

ORDINARY MEETING OF COUNCIL

Minutes of the Ordinary Meeting of Council
Ordinary Meeting of Council held at
the Council Chamber, 15 Stead Street, Ballan on
Wednesday 6 July 2016,
at 5:00 p.m.

Members:

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

Officers:

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

Rob Croxford
Chief Executive Officer

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1. OPENING OF MEETING AND PRAYER

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

2. ACKNOWLEDGEMENT TO COUNTRY

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

3. PRESENT

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

Officers:

<i>Mr. Rob Croxford</i>	<i>Chief Executive Officer</i>
<i>Mr. Phil Jeffrey</i>	<i>General Manager Infrastructure</i>
<i>Mr. Satwinder Sandhu</i>	<i>General Manager Growth and Development</i>
<i>Mr. Danny Colgan</i>	<i>General Manager Community Services</i>
<i>Mr. Robert Fillisch</i>	<i>Manager Statutory Planning & Community Safety</i>
<i>Ms. Sam Romaszko</i>	<i>Manager Engineering Services</i>
<i>Mr. Troy Scoble</i>	<i>Manager Recreation and Youth Development</i>
<i>Mr. John Whitfield</i>	<i>Governance Coordinator</i>
<i>Ms. Melissa Hollitt</i>	<i>Minute Taker</i>

4. APOLOGIES

<i>Cr. Pat Toohey</i>	<i>Woodlands Ward</i>
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5. CONFIRMATION OF MINUTES**5.1 Ordinary Meeting of Council – Wednesday 1 June 2016**

Resolution:

Crs. Spain/Edwards.

That Council confirms the Minutes of the Ordinary Meeting of Council held on Wednesday 1 June 2016.

CARRIED.

5.2 Special Meeting of Council – Wednesday 22 June 2016

Resolution:

Crs. Spain/Dudzik

That Council confirms the Minutes of the Special Meeting of Council held on Wednesday 22 June 2016.

CARRIED.

5.3 Special Meeting of Council – Wednesday 29 June 2016

Resolution:

Crs. Edwards/Sullivan

That Council confirms the Minutes of the Special Meeting of Council held on Wednesday 29 June 2016 at 6pm.

CARRIED.

5.4 Special Meeting of Council – Wednesday 29 June 2016 – Councillor Code of Conduct

Resolution:

Crs. Dudzik/Edwards

That Council confirms the Minutes of the Special Meeting of Council held on Wednesday 29 June 2016 at 7pm.

CARRIED.

6. 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.

Nil.

7. 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. 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.

Nil.

8. PETITIONS

Nil.

9. 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
10.3.1	Draft Youth Space/s Feasibility Study	Jim Ross	Supporter

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

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

Item No	Description	Name	Applicant/ Objector
10.2.3	Planning Permit Application PA2003-472, PA2003-473, PA2003-474 and PA2003-475; 258 Conroys Lane, Wallace – Request for third extension of time for the development and use of a single dwelling over four lots	Ramon Jimenez	Applicant

10. OFFICER'S REPORTS

10.1 CHIEF EXECUTIVE OFFICER

No reports for this meeting.

10.2 GROWTH AND DEVELOPMENT

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

Introduction

Author: John Whitfield
General Manager: Satwinder Sandhu

Under section 174(4) of the *Planning and Environment Act 1987* (the Act), Council must appoint authorised officers for the purposes and regulations made under the Act.

Background

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

At its Ordinary Meeting of Council held 1 June 2016 the Council resolved as follows:

That Item 10.2.2; Instrument of Appointment and Authorisation of Council Officers under Section 174(4) of the Planning and Environment Act 1987, be deferred to the next available Council meeting to allow for further amendments to the document.

The format of the Instrument of Appointment and Authorisation of Council Officers under Section 174(4) of the Planning and Environment Act 1987 has been amended and is now presented to Council.

Proposal

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

The change to this Instrument reflects the changes to staff assignments within the Planning and the Environmental Health service units.

Policy Implications

The 2013 – 2017 Council Plan provides as follows:

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

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

Financial Implications

No financial implications to Council.

Risk & Occupational Health & Safety Issues

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

Victorian Charter of Human Rights and Responsibilities Act 2006

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

Officer's Declaration of Conflict of Interests

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

General Manager – Satwinder Sandhu

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

Author – John Whitfield

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

Conclusion

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

Resolution:


Crs. Sullivan/Spain

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

CARRIED.

Report Authorisation

Authorised by:

Name: Satwinder Sandhu 
Title: General Manager Growth and Development
Date: Thursday 16 June 2016

10.2.2 Annual Local Government Community Satisfaction Survey 2016

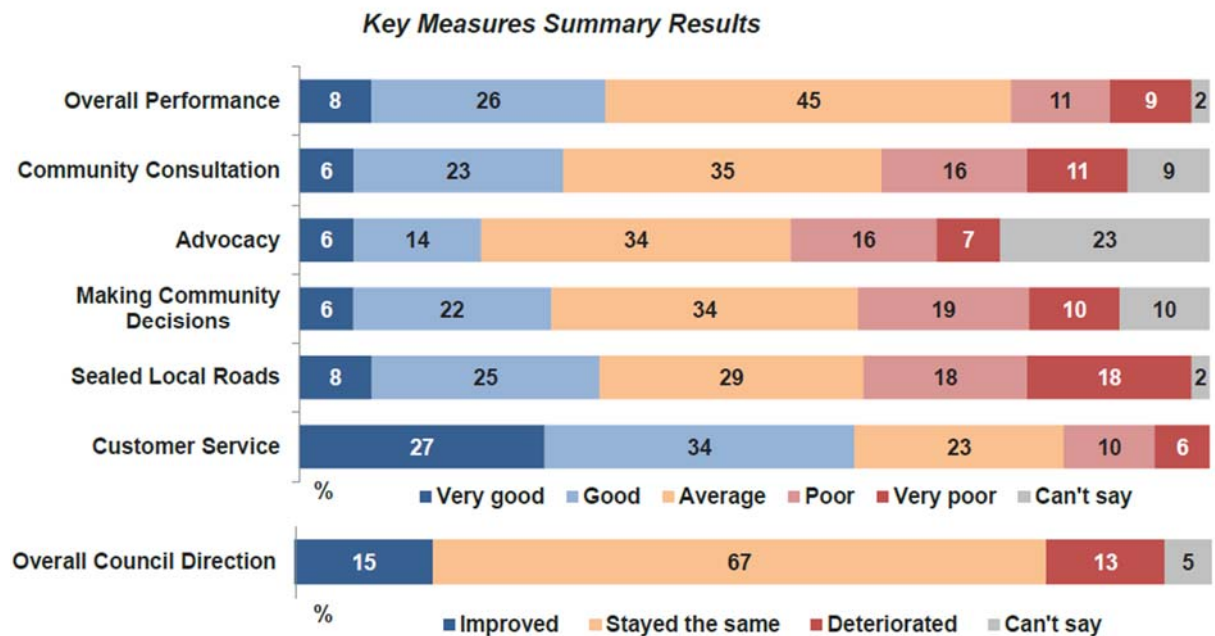
Introduction

File No.: 18/02/001
 Author: Peter Forbes
 General Manager: Satwinder Sandhu

Background

The report for the 2016 Community Satisfaction Survey commissioned by the Victorian State Government via the Department of Environment, Land, Water and Planning has now been received. It is conducted independently by JWS Research. 70 out of 79 Victorian councils participated.

The Community Satisfaction Survey is optional and the main objectives are to assess the performance of Moorabool Shire Council across a range of measures and to seek insight into ways to provide improved or more effective service delivery. Moorabool Shire’s 2016 key measures summary results are below.



2016 Summary of Findings

Representatives from JWS Research recently met with officers to discuss the 2016 Survey Report findings.

The researcher noted that the 2016 survey states that the survey outcomes were generally on par or above the Large Rural Council’s group average and lower than the State average for most core and individual services.

When the community's perception of Council's overall performance and direction were compared with the 2016 category average for large rural council's, Moorabool was three points above the overall direction average and on par with the average overall performance for large rural councils.

Council's year-on-year raw score measuring the community's perception in overall performance and direction of council, was two points lower when compared to the 2015 survey results.

Community perception of other core measures indicate a slight year-on-year increase in sealed local roads (up 4) and customer service (up 2) and a slight year-on-year decrease in measures such as making community decisions and community consultation (both down 2) and advocacy (down 1).

Customer Service was the Shire's highest index score over all the categories measured with a score of 66.



The graph above summarises some key findings from the 2016 survey.

Most notable is that younger people (18-34) tended to be more favorable in their opinions than older cohorts. Ballan residents were less favorable across the board.

Officers have discussed the possible reasons for the decrease in satisfaction in some measures however the focus needs to be on continuing to improve value for the community that will flow from our Business Excellence program, ongoing investment to reduce the infrastructure gap and a critical review of services via the recently adopted framework.

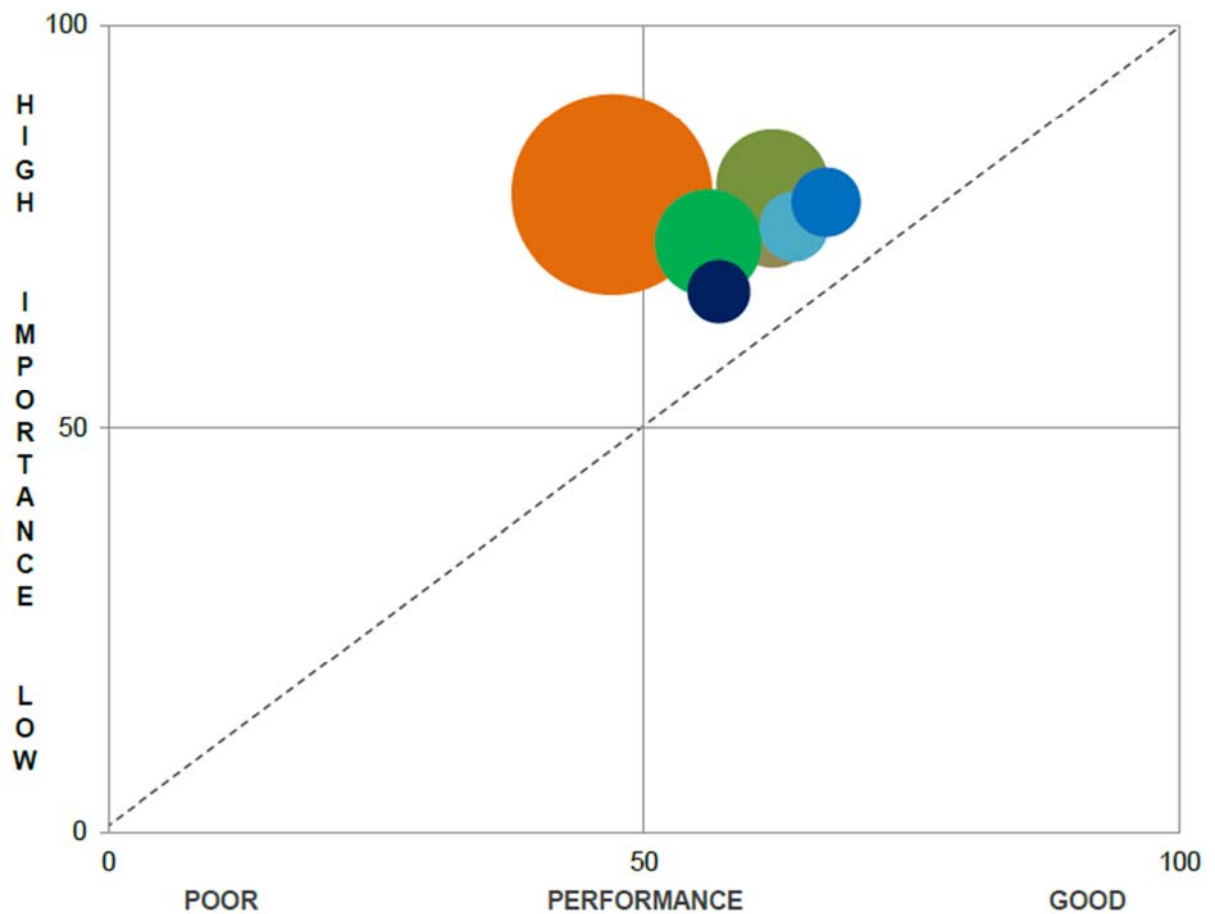
Interestingly, the survey report does not separate the opinions of those who have recently interacted with Council and those who haven't. A significant number (41%) of respondents expressed their opinion on council performance without having any contact with council over the last twelve months.

