

ORDINARY MEETING OF COUNCIL

Minutes of the Ordinary Meeting of Council
held in Council Chamber, 15 Stead Street, Ballan on
Wednesday 06 February 2019, at 6:00 p.m.

Members:

Cr. Paul Tatchell (Mayor)	Central Moorabool Ward
Cr. John Keogh (Deputy Mayor)	East Moorabool Ward
Cr. David Edwards	East Moorabool Ward
Cr. Tonia Dudzik	East Moorabool Ward
Cr. Jarrod Bingham	East Moorabool Ward
Cr. Tom Sullivan	West Moorabool Ward
Cr. Pat Toohey	Woodlands Ward

Officers:

Mr. Derek Madden	Chief Executive Officer
Mr. Phil Jeffrey	General Manager Infrastructure
Mr. Satwinder Sandhu	General Manager Growth and Development
Mr. Danny Colgan	General Manager Social and Organisational Development

Derek Madden
Chief Executive Officer

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1. OPENING OF MEETING AND PRAYER

The Mayor, Cr. Tatchell opened the meeting with the Council Prayer at 6.00pm.

2. ACKNOWLEDGEMENT TO COUNTRY

We respectfully acknowledge the traditional owners of this land, their spirits and ancestors.

3. RECORDING OF MEETING

In accordance with Moorabool Shire Council's Meeting Procedure Local Law, the Council will be recording this meeting. The following organisations have been granted permission to make an audio recording also:

- *The Moorabool News; and*
- *The Star Weekly*

4. PRESENT

<i>Cr. Paul Tatchell (Mayor)</i>	<i>Central Moorabool Ward</i>
<i>Cr. John Keogh (Deputy Mayor)</i>	<i>East Moorabool Ward</i>
<i>Cr. Jarrod Bingham</i>	<i>East Moorabool Ward</i>
<i>Cr. Tonia Dudzik</i>	<i>East Moorabool Ward</i>
<i>Cr. David Edwards</i>	<i>East Moorabool Ward</i>
<i>Cr. Tom Sullivan</i>	<i>West Moorabool Ward</i>
<i>Cr. Pat Toohey</i>	<i>Woodlands Ward</i>

Officers:

<i>Mr. Derek Madden</i>	<i>Chief Executive Officer</i>
<i>Mr. Danny Colgan</i>	<i>General Manager Social and Organisational Development</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. Steve Ivelja</i>	<i>Chief Financial Officer</i>
<i>Mr. Rob Fillisch</i>	<i>Manager Statutory planning & community Safety</i>
<i>Mr. Justin Horne</i>	<i>Acting Manager, Strategic Planning & development</i>
<i>Ms. Jacinta Erdody</i>	<i>Coordinator, Rates & Revenue</i>
<i>Ms. Michelle Morrow</i>	<i>Coordinator Governance</i>
<i>Ms. Emma Szymanski</i>	<i>Minute Taker</i>

5. APOLOGIES

Nil.

6. CONFIRMATION OF MINUTES

6.1 Ordinary Meeting of Council – Wednesday 05 December 2018

6.2 Special Meeting of Council – Monday 17 December 2018

Resolution:

Crs. Sullivan/Edwards

That Council confirms the Minutes of the:

- ***Ordinary Meeting of Council held on Wednesday 05 December 2018, and the***
- ***Special Meeting of Council held on Monday the 17 December 2018.***

CARRIED.

7. 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)
 - indirect interest because of impact on residential amenity (section 78E)

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.

7.1 Disclosure of an Indirect Interest

Cr. Keogh declared an indirect interest by close association (section 78) in relation to Item 9.2 - Gordon Streetscape Works, due to having an association with an objector.

8. PUBLIC QUESTION TIME

The aim of Public Question Time is to provide an opportunity for the public to ask general questions at Council Meetings requiring routine responses. Public Question Time is conducted in accordance with Section 6.9 of the Council's Meeting Procedure Local Law No. 9.

Questions must be in writing on the form provided by the Council and submitted by 5.00pm on the day before the meeting. Members of the public can contact a Councillor and raise a question which the Councillor will submit on their behalf.

A question will only be read to the meeting if the Chairperson or other person authorised for this purpose by the Chairperson has determined that:

- i) the person directing the question is present in the gallery;
- ii) the question does not relate to a matter of the type described in section 89(2) of the Act (for confidential matters);
- iii) the question does not relate to a matter in respect of which Council has no power to act;
- iv) the question is not defamatory, indecent, abusive or objectionable in language or substance;
- v) the question is not a repetition of a question already asked or answered (whether at the same or an earlier meeting); and
- vi) the question is not asked to embarrass a Councillor, member of Council staff or member of the public.

A Councillor or Council officer may:

- i) immediately answer the question asked; or
- ii) elect to have the question taken on notice until the next Ordinary meeting of Council; at which time the question must be answered and incorporated in the Agenda of the meeting under Public Question Time; or
- iii) elect to submit a written answer to the person asking the question within 10 working days.

Responses to public questions answered at the meeting, will be general in nature, provided in good faith and should not exceed two minutes. These responses will be summarised in the minutes of the meeting.

Public Question Time does not substitute for other forms of communication with or other formal business procedures of the Council.

Ms. Dina Bowman submitted the following question:**Question:**

Given the confusion resulting from poor communication and a lack of effective engagement by council with the residents of Gordon, what support will council provide to engage with the residents of Gordon on planning issues?

Response:

The Community Engagement Framework is utilised to identify the opportunities and ways to engage with local communities and relevant stakeholders. Over the past two years, Council has provided updates and sought feedback from Gordon residents via at least five community consultation sessions, Project Information sheets, Gordon community newsletter updates, Moorabool Shire Councils website and social media, online survey 'Have Your Say' and hard copy surveys.

Council actively reviews our engagement strategies and opportunities for improvement. We are constantly reviewing our engagement framework and project management processes after each major project to ensure continuous improvement in this area.

Mr. Stephen Derrick submitted the following question:**Question:**

In relation to shifting the bus stops from Main St, Gordon to Russell St, did the Council conduct a vehicle traffic, cyclist and pedestrian safety assessment and, if so, please provide a copy. Similarly, in relation to the pedestrian crossover immediately from the front of Gordon Bleu over to the Hall.

Response:

Whilst a formal road safety audit has not been carried out, qualified and experienced engineering design consultants were used for the project. The design was completed taking into account the various design guidelines and relevant road safety technical requirements.

Mr. Scott Graham submitted the following question/s:**Question:**

Have Council undertaken design verification of the intended ramp in front of Gordon Bleu by an accessibility consultant?

Response:

Council's design consultant has advised that the design is DDA compliant however to verify this, we are in the process of undertaking a DDA audit to confirm that the walkways and ramps comply with DDA requirements. Any recommendations from the audit will be considered in the construction phase accordingly

Question:

Have Council undertaken a heritage review of the proposed works in front of Gordon Bleu that shows reasonable regard to the intentions of the planning scheme heritage references – and if not, will it be done prior to the works?

Response:

A heritage review has not been undertaken for the project. Council's relevant internal service unit has reviewed the proposal and confirmed that there is no requirement for a heritage study or permit to undertake the works

Mr. Gerard Miller submitted the following question/s**Question:**

Can the Council please provide a substantive update as to the progress of the purported 'clean-up' and removal of unauthorized structures and entrance points to the property known as 4 Love Close? We further note that it has been observed that the property has been recently been inundated with further goods. We additionally formally bring to your attention that the surrounding property values have been rapidly declining; we request that you inform the community what council has planned to bring this ongoing matter to a prompt conclusion.

Response:

Council officers continue to attempt to bring this matter to a conclusion subject to privileged legal advice. Council are in the process of pursuing the cost of the previous clean up. Recent communications have concluded without satisfactory results and alternatives are being investigated to look for long term sustainable solutions.

Ms. Lyn Delekta submitted the following question/s:**Question:**

**Who is responsible for the cleaning of the new streetscape?
I have found it is looking messy, with bird poo and dog poo and workers muddy boots. I know the Council doesn't have anything in place. What can be done? We should be aiming for a Tidy Town approach**

Response:

Council's footpath maintenance regime includes mechanical footpath sweeping in the Ballan CBD precinct twice per week, or upon request if deemed necessary. This sweep generally involves the removal of loose litter. With the new pavement type in the Main Street, we will undertake an inspection to determine whether the current regime is adequate.

Mr. Stephen Mack submitted the following question/s:**Question:**

We have been assured that Stages 2 & 3 for Main Street are not budgeted for, and that Gordon residents will be consulted prior to any further works. Can you confirm this is the case, and explain the mechanisms for effective engagement with Gordon residents?

Response:

Future stages of the proposed Gordon streetscape works have not been funded to date and are subject to future budget processes. If funded, further engagement will be undertaken in line with Council's Community Engagement Framework to build on the consultation that has previously taken place in relation to the project.

Ms. Margaret Scarff submitted the following question/s:

Question:

Will Council ensure that the process for amendment of planning permit for 11 Tilley's Road will be open, transparent and involve the whole community, not just the adjoining residents?

Response:

Due to this question having been submitted to Council after the deadline of 5pm the day before the Council meeting, the question will be taken on notice and a written response provided.

Question:

Will Council consider findings in this report relating to 'High' levels of pollution found in the postcode 3340?

Response:

Due to this question having been submitted to Council after the deadline of 5pm the day before the Council meeting, the question will be taken on notice and a written response provided.

9. PETITIONS

9.1 Flanagans Drive Speed limit

Council has received a petition containing 50 signatures, with 19 residents residing in Flanagans Drive, Merrimu.

The petition is stated as:

“As a collective, the residents of Flanagans Drive, Merrimu and its attached courts and streets, would like to communicate that we do not support the construction and/or installation of speed humps along any part of Flanagans Drive. We would also like to ask Council to review the current speed limit on Flanagans Drive, Merrimu, from its current posted speed limit of 50km/h with the potential to raise it. Each person’s preference is as marked below. We would all like to be informed of any potential amendments with the option to participate in the decisions.

This petition does not meet Council’s Local Law No. 9, Meeting Procedure Local Law, Part 6 - Clause 6.7 (d)(ii) requirements, however, an exception has been made on this occasion to consider this petition in line with the provisions under Meeting Procedure Local Law No.9, Part 6 - Clause 6.7 due to each signatory residing in the vicinity of Flanagans Drive, Merrimu as stated.

Background

Advice has been provided to the convenor of the petition prior to the presentation of this petition to Council stating that VicRoads is the authority responsible for setting and approving any amendments to speed limits within Victoria, even on local roads and usually following a request from the local municipality. Any amendments or approvals would subsequently be implemented by Council accordingly.

Currently the speed limit along Flanagans Drive is 50kmh. Council officers have assessed the road characteristics using the VicRoads assessment tool which identified the current posted speed limits as appropriate, and as a result, VicRoads are unlikely to agree to any amendment (i.e. to increase the current speed limit).

Council maintains a comprehensive database of traffic counts across the municipality. The counts also record the 85thile speed of vehicles (the speed at which 85% of vehicles travel at or below) and indicate that along Flanagans Drive the average speed is 79kph. This indicates that there is regular speeding at this location in excess of the speed limit. Officers have installed 50kph speed signs to avoid any confusion regarding the current speed limit along the street. Further, Council is also supportive of a reduced speed limit to improve road safety. Consequently, increasing the speed limit above the posted current speed (50kph) is not supported.

Resolution:

Crs. Sullivan/Edwards

- 1. *That the petition containing 50 signatures in relation to Flanagans Drive, Merrimu be received by Council.***
- 2. *That a report be prepared by officers for Council's consideration pertaining to the construction and/or installation of speed humps along Flanagans Drive, Merrimu.***

CARRIED.

Cr. Keogh declared an indirect interest by close association (section 78) in relation to Item 9.2 – Gordon Streetscape works, due to having an association with a signatory.

Cr. Keogh adjourned from the meeting at 6.14pm and did not participate in voting on the Item.

Mr Stephen Derrick addressed Council in support of the petition regarding Gordon Streetscape Works

Ms. Dina Bowman addressed Council in support of the petition regarding Gordon Streetscape Works

9.2 Gordon Streetscape Works

Council has received a petition containing over 190 signatures of residents of Gordon.

The petition is stated as:

"Moorabool Shire Council to defer the \$350,000 Stage 1 Main Street upgrade works in the township of Gordon, until such time as a comprehensive review is undertaken of the proposal, and the ratepayers and residents of Gordon are given real choice in how such capital expenditure is best used ."

This petition meets Council's Local Law No. 9, Meeting Procedure Local Law, Part 6 - Clause 6.7 (d)(ii) requirements.

Resolution:

Crs. Sullivan/Bingham

That the petition containing 190 signatures in relation to Stage 1, Main Street Gordon Streetscape Works, be received by Council, and that a report be prepared by officers for Council's consideration.

CARRIED.

Cr. Keogh returned to the meeting at 6.22pm

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
9.2	Gordon Streetscape Works	Stephen Derrick	Supporter of petition
9.2	Gordon Streetscape Works	Dina Bowman	Supporter of petition

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

Item No	Description	Name	Applicant/ Objector
11.2.1	Planning Permit Numbers – PA2003-472, PA2003-473, PA2003-474 and , PA2003-475; Conroys Lane, Wallace - Request for a fifth extension of time for the use and development of a single dwelling	Ramon & Elma Jiminez	Applicant

11. OFFICER'S REPORTS

11.1 CHIEF EXECUTIVE OFFICER

No reports for this meeting.

11.2 GROWTH AND DEVELOPMENT

11.2.1 Planning Permit Numbers – PA2003-472, PA2003-473, PA2003-474 and PA2003-475; Conroys Lane, Wallace - Request for a fifth extension of time for the use and development of a single dwelling

Application Summary:	
Permit No:	PA2003-472, PA2003-473, PA2003-474 and PA2003-475
Lodgement Date:	23 October, 2018
Planning Officer:	Mark Lovell
Address of the land:	Lots 1 & 2 on PS503064U; Crown Allotments 11-15 in PC365342W; Crown Allotments 15-20 in PC365343U; Conroys Lane, Wallace
Proposal:	Fifth extension of time
Lot size:	9.7 hectares over four titles
Why is a permit required?	The permit has expired as the development was not commenced by 27 April, 2018. An extension of time is required to commence the development.
Reason for being presented to full Ordinary Meeting of Council (OMC)	Previous extension of time requests were decided by OMC meetings held on 6 July, 2016 and 2 August, 2017.
Public Consultation	
Was the application advertised?	No. A request for an extension of time is not required to be advertised under Section 69 of the Planning & Environment Act.
Notices on site:	Nil.
Notice in Moorabool Newspaper:	No.
Number of Objections:	Nil.
Consultation Meeting:	No meeting held.
Policy Implications	
Strategy Objective 2:	Minimising Environmental Impact
Context 2A:	Built Environment

Victorian Charter of Human Rights and Responsibilities Act 2006

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

Officer's Declaration of Conflict of Interests

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

Manager – Robert Fillisch

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

Author – Mark Lovell

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

Executive Summary

Application Referred?	No new referrals were required as a result of the extension of time request.
Any issues raised in referral responses?	No.
Preliminary concerns?	This is the fifth extension of time request. An Ordinary Meeting of Council has previously overturned an officer's recommendation for refusal in 2016 and again in 2017. There has been insufficient progress since the last extension of time approval to warrant another extension of time approval.
Any discussions with applicant regarding concerns?	Applicant was advised the application would not be supported consistent with the previous officer's recommendation from 2016 and 2017.
Any changes made to the application since being lodged?	Nil.
Brief history	The permit was issued at the direction of VCAT on 27 April, 2006 which set aside Council's refusal to grant a planning permit for a single dwelling on a single lot for four separate planning applications. VCAT resolved to issue one permit for one dwelling over four lots provided they were consolidated into a single lot.
Previous applications for the site?	Nil.

<p>General summary</p>	<p>The application is for a fifth extension of time of an approved development which has not commenced. The applicant has provided a timeline from 1998 onwards detailing the difficulties in first obtaining a permit and then with on going financial problems.</p> <p>No development has commenced on site.</p> <p>The application has been considered using the <i>Kantor test</i> and based on this assessment it is considered the applicant has had ample opportunities to commence development and based on the current information has not advanced the application to an adequate stage.</p> <p>There are no exceptional circumstances which is preventing the commencement of the development. Providing a further extension of time would be contrary to the provisions of the Planning & Environment Act.</p> <p>It is therefore considered that a fifth extension of time should not be supported as the applicant has not made reasonable attempts to commence the development due to same underlying reason which is lack of finances. There have been no guarantees provided of a start date. The applicant has also not provided floor and elevation plans of the dwelling as required by condition 1 of the permit.</p>
<p>Summary Recommendation</p>	
<p>That, having considered all relevant matters as required by the Planning and Environment Act 1987, Council issue a refusal to an application to extend the time for commencement of planning permit numbers PA2003-472, 2003-473, 2003-474 and 2003-475 for the use and development of single dwelling.</p>	

Site Description

The subject site is located on the western side of Conroys Lane, north of the Western Freeway, Wallace. The lots do not have an abuttal to Conroys Lane but can be assessed from their southern boundary which is adjacent to Spargo Creek Road. Spargo Creek Road runs parallel with the Western Freeway.

The subject site is comprised of open farming land without building structures. There are only a small scattering of border trees and internal dividing fences separating each of the four lots. The site has a slight sloped topography in an east to west direction with the Moorabool River Western Branch located one further property to the west.

Background to Current Proposal

An application for a single dwelling on a single lot covering four lots under four separate planning applications were lodged on 15 December, 2003. The applications were advertised and objections were received including from a Section 55 referral authority - Central Highlands Water. All four planning permit applications were refused on 25 May, 2005.

The applicant appealed against each of these decisions to VCAT who determined all four applications together and resolved to issue one planning permit for one dwelling covering four lots on 27 April, 2006. The permit numbers for this single permit is PA2003-472, PA2003-473, PA2003-474 and PA2003-475.

Condition 15 of the permit contained a five years commencement date and seven years completion date with the following expiry dates:

- The development and use is started by 27 April, 2011.
- The development and use is completed by 27 April, 2013.

There have been four (4) previous extension of time requests granted as detailed below.

First Extension of time

A first extension of time (E1) of two (2) years was granted on 28 September, 2010.

The reasons given for the request were:

- Adversely affected by the Global Financial Crisis with tightening of the credit markets.
- The applicant was unable to raise funds to take any steps to advance the development.

The expiry conditions were extended to:

- The development and use is started by 27 April, 2013.
- The development and use is completed by 27 April, 2015.

The applicant was advised in a cover letter to the approval dated 6 October, 2010 that is unlikely that Council will grant any further application for an extension of time and the applicant should endeavor to commence development and comply with conditions of the permit.

Second Extension of Time

A second extension of time (E2) of three (3) years was granted on 25 July, 2013.

The reason given for the request was:

- Lack of availability of finance for the project.
- The ongoing global financial instability that started in 2008 has resulted in tightening of credit markets and impacted on the financial position of the applicant.

The expiry conditions were extended to:

- The development and use is started by 27 April, 2016.
- The development and use is completed by 27 April, 2018.

During the assessment of the second extension of time application, discussions were held with the applicant who was advised at that time that Council officers were considering refusing the application. The proposed grounds of refusal were to be warehousing the permit given the length of time passing since approval. A report was being prepared for Council to consider a refusal recommendation.

The applicant offered to provide an assurance that the development would commence in a three (3) years period and they would not seek any further extensions to the commencement date.

The applicant then confirmed in a written correspondence dated 18 June, 2013:

“I confirm that our application for an extension of time is to be resolved on the basis that you will approve extensions of three and two years respectively to the start and completion dates...you will not give a further extension to the start date, however you may grant an extension to the completion date if more time is needed to complete the building and other works.”

With this written assurance, the permit was extended under delegation beyond the normal 12 months timeframe to three (3) years, in the belief there would no further requests to the commencement date.

Third Extension of Time

A third extension of time (E3) was granted on 6 July, 2016. Council officers recommended refusal to the third of extension of time and Council determined at its Ordinary Meeting of Council held on 6 July, 2017 to allow another 12 months to the commencement and completion dates.

The reason given for the request was:

- The applicant stated as a result of funds becoming available in late 2015 the applicant has begun discussions with builders including Porter Davis and has taken the necessary steps to progress the project including updated reports.

The expiry conditions were extended to:

- The development and use is started by 27 April, 2017.
- The development and use is completed by 27 April, 2019.

Council by approving this extension advised they would not support any further extensions of time as the applicant was about to commence construction.

Fourth Extension of Time

A fourth extension of time (E4) was approved on 2 August, 2017. Council officers recommended refusal to the fourth of extension of time and Council determined at its Ordinary Meeting of Council held 2 August, 2017 to allow another 12 months to the commencement and completion dates.

The reason given for the request was:

- Hampered by financial difficulties.
- Commencement of preparation of fully dimensioned plans to be submitted to Council for endorsement.

The expiry conditions were extended to:

- The development and use is started by 27 April, 2018.
- The development and use is completed by 27 April, 2020.

Fifth Extension of Time

A fifth extension of time (E5) was lodged by the applicant, Ramon Jimenez on 23 October, 2018. The application was made after the expiry of the permit but within the six (6) months grace period after expiry to apply for an extension of time. The grace period to apply for an extension of time ended on 27 October, 2018. The applicant lodged the extension of time with four (4) days remaining.

The reasons given for the request was:

- The development has not commenced on the ground the applicant has done considerable works in trying to move forward.
- Hampered by financial difficulties.

The applicant advised since the last issue of an extension of time has undertaken the following activities:

- Site inspection and site analysis.
- Meetings with Steven Carter from Central Highlands Water.
- Discussion with potential builders including Henley Park.

Details of the approved development

Plan as required by conditions on the permit have not been endorsed at this stage. Condition 1 requires floor and elevation plan of the dwelling. The applicant advised they in the process of getting endorsed plans and expects them to be lodged to Council prior to Christmas. This timeline has not been met by the applicant.

Assessment of Extension of time applications – *Kantor test*

There are no specific controls in the Planning Scheme relating to the assessment of an extension of time of a permit. However, there are some general guidelines or “tests” that can be applied to guide an assessment of an extension of time application.

Such guidance was provided by His Honour Mr. Justice Ashley in considering a number of Tribunal decisions in *Kantor v. Murrindindi Shire Council 18 AATR 285* where His Honour stated that a Responsible Authority “may rightly consider” the following:

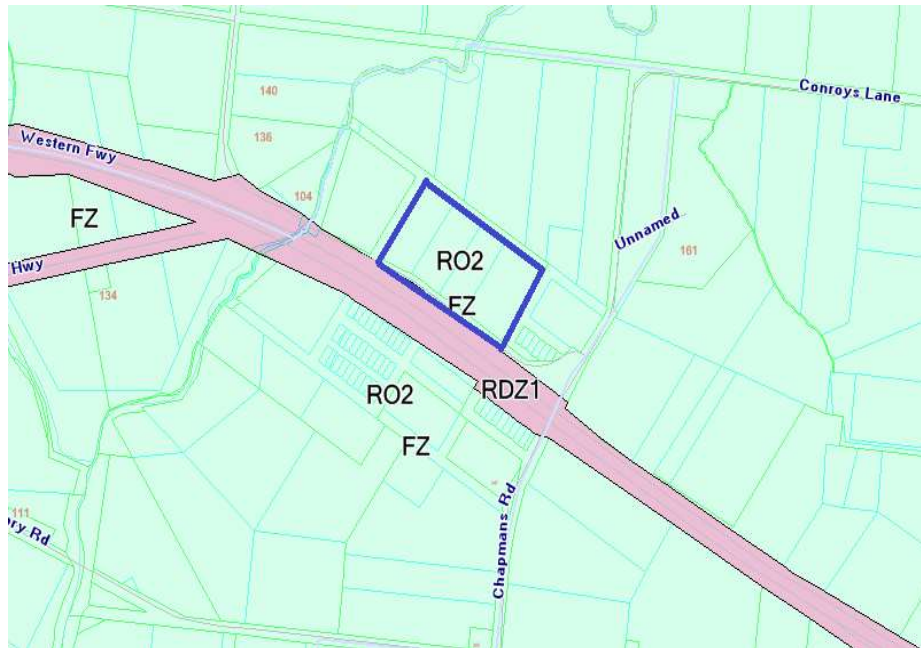
- Whether there had been change in planning policy;
- Whether the landowner is seeking to “warehouse” the permit;
- Intervening circumstances as bearing upon grant or refusal;
- The total elapse of time;
- Whether the time limit originally imposed was adequate;
- The economic burden imposed on the landowner by the permit; and
- The probability of a permit issuing should a fresh application be made.

It is important to note that most of the above decisions do not necessarily provide clear direction on the “weighting” that should be applied to the various criteria and it is important that each proposal be assessed on the merits of the individual circumstances.

The *Kantor test* is generally used by the Moorabool Shire Planning Department to assess extension of time applications, and an assessment against the *Kantor “test”* questions is detailed later in this report.

Locality Map

The map below indicates the location of the subject site and the zoning of the surrounding area.



Planning Scheme Provisions

Zone

The land is in the Farming Zone (FZ) where a permit is required to a single dwelling on a lot less than 40 hectares.

The purpose of the zone is to:

- To implement the Municipal Planning Strategy and Planning Policy Framework.
- To provide for the use of land for agriculture.
- To encourage the retention of productive agricultural land.
- To ensure that non-agricultural uses, including dwellings, do not adversely affect the use of land for agriculture.
- To encourage the retention of employment and population to support rural communities.
- To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.
- To provide for the use of development of land for the specific purpose identified in a schedule to this zone.

Overlays

The land is also covered by an Environmental Significance Overlay – Schedule 1 (ESO1) where a permit is required for buildings and works.

The purpose of the overlay is to:

- To implement the Municipal Planning Strategy and the Local Planning Policy Framework.
- To identify areas where the development of land may be affected by environmental constraints.
- To ensure that development is compatible with identified environmental values.

The environmental objective to be achieved.

- To protect the quality and quantity of water produced within proclaimed water catchments.
- To provide for appropriate development of land within proclaimed water catchments.

The land is also covered by a Design & Design & Development Overlay - Schedule 2 (DD02).

A permit is not required for building and works provided the materials are non reflective

The purpose of the overlay is to:

- To enhance visual amenity in rural, township and vegetated areas of the Moorabool Shire.
- To encourage the use of external cladding, such as non-reflective materials for building construction.
- To discourage the use of materials, such as reflective cladding for building construction, which could have a detrimental effect on amenity.

The land is also covered in part by a Design & Design & Development Overlay - Schedule 3 (DD03).

A permit is required to construct a dwelling.

The purpose of the overlay is to:

- To ensure that the development of land or the display of advertising signs near the alignment of the Western Freeway does not prejudice the levels of service, safety and amenity of the Western Freeway/Highway.
- To minimise any adverse effects of noise on noise sensitive uses from traffic using the Western Freeway/Highway.

The land is also covered by a Restructure Overlay (RO).

The purpose of this overlay is:

- To implement the Municipal Planning Strategy and the Local Planning Policy Framework.
- To identify old and inappropriate subdivisions which are to be restructured.
- To preserve and enhance the amenity of the area and reduce the environmental impacts of dwellings and other development.

A permit is required to construct a dwelling and must be in accordance with the restructure plan for the land listed in the schedule.

The land is also covered by a Road Closure Overlay (RXO).

The purpose of this overlay is:

- To implement the and the Municipal Planning Strategy and the Planning Policy Framework.
- To identify a road that is closed by an amendment to this planning scheme.

A road included in this overlay is closed on the date notice of approval of the amendment is published in the Government Gazette.

Discussion

Kantor test

1. Whether there has been change in Planning Policy

When the application was determined the land was zoned in a Rural Zone.

Amendment the C50 came into operation on 2 August, 2007 and was subsequently incorporated into the Moorabool Shire Planning Scheme. The amendment introduced the Farming Zone into the Scheme and rezoned the subject land from a Rural Zone to a Farming Zone.

Following C50 amendment, various amendments were introduced to Moorabool Planning Scheme to ensure the better and consistent planning outcome for assessing applications within the Farming Zone. These amendment included VC49 (introduced on 15 September, 2008); C34 (26 February, 2009); VC71 (20 September, 2011); VC77 (23 September, 2011); VC83 (18 November 2011); and VC87 (8 August, 2012).

The application would now need to be assessed in light of the objectives of the Farming Zone whereby the applicant would now need to demonstrate how an agricultural activity is linked to the proposed dwelling and would require the submission of a comprehensive Farm Management Plan. This change could alter the recommendation.

Other planning scheme changes since the last extension of time was issued are:

- Amendment VC132 was gazetted on 19 September, 2017 made a number of administrative corrections to the Victorian Planning Provisions. The changes would not alter the recommendation.
- Amendment GC13 was gazetted on 3 October, 2017 updating the Bushfire Management Controls. The changes would not alter the recommendation.
- Amendment VC138 was gazetted on 12 December, 2017 reforming the native vegetation controls. The changes would not alter the recommendation.
- Amendment VC142 was gazetted on 16 January, 2018 which introduced wide range of reforms that removed permit triggers, expanded permit exemptions, updated definitions and improved the usability of the VPP. The changes would not alter the recommendation.
- Amendment VC145 was gazetted on 28 March, 2018 which introduced wide range of reforms that updated and amended the SPPF, permit requirements, referrals, nesting diagrams, Heritage Overlay controls and the telecommunication facility particular provision. The changes would not alter the recommendation.
- Amendment VC148 was gazetted on 31 July, 2018 reforming all planning schemes under the Smart Planning Program and introduced major structural changes to the Victorian Planning Provisions. The changes would not alter the recommendation.
- Amendment VC151 was gazetted on 6 August, 2018 correcting errors made in VC148.
- Amendment VC147 was gazetted on 14 September, 2018 making administrative changes to Victorian Planning Provisions. The changes would not alter the recommendation.
- Amendment VC150 was gazetted on 21 September, 2018 implementing actions from Planning for Sustainable Animal Industries Report. The changes would not alter the recommendation.
- Amendment VC143 was gazetted on 4 October, 2018 inserting a new Commercial 3 Zone and introducing requirements for residential solar energy facilities. The changes would not alter the recommendation.
- Amendments VC152, VC154 and VC155 were gazetted on 26 October, 2018 amending the crisis accommodation and community care provisions, introduced integrated water management provisions and minor changes to the heritage and energy efficiency state provisions. The changes would not alter the recommendation.
- Amendment C79 was gazetted on 15 November, 2018 implementing the findings of Housing Bacchus Marsh to 2041 and provided direction for future residential development in Bacchus Marsh. The changes would not alter the recommendation.

2. Whether the landowner is seeking to “warehouse” the permit.

Based on a recent VCAT decision, the applicant is not warehousing the permit, in that they holding back to commence the development in order to gain a financial windfall. The applicant has stated they unable to commence works due to a lack of funds.

3. Intervening circumstances as bearing upon grant or refusal.

There have been no intervening circumstances that would have a bearing on this decision. The major reforms to the planning scheme as part of VC148 have not changed the intent or purpose of the Farming Zone which is the primary considerations in assessing a new development proposal.

4. The total elapse of time since the permit was issued.

The permit was issued on 27 April, 2006, which is 12 years ago. The project is for a single dwelling over four (4) lots rather the intended development project which was lodged as four (4) dwellings over four (4) lots. It would not be expected that a development project of this small scale would not take more than 12 years to commence. The applicant could have started the clock by beginning the development to the foundation stage, while not having all of the funds available, could have gained a two (2) year window to complete works. The start has been delayed by the actions of the applicant who has not lodged plans for endorsement as required by conditions of the permit and has not received a Building Permit with endorsed Working Drawings from a Building Surveyor. These tasks could have been completed several years ago and may have assisted in obtaining finance for the project. At this stage, only a planning permit has been granted which was issued in 2006.

A recent VCAT decision of relevance is Linton vs Moorabool Shire Council [2016]. The applicant had applied for repeated extension of time approvals due to a lack of finance to commence works.

Council issued a refusal to an extension of time request that was subsequently appealed to VCAT. The applicant during the VCAT hearing provided an expert witness who explained the financial concerns in raising funds to commence the development. This was same reasons given in previous extension of time requests by the same applicant. The member made some important points in their order which is similar to the current application which has been hampered by financial difficulties.

The member stated in paragraphs 12 to 14 of their order.

12. The purpose of the statutory provision imposing a time limits in a permit is to prevent the permit remaining alive if not acted upon. It follows that a relevant consideration in deciding whether a commencement time should be extended is the likelihood of the proposal proceeding if an extension is granted. If that prospect is unlikely then no point is served by extending the permit. Indeed, an extension of the permit could be said to be contrary to the purposes of the Act.

13. The Tribunal emphasises that the prospect of a development proceeding has never been regarded as a relevant consideration when the application for permit is determined in the first place unless the proposal is clearly a pie in the sky. However, the position is different when the application is for an extension of time because the purpose of S.68 imposing time limits is different and brings into play different considerations. The Tribunal notes that Mr Scally, the solicitor who appeared for the applicant, agreed that this is a relevant consideration.

14. What is proposed is a major urban residential development. The Tribunal is satisfied that there is a significant prospect that the project would not proceed because of lack of finance. It certainly cannot proceed within the foreseeable future given the time that will be required to put finance in place, prepare plans for endorsement and arrange building contracts. This is a major factor militating against the grant of an extension of time.

In consideration of this order with current application, the applicant has not lodged plans for endorsement despite promising to provide plans two (2) years ago, has been unable to raise finances due to on going financial difficulties, and has not entered into contracts with builders as no building plans exists at this stage.

The applicant has the same problem which is financial difficulties. It is still unclear when financial issues will be resolved and there is still no certainty of the actual start date. It is possible that the development will not commence in the next twelve months from the date of the last expiry.

If the fifth extension of time was approved, the commencement date would be extended to 27 April, 2019 which is only a two (2) months period to start works. This is due to the applicant lodging the extension request five (5) months after the expiry date but within the grace period and the applicant also delaying a decision as they requested this application not to be considered at the December 2018 Ordinary Meeting of Council (OMC) due to their unavailability to attend. It is unlikely the applicant will begin construction works in two (2) months time.

The applicant has had 12 years to commence, to a planning application that was lodged back in 2003 and approved in 2006. This is an excessive and unreasonable amount of time since the permit was issued.

5. Whether the time limit originally imposed was adequate.

It is considered that the time originally imposed was adequate. In good faith, Council extended the permit for two (2) years in the first request (E1) then followed by another three (3) years in the second request (E2) another one (1) year in the third request (E3) and another one (1) year in the fourth request (E4) to give the land owner ample time to commence the development. Two (2) years to commencement a development for a single dwelling is an adequate period of time.

6. The economic burden imposed on the landowner by the permit.

It is not considered that any economic burden was imposed on the landowner by the issue of a planning permit. The owner is only required to build one (1) dwelling and had initially proposed a larger development project of four (4) dwellings over four (4) lots. Construction of one dwelling should not burden a land owner.

7. The probability of a permit issuing should a fresh application be made.

If a new application was received today it would be assessed on its own planning merits against the Moorabool Planning Scheme and current adopted Council policies. The applicant would need to provide adequate information to ensure the single dwelling on land that is contained within the Farming Zone is consistent with the zone objectives and other overlay controls. It is more probable that a permit would be granted however a full assessment would need to be undertaken. The assessment would require notification to adjoining owners and occupiers and this could result in objections. It is not guaranteed a permit would be issued if an application was made today.

General Provisions

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

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

Financial Implications

The recommendation refusal of the extension of time does not implicate any financial implications. If an appeal was lodged against this decision, there would be costs for providing representation.

Risk & Occupational Health & Safety Issues

The recommendation refusal of the extension of time does not implicate any risk or OH&S issues to Council.

Communications Strategy

Notice was not undertaken for the extension of time request.

Options

- Issue a refusal to extend the time limits in accordance with the recommendation of this report;
- Should Council wish to consider approving the extension of time request, Councillors need to explore justifications for the extension.

Conclusion

The request is for a fifth extension of time for an approved planning permit.

The application is to be made on the set of principles from the *Kantor test*, which is the accepted planning tool for the assessment of extensions of time requests.

It is considered that a fifth extension of time to commence the development to a permit issued 12 years ago, is an unreasonable amount of time that has lapsed since the issue of the permit. The applicant has not been able to commence works and has not been able to progress the development to the Building Permit stage with plans still not endorsed as required by condition 1 of the permit. There is no guarantee that the development of one dwelling would commence if an approval was issued.

Any new application for a single dwelling in the Farming Zone would need to be subjected to a full planning assessment in accordance with the planning scheme provisions that includes notification to adjoining owners and occupiers and notification to external referral authorities.

Council has been exceptionally generous over a long period of time in granting previous extension of time approvals well beyond the usual 12 month extensions, to enable the applicant to commence works on site. Council has approved four previous extensions of time requests and has allowed the applicant twelve years to commence the development for one (1) dwelling on the land. There is an expectation that such a development will occur within two (2) years of the date of issue of the permit, not 12 years. Permits are not issued to be left open or remain until an applicant has the capacity to commence as these are contrary to the provisions of the Planning & Environment Act.

Recommendation:

Crs. Dudzik/Edwards

That, having considered all relevant matters as required by the *Planning and Environment Act 1987*, Council refuse the application to extend the time for commencement of combined planning permits PA2003-472, PA2003-473, PA2003-474, and PA2003-475 for the use and development of a single dwelling for the land at Conroys Lane, Wallace on the following grounds:

- 1. The application does not meet the Kantor tests including no substantial commencement of the development has been undertaken.**
- 2. There has been insufficient progress in the intervening period to commence works on site.**
- 3. The request for a fifth extension of time to commence is beyond a reasonable amount of time given since the issue of the permit 12 years ago.**

LOST.

Resolution:

Crs. Bingham/Toohey

That, having considered all relevant matters as required by the *Planning and Environment Act 1987*, Council approve the application to extend the time for commencement of combined planning permits PA2003-472, PA2003-473, PA2003-474, and PA2003-475 for the use and development of a single dwelling for the land at Conroys Lane, Wallace, for a period of two (2) years.

CARRIED.

Report Authorisation

Authorised by:

Name:


Satwinder Sandhu

Title:

General Manager, Growth and Development

Date:

9 January, 2018

11.2.2 Integrated Water Management – Werribee Catchment and Central Highlands

Introduction

Author: Justin Horne
General Manager: Satwinder Sandhu

Background

A report on the Integrated Water Management Strategic Directions Statements was presented to Council at the Ordinary Meeting of Council held on 6 June 2018 and an Assembly of Council was held on 5 December, 2018 with the Chair of the Central Highlands Integrated Water Management Forum (CHIWM) and representatives from DELWP present.

In October 2017, the Department of Environment, Land, Water and Planning (DELWP), released the *Integrated Water Management Framework for Victoria* which was identified as Actions 5.7 and 5.8 of *Water for Victoria*.

The Integrated Water Management (IWM) Framework proposed the establishment of 16 IWM forums across the State. Eleven (11) in regional Victoria and five (5) in Metropolitan Melbourne.

The objective of these forums is to ensure that a collaborative approach is undertaken with organisations and agencies that are involved in waterways and water management, including wastewater, planning, potable and recycled water supply, stormwater, water treatment and to ensure a secure water supply for Victoria in the future.

Moorabool Shire Council officers have been involved in the forums and workshops for the Central Highlands and Werribee Catchment IWMs. Each forum area was required to develop a Strategic Directions Statement, to assist in the implementation of IWM solutions across the state.

Strategic Direction Statements have been completed for Werribee (attachment 1) and Central Highlands (attachment 2) and have been informed by Plan Melbourne 2017-2050 and the IWM Framework for Victoria (2017).

The purpose of this report is to seek formal endorsement from Council on the Strategic Direction Statements. Endorsement will allow Council officers to continue to be involved in the forums and to assist in the delivery of the identified projects to ensure that they meet the needs of the community and Council.

Strategic Directions Statements

The Strategic Directions Statements outline the objectives for improved and holistic water management and provide the guidance for the IWM forums as they continue to work together to assist in the delivery of the identified projects.

Across the two (2) IWM forums which Moorabool Shire Council has been involved in, a total of over 100 projects were initially identified.

At the workshops, each project was reviewed. Similar projects were then combined to reduce the total number of projects and to also assist in the collaboration between organisations.

The final Central Highlands Strategic Directions Statement has identified a total of 13 priority projects. The Werribee Catchment Strategic Directions Statement lists 20 priority projects.

Of the 33 priority projects listed in the two (2) Strategic Directions Statements, a total of nine (9) have identified Moorabool Shire Council as a project partner. Moorabool Shire Council is not a lead for any project.

Projects that identify Moorabool Shire as a partner are listed in table 1 (Central Highlands) and table 2 (Werribee Catchment).

Please note that the role Project Lead is to ensure the initiation of the identified project, and as the project scope is further developed the Project Lead may change. Community and stakeholder engagement strategies for each of the project will be developed as they progress.

Title	Brief Description	Project Lead	Project Partners
Mapping of Cultural Values of Waterways	Identification and mapping cultural sites and values along waterway corridors in the region, to create a knowledge base which can be managed by traditional owner groups and used to inform management of waterways and water bodies.	Wadawurrung Aboriginal Corporation + Dja Dja Wurrung Aboriginal Corporation	North Central Catchment Management Authority, Corangamite Catchment Management Authority, Glenelg Hopkins Catchment Management Authority, DELWP Grampians, Central Highlands Water, Local Councils.
Enhancing flows to the Moorabool River and the Leigh River	<p>The Moorabool River is one of the most stressed waterways in the state, and the Leigh River is heavily impacted by stormwater and treated wastewater inflows from Ballarat.</p> <p>Investigate and implement options to capture and harness both recycled water and stormwater flows from urban Ballarat to supplement flows in the Moorabool River, either via offsets supplied from Lal Lal reservoir in lieu of local alternative water supplies in Ballarat, or by direct transfer. This management of urban flows from Ballarat could also benefit the Leigh River.</p>	Corangamite CMA, Wadawurrung Aboriginal Corporation	Central Highlands Water, City of Ballarat, Moorabool Shire Council, Southern Rural Water, DELWP, Barwon Water

Title	Brief Description	Project Lead	Project Partners
Central Highlands Towns Green-Blue Infrastructure Plan	<p>While the major urban areas in the Central Highlands Region (Ballarat, Maryborough, Daylesford and Ballan) will be the subject of dedicated IWM Plans.</p> <p>This plan for small towns in the region would identify, review and prioritise opportunities against a consistent set of criteria and then include case studies and design templates for delivery of common types of green-blue that are appropriate to small towns.</p>	TBC	Hepburn Shire Council, Moorabool Shire Council, Golden Plains Shire Council, City of Ballarat, Central Goldfields Shire Council, Pyrenees Shire Council, Central Highlands Water, DELWP
Ballan IWM Plan	Ballan is a growing urban area in the Central Highlands Water region, which also lies in the Werribee IWM Forum area. There is opportunity to collaborate across Forum areas to develop a holistic IWM Plan for the town, which is forecast to grow substantially. The town's water supply is drawn from the same network that supplies Ballarat and also impacts on the flow-stressed Moorabool River.	Central Highlands Water	Moorabool Shire Council, Melbourne Water, Werribee IWM Forum

Table 1: List of projects from the draft Strategic Directions Statement likely to involve Moorabool Shire.

Title	Brief Description	Lead	Partners
Bacchus Marsh IWM Plan	The Bacchus Marsh IWM Plan will explore integrated water options to address the challenges of climate change and rapid growth in the west. The use of alternative local sources of water, such as stormwater and recycled water, will be a key focus of the plan. The plan will also explore opportunities to protect local ecological values within waterways from the impacts of excess urban stormwater generated in new developed suburbs.	Western Water	Moorabool Shire Council, Melbourne Water
Nature Links Across the	This project builds on the work of the Grow West project over the past	PPWCMA	Melbourne Water, Southern Rural

Title	Brief Description	Lead	Partners
Catchment Landscape	12 years that has undertaken major revegetation action with many community and funding partners to rejuvenate degraded landscapes around Bacchus Marsh. Working alongside landholders to create new vegetation corridors across public and private land, this project extends the Grow West Nature Link between the Brisbane Ranges and the Lerderderg State Park and extends the concept to initiate new Nature Links along the length of the Werribee River and between the Brisbane Ranges and the You Yangs.		Water, Parks Victoria, Moorabool Shire Council, Lead West, City of Greater Geelong, Wyndham City Council, local Landcare groups
Werribee Catchment IWM Strategy	An IWM Strategy at the catchment-scale will guide the Werribee Forum Members to effectively contribute to achieving the Forum's vision and strategic outcomes. The Forum will first define a plan to deliver an IWM strategy in collaboration with all Werribee IWM Forum Members and Working Group members. The plan will be executed by the Forum and supported by agreed governance.	Werribee Forum partner organisations	
Western Irrigation Network (WIN) Project	The significant population growth taking place through the Sunbury and Melton growth areas will create a substantial volume of recycled water, which will need to be managed to minimise impact on the environment. The Western Irrigation Network is exploring the use of this recycled water to create a new agricultural irrigation district. The utilisation of the recycled water in this way will not only protect the environment while keeping costs to customers low, but it will also add to the local economy and improve the agricultural productivity of the region.	Western Water	Melbourne Water, Moorabool Shire Council, Hume City Council, Melton City Council, Southern Rural Water, City West Water
Western Water's Development	Western Water has issued guidance for land developers across their region to put together	Western Water	Moorabool Shire Council, Melton City Council, Hume City

Title	Brief Description	Lead	Partners
IWM Plan Guidance	IWM Plans at the development scale. Development IWM Plans facilitate a more holistic approach to urban water management that enables development and the increased demand for water services while also mitigating environmental degradation and the effects of climate change. Planning with an IWM approach and implementing IWM solutions aims to ensure the best value infrastructure is provided for customers and the resulting services will support thriving, liveable communities.		Council, Macedon Ranges Shire Council, Melbourne Water, VPA

Table 2: List of key projects identified for Moorabool Shire in the Werribee IWM.

Policy Implications

The Council Plan 2017 – 2021 provides as follows:

Strategic Objective 2: Minimising Environmental Impact

Context 2B: Natural Environment

Moorabool Sustainable Environment Strategy: Implement the action plan.

Financial Implications

There are no financial implications to Council in endorsing the Strategic Directions Statements.

The Forums and Working Group meetings will require attendance by Council staff.

The delivery of some of the actions listed in the Strategic Directions Statement may require consideration by Council for additional funding and/or allocation of staffing resources which may not currently be covered by existing budgets.

Cost estimates for the listed projects has not been undertaken as they have not yet been formally scoped. When the financial implications for a project is identified, Council will be notified as part of the overall annual budget process.

Risk & Occupational Health & Safety Issues

There are no direct risk or occupational health and safety issues associated with the recommendation within this report.

Community Engagement Strategy

No community engagement is proposed for the Strategic Directions Statements.

Engagement strategies for each of the identified projects will developed as they progress.

Communications and Consultation Strategy

No community engagement or consultation is proposed.

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

The Strategic Directions Statements for the Central Highlands and Werribee Catchments outline the objectives for improved and holistic water management. To assist in delivery of the priority projects and on-going collaboration Forums and working groups have been established and the identification of priority projects to be delivered into the future.

The final Central Highlands Strategic Directions Statement has identified a total of 13 priority projects for the region. The Werribee Catchment Strategic Directions Statement list 20 priority projects.

Moorabool Shire has been identified as a potential partner for a total of nine (9) projects across the two forums, and staff will be involved in the further development of these projects to ensure that the identified projects meet the needs of the community and Council. In the delivery of the projects, communication plans will be developed to ensure that community and stakeholder engagement occurs.

The Strategic Directions Statements have no direct financial implication to Council, however delivery of some of the actions listed in the Strategic Directions Statement may require consideration by Council for additional funding and/or allocation of staffing resources which may not currently be covered by existing budgets.

Recommendation:

That Council endorses the final Werribee Catchment Strategic Directions Statement and the Central Highlands Strategic Directions Statement.

Resolution:

Crs. Sullivan/Dudzik

That Council receives the final Werribee Catchment Strategic Directions Statement and the Central Highlands Strategic Directions Statement.

CARRIED.

Report Authorisation

Authorised by:

Name:

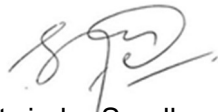
Satwinder Sandhu

Title:

General Manager

Date:

Wednesday 9 January, 2019



11.2.3 Car Parking Policy and Parking Considerations in Moorabool Shire

Introduction

Author: Liam Prescott
General Manager: Satwinder Sandhu

Background

At the Ordinary Meeting of Council on 1 August, 2018 a resolution was passed stating:

That a report be presented for consideration at an Ordinary Meeting of Council, outlining the steps, issues and options associated with the development of the following policies:

- *Car Parking Policy that guides the exercise of discretion within the planning permit process, and the grounds upon which discretion should be reasonably considered; and*
- *Introduction of Car Parking Overlay within the Moorabool Planning Scheme.*

A report discussing the above matters was presented to the Council's s86 Growth Management Committee on 24 October, 2018. This report noted that a further report be presented at an Ordinary Meeting of Council.

This report provides further research and discussion on the matter and recommends that Council develop a Car Parking Policy and undertake a Car Parking Study.

Issue

There is anecdotal evidence of car parking shortages in Bacchus Marsh and Ballan, limited to certain times and in certain locations. Anecdotal evidence also suggests that increased permit and time-limit car parking restrictions in residential streets have exacerbated car parking congestion in Bacchus Marsh, as restricted streets appear under-utilised during periods of peak demand.

Moorabool Shire car ownership is relatively high compared to Metropolitan Melbourne at 1.9 vehicles per household v 1.7 vehicles (ABS, 2016). This reflects the peri-urban location of the Shire, the location of many households outside town areas and the limited public transport options. The issue of car parking generates a considerable level of interest on an individual level because it reflects a measure of transport accessibility that is experienced on a daily basis.

Moorabool Shire is experiencing significant population growth, particularly in Bacchus Marsh (current pop. 20,000) and Ballan (current pop. 3,000), where a doubling of population is forecast in the next 25 years. This growth will result in increasing densities of commercial and residential use around town and activity centres.

There is no current strategic justification for increased provision of car parking. Previous car parking studies have shown that Bacchus Marsh has been oversupplied with car parking via application of Clause 52.06 rates, and have recommended applying reduced rates, along with improved management of car parking. Site-specific car parking demand assessments by permit applicants have also identified sufficient quantities of on-street car parking within a walkable distance of the town and activity centres, which is acceptable from a strategic planning and community-benefit perspective and should be encouraged. No car parking studies have been undertaken in Ballan.

The generous supply of car parking in the past may have created an expectation of readily available and free car parking but rigidly applying the standard car parking rates is not necessarily desirable, as it imposes a prohibitive cost on new business and enforces poor urban design outcomes which reduce Bacchus Marsh and Ballan's competitiveness as vibrant town centres.

Council currently assesses car parking (including car parking waivers) through the provisions contained in Clause 52.06 of the Planning Scheme, and guidance contained within several Planning Practice Notes. Car Parking provision within the Planning Scheme is specified in the rates set out in Table 1 of Clause 52.06. An excerpt of these rates is shown in Figure.1. Column A is the standard rate which is applied by default to all land (except where Column B applies). Column B is a reduced rate that applies to land within 400m of the Principal Public Transport Network (PPTN) or where a Parking Overlay applies Column B rates.

The PPTN applies to metropolitan Melbourne and does not include regional towns or cities. Regional towns such as Warragul and Traralgon have chosen to apply the Column B rates to their activity centres as have many metropolitan activity centres. The application of Column B rates to activity centres reflects a reduced need for car parking in areas where car parking is shared between retailers, and the greater availability of public transport to these centres.

Use	Rate	Rate	Car Parking Measure
	Column A	Column B	Column C
Amusement parlour	4	3.5	To each 100 sq m of net floor area
Art & craft centre	4	3.5	To each 100 sq m of net floor area
Betting agency	4	3.5	To each 100 sq m of leasable floor area
Bowling green	6	6	To each rink plus 50 per cent of the relevant requirement of any ancillary use
Child care centre	0.22	0.22	To each child
Cinema based entertainment complex	0.3	0.3	To each patron permitted
Convenience restaurant	0.3		To each patron permitted
		3.5	To each 100 sq m of leasable floor area
Convenience shop if the leasable floor area exceeds 80 sq m	10		To each premises
		3.5	To each 100 sq m of leasable floor area

Figure 1: Excerpt of 52.06 Car Parking Rates

Car Parking Waiver Permit Applications

A review of permit applications within Moorabool Shire was undertaken to evaluate demand for car parking waivers as represented by requests for waiver (also referred to as a ‘reduction’) in car parking. This review did not include an assessment of the number of car parking spaces that were applied for and/or granted in each waiver application.

Mapping of car parking waiver requests in permit applications from 2002-2018 shows that whilst application for waivers were received across the municipality (Fig. 2), applications were primarily received for waivers in the commercial and industrial areas of Bacchus Marsh and Ballan (Fig. 3 and 4).

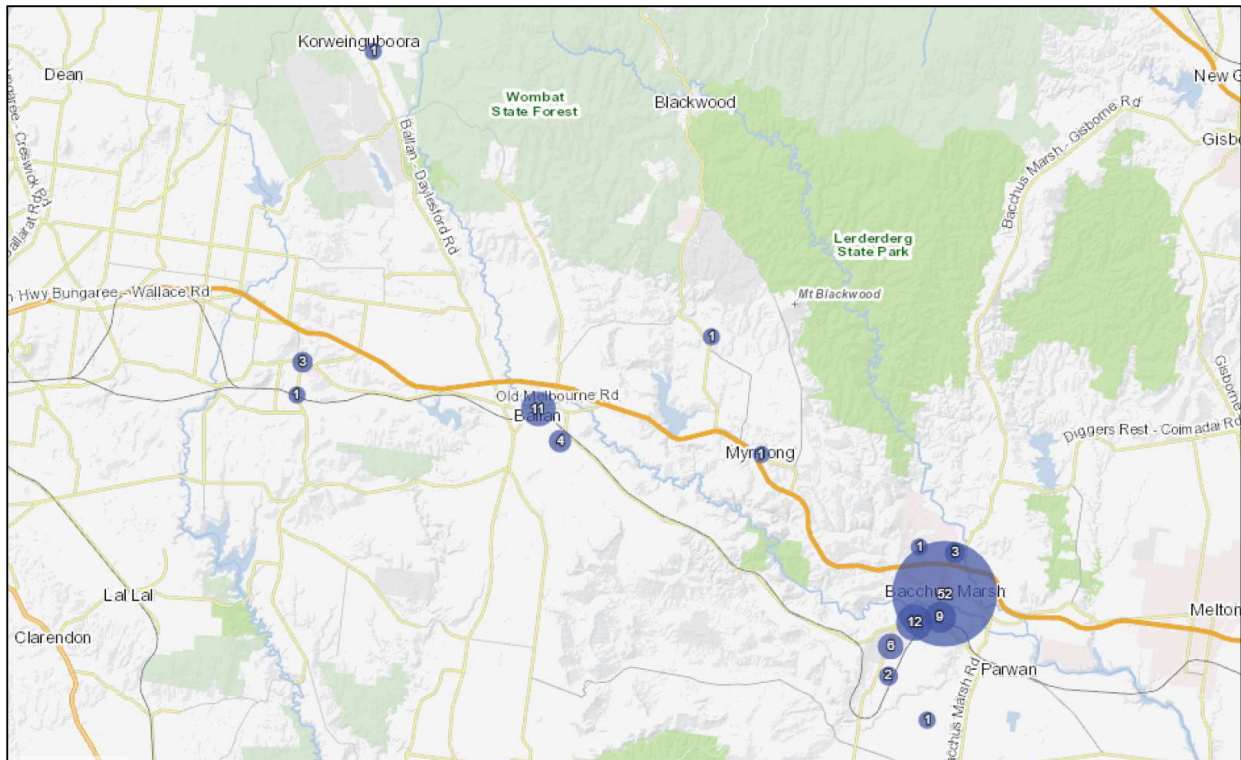


Figure 2: Locations and numbers of waiver applications across Moorabool Shire 2002-2018

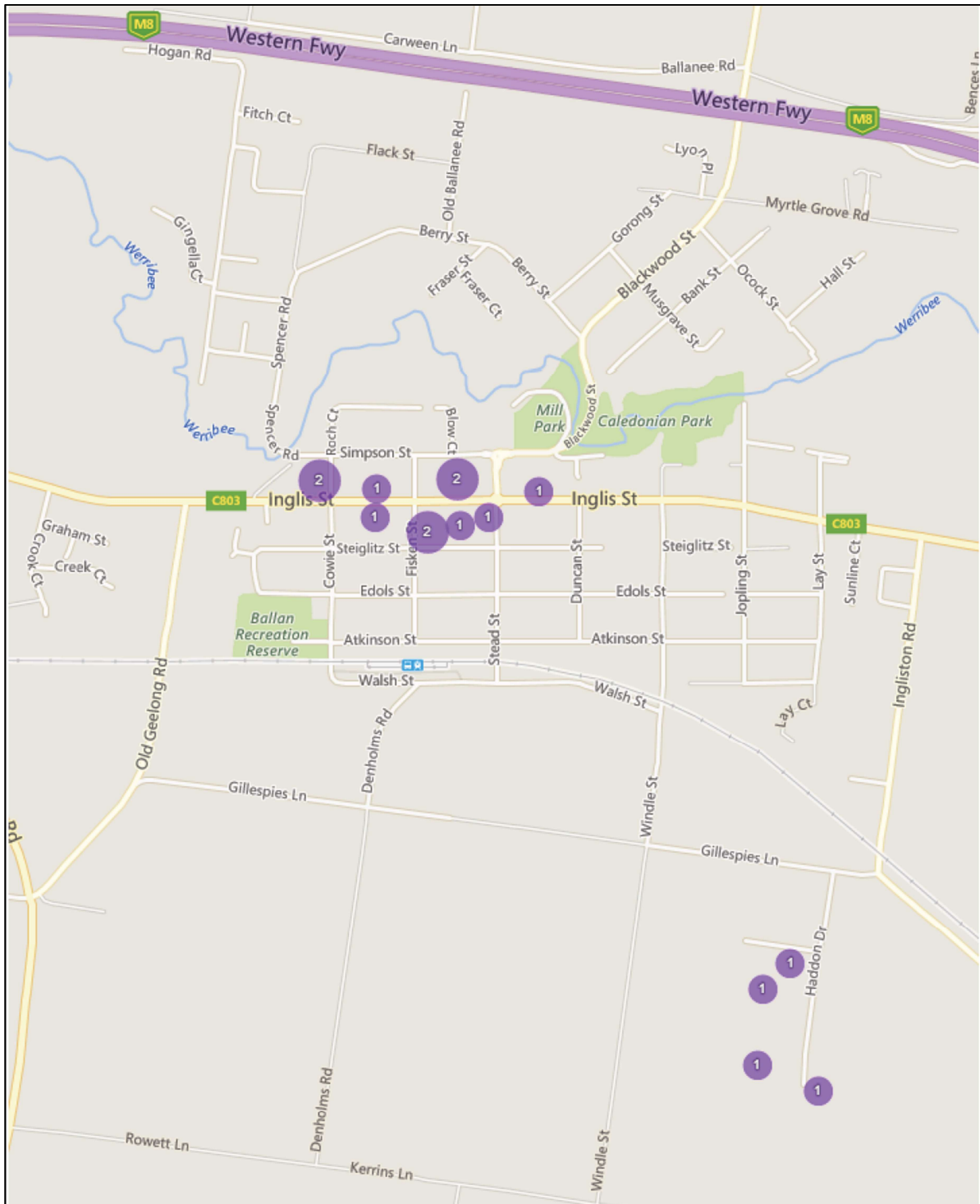


Figure 3: Location and numbers of waiver applications across Ballan 2002-2018

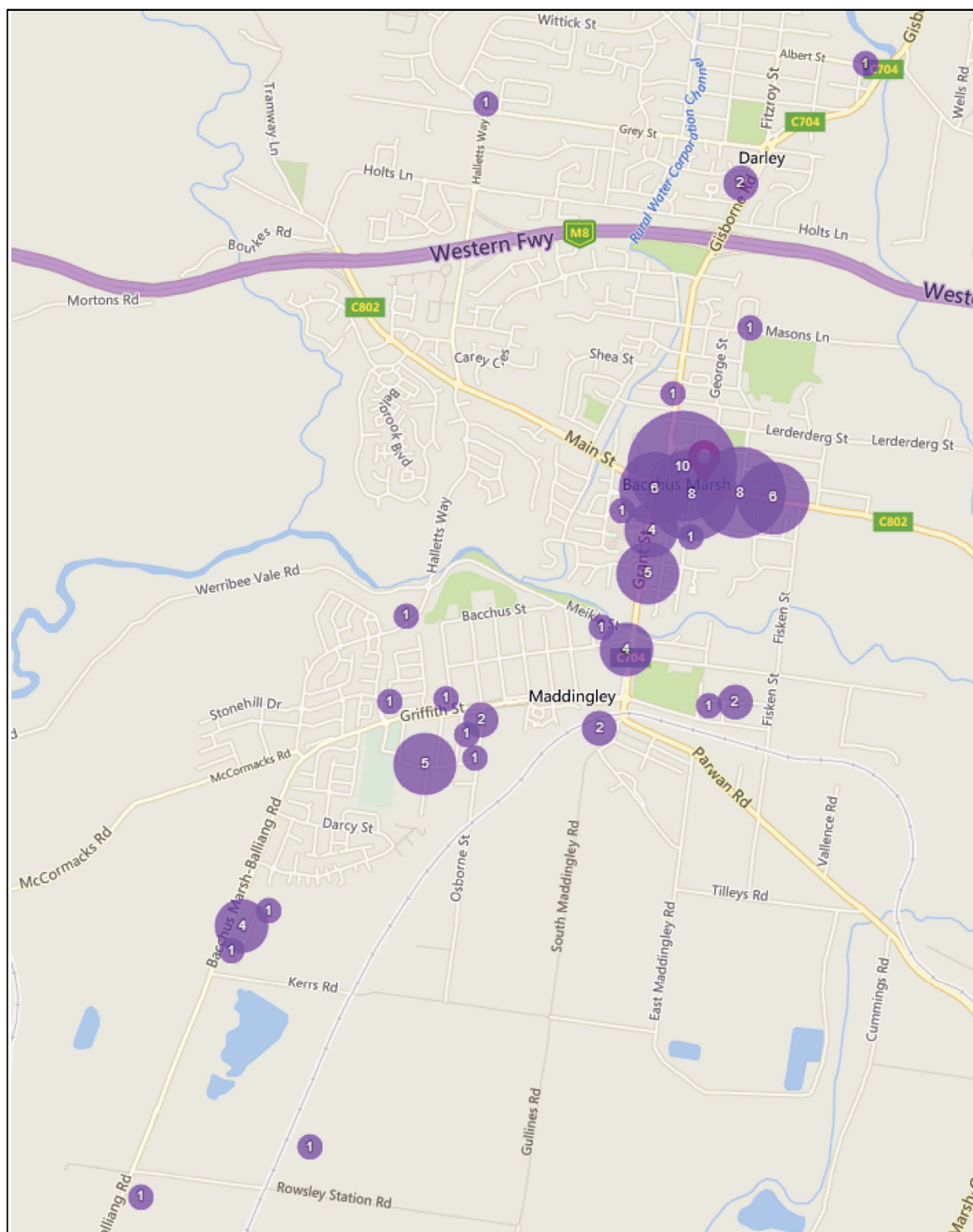


Figure 4: Location and numbers of waiver applications across Bacchus Marsh 2002-2018

Since 2002, there have been 111 separate applications requesting waivers of car parking within Moorabool Shire. The number of applications requesting waivers per year has remained similar, with no increase (Figure 5).

The low number of requests for waivers of car parking is generally reflective of the low number of medium and high-density residential developments within the Shire.

The majority of applications relate to commercial uses within Main Street, Bacchus Marsh precinct. However, it is anticipated that applications for residential waivers may increase, as applications for medium density residential developments requiring visitor car parking increase.

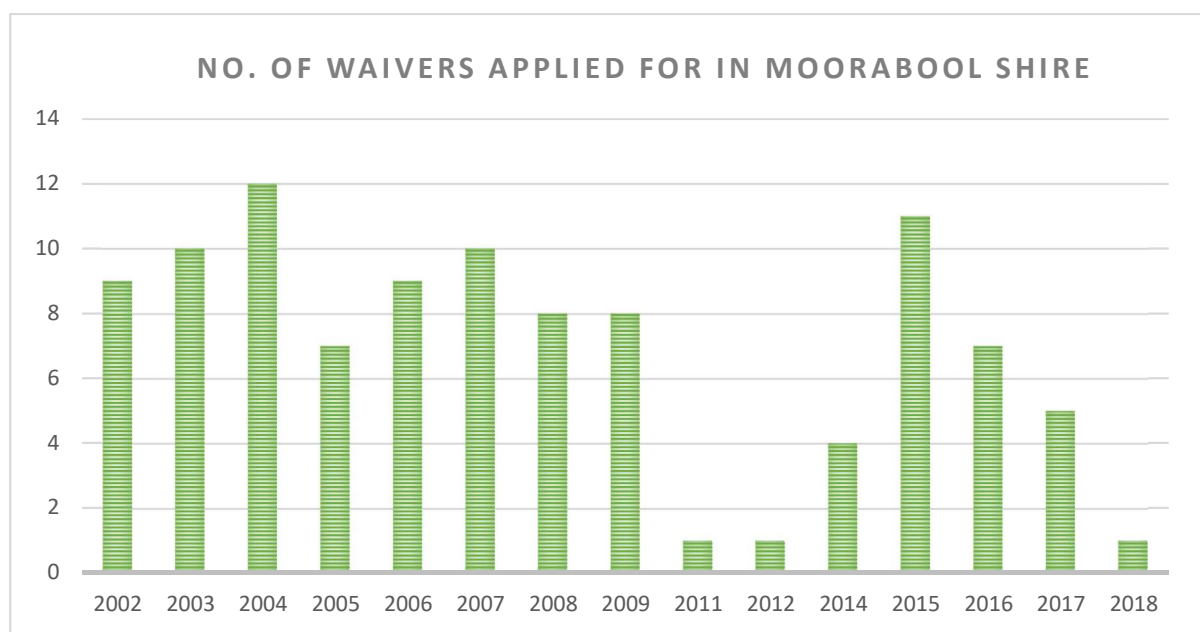


Figure 5: Number of car parking permit waivers applied for (compiled from Moorabool Shire 'Greenlight' permit database)

The assessment of car parking waivers is undertaken by Statutory Planning, as part of the planning permit process. Internal referral input is provided by Infrastructure. In the absence of a precinct wide Car Parking Strategy, assessment is largely based upon the 'current state of car parking supply' which can result in unintended consequences in the long term such as reductions in overall supply, and traffic and car parking congestion.

Currently the main reason given for support of removal of residential visitor car parking is availability of on-street parking. This differs from metropolitan Melbourne, where visitor car parking is also often waived, but with the given reason being ready access to public transport.

As noted above, access to public transport is reflected in the application of Clause 52.06 Column B rates (which do not require visitor car parking to the same extent) to any development within 400 metres of the PPTN. Bacchus Marsh is not within this PPTN, however the access to public transport in some locations in Bacchus Marsh could be considered comparable to some locations within the PPTN, dependent on frequency of service. Further analysis of public transport, as part of a car parking study could assist in providing justification for the application of Column B rates via a Parking Overlay.

The average number of car parking waiver applications in Moorabool Shire per year is 7.4 and these primarily relate to existing commercial buildings undergoing changes in use. Recent state policy Amendment VC148 introduced a new Clause 52.06-3 which removed the permit trigger for waivers of ten or less car parks for a 'change of use' within commercially zoned areas. As a result of this change it is expected that there will be a decrease in waiver applications for commercial land in Bacchus Marsh and Ballan.

Given the consistency in the number of request received each year there does not seem to be any emergent problems relating to the volume of waiver applications. There is anecdotal evidence to suggest that some businesses were dissuaded from applying for waivers due to uncertainties regarding outcomes, or lengthy assessment timeframes, and this was resulting in lost opportunities for the community in terms of business growth or relocation. This may be partly resolved due to the Amendment VC148 changes outlined above. A Car Parking Policy that guides the discretion of the planning permit process (including waivers) would help increase efficiencies in processing permit applications, assist with decision making and provide consistency to businesses within the Shire.

Cash in Lieu

Currently Council uses s173 Agreements in conjunction with permit conditions to charge waiver fees (cash in lieu) for required car parking. The charging of a waiver fee, has been voluntarily applied where applicants propose to use Council owned off-street car parking as a means of meeting their carparking requirements, and also where Council owned off-street car parking is unable to be used (lack of availability, proximity etc), and insufficient on-street car parking is available.

Based on review of past Moorabool Shire permits, cash in lieu payments have been applied only where a large number of car parking spaces are requested by applicants to be waived and approved by Council (greater than ten). Payments are generally received on the basis that existing Council off-street car parking is theoretically allocated to the applicant.

Council has previously been successfully challenged in its application of cash in lieu contributions in issuing planning permits. In *Court House Hotel v Moorabool SC* [2006] VCAT 2461 (4 December, 2006) Member Eccles struck down condition 4 of the permit which related to a s173 Agreement for \$4,000 per car space or \$72,000 in total. The relevant matters in the decision were the lack of a relevant car parking precinct plan, the availability of car parking in the locality, and the absence of an empirical assessment of car parking demand.

Cash in lieu has fallen out of favour as a process for requiring contributions for car parking waivers. Several cases contested at VCAT have demonstrated that without a strong basis in Council policy and studies demonstrating a need for contributions, cash in lieu applied as a permit condition can be successfully appealed by the applicant. As such the current method of charging waiver fees can only be undertaken on a voluntary basis.

Cash in lieu payments are not intended to function as a penalty for inability to provide car parking, instead there must be a clear nexus between the payment and some process of managing car parking demand generated by the applicant. Councils typically use contributions collected from cash in lieu for the acquisition of land, and construction of more car parking. It has yet to be determined how Moorabool Shire Council intended to use the contributions already collected. It is recommended a future Car Parking Study explore options for utilising these contributions to manage parking demand. This may include increasing parking provision but could also consist of improved management of existing car parking. It should be noted that any formal introduction of a waiver fee will require the identification of how contributions will be spent.

As noted above, there are two (2) potential methods of formalising mandatory car parking contributions, via a Car Parking Overlay or a Special Rate. Both of which require further investigation and strategic justification through a Car Parking Study. Neither option can be implemented without a Car Parking Study supporting it. Both options are outlined in further detail in this report.

Parking Overlays

There are more than 60 Parking Overlays in place across various planning schemes, from small regional towns to inner suburbs of Melbourne. The format of these overlays is generally consistent across planning schemes, however they can be customised to provide appropriate controls for specific situations. One of the primary uses of a Parking Overlay is to apply car parking waiver fees, however not all overlays require payment of waiver fees. A list of those that contain waiver fees are outlined in Table 1. The waiver fees differ based on factors such as land value, and the type of car parking to be provided e.g. at grade, vs multi deck car parking. The overlay can be used to both increase or decrease the provision of car parking, set minimum or maximum parking rates for specific uses, collect cash in lieu and a range of other outcomes. All Parking Overlays are designed to integrate with the Clause 52.06 provision and due to their implementation via a planning scheme amendment process, are generally more robust under appeal.

A survey of the Parking Overlays indicates a number of differing approaches currently being used across Victoria. These include:

- Drouin, Warragul & Nillumbik apply Column B (reduced) rates;
- Echuca requires a Parking survey to be conducted if a waiver is required;
- Apollo Bay provides first two waivers per site free of charge, but charges \$16,000 for each subsequent one;
- Ormond includes minimum and maximum provision rates;
- Armstrong Creek provides an extensive and detailed list of uses and rates in substitution of Table 1 of Clause 52.06;
- Traralgon reduces the Column B rates by 25%; and
- Leongatha uses an increasing charge scale based on the number of car parks waived.

Fees set out in Parking Overlays need to be reflective of the actual cost of providing car parking. This price in Bacchus Marsh was calculated in 2009 as \$10,500 per space for an at-grade asphalt surfaced lot, including land acquisition. There have been four permits to which cash in lieu of car parking has been applied since 2006. These have been applied via s173 agreements. The s173 agreements charge cash in lieu in a variety of ways, from accounting for each car space individually with charges of \$4000 or \$5000 to be paid in a lump sum, charging \$20,000 for two spaces and waiving 15 others with no charge, and charging \$5000 per space for seven spaces to be paid to Council at a rate of \$10,000 per annum.

These fees are significantly less than those charged by the majority of other Councils with waiver fees in Parking Overlays (Table 1).

Car Parking waiver fees as set out in Victorian Parking Overlays	
Location	Waiver fee (per car space being waived)
Frankston	\$19,500
Springvale	\$19,000
Berwick	\$16,000
Torquay	\$13,828
Apollo Bay (first 2 spaces free)	\$13,000
Werribee	\$12,500
Bendigo	\$10,561.67
Yarrawonga & Cobram	\$8,050
Traralgon	\$8,000
Southern Grampians	\$8,000
Benalla	\$6,000
Wodonga	\$5,000
Leongatha (increasing depending on number of waivers)	\$4800 - \$9600
Shepparton	\$4,500
Echuca	\$2,000

Table 1: Example of existing car parking waiver fees within Parking Overlays in Victorian Planning Schemes.

Note: The fees listed above, reflect the amount specified in the Overlay. It should be noted of these fees are subject to annual indexation, and that the above fees are not reflective of the true amount that would be charged in 2019 dollars.

Special Rate

The *Local Government Act 1989* provides Council with the ability to introduce a Special Rate or Charge Scheme seeking property owner contributions toward infrastructure projects such as roads, footpaths and drainage improvements. Special Rate projects are intended to fill the gap between existing infrastructure, often provided as part of the original land development, and current community expectations.

Similar to a Parking Overlay, any proposed application of a Special Rate must be determined based on the cost of providing car parking management.

Special Rates have been recommended by VCAT, Planning Panels and Parking Advisory Committees for obtaining mandatory car parking contributions, given overall precinct improvement is beneficial to existing businesses, and car parking is likely to be used by customers visiting multiple businesses.

Proposal

The current approach to car parking and traffic management is fragmented and requires a more integrated approach. Currently decisions regarding car parking applications are assessed by Statutory Planning, with internal referral input from Infrastructure. In addition, Community Laws and Assets also have responsibilities relating to the parking provision of permits and enforcements. Strategic Planning and Sustainable Development also have a strong interest in the provision of car parking. The current case-by-case approach is not based on a consistent organisation-wide approach and lacks direction and guidance. Where precinct parking pressures exist, a different approach is needed.

A two-stage process is proposed, consisting of the immediate development of a Car Parking Policy, and the undertaking of a Car Parking Study. The outcomes of the study would likely be implemented via a Parking Overlay, or Special Rate.

Stage One: Car Parking Policy

Several regional and urban Councils have a Car Parking Policy to provide guidance regarding local issues and prioritise identified considerations that may have received less attention in application of Clause 52.06 planning provisions and planning practice notes.

A Car Parking Policy would be developed primarily to guide the discretion of the planning permit process (including waivers). The policy would also reduce inefficiencies in processing permits while resulting in consistent policy application increasing the confidence of commercial and retail investors. The policy would be prepared by Strategic Planning in consultation with internal departments including statutory planning, infrastructure, community laws and assets. The Car Parking Policy, which would be completed in 2019, is considered to be the quickest way in which to provide Council with guidance and direction in decision making, in the absence of longer term work, including a Car Parking Study, and associated implementation of a Parking Overlay/Special Rate.

A Car Parking Policy would cover the following:

- Objectives for car parking management;
- Waiver application requirements and checklist;
- Monitoring regimes for car parking provision and usage;
- Interim guidance on the application of cash in lieu of car parking, while a more rigorous policy is developed through a Car Parking Study;
- Development of residential permit request assessment process; and
- Guidance regarding suitability of locations for time limited signage and permits in accordance with strategic goals.

The policy would operate in addition to existing provisions of the Planning Scheme, and relevant Planning Practice Notes already utilised in decision making. The policy would sit outside of the Planning Scheme.

While issues relating to car parking supply and demand are greater in Bacchus Marsh and Ballan, it is intended that the policy would be applied across the Shire.

Stage Two: Car Parking Study

The regulation of car parking, its demand and supply and its relationship to different user needs is a complex issue that has flow-on effects throughout the community. Whilst previous studies of Bacchus Marsh indicated there was no need for further provision of parking, the studies did not provide sufficient examination of the functioning of car parking within Bacchus Marsh.

The aim of car parking studies within Moorabool should be to support successful town and activity centres that meet the needs of their communities. Car parking studies should be scoped to study and address the competing needs of users of town and activity centres including residents, shoppers and retailers and include consideration of accessibility via a range of transportation modes.

Prior studies have focused on a technical assessment of the capacity of car parks. An understanding of where users were going, and for how long does not exist currently and would enable better decision making. Exploration of a number of potential scenarios through the study will enable community feedback and participation in developing the final Car Parking Study,

A Car Parking Study would be conducted, comprising areas to be identified in Bacchus Marsh, Darley, Maddingley and Ballan. The key goals of the study would be to:

- Identify current car parking requirements;
- Estimate future car parking requirements utilising different growth and transport scenarios;
- Survey habits and travel methods of shoppers and visitors;
- Provide recommendations for suitable Travel Demand Management strategies;
- Provide a timeline for car parking infrastructure provision for several scenarios consisting of varying levels of Travel Demand Management implementation; and
- Provide recommendations regarding the potential application of Parking Overlays and/or Special Charges and the management and expenditure of contributions raised via these methods.

The study would need to be undertaken by an external consultant and would be undertaken in the 2019/20 financial year (subject to funding).

Following completion of the study, a report would be presented to Council recommending options for the implementation of the study findings. Subject to the outcome of the Car Parking Study a planning scheme amendment to introduce a Parking Overlay, or consideration and implementation of a Special Charge may be recommended.

Following completion of these stages, review and amendment of the Car Parking Policy may be required in order to ensure consistency and incorporate recommendations from the Car Parking Study.

Policy Implications

The Council Plan 2017-2021 provides as follows:

Strategic Objective 3: Stimulating Economic Development

Context 3A: Land Use Planning

The proposal is not listed as an action in the Council Plan 2017 – 2021.

The proposal will however support the Council Plan action 'Developing a long term strategy for the Bacchus Marsh Civic Precinct'.

The Planning Scheme review currently being undertaken has also identified car parking as an emerging issue that should be investigated further.

Financial Implications

The proposed two stage approach to developing a car parking management framework has the following financial implications:

Stage One: Car Parking Policy

Minimal cost. Can be delivered internally and is budget neutral beyond staff time commitment.

Stage Two: Car Parking Study

Moderate cost. A one-off budget bid for the 2019/20 financial year has been put forward requesting \$75,000 to undertake a Car Parking Study. It should be noted that this bid is for a Car Parking Study only, and that any implementation of the study, whether via a planning scheme amendment to implement a Parking Overlay or the introduction of a Special Rate will require additional funding. The Car Parking Reserve Fund contains previously collected waiver fees and could be utilised for fully funding the costs of this study.

Risk & Occupational Health & Safety Issue

The development of a Car Parking Policy and Car Parking Study will reduce the risk of inconsistent decision making and enforcement from Council. It will also reduce the risk, and lack of certainty, associated with existing voluntary cash in lieu payments currently received for car parking waivers.

Community Engagement Strategy

Consultation with the community will be carried out during Stage Two of this proposal. It is intended that the Car Parking Study be based upon both behavioural and survey research, and therefore community participation and engagement will form an important part of the study process.

Further community engagement would also be undertaken as part of implementation of the study (if required), via a planning scheme amendment to implement a Parking Overlay or the introduction of a Special Rate or Charge Scheme.

Communications and Consultation Strategy

A communications and consultation strategy will be developed as part of the project brief for the Car Parking Study.

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 – Liam Prescott

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

Conclusion

The need for a planned approach to car parking management and provision within Moorabool has been identified. Past car parking studies have identified excess parking capacity in Bacchus Marsh, and no limitations on parking supply in other towns. Car parking capacity in Bacchus Marsh and Ballan is now limited at certain times, and in certain locations, and given the expected population growth of Bacchus Marsh and Ballan a strategic response is required. Current car parking provision and management is fragmented across different departments and a Car Parking Policy would enable a considered and consistent approach to assessing planning permit applications for car parking waivers.

In the absence of a Parking Overlay or Special Rate, Council has no means of requiring a contribution. Whilst contributions have been taking on a voluntary basis, this has been undertaken in an ad hoc manner, and has been subject to appeal. A Car Parking Study would provide the evidence and strategic justification for the mandatory application of car parking contributions.

Resolution:

Crs. Bingham/Edwards

That Council:

- 1. Develops a Car Parking Policy in 2019.***
- 2. Undertakes a Car Parking Study for Bacchus Marsh and Ballan, subject to funding in 2019/20.***
- 3. Notes that subject to the outcomes of the car parking study, further work will be required to implement the study.***

CARRIED.

Report Authorisation

Authorised by:

Name:


Satwinder Sandhu

Title:

General Manager, Growth & Development

Date:

Wednesday 9 January, 2019

11.3 SOCIAL AND ORGANISATIONAL DEVELOPMENT

11.3.1 Fees & Charges – Outdoor Pools Family Casual Entry

Introduction

Author: Ian Waugh
General Manager: Danny Colgan

The purpose of the report is to recommend that the Council adopt fees & charges relating to the Outdoor Pools.

Background

The outdoor pool season opened on 1 December 2018, in accordance with Council's operating policy for the pools. The entry options available to the community, as contained within Council's adopted Fees and Charges schedule are outlined in the table below:

Entry – Child	\$4.00
Entry - Adult	\$5.00
Entry - Concession	\$4.00
Entry - Spectator	\$1.30
Entry - Child Season Ticket	\$60.00
Entry - Adult Season Ticket	\$75.00
Entry - Family Season Ticket	\$120.00

A casual family entry can be 2 adults and 3 children or 1 adult and 4 children. The fee was inadvertently left off Council's Fees and Charges Schedule for the 2018-19 budget year. This charge is \$15 and is different from a Family Season Pass, which allows a family unlimited entry during the pool season.

Proposal

It is recommended that the casual family entry fee of \$15 be charged and added to the Council's Fees and Charges schedule. The fee will be reviewed again as part of the 2019-2020 budget process.

Policy Implications

The Council Plan 2017-2021 provides as follows:

Strategic Objective 4: Improving Social Outcomes

Context 4A: Health & Wellbeing

The proposal for the fees and charges is consistent with the Council Plan 2017 – 2021.

Financial Implications

It is anticipated that approximately 200 casual family entries will be processed (at both pools) during the 2018-2019 pool season, totalling \$3,000 in revenue. There are no additional financial implications for Council.

Risk & Occupational Health & Safety Issues

Risk Identifier	Detail of Risk	Risk Rating	Control/s
Reputational	Cost of casual entry for a large family could become prohibitive leaving Council open to criticism	Medium	Implement industry standard casual family entry charge

Communications and Consultation Strategy

The availability of the family entry charge will be promoted through Council's website, social media channels and information posted at the Bacchus Marsh and Ballan Outdoor Pools.

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 – Ian Waugh

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

Conclusion

In season 2017-18 there were approximately 200 family entries sold, which demonstrates that the casual family entry is a popular option for families utilising Moorabool's outdoor pools. The family entry charge has been factored into the preseason planning and commissioning of the pools before the omission from the endorsed fees and charges schedule was noticed.

Resolution:

Crs. Dudzik/Sullivan

That Council approves the inclusion of a family entry fee of \$15 for the Outdoor Pools to Council's Fees and Charges schedule. The fee will be reviewed again as part of the 2019-2020 budget process.

CARRIED.

Report Authorisation

Authorised by:



Name:

Danny Colgan

Title:

General Manager Social & Organisational Development

Date:

Thursday, 10 January 2019

11.3.2 Second Quarter (October – December) 2018/19 Council Plan Actions Progress Report

Introduction

Author: Michelle Morrow
General Manager: Danny Colgan

Background

The 2017-2021 Council Plan was adopted by Council in July 2017. As part of the development of the framework of the Council Plan, Council determines appropriate actions which will support the framework, delivering agreed outcomes for the communities of Moorabool.

The Council Plan outlines four Strategic Objectives or main themes that guide new initiatives and continuing services, these being:

1. Providing Good Governance and Leadership
2. Minimising Environmental Impact
3. Stimulating Economic Development
4. Improving Social Outcomes

Each Strategic Objective has a set of contexts, or desired outcomes, with sets out strategic actions to be undertaken over the planned four years to achieve the objectives.

All Council Actions, aligned with the Strategic Actions, are linked back to the Council Plan. The Council Plan is reviewed annually.

Discussion

The 2018/19 Council Plan Actions Second Quarter Progress Report contained in **Attachment 11.3.2** shows each of the actions and their progress comments for the 2018/19 Financial Year. Overall there are 70 actions being reported in Quarter 2, with 47 actions having reached 90 per cent or greater of their target for the period, and 11 actions having achieved between 60 and 90 per cent of their target. 12 actions remain at less than 60 per cent of their target.

The following table summarises the status of the 2018/19 Council Plan Actions for this quarter:

Strategic Objective	Not Started	In Progress	Deferred	Completed	Total
1. Providing Good Governance and Leadership		28		3	31
2. Minimising Environmental Impact		11		2	13
3. Stimulating Economic Development		8	3	2	12
4. Improving Social Outcomes		10		1	11
2017/18 actions carried over from the previous Council Plan		2			2
Totals		59	3	8	70

Proposal

This report is to inform Council and the communities of Moorabool on the progress of Council Plan actions for the 2018/19 financial year.

Of the 69 actions being reported for this quarter progress, seven have been completed. The table below lists the actions completed for the second quarter 2018/2019 reporting period.

Action Completed	Progress Comment
1.1.91 - Develop Infrastructure Policy for traffic calming (2017 – 2021) - Year 2 Progress	The Traffic Calming Policy was adopted at the Ordinary Meeting of Council in July 2018.
1.3.2.2 - Streamline integrated corporate reporting systems and methods	A review of the corporate reporting systems and methods has been undertaken. Actions have been identified including the better use of electronic systems to report on performance against agreed actions.
1.3.4.2 - Annually review the need to make a rate cap variation (2017 – 2021) - Year 2 Progress	Council resolved to not apply for a rate cap variation at an Ordinary Meeting of Council on Wednesday the 5th of December 2018.
2.1.4.2 - Review Bushfire Management Overlays (BMO) (2017-2021) - Year 2 Progress	The Department of Environment, Land, Water and Planning (DELWP) has undertaken mapping and finalised a planning scheme amendment to include the Bushfire Management Overlay. Council officers notified residents of the State Government driven amendment in October 2017.
2.2.2.1 - Complete a trial and undertake a review of the green waste service	A report was provided to Council at the August 2018 meeting, where Council resolved to permanently implement the non-compulsory kerbside green waste collection service within residential and low density residential zoned (urban) areas of the municipality. This action is now complete.
3.1.1.2 - Incorporate strategic documents into the Planning Scheme - Housing Strategy (2017-2021) - Year 2 Progress	Amendment C79 is currently with the Department of Planning for approval.
4.1.6.2 - Revise and adopt the Youth Strategy	The Youth Services team has completed the community engagement plan and consultation with the community was completed between December 2017- February 2018. The draft Strategy was presented to the Ordinary Meeting of Council in August 2018 for public consultation on the draft youth strategy document and action plan. Public consultation closed on the 31 August 2018, with the final strategy presented and endorsed by Council at its Ordinary Meeting in October 2018.

Policy Implications

The 2017–2021 Council Plan provides as follows:

Strategic Objective

Providing Good Governance and Leadership

Context

Our Business and Systems

Financial Implications

There are no financial implications from this report.

Risk & Occupational Health & Safety Issues

There are no Risk or Occupational Health and Safety issues in relation to this report.

Communications and Consultation Strategy

Specific projects may have their own communications strategy, nevertheless this report will be displayed on Council's website and the annual progress will be reported in Council's Annual 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.

General Manager – Danny Colgan

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

Author – Michelle morrow

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

Conclusion

Progress is being made on all actions of the Council Plan. Overall, there are 70 actions being reported in the second quarter, with 47 actions having reached 90 per cent or greater of their target for the period, and 11 actions having achieved between 60 and 90 per cent of target. The 12 remaining actions are sitting below 60 per cent of target, as most of work to be undertaken on these actions will be performed in subsequent quarters.

Resolution:

Crs. Sullivan/Bingham

That Council receives the Second Quarter (October – December) 2018/19 Council Plan Actions Progress Report.

CARRIED.

Report Authorisation

Authorised by:

Name:

Title:

Date:



Danny Colgan

General Manager Social and Organisational Development

Tuesday, 15 January 2019

11.4 INFRASTRUCTURE

11.4.1 Consideration of road closure of Simmons Drive, Bacchus Marsh

Introduction

Author: John Miller
 General Manager: Phil Jeffrey

Background

At the Ordinary Meeting of Council on Wednesday 7 November 2018, Council considered the road closure of Simmons Drive, Bacchus Marsh and following was resolved –

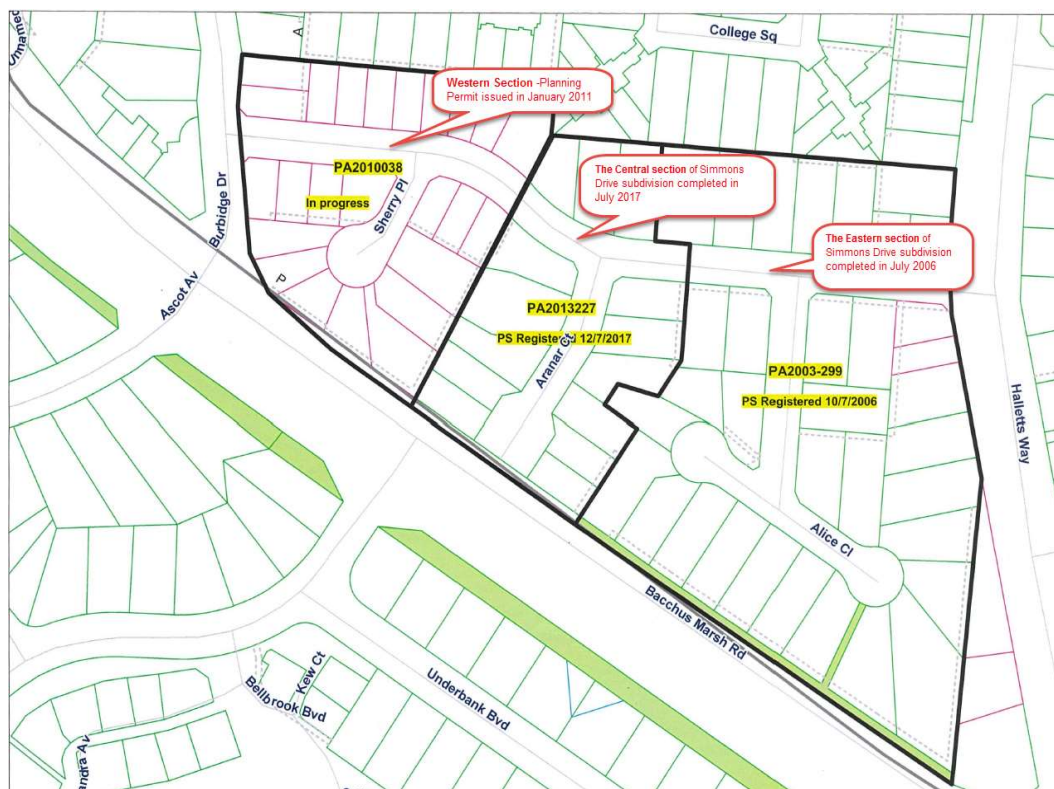
That the petition containing 20 signatures in relation to Simmons Drive, Bacchus Marsh be received by Council and that a report be prepared by officers for Council's consideration.

Site Analysis

The current sealed section of Simmons Drive (highlighted red below) will be connecting with newly constructed part of Simmons Drive (highlighted orange below) at the western end and is categorised as an Access Level 2 road under Council's Road Management Plan (RMP). The completed section of Simmons Drive has a carriageway (surface) width of approximately 7.3 metres from kerb-to-kerb which accommodates two-way traffic and has a total length of approximately 208 meters. The street has a 1.2 metre wide concrete footpath along the southern side of the road. It is a low traffic volume road that provides access and secondary access to local residents and properties and is in a 'General Residential Zone' (GRZ) area. The area image and requested location for the closure has been shown in the below image.



The construction of the Eastern and Central sections of Simmons Drive, Bacchus Marsh, was completed and registered with “*Property and Land Titles*” office Victoria on 10 July 2006 and 12 July 2017 accordingly. Before the construction of the Central section a planning permit was approved for the Western Section on 21 January 2011. This section adjoins the existing section of Simmons Drive as part of planning permit, and provides through access to Halletts Way and Burbridge Drive, Bacchus Marsh. Below image showing the three sections of the overall development and the current status of each.



The Western Section of Simmons Drive has been constructed in accordance with the approved planning permit PA2010038 which was issued on 21 January 2011, which involved a 23 lot subdivision and associated works including:

- Approximately 129 metres of sealed road pavement
- Kerb and channel
- 1.2m wide concrete footpath on at least one side
- Nature strip on both sides
- Street lights at all internal streets, intersections of internal roads and court heads
- The upcoming section of Simmons Drive must be redesigned to discourage its use as a through road. To this effect, traffic calming devices should be included, to the satisfaction of the responsible authority to ensure that the speed of through traffic is restricted.

Council’s Officers have approved the construction of two speed humps in relation to planning permit (i.e.PA2010038-E3) condition that requires the provision of traffic calming devices on upcoming section of Simmons Drive to discourage its use as through road. One speed hump was placed approximately 25m back of Burbridge Drive intersection and other one placed near the adjoining section of existing Simmons Drive. Please see images below



Near Burbridge Drive Intersection



Near the adjoining section of existing Simmons Drive

Traffic Issues

Simmons Drive is in an urban residential area and the default speed limit is 50kph. Unrestricted parallel car parking is permitted along both sides of the Road and all residents have their own off-street parking facilities. This arrangement allows concurrent opposing vehicles to pass alongside a single parked vehicle on one side of the carriageway. Where two vehicles may park opposite one another, one vehicle is required to yield to allow the opposing vehicle pass. This is a common form of traffic calming, particularly in residential areas, to keep vehicle speeds low.

The combination of unrestricted parking on both sides of the street, construction of two speed humps and a 6.5m wide road will result in slowing movement of traffic in Simmons Drive.

A traffic count has been undertaken along Simmons Drive and is summarised below.

	Location
Description	East of Halletts Way
Count Date	19/11/2018
AADT	309
Commercial vehicles	8
85 th %ile speed	39

Proposal

There are numerous instances in the Bacchus Marsh township and metropolitan Melbourne where local residential streets have been developed as part of planning permit process as through local roads such as Clifton Drive, Lone Pine Square and Atley Street etc.

Residents providing support for the closure are primarily those located near the vicinity of the eastern end (Halletts Way end) of Simmons Drive and support for the closure to through traffic was generally on the basis of increased traffic volume in near future and safety of children.

However, it should be noted that the plans endorsed with Planning Permits PA2010038 and PA2013227, both clearly showed that Simmons Drive would be connected with a consistent road profile from Halletts Way to Burbidge Drive. The road profile of Simmons Drive is in accordance with the requirements of the Infrastructure Design Manual (IDM) and the Victorian Planning Provisions for a local street.

The subdivisional works have been recently completed and the Western end of Simmons Drive now has two newly constructed traffic calming devices (i.e., speed humps) to regulate the speed of traffic in the street and discourage shortcutting through Simmons Drive.

Policy Implications

The Council Plan 2017 – 2021 provides as follows:

Strategic Objective 1: Providing Good Governance and Leadership

Context 1A: Out Assets and Infrastructure

The proposal is consistent with the Council Plan 2017 – 2021.

Financial Implications

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

Risk & Occupational Health & Safety Issues

There are no risk or occupational health and safety issues associated with the recommendation within this report.

Communications and Consultation Strategy

Owners with a property boundary adjoining Simmons Drive will be further advised of the outcome of this report and a further response also provided to the original submitters.

Victorian Charter of Human Rights and Responsibilities Act 2006

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

Officer's Declaration of Conflict of Interests

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

General Manager – Phil Jeffrey

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

Author – John Miller

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

Conclusion

Officers recommend that the extension of Simmonds Drive remain open and connect Simmons Drive between Halletts Way and Burbridge Drive inline with the Planning Permit Conditions. This will provide a wider community benefit and the installation of traffic calming devices will help to deter speeding vehicles and reduce short cutting along Simmonds Drive. Officers will conduct a traffic count once the road is open and monitor the situation.

Resolution:

Crs. Sullivan/Bingham

That Council:

- 1. Notes that the construction of Simmons Drive is part of an overall staged subdivision.***
- 2. Resolves to keep the road open and connect Simmons Drive between Halletts Way and Burbridge Drive in line with Planning Permit Conditions.***
- 3. Writes to property owners along Simmons Drive advising of Council's decision.***

CARRIED.

Report Authorisation

Authorised by:

Name: Phil Jeffrey
Title: General Manager Infrastructure
Date: Monday, 10 December 2018

11.4.2 Review of Property Rate Debt Management Policy

Introduction

Author: Jacinta Erdody
General Manager: Phil Jeffrey

Background

Council previously considered this item at the Ordinary Meeting of Council on Wednesday 7 December 2018, where it was resolved to lay the Property Rate Debt Management Policy on the table for further consideration at the next meeting of Council.

The policy protocol relating to the consideration of items which affect beyond the current year is applied for consideration of matters whose impact or influence will extend to directly affect the activities and/or financial planning of Council for a period beyond the term of the Current Council Budget, and whether relating to Council policy pronouncements or specific projects. In accordance with the resolution of Council on Wednesday 7 December 2018, the Property Rate Debt Management Policy is now presented to Council for adoption.

Proposal

Below is a summary of the proposed changes to the policy through this review:

- Reminders for Instalment and Full Payment accounts to be posted on Council's Social Media avenues at the same time reminders are placed in Moorabool News; - the rationale for this change reflects the expanded communication platforms that Moorabool Shire has at its disposal since the policy was last adopted.
- Within the escalation of accounts to the appointed Collection Agency, prior to a Complaint being issued, the appointed debt collection agency will endeavour to conduct a Field call to the rated address or mailing address as final attempt to engage a ratepayer in conversation about the outstanding rate debt; - the rationale for the inclusion of this amendment is to reflect best practice. It is also noted that this step is currently part of Moorabool Shires current debt collection practice.
- The threshold for the issue of complaints has been raised from \$1,000 to \$1,500 due to increasing costs with the Magistrates Court for the issue of a Complaint; - the rationale for this change is to ensure that the costs of legal action are proportional and reasonable relative to the overall rate debt and seeks to maintain a fair and balanced approach to the instigation of legal action.
- Where an application for the wavier of interest and/or costs is approved, if future accounts are not paid in accordance with the required payment dates Council will have the right to re-instate any previously waived interest and/or costs; - the rationale for this change reflects continued learnings from the property and rate debt management process. The aim is to ultimately ensure that waiver of interest and /or cost is tied to future good conduct and aims to incentivise ratepayers maintaining their rates account going forward.
- Provisions for unclaimed excess sales monies from properties sold under provisions of the Local Government Act 1989 Section 181; - the rationale for this is to ensure that any excess funds from property sales be used to offset sales that have not covered the full cost of outstanding debt or be used to defray the write off of debt deemed as unrecoverable.

- Changes to the level of delegations for Waiver of Interest and/or costs to ensure smoother operation of policy without escalation for lower value waivers; - the rationale for this change seeks to ensure appropriate management intervention based on the materiality of the request and also reflects that the delegations have not changed for a number of years. The proposed changes to the delegations for interest and/or costs is proposed as follows;

Waiver of interest and/or costs*	Up to \$500 \$1,000	Revenue Services & Procurement Coordinator
Waiver of interest and/or costs*	> \$500 \$1,000 and < \$1000 \$5,000	Chief Financial Officer
Waiver of interest and/or costs*	> \$1,000 \$5,000	General Manager Infrastructure

- The provisions for low value waiver of rates where there are Council administrative errors- the rationale for this is to ensure where there are instances requiring the write off of low value / immaterial rates and charges (for e.g. due to administrative errors) that the Chief Financial Officer be duly authorised to approve these negating the need for council approval as is currently required. The proposed changes to the delegations for interest and/or costs is proposed as follows;

Waiver of Rates and Charges as a result of administrative errors	Up to \$1,000	Chief Financial Officer

Policy Implications

The Council Plan 2017-2021 provides as follows:

Strategic Objective 1: Providing Good Governance and Leadership

Context 1C: Our Business and Systems

The proposal for the review and updated of the Property Rate Debt Management Policy is consistent with the Council Plan 2017 – 2021.

Financial Implications

There are no known financial implications as a result of the proposed changes within the Property Rate Debt Management Policy.

Community Engagement Strategy

Level of Engagement	Stakeholder	Activities	Outcome
Advise	Ratepayers	Communication of policy with ratepayers through day to day conversations	Informed Ratepayers

Communications and Consultation Strategy

Following review and adoption of the updated Policy, the updated Policy will be uploaded to Council's web site.

Victorian Charter of Human Rights and Responsibilities Act 2006

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

Officer's Declaration of Conflict of Interests

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

General Manager – Phil Jeffrey

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

Author – Jacinta Erdody

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

Conclusion

Overall the Property Rate Debt Management policy provides a consistent framework for the collection and escalation of Council's property rate accounts. The proposed amendments seek to ensure that the policy continues to meet operational requirements based on existing systems.

However, as Moorabool Shire commences a digital transformation and a change in its core systems, the Property Rate Debt Management Policy will evolve, which will recognise new technologies and change how ratepayers will interact with Council into the future.

Having resolved on the 7 December 2018 that the policy lay on the table for further consideration and adoption at the next Ordinary Meeting of Council, the Property Rate Debt Management Policy is now placed before the Council for adoption.

Resolution:

Crs. Bingham/Sullivan

That Council, in accordance with Moorabool Shire Council Policy Protocol, Consideration of Items which affect beyond the Current Year, now adopts Property Rate Debt Management Policy.

CARRIED

Report Authorisation

Authorised by:

Name: Phil Jeffrey
Title: General Manager Infrastructure
Date: Monday, 26 November 2018

11.4.3 Capital Improvement Program Quarterly Report – December 2018

Introduction

Author: Ewen Nevett
General Manager: Phil Jeffrey

Background

The delivery of the Capital Improvement Program (CIP) is an important function of Council's operations and represents a significant portion of Council's overall expenditure. Accordingly, the status of the overall program is reported to Council every quarter.

Proposal

This quarterly report provides Council with an overview of the progress of Council's 2018/2019 Capital Improvement Program to 31 December 2018.

Implementation of the 2018/2019 Capital Improvement Program

The 2018/2019 Capital Improvement Program currently consists of 46 projects, of which only 1 is inactive and cannot commence. Therefore, the table below reports on the 45 active projects in terms of percentage. This number will be adjusted throughout the year as other projects become active.

This list incorporates projects from various sources including but not limited to the following:

- Projects carried forward from 2017/2018 program
- 2018/2019 Council budgeted projects
- Grant funded projects

Also for simplicity sake the reseal, final seal, gravel road resheet and shoulder resheet programs have been listed as 4 projects in total rather than listing each individual road under each respective program.

The Engineering Services Unit nominates 6 key stages of the project delivery process and will report with reference to these stages in regard to the overall program status. The table below summarises the overall program status as at 31 December 2018:

CIP Program Delivery Stage	Actual as of 31 December 2018	
	No. of Projects	%
Not Commenced (inactive/on hold)	1	-
Not Commenced	0	0.0
Documentation/Design Preparation	8	17.8
Tender/Quote Stage	2	4.4
Project Awarded – Waiting Commencement	15	33.3
In Progress/Under Construction	11	24.4
Complete	9	20.0
TOTAL	45	100.00

The attached report details the proposed timeframe and progress of each individual project. In addition the report also provides specific comments in relation to each project and its status.

Program Status

At this stage of the financial year the program is generally tracking well. Over 78% of the program is either already complete, currently under construction or the project is awarded and ready to be constructed.

Active project – Funding Success

Public Transport Victoria (PTV) – Bus Shelter Program

Following the successful upgrade of 12 bus stop throughout Bacchus Marsh through the 2017/18 Capital Improvement Program, Council has recently been successful securing further funding to continue the upgrade of a further 6 bus shelters throughout Bacchus Marsh at high priority sites.

New Project

Bacchus Marsh Balliang Road, Maddingley – Pavement Rehabilitation & Widening

Council has recently secured funding through VicRoad's Fixing Country Roads Program. The funding will enable the rehabilitation and widening of Bacchus Marsh Balliang Road from Rowsley Station Road through to the proposed new Roundabout at the McCormacks Rd intersection.

These construction works will supplement the current Bacchus Marsh Racecourse Recreation Reserve (BMRRR) project as these works will incorporate a shared path along the BMRRR boundary, the upgrade of the existing BMRRR entrance and construction of a new entrance to service future BMRRR works.

Policy Implications

The Council Plan 2017 – 2021 provides as follows:

Strategic Objective 1 Providing Good Governance and Leadership

Context 1A Our Assets and Infrastructure

The proposal is consistent with the Council Plan 2017 – 2021.

Financial Implications

Reporting of the Capital Improvement Program has been resourced as part of Council's budget; accordingly there are no additional financial implications. At this point in time, the program is within budget parameters.

Risk & Occupational Health & Safety Issues

There are no irregular Risk and Occupational Health and Safety issues identified in this report. Specific risk elements are analysed and dealt with as part of the delivery of each individual project.

Communications Strategy

Progress on the Capital Improvement Program will be reported in the following formats:

- Infrastructure update on active projects Weekly
- Update on major projects Monthly
- Moorabool Matters Quarterly
- Moorabool News As required
- Report to Council Quarterly

Specific projects are communicated to the community and affected residents as required through a range of methods including but not limited to advertisements, mail outs and letter drops.

Victorian Charter of Human Rights and Responsibilities Act 2006

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

Officer's Declaration of Conflict of Interests

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

General Manager – Phil Jeffrey

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

Author – Ewen Nevett

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

Conclusion

This report provides a summary of the progress of the Capital Improvement Program for the second quarter of the 2018/2019 period for the information of Councillors.

Resolution:

Crs. Bingham/Sullivan

That Council receives the Capital Improvement Program quarterly report to 31 December 2018.

CARRIED.

Report Authorisation

Authorised by:

Name: Phil Jeffrey
Title: General Manager Infrastructure
Date: Thursday, 20 December 2018

11.4.4 Review of Procurement Policy

Introduction

Author: Jacinta Erdody
General Manager: Phil Jeffrey

Background

In accordance with section 186A(7) of the Local Government Act (LGA):

“at least once in a financial year, a Council must review the current procurement policy and may, in accordance with this section, amend the procurement policy.”

The existing Council Procurement Policy was first adopted 18 November 2009 and in accordance with legislative requirements has continued to be reviewed on an annual basis. The last formal review and adoption of the policy was in October 2017.

On 12 December 2017, an exposure draft of the Local Government Bill was released, giving community members, councils, and peak bodies the opportunity to provide feedback before the Bill was introduced into Parliament. The exposure draft proposes a number of changes to the current Local Government Act as it pertains to procurement with a focus on a more principles based procurement approach. The proposed reforms aim to encourage innovation, collaboration and achieve back of house efficiencies.

The current exposure draft proposes a number of changes to the current Local Government Act including;

1. Removal of the requirement to adopt a procurement policy annually. Under the new provisions Council will be required to review the Procurement policy at least once during the 4 year term of the Council.
2. Removal of tendering thresholds of \$150k (for goods and services) and \$200k (for works) that are contained within the Local Government Act. This will be decided by individual Councils within their respective Procurement policy.
3. A requirement that all procurement agreements give due consideration to any opportunities for collaboration with other Councils or public bodies.

Once the proposed changes to the Local Government Act come into force (date yet to be determined) it is likely there will significant changes to the Moorabool Shire procurement policy and associated procedures.

Proposal

With impending reforms to the Local Government Act likely to occur in the next 12 months, there are only minor changes being proposed to the existing policy. Once the new legislation is passed, a major review of the Policy will be conducted to ensure that the Policy continues to align with the new Local Government Act.

The only changes to the existing policy, are as follows:

- Expansion of the policy scope to make provisions binding to all Councillors, Council Staff, Temporary employees, Contractors and Consultants whilst engaged by Council. The rationale for this is to ensure that authorised Council representatives take responsibility for the spend incurred at a Council level and ensure accountability to our community;
- Within clause 4.5.3 Exceptions to Requirement to Obtain Quotations have defined an expanded process is to be followed if the provisions of this clause are being utilised. For these instances, a prescribed form has been developed for Officers to complete. The rationale for this is to ensure a more clear and compliant process for authorised Officers;
- The Inclusion of Clause 4.6 Compliance and Continuous Improvement – this clause has been inserted to provide assurance that regular audits are being undertaken by Council to ensure compliance with existing Procurement Policy and Legislative requirements and aims to strengthen the policy through the reinforcement of good governance. The insertion of this clause formalises existing operational processes.

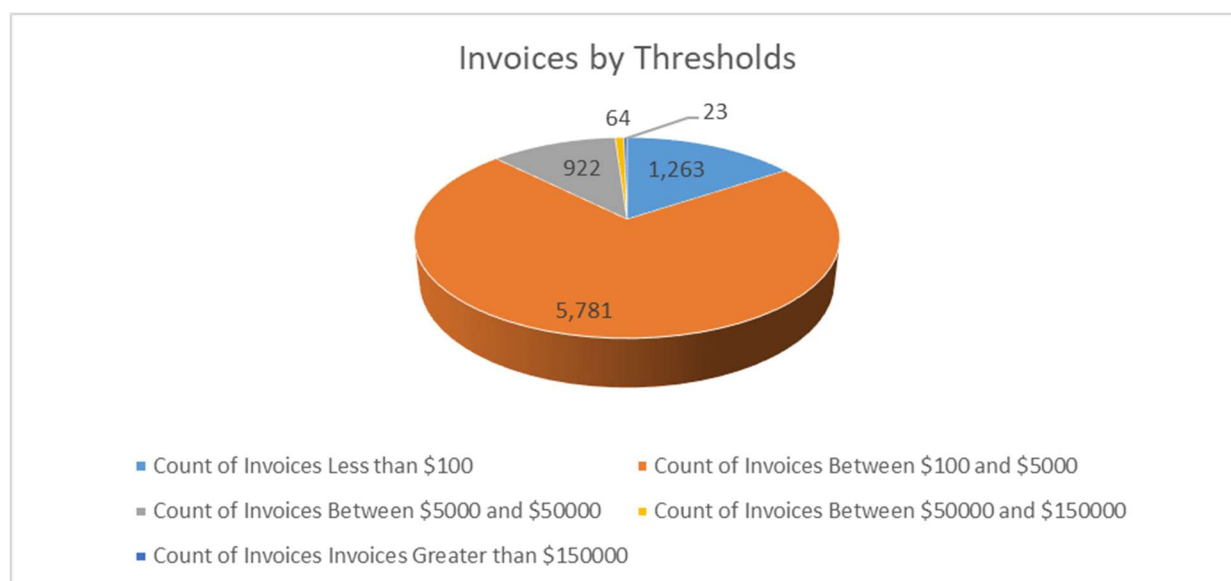
The policy and all associated provisions will continue to be reviewed into the future in accordance with legislative requirements and to ensure that Moorabool Shire Council is providing a value for money procurement function for the benefit of the community.

Procurement Thresholds

In the 2016/17 financial year, Council made significant changes to the procurement thresholds resulting in the current established threshold categories. The revised thresholds aim to balance efficiency, compliance and value for money.

A review of accounts payable transactions for the 2017/2018 financial year based on the current procurement thresholds indicates that the majority of our transactions (88%) are within the spend range that either does not require any quotes or only requires one verbal quote – however these transactions only form 20.7% of the total spend for the same period. 56.4% of spend is within procurement thresholds which requires three quotes, whilst the remaining spend (22.9%) is within public tender thresholds. Based on this analysis we are confident that procurement thresholds continue to allow for efficient operation whilst ensuring value for money outcomes. As a result, there are no changes recommended to the current established procurement thresholds.

Procurement Threshold Reuirements		Transaction Volumes		Total spend by Threshold	
Threshold	Requirement	No. Transactions	% of overall	Value of Transactions	% of overall spend
> \$0 <\$100	No quotation required	1,263	16%	67,156	0.2%
>= \$100 <\$5,000	1 verbal quotation	5,781	72%	6,806,817	20.5%
>=\$5000 < \$50000	3 written quotations	922	11%	13,709,359	41.4%
>=\$50000 <\$150000	Project Brief and 3 written quotations	64	1%	4,962,390	15.0%
>\$150000	Public tender	23	0%	7,587,906	22.9%
		8,053	100%	33,133,628	100.0%



Policy Implications

The Council Plan 2017-2021 provides as follows:

Strategic Objective 1: Providing Good Governance and Leadership

Context 1C: Our Business Systems

The proposed changes to the Procurement Policy are consistent with the Council Plan 2017 – 2021.

Financial Implications

The adoption of the revised Procurement Policy has no additional known financial implications to Council.

Risk & Occupational Health & Safety Issues

As the annual review of this policy is legislated, there is a risk of non-compliance with the Local Government Act if this policy is not reviewed annually.

Communications and Consultation Strategy

Once Council has adopted the revised Procurement Policy, the updated document will be communicated to all staff, committees required to adhere to provisions of the policy and placed on Council's website.

Victorian Charter of Human Rights and Responsibilities Act 2006

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

Officer's Declaration of Conflict of Interests

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

General Manager – Phil Jeffrey

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

Author – Jacinta Erdody

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

Conclusion

After considering the revised Procurement Policy, Council resolve to adopt the document.

Recommendation:

That Council lay the revised Procurement Policy (IS014/Version 009) on the table for further consideration and then be formally adopted at the March 2019 OMC.

Resolution:

Crs. Edwards/Bingham

That Council lay the revised Procurement Policy (IS014/Version 009) on the table for further consideration and an Assembly of Council be held on the results of the community consultation before being presented to a future Meeting for formal adoption.

CARRIED.

Report Authorisation

Authorised by:

Name: Phil Jeffrey
Title: General Manager Infrastructure
Date: Thursday, 10 January 2019

11.4.5 Quarterly Financial Report December 2018

Introduction

File No.: 07/01/004
Author: Steve Ivelja
General Manager: Phil Jeffrey

This Quarterly Report covers the period of 1 July 2018 to 31 December 2018. The report outlines the year to date financial position of Council and forecast projections for the full year results.

The forecast result at the end of the financial year is an increase in the surplus by \$2.828m. Please refer to the attached report for a detailed review of the financials.

Background

Under section 138 – Quarterly Statements, of the Local Government Act (1989), Council is to receive a quarterly report on progress against the adopted budget.

Proposal

That Council receives the Quarterly Report – December 2018.

Policy Implications

The adoption of the Quarterly Report – December 2018 meets Council's statutory obligations under section 138 – Quarterly Statements of the Local Government Act (1989).

The 2017-2021 Council Plan provides as follows:

Strategic Objective	Providing Good Governance and Leadership
Context	Our Business and Systems
Action	Financial Sustainability

The proposal to adopt the Quarterly Report – December 2018 is consistent with the Council Plan 2017-2021.

Amended Budget

Generally, at the end of the financial year it is not uncommon for projects (both Capital projects and Operating projects) to be incomplete. This can happen for a number of reasons, such as delays in construction due to weather or other events, deferral of projects due to operational matters, late receipt of government funding for one off projects, lack of internal resources to complete one off new initiatives due to staff turnover etc.

Throughout this report Council will be reporting on the Amended Budget rather than the Adopted Budget. The Amended Budget contains carry forwards from the 2017/18 financial year. These include grant funded one off projects, Council approved New Initiatives from prior years that are not yet complete, and incomplete/deferred capital projects. The following schedule provides an overview at a high level of the items that have been added to the Adopted Budget to arrive at the Amended Budget.

Impact on Cash on hand

Based on the aggregate of both the Operating Budget and Capital Budget carry forward, plus other adjustments, a sum of \$3.147m in cash will be required to fully fund the requirements of the Amended Budget. These are made up of the following:

Net Operating Budget Carry Forwards	\$1.314m
Net Actual CIP Carry Forwards	\$4.365m
Less Net Estimated CIP Carry Forwards	<u>(\$2.532m)</u>
Total cash required	\$3.147m

As at the 30 June 2018, Council held \$16.578m in cash and cash equivalents. Cash holdings were high in part due to the impact of these uncompleted projects.

Operating Budget

The net effect on the Operating Budget is an unfavourable variance of \$1.572m.

Net Operating Surplus in the Adopted 2018/19 Budget	\$11.902m
Net New Initiatives / Grant Funded Projects	(\$1.314m)
Less Estimated Capital Grants (Budget Doc)	(\$0.895m)
Add Actual Carry Forward Capital Grants	<u>\$0.637m</u>
Amended Operating Budget Surplus	\$10.330m

Capital Budget

The effect on the capital budget is an increase in expenditure of \$1.575m.

2018/19 Adopted Budget for Capital Expenditure	\$19.051m
Less Estimated Carry Forward Capital Projects	(\$3.427m)
Add Actual Carry Forward Capital Projects	<u>\$5.002m</u>
Amended Capital Budget	\$20.626m

The attached Quarterly Financial Report, Attachment 1, provides an explanation of the Income Statement, Balance Sheet, Cash Flow Statement and Capital Works Statement with the year-to-date actuals compared to the year-to-date amended budget, and the amended annual budgets compared to the annual forecasts.

Income Statement

The main changes within the Income Statement are as follows:

- Increase in “Grants - Operating” (\$0.613m) which relates to new or additional funding received since the adoption of the budget. The largest being Parwan Precinct Structure Plan (\$0.233m).
- Favourable in “Grants – Capital” (\$2.824m) due to new funding received since the adoption of the budget. The more significant projects include; Woolpack Road, Maddingley (\$0.718m) and Bacchus Marsh - Balliang Road (\$0.630m).
- Favourable in “Other Income” (\$2.988m) primarily due to the Blackwood Localised Septic Program (\$1.100m) and reimbursements for Flood/Storm Events in September 2016 (\$0.800m) and December 2018 (\$1.000m – early estimate).
- Increase in “Materials and Services” (\$3.982m). The bulk of the expected overspend relates to costs associated with the Blackwood Localised Septic Program and restoration works for Flood/Storm Events.

The net effect of these changes and other minor variances causes the total surplus for the year to increase by \$2.828m to \$13.158m.

Cash

The forecast cash balance at 30 June 2019 has decreased by \$0.025m to \$18.083m in comparison to the amended budget.

Capital Improvement Program (CIP)

The total cash expenditure forecast for the CIP at this stage has increased by \$2.854m to \$23.480m. This is due to new funding received since the adoption of the budget.

Risk & Occupational Health & Safety Issues

There are no identified risks associated with this process.

Communications Strategy

This report will be presented to Council at the Ordinary Meeting of Council on 6 February 2019, and to the Audit and Risk Committee meeting on 13 February 2019.

Victorian Charter of Human Rights and Responsibilities Act 2006

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

Officer's Declaration of Conflict of Interests

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

General Manager – Phil Jeffrey

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

Author – Steve Ivelja

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

Conclusion

The Quarterly Report – December 2018 has been prepared in accordance with Section 138 – Quarterly Statements of the Local Government Act (1989) for review and receiving by Council.

Resolution:

Crs. Dudzik/Sullivan

That Council receives the Quarterly Report – December 2018.

CARRIED.

Report Authorisation

Authorised by:

Name: Phil Jeffrey
Title: General Manager Infrastructure
Date: Friday, 11 January 2019.

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 05 December 2018 – Integrated Water Forum Presentation
- Assembly of Councillors – Wednesday 05 December 2018 – Local Area Traffic Management Study Stage 2

Resolution:

Crs. Toohey/Edwards

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

- ***Assembly of Councillors – Wednesday 05 December 2018 – Integrated Water Forum Presentation***
- ***Assembly of Councillors – Wednesday 05 December 2018 – Local Area Traffic Management Study Stage 2***

CARRIED.

12.2 Section 86 – Delegated Committees of Council – Reports

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

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

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

Committee	Meeting Date	Council Representative
S86 Development Assessment Committee https://www.moorabool.vic.gov.au/my-council/council-meetings/council-committees-2018	Wednesday 21 November 2018	Cr. Paul Tatchell Cr. John Keogh Cr. Jarrod Bingham Cr. Tonia Dudzik Cr. David Edwards

Resolution:

Crs. Dudzik/Sullivan

That Council receives the report of the following Section 86 - Delegated Committee of Council:

- ***S86 Development Assessment Committee, Wednesday 21 November 2018***

CARRIED.

13. NOTICES OF MOTION

13.1 N.O.M: to be considered under items 17.2 and 17.3 in closed session.

14. MAYOR'S REPORT

Since the last Ordinary Meeting of Council, the Mayor has attended the following meetings and activities:

Cr Paul Tatchell – Mayor's Report	
Date: 1 February, 2019	
8 December	<ul style="list-style-type: none"> • Bacchus Marsh RSL Annual Christmas Function
17 December	<ul style="list-style-type: none"> • Special Meeting of Council
19 December	<ul style="list-style-type: none"> • S86 Development Assessment Committee
26 January	<ul style="list-style-type: none"> • Australia Day Awards & Australian Citizenship Ceremony
3 February	<ul style="list-style-type: none"> • 15th Anniversary Service The Australian Ex-Prisoners of War Memorial, Ballarat
5 February	<ul style="list-style-type: none"> • Community Grants Round 2 Presentation Night, Ballan
6 February	<ul style="list-style-type: none"> • Assembly of Councillors – C88 Ballan Strategic Directions • Assembly of Councillors – Draft Library Strategy & Ballan Library Feasibility Study • Assembly of Councillors – Ballan Depot • Assembly of Councillors – VicRoads Update and Eastern Link Road Project • Ordinary Meeting of Council

Resolution:

Crs. Edwards/Bingham

That the Mayor's report be received.

CARRIED.

15. COUNCILLORS' REPORTS

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

Cr. Sullivan	
<i>January 2019</i>	
<i>26 January</i>	<i>Australia Day Celebrations – Yendon & Bungaree</i>

Cr. Edwards	
<i>January 2019</i>	
<i>26 January</i>	<i>Australia Day Awards & Australian Citizenship Ceremony – Bacchus Marsh Special mention to CEO and staff for a fantastic event</i>

Cr. Bingham	
<i>January 2019</i>	
<i>26 January</i>	<i>Australia Day Awards & Australian Citizenship Ceremony – Bacchus Marsh Special mention to CEO and staff for a fantastic event</i>
<i>30 January</i>	<i>Councillor Meeting with CEO</i>

Cr. Toohey	
<i>January 2019</i>	
<i>26 January</i>	<i>Special thanks to Cherie Graham and staff on their Emergency Management work in response to recent fires in Moorabool.</i>

Cr. Keogh	
<i>January 2019</i>	
<i>26 January</i>	<i>Australia Day Awards & Australian Citizenship Ceremony – Bacchus Marsh. Congratulations to staff. Cr. Tatchell also would like to acknowledge the work of the Lions Club, on the Australia Breakfast.</i>

Resolution:

Crs. Sullivan/Bingham

That the Councillors' reports be received.

CARRIED.

16. URGENT BUSINESS

16.1 Car Parking Reserve – Car Parking Policy and Study

Resolution:

Crs Sullivan/ Toohey

That Council authorises the use of the funds in the Car Parking Reserve (\$78,000) to commence a Car Parking Policy and Study in the 2018/19 financial year

CARRIED.

16.2 Letter to Minister for Roads and Minister for Public Transport

Resolution:

Crs Toohey/Sullivan

That Council requests that the Mayor and Chief Executive officer write to the Minister for Roads and Minister for Public Transport seeking an urgent meeting to discuss Council's concerns over recent and ongoing damage to roads within the Shire from heavy vehicles working for windfarm and rail projects and funding for immediate repair work to be undertaken.

CARRIED.

ADJOURNMENT OF MEETING – 7.30pm

Crs. Dudzik/Keogh

That the meeting now stand adjourned for a period of 10 minutes.

CARRIED.

RESUMPTION OF MEETING – 7.38pm

Crs. Sullivan/Bingham

That the meeting now be resumed.

CARRIED.

17. CLOSED SESSION OF THE MEETING TO THE PUBLIC

17.1 Financial Hardship Applications	
Directorate:	Infrastructure
General Manager:	Phil Jeffrey
Author:	Jacinta Erdody
Section 89(2)b - the personal hardship of any resident or ratepayer;	

17.2 Cr. Sullivan N.O.M: No. 278 – Notice of Rescission (Confidential)	
Directorate:	n/a
General Manager:	n/a
Author:	Cr. Sullivan
Section 89(2)b - contractual matters	

17.3 Cr. Sullivan N.O.M: No. 279 – Contract C19-2018/2019 - Collection and Transportation of Kerbside Waste, Recycling and Greenwaste	
Directorate:	n/a
General Manager:	n/a
Author:	Cr. Sullivan
Section 89(2)b – contractual matters	

Resolution:**Crs. Bingham/Tatchell**

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

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

CARRIED.

Items 17.1 – 17.3 are confidential items
and therefore not included
as part of these Minutes.

18. MEETING CLOSURE

The meeting closed at 8.14pm.

Confirmed.....Mayor.