

ORDINARY MEETING OF COUNCIL

Notice is hereby given of the
Ordinary Meeting of Council to be held at
the James Young Room, Lerderderg Library,
215 Main Street, Bacchus Marsh on
Wednesday 20 March 2013,
commencing at 7:00 p.m.

Members:

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

Officers:

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

Rob Croxford
Chief Executive Officer

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1. OPENING OF MEETING AND PRAYER

Almighty God be with us as we work for the people of the Shire of Moorabool.

Grant us wisdom that we may care for the Shire as true stewards of your creation.

May we be aware of the great responsibilities placed upon us.

Help us to be just in all our dealings and may our work prosper for the good of all.

Amen

2. PRESENT

3. APOLOGIES

4. CONFIRMATION OF MINUTES

4.1 Ordinary Meeting of Council – Wednesday 6 March 2013

Recommendation:

That Council confirms the Minutes of the Ordinary Meeting of Council held on Wednesday 6 March 2013.

5. DISCLOSURE OF CONFLICT OF INTEREST

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

Definitions of the class of the interest are:

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

Time for Disclosure of Conflicts of Interest

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

Section 79(6) of the Act states:

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

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

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

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

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

6. MAYOR'S REPORT

To be presented at the meeting by the Mayor.

Recommendation:

That the Mayor's report be received.

7. COUNCILLORS' REPORTS

To be presented at the meeting by Councillors.

Recommendation:

That the Councillors' reports be received.

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.

9. PETITIONS

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

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
-	-	-	-

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

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

Item No	Description	Name	Applicant/ Objector
-	-	-	-

11. OFFICER'S REPORTS

11.1 CHIEF EXECUTIVE OFFICER

11.1.1 Local Law Application – Keeping of a Ram - Love Close, Maddingley

Introduction

File No.: 517600
Author: Rob Croxford
CEO: Rob Croxford

Background

A resident of Love Close, Maddingley is keeping a ram as a pet and has applied for a Local Law permit belatedly to keep it in a residential zone. There have been objections lodged by neighbours to the keeping of the ram.

Issues with the Ram

The animal has recently been assessed by the RSPCA and it has provided Council with a report which supports that the ram is well kept and in good health.

The keeping of a ram on a residential property is prohibited without a permit. The resident is aware of this and has applied for a Local Law permit.

Officers have followed the Council's adopted procedure in dealing with the application, receiving two (2) objections to the application.

Reports that the Ram is Dangerous

The ram is not desexed. There have been two (2) reports of the ram charging at residents in Love Close.

A recent report was made by another resident of Love Close and Council Officers are currently undertaking the investigation process and interviewing the affected parties.

Status of the Permit Application

Whilst Council has a procedure which has been followed, the final decision to approve or reject the Local Law permit is not straight forward. The ram presents a danger and has not been contained to the property, which was a condition agreed to by the owner for retaining the ram while the permit application is being considered, and would be a requirement if the permit was granted.

Approval of a Local Laws Permit

Council Officers are concerned that the resident who owns the ram has not met the undertaking to contain the animal to the property at all times.

Further, for numerous reasons the resident has not erected adequate fencing to ensure the ram is contained. The resident claims that he has been prevented from completing the fence because Council removed some fencing panels from his property in the recent clean-up undertaken by Council with the resident's approval at the time. Further the resident had an application for an additional crossover in Parwan Road and claimed he cannot continue to complete the fence until Council advises the outcome. This application was withdrawn on 14 March, 2013 so is no longer an issue.

Rejection of the Local Law Permit

The community and the residents in and around Love Close need to be safe from the ram, which would support the rejection of the permit. Whilst the safety of residents is of utmost importance Officers hold concerns that the rejection of the permit and the subsequent rehousing of the ram may have adverse effects on the ram owner and his family.

Proposal

There are two options available to Council:

Option A

That the Council approves the Local Law permit to keep the ram conditional to the following:

1. That the ram be desexed within 14 days of the permit application approval.
2. That adequate fencing be erected and approved by Council Officers and the ram be removed from the property until this is achieved.
3. That the permit is specific to the ram named Jackie Chan and not transferable to any new animal in the event the ram dies or is no longer on the property for whatever reason.
4. That the permit will immediately lapse in the event the ram is outside the property boundary and in that event the ram be removed immediately.

Option B

That the Local Law permit be rejected and adequate time to rehouse the ram is provided and that the Council offer assistance in rehousing the ram.

Policy Implications

The 2009–2013 Council Plan provides as follows:

Key Result Area	Community Wellbeing
Objective	A Safe Community
Strategy	Promote and administer Council's Local Laws and other relevant Legislation

Financial Implications

Significant resources have been expended in an effort to resolve this matter.

Risk & Occupational Health & Safety Issues

If the ram attacks or charges at a member of the public in the future Council may be liable if this occurs on Council land.

Risk Identifier	Detail of Risk	Risk Rating	Control/s
Financial / OHS / Public Liability	Litigation and Potential Claims Against Council	Medium	Public Liability Insurance

Communications of the Application Process

4 July, 2012

A notice to Comply was issued advising the resident to apply for an additional animal application permit.

24 July, 2012

Council received the completed application from the resident.

1 August, 2012

A survey letter was sent out to surrounding residents to gauge whether or not they had an issue with an additional animal being kept on a property in Love Close.

6 August, 2012 – 15 August, 2012

Survey letters were returned to Council from residents.

10 September, 2012

The property was inspected by authorised officers to ascertain if the animal could be kept on the property.

30 November, 2102

The permit file was placed on hold as a planning application was lodged with Council for a second road opening on Parwan Road.

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.

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

The keeping of a ram in a residential area requires a Local Law permit. The history of the matter demonstrates that compliance with any permit conditions may be difficult. It is evident, however, that the ram is kept as a pet and has a strong attachment to the family involved. This is countered by the fact that other residents of the street have provided objections to the proposal for a permit to keep the ram.

Recommendation:

That the Council grants a Local Law permit to keep the ram at 4 Love Close, Maddingley conditional on the following:

- 1. That the ram be desexed within 14 days of the permit application approval.**
- 2. That adequate fencing be erected and approved by Council Officers and that the ram be removed from the property until this is achieved.**
- 3. That the permit is specific to the ram named “Jackie Chan” and not transferable to any new animal in the event the ram dies or is no longer on the property for whatever reason.**
- 4. That the permit will immediately lapse in the event the ram is outside the property boundary, and in that event the ram will be removed immediately.**

Report Authorisation

Authorised by: 

Name: Rob Croxford
Title: Chief Executive Officer
Date: 14 March, 2013

11.2 GROWTH AND DEVELOPMENT

11.2.1 Planning Application 2012-214; Subdivision of the Land Into Two (2) Lots; Lot 42 on PS 529670D, 7 Lilly Pilly Court, Darley.

Application Summary:	
Application No:	2012-214
Lodgement Date:	17 September 2012
Planning Officer:	Satyen Kothari
Earliest date the applicant may apply to VCAT for an appeal against Failure to Determine:	18 th January 2012
Address of the land:	Lot 42 on PS 529670D 7 Lilly Pilly Court, Darley
Proposal:	Subdivision of the land into two (2) lots
Lot size:	862 square metres
Covenants or other restrictions on the land	Nil
Moorabool Planning Scheme (Relevant details):	
State Planning Policy Framework (SPPF):	Clause 11 Settlement Clause 11.02-1 Supply of urban land Clause 11.05-2 Melbourne’s hinterland Clause 15.01 Neighbourhood and subdivision design
Local Planning Policy Framework (LPPF):	Clause 21.03-2 Urban Growth management Clause 21.07 Bacchus Marsh
Zone:	Residential 1 Zone (R1Z)
Overlays:	Nil
Particular provisions:	Clause 52.01 Public open space contribution
General provisions:	Clause 56 Residential subdivision Clause 65 Decision guidelines Clause 66.01 Subdivision referrals
Why is a permit required?	Under Clause 32.01-2 of the Moorabool Planning Scheme, a planning permit is required to subdivide land.