The grid below aligns the respondent's index score for specified council service areas in relation to their:

- 1) Opinion of the importance of the specific service to them; and
- 2) Opinion of Council's performance of the specific service.

The grid shows all service areas surveyed as partly or fully located in the top right-hand quadrant. This quadrant is the most desirable as it indicates the service is both important to the respondents (horizontal axis) and most respondents think Council's provision of that service is good (vertical axis).

Importance and Performance 2016 Index Scores Grid



Service	Importance	Performance
Condition of local streets & footpaths	79	47
Family support services	75	62
Elderly support services	80	62
Recreational facilities	73	56
Appearance of public areas	75	64
Waste management	78	67
Business & community development & tourism	67	57

Key areas for improvement

Areas with the biggest gap between the community perceptions of importance and performance were most considered likely to improve future community satisfaction survey ratings if the gaps became closer over time. (Assuming the community ratings on other services remain constant or improve).

The services identified in the 2016 survey with the biggest differential include:

- Condition of local streets and footpaths - 32 point margin
- Elderly support services - 18 point margin
- Recreational facilities - 17 point margin
- Family support services - 13 point margin
- Appearance of public areas - 11 point margin
- Waste Management - 11 point margin
- Business and community development and tourism - 10 point margin

These service areas all have strategies, actions and awareness raising activities in place with the potential over time to reduce this differential.

Specific actions to help reduce the gap between the survey performance and importance scores include:

- Consider increased investment in local streets and footpaths shire wide
- New Council Plan
- Continue the business excellence continuous improvement program
- Undertake level of service reviews
- Continue to grow community awareness of council activity via digital means.
- Implement Draft Recreation Reserve Management Framework and policies

Proposal

This report is to inform Council and the community on the result of the 2016 Community Satisfaction Survey. The report is attached as an appendix and copies will be made available for public perusal at each of Council's offices located at 15 Stead Street, Ballan, 182 Halletts Way, Darley and at the Lerderberg Library, 215 Main Street, and Bacchus Marsh. It will also be placed on Council's website.

Policy Implications

The 2013-2017 Council Plan provides as follows;

Key Result Area	Representation and Leadership of our Community
Objective	Leadership through best practice community engagement
Strategy	To make well informed decisions based on input from the community and other key stakeholders through effective community engagement

The proposal to inform Council and the community of the Community Satisfaction Survey results is consistent with the 2013-2017 Council Plan.

Financial Implications

There are no direct financial implications however outcomes of the survey will continue to influence budgetary decision making and project prioritisation.

Communications Strategy

An advertisement will be placed in the Moorabool News advising the Community Satisfaction Survey is available for viewing at all Council offices and on Council's website. A media release will be prepared highlighting key survey findings and where to obtain the report.

Victorian Charter of Human Rights and Responsibilities Act 2006

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

Officer's Declaration of Conflict of Interests

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

General Manager – Satwinder Sandhu

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

Author – Peter Forbes

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

Conclusion

The 2016 survey provides a snapshot of the community's view of Council's performance during February and March 2016. It indicates the importance the community places on a range of services relative to their view of how they are delivered.

The results of the Annual Community Satisfaction Survey 2016 show Council's overall performance and direction are similar but slightly down when compared with last year. The survey show Council's overall direction and performance is down by two points.

When compared with the 2016 category average for large rural council's, Moorabool's survey outcomes were generally on par or above the Large Rural Council's group average and lower than the State average for most core and individual services.

Resolution:

Crs. Spain/Sullivan


That Council:

1. ***Receives the Annual Community Satisfaction Survey 2016.***
2. ***Refers the feedback to the development of future strategic plans, Council Plan and annual budgets.***
3. ***Makes copies of the 2016 Annual Community Satisfaction Survey available for public perusal at each of Council's office locations and on Council's website.***

CARRIED.

Report Authorisation

Authorised by:

Name: Satwinder Sandhu 
Title: General Manager Growth and Development
Date: Wednesday, 29 June 2016

Consideration of Deputations – Planning Permit Application Nos. PA2003-472, PA2003-473, PA2003-474 and PA2003-475

Mr Ramon Jimenez addressed Council in favour of the granting of an extension of time for the planning permits.

The business of the meeting then returned to the agenda.

10.2.3 Planning Permit Application PA2003-472, PA2003-473, PA2003-474 and PA2003-475 258; Conroys Lane, Wallace - Request for third extension of time for the development and use of a single dwelling over four lots

Application Summary:	
Permit No:	PA2003-472, PA2003-473, PA2003-474 and PA2003-475
Lodgement Date:	26 April, 2016.
Planning Officer:	Mark Lovell
Address of the land:	Lots 1 & 2 on PS503064U, Crown Allotment 11-15 in PC365342, Crown Allotment 15-120 in PC365343U Conroys Lane Wallace
Proposal:	Third 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, 2016.
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.

Policy Implications:	
Key Result Area	Enhanced Natural and Built Environment.
Objective	Effective and efficient land use planning and building control.
Strategy	Implement high quality, responsive, and efficient processing systems for planning and building applications Ensure that development is sustainable, resilient to change and respects the existing character.
Victorian Charter of Human Rights and Responsibilities Act 2006	
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. <i>Manager – Robert Fillisch</i> In providing this advice to Council as the Manager, I have no interests to disclose in this report. <i>Author – Mark Lovell</i> In providing this advice to Council as the Author, I have no interests to disclose in this report.	
Executive Summary:	
Application referred?	Not required to be referred.
Any issues raised in referral responses?	N/A
Preliminary concerns?	This is the third extension of time application and applicant has previously acknowledged in writing that they would NOT apply for a further extension of time approval to the commencement date. Without works commencing on site, it is considered the applicant is warehousing the permit.

Any discussions with applicant regarding concerns	The applicant was advised their application would not be supported.
Any changes made to the application since being lodged?	Nil.
VCAT history?	Yes, 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 single lot for each of the four planning applications covering four lots. 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.
General Summary:	
<p>The application is for a third 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 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 is warehousing the permit. The applicant also acknowledged in writing that their second extension of time approval would be the last for the commencement of works.</p> <p>It is therefore considered that a third extension of time should not be supported as the permit is being warehoused.</p>	
Summary Recommendation:	
<p>That, having considered all relevant matters as required by the <i>Planning and Environment Act 1987</i>, Council refuse the application to extend the time for commencement of planning permit PA2003-472, 2003-473, 2003-474 and 2003-475.</p>	

Background

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 application was 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 a planning permit for one dwelling covering four lots on 27 April, 2006.
- 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

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.

A second extension of time (E2) of three 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 the officer was to recommend refusal. The 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 refusal. The applicant offered to provide an assurance that the development would commence in a three years period and they would not seek any further extension.

The applicant then confirmed in 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'*.

A request for a third extension of time (E3), the current request, was received on 26 April, 2016. The reason given for the request was financial position of the applicant.

No development has commenced on the site.

Details of the approved development

Plans have not been endorsed at this stage.

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.

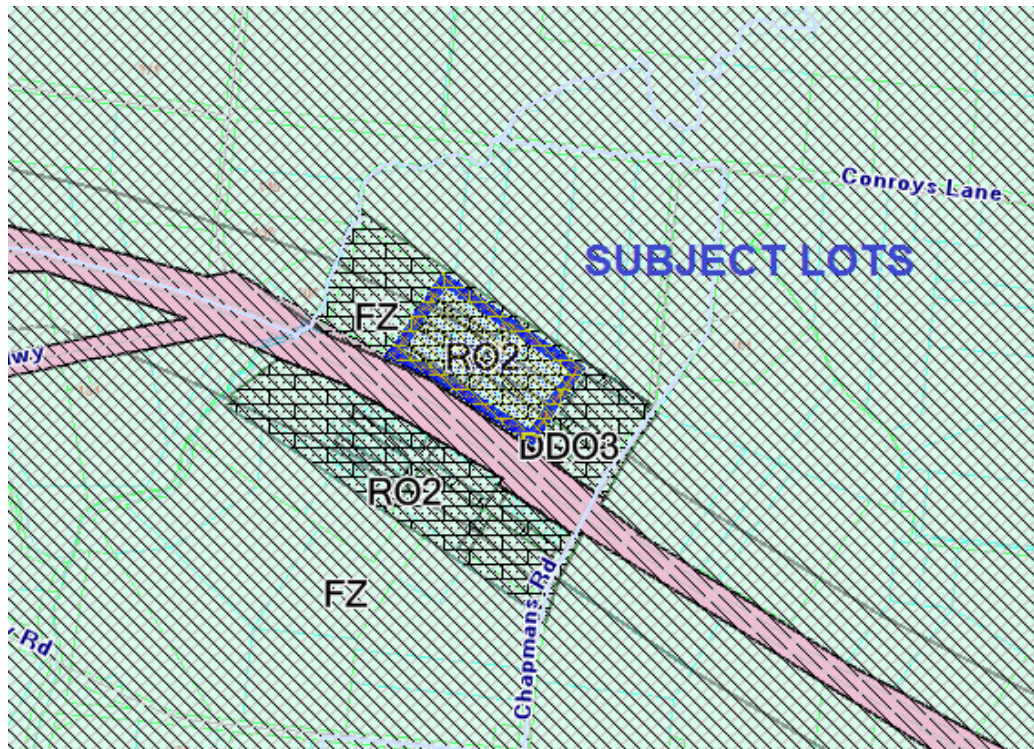
The *Kantor test* is generally used by the Moorabool Shire Planning Department to assess extension of time applications, and an assessment against the *Kantor* “test” questions is detailed later in this report.

