bolwarrah.**

<b>Application Summary:</b>	
Application No:	2012-115
Lodgement Date:	14 June 2012
Planning Officer:	Rob Fillisch
Address of the land:	Lot 1 PS110635 144 Developmental Road, Bolwarrah
Proposal:	Development and use of a dwelling
Lot sizes:	Approx. 8.0 ha
Restrictive Covenants	Nil
<b>Moorabool Planning Scheme (Relevant details):</b>	
State Planning Policy Framework (SPPF):	Clause 11.05 Melbourne's hinterland Clause 14.01 Agriculture Clause 14.02 Water
Local Planning Policy Framework (LPPF):	Clause 21.03 Settlement and housing Clause 21.04-2 Agriculture Clause 22.03 Houses and house lot excisions in rural areas
Zone:	Clause 35.07 Farming Zone (F1)
Overlays:	Clause 42.01 Environmental Significance (ESO1) Clause 43.02 Design and Development (DDO2) Clause 44.06 Bushfire Management (BMO)
Particular provisions:	Clause 52.17 Native vegetation
General provisions:	Clause 65 Decision guidelines
Why is a permit required?	<p>Clauses 35.07-1 and 35.07-4 to develop and use the land for the purpose of a dwelling.</p> <p>Clause 42.01-2 to construct a building or carry out works and remove vegetation.</p> <p>Clause 44.06-1 to construct buildings and works associated with accommodation.</p> <p>Clause 52.17-2 to remove native vegetation.</p>

<b>Public Consultation:</b>	
Number of notices to properties:	N/A
Notices on site:	N/A
Notice in Newspaper:	N/A
Number of objections:	N/A
Submission of support:	N/A
Consultation meeting:	N/A
<b>Policy Implications:</b>	
<b>Key Result Area -</b>	Sustainable agriculture and best practice environmental management.
<b>Objective -</b>	Effective and efficient land use planning and development.
<b>Strategy -</b>	Provide a high quality and timely development application processing system.
<b>Victorian Charter of Human Rights and Responsibilities Act 2006</b>	
<p>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.</p>	
<b>Officer's Declaration of Conflict of Interests</b>	
<p>Under section 80C of the Local Government Act 1989 (as amended), officers providing advice to Council must disclose any interests, including the type of interest.</p> <p><i>Manager Statutory Planning and Building – Peter Hawkins</i>  In providing this advice to Council as the Manager, I have no interests to disclose in this report.</p> <p><i>Author – Rob Fillisch</i>  In providing this advice to Council as the Author, I have no interests to disclose in this report.</p>	



**Executive Summary:**

The application is for the development and use of a dwelling at 144 Developmental Road, Bolwarrah. The application is before Council due to the Council Officer's recommendation to refuse the application.

The site has an area of approximately 8 ha. The land has a moderate slope and extensive tree cover. There is a shed, water tank and dam on the site. Plans for the proposed dwelling are unsatisfactory, and information required Section 47 of the P&EA was not supplied with the application. Further information required under Section 54 of the Act has not been submitted.

Without adequate information, there can be no proper assessment of the proposal against State and Local Planning Policies, the objectives of the zone, overlays and particular provisions in relation to tree removal.

**Summary Recommendation:**

That Council resolve to Refuse to Grant a Permit for development and use of a dwelling at 144 Developmental Road, Bolwarrah, pursuant to Section 60(1) of the Planning and Environment Act 1987, on various grounds.

**Site History**

Council has no record of a planning permit being issued for the development and use of a dwelling on the subject site.

**Proposal**

Approval is sought for the development and use of a dwelling involving earthworks and the removal of trees.

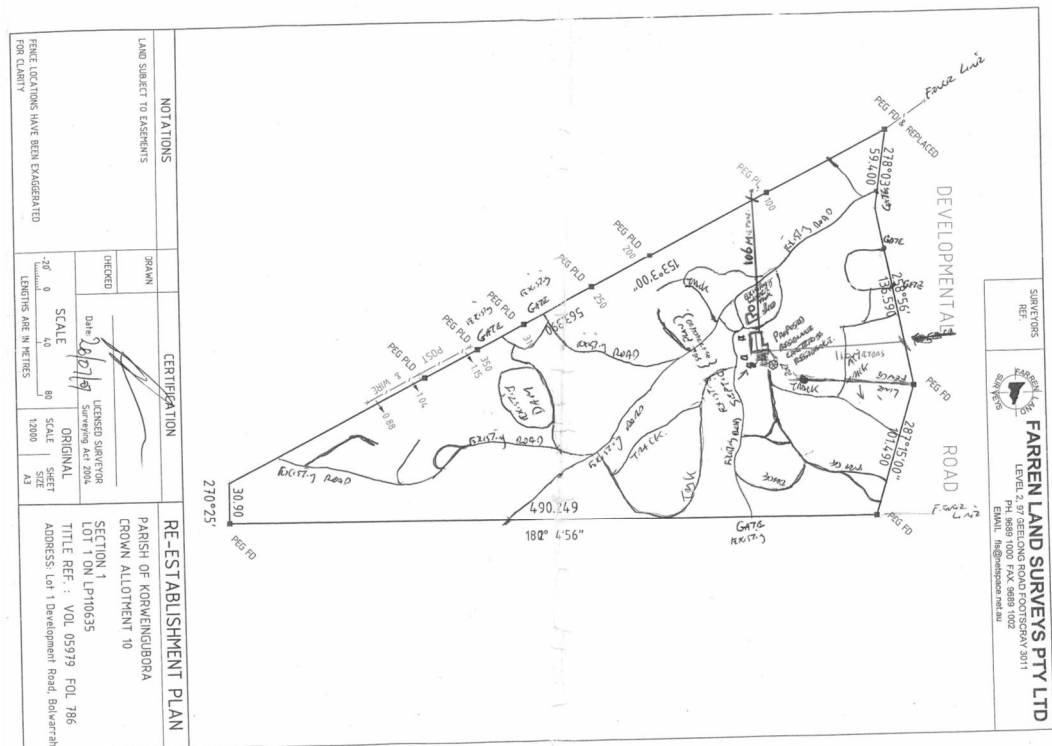
The proposed dwelling is located to the east of the existing shed and water tank, setback 110 m from the road and 106 m from the nearest, western side boundary.

The proposed layout relies on hand-drawn plans by the owner and plans prepared by Plan Printing and Drafting, dated prior to 1980. The plans drawn by the owner indicate a larger footprint and two storeys above a cellar while the plans prepared by Plan Printing and Drafting provide for a single-storey dwelling above a cellar. The proposal indicates a combination of both plans. It is unclear if the proposed development is one or two storeys above a basement, or if the internal layout provides for two or three bedrooms.

There are insufficient details regarding proposed cut and fill, no information on the location and number of trees to be removed, and no schedule of proposed building materials and finishes.

Clarification of discrepancies in submitted documentation and further details were requested by letter dated the 3<sup>rd</sup> August 2012. At the applicants request, an extension of time to provide the requested information was allowed until the 16<sup>th</sup> November 2012.

At the applicants request a further extension of time was provided until the 18<sup>th</sup> January 2013 to provide the required information. All the information requested was not provided to Council and so Council continues to be able to assess the application due to insufficient information as required by Section 47 of the Act.



**Proposed Site Plan**

No floor or elevation plans are included in this report as the actual proposed development remains unclear.

**Site Description**

The site is located on the south side of Developmental Road at the intersection of South Conroy's Lane, approximately 4.5 kms north of the Western Freeway and Gordon township.

It has an irregular shape with a road frontage width of 297.48 m and an area of approximately 8 ha. The land has a moderate fall towards the north east and road frontage.

The site features extensive tree cover including Pine plantation. Small clearings provide for a shed and water tank setback approximately 110 m from the road, and a dam located towards the rear of the property. The site plan also indicates a septic tank and numerous interconnecting tracks. Vehicle access is via a rural crossing from Developmental Road.

Surrounding properties of similar size are either heavily treed or cleared for farming. Farming properties have been developed with dwellings and associated outbuildings and dams.

Developmental Road has a gravel surface and established roadside vegetation.

### Planning Scheme Provisions

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

<b>SPPF</b>		
Clause 11.05	Melbourne's hinterland	Contrary to policy, there is no indication that the siting and design of the proposed dwelling minimises risk to life, property and the natural environment from natural hazards such as bushfire.
Clause 14.01	Agriculture	There is no information regarding proposed agricultural activities.
Clause 14.02	Water	There is no information on measures to protect and restore waterways within the catchment.
<b>LPPF</b>		
Clause 21.03	Settlement and housing	There is no information to demonstrate a balanced response to residential development opportunities and environmental assets.
Clause 21.04-2	Agriculture	The proposal is inconsistent with strategies that direct rural residential and rural living developments to strategic growth areas.
Clause 22.03	Houses and house lot excisions in rural areas	Contrary to policy, there is no evidence to suggest that the proposed dwelling is directly related to agricultural use of the land.

### Zone

The site is located within the Farming Zone under the Moorabool Planning Scheme.

Pursuant to Clauses 35.07-1 and 35.07-4, a permit is required for the use and development of a dwelling on a lot less than 40 hectares.

There is no evidence that the proposed use and development is based on comprehensive and sustainable land management practices and infrastructure provision.

### Overlays

The land is included in an Environmental Significance Overlay . Proclaimed Water Catchment Areas (ESO1) under the Moorabool Planning Scheme.

Pursuant to Clause 42.01-2, a planning permit is required to construct a building or carry out works and remove vegetation.

The application was not referred to the relevant Water Authority as the information submitted lacked clarity and could not be relied upon to determine the application. No LCA was included with the application.

The land is included in the Design and Development Overlay . Visual amenity and building design (DDO2).

A permit is not required to construct a building or to carry out works where all external walls and roof areas are clad with non-reflective materials.

The proposed development does not include details of materials and finishes.

The land is included in a Wildfire Management Overlay. Pursuant to Clause 44.06-1, a planning permit is required to construct a building or carry out works associated with accommodation.

No Bushfire Management Statement has been submitted with the application and so the application could not be referred to the CFA.

#### **Particular Provisions**

Pursuant to Clause 52.17-2, a planning permit is required to remove, destroy or lop native vegetation, including dead native vegetation on land with an area of 0.4 hectare or more.

There is no information on the number, location or significance of native vegetation to be removed and so the application could not be referred either to DSE or Council's Environmental Co-ordinator.

#### **General Provisions**

In the absence of a land capability assessment, farm management plan and bushfire management statement, the application in its current form cannot be evaluated against the decision guidelines.

#### **Referrals**

The application has not been referred due to insufficient information.

#### **Public Notice**

Advertising has not been considered due to insufficient information.

#### **Discussion**

The information submitted with the application did not meet the requirements of Section 47 of the P&EA and despite multiple attempts to elicit the required information from the applicant, the required information has still not been provided.

## Conclusion

The application cannot be evaluated in its current form and so Council is not in a position to make a determination in favour of the application. The permit should be refused because the information required by Section 47 of the P&EA has not been provided.

### ***Consideration of Deputations – Planning Permit Application No. 2012-115.***

***Mr. William McVey addressed Council as the applicant in favour of the granting of a planning permit for the application.***

***The business of the meeting then returned to the agenda.***

## Recommendation:

1. That Council write to the applicant advising them that they have 21 days from the date of Council's letter to provide the information requested by Council's letter of the 3<sup>rd</sup> August 2012.
2. Should the information not be received in the required time, then having considered all relevant matters as prescribed by s.60 of the P&EA, issue a Notice of Refusal 2012-115 for the development and use of a dwelling at 144 Developmental Road, Bolwarrah, also known as Lot 1 on PS 110635 for the following reasons:
  - a) The layout and elevation plans for the proposed dwelling are unsatisfactory.
  - b) Information that would allow for the evaluation of the application under the Environmental Significance and Bushfire Management Overlays has not been provided.
  - c) Insufficient information has been provided to allow for an evaluation of the application against the requirements of the Farming Zone.

## Resolution:

**Crs. Spain/Sullivan**

1. ***That Council writes to the applicant advising them that they have until 7 June 2013 to provide the information requested by Council's letter of the 3<sup>rd</sup> August 2012.***
2. ***Should the information not be received in the required time, then having considered all relevant matters as prescribed by s.60 of the P&EA, issue a Notice of Refusal 2012-115 for the development and use of a dwelling at 144 Developmental Road, Bolwarrah, also known as Lot 1 on PS 110635 for the following reasons:***

- a) ***The layout and elevation plans for the proposed dwelling are unsatisfactory.***
- b) ***Information that would allow for the evaluation of the application under the Environmental Significance and Bushfire Management Overlays has not been provided.***
- c) ***Insufficient information has been provided to allow for an evaluation of the application against the requirements of the Farming Zone.***

**CARRIED.**

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**Report Authorisation**

**Authorised by:**

**Name:**

**Title:**

**Date:**

  
Satwinder Sandhu

General Manager Growth and Development

Wednesday 15 May 2013

### 11.2.3 Planning Application 2012-071; Construction of (2) dwellings; Lot 51 on PS637723F, College Square, Bacchus Marsh.

<b>Application Summary:</b>	
Application No:	2012-071
Lodgement Date:	13 April 2012
Planning Officer:	Rob Fillisch
Earliest date the applicant may apply to VCAT for an appeal against Failure to Determine:	10 November 2012
Address of the land:	Lot 51 on PS 637723F 20 College Square, Bacchus Marsh
Proposal:	Construction of two (2) dwellings and Variation of Restrictive Covenant
Lot size:	591 sq m
<b>Moorabool Planning Scheme (Relevant details):</b>	
State Planning Policy Framework (SPPF):	Clause 11 Settlement Clause 11.02-1 Supply of urban land Clause 11.05-2 Melbourne's hinterland Clause 16.01-2 Location of Residential Development Clause 16.01-4 Housing diversity
Local Planning Policy Framework (LPPF):	Clause 21.03-3 Residential Development Clause 21.03-4 Landscape and Neighbourhood Character Clause 21.07 Bacchus Marsh
Zone:	Residential 1 Zone (R1Z)
Overlays:	Nil
Particular provisions:	Clause 55 More than one dwelling on a lot Clause 52.02 Easements, restrictions and reserves Clause 52.06 Car parking
General provisions:	Clause 65 Decision guidelines
Why is a permit required?	Under Clause 32.01-4 of the Moorabool Planning Scheme, a planning permit is required to construct two or more dwellings on a lot.  Under Clause 52.02 of the Moorabool Planning Scheme, a planning permit is required to vary a restrictive covenant.

<b>Public Consultation:</b>	
Number of notices to properties:	Forty-two (42)
Notices on site:	One
Notice in Newspaper:	N/A
Number of objections:	One
Submission of support:	Nil
Consultation meeting:	N/A
<b>Policy Implications:</b>	
<b>Key Result Area -</b>	Enhanced Natural and Built Environment.
<b>Objective -</b>	Effective and efficient land use planning and development.
<b>Strategy -</b>	Provide a high quality and timely development application processing system.
<b>Victorian Charter of Human Rights and Responsibilities Act 2006</b>	
<p>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.</p>	
<b>Officer's Declaration of Conflict of Interests</b>	
<p>Under section 80C of the Local Government Act 1989 (as amended), officers providing advice to Council must disclose any interests, including the type of interest.</p> <p><i>Manager Statutory Planning and Building – Peter Hawkins</i>  In providing this advice to Council as the Manager, I have no interests to disclose in this report.</p> <p><i>Author – Rob Fillisch</i>  In providing this advice to Council as the Author, I have no interests to disclose in this report.</p>	



**Executive Summary:**

The application is for a variation of restrictive covenant and construction of two (2) single-storey dwellings at 20 College Square, Bacchus Marsh. This application is before Council due to the receipt of one objection from a beneficiary of the covenant.

The site has an area of 591 sq m. The layout of the dwellings on the site satisfactorily meets the requirements of Clause 55 (Rescode) of the Moorabool Planning Scheme. Private open space associated each of the dwellings exceed the standard requirements. The provision of two car spaces for each dwelling satisfies the requirements of Clause 52.06. Issues in relation to the length of driveways and steep gradient of one driveway can be addressed through permit conditions.

Objections relate to dwelling density, traffic impacts and property values. Details of the objectors concerns and response to issues have been provided in the report. It is considered that the some tests of Section 60(2) have been adequately meet so as to require Council to refuse the application.

Council also considers that purchasers of land in this area have an expectation that the covenant would limit development of this lot.

While the proposal is consistent with State and Local Planning Policies, the objectives of the zone, and particular provisions in relation to medium density housing and car parking, it does not meet the tests in Section 60(2).

**Summary Recommendation:**

That Council resolve to issue a Notice to Refuse the Grant of a Permit for the construction of two (2) dwellings and variation of a restrictive covenant at 20 College Square, Bacchus Marsh, pursuant to Section 61(1) of the Planning and Environment Act 1987.

**Site History**

No planning permits are recorded as having been issued on the subject site, since the subdivision was created.

**Proposal**

Approval is sought for the variation of restrictive covenant and construction of two (2) dwellings on a lot.

The proposed variation of covenant refers to the removal of Item (a) on Covenant AJ592201J registered on 10 April 2012. Item (a) of the covenant prohibits the erection of more than one (1) dwelling house with external walls consisting only of brick, brick veneer or stone together with the usual outbuildings.

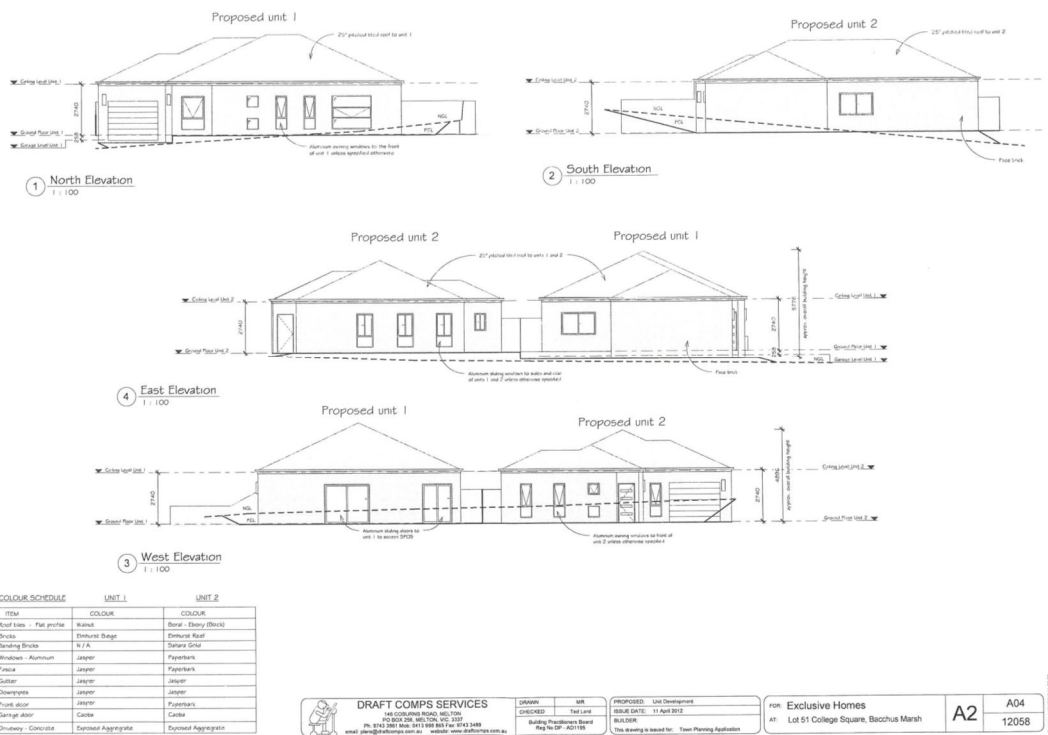
The proposed single-storey, detached dwellings are orientated to the north and west, each with its own street frontage.

The dwellings are setback 4.0 m and 4.6 m from the street and at least 1.0 m from other boundaries. Garages associated with each of the dwellings abut side boundaries. Buildings occupy 53% of the site, and permeable surfaces occupy





Ground floor plan A03



Elevations A04

## Site Description

The site is located at the north west corner College Square within College Green Estate, approximately 110 m west of Halletts Way.

It is generally rectangular in shape with a total street frontage width of 47.21 m, a maximum depth of 29.62 m and an area of 591 sq m. The land has a gentle to moderate slope, falling towards the east and north-east.

There are no easements affecting the land. However, Covenant AJ592201J registered on 10 April 2012 states that landowners will not:

- (a) *erect or cause to be erected more than one (1) dwelling house with external walls consisting only of brick, brick veneer or stone together with the usual outbuildings upon the lot hereby transferred;*
- (b) *erect or cause to be erected any outbuilding prior to the construction of the dwelling house;*
- (c) *erect or construct a dwelling house on the lot hereby transferred having a floor area of less than 110m<sup>2</sup> within the outer walls thereof which area shall be calculated without taking into account the areas of any carport, garages, terraces, pergolas and/or verandahs or any other buildings or constructions or structures attached hereto;*
- (d) *erect or construct a boundary fence on the lot hereby transferred from materials other than brick, stone, colorbond and/or timber;*
- (e) *Permit iron, steel or aluminum cladding to be used on external walls or as roofing material on any outbuilding unless such material is color bonded;*
- (f) *Permit any external walls of any outbuilding facing the street frontage of any allotments to be constructed of materials other than the same materials used in the external walls of the dwelling;*
- (g) *Permit handmade or machine made mud brick in the construction of any building;*
- (h) *Permit such dwelling house to be used for anything other than private and non-commercial residential purpose excepting where the dwelling is to be used as a display home for a period not exceeding 12 months.*

The site is undeveloped with no significant vegetation. There is an existing crossover at the north east corner of the site.

There are two adjoining properties to the east, one vacant and the other developed with a single storey dwelling facing east onto Collage Square. The dwelling is setback approximately 3.0 m from the side street (street frontage of the subject site). Secluded private open space at the rear abuts the common boundary.

The adjoining property to the south has been developed with a single-storey dwelling setback approximately 5.0 m from the street and 1.0 m from the common boundary. A retaining wall increases to a height of around 1.0 m at the rear of the property.

Except for one large inverted corner lot on the opposite side of College Square, properties have been developed with single-storey dwellings.

The College Green Estate is characterised by new single-storey dwellings and a few remaining vacant lots. There are only three large lots exceeding an area of 1700 sq m. All other lots range between 361 and 646 sq m.

The site has good access to a bus service along Halletts Way, and public open space within the adjacent subdivision under construction. Bacchus Marsh Shopping Centre to the south east is approximately 2 kms away.

### Planning Scheme Provisions

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

<b>SPPF</b>		
Clause 11	Settlement	In accordance with policy, the construction of two dwellings promotes sustainable development that takes full advantage of existing settlement patterns.
Clause 11.02-1	Supply of urban land	Responding to urban consolidation strategies, the size and corner location makes it suitable for medium density housing.
Clause 11.05-2	Melbourne's hinterland	Providing for residential development within the urban growth boundary of the Bacchus Marsh township is supported by this policy.
Clause 16.01-2	Location of Residential Development	In accordance with policy, the site has good access to public transport, which provides a direct link to Bacchus Marsh township.
Clause 16.01-4	Housing Diversity	The proposed development makes efficient use of the site and improves housing choice.
<b>LPPF</b>		
Clause 21.03-3	Residential Development	The proposal is consistent with strategies to extend the range of housing types and densities to improve resident choice and meet changing housing needs.
Clause 21.03-4	Landscape and Neighbourhood Character Objective	The proposal respects the emerging built form and landscape character of the Estate.
Clause 21.07	Bacchus Marsh	The proposal is consistent with strategies aimed at consolidating urban growth within the inner area of Bacchus Marsh.

## Zone

The site is located within the Residential 1 Zone. Pursuant to Clause 32.01-4 of the Moorabool Planning Scheme, a planning permit is required to construct two or more dwellings on a lot.

The purpose of the zone is:

- *To provide for residential development at a range of densities with a variety of dwellings to meet the housing needs of all households.*
- *To encourage residential development that respects the neighbourhood character.*

It is considered that the proposal supports the purpose of the Residential 1 Zone by increasing the range of dwelling types in keeping with the emerging character of the area.

## Overlay

The site is not affected by any Overlay.

## Particular Provisions:

Pursuant to Clause 52.02, a planning permit is required before a person proceeds under Section 23 of the Subdivision Act 1988 to vary a restriction.

The purpose of the particular provision is:

- *To enable the removal and variation of an easement or restrictions to enable a use or development that complies with the planning scheme after the interests of affected people are considered.*

The interests of affected people are considered below (pursuant to Clause 65).

Pursuant to Clause 52.06 of the Moorabool Planning Scheme, the car parking spaces required under Clause 52.06-5 of the Hume Planning Scheme must be provided on the land or as approved under Clause 52.06-3 to the satisfaction of the responsible authority.

Under Clause 52.06-5, a three-bedroom dwelling requires the provision of two car spaces.

The provision of two car spaces for each dwelling satisfies the requirements of Clause 52.06-5.

However, the lengths of the driveways are inadequate for cars parked in tandem. Also, the driveway gradient in front of Unit 2 garage appears too steep for pedestrian access, parking and the transition of vehicles from the street to the garage. In the first instance, the setback of the garages should be increased to 5.5 m, and secondly, the driveway gradient should not exceed 1:8 (12.5%). While this requires increased floor levels at the front of the building, floor levels at the rear should remain relatively unchanged. To avoid excessively high retaining walls, floor levels should be stepped down with the falling slope of the land. These matters can be addressed by way of conditions of a permit.

Pursuant to Clause 55, an application to construct two or more dwellings on a lot must meet all of the objectives of this clause and should meet all of the standards of this clause.

An assessment against Clause 55 is as follows:

Clause	Title	Detail	Compliance
Rescode			
55.01-1	Neighbourhood and site description	Site description and design response	<b>Complies</b> The application was accompanied by a neighbourhood and site description, and design response.
55.02-1	Neighbourhood Character Objectives	Standard B1	<b>Complies.</b> College Green Estate is characterised by single-storey dwellings and relatively small gardens. Within this context, the proposed single-storey dwellings with reasonable scope for landscaping respect the neighbourhood character.
55.02-2	Residential Policy objectives	Standard B2	<b>Complies.</b> A written statement has been provided which covers the requirements.
55.02-3	Dwelling Diversity	Standard B3	N/A (applies to 10 or more dwellings)
55.02-4	Infrastructure	Standards B4	<b>Complies.</b> The proposal will not exceed the capacity of utilities.
55.02-5	Integration with street	Standard B5	<b>Complies.</b> The orientation of the dwellings integrates well with the street. There is no fencing along the majority of the street frontage, providing good connection between the private and public domain.

55.03-1	Street setback	Standard B6	<b>Complies.</b> The proposed setbacks of 4.0 and 4.6 m exceed the minimum setback of 3.0 m for a dwelling facing a side street on a corner lot, and the sidewall setback 3.0 m from the street exceeds the minimum setback of 2.0 m.
55.03-2	Building height	Standard B7	<b>Complies.</b> The proposed height of 5.8 m is well below the maximum height of 9.0 m.
55.03-3	Site coverage	Standard B8	<b>Complies.</b> Buildings occupying 53% of the site is less than the maximum site coverage standard of 60%.
55.03-4	Permeability	Standard B9	<b>Complies.</b> Permeability is 40%, exceeding the minimum permeability standard of 20%.
55.03-5	Energy efficiency	Standard B10	<b>Complies.</b> The layout of the dwellings maximises sunlight to indoor and outdoor living spaces. There will be no reduction in the energy efficiency of existing dwellings.
55.03-6	Public Open space	Standard B11	N/A
55.03-7	Safety	Standard B12	<b>Complies.</b> Good visibility and surveillance of entries and access ways provides for the safety and security of residents.
55.03-8	Landscaping	Standard B13	<b>Complies.</b> The proposed landscape plan is satisfactory.
55.03-9	Access	Standard B14	<b>Complies.</b> Access via existing and proposed crossovers is appropriate.
55.03-10	Parking location	Standard B15	<b>Complies.</b> Car spaces are conveniently located for residents and visitors.
55.04-1	Side and rear setbacks	Standard B17	<b>Complies.</b> New walls to a height of 3.7 m setback 1.15 to 1.3 m from side/rear boundaries comply with the minimum setback requirement of 1.0 m.



55.04-2	Walls on boundaries	Standard B18	<b>Complies.</b> The length of garage walls along side boundaries comply with the maximum length of 10 m plus, and the heights of 3.0 and 3.3 m comply with the maximum height of 3.6 m. More importantly, the extent of wall mass has no significant impact on the visual amenity of adjoining properties.
55.04-3	Daylight to existing windows	Standard B19	<b>Complies.</b> There will be no loss of daylight to existing windows on the adjoining properties.
55.04-4	North-facing windows	Standard B20	<b>Complies.</b> There are no north-facing windows within 3.0 m of the common boundary.
55.04-5	Overshadowing open space	Standard B21	<b>Complies.</b> There will be no significant overshadowing of adjacent secluded private open spaces due to the single-storey height and adequate setbacks from side/rear boundaries.
55.04-6	Overlooking	Standard B22	<b>Complies.</b> There will be no potential for overlooking to the adjacent secluded private open spaces.
55.04-7	Internal views	Standard B23	<b>Complies.</b> There is no potential for overlooking secluded private open spaces within the development.
55.04-8	Noise impacts	Standards B24	<b>Complies.</b> No unreasonable noise is envisaged.
55.05-1	Accessibility	Standard B25	<b>Complies with conditions.</b> Dwelling entries can be made easily accessible if the steepness of the driveway in front of Unit 2 is reduced.
55.05-2	Dwelling entry	Standard B26	<b>Complies.</b> Front entries provide shelter and a clear sense of address.
55.05-3	Daylight to new windows	Standard B27	<b>Complies.</b> All habitable room windows have good access to natural daylight.

55.05-4	Private open space	Standard B28	<b>Complies.</b> The provision of 74 and 103 sq m of private open space associated with each of the dwellings exceed the standard requirement for 40 sq m.
55.05-5	Solar access to open space	Standard B29	<b>Complies</b> Secluded private open spaces have good access to northern sunlight.
55.05-6	Storage	Standard B30	<b>Complies.</b> Each dwelling has 6 m <sup>3</sup> of externally accessible secure storage.
55.06-1	Design detail	Standard B31	<b>Complies.</b> The design includes reasonable articulation and detailing in keeping with other development in the estate. Integrated single garages have no adverse impact on the streetscape.
55.06-2	Front fences	Standard B32	<b>Complies.</b> Front fencing to a height of 1.8 metres to provide secluded private open space within the front setback area is acceptable.
55.06-3	Common property	Standard B33	N/A
55.06-4	Site services	Standard B34	<b>Complies.</b> Mailboxes are conveniently located at entrances, and bins can be stored within garages.

### General Provisions (Decision Guidelines)

Pursuant to Clause 65 of the Moorabool Planning Scheme, the responsible authority must consider, among other things, the matters set out in Section 60 of the Planning and Environment Act 1987.

Under Section 60(2) of the Act, the responsible authority must not grant a permit which allows the variation of a restriction (within the meaning of the Subdivision Act 1988) unless it is satisfied that the owner of any land benefited by the restriction will be unlikely to suffer:

- (a) financial loss; or
  - (b) loss of amenity; or
  - (c) loss arising from change to the character of the neighbourhood; or
  - (d) any other material detriment-
- as a consequence of the removal or variation of the restriction.

The proposal complies with all of the restrictions except Item (a), which restricts the construction of more than one dwelling on a lot.

While it is quite common for corner lots of this size to be developed with two dwellings, it must be recognized that not all corner lots are suitable for medium density housing.

From a streetscape perspective, there will be no significant change to the character of the neighbourhood.

### Other Policies/Procedures

Council adopted the Urban Growth Policy Statement at the OMC of the 5<sup>th</sup> September 2012. Council can give weight to this document under the provisions of section 60(1A)(g) of the Planning and Environment Act 1987.

The policy seeks to ensure that future housing development compliments the character of the town. This policy has been considered to the extent appropriate in the writing of this report.

### Referrals

Pursuant to Section 52 of the Planning and Environment Act 1987 the application was referred to the following authorities.

Authority	Response
Infrastructure	No objection . subject to 12 conditions

### Public Notice

The application was advertised to opposite and adjoining owners and occupiers by sending individual notices on 5 October 2012 and a sign placed on the site from 16 to 30 October 2012. There has been one objection received.

### Summary of Objections

The grounds of objection are outlined below with officers' comments accompanying them.

Objection	Officer's response
The proposal will cause increased traffic congestion and dangerous conditions in a small narrow street.	While there can be no expectation that the site will remain vacant, the difference in vehicle movements generated by two dwellings as opposed to one dwelling is unlikely to change the traffic characteristics of College Square.
The proposed dwelling density will decrease the value of homes in the area.	The size and location of the site on a corner is suitable for two dwellings, and regardless of the number of dwellings on a site, property values are not a relevant planning consideration as the objector has not provided any physical evidence to support the assertion of devaluation.

## Discussion

On a corner site within a new subdivision, the proposed single-storey dwellings, each with their own street frontage, respect the neighbourhood character.

Otherwise, the proposed single-storey dwellings, each with their own street frontage, generally respect the neighbourhood character.

In accordance with ResCode, the layout and building mass meets the standard height, setbacks and site coverage requirements as well as energy efficiency, landscaping and safety objectives. However, the substandard length of driveways and steep driveway gradient in front of Unit 2 would need to be addressed.

From an amenity perspective, new habitable room windows have good access to natural daylight, and secluded private open spaces have good access to sunlight. The open space provision exceeds requirements, and there is good connection between indoor and outdoor living spaces. Front entries would be clearly visible from the street and could be made easily accessible to people with limited mobility. The provision of external storage for each dwelling meets the standard requirement.

In terms of off-site impacts, there would be no significant overshadowing or potential for overlooking. The main concern regarding visual amenity would be if the floor levels or retaining walls at the rear of Unit 2 were raised in response to driveway issues.

The design of the proposed development offers a contemporary response with reasonable articulation and detailing in keeping with the neighbourhood character. Similar to other properties, front fencing is non-existent except where it encloses secluded private open space.

The removal of item a) (restricting development to a single dwelling) of the restrictive covenant must occur for the development to proceed. When the applicant purchased the land from the developer the proposed covenant contained in the documentation with the transfer of land did not include item a). Upon registration of the covenant during the transfer of land the incorrect covenant was inadvertently registered on Title, which did include item a).

The covenant was registered post 1991 and therefore Section 60(2) of the Act applies. Council has previously been advised that should a beneficiary of a covenant object that Council has no alternative but to refuse the application. This is the case for any covenant registered pre 1991 in which Section 60(5) applies. Council has recently been provided advice that the key to determining variation of covenants is the tests applied in both Section 60(2) and 60(5). It is commonly understood that the tests of Section 60(5) are much more onerous and difficult to meet. However Council's advice is that under Section 60(2) it is possible to meet the four tests however they too are still quite onerous.

## Section 60(2)

The responsible authority must not grant a permit which allows the variation of a restriction (within the meaning of the Subdivision Act 1988) unless it is satisfied that the owner of any land benefited by the restriction will be unlikely to suffer:

- (a) financial loss; or
  - (b) loss of amenity; or
  - (c) loss arising from change to the character of the neighbourhood; or
  - (d) any other material detriment-
- as a consequence of the removal or variation of the restriction.

- (a) financial loss

VCAT have consistently stated that the impact of financial loss cannot be easily determined and would require expert evidence. The objector has not provided any information which convinces Council that this is the case.

- (b) loss of amenity

It is difficult for the objector to determined loss of amenity in this case given the density of dwellings already constructed and approved for the area. The increase of one additional dwelling in this location is unlikely to have any discernable impact on the neighbourhood. The objector's property does not adjoin the development site and is in fact some 75 metres from the site and therefore it is difficult to see how the development can impact the objector's amenity.

Notwithstanding the objectors location Council must consider the amenity impact on all properties which are beneficiaries to the covenant. In this case having two dwellings will create a mass of buildings which will cover the majority of the block. This will impact on the amenity of Number 43 and 50 due to the visual bulk.

- (c) loss arising from change to the character of the neighbourhood

The neighbourhood character is of higher density dwellings with limited front and rear yards. This development does not change the character of the area as it is on a corner block. While any subsequent subdivision will create smaller lots than what is common in the area each dwelling will have their own identity due to separate street frontages with acceptable setbacks.

- (d) any other material detriment

The objector has not indicated any other material detriment other than the increase in traffic. The addition of one dwelling is likely to provide for between 8 to 10 vehicle movements per day. The application was referred to Councils infrastructure department who did not have any concerns with traffic.

Recently Council has been requiring applicants for subdivision to provide details of which lots are intended to be developed for single dwellings and those with potential for multiple dwellings. Permits have been issued with a requirement to provide covenants detailing the lots with potential for multiple dwellings and those with single dwellings. This was a response to emerging issues of new land owners wanting certainty on the potential of neighbourhood character at the time of purchase, not to find after purchase that lots were being developed at a higher density.

Council wishes to protect the integrity of this process and therefore is opposed to the variation of this covenant to allow an additional dwelling on this site.

### **Financial Implications**

Determining this application would not represent any financial implications to Council.

### **Risk & Occupational Health and Safety Issues**

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

### **Conclusion**

The proposed development offers energy-efficient, contemporary accommodation with no significant impact on the adjoining properties, the streetscape or neighbourhood character. The proposal is consistent with State and Local Planning Policies, the objectives of the zone, and particular provisions in relation to medium density housing and car parking.

#### ***Consideration of Deputations - Planning Permit Application No 11.2.3***

***Mr. Dale Theuma addressed Council in favour of the granting of a planning permit for the application.***

***Mr. Ted Caruana addressed Council in favour of the granting of a planning permit for the application.***

#### **Recommendation:**

**That Council having considered all relevant matters as prescribed by s.60 of the P&EA, issue a Notice of Refusal 2012-071 for the development of two (2) dwellings at 20 College Square, Bacchus Marsh also known as Lot 51 on PS 637723F subject to the following conditions:**

- 1. The applicant has failed to demonstrate that the variation of the restrictive covenant meets the four tests required under Section 60(2) of the Planning & Environment Act 1988.**

#### **Resolution:**

***Crs. Dudzik /***

***That Item 11.2.3 be deferred until a future Council meeting to allow for further communication with the applicant.***

***The Motion lapsed due to the want of a Seconder.***

**Resolution:****Crs. Sullivan/Tatchell**

***That Council having considered all relevant matters as prescribed by s.60 of the P&EA, issue a Notice of Refusal 2012-071 for the development of two (2) dwellings at 20 College Square, Bacchus Marsh also known as Lot 51 on PS 637723F subject to the following conditions:***

- 1. The applicant has failed to demonstrate that the variation of the restrictive covenant meets the four tests required under Section 60(2) of the Planning & Environment Act 1988.***

**CARRIED.**

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**Report Authorisation****Authorised by:**

**Name:** Satwinder Sandhu  
**Title:** General Manager Growth and Development  
**Date:** Wednesday 15 May 2013



**11.2.4 Planning Application 2006-057; Use and Development of a Dwelling and Outbuilding associated with Agriculture (crop Raising and Extensive Animal Husbandry) on property known as Part Crown Allotment 24, Section 12, Parish of Moorabool West, Dehnerts Road, Bunding.**

<b>Application Summary:</b>	
Application No:	2006-057-E2
Lodgement Date:	18/03/2013
Planning Officer:	Satyen Kothari
Address of the land:	Part Crown Allotment 24, Section 12, Parish of Moorabool West; Dehnerts Road, Bunding Vic 3342
Proposal:	Extension of time to a planning permit 2006-057-E2 for Use and Development of a dwelling and an outbuilding associated with Agriculture (Crop raising and extensive Animal Husbandry)
Permit history	The original application was lodged with Moorabool Shire Council on 08 March 2006.  Planning Permit 2006-057 was issued by Council on 23 November 2006
Lot sizes:	Total area of all the lots is 28.35 ha
Zone:	Farming Zone (FZ)
Overlays:	Environmental Significant Overlay Schedule 1 and Design Development Overlay Schedule 2
Restrictions or agreements registered on title	Nil
Particular provisions:	Nil
General Provisions:	Clause 65 and 66
Why is a Council decision required	Delegation is not provided by Council to refuse to extend the time of a planning permit
Public Consultation:	Not applicable



**Policy Implications:**

**Key Result Area No 3-** Enhanced Natural and Built Environment.

**Objective:**

- Effective and efficient land use planning and building control.

**Strategies:**

- Provide a high quality and timely development application processing system.

**Victorian Charter of Human Rights and Responsibilities Act 2006**

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

**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 Statutory Planning and Building – Peter Hawkins*

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

*Author – Satyen Kothari*

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

**Executive Summary:**

The applicant seeks an extension of time for commencing to act on planning permit 2006-057- E2 for Use and Development of a dwelling and an outbuilding associated with Agriculture (Crop raising and extensive Animal Husbandry).

The extension has been applied 28 months after the expiry of the permit and thus Council under the current legislative arrangements cannot extend the permit.

**Summary Recommendation:**

**That Council Refuse to Grant an Extension of Time for planning permit 2006-057 for Use and Development of a dwelling and an outbuilding associated with Agriculture (Crop raising and extensive Animal Husbandry) approved on 23 November 2006.**

## Proposal

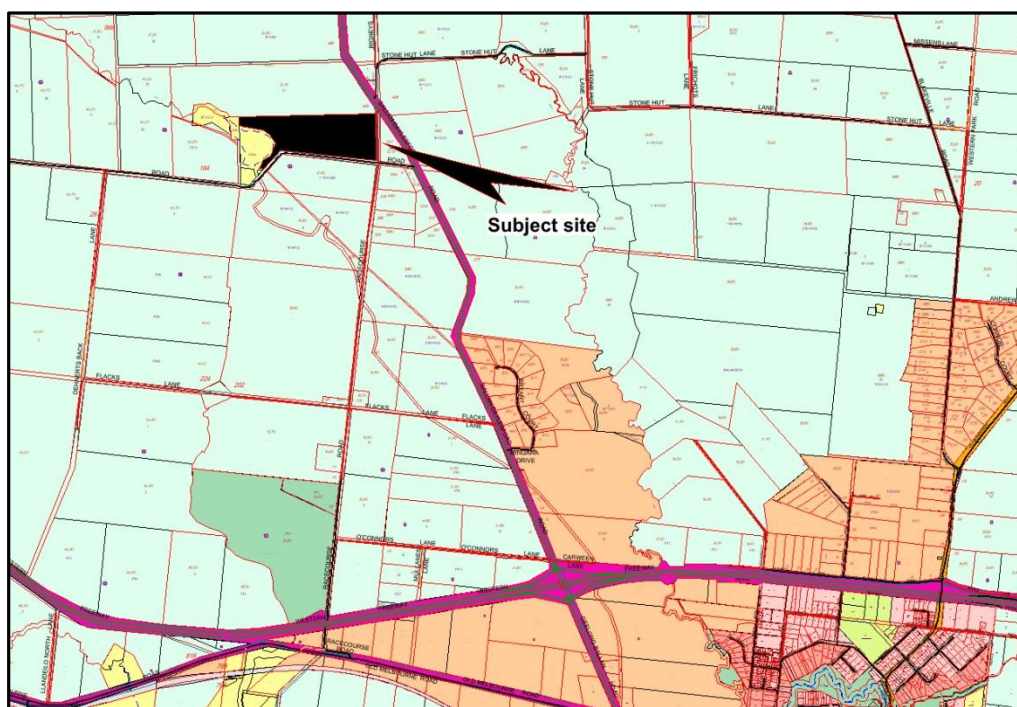
The application seeks an extension of time for the commencement date for planning permit 2006-057 for Use and Development of a dwelling and an outbuilding associated with Agriculture (Crop raising and extensive Animal Husbandry) approved on 23 November 2006 on property known as Part Crown Allotment 24, Section 12, Parish of Moorabool West; Dehnerts Road, Bunding.

The planning permit PA 2006-057 allows for the construction of a dwelling comprising of four bedroom, living, dinning, kitchen and 3 toilet/ bathrooms and an 90sqm outbuilding. The dwelling was to be constructed in two stages.

## Site Description

The subject site is located to the western side of Ballan Daylesford road. The subject site is an irregular shape property with a frontage of 380m to Racecourse road and land and with maximum depth of 1169.5 meters. The total area of the subject site is 28.35 hectares. The subject site abuts Bolwarrah Weir on the western side.

## Locality Map



## Planning Controls

### Planning and Environment Act 1987

Section 69 of the Planning and Environment Act 1987 relating to extension of time provides that:

- (1) Before the permit expires or within three months afterwards, the owner or the occupier of the and to which it applies may ask the responsible authority for an extension of time.

This request for an extension of time was not made prior to the permit expiry date or within three months thereafter. Legislation does not provide Council with the option to approve the extension of time requested.

### **Referrals**

As Council is not able to extend the time to act on the permit, the application was not referred externally pursuant to Section 55 of the Act.

### **Notification**

There is no provision under the Planning and Environment Act 1987 for extension of time applications to be advertised.

### **Planning Officer Assessment**

The application fails the ~~u~~Kantorqtests as established by the Supreme Court of Victoria and so in this instance, the report does not support the application.

Since the development was originally approved Moorabool Planning Scheme has been amended and the zoning of the land has also been amended. The Code of Practice for On-site Wastewater Management has also been revised in the interim,. It is also considered that the applicant has been warehousing the permit since 2006.

It is considered that should a fresh application be made that the likelihood of officer support for approval would be higher if accurate information, updated LCA report and well drafted Farm Management Plan are provided to the satisfaction of Responsible Authority.

### **Other Policies/Procedures**

Council adopted the Rural Growth Policy Statement at the Ordinary Meeting of Council of 5 September 2012. Whilst not a formal planning policy within the Moorabool Planning Scheme, Council can give weight to this document under the provisions of section 60(1A)(g) of the Planning and Environment Act 1987.

This policy seeks ~~to~~ articulate the Council's support for resilient and integrated rural communities and agricultural enterprises+. This policy has been considered to the extent appropriate in the writing of this report.

### **Financial Implications**

The recommendation of a refusal to grant an extension of time for this permit will not represent any financial implications to Council.

### **Risk & Occupational Health & Safety Issues**

The recommendation of a refusal to grant an extension of time for this permit does not implicate any risk or OH & S issues to Council

## **Communications Strategy**

The applicant was invited to attend this meeting and invited to address Council if desired further correspondence will be provided to the applicant advising of Council's decision in this matter.

## **Conclusion**

The application has lapsed and pursuant to section 69 of the Planning and Environment Act 1987 Council has no lawful ability to approve an extension of time for the permit.

### ***Consideration of Deputations – Planning Permit Application No. 2006-057.***

***Mr. Archie Conroy addressed Council as the applicant in favour of the granting of a planning permit for the application.***

***The business of the meeting then returned to the agenda.***

## **Recommendation:**

**That Council having considered all relevant matters as prescribed by s60 of the Planning and Environment Act, Refuse to grant an extension of time for planning permit 2006-057 for Use and Development of a dwelling and an outbuilding associated with Agriculture (Crop raising and extensive Animal Husbandry) on the following grounds:**

- 1. Council is unable to extend the planning permit as Section 69 of the Planning and Environment Act 1987 states that the responsible authority may only extend a planning permit before the permit has expired or within three months after the permit has expired.**

## **Resolution:**

**Crs. Tatchell/Sullivan**

***That Council having considered all relevant matters as prescribed by s60 of the Planning and Environment Act, Refuse to grant an extension of time for planning permit 2006-057 for Use and Development of a dwelling and an outbuilding associated with Agriculture (Crop raising and extensive Animal Husbandry) on the following grounds:***

- 1. Council is unable to extend the planning permit as Section 69 of the Planning and Environment Act 1987 states that the responsible authority may only extend a planning permit before the permit has expired or within three months after the permit has expired.***

2. ***If Council had been able to determine this application, it would have approved an extension of time for the commencement of the development until 30 April 2013 and allow for completion to be finalised by 30 April 2015.***

**CARRIED.**

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**Report Authorisation**

**Authorised by:**

**Name:** Satwinder Sandhu

**Title:** General Manager Growth and Development

**Date:** Wednesday 15 May 2013

**CHANGE OF ORDER OF BUSINESS**

***With the consent of the Council, the order of business returned to consider Item 11.2.1 - Coal Exploration and Coal Seam Gas Mining prior to continuing with the remaining business of the meeting.***

## 11.3 COMMUNITY SERVICES

### 11.3.1 Rural Library Service Preliminary Review

#### Introduction

File No.: 17/03/001  
Author: Dawn Tschujasehenko  
General Manager: Danny Colgan

The purpose of this report is to provide the Council with a preliminary review of the Rural Library Service. A full review of the twelve month trial of the Rural Library Service will be presented to the Council in November.

It is proposed that the trial of the Rural Library Service be continued in its current form for a further twelve months until 30 June 2014.

#### Background

Following the wind up of the Central Highlands Regional Library Corporation in June 2011, the Council entered into a Service Level Agreement with the City of Ballarat for the provision of library services. As part of the new agreement, the City of Ballarat advised that it would not continue to operate the Mobile Library vehicle beyond 30 June 2012. This meant that from 1 July 2012, former member Councils of the Corporation were required to deliver library services to rural areas through their own model.

A comprehensive review of library services to rural areas was subsequently undertaken by Council Officers and at the Ordinary Meeting of Council on 16 May 2012, the Council resolved to implement the following model:

- Implement a small library depot in Ballan at a community location
- Provide an online ordering model with drop off/pick up at the following locations:
  - Bungaree . Internet kiosk with the Regional Library Officer visiting once per week;
  - Elaine, Gordon, Dunnstown and Leigh Creek . visited by the Rural Library Officer once per week to drop off/pick up books and support library users;
  - Visiting fortnightly van service to Blackwood (to be purchased from the City of Ballarat due to lack of internet access); and
  - Co-location with other services i.e. Maternal and Child Health (Ballan and Wallace) and Home and Community Care visits.

It was agreed to trial the above sites (to replace existing Mobile Library stops) for 12 months and to then complete a review of the new model. It was agreed that if the Rural Library trial was successful that the Council might consider expanding the service to include additional sites such as Lal Lal, Yendon, Navigators and Myrning.

The delivery of Rural Library Services to Ballan, Bungaree, Elaine, Gordon, Dunnstown and Blackwood townships commenced on the 1 July 2012.

**The current timetable for the Rural Library Service is as follows:**

<b>Rural Library Service Timetable</b>		
<b>Day</b>	<b>Location</b>	<b>Time</b>
Tuesday	Dunnstown Recreation Reserve	10:00am - 11:00am
	Bungaree General Store	11:30am - 12:30pm
	Gordon Hall	2:00pm - 3:00pm
Wednesday	Ballan Mechanics Institute Library Depot	9.30am - 1.00 pm
	Blackwood, fortnightly	1.30pm - 2.30pm
Thursday	Leigh Creek (outside Leigh Creek Roadhouse)	11.30am - 12.30 pm
	Elaine Hall	2.00pm - 3.00pm
Saturday	Ballan Mechanics Institute Library Depot	1:30pm - 5:00pm

**Library Strategic Plan 2012-15**

At the 5 September 2012, Ordinary Meeting of Council, the Council resolved to adopt the Moorabool Shire Library Strategic Plan 2012-2015 (and associated Action Plan).

The Library Strategic Plan provides a vision for Library Services in Moorabool and outlines a set of key priority areas that seek to:

- Expand and improve library programs and activities available to Bacchus Marsh and rural communities;
- Promote and raise awareness of programs, services and activities delivered by Moorabool Library Services;
- Improve the collection;
- Improve services and opportunities through innovation and new technologies; and
- Investigate infrastructure requirements through a feasibility study for future library services in Ballan including a potential static library branch.

The delivery of Rural Library Services is in accordance with the priorities, strategies and actions set out in the Moorabool Shire Library Strategic Plan 2012-13.

**Preliminary Review**

A preliminary review of the Rural Library Service has been undertaken. A more comprehensive review will be undertaken with a report to be presented to the Council in November.

In undertaking this preliminary review, Council Staff:

- Surveyed library users;
- Collected and analysed visitor and loan data from each site; and
- Conducted research into rural library models delivered by other Local Governments.

Overall the preliminary review found that the implementation and uptake of the new rural library model has been a success with the community responding positively to the changes.

It found that the Ballan Library depot has been most successful, with overall visits and loans exceeding all expectations. Some of the other rural locations, although much slower to build, have also been positively embraced by the community with visit and loan rates increasing steadily. However there have been uptake issues experienced at Blackwood. Elaine and Leigh Creek are the only two sites that have been significantly underutilised by the community.

The table below lists the attendance and loan figures for each location from July 2012 to year to date (March 2013) and figures for March only.

Location	July 2012 – March 2013		March 2013	
	Visits	Issues (Loans)	Visits	Issues (Loans)
Dunnstown	106	212	15	70
Bungaree	166	854	14	-
Gordon	196	531	28	23
Blackwood	95	115	12	29
Elaine	8	8	0	0
Leigh Creek	6	2	0	0
Ballan	7,234	9,413	770	1,159
<b>Total</b>	<b>7,811</b>	<b>11,135</b>	<b>839</b>	<b>1,281</b>

## Ballan

The Ballan Library depot has recorded approximately 93 per cent of all visits to the Rural Library Service and around 84 per cent of all loans by the Rural Library Service since July 2013. The Library is currently open 7 hours per week and provides library programs and services including Baby Rhyme Time on a Wednesday morning and school holiday activities.

With 7,234 visits between July 2012 and March 2013, the Ballan Library is experiencing an average of 32 visits per hour. In comparison, the Lerderberg Library services an average of 42 people an hour.

The high participation rate at Ballan Library Depot means that the space allocated for the Library at the front of the Ballan Mechanics Institute is often crowded. This puts pressure on the Rural Library Services Officer and hampers the ability to provide high level customer service. It also makes the service less appealing for the community to utilise. A recent Library Survey of all users highlighted the desire by the community for additional Library opening hours in Ballan, a larger space to deliver the service and additional programs and services including book clubs and programs for children and young people. This supports the need to undertake a feasibility study into future library services in Ballan, including the possibility of establishing a static library/community hub. The demands to extend the Library Service at Ballan will be further considered including recommendations in the full review to be presented to the Council in November.



### **Bungaree, Gordon and Dunnstown**

Although much slower to build, participation at Bungaree, Gordon and Dunnstown has been positive with each location experiencing gradual increases in visit and loan rates.

Ongoing promotion and awareness raising activities are continuing to be undertaken by Council staff to help build participation at each site. The awareness raising includes seeking opportunities to promote rural library locations through other initiatives such as the Library Bag competition, poetry workshops and book clubs.

The internet kiosk and return bin at Bungaree General Store has been popular due to the ability of users to place holds online and to return items at any time (during Bungaree Store opening hours) in the absence of the Rural Library Officer. Although the internet kiosk is not suitable at all locations, rural library users at Gordon and Dunnstown have shown interest in having return bins available for use. A small static collection will be made available in a removable lockable book shelf that patrons can browse when the Rural Library Officer visits. The collection will be rotated regularly to avoid becoming stale.

### **Blackwood**

Due to the unreliability of internet access in Blackwood, Council purchases a fortnightly van service from the City of Ballarat. The fortnightly library van service visits Blackwood Hall on a Wednesday afternoon. Users at Blackwood have the advantage of being able to access a large collection on-site through the library van service. Like other locations, they can also put items on hold via the internet, by phone or on-site through the Rural Library Service Officer.

Despite the options provided to Blackwood residents, as well as the ongoing marketing and awareness raising activities undertaken by staff, usage rates have remained low. Feedback from the community suggests that the Blackwood Hall may not be the most appropriate site due to its location away from the main street and the fact that it is perched on the top of a hill and may limit accessibility by all.

The National Broadband Network upgrade should provide options for the delivery of library services to Blackwood which might include the installation of an internet kiosk in the future. At this stage, demand for and participation in library services by the Blackwood community would not support this.

Library Service Staff will investigate alternative locations and the way the service is delivered.

### **Leigh Creek and Elaine**

The Leigh Creek and Elaine locations have not been well utilised by the community despite ongoing promotion and awareness raising efforts by Library Service staff.

A recent change to the Leigh Creek site has resulted in the service being delivered from the Leigh Creek Road House on Thursdays from 11.30am to 12.30pm. It is hoped that the service will capitalise on regular custom received by the Road House during that time, as well as passing traffic.

Modifying the Library Service van to include a slide-out shelf would also help make the service more appealing as it would allow books and items to be displayed and borrowed off the shelf by walk up borrowers. It will also assist the Rural Library Officer in managing the provision of books at other sites.

The introduction of a small static collection made available in a removable lockable bookshelf that users can browse during visits by the Rural Library Services Officer will hopefully increase participation rates at Elaine Hall. A more comprehensive review may recommend replacing Elaine and Leigh Creek locations with other sites including Greendale, Lal Lal, Myrniong, Navigators or Mt Egerton.

### **Maternal and Child Health Centres – Ballan and Wallace**

The Maternal and Child Health Centres in Ballan and Wallace have a drop box that is serviced each week by the Rural Library Officer. Users can return items and pick up holds. The benefit of this option is that users can pick up holds (once delivered) during centre opening hours. Although this has not experienced the uptake expected, by increasing promotional activities through mothers groups and the Centres themselves, it is anticipated that participation is likely to increase.

### **Policy Implications**

The 2009. 2013 Council Plan provides as follows:

<b>Key Result Area</b>	Community wellbeing
<b>Objective</b>	Community self-reliance
<b>Strategy</b>	Pursue initiatives that promote life-long learning, literacy and information needs of the community.

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

### **Financial Implications**

The preliminary review of the Rural Library Service has been conducted within existing budgetary allocations. The proposed continuation of the trial of the Rural Library Service until 30 June 2014 in its current form will not involve any additional costs other than increases to staffing and operating costs in accordance with Council's budget parameters.

### **Risk & Occupational Health & Safety Issues**

<b>Risk Identifier</b>	<b>Detail of Risk</b>	<b>Risk Rating</b>	<b>Control/s</b>
Mobile Library Services	Ongoing low participation by the community at rural sites. Increased demand placed on Ballan Library by the community will result in deterioration of service	High	Continue to promote the service to the local community. Review service provision

## Communications and Consultation Strategy

The following community engagement was undertaken:

Level of Engagement	Stakeholder	Activities	Location	Date	Outcome
Consult	Library members and non-members	Survey . have your say and paper	Various	Jan 2013	Total of 55 surveys completed . options for service improvements identified
Consult	Community organisations	Discussions with stakeholders	Various	Nov 2012 to Feb 2013	Options for service improvements including ongoing co-location and partnerships
Consult	Other rural library services	Meetings Phone interviews	Various	Dec 2012 . Feb 2013	phone interviews and meetings regarding alternative rural outreach models
Involve	Internal Library and Community Development Officers	Workshop	Bacchus Marsh	Feb 2013	Options for Service Improvements identified

### Victorian Charter of Human Rights and Responsibilities Act 2006

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

### Officer's Declaration of Conflict of Interests

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

*General Manager – Danny Colgan*

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

*Author – Dawn Tschujasehenko*

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

### **Conclusion**

On 1 July 2012, Council resolved to implement the Rural Library Service model and intended that it be reviewed after 12 months to ensure it is meeting community needs.

A preliminary review of the Rural Library Service has been undertaken. A more comprehensive review will be undertaken with a report to be presented to the Council in November.

It is recommended that the trial of the Rural Library Service be continued in its current form for a further twelve months until 30 June 2014.

### **Resolution:**

**Crs. Sullivan/Comrie**

### ***That Council:***

- 1. Receive the findings of the preliminary review of the Rural Library Service***
- 2. Continue the trial of the Rural Library Service to 30 June 2014***
- 3. Conduct a full review of the Rural Library Service with a further report to be presented to the Council in November.***

**CARRIED.**

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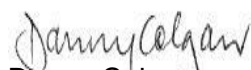
### **Report Authorisation**

**Authorised by:**

**Name:**

**Title:**

**Date:**



Danny Colgan

General Manager Community Services

Wednesday, 15 May 2013

## **11.4 INFRASTRUCTURE SERVICES**

*No reports for this meeting.*

## 11.5 CORPORATE SERVICES

### 11.5.1 Voluntary Levy - Constitutional Recognition of Local Government – ‘Yes’ Campaign

#### Introduction

File No.: 02/06/004  
Author: Shane Marr  
Manager: Rob Croxford

#### Background

In 2011, the Australian Local Government Association (ALGA) requested that all Councils pass a resolution endorsing the position that a referendum be held in 2013 to change the Constitution to allow direct funding of Local Government bodies by the Commonwealth Government and also to include Local Government in any new Preamble to the Constitution if one is proposed.

A reference to local government in section 96 of the Constitution would create a specific head of power in the Constitution for *direct payments* to occur.

The preferred wording, recommended by the Expert Panel on Constitutional Recognition of Local Government (2012) and supported by the ALGA is an amendment to read:

***"Parliament may grant financial assistance to any state or local government body formed by or under a law of a state or territory."***

Financial recognition in the Constitution seeks to formalise and secure direct federal funding which has been received by local government for more than ten years. Recognition would change the status of local government, its powers, or its relationship with the State Government.

At this time the ALGA also requested that Council write to the Prime Minister, the Leader of the Opposition and the local Federal Member of Parliament, Catherine King MP, to advise them of Council's support for recognition after Council has passed a resolution in the chamber.

On 6 April 2011, Council passed the following resolution:

Resolution:

Crs. Tudball/Toohey

1. *That Council declares its support for financial recognition of Local Government in the Australian Constitution.*

2. *That a letter be forwarded to The Hon Ms. Julia Gillard, Prime Minister, The Hon Mr. Tony Abbott, Leader of the Opposition, The Hon Mr. Warren Truss, the Leader of the Nationals, Senator Bob Brown, the Leader of the Greens, the five independent members of the House of Representatives and The Hon Ms. Catherine King MP, Federal Member for Ballarat, outlining the Council's support for recognition of Local Government in the Australian Constitution and calls on all political parties to support a referendum by 2013 to change the Constitution to achieve this recognition.*

CARRIED.

The ALGA has over this time continued its campaign planning work along with the Municipal Association of Victoria (MAV) and other state associations in order to be ready to activate quickly if the Government announces the referendum.

In February 2013, the MAV advised that the ALGA Board had identified that a National Campaign could cost local government in the order of \$10 million, of which the contribution from Victoria is estimated at \$2 million (excluding any public funding).

### **Proposal**

On Friday 3 May 2013, Council received advice that an announcement is imminent from the Australian Government as to whether it will proceed with a referendum on 14 September 2013 to recognise local government in our national Constitution.

Council has also been advised that Victoria's contribution to the national campaign will be funded in line with the MAV 2012 State Council resolution for the MAV to issue a voluntary levy on members, with each Council to determine whether or not to pay the levy.

The MAV Board resolved to adopt a methodology using population and revenue to set the voluntary contribution amount for each member Council. Under this model, Moorabool Shire is being asked to formally consider supporting the national Yes campaign with a voluntary contribution of \$12,132.

It is requested that Council formally consider this matter and provide written confirmation of its decision by 31 May 2013 hence the need for this matter to be considered by Council at this Ordinary Meeting of Council.

The MAV is seeking confirmation of Council's position on:

1. Council's intention to participate in the national Yes campaign at the local level (to be coordinated at the state level by the MAV under the direction of a national campaign team)
2. An amount of voluntary financial contribution that Council is willing to provide towards the national local government Yes campaign.

Until the Government announces that a referendum will proceed in September, Council is only required to provide formal notification of its commitment. The MAV has chosen not to seek any payments ahead of a formal announcement from the Government. It is likely that any payment of voluntary levies would be

requested by 30 June unless other arrangements are requested by individual municipalities.

As Council is currently determining its annual budget for 2013/2014, officers have considered this levy and recommend to Council that whilst Council is in support of this campaign, current budget constraints indicate that Council would not be in a position to make the requested \$12,132 voluntary financial contribution to support the national ~~y~~esqcampaign.

### **Policy Implications**

The 2009. 2013 Council Plan provides as follows:

<b>Key Result Area</b>	Representation and Leadership of our Community
<b>Objective</b>	Good governance through effective systems and procedures
<b>Strategy</b>	Ensure policies and good governance are in accordance with legislative requirements and best practice

### **Financial Implications**

Current budget constraints indicate that Council would not be in a position to make the requested \$12,132 voluntary financial contribution to support the national ~~y~~esqcampaign.

### **Risk & Occupational Health & Safety Issues**

No risk and occupational health and safety issues have been identified.

### **Communications and Consultation Strategy**

The Council report is to be considered in open Council whereby the community has access to the report.

### **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.

*Author – Shane Marr*

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

*Chief Executive Officer – Rob Croxford*

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

## Conclusion

It is requested that Council formally consider this supporting the national ~~Yes~~ campaign with a voluntary contribution of \$12,132, and provide written confirmation of its decision by 31 May 2013 hence the need for this matter to be considered by Council at this Ordinary Meeting of Council.

The MAV is seeking confirmation of Council's position on:

1. Council's intention to participate in the national ~~Yes~~ campaign at the local level (to be coordinated at the state level by the MAV under the direction of a national campaign team)
2. An amount of voluntary financial contribution that Council is willing to provide towards the national local government ~~Yes~~ campaign.

As Council is currently determining its annual budget for 2013/2014, officers have considered this voluntary levy and recommend to Council that whilst Council is in support of this campaign, current budget constraints indicate that Council would not be in a position to contribute the requested \$12,132 voluntary financial contribution to support the national ~~Yes~~ campaign.

## Resolution:

**Crs. Sullivan/Comrie**


***That Council responds in writing to the Chief Executive Officer of the MAV, Mr. Rob Spence, advising that Council, whilst in support of this campaign, would not be in a position to contribute the requested \$12,132 voluntary financial contribution to support the national 'yes' campaign due to budget constraints for the 2013/14 period.***

**CARRIED.**

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## Report Authorisation

Authorised by:

  
**Name:** Shane Marr  
**Title:** General Manager Corporate Services  
**Date:** Wednesday, 15 May 2013

## 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](http://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 1 May 2013 . Public Relations and Communications Strategy
- Assembly of Councillors . Wednesday 1 May 2013 . Audit and Risk Committee Briefing
- Assembly of Councillors . Wednesday 1 May 2013 . Annual Budget

#### **Resolution:**

#### **Crs. Comrie/Spain**

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

- ***Assembly of Councillors – Wednesday 1 May 2013 – Public Relations and Communications Strategy***
- ***Assembly of Councillors – Wednesday 1 May 2013 – Audit and Risk Committee Briefing***
- ***Assembly of Councillors – Wednesday 1 May 2013 – Annual Budget***

**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.

<b>Committee</b>	<b>Meeting Date</b>	<b>Council Representative</b>
Masons Lane Recreation Reserve Committee of Management	12 February	
Bacchus Marsh Racecourse and Recreation Reserve Committee of Management	3 April 2013	Cr. Comrie Cr. Edwards
Bacchus Marsh Racecourse and Recreation Reserve Committee of Management	8 April 2013	Cr. Comrie Cr. Edwards

### **Resolution:**

**Crs. Comrie/Edwards**

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

- ***Masons Lane Recreation Reserve Committee of Management meeting of Tuesday, 12 February 2013.***
- ***Bacchus Marsh Racecourse and Recreation Reserve Committee of Management meeting of Wednesday, 3 April 2013.***
- ***Bacchus Marsh Racecourse and Recreation Reserve Committee of Management meeting of Monday, 8 April 2013.***

**CARRIED.**

**13. NOTICES OF MOTION****13.1 Cr. Tatchell: N.O.M. No. 229 – Margaret Moritz Youth Heritage Award****Resolution:****Crs. Tatchell/Dudzik**

***That Council endorses establishing an award aimed at generating interest in heritage matters amongst primary school students across the municipality whilst honouring the memory of Margaret Moritz. Council also endorses the following approach to be undertaken to assist with the award's inception:***

- ***The establishment of a subcommittee to oversee the initiative, which comprises a Councillor and at least two representatives of the Moorabool Heritage Advisory Committee.***
- ***Council officers write to primary schools within the municipality to raise awareness of this initiative and to ascertain interested participants.***
- ***An amount in the order of \$500 is made available from the current budget of Council's Strategic and Sustainable Development Unit to assist in the implementation of the award.***

**CARRIED.**

**14. URGENT BUSINESS**

**Resolution:**

**Crs. Edwards/Sullivan**

***That Council:***

- 1. develop an appropriate program and implementation strategy in consultation with affected local residents in order to reduce the damage by Corellas to local businesses, residential property, Maddingley Park and Racecourse Reserve; and***
- 2. communicate the issues to residents through the media and outline the proposed management strategy.***

**CARRIED.**

**15. CLOSED SESSION OF THE MEETING TO THE PUBLIC**

**Nil.**

**16. MEETING CLOSURE**

*The meeting closed at 10.09pm.*

*Confirmed.....Mayor.*