Public Consultation:	
Number of notices to properties:	Ten (10)
Notices on site:	One
Notice in Newspaper:	Nil
Number of objections:	One
Submission of support:	Nil
Consultation meeting:	N/A
Policy Implications:	
Key Result Area -	Sustainable development
Objective -	Effective and efficient land use planning and building controls.
Strategy -	Provide a high quality and timely development application processing system.
Victorian Charter of Human Rights and Responsibilities Act 2006	
<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>	
Officer's Declaration of Conflict of Interests	
<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 – Satyen Kothari</i> In providing this advice to Council as the Author, I have no interests to disclose in this report.</p>	

Executive Summary:

The application seeks permission for a two-lot subdivision at 7 Lilly Pilly Court, Darley. The application is before Council due to the receipt of one objection from an adjoining property owner.

The site has an area of 862 sq m. A recent application for the development of two dwellings on the lot has been considered by Council with a Notice of Decision to Grant a Permit resolved upon by Council on the 19th December 2012. The proposed subdivision is to subdivide the land that would contain a dwelling on each of the lots, once constructed. The layout and dimensions of the proposed lots satisfactorily meet the requirements of Clause 56 of the Moorabool Planning Scheme.

Objections relate to the development of the two dwellings on the site rather than the subdivision and focuses on neighbourhood character, car parking and traffic impacts. Details of the objector's concerns and response to the key issues have been provided in the report.

The proposed subdivision is consistent with State and Local Planning Policies, the objectives of the zone and particular provisions in relation to subdivision.

Summary Recommendation:

That, having considered all relevant matters pursuant to s.60 of the Planning and Environment Act 1987, Council resolve to issue a Notice of Decision to Grant a Permit for subdivision of the land into two (2) lots at 7 Lilly Pilly Court, Darley.

Site History

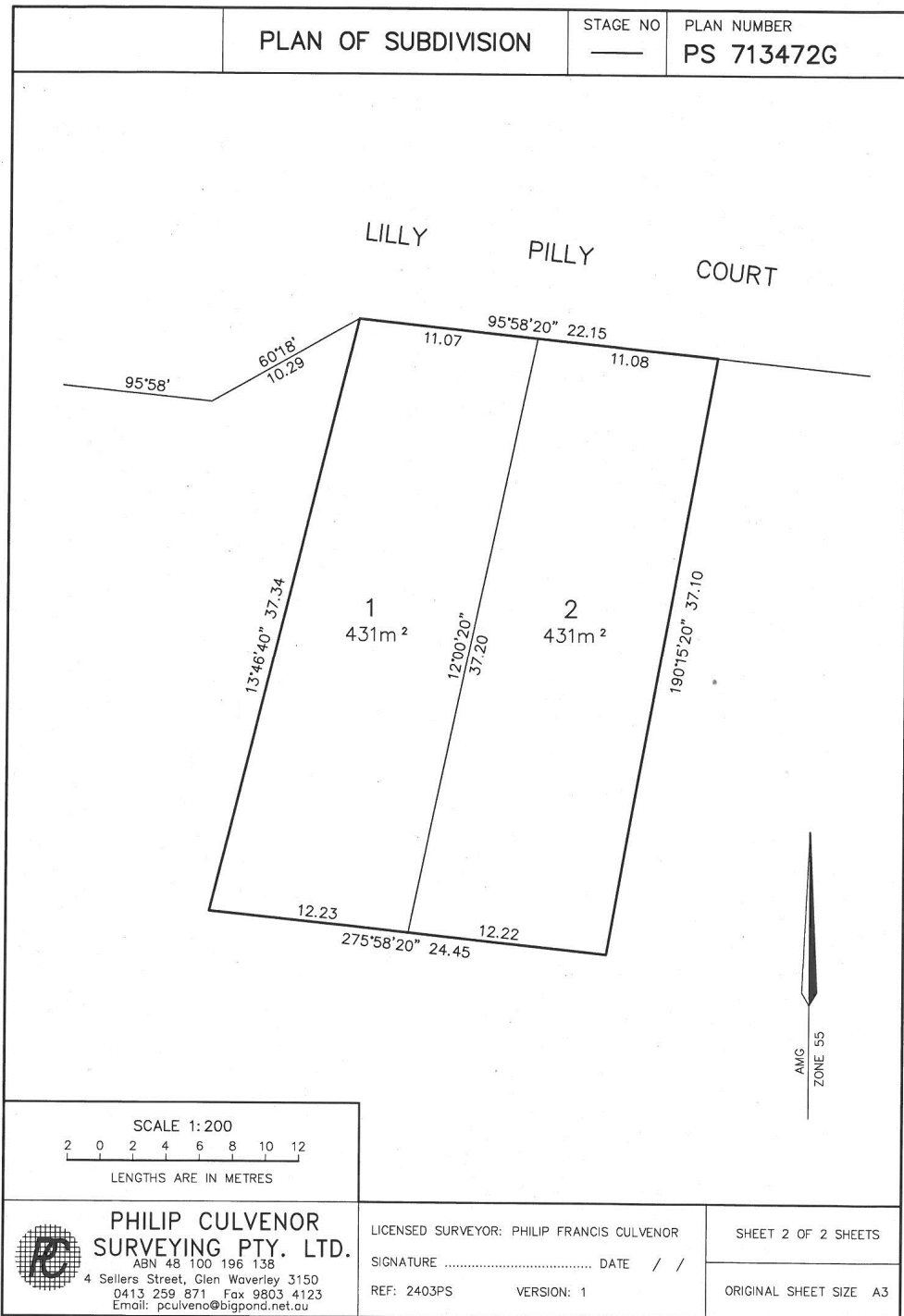
On 19 December 2012, Council resolved to issue a Notice of Decision to Grant a Permit for the development of two (2) dwellings at 7 Lilly Pilly Court, Darley. No objection was lodged with VCAT regarding this Notice of Decision to Grant a Permit and so a Planning Permit was issued.

Proposal

It is proposed to subdivide the land into two lots with the common boundary between the lots running north-south, parallel to the long axis of the lot.

Lot 1 has a street frontage width of 11.07 m, a depth of 37.34 m and an area of 431 square metres. Lot 2 has a street frontage width of 11.08 m, a depth of 37.2 metres and an area of 431 square metres.

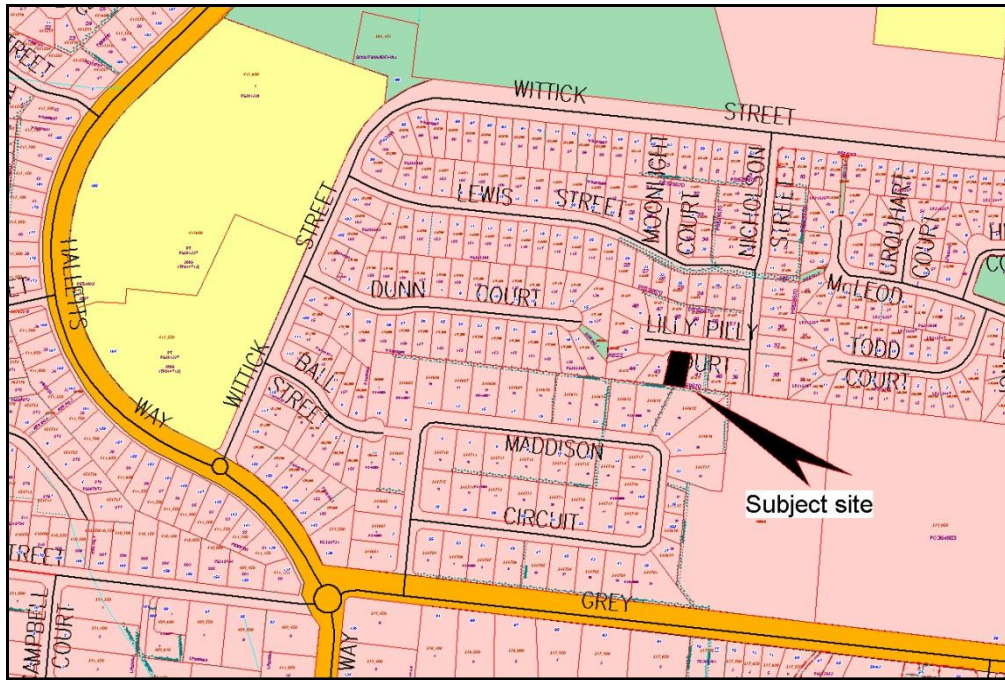
Vehicle access to Lot 2 is via the existing crossover, and a new crossover is proposed to provide access to Lot 1.



Proposed Subdivision Layout

Site Description

The site is located on the south side of Lilly Pilly Court, approximately 60 metres west of Nicholson Street within a new residential subdivision south of Wittick Street.



Locality Map

The lots are irregular polygons resembling rhomboids in shape with a street frontage width of 11.07 m and 11.08 m respectively for lots 1 and 2. The lots have a maximum depth of 37.34 metres and an area of 431 square metres for each of the lots. The land has a moderately steep slope (1:8 gradient), falling towards the east from side boundary to side boundary. There are no easements affecting the land.

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

The adjoining property to the west (No 9 Lilly Pilly Court), and one opposite have been developed with single-storey dwellings. The adjoining property to the east and one opposite remain vacant. Adjoining properties at the rear, on higher ground, have been developed with two-storey dwellings fronting onto Maddison Circuit. Multi dwellings are being constructed at 11 Lilly Pilly Court and others have been approved at 5 Lilly Pilly Court.

Lilly Pilly Court is a cul-de-sac providing access to 13 lots, connected to services and still undergoing development. The size of the lots ranges between 680 and 1267 square metres. There are eight single-storey dwellings including two under construction.

Planning Scheme Provisions

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

SPPF		
Clause 11	Settlement	The proposal is consistent with sustainable development that takes full advantage of existing settlement patterns.

Clause 11.02-1	Supply of urban land	In planning for urban growth, the proposed subdivision responds to opportunities for consolidation and intensification of existing urban areas with no significant impact on neighbourhood character and without service limitations.
Clause 11.05-2	Melbourne's hinterland	In accordance with policy, the proposed subdivision is linked to the timely and viable provision of physical and social infrastructure.
Clause 15.01	Neighbourhood and subdivision design	The proposal is consistent with policies aimed at creating compact neighbourhoods and a range of lot sizes within walking distance of services and facilities.
LPPF		
Clause 21.03	Urban growth management	The proposed subdivision responds to strategies, which direct population growth to Bacchus Marsh.
Clause 21.07	Bacchus Marsh	The proposal is consistent with the Bacchus Marsh Framework Plan.

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 subdivide land.

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 lot sizes, which provide for dwellings in keeping with the emerging pattern of development in Lilly Pilly Court.

Overlay

The site is not affected by any Overlay.

Particular Provisions

Pursuant to Clause 52.01, a subdivision is exempt from a requirement to contribute toward public open space, in accordance with Section 18(8) of the Subdivision Act 1988, if it subdivides land into two lots and Council considers it unlikely that each lot will be further subdivided.

Pursuant to Clause 56 of Moorabool Planning Scheme, an application to subdivide land in a residential zone must meet all the objectives specified in the Particular Provisions (Rescode) and should meet the all of the standards specified in the provisions.

An assessment against Clause 56 is as follows:

Clause	Title	Detail	Compliance
56.03-5	Neighbourhood character	Standard C2	Complies Amongst a range of lot sizes, the proposed two-lot subdivision to subdivide land on which two dwellings have already been approved. The impact, if any, accrues at the stage of the dwelling development, not at the subdivision stage.
56.04-2	Lot area and building envelope	Standard C8	Complies. The proposed lots with areas of 431 sq m enable appropriate siting of two, previously approved dwellings located side by side with associated car parking and private open space. Both lots can contain a rectangle measuring 9 x 15 m if a boundary is nominated as part of the building envelope. As required for dwellings built to the boundary, the long axis of the lots is within 30° east and 20° west. The building envelopes in previous application, (applicable to this application) is satisfactory.

56.04-3	Solar orientation of lots	Standard C9	Complies. The dimensions and orientation of the proposed lots provide for the protection of access to northern sunlight.
56.04-5	Common area	Standard C11	N/A
56.06-8	Lot access	Standard C21	Complies. There is an existing crossover to Lot 2, and a requirement would be made for the construction of a new crossover to Lot 1.
56.07-1	Drinking water supply	Standard C22	Complies. A reticulated water supply is available to each lot.
56.07-2	Reused and recycled water	Standard C23	Complies. This is a matter for the relevant water authority. The greater Bacchus Marsh area does not currently have access to reticulated recycled water.
56.07-3	Waste water management	Standard C24	Complies. Reticulated sewerage is available to each lot.
56.07-4	Urban run-off management	Standard C25	Complies. Standard drainage conditions apply.
56.08-1	Site management	Standard C26	Complies. Standard construction management conditions apply.
56.09-1	Shared trenching	Standard C27	Complies. This standard is relevant to greenfield developments where new roads and trenching is undertaken. This is not relevant to a two lot subdivision such as the current proposal.
56.09-2	Electricity, telecommunications and gas	Standard C28	Complies. Mandatory conditions provide for agreements to be entered into with service authorities.

General Provisions

In accordance with Clause 65.02, the report considers the decision guidelines for an application to subdivide land.

Referrals

Under Clause 66.01 of the Moorabool Planning Scheme, a two-lot subdivision does not require referral. However mandatory conditions apply to subdivisions not requiring referral.

The application was referred to Council's Infrastructure Department for comments. The response raised no objection to the proposal subject to eight conditions.

Public Notice

The application was advertised to adjoining owners and occupiers by sending individual notices on 14 November 2012 and a sign placed on the site from 25th November to 20th December 2012. There has been one objection received.

Other Policies/Procedures

Council adopted the Urban Growth Policy Statement at the Ordinary Meeting of Council of the 5th 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.

Summary of Objections

The grounds of objection are outlined below with officer's comments accompanying them. The objector lives around the next corner to the east of the subject site.

Objection	Officer's Response
The proposed development does not respect the neighbourhood character.	The development proposal was considered under Planning Permit PA2012206 where a Planning Permit was issued on 23 January 2013 after the Notice of Decision period. These issues of Neighbourhood Character have therefore been addressed previously and this proposal seeks the subdivision of the land to accord with the approved development of two dwellings.
Car parking is inconvenient and unsafe.	A development proposal does not form part of this application. It has been determined under assessment of the development permit PA2012206 that each of the proposed lots can accommodate adequate on-site parking with appropriate access from Lilly Pilly Court.

The proposed subdivision, creating a cluster of units, will compound traffic issues, creating hazards for pedestrians and children.	Car parking generated by two lots as opposed to one lot in a small street with no through-traffic is has not resulted in and identified traffic problems or threat to pedestrian safety. These matters were considered at the time of assessment of the development application for Planning Permit PA2012206.
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Mediation

It was not considered that mediation would be likely to resolve objector concerns and so no mediation was conducted.

Discussion

It is considered that the proposed subdivision meets the objectives and standards under Clause 56 with no adverse impact on residential amenity or the neighbourhood character.

The site is located in a residential zone where the objective is to provide for residential development at a range of densities. The proposed subdivision increases the range of lot sizes, still at relatively low density, with no significant impact on the pattern of subdivision in Lilly Pilly Court.

At the western end of Lilly Pilly Court, there is an open space reserve/walkway providing a direct link to Dunn Court, Pentland Primary School, and the Civic and Community Hub. Similar links also provide easy access to a bus service along Morrison Drive less than 600 metres away. Telford Park is approximately 300 metres north of the site, and Bacchus Marsh Shopping Centre can be accessed by bus. Providing good access to facilities and services, the site is considered suitable for subdivision.

Both lots provide for dwellings facing the street and the potential for shared walls or walls on boundaries. The long axis of the lots responds appropriately to the slope of the land and facilitates good access to northern sunlight. As demonstrated in the previous, multi-dwelling application, each lot can contain a dwelling with associated car parking and private open space. There is an existing vehicle crossing to Lot 2, and no constraints on the construction of a new crossover to Lot 1.

The area and dimensions of each lot is satisfactory, and it is considered unlikely that the land will be further subdivided. There is no significant vegetation on the site, and reasonable scope for new landscaping. Utility services are readily available, and the function of existing road remains unchanged.

In many respects an application for subdivision, such as this, would usually be considered administrative, given that a Planning Permit has previously been issued for Development of Two Dwellings on the Lot. Objections to the development permit PA2012-206 were not tested through VCAT Appeal and therefore this application does not have to address the requirements of Clause 55 – Development of More than One Dwelling on the Lot and provided it meets the requirements of Clause 56 – Subdivision.

Financial Implications

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

Risk and Occupational Health and Safety Issues

The recommendation of approval of this development does not create any risk or Occupational Health and Safety issues to Council.

Communications Strategy

Notice was undertaken for the application, in accordance with the Planning and Environment Act 1987, and three objections were received. The applicant and objectors were informed that this matter would be heard by Council and was advised of their right to address Council. The applicant and objectors will be advised of Council's determination.

Conclusion

The proposed subdivision complies with the requirements of Clause 56 – Subdivision, is consistent with State and Local Planning Policies, the objectives of the zone, and particular provisions in relation to subdivision.

Recommendation:

That Council having considered all relevant matters as prescribed by s.60 of the Planning and Environment Act 1987, issue a Notice of Decision to Grant a Planning Permit PA2012-214 for the subdivision of the land into two (2) lots at 7 Lilly Pilly Court, Darley also known as Lot 42 PS 529670D, subject to the following conditions:

- 1. The size, layout and location of the lots shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.**
- 2. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities, electricity, gas and telecommunication services to each lot shown on the endorsed plan in accordance with the authority's requirements and relevant legislation at the time.**
- 3. All existing and proposed easements and sites for existing or required utility services and roads on the land must be set aside in the plan of subdivision submitted for certification in favour of the relevant authority for which the easement or site is to be created.**
- 4. The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to the relevant authority in accordance with Section 8 of that Act.**
- 5. Before the Statement of Compliance is issued under the Subdivision Act 1988, a payment of \$900 for each lot created must be made to Council for social development infrastructure.**

- 6. Prior to the issue of a Statement of Compliance for the subdivision, a standard urban residential vehicle crossing must be provided to Lot 1 on Lilly Pilly Court to the satisfaction of the Responsible Authority.**
- 7. Prior to the issue of a Statement of Compliance for the subdivision, the development must be provided with a drainage system constructed to a design approved by the Responsible Authority, and must ensure that:**
 - i. The development as a whole must be self draining.**
 - ii. Volume of water discharging from the development in a 10% AEP storm shall not exceed the 20% AEP storm prior to development. Peak flow must be controlled by the use of a detention system located and constructed to the satisfaction of the Responsible Authority.**
 - iii. All units must be provided with a stormwater legal point of discharge at the low point of each potential lot, to the satisfaction of the Responsible Authority.**
 - iv. Stormwater runoff must meet the "Urban Stormwater Best Practice Environmental Management Guidelines (CSIRO 1999)".**
- 8. Storm water drainage from the development must be directed to a legal point of discharge to the satisfaction of the Responsible Authority. A legal point of discharge permit must be taken out prior to the construction of the stormwater drainage system.**
- 9. Unless otherwise approved by the Responsible Authority there must be no buildings, structures, or improvements located over proposed drainage pipes and easements on the property.**
- 10. If required, the layout of the development must be modified based on the approved stormwater design.**
- 11. Sediment discharges must be restricted from any construction activities within the property in accordance with the relevant Guidelines including "Construction Techniques for Sediment Control" (EPA 1991).**
- 12. Any existing works affected by the development must be fully reinstated at no cost to and to the satisfaction of the Responsible Authority.**
- 13. Prior to the commencement of the development, plans and specifications of all road and drainage works must be prepared and submitted to the responsible authority for approval, detailing but not limited to the following:**
 - i. location of vehicle crossings**
 - ii. details of the underground drainage**
 - iii. location of drainage legal points of discharge**
 - iv. standard details for vehicle crossing and legal point of discharge**
 - v. civil notes as required to ensure the proper construction of the works to the satisfaction of the responsible authority.**

14. This permit will expire if either of the following circumstances applies:

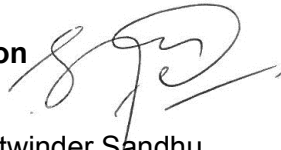
- a) **The plan of subdivision is not certified within two (2) years of the date of this permit;**
- b) **The registration of the subdivision is not completed within five (5) years of the date of this permit.**

The Responsible Authority may extend the period for certification of plans referred to, if a request is made in writing before the permit expires or within three months afterwards.

Report Authorisation

Authorised by:

Name: Satwinder Sandhu
Title: General Manager Growth and Development
Date: Wednesday 20 March 2013



11.3 COMMUNITY SERVICES

No reports for this meeting

11.4 INFRASTRUCTURE SERVICES

No reports for this meeting

11.5 CORPORATE SERVICES

No reports for this meeting

12. OTHER REPORTS

12.1 Assembly of Councillors

File No.: 02/01/002

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

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

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

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

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

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

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

- Assembly of Councillors – Wednesday 6 March 2013 – Confidential Item
- Assembly of Councillors – Wednesday 6 March 2013 – Budget Parameters
- Assembly of Councillors – Wednesday 6 March 2013 – Confidential Item
- Assembly of Councillors – Wednesday 6 March 2013 – Councillor Review of Council Plan
- Assembly of Councillors – Wednesday 6 March 2013 – Asset Management Overview

Recommendation:

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

- **Assembly of Councillors – Wednesday 6 March 2013 – Confidential Item**
- **Assembly of Councillors – Wednesday 6 March 2013 – Budget Parameters**
- **Assembly of Councillors – Wednesday 6 March 2013 – Confidential Item**
- **Assembly of Councillors – Wednesday 6 March 2013 – Councillor Review of Council Plan**
- **Assembly of Councillors – Wednesday 6 March 2013 – Asset Management Overview**

12.2 Section 86 - Delegated Committees of Council - Reports

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

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

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

Committee	Meeting Date	Council Representative
Greendale Recreation Reserve Committee of Management	13 February 2013	Cr. Toohey
Elaine Recreation Reserve Committee of Management	27 November 2012	Cr. Sullivan

Recommendation:

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

- **Greendale Recreation Reserve Committee of Management meeting of Wednesday 13 February 2013.**
- **Elaine Recreation Reserve Committee of Management meeting of Tuesday 27 November 2012.**

Attachment - Item 12.2a

Greendale Reserves Committee of Management

Attendees:	Phil O'Keefe, Paul Hilder, Nick Myrianthis, Peter Mchalik, Tammy Morgan, John Speed,	
Apologies:	Simon Lidgett, Troy Furlong,	
Date & Time:	Wed 13th Feb 2013, 8pm	
Venue	Greendale Hotel	
Issue	Action	Timeframe
Previous minutes	December 2012 minutes were confirmed	
Matters arising	Shortfall in grant for electricity - \$730 received 19/12 /12 from MSC	
Correspondence		
Community Grants	See General Business	
Vibrant Communities Conference		
MSC Services audit	Phil to respond online	
Treasurers Report		
Donation \$1492	Greendale Hotel for refurbishment of BBQ tops at Egan's Reserve	
Origin Energy \$315.24	Paid 8/2/13	
General Business		
Reserve c/r Kangaroo & Lacote -	Adjacent neighbours wish to purchase. MSC to be contacted for advice	1 week
Leak at inlet to tap in men's toilet	MSC to be contacted for repair	1 week
Leak in supply from tank to rotunda tap	MSC to be contacted for advice. Supply tap at tank has been turned off	1 week
Bent goal post at Egans Reserve	Report to MSC	1 week
Quote required for SS top on BBQ	Nick to ask Kane Pickereing, Tammy to get 2nd quote. See MSC for preferred supplier	1 month
Keys required for BBQ & control of lights at Egan's	See MSC (to be kept separate from gate key)	1 week
Schedule of working bees	Postponed	1 month
Grants Community Strengthening - possible projects	Finish landscaping around tennis court, refurbish gardens around playground, install bollards BBQ tops & BBQ extension, glass in rotunda. Phil to complete by Feb 28	2 weeks
Meeting closed 9.45pm		
Next meeting	Wed20th March 7.30pm Greendale CFA shed	

Attachment - Item 12.2b

ELAINE RECREATION RESERVE COMMITTEE OF MANAGEMENT		
SUBJECT	MEETING HELD AFTER A.G.M. MEETING 27TH NOVEMBER, 2012	
Attendees:	Councillor Tom Sullivan, Ron Read, Diane Cook, Aileen McKee, James Connell, Joyce Read, Rod Armstrong, Neville Muller	
Apologies:	Dave Wells, Mick Atkins, Shelley O'Brien & Russell Ford.	
Date & Time:	27/11/12	
Venue:	Rec. Reserve Club Room	
OTHER BUSINESS AS FOLLOWS		
Issue	Action	ACTION
Water Tank	All committee members present voted to purchase Mist Green Water Tank	Ron Read to Order
Kitchen Upgrade	Grant to be submitted to apply for \$5,000 towards Cost	Diane Cook to apply
Christmas Party	Combined Christmas Party with Tennis Club & other users, to be organised by Cricket Club	Neville Muller
NEW COMMITTEE MEMBERS AS NOMINATED		
	Ron Read- Chairperson, Diane Cook - Secretary, Aileen McKee - Treasurer	Completed & signed
	Committee Members - James Connell, Dave Wells, Joyce Read, Shelley O'Brien, Rod Armstrong, Mick Atkins	Forms to be submitted
	Russell Ford (Tennis Club Rep.) Neville Muller (Cricket Club Rep.)	to Shire Council
	ALL NOMINATIONS ACCEPTED	
	MEETING	
	CLOSED 8.30PM	
	Next Meeting Tues. Jan 15th, 2013 at 7.00pm	

12.3 Section 86 - Advisory Committees of Council - Reports

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

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

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

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

Committee	Meeting Date	Council Representative
Audit and Risk Committee	12 December 2012	Cr. Spain Cr. Dudzik
Audit and Risk Committee	27 February 2013	Cr. Spain Cr. Dudzik

Recommendation:

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

- **Audit and Risk Committee meeting of Wednesday 12 December 2012.**
- **Audit and Risk Committee meeting of Wednesday 27 February 2013.**

Attachment - Item 12.3a

AUDIT & RISK COMMITTEE MEETING

Summary of Minutes of the Audit & Risk Committee Meeting (1st Quarterly)
held at the Lerderberg Library – James Young Room
215 Main Street, Bacchus Marsh
Wednesday, 12 December 2012
commencing at 3.00pm

Members:	Mr. Mike Said Cr. Tonia Dudzik Cr. John Spain Mr. Nick Myrianthis	Chairperson (External Representative) East Moorabool Ward Councillor East Moorabool Ward Councillor External Representative
Internal Auditors:	Mr. David Boyd	Partner – Deloitte Risk Services
Officers:	Mr Rob Croxford Mr Shane Marr Mr Phil Jeffrey Ms Diane Eyckens	Chief Executive Officer General Manager Corporate Services General Manager Infrastructure Executive Manager Human & Regulatory Services

Rob Croxford
Chief Executive Officer

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1. OPENING OF MEETING

2. PRESENT

<i>Mr. Mike Said</i>	<i>Chairperson (External Representative)</i>
<i>Cr. Tonia Dudzik</i>	<i>East Moorabool Ward Councillor</i>
<i>Cr. John Spain</i>	<i>East Moorabool Ward Councillor</i>
<i>Mr. Nick Myrianthis</i>	<i>External Representative</i>

In Attendance:

<i>Mr. Rob Croxford</i>	<i>Chief Executive Officer (3.26pm)</i>
<i>Mr. Shane Marr</i>	<i>General Manager Corporate Services</i>
<i>Mr. Tim Owen</i>	<i>Finance Manager</i>
<i>Ms. Diane Eyckens</i>	<i>Executive Manager Human & Regulatory Services</i>
<i>Ms. Inga Dumesny</i>	<i>Risk and Human Resources Officer</i>
<i>Mr. Keith Linard</i>	<i>Manager Assets (3.50pm)</i>
<i>Mr David Boyd</i>	<i>Partner – Deloitte Risk Services</i>

3. APOLOGIES

<i>Mr. Phil Jeffrey</i>	<i>General Manager Infrastructure</i>
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4. CONFIRMATION OF MINUTES

4.1 Audit Committee Meeting of Wednesday 18 July 2012 and the Special Review Committee Meeting of 5 September 2012.

Resolution:

Moved: Mr. Nick Myrianthis

Seconded: Mr. Mike Said

That the Audit & Risk Committee confirms the Minutes of the Audit Committee Meeting held on 18 July 2012 and the Special Audit Committee Meeting of 5 September 2012.

CARRIED

5. MATTERS ARISING FROM PREVIOUS MEETING

NIL

6. CLOSED SESSION OF THE MEETING TO THE PUBLIC

Resolution:

Moved: Mr. Nick Myrianthis

Seconded: Mr. Mike Said

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

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

7. DISCLOSURE OF INTERESTS OR CONFLICTS OF INTEREST

Under the Local Government Act (1989), Sections 77A Disclosure of Interest, 77B Conflicts of Interest, and 79 Disclosure of Conflict of Interest set out the requirement of a Councillor or member of a Special Committee to disclose any interest (pecuniary or non-pecuniary) or 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 terms "interest" and "conflict of interest" are provided as such;

Time for Disclosure of Conflicts of Interest

In addition to the Council protocol relating to disclosure at the beginning of the meeting, Section 79(1)(a) of the Local Government Act 1989 (the Act) requires a Councillor who has a "*conflict of interest in any contract or proposed contract with the Council, or any other matter in which the Council is concerned*" to "*disclose the nature of the conflict of interest immediately before the consideration or discussion*".

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, as a Councillor with a conflict of interest is allowed to participate in the discussion, it is important that other Councillors, who will have to vote, are immediately aware of the position from which the interested Councillor speaks.

Finally, 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.

Definitions of the terms “interest” and “conflict of interest” are provided as such;

Interests

Interests are very broadly defined in the Act. A Councillor, or a member of a Special Committee, is considered to have an interest in a decision if they would receive, or could be reasonably perceived as receiving, a benefit or detriment (other than as a voter, resident or ratepayer) from the decision. These benefits or detriments may be financial or non-financial.

The objective of this provision is to ensure public transparency and the action required is not onerous. The person should disclose their interest before that matter is discussed. They may still participate in the discussion and vote, unless they have a “Conflict of Interest”.

Conflict of Interest

A “conflict of interest” is more narrowly defined, but requires more significant actions. A person is considered to have a conflict of interest if their interest is pecuniary or if, in their opinion, the nature of the interest is such that it may conflict with their public duties.

If a Councillor or member of a Special Committee has a conflict of interest they must take the actions previously required in the case of a pecuniary interest. That is, they should disclose the conflict of interest before the matter is discussed, not move or second the motion and leave the meeting while the vote is being taken. The Councillor may still participate in the discussion.

NIL

8. AUDIT & RISK COMMITTEE WORK PLAN

8.1 Audit & Risk Committee Charter Matrix

Resolution:

Moved: Cr. John Spain

Seconded: Cr. Tonia Dudzik

That the Audit & Risk Committee receives the Audit & Risk Committee Charter Matrix.

CARRIED

8.2 Outstanding Audit & Risk Committee Resolutions and Audit Report Recommendations

Resolution:

Moved: Cr. John Spain

Seconded: Mr. Nick Myrianthis

That the Audit & Risk Committee receive the updated status report on the Outstanding Audit & Risk Committee Resolutions and Audit Report Recommendations for the quarter ending September 2012.

CARRIED

9. CEO'S REPORT

9.1 Compliance with Legislation and Policies

Resolution:

Moved: Cr. Tonia Dudzik

Seconded: Cr. John Spain

That the Audit & Risk Committee receives and notes the Compliance with Legislation and Policies register to September 2012.

CARRIED

10. OFFICER REPORTS

10.1 Financial Report

10.1.1 Presentation of Financial Statements

Resolution:

Moved: Cr. Tonia Dudzik

Seconded: Cr. John Spain

That the Audit & Risk Committee received and notes the Quarterly Financial Report to 30th September 2012.

CARRIED

10.2 Internal Control

10.2.1 Procurement issues at Moorabool Shire Council

Resolution:

Moved: Mr. Nick Myrianthis
Seconded: Cr. Tonia Dudzik

That the MSC Audit Committee receives and note this report.

CARRIED

10.3 Risk Management

10.3.1 Quarterly Risk Management Report

Recommendation:

That the Audit & Risk Committee receives and notes the Quarterly Risk Management Report to 30th September 2012.

Resolution:

Moved: Mr Nick Myrianthis

Seconded: Cr. Tonia Dudzik

1. *That the Audit & Risk Committee receives and notes the Quarterly Risk Register to 30th September 2012.*
2. *That the Quarterly Risk Management Report and Risk Register be presented to the Audit & Risk Committee bi-annually. Report to include the minutes from the Risk Management Steering Committee*
3. *That the top two categories, extreme and high, for Corporate & Operations Risks be included in report.*

CARRIED

10.3.2 Risk Register

Resolution:

Moved: Cr. John Spain

Seconded: Mr. Nick Myrianthis

That the Audit & Risk Committee receives and notes the Quarterly Risk Register to 30th September 2012.

CARRIED

10.4 Internal Audit

10.4.1 Internal Audit Status Report

Resolution:

Moved: Cr. Tonia Dudzik

Seconded: Mr Nick Myrianthis

That the Audit & Risk Committee receives and notes the 2012 & 2013 Internal Audit Status Reports.

CARRIED

10.4.2 Internal Audit Report – IT Governance

Resolution:

Moved: Cr. John Spain

Seconded: Mr. Nick Myrianthis

- 1. That the Audit & Risk Committee receives and notes the IT Governance internal audit report.***
- 2. That the Audit & Risk Committee request officers to implement the recommended actions as stated in the report.***

CARRIED

10.4.3 Internal Audit Report – Fringe Benefit Tax

Resolution:

Moved: Mr. Nick Myrianthis

Seconded: Cr. Tonia Dudzik

That the Audit & Risk Committee, having reviewed the Fringe Benefit Tax, Terms of Reference, recommend that the Audit & Risk Committee Chair, Chief Executive Officer and General Manager Corporate Services authorise and sign the review to proceed under the terms as presented to the Audit & Risk Committee.

CARRIED

10.5 External Audit

10.5.1 Final Management Letter – Financial Audit 2011/12

Resolution:

Moved: Cr. John Spain

Seconded: Mr. Nick Myrianthis

That the Audit Committee receive and note the ‘Moorabool Shire Council Final Management Letter – Financial Audit 2011-12’ for the Year Ended 30 June 2012.

CARRIED

The Audit & Risk Committee wishes Tim Owen well in his future endeavours and thanks him for the progress he has made in his time at Council.

10.6 Other Responsibilities

10.6.1 Update on Significant Legal Matters

Resolution:

Moved: Mr. Nick Myrianthis

Seconded: Cr. Tonia Dudzik

That the Audit & Risk Committee receives and notes the update on Significant Legal Matters pertaining to Moorabool Shire Council.

CARRIED

10.6.2 VAGO Performance Reports

10.6.2.1 “Managing Contaminated Sites”

Resolution:

Moved: Cr. Tonia Dudzik

Seconded: Cr. John Spain

That the Audit Committee receive and note the report titled Victorian Auditor General’s Office (VAGO) Report: “Managing Contaminated Sites”.

CARRIED

**10.6.2.2 “Business Planning for Major Capital Works and
Recurrent Services in Local Government”**

Recommendation:

That the Audit Committee receive and note the report titled Victorian Auditor General’s Office (VAGO) Report: “Business Planning for Major Capital Works and Recurrent Services in Local Government”

Resolution:

Moved: Cr. John Spain

Seconded: Mr. Nick Myrianthis

That this report be deferred to the next Audit & Risk Committee meeting, to outline consultation plan referred in item 1a.

CARRIED

10.6.3 LG Inspectorate Report

No matters to report at this meeting.

10.6.4 Asset Management Update

Resolution:

Moved: Cr. Tonia Dudzik

Seconded: Cr. John Spain

That the Audit Committee receives and notes the Asset Management Update report to the Audit Committee for November 2012.

CARRIED

10.6.5 Bacchus Marsh Aerodrome

Resolution:

Moved: Mr. Nick Myrianthis

Seconded: Cr. Tonia Dudzik

That the Audit Committee include the Due Diligence Assessment of the Bacchus Marsh Aerodrome in the work plan for 2012/13 if funded by the Council as part of the budget process.

CARRIED

11. CORRESPONDENCE

11.1 Correspondence from VAGO

Recommendation:

1. That the Audit & Risk Committee receives and notes the correspondence received from VAGO.
2. That officers prepare a self-evaluation report on the recommendations in all of the above VAGO reports to be presented to the Audit & Risk Committee.

Resolution:

Moved: Cr. Tonia Dudzik
Seconded: Cr. John Spain

1. That the Audit & Risk Committee receives and notes the correspondence received from VAGO.
2. That officers prepare a self-evaluation report on the recommendations in the following VAGO report/s to be presented to the Audit & Risk Committee:
 - **Local Government: Results of the 2011-12 Audits**

CARRIED

11.2 Correspondence from DPCD

Resolution:

Move: Cr. John Spain

Seconded: Mr. Nick Myrianthis

That the Audit & Risk Committee receives and notes the correspondence received from DPCD.

CARRIED

11.3 Correspondence from MAV

Resolution:

Moved: Mr. Nick Myrianthis

Seconded: Cr. Tonia Dudzik

That the Audit & Risk Committee receives and notes the correspondence received from MAV.

CARRIED

11.4 Correspondence from VLGA

Resolution:

Moved: Cr. Tonia Dudzik

Seconded: Cr. John Spain

That the Audit & Risk Committee receives and notes the correspondence received from VLGA.

CARRIED

11.5 Correspondence - Other

Resolution:

Moved: Cr. Tonia Dudzik

Seconded: Mr. Nick Myrianthis

That the Audit & Risk Committee receives and notes the correspondence received from other bodies.

CARRIED

12. GENERAL BUSINESS

13. CONFIRMATION DATE OF FUTURE MEETINGS

Resolution:

Moved: Mr. Nick Myrianthis


Seconded: Cr. John Spain

That the Audit & Risk Committee receives and notes the proposed 2013 meeting dates.

CARRIED

14. MEETING CLOSURE

There being no further business, the meeting closed at 5:19pm

Confirmed  Chairperson

Attachment - Item 12.3b

AUDIT & RISK COMMITTEE MEETING

Summary of Minutes of the Audit & Risk Committee Meeting (2nd Quarterly)
held at the Council Chambers,
15 Stead Street, Ballan
Wednesday, 27 February 2013
commencing at 9.30am

Members:	Mr. Mike Said Cr. Tonia Dudzik Cr. John Spain Mr. Nick Myrianthis	Chairperson (External Representative) East Moorabool Ward Councillor East Moorabool Ward Councillor External Representative
Internal Auditors:	Mr. David Boyd	Partner – Deloitte Risk Services
Officers:	Mr Rob Croxford Mr Shane Marr Mr Phil Jeffrey Ms Diane Eyckens	Chief Executive Officer General Manager Corporate Services General Manager Infrastructure Executive Manager Human & Regulatory Services

Rob Croxford
Chief Executive Officer

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1. OPENING OF MEETING

2. PRESENT

<i>Mr. Mike Said</i>	<i>Chairperson (External Representative)</i>
<i>Cr. Tonia Dudzik</i>	<i>East Moorabool Ward Councillor</i>
<i>Cr. John Spain</i>	<i>East Moorabool Ward Councillor</i>
<i>Mr. Nick Myrianthis</i>	<i>External Representative</i>

<i>In attendance:</i>	
<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 Keith Linard</i>	<i>Manager Assets</i>
<i>Mr Peter Hawkins</i>	<i>Manager Planning & Building</i>
<i>Mr. David Boyd</i>	<i>Partner – Deloitte Risk Services</i>
<i>Ms Deb Absolom</i>	<i>Minute Taker</i>

3. APOLOGIES

4. CONFIRMATION OF MINUTES

4.1 Audit Committee Meeting of Wednesday 12 December 2012.

Resolution:

Moved: Cr. Tonia Dudzik
Seconded: Cr. John Spain

That the Audit & Risk Committee confirms the Minutes of the Audit Committee Meeting held on 12 December 2012.

CARRIED

5. MATTERS ARISING FROM PREVIOUS MEETING

6. CLOSED SESSION OF THE MEETING TO THE PUBLIC

Resolution:

Moved: Cr. John Spain
Seconded: Cr. Tonia Dudzik

CARRIED

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

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

7. DISCLOSURE OF INTERESTS OR CONFLICTS OF INTEREST

Under the Local Government Act (1989), Sections 77A Disclosure of Interest, 77B Conflicts of Interest, and 79 Disclosure of Conflict of Interest set out the requirement of a Councillor or member of a Special Committee to disclose any interest (pecuniary or non-pecuniary) or 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 terms “interest” and “conflict of interest” are provided as such;

Time for Disclosure of Conflicts of Interest

In addition to the Council protocol relating to disclosure at the beginning of the meeting, Section 79(1)(a) of the Local Government Act 1989 (the Act) requires a Councillor who has a *“conflict of interest in any contract or proposed contract with the Council, or any other matter in which the Council is concerned”* to *“disclose the nature of the conflict of interest immediately before the consideration or discussion”*.

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, as a Councillor with a conflict of interest is allowed to participate in the discussion, it is important that other Councillors, who will have to vote, are immediately aware of the position from which the interested Councillor speaks.

Finally, 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.

Definitions of the terms “interest” and “conflict of interest” are provided as such;

Interests

Interests are very broadly defined in the Act. A Councillor, or a member of a Special Committee, is considered to have an interest in a decision if they would receive, or could be reasonably perceived as receiving, a benefit or detriment (other than as a voter, resident or ratepayer) from the decision. These benefits or detriments may be financial or non-financial.

The objective of this provision is to ensure public transparency and the action required is not onerous. The person should disclose their interest before that matter is discussed. They may still participate in the discussion and vote, unless they have a “Conflict of Interest”.

Conflict of Interest

A “conflict of interest” is more narrowly defined, but requires more significant actions. A person is considered to have a conflict of interest if their interest is pecuniary or if, in their opinion, the nature of the interest is such that it may conflict with their public duties.

If a Councillor or member of a Special Committee has a conflict of interest they must take the actions previously required in the case of a pecuniary interest. That is, they should disclose the conflict of interest before the matter is discussed, not move or second the motion and leave the meeting while the vote is being taken. The Councillor may still participate in the discussion.

NIL

8. AUDIT & RISK COMMITTEE WORK PLAN

8.1 Audit & Risk Committee Charter Matrix

Resolution:

Moved: Cr. Tonia Dudzik

Seconded: Cr. John Spain

That the Audit & Risk Committee receives the Audit & Risk Committee Charter Matrix.

CARRIED

8.2 Outstanding Audit & Risk Committee Resolutions and Audit Report Recommendations

Recommendation:

That the Audit & Risk Committee receive the updated status report on the Outstanding Audit & Risk Committee Resolutions and Audit Report Recommendations for the quarter ending December 2012.

CARRIED

9. CEO'S REPORT

9.1 Compliance with Legislation and Policies

Resolution:

Moved: Mr. Nick Myrianthis

Seconded: Cr. John Spain

That the Audit & Risk Committee receives and notes the Compliance with Legislation and Policies register to December 2012.

CARRIED

10. OFFICER REPORTS

10.1 Financial Report

10.1.1 Presentation of Financial Statements

Resolution:

Moved: Cr. Tonia Dudzik

Seconded: Mr. Nick Myrianthis

That the Audit & Risk Committee received and notes the Quarterly Financial Report to 31st December 2012.

CARRIED

10.2 Internal Control

10.2.1 Procurement issues at Moorabool Shire Council

Resolution:

Moved: Cr. John Spain

Seconded: Cr. Tonia Dudzik

That the MSC Audit Committee receives and notes this report.

CARRIED

10.3 Risk Management

No matters to report at this meeting.

10.4 Internal Audit

10.4.1 Internal Audit Status Report

Resolution:

Moved: Cr. John Spain

Seconded: Cr. Tonia Dudzik

That the Audit & Risk Committee receives and notes the 2013 Internal Audit Status Report.

CARRIED

10.4.2 Internal Audit Report – Fringe Benefit Tax Report

Resolution:

Moved: Cr. Tonia Dudzik

Seconded: Mr. Nick Myrianthis

- 1. That the Audit & Risk Committee receives and notes the Fringe Benefit Tax internal audit report.***
- 2. That the Audit & Risk Committee request officers to implement the recommended actions as stated in the report.***

CARRIED

10.4.3 Internal Audit Report – Tree Management

Resolution:

Moved: Cr. John Spain

Seconded: Cr. Tonia Dudzik

That the Audit & Risk Committee, having reviewed the Tree Management, Terms of Reference, recommend that the Audit & Risk Committee Chair, Chief Executive Officer and General Manager Infrastructure authorise and sign the review to proceed under the terms as presented to the Audit & Risk Committee.

CARRIED

10.4.4 Internal Audit Report – Contract Management

Resolution:

Moved: Mr. Nick Myrianthis

Seconded: Cr. John Spain

That the Audit & Risk Committee, having reviewed the Contract Management, Terms of Reference, recommend that the Audit & Risk Committee Chair, Chief Executive Officer and General Manager Corporate Services authorise and sign the review to proceed under the terms as presented to the Audit & Risk Committee.

CARRIED

10.4.5 Internal Audit Report – Client Satisfaction Survey

Resolution:

Moved: Cr. Tonia Dudzik

Seconded: Mr. Nick Myrianthis

That the Audit & Risk Committee receives and notes the Client Satisfaction Survey report.

CARRIED

10.5 External Audit

10.5.1 Audit Strategy

Resolution:

Moved: Mr. Nick Myrianthis

Seconded: Cr. John Spain

That the Audit & Risk Committee Receives and notes the Audit Strategy for the financial year ending 30 June 2013.

CARRIED

10.6 Other Responsibilities

10.6.1 Update on Significant Legal Matters

No matters to report at this meeting.

It was noted that Rob Croxford provided an update on significant legal matters.

10.6.2 VAGO Performance Reports

10.6.2.1 “Business Planning for Major Capital Works and Recurrent Services in Local Government”

Resolution:

Moved: Cr. Tonia Dudzik

Seconded: Mr. Nick Myrianthis

That the Audit Committee receive and note the report titled Victorian Auditor General’s Office (VAGO) Report: “Business Planning for Major Capital Works and Recurrent Services in Local Government”

CARRIED

10.6.2.2 “Compliance with Building Permits”

Resolution:

Moved: Cr. John Spain

Seconded: Cr. Tonia Dudzik

That the Audit & Risk Committee receive and note the Victorian Auditor General’s Office (VAGO) report titled “Compliance with Building Permits” and accept the following action and that the action be recorded in Interplan:

Action	Responsibility
<p>Present a report to Council to put a motion to the MAV State Council that the MAV develop an advocacy campaign to ensure that:</p> <ul style="list-style-type: none">• Further cost shifting from State agencies to Local Government does not occur.• Local Government is not burdened with the role of supervising private building surveyors• Highlights to State Government, the difficulties that Local Government faces in attracting suitably qualified staff to become Municipal Building Surveyors	GMG&D

CARRIED

10.6.2.3 “Fraud Prevention Strategies in Local Government”

Resolution:

Moved: Cr. John Spain

Seconded: Cr. Tonia Dudzik

That the Audit & Risk Committee receive and note the Victorian Auditor General’s Office (VAGO) report titled “Fraud Prevention Strategies in Local Government” and accept the following actions and that the actions to be recorded in Interplan:

Action	Responsibility
Deliver Fraud Awareness Training to all Council employees, volunteers, contractors and Councillors (June 2013)	Executive Manager Human & Regulatory Services
Review Fraud Control Plan (June 2013)	Executive Manager Human & Regulatory Services
Review the Councillors Code of Conduct Policy with the areas to be included: <ul style="list-style-type: none">▪ Sponsorships▪ Environmental▪ Gambling (26 October 2013)	General Manager, Corporate Services

CARRIED

10.6.2.4 “Freedom of Information”

Resolution:

Moved: Mr. Nick Myrianthis

Seconded: Cr. John Spain

That the Audit Committee receive and note the report titled Victorian Auditor General’s Office (VAGO) Report: “Freedom of Information”.

CARRIED

10.6.3 LG Inspectorate Report

A verbal update was provided.

10.6.4 Asset Management Update

Resolution:

Moved: Cr. Tonia Dudzik

Seconded: Mr. Nick Myrianthis

That the Audit Committee receive and note the Asset Management Update report to the Audit Committee for February 2013.

CARRIED

11. CORRESPONDENCE

11.1 Correspondence from VAGO

Resolution:

Moved: Cr. Tonia Dudzik

Seconded: Mr. Nick Myrianthis

- 1. That the Audit & Risk Committee receives and notes the correspondence received from VAGO.***
- 2. That officers prepare a self-evaluation report on the recommendations in the VAGO report.***

CARRIED

11.2 Correspondence from DPCD

Resolution:

Moved: Cr. John Spain

Seconded: Cr. Tonia Dudzik

That the Audit & Risk Committee receives and notes the correspondence received from DPCD.

CARRIED

11.3 Correspondence from MAV

Resolution:

Moved: Mr. Nick Myrianthis

Seconded: Cr. John Spain

That the Audit & Risk Committee receives and notes the correspondence received from MAV.

CARRIED

11.4 Correspondence from VLGA

Resolution:

Moved: Cr. Tonia Dudzik

Seconded: Mr. Nick Myrianthis

That the Audit & Risk Committee receives and notes the correspondence received from VLGA.

CARRIED

12. GENERAL BUSINESS

Next meeting – 29 May 2013

13. MEETING CLOSURE

There being no further business, the meeting closed at 11.35am.

Confirmed *Chairperson*

13. NOTICES OF MOTION**13.1 Cr. Tatchell: N.O.M. No. 224 – Myrning Reserve Committee of Management – Central Moorabool Reserve Fund**

In accordance with the Council's Meeting Procedure Local Law No. 8 Section 28 – Notice of Motion, please accept this Notice of Motion for placement on the agenda of the Ordinary Meeting of Council to be held on Wednesday 20 March, 2013.

Motion

That an amount of up to \$2,200 (inc. GST) be made available to the Myrning Recreation Reserve Committee of Management from the Central Ward Development Fund for assistance in hiring showers for camping associated with the conduct of the EC Griffith Cup subject to:

- Approval from DSE as land owner.
- Obtaining all required permits and licences.
- Compliance with external statutory requirements that may include the need for a Place Of Public Entertainment (POPE) permit.
- A reconciliation of the funds expended being received.

Preamble

Myrning Recreation Reserve has approach Council with a proposal to use the Reserve for the purposes of camping from the 26th to 28th April, 2013. Details include:

- The Recreation Reserve Committee (DSE) has been looking for an opportunity to expand the function of the facility to include camping for visitors to the area.
- The EC Griffith Cup - Australasian Speedboat Championship to be held at Pykes Creek on the same weekend will provide an opportunity for the Committee to trial the 'camping' concept.
- It is expected that there will be 50 to 70 people (30 to 40 camp sites) using the reserve for camping.
- Campers will be charged \$20 per person which will cover associated costs. Surplus funds will be used to improve the facility.
- There are free electric BBQ's on site for use by campers.
- Additional rubbish bins will be provided by the Committee.
- There will be no fires allowed.

- CoM representatives will monitor the use of the Reserve during its use as a camping facility and will organise a 'clean up' the next day.
- The Myrniong Pub is walking distance from the reserve. The CoM are in talks with the owner of the Pub in regards to a set menu/campers specials for the weekend.
- The CoM will seek approval in writing from DSE for use of the site as a camping facility.
- The CoM is requesting financial assistance of \$2200 to cover the costs of Portable Showers.

The CoM will be required to provide portable showers on site for the duration of the camping. This is at a cost of \$2200. The CoM is ineligible for Summer 2013 Community Grant funding as the initiative is proposed to be held before the successful applications are adopted by Council.

The community strongly believe that this initiative will have positive economic/tourism benefits as it will provide a low cost accommodation option for people attending the event at Pykes Creek and as such will encourage them to stay in the local area. Campers are likely to further investigate Myrniong and surrounds during their stay and many are expected to eat meals at the Myrniong Pub. Any surplus funds raised as a result of the initiative will go toward improvements to the facility.

The Myrniong Recreation Reserve is in the ownership of DSE. Advice from DSE is that the CoM will be required to seek approval in writing to use the facility for the purposes of camping. Other DSE owned reserves such as Blackwood have been approved for use as a camping area by DSE.

The use of the land for accommodation for the Pykes Creek event would be exempt from a planning permit under Clause 62.03 of the Moorabool Planning Scheme provided that DSE consent in writing to such a use.

The activity may require other permits and licences. The Committee is working through this aspect of the proposal.

Approval of the funding does not provide Council's agreement to other permits and licences that may be required.

This Notice of Motion is presented due to the short time frames involved leading up to the event.

Attachment - Item 13.1

Mr Rob Croxford
Chief Executive Officer
Moorabool Shire Council
PO Box 18
BALLAN VIC 3342

13 March, 2013

Dear Rob,

Notice Of Motion – Myrniong Recreation Reserve Committee of Management

In accordance with the Council's Meeting Procedure Local Law No. 8 Section 28 – Notice of Motion, please accept this Notice of Motion for placement on the agenda of the Ordinary Meeting of Council to be held on Wednesday 20 March, 2013.

Motion

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- Approval from DSE as land owner.
- Obtaining all required permits and licences.
- Compliance with external statutory requirements that may include the need for a Place Of Public Entertainment (POPE) permit.
- A reconciliation of the funds expended being received.

Preamble

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- The Recreation Reserve Committee (DSE) has been looking for an opportunity to expand the function of the facility to include camping for visitors to the area.
- The EC Griffith Cup - Australasian Speedboat Championship to be held at Pikes Creek on the same weekend will provide an opportunity for the Committee to trial the 'camping' concept.
- It is expected that there will be 50 to 70 people (30 to 40 camp sites) using the reserve for camping.
- Campers will be charged \$20 per person which will cover associated costs. Surplus funds will be used to improve the facility.
- There are free electric BBQ's on site for use by campers.
- Additional rubbish bins will be provided by the Committee.
- There will be no fires allowed.

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- The Myrning Pub is walking distance from the reserve. The CoM are in talks with the owner of the Pub in regards to a set menu/campers specials for the weekend.
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The Myrning Recreation Reserve is in the ownership of DSE. Advice from DSE is that the CoM will be required to seek approval in writing to use the facility for the purposes of camping. Other DSE owned reserves such as Blackwood have been approved for use as a camping area by DSE.

The use of the land for accommodation for the Pykes Creek event would be exempt from a planning permit under Clause 62.03 of the Moorabool Planning Scheme provided that DSE consent in writing to such a use.

The activity may require other permits and licences. The Committee is working through this aspect of the proposal.

Approval of the funding does not provide Council's agreement to other permits and licences that may be required.

This Notice of Motion is presented due to the short time frames involved leading up to the event.



CR PAUL TATCHELL
CENTRAL MOORABOOL WARD

14. URGENT BUSINESS

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

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

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

16. MEETING CLOSURE