Public Notice

Nil - there is no requirement to advertise a request to extend the time of a planning permit under Section 69 of the Planning and Environment Act 1987.

Locality Map - aerial view of the subject site:



Zone map of the subject site:**Zone**

The land is in the Farming Zone 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 State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- 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.

Overlays

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

The purpose of the overlay is to:

- To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- 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.

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

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.
- To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- 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.

The land is also covered by a Restructure Overlay.

The purpose of this overlay is:

- To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.

- 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.

The land is also covered by a Road Closure Overlay.

The purpose of this overlay is:

- To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- To identify a road that is closed by an amendment to this planning scheme.

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 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 Farm Management Plan. This change could alter the recommendation.

Other planning scheme changes since the permit was issued are:

VC106 gazetted on 30 May 2014 introduced changes to State Planning Policy Framework (SPPF) including the introduction of the Central Highlands regional growth plan. The changes would not alter the recommendation

Amendment VC124 was gazetted on 2 April, 2015 altering the Environmental Significance Overlay with reference to removal of native vegetation. The changes would not alter the recommendation.

Amendment VC101 was gazetted on 29 October, 2015 updating reference documents regarding wastewater management. The changes would not alter the recommendation. The applicant has also prepared an updated Land Capability Assessment prepared by Paul Williams & Associates Pty. Ltd. dated September, 2015 to address the current waste water requirements.

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

It could be considered that the land owner is warehousing the permit as this is a third request for an extension of time to commence the development.

The applicant has been given generous expiry dates for the commencement and completion dates. The initial permit issued at the direction of VCAT had a five years start date and seven years completion date.

The applicant has advised of continuing financial concerns, an inability to obtain funds for this development project and existing mortgage payments on the parcels of land. Two extension of time requests have been approved on the basis of the applicant having financial issues.

The second extension of time approval rather than allow a typical 12 months extension to the commencement and completion date, instead provided an additional three years to the commencement date and an additional two years to the completion date. This generous period of time to the expiry dates was given to the applicant who acknowledged in a written correspondence that Council would not give any further extension of time to the commencement date.

The applicant in the current application has advised that they have updated their Land Capability Assessment in September, 2015 and have updated their noise testing report in December, 2015. The applicant has still stated they are hampered by financial difficulties in commencing works.

The applicant has not be able not commence works for the past ten years. Such a lengthy period of time without works commencing clearly demonstrates a warehousing of the permit without exceptional circumstances been provided by the applicant to warrant an approval.

3. Intervening circumstances as bearing upon grant or refusal.

There have been no intervening circumstances that would have a bearing on this decision.

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

The permit was issued on 27 April, 2006, which is ten years ago. The project is for a single dwelling over four lots rather the intended development project which was lodged as four dwellings over four lots, one dwelling to each lot. It would not expected that a development project of this scale would take more than 10 years to commence.

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) and then followed by another three years in the second request (E2) to give the land owner ample time to commence the development.

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.

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 and this could result in a decision to refuse to grant a permit.

Financial Implications

If Council was to approve the application, there is no financial implication as no third parties are involved with an extension of time application.

Risk and Occupational Health and Safety Issues

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

Communications Strategy

Pursuant to Section 69 of the Planning and Environment Act 1987 no advertising of the application was required to be given and no appeal right is available to a person or persons to appeal a decision to extend a permit. The applicant has appeal rights if Council was to refuse the application.

Options

Council could support the application and determine to approval a further 12 months to commence and completion dates of the permit.

Discussion

The request is for a third 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 accepted as a planning tool for the assessment of extensions of time requests.

It is considered that a third extension of time to commence the development to a permit issued ten years ago, is warehousing of the permit. The applicant has not been able to commence works on site for a long period of time.

The application for a single dwelling in the Farming Zone may not supported by the current Council policies as it 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.

Conclusion

The *Kantor test* provides reasonable grounds for refusal of the application for an extension of time including:

1. The applicant is warehousing of the permit as no development has commenced.
2. The request for a third extension of time to commence is beyond a reasonable amount of time given (ten years) since the issue of a permit.
3. The applicant previously accepted that Council would not support a further request to the commencement date based on their second extension of time approval.

Recommendation:

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; Conroys Lane, Wallace, on the following grounds:

1. **The application does not meet the Kantor test including no substantial commencement of the development has been undertaken.**
2. **The applicant is warehousing of the permit as no development has commenced.**
3. **The request for a third extension of time to commence is beyond a reasonable amount of time given since the issue of the permit ten years ago.**

Resolution:

Crs. Sullivan/Dudzik

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; Conroys Lane, Wallace, by one year and advise the applicant of the following:

1. ***The permit will expire if one of the following applies:***
 - ***The development and use hereby permitted is not started by 27 April 2017;***
 - ***The development is not completed by 27 April 2019.***

CARRIED.

Report Authorisation

Authorised by:

Name: Satwinder Sandhu

Title: General Manager Growth and Development

Date: Thursday 16 June 2016



10.2.4 Planning Permit Application PA2011-120; 9 Delahey Close Maddingley- Request for a third extension of time for development of six (6) dwellings

Application Summary:	
Permit No:	PA2011-120
Lodgement Date:	2 March, 2016.
Planning Officer:	Mark Lovell
Address of the land:	Lot 84 on PS526975V 9 Delahey Close, Maddingley.
Proposal:	Third extension of time.
Lot size:	1696 sq. m.
Why is a permit required?	The permit has expired as the development was not commenced by 2 May, 2016.
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.
Policy Implications:	
Key Result Area	Enhanced Natural and Built Environment.
Objective	Effective and efficient land use planning and building control.
Strategy	Implement high quality, responsive, and efficient processing systems for planning and building applications Ensure that development is sustainable, resilient to change and respects the existing character.
Victorian Charter of Human Rights and Responsibilities Act 2006	
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	
<p>Under section 80C of the Local Government Act 1989 (as amended), officers providing advice to Council must disclose any interests, including the type of interest.</p> <p><i>Manager – Robert Fillisch</i></p> <p>In providing this advice to Council as the Manager, I have no interests to disclose in this report.</p> <p><i>Author – Mark Lovell</i></p> <p>In providing this advice to Council as the Author, I have no interests to disclose in this report.</p>	
Executive Summary:	
Application referred?	Not required to be referred.
Any issues raised in referral responses?	N/A
Preliminary concerns?	This is the third extension of time application. The applicant was advised in a previous extension of time approval that a further extension of time would not be entertained without significant progress of the development. Without works commencing on site, it is considered the applicant is warehousing the permit.
Any discussions with applicant regarding concerns	The applicant was advised their application would not be supported.
Any changes made to the application since being lodged?	Nil.
VCAT history?	No.
Previous applications for the site?	Nil.
General Summary:	
<p>The application is for a third extension of time of an approved development which has not commenced. The applicant has advised that are having difficulties selling the site with a valid planning permit in place.</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 is warehousing the permit. Council requested in the second extension of time approval for significant progress to the commencement of the development which has not been undertaken at this stage.</p>	

It is therefore considered that a third extension of time should not be supported as the permit is being warehoused.
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Summary Recommendation:

That, having considered all relevant matters as required by the <i>Planning and Environment Act 1987</i> , Council refuse the application to extend the time for commencement of planning permit PA2011-120 at 9 Delahey Close, Maddingley
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Background

An application for six (6) single storey dwellings lodged on 29 August, 2011.

- The application was advertised and two objections were received
- Council at its Ordinary Meeting of Council of 21 March, 2012 determined issue a Notice of Decision to Grant a Planning Permit. No appeals were lodged against this decision and a planning permit was issued on 1 May, 2012.
- Condition 14 of the permit contained a two years commencement date and four years completion date with the following expiry dates
 - The development is started by 1 May, 2014
 - The development is completed by 1 May, 2016

A first extension of time (E1) of one (1) year was granted on 29 April, 2014

- The reasons given for the request were:
 - The applicant provided no reason for the request.
- The expiry conditions were extended to:
 - The development is started by 2 May, 2015.
 - The development and use is completed by 2 May, 2017.

A second extension of time (E2) of one (1) year was granted on 1 May, 2015.

- The reason given for the request was:
 - Only written reason was insufficient time to commence. In discussion with Council's officers, the applicant advised they are in business of selling lots to prospective builders with current planning permit and they have no intent to develop the land.
- The expiry conditions were extended to:
 - The development is started by 2 May, 2016.
 - The development is completed by 2 May, 2018.

The applicant was advised in writing with this approval that *'it is unlikely that a further extension of time (3rd) would be entertained unless it can be demonstrated that significant progress on the development of the dwellings has taken place. Any further application to extend the planning permit must be accompanied by satisfactory evidence that the development has commenced and justification for Council to consider extending the permit completion date beyond what the permit allows'*.

A request for a third extension of time (E3), the current request, was received on 2 March, 2016. The reason given for the request was the company has been unable to sell the site.

No development has commenced on the site.

Details of the approved development

Plans have been endorsed in accordance with condition 1 of the permit 19 June, 2012. There are no other obligations contained within the permit preventing works from commencing.

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.

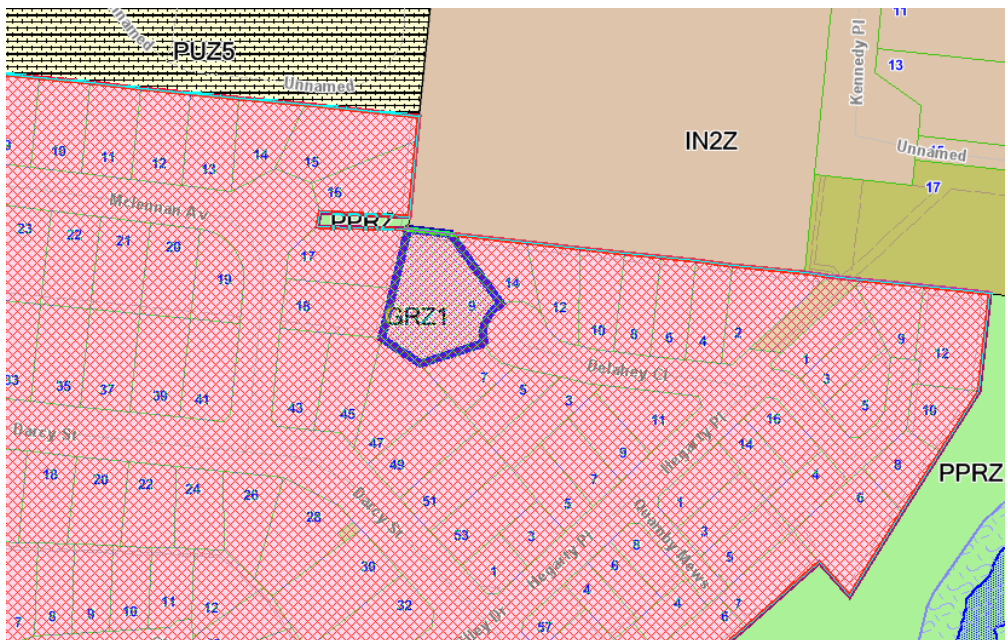
Public Notice

Nil - there is no requirement to advertise a request to extend the time of a planning permit under Section 69 of the Planning and Environment Act 1987.

Locality Map - aerial view of the subject site:



Zone map of the subject site:



Zone

The land is in the General Residential Zone Schedule 1 where a permit is required to construct two or more dwellings on a lot.

The purpose of the zone is to:

- To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- To encourage development that respects the neighbourhood character of the area.
- To implement neighbourhood character policy and adopted neighbourhood character guidelines.
- To provide a diversity of housing types and moderate housing growth in locations offering good access to services and transport.
- To allow educational, recreational, religious, community and a limited range of other non residential uses to serve local community needs in appropriate locations.

Overlays

There are no planning overlays affecting the subject lot

Kantor test

1. Whether there has been change in planning policy

When the application was determined the land was zoned in a Residential 1 Zone.

Amendment the VC116 came into operation on 1 July, 2014. This amendment changed reformed all residential zones in all planning schemes. The Residential 1 Zone become the General Residential Zone Schedule 1. The changes would not alter the recommendation.

Other planning scheme amendments have been

Amendment VC90 was gazetted on 5 June 2012 and altered the VPP and Clause 52.06, and 55.03 to remove references to car parking rates and design. The changes would not alter the recommendation

Amendment VC95 was gazetted on 19 April 2013 and altered State Planning Policy and the Particular Provisions. The changes reflect amended Clauses 52.06 (Car parking) and Clause 55.03 (ResCode). The changes would not alter the recommendation.

Amendment VC99 was gazetted on 10 December 2013 and altered the Victoria Planning Provisions (VPP) and all Planning Schemes in Victoria by modifying standards in the Particular Provisions for two or more dwellings on a lot. The changes relate to height and setback of walls on a boundary and setbacks for buildings up to four storeys. The changes would not alter the recommendation.

Amendment VC106 was adopted on 30 May, 2014 recognised Plan Melbourne and Victorian regional growth plans. The changes would not alter the recommendation.

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

It could be considered that the land owner is warehousing the permit as this is a third request for an extension of time to commence the development.

The applicant has been given extensions to the expiry dates for the commencement and completion dates. It has been four years since the permit has been issued.

The applicant has provided details they do not intend to develop the site and having difficulties selling with a current planning permit in place. During the second extension request, the officer undertook a site inspection on 22 April, 2015 and observed a “For Sale” sign on site. The applicant intent is sell the land rather than develop the site provides no certainty of when works will commence.

The lack of intention of developing the site is clear evidence that the permit is been warehoused.

3. Intervening circumstances as bearing upon grant or refusal.

There have been no intervening circumstances that would have a bearing on this decision.

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

The permit was issued on 1 May, 2012, which is four years ago. A project involving multi dwellings on a single lot, can reasonable expect delays in the commencing of works. The applicant has held on to the permit for a land sale for four years and this is considered a long period time in which sell a property to enable a future purchaser to commence works on site.

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 one (1) year in the first request (E1) and then followed by one (1) year in the second request (E2) to give the land owner ample time to commence the development.

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.

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 adopted Council policies. The application would need to be advertised to adjoining owners and occupiers. The ownership of the surrounding land may have changed and new owners may not be aware of what is proposed. This potentially could lead to new objections. It is mostly likely that Council would grant a permit for a fresh planning application as the development was previously assessed as complying with Rescode, Clause 55 of the Moorabool Planning Scheme and there also is broad policy support for urban consolidation within the General Residential Zone Schedule 1.

Financial Implications

If Council was to approve the application, there is no financial implication as no third parties are involved with an extension of time application.

Risk and Occupational Health and Safety Issues

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

Communications Strategy

Pursuant to Section 69 of the Planning and Environment Act 1987 no advertising of the application was required to be given and no appeal right is available to a person or persons to appeal a decision to extend a permit. The applicant has appeal rights if Council was to refuse the application. A risk with approving this extension is that new owners may not be aware of what development is proposed and the potential impact on them.

Options

Council could support the application and determine to approval a further 12 months to the commencement and completion dates of the permit.

Discussion

The request is for a third 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 accepted as a planning tool for the assessment of extensions of time requests.

It is considered that a third extension of time to commence the development to a permit issued is warehousing of the permit. The applicant has not been able to commence works on site for a long period of time and has no intent to develop the site.

Conclusion

The *Kantor test* provides reasonable grounds for refusal of the application for an extension of time including:

- The applicant is warehousing of the permit as no development has commenced.

Resolution:

Crs. Edwards/Spain


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 planning permit PA2011-120, 9 Delahey Close Maddingley, on the following grounds:

1. *The application does not meet the Kantor test including no substantial commencement of the development has been undertaken.*
2. *The applicant is warehousing of the permit as no development has commenced.*

CARRIED.

Report Authorisation

Authorised by:

Name: Satwinder Sandhu 
Title: General Manager Growth and Development
Date: Thursday 16 June 2016

10.2.5 Planning Permit PA2015-214 - Gisborne Road Coimadai – Lot 2 on LP 221537- Two (2) lot subdivision, development and use of a dwelling and creation of access to a RDZ1.

This item was withdrawn at the request of the applicant.

Application Summary:	
Permit No:	PA2015-214
Lodgement Date:	16 September 2015
Planning Officer:	Victoria Mack
Address of the land:	Gisborne Road, Coimadai VIC 3340 Lot 2 on LP 221537
Proposal:	Two (2) lot subdivision, development and use of a dwelling and creation of access to a RDZ1.
Lot size:	64.93ha (Lot 2 north part) 51.51ha (Lot 2 south part) Total area: 116.44ha (the parts are separated by Diggers Rest Road)
Why is a permit required	Public Use Zone (PUZ1) – subdivision and use and development of a dwelling Road Zone Category 1 - access Environmental Significance Overlay – Schedule 3 (part) Bushfire Management Overlay (part)
Public Consultation:	
Was the application advertised?	Yes
Notices on site:	One
Notice in Moorabool Newspaper:	Nil
Number of Objections:	Nil
Consultation meeting:	Not held

Policy Implications:	
Key Result Area	Enhanced Natural and Built Environment.
Objective	Effective and efficient land use planning and building control.
Strategy	Implement high quality, responsive, and efficient processing systems for planning and building applications Ensure that development is sustainable, resilient to change and respects the existing character.
Victorian Charter of Human Rights and Responsibilities Act 2006	
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. <i>Manager – Rob Fillisch</i> In providing this advice to Council as the Manager, I have no interests to disclose in this report. <i>Author – Victoria Mack</i> In providing this advice to Council as the Author, I have no interests to disclose in this report.	
Executive Summary:	
Application Referred?	Yes
Any issues raised in referral responses?	Western Water objected to the application under section 55 of the Planning and Environment Act 1987.
Preliminary Concerns?	Land is zoned Public Use Zone 1 – Service and Utility. The proposal does not accord with the purpose of the Zone.
Any discussions with applicant regarding concerns	Further information was requested specifically providing justification for the subdivision, and the use and development of a dwelling in the Public Use Zone (PUZ1).

Any changes made to the application since being lodged?	No
VCAT history?	Nil
Previous applications for the site?	PA2013240 – same application on same lot, but with a different applicant, which was withdrawn due to changes being considered by the land owner, Southern Rural Water.
General summary	<p>The land is in the Public Use Zone 1 – service and utility.</p> <p>The land is owned by Southern Rural Water which has been directed by government to identify and sell land surplus to the requirements of public use. This application is to subdivide a parcel of land into two lots and apply for a permit to construct a dwelling and create an access to a Road Zone Category 1 on one of the lots to be created.</p> <p>In order to achieve a planning permit in a proclaimed water supply catchment the proposal must demonstrate that the application meets the <i>Guidelines for Planning Permit applications in Open Potable Water Supply Catchment Areas November 2013</i>, specifically Guideline 1. An application must also provide acceptable outcomes in terms of State and Local Planning Policy and the decision guidelines of the Zone.</p> <p>In this regard Western Water has determined that the proposal represents an unacceptable risk within an Open Potable Water Supply Catchment.</p> <p>The grounds of objection submitted by Western Water are listed in the recommendation for refusal of the application at the end of this report.</p> <p>The applicant was advised of the objection and given time to negotiate with Western Water to determine if their concerns could be addressed. No such resolution of the issues has been achieved and therefore it is considered that the application must be refused in accordance with Section 61(2) of the Planning and Environment Act 1987.</p> <p>In addition to Western Water's grounds of objection to the application, the proposed subdivision and development would create a</p>

	<p>lot of 13ha and another of 101.51ha. There are no minimum lot sizes for subdivision in the Public Use Zone.</p> <p>The purpose of the Public Use Zone 1 is to provide land for public purposes. The current zoning should prevent the use of the land for rural residential development.</p> <p>The application does not accord with the purposes or decision guidelines of the Public Use Zone, nor the objectives of the relevant State and Local planning policies. It is considered that the application in its current form should not be supported.</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 grant a planning permit for a Two (2) lot subdivision, development and use of a dwelling and creation of access to a RDZ1 on land described as Lot 2 on PS 221537M, or otherwise known as Gisborne Road, Coimadai based on the grounds contained at the end of this report.</p>	

Public Notice

The application was notified to adjoining and surrounding landowners and no objections were received.

Proposal

The subject land is Lot 2 on LP221537M. The lot is dissected by Diggers Rest Road, one part on the north side which is 64.93ha, which is the subject of the application for the dwelling, and one part on the south side which is 51.51ha.

It is proposed to subdivide the land into two lots as follows:

Lot 1 would be 13ha and the application includes the use and development of a dwelling on this lot with a new access to be constructed to Diggers Rest Road, which is a Road in a Road Zone Category 1 (RDZ1). The dwelling would be located in the north-east corner of the site approximately 430m north of Diggers Rest Road.

The proposed single storey brick veneer dwelling would have three bedrooms, the master bedroom with a WIR and ensuite, an open plan family meals and kitchen area, a separate dining and living area, a separate family bathroom, WC and laundry. Plans of the proposed dwelling are Included as attachments.



Figure 1: Site plan showing dwelling location

Lot 2 would be approximately 101.51ha and would remain vacant. The eastern section of this lot would be located within the Merrimu Reservoir. This lot would include the Merrimu Reservoir picnic area.

The subdivision plan provided by the applicant is incorrect as it does not detail all the land to be subdivided.

There have been no amendments to the submitted application, however, the applicant was asked to provide justification for the proposal in the context of the purposes of the Public Use Zone 1.

The applicant's response to the further information request was that an application had been made to DELWP to rezone the land to Farming Zone. The rezoning application is for the land (part Lot 2) on the northern side of Diggers Rest Road and not for the southern part of Lot 2 on the south side of Diggers Rest Road. The applicant stated that:

The application has been made to allow surplus land to be sold from public into private ownership. This has been done under the direction of the State Government which has provided to public land managers and gave directives to identify land surplus to the requirements of public use and sell this land.

Not all of the title subject to the application is surplus and therefore we need to excise surplus land for rezoning. The chosen method for rezoning is through the Government's Fast Track process. Fast Track does not allow for a Section 96A style applications and therefore the application for subdivision is put before the rezoning of the land (as opposed to the usual scenario of a Section 96A Amendment). As a

consequence of the order of the application the proposal may not at face value align itself with the purposes of the PUZ. We take the view that the proposal should be assessed with the flexibility that allows public land managers to dispose of land in a timely manner.

Due to Western Water's objection the applicant was also asked to contact Western Water to determine if the Authority's concerns and grounds objection could be addressed. The applicant subsequently met with Western Water but it is understood that no agreement has been reached.

Site Description

The site is generally pastured with patches of native vegetation including a shelter belts along the subdivision boundary between the two proposed lots, and also some trees and understorey shrubs around the Merrimu Reservoir picnic area. The land slopes from the west down to the east abutting the reservoir edge. Parts of the reservoir shoreline has trees and scrubby vegetation.

The land is owned by Southern Rural Water and is vacant except for the picnic ground which has a playground, picnic tables and toilets. The picnic ground site provides a viewing platform over the reservoir.

There are access tracks around the reservoir edge most probably for official use and reservoir inspections.

The Merrimu Reservoir is primarily used to supply drinking water to Melton and Bacchus Marsh with the remaining supply used for irrigation in the Werribee Irrigation District.

The Merrimu recreational area is open from 8.30am to 4.30pm daily. However the Merrimu Reservoir is a closed catchment and reservoir. All water activities are prohibited.

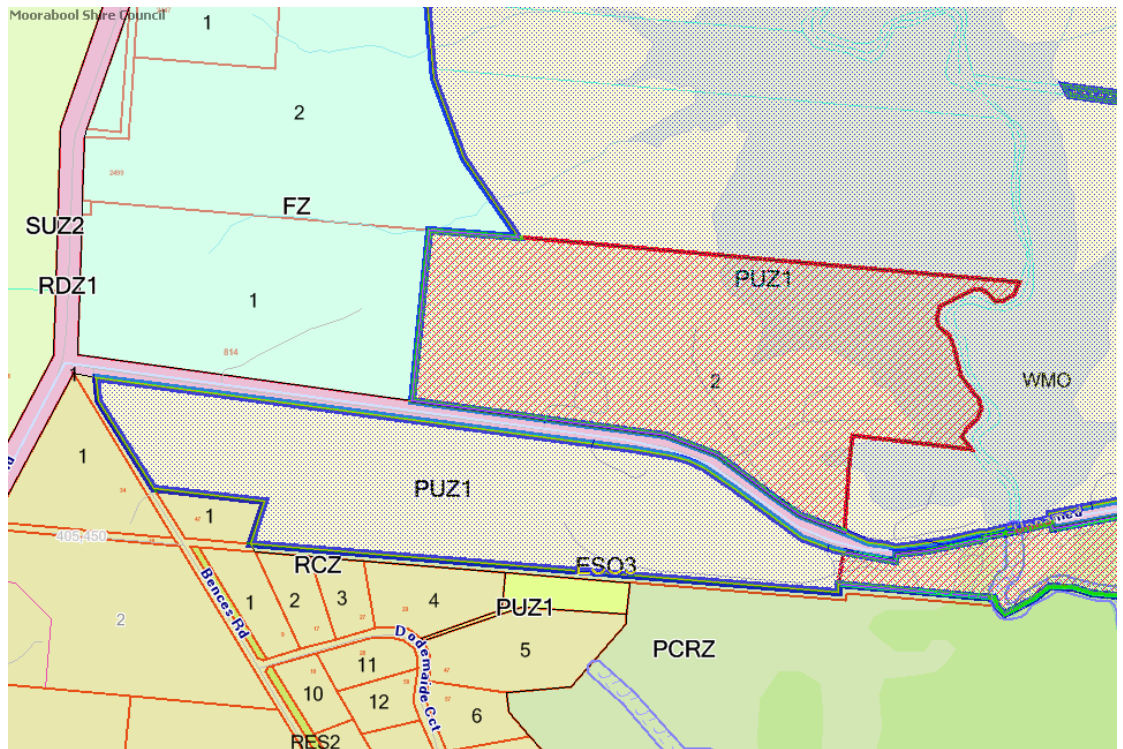
Land in the surrounding area, to the south, east and north of the site is generally in the Public use Zone and comprises land around the reservoir which is owned by Southern Rural Water. Further south of the site is land in the Public Conservation and Resource Zone and to the south-west is land in the Rural Conservation Zone.

Land to the west and north-west is land in the Farming Zone with allotments generally of area ranging from 30 to 50 ha. These lots generally contain dwellings and outbuildings and are used for horse enterprises or small scale agriculture.

The subject land is approximately 7.4km north of the Bacchus Marsh Township and approximately 5.7km north of the Western Freeway which provides access to both Melbourne to the east and Ballarat to the west.

Locality Map

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



The map below is an aerial photo of the subject site



Planning Scheme Provisions

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

The relevant clauses are:

- 11.05-2 Melbourne's hinterland areas
- 11.06 Central Highlands Water's regional growth strategy
- 11.06-7 Environmental assets
- 14.02 Water
- 14.02-1 Catchment planning and management
- 14.02-2 Water quality
- Clause 16 Housing
- 16.02-1 Rural residential development

- 21.02 Natural Environment
- 21.02-3 Objective – Water and Catchment Management
- 21.03 Settlement and Housing
- 21.03-4 Objective – Landscape and neighbourhood character
- 22.02 Special Water Supply Catchments
- 23.03 Houses and house lot excisions in rural areas

The proposal complies with the relevant sections of the SPPF and LPPF, with the exception of the clauses outlined in the table below:

SPPF	Title	Response
Clause 14	Natural resource management	
14.02-1	Catchment planning and management	The policy has the objective to assist the protection and, where possible, restoration of catchments, waterways, water bodies, groundwater, and the marine environment.
14.02-2	Water quality	The policy aims to assist the protection and, where possible, restoration of catchments, waterways, waterbodies, groundwater, and the marine environment.
Clause 16	Housing	
16.02-1	Rural residential development	It is policy to Manage development in rural areas to protect agriculture and avoid inappropriate rural residential development, and encourage the consolidation of new housing in existing settlements where investment in physical and community infrastructure and services has already been made.

LPPF		
21.03-5	Objective—Rural Lifestyle Opportunities	It is policy to prevent the fragmentation of farm land through inappropriate subdivisions and limit residential development in areas without reticulated services where the development would compromise water quality (particularly in Special Water Supply Catchments), adversely affect agricultural production, or impact on native vegetation and habitat values.
22.02	Special water supply catchments	It is policy to strongly discourage the subdivision of the land in proclaimed water catchment areas; and to discourage land use and development that has the potential to reduce the quality or quantity of water produced.
22.03	House and house lot excisions in rural area	It is policy to ensure that subdivision and dwellings in rural areas are required to increase agricultural productivity and to discourage subdivision and dwellings unless they are directly related to the agricultural use of land.

Zone

Clause 36.01 - Public Use Zone 1 – Service and Utility

In accordance with Clause 36.01-1, section 2 a permit is required to use and develop land for a dwelling.

In accordance with Clause 36.01-2 a permit is required to construct a building or construct or carry out works for any use in Section 2 of Clause 36.01-1.

In accordance with Clause 36.01-2 a permit is required to subdivide land.

The purpose of the Public Use Zone 1 is to:

- Implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- Recognise public land use for public utility and community services and facilities.
- Provide for associated uses that are consistent with the intent of the public land reservation or purpose.

It is not considered that the subdivision of land and creation of a rural residential lot is in keeping with the purpose of the zone to provide for public utility and community services and facilities.

Overlays

Bushfire Management Overlay

A small segment of the land is within the Bushfire Management Overlay which is located in the north-east corner of the allotment which is located in the middle of the reservoir. The CFA was asked if they wanted the application referred and after inspecting the application documents the CFA said that they did not require the application to be referred under Section 55 of the Planning and Environment Act 1987.

Environmental Significance Overlay – Schedule 3

The southern portion of the lot (across Diggers Rest Road is within the Environmental Significance Overlay – Schedule 3 - Long Forest and Werribee Gorge which specifically relates to the removal of vegetation or the impact of a use, development or subdivision on vegetation.

No vegetation is proposed to be removed as part of the application nor is it considered that the proposal would impact on vegetation.

Relevant Policies

None relevant.

Particular Provisions

Clause 52.29 – Land adjacent to a road in a Road Zone Category 1

Pursuant to Clause 52.29 a permit is required to create or alter access to a road in a Road Zone, Category 1; and to subdivide land adjacent to a road in a Road Zone, Category 1.

The application seeks to construct a new access from the Diggers Rest Road which is a Road Zone Category 1.

Discussion

In order to achieve a planning permit in a proclaimed water supply catchment a proposal must demonstrate that the application meets the *Guidelines for Planning Permit applications in Open Potable Water Supply Catchment Areas November 2013*, specifically Guideline 1. An application must also provide acceptable outcomes in terms of State and Local Planning Policy and the decision guidelines of the Zone.

The application was referred to Western Water under Section 55 of the Planning and Environment Act 1987. Western Water as a determining referral authority objected to the application on the grounds that the proposal represented an unacceptable risk within an Open Potable Water Supply Catchment.

The grounds of objection submitted by Western Water are listed in the recommendation for refusal of the application at the end of this report.

The applicant was advised of the objection and given time to negotiate with the Western Water to determine if their concerns could be addressed. No such resolution of the issues has been achieved and therefore it is considered that the application must be refused in accordance with Section 61(2) of the Planning and Environment Act 1987.

In addition to Western Water's grounds of objection to the application, it is considered that Council should also be given the opportunity to comment on the application.

The proposed subdivision and development would create a lot of 13ha and another lot of 101.51ha in the Public Use Zone 1 – service and utility. There is no minimum lot size for subdivision in the Public Use Zone.

A rezoning application has subsequently been lodged with Council to change the zoning of the land most probably to Farming Zone. If the rezoning application is approved to Farming Zone the subdivision proposed would not meet the minimum lot size in the Farming Zone and would be prohibited.

The applicant was asked to provide justification for the application for a dwelling in the Public Use Zone. The information that was provided generally related to the rezoning application rather than justification for a dwelling in the PUZ1.

The purpose of the Public Use Zone is to provide land for public purposes. Until such time as the land is approved for rezoning it is considered that the current zoning should prevent the use of the land for rural residential development.

It is considered that the application does not accord with the purposes or decision guidelines of the Public Use Zone, nor the objectives of the relevant State and Local planning policies.

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.

Referrals

The following referrals were made pursuant to s.55 of the Planning and Environment Act 1987 and Council departments were provided with an opportunity to make comment on the proposed development plan.

Authority	Response
Western Water Southern Rural Water VicRoads	Objected to the application Declined to comment No comment
Infrastructure Environmental Health SSD	Consent with conditions Consent with conditions No comment

Financial Implications

Western Water as a Determining Referral Authority has objected to the application in accordance with Section 55 of the Planning and Environment Act 1987. Accordingly the application must be refused by the responsible authority in accordance with Section 61(2) of the Planning and Environment Act 1987.

The applicant may apply to VCAT for Review of the decision including Western Water's objection. In the event that an application for Review was made it is considered that Council should have also considered the application.

Risk and Occupational Health and Safety Issues

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

Communications Strategy

Notice was undertaken for the application, in accordance with s.52 of the Planning and Environment Act 1987, and no objections were received. The applicant was invited to attend this meeting and invited to address Council if desired.

Options

Council must refuse the application in accordance with Section 61(2) of the Planning and Environment Act 1987 where a determining referral authority has objected to an application.

Conclusion

Because Western Water has objected to the application Council must refuse it under Section 61(2) of the Planning and Environment Act 1987

However, should Western's Water's objection change, or a Review is lodged at VCAT, it is considered that Council should also be given the opportunity to consider the application.

The application does not accord with the purpose or decision guidelines of the Public Use Zone which provides for the use of public land for public purposes including public utility and community services and facilities and associated uses that are consistent with the intent of public land reservation or purpose.

The application does not accord with specific clauses within the SPPF or LPPF which aim to: protect water supply quality and proclaimed water supply catchments from inappropriate development; prevent the fragmentation of farm land through inappropriate subdivisions; and limit residential development in areas without reticulated services where the development would compromise water quality (particularly in Special Water Supply Catchments), adversely affect agricultural production, or impact on native vegetation and habitat values.

It is considered that this application should not be supported.

This item was withdrawn at the request of the applicant.


Recommendation:

That having considered all relevant matters as required by the Planning and Environment Act 1987, Council issue a Refusal to grant a planning permit for a Two (2) lot subdivision, development and use of a dwelling and creation of access to a RDZ Category 1 on land described as Lot 2 on PS 221537M (part), or otherwise known as Gisborne Road, Coimadai based on the following grounds:

- 1. The land is within the proclaimed catchment of the Merrimu Reservoir, which supplies drinking water to Melton and Bacchus Marsh townships. The land is also within close proximity to a tributary of the Merrimu Reservoir.**
- 2. The proposal is contrary to the objectives and strategies contained within the State Planning Policy Framework in particular Clause 14 – Natural Resource Management – and Clause 16 – Housing.**
- 3. The proposal is contrary to the objectives and strategies contained within the Local Planning Policy Framework in particular Clause 22.02 – Special Water Supply Catchments – and Clause 22.03 – House and house lot excisions in rural areas.**
- 4. The proposal does not satisfy the criteria established in the “Water Catchment Protection Policy April 2012, Protecting Water Quality in the Moorabool Shire” for a suitable development within a potable water supply catchment. As such Western Water is concerned that the development will have a detrimental impact on the quality of its town water supplies.**
- 5. The proposal is not in accordance with Guideline 1 of ‘The Guidelines’ for planning permit applications in open potable water supply catchment areas in regards to the dwelling density being greater than 1 dwelling per 40 hectares and each lot in the subdivision not being at least 40 hectares in area.**
- 6. When considering if allowing a higher density of development that would otherwise be permitted by Guideline 1 is acceptable, Western Water considers that the proposal presents an unacceptable risk to the catchment having regard to:**
 - The proximity and connectivity of the site to a waterway and Merrimu Reservoir.**
 - The existing condition of the catchment and evidence of unacceptable water quality impacts.**
 - The quality of the soil.**

- **No link between the proposal and the use of the land for a productive agriculture purpose.**
 - **No site remediation and/or improvement works forming part of the application.**
7. **The application does not accord with the purpose of the Public Use Zone 1 – service and utility – which aims to recognise public land use for public utility and community services and facilities and provide for associated uses that are consistent with the intent of the public land reservation or purpose. The subdivision of land in the PUZ1 does not serve a public purpose.**
 8. **The use and development of a dwelling on land in the Public Use Zone 1 is inconsistent with the purpose of the zone.**
 9. **Insufficient documentation has been provided with the application in terms of an accurate subdivision layout.**

Report Authorisation**Authorised by:**

Name: Satwinder Sandhu 
Title: General Manager Growth and Development
Date: Thursday 16 June 2016

10.2.6 New Tourism Event Grant Program

Introduction

File No.: 02/02/002
Author: Peter Forbes
General Manager: Satwinder Sandhu

Background

At the Ordinary Meeting of Council on Wednesday 1 June, 2016 Council resolved the following:

That item 10.2.3; New Tourism Grant Program be deferred and for Council to receive advice in relation to how this program was advertised. If it is found that insufficient advertising was carried out that further advertising of the Program occur and for the item to be presented to the next available Council meeting.

The additional information required by council in order to make a decision has been included in the Community Engagement Strategy section of this report..

This report presents Council with an assessment of the application received during the third round of the New Tourism Event Grants Program and makes a recommendation for consideration.

The New Tourism Event Grant Program supports event organisers that are either in the process of developing and trialling an event concept or have recently trialled an event concept. It is specifically for tourism events with potential to develop into significant generators of visitation from outside the region.

The Program's key objectives are to:

- Attract visitation and increased economic activity into Moorabool Shire;
- Increase yield per visitor;
- Encourage events to have a greater brand match (alignment with the Shire's key tourism themes e.g. food and wine, natural produce, heritage, nature and townships);
- Build capacity and sustainability of a new local tourism event via better planning, new skill development and/or increased marketing; and
- Support event organisers to leverage grants funds by applying to external funding programs such as state and federal government;

The third round of the New Tourism Event Grants was open for applications and promoted from 1 to 28 April 2016 for the remaining pool of funds not fully expended in the first two application rounds. See the Community Engagement Strategy section of this report for promotional activities to make the community aware of the program.

Level of inquiry, applications, funding pool and funding requested

Five enquires were made during the application period with one lodging a funding application. All others were encouraged to apply with four of them receiving guidelines and application forms from council staff while the other reviewed the information via Council's website.

A total of \$10,000 (2 X \$5000pa) was requested from the remaining 2015/16 and 2016/17 financial year's collective pool of \$24,800 (2 X \$12,400pa).

Assessment

Assessment was conducted via the same method as previous rounds. A panel of council officers supplemented by the former group manager of events at Tourism Victoria. The application was initially assessed as to its potential tourism capacity, focus and relevance to the grant program's intent and compliance with the mandatory requirements.

After being deemed eligible, the panel was convened and assessed the application. As the amount requested did not exceed the total pool, a ranking system was not required in this round.

Proposal

Based on the above process and panel deliberations, it is proposed that Council allocate \$3114 of the remaining funds in the 2016/17 New Tourism Event Grants fund to Bacchus Marsh Aquatic Community Consortium Inc. for the purpose of staging and promoting the 2016 Bacchus Marsh Horticulture Show. - if Council so determine.

The amount recommended is less than the \$5000 requested as it is a requirement of the guidelines that council funds be matched by event organisers on an actual dollar-for-dollar expenditure basis. The reduction to a one year funding proposal is because no allocations were possible during the 2015/16 financial year for round 3 and the funding program does not have approval beyond the 2016/17 financial year at this stage.

Event	Organisation	Description of Event	Event Total Value	Amount Requested	Amount Eligible
Bacchus Marsh Horticulture Show	Bacchus Marsh Aquatic Community Consortium Inc.	Two day Horticultural Show and Award Competition	\$6,228	\$5,000	\$3114

Policy Implications

The 2013 - 2017 Council Plan provides as follows:

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

The proposed allocation of grants under the New Tourism Event Grants Program is consistent with the 2013-2017 Council Plan.

Financial Implications

A total of \$24,800 is now available for allocation in round three. The grant amount recommended for allocation in round three totals \$3,114.

If the \$3,114 grant is allocated, a total of \$21,686 remains available in the 2016/17 financial year for a potential fourth round, one-year allocation.

Risk & Occupational Health & Safety Issues

Risk Identifier	Detail of Risk	Rating	Control/s
Project timelines	Grant recipients exceeding prescribed timelines	Medium	Terms and conditions agreements required to be signed by grant recipients. Scheduled monitoring of projects.
Financial	Grant recipients appropriate expenditure of Council funds	Medium	Terms and conditions agreements required to be signed by grant recipients. Grant acquittal required upon completion of projects

Community Engagement Strategy

Engagement	Stakeholder	Activities	Date	Outcome
Consultation	Event organisers Community	Meetings and discussions with applicants	Nov – Dec 2014 May 2015 April 2016	Awareness, Applicants supported to apply
Notification	Event organisers Community	Advertising Moorabool News	5 April	Awareness
Notification	Event organisers Community	Advertising Moorabool News	12 April	Awareness
Notification	Event organisers Community	Advertising Moorabool News Advertising	19 April	Awareness
Notification	Event organisers Community	Advertising Moorabool News Advertising	26 April	Awareness
Notification	Event organisers Community	Advertising Shire Website	April 2016	Awareness

Communications and Consultation Strategy

The round three applicant for the New Tourism Event Grants Program will be advised in writing of the outcomes of their grant application in the week after Council determine the recipients and the minutes of that OMC are confirmed.

Victorian Charter of Human Rights and Responsibilities Act 2006

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

Officer's Declaration of Conflict of Interests

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

General Manager – Satwinder Sandhu

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

Author – Peter Forbes

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

Conclusion

One application was received in the third round of the New Tourism Event Grants program. The application has been assessed as within eligibility guidelines and budget.

It is recommended an allocation of \$3,114 from this program be provided in the 2016/17 financial year for the applicants' 2016 event.

A substantial pool of \$21,686 remains unallocated in the 2016/17 which can be offered to new event organisers in a fourth round during the 2016/17 financial year.

Resolution:

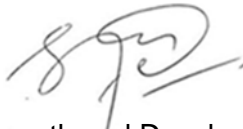
Crs. Dudzik/Sullivan

1. ***That Council allocate a \$3,114 grant from the New Tourism Event Grants fund to the Bacchus Marsh Aquatic Centre Community Consortium Inc. for their 2016 Bacchus Marsh Horticultural Show Event.***
2. ***That the applicant be notified in writing of the application outcome.***
3. ***That a fourth round, one year allocation of the New Tourism Event Grants Program be held to distribute the remaining funds before the end of the 2016/17 financial year.***

CARRIED.

Report Authorisation

Authorised by:

Name: Satwinder Sandhu 
Title: General Manager Growth and Development
Date: Friday 17 June 2016

10.3 SOCIAL AND ORGANISATIONAL DEVELOPMENT

Consideration of Presentation

Mr. Jim Ross addressed Council in relation to the Draft Youth Space/s Feasibility Study.

The business of the meeting then returned to the agenda.

10.3.1 Draft Youth Space/s Feasibility Study

Introduction

File No.: 12/12/015
Author: Troy Scoble
General Manager: Danny Colgan

Background

The purpose of this report is to recommend that the Council endorse the Draft Youth Space/s Feasibility Study for the purposes of community exhibition for a period of four weeks.

Proposal

The Moorabool Youth Strategy 2013-2016 was adopted by Council at the Ordinary Meeting held in December 2013. There is currently no purpose built or dedicated youth space/s within the Shire. A key recommendation of the Youth Strategy was to investigate opportunities to access existing space to provide additional youth space/s for the community. This would enable Council to provide a flexible service model, reduce costs of transport, equipment handling, venue hire and significantly enhance the youth engagement effort.

It was also recommended that a report be prepared to identify the key components of a youth space/s including the size and type of space required, governance and management arrangements, capital costs, operating costs, location and potential funding sources for the consideration of the Council.

Officers recently engaged Consultants (Semann and Slattery) to undertake a Youth Space/s Feasibility Study in partnership with Council.

The objectives of the Youth Space/s Feasibility Study are:

- Provide a clear analysis of present and future youth space/s needs;
- Develop a report which compares costs, benefits and operational model associated with the development of a Youth Space/s across the municipality;
- Analyse opportunities for sourcing of potential external funding;
- Recommend how Council will best provide and facilitate access to Youth spaces in the future to engage young people in the Shire; and
- Prepare if possible a concept design and cost plan for development of a Youth space precinct.

A significant amount of community engagement was undertaken to inform the development of the draft study. The engagement contributed to the development of the vision and principles to inform future decision making in relation to any development of youth space/s across the Shire.

The study examined siting/location opportunities within the Shire, accessibility, possible use of existing sites, management, governance and funding models.

The study also recognised the financial costs associated with any implementation and the need to examine staging options and the engagement of other youth and community groups to work collaboratively in any potential development of Youth Space/s in Moorabool.

The Draft Youth Space/s Feasibility Study provides a number of options for future consideration and outlines the key components that govern how Council might develop and manage the development of any Youth space/s in the future.

The Draft Youth Space/s feasibility study recommends Council consider future development of the Andy Arnold Centre in Bacchus Marsh as an opportunity to develop a multipurpose, integrated community space that would include opportunities for young people. This could be planned in the future with the redevelopment of Rotary Park adjacent to the centre, lending itself to becoming an active integrated community hub.

The study recommends Council consider a staged approach to future development with future funding a key determination of the projects viability.

Policy Implications

The 2013 - 2017 Council Plan provides as follows:

Key Result Area	Community Well Being
Objective	Inclusive, responsive and accessible community services
Strategy	Advocate, support and deliver youth programs and services in partnership with other agencies.

The Draft Youth Space/s Feasibility Study is consistent with the 2013-2017 Council Plan and the Moorabool Youth Strategy 2013 -2016.

Financial Implications

There is currently no commitment toward the development of Youth Space/s in Council's Strategic Financial Plan. Future budget implications will be referred to Council's budget process for consideration. External funding will also be sought.

Risk & Occupational Health & Safety Issues

Risk Identifier	Detail of Risk	Risk Rating	Control/s
Community Needs	Potential service and further youth engagement gaps if outcomes of the feasibility study are not considered	Medium	Council to review outcomes of Feasibility study implementation in partnership with a range of potential funding and development options – including the upgrade of existing sites for multiple community use
Financial	Funding required to progress actions outlined in the Feasibility Study	Medium	Business cases prepared for consideration in future Council budgets. External funding sources sought and a staged development approach

Community Engagement Strategy

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

Level of Engagement	Stakeholder	Activities	Date	Outcome
Consult	Young people, Parents and carers, Service providers	Three focus groups with Young people in Bacchus Marsh and Ballan.	August 2015	Youth, community and service provider feedback
		Two focus groups with Service providers, parents and carers including Council, agency and school staff	August 2015	

Survey (On-line)	Young people, Parents and carers, Service providers	231 Young People, 232 Parents and Carers and 16 Service Providers responded to the Survey	August – November 2015	Feedback included in the Draft document
Consult	Moorabool Agencies and Schools Together Network	Presentation of Issues and Options Paper and Draft document	January – March 2016	Feedback included in the Draft document
Consult	Moorabool Shire Health and Well Being Youth Sub Committee	Presentation of Discussion Paper and Draft document	January – March 2016	Feedback included in the Draft document
Consult	Councillors	Presentation to the S.86 Social Development Committee of Council	18 th May 2016	Feedback included in the Draft Document

Communications Strategy

It is proposed that the Draft Youth Space/s Feasibility Study placed on public exhibition for four weeks. The exhibition of the Draft Study will involve:

- Have Your Say, Council's Online Community Engagement Portal
- Making copies available at Council's Customer Service locations
- Making copies available at the Lerderderg Library and the Ballan Library.
- All Service providers and Moorabool and Schools Together (MAST) members being notified of the opportunity to view the Draft Youth Space/s Feasibility Study and provide feedback

This process will be advertised through local newspapers and other communication processes including Council's Web page and the Youth Services Facebook 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 – Danny Colgan

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

Author – Troy Scoble

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

Conclusion

The Youth Space/s Feasibility Study provides a vision and options for consideration for the future development of Youth Space/s in Moorabool Shire. Based on significant community engagement with a range of young people, service providers, carers and families, the Draft study includes information regarding predicted usage, possible siting, and accessibility, possible use of existing sites, staging options, management, governance and funding models.

The Draft Youth Space/s Feasibility was considered at a meeting of the Social Development Committee of Council on the 18 May 2016 with a recommendation by the Committee that it:

- (i) receives the Draft Youth Spaces Feasibility Study for the purpose of review and feedback to Officers; and
- (ii) requests that the Youth Spaces Feasibility Study (with any identified amendments) be presented to an Ordinary Meeting of Council for endorsement for the purposes of community exhibition for a period of four weeks.

Resolution:

Crs. Edwards/Dudzik

That Council:

- 1. *Endorses the Draft Youth Space/s Feasibility Study for the purpose of community exhibition for a period of four weeks.***
- 2. *Receives a further report at the conclusion of the community exhibition period, including the next steps and timeline to progress the planning and development process, and seeking adoption of the Youth Space/s Feasibility Study.***

AMENDMENT

Crs. Spain/Tatchell proposed the following Amendment.

That Council:

- 1. *Endorses the Draft Youth Space/s Feasibility Study for the purpose of community exhibition for a period of four weeks.***

2. ***Receives a further report at the conclusion of the community exhibition period, including the next steps and timeline to progress the planning and development process.***

The Amendment was voted upon and defeated the Motion.

The Amendment then became the Motion and was CARRIED.

Report Authorisation

Authorised by:

Name:

Danny Colgan



Title:

General Manager Social & Organisational Development

Date:

Wednesday 29 June 2016

10.3.2 Bacchus Marsh & Melton Poultry Club and Footscray & District Poultry Club Lease Agreement

Introduction

File No.: 471850
Author: Troy Scoble
General Manager: Danny Colgan

The purpose of this report is to recommend that the Council enter into a lease with the Bacchus Marsh & Melton Poultry Club and Footscray & District Poultry Club, hereby known as 'tenants in common', situated at the Bacchus Marsh Racecourse and Recreation Reserve.

Background

The 'tenants in common' have operated out of pavilion at the Bacchus Marsh Racecourse and Recreation Reserve for many years prior to Council being granted land management of the reserve by the Victorian Minister for Environment and Climate Change. Prior to the Council becoming land manager, the 'tenants in common' renovated the pavilion at their own expense under a Crown Land (Reserves) Act 1978 licence agreement.

Discussions have been held with the 'tenants in common' to establish a lease agreement consistent with previous agreements that provide exclusive rights to the 'tenants in common' for the management, maintenance and operation of the pavilion and a small apron of land surrounding it, at the Bacchus Marsh Racecourse and Recreation Reserve.

At the Ordinary Meeting of Council held on the 4 May 2016, the Council resolved:

1. *That Council resolves to enter into a lease with the Bacchus Marsh and Melton Poultry Club and the Footscray and District Poultry Club for the lease of the Bacchus Marsh Racecourse and Recreation Reserve Poultry Club Facilities under the following conditions:*
 - a) *An initial term of seven years plus two further seven year options.*
 - b) *An annual lease fee of \$530 per annum (increased annually by CPI) for the first seven year term of the lease with the fee to be reviewed at the conclusion of the seven period.*
 - c) *Council will maintain the areas of the roadway entrance into the reserve that provides access to the Poultry Club Facility as outlined in attached map in Attachment 10.3.2.*
 - d) *The Council reserves the right to undertake any future development works at the site (minor or major capital works projects). Any works will be planned and undertaken in consultation and agreement with the Bacchus Marsh and Melton Poultry Club and the Footscray and District Poultry Club.*

2. *That Council, in accordance with section 190 of the Local Government Act 1989, gives four weeks public notice of its intention to enter into a lease for a term of seven years with two seven year options with the Bacchus Marsh and Melton Poultry Club and the Footscray and District Poultry Club for the lease of the Bacchus Marsh Racecourse and Recreation Reserve Poultry Club Facilities and seek and consider public submissions under section 223 of the Act.*
3. *Following the completion of the public submission process, a further report be presented to Council considering all public submissions received.*

The public notice advising of Council's intention to enter into the lease was advertised on 19 May 2016 with submissions closing on the 16 June 2016. No submissions were received.

Proposed Terms of the Lease Agreement

Tenure

It is proposed that the term of the lease be seven years with two additional seven year options. The 'tenants in common' are supportive of the proposed terms. The proposed term of the lease is suitable given the significant investment that the 'tenants in common' have already made to the pavilion and the future plans the Club has to improve the facilities.

Maintenance Management

The lease agreement provides the 'tenants in common' with exclusive management and usage rights in return for the pavilion undertaking the majority of maintenance required at the facility.

The Bacchus Marsh and Melton Poultry Club and the Footscray and District Poultry Club Lease Agreement outlines conditions of responsibility for Council to be implemented over the course of the agreement. Officers will continue to source funding and resource opportunities both internally and externally to implement these actions.

The clubs have proposed to continue to pay an annual user fee to contribute toward the common (shared use) areas on the reserve that provide access to the Poultry Club facilities.

Proposal

It is proposed that Council enter into a lease agreement with the 'tenants in common' (Bacchus Marsh and Melton Poultry Club and the Footscray and District Poultry Club) situated at the Bacchus Marsh Racecourse and Recreation Reserve.

Policy Implications

The 2013–2017 Council Plan provides as follows:

Key Result Area	Community Well Being
Objective	Increase and encourage participation in a range of sport, recreation and leisure activities.
Strategy	Promote community health and wellbeing through the provision of recreation facilities, open space, programs and activities.

The proposed lease with the Bacchus Marsh and Melton Poultry Club and the Footscray and District Poultry Club is consistent with the 2013-2017 Council Plan.

Financial Implications

The Bacchus Marsh and Melton Poultry Club and the Footscray and District Poultry Club Agreement outlines conditions of responsibility for Council to be implemented over the course of the agreement. Officers will continue to source funding and resource opportunities both internally and externally to implement these actions.

Risk & Occupational Health & Safety Issues

Risk Identifier	Detail of Risk	Risk Rating	Control/s
Financial	Funding required to progress conditions set out in the Draft lease agreement	Medium	Business cases will be prepared for consideration in future Council's budgets along with applications for external funding.

Communications and Consultation Strategy

To comply with Section 190 of the Local Government Act 1989, the Council was required to give four weeks public notice of its intention to enter into a lease of 10 years or more for the lease of land which includes a building. The public then have the right to make public submissions in accordance with Section 223 of the Act.

Public notice was provided and no submissions were received.

Victorian Charter of Human Rights and Responsibilities Act 2006

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

Officer's Declaration of Conflict of Interests

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

General Manager – Danny Colgan

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

Author – Troy Scoble

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

Conclusion

The 'tenants in common' have operated out of the pavilion at the Bacchus Marsh Racecourse and Recreation Reserve for many years prior to Council being granted land management of the reserve by the Victorian Minister for Environment and Climate Change. Prior to the Council becoming land manager, the 'tenants in common' renovated the pavilion at their own expense, contributing to the Bacchus Marsh Racecourse and Recreation Reserve.

The public notice period has been completed with no submissions received. It is recommended that Council enter into the lease agreement with the Bacchus Marsh and Melton Poultry Club and the Footscray and District Poultry Club.

Resolution:

Crs. Tatchell/Edwards

That Council resolves to enter into a lease with the Tenants in Common (Bacchus Marsh and Melton Poultry Club and the Footscray and District Poultry Club) for the lease of the Bacchus Marsh Racecourse and Recreation Reserve Poultry Club Pavilion under the following conditions:

- 1. An initial term of seven years plus two further seven year options.***
- 2. An annual lease fee of \$530 increased annually by in accordance with the Consumer Price Index.***
- 3. Council will maintain the areas of the roadway entrance into the reserve that provides access to the Harness Club Facilities as outlined in attached map in Attachment 10.3.2.***
- 4. The Council reserves the right to undertake any future development works at the site (minor or major capital works projects). Any works will be planned and undertaken in consultation and agreement with the tenants in common.***

CARRIED.

Report Authorisation

Authorised by:

Name: Danny Colgan



Title: General Manager Social & Organisational Development

Date: Thursday 16 June 2016

10.3.3 Bacchus Marsh Harness Racing Club Lease Agreement

Introduction

File No.: 471850
Author: Troy Scoble
General Manager: Danny Colgan

The purpose of this report is to recommend that the Council enter into a lease with the Bacchus Marsh Harness Racing Club situated at the Bacchus Marsh Racecourse and Recreation Reserve.

Background

The Bacchus Marsh Harness Racing Club has operated at the Bacchus Marsh Racecourse and Recreation Reserve for many years prior to Council being granted land management of the reserve by the Victorian Government. Prior to the Council becoming land manager, the Harness Club managed the facilities they occupy under a Crown Land (Reserves) Act 1978 licence agreement.

Discussions have been held with via the Reserve Committee of Management and Harness Club to establish a lease agreement that provide exclusive rights to the clubs for the management, maintenance and operation of the Harness Racing Club Facilities at the Bacchus Marsh Racecourse and Recreation Reserve.

The Council Plan 2013-2017 includes a commitment to undertake a review of the master plan for the Bacchus Marsh Racecourse and Recreation Reserve inclusive of the area under the management of the Harness Racing Club. This review has been completed and the revised Reserve Master Plan adopted at the September 2015 Ordinary Meeting of Council. This lease agreement is consistent with existing usage of the reserve, and outlines provisions for amendment for the recommended future development of any facilities at the reserve in the future.

Proposed Terms of the Lease Agreement

Tenure

It is proposed that the term of the lease be seven years with two additional seven year options. The proposed term of the lease is suitable given the significant investment that the Harness Racing Club has already made to the facilities and the future plans the Club has to improve the facilities with support of their sporting association. It is proposed that the draft lease contain a provision that provides Council with the rights to undertake any further developments at the reserve in consultation with the Club to ensure there is no disadvantage to the club. This provides Council with opportunities to consider outcomes from the master planning of the reserve in consultation with the Club in the future.

Under section 190 of the Local Government Act (the Act), if a lease is to be for 10 years or more, then the Council is required to publish a public notice of the proposed lease and allow the community four weeks to make a submission under S223 of the Act.

Maintenance/Management

The lease agreement provides the Harness Club with exclusive management and usage rights of all existing 'Infrastructure' and areas used by the club within the reserve in return for the Club undertaking the majority of maintenance required at the facilities.

It is proposed that as land manager the Council be responsible for the following:

- The initial entrance roadway into the reserve that provides access to the facilities
- Any future service infrastructure costs including sewer and power installations.

The Harness Club currently pay user fees to the value of \$3,434 GST Inc. annually for the tenancy and use of the facilities. The club has proposed to continue to pay fees at this level increased annually in accordance with the Consumer Price Index to continue to contribute toward the management and maintenance of the common areas around the facilities that provide access to their facilities. It is recommended that the fees be reviewed at the end of the first 7 years of the agreement.

Proposal

Section 190 of the Local Government Act 1989, the Council has a restriction of power to lease land. The section is as follows:-

- (1) A Council's power to lease any land to any person is limited to leases for a term of 50 years or less.
- (2) Subject to any other Act, if a Council leases any land to any person subject to any exceptions, reservations, covenants and conditions, it must comply with this section.
- (3) If the lease is to be –
 - (a) for 1 year or more and –
 - (i) the rent for any period of the lease is \$50,000 or more a year; or
 - (ii) the current market rental value of the land is \$50,000 or more a year; or
 - (b) for 10 years or more; or
 - (c) a building or improving lease –

the Council must at least 4 weeks before the lease is made publish a public notice of the proposed lease.

- (4) A person has a right to make a submission under section 223 on the proposed lease.

Policy Implications

The 2013–2017 Council Plan provides as follows:

Key Result Area	Community Well Being
Objective	Increase and encourage participation in a range of sport, recreation and leisure activities.
Strategy	Promote community health and wellbeing through the provision of recreation facilities, open space, programs and activities.

The proposed lease with the Bacchus Marsh Harness Racing Club is consistent with the 2013-2017 Council Plan.

Financial Implications

The Bacchus Marsh Harness Racing Club Draft Lease Agreement outlines conditions of responsibility for Council to be implemented over the course of the agreement. Officers will continue to source funding and resource opportunities both internally and externally to implement these actions.

The club has proposed to continue to pay an annual user fee to contribute toward the common (shared use) areas on the reserve that provide access to the Harness Club facilities

Risk & Occupational Health & Safety Issues

Risk Identifier	Detail of Risk	Risk Rating	Control/s
Governance	Suitable agreement required to outline roles and responsibilities of Council and the user groups in the management of the Harness Club Facilities	Medium	Ensure suitable agreement is put in place to protect both parties to the agreement.

Communications and Consultation Strategy

To comply with Section 190 of the Local Government Act 1989, the Council is required to give four weeks public notice of its intention to enter into a lease of 10 years or more for the lease of land which includes a building. The public then have the right to make public submissions in accordance with Section 223 of the Act.

Community Engagement has been undertaken with the Bacchus Marsh Harness Club via the Reserve Committee of Management and the Department of Environment, Land, Water and Planning.

Victorian Charter of Human Rights and Responsibilities Act 2006

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

Officer's Declaration of Conflict of Interests

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

General Manager – Danny Colgan

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

Author – Troy Scoble

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

Conclusion

The Bacchus Marsh Harness Club has operated and developed the Harness Club facilities at the Bacchus Marsh Racecourse and Recreation Reserve for many years. Council Officers have been in discussions with all the Clubs at the Reserve to establish a lease agreement that provides exclusive rights to the Clubs existing infrastructure for the management, maintenance and operation of the facilities at the Bacchus Marsh Racecourse and Recreation Reserve.

Resolution:

Crs. Tatchell/Edwards

1. That Council resolves to enter into a lease with the Bacchus Marsh Harness Racing Club for the lease of the Bacchus Marsh Racecourse and Recreation Reserve Harness Racing Club Facilities under the following conditions:

- a) An initial term of seven years plus two further seven year options.**
- b) An annual lease fee of \$3,434 GST Inc. per annum (increased annually by CPI) for the first seven year term of the lease with the fee to be reviewed at the conclusion of the seven period.**
- c) Council will maintain the areas of the roadway entrance into the reserve that provides access to the Harness**

Club Facilities as outlined in attached map in Attachment 10.3.3.

- d) **The Council reserves the right to undertake any future development works at the site (minor or major capital works projects). Any works will be planned and undertaken in consultation and agreement with the Bacchus Marsh Harness Racing Club.**
 - e) **The leased area is to be reviewed annually on the 1st of July each year to reflect and facilitate future development or usage consistent with the Bacchus Marsh Racecourse and Recreation Reserve Master Plan.**
- 2. **That Council, in accordance with section 190 of the Local Government Act 1989, gives four weeks public notice of its intention to enter into a lease for a term of seven years with two seven year options with the Bacchus Marsh Harness Racing Club for the lease of the Bacchus Marsh Racecourse and Recreation Reserve Harness Club Facilities and seek and consider public submissions under section 223 of the Act.**
 - 3. **Following the completion of the public submission process, a further report be presented to Council considering all public submissions received.**

CARRIED.

Report Authorisation

Authorised by:



Name: Danny Colgan
Title: General Manager Social & Organisational Development
Date: Thursday, 16 June 2016

10.3.4 Masons Lane Recreation Reserve User Group Advisory Committee

Introduction

File No.: 12/09/021
Author: Troy Scoble
General Manager: Danny Colgan

The purpose of this report is to provide information to Council regarding the Masons Lane Recreation Reserve User Group Advisory Committee meeting held on the 1 June 2016.

Background

At the Ordinary Meeting of Council held on the 1 June 2016, the Council resolved that a report be provided following the Masons Lane User Group Advisory Committee meeting on Wednesday 1 June 2016, outlining any matters raised at that meeting.

Proposal

The following matters have been raised by user groups at the reserve with Council staff and actions undertaken or in the process of being undertaken listed.

1. Bacchus Marsh Soccer Club

There is currently no dedicated soccer sportsground (unencumbered) in the Shire and the Soccer Club continues to advocate for increased soccer pitch provision in the future.

There is no formalised sportsground lighting at Masons Lane Recreation Reserve. Therefore, soccer teams train under a temporary construction light which is not ideal as a concentration of training in the one area causes significant ground damage, and the quality of lighting is not at a level that is considered safe. To support the soccer club, the club utilises the Darley Civic Hub sportsground and its lighting on multiple week nights.

The club have outlined pressures with featuring the amount of games required and have requested Council investigate an alternate facility layout which would include removing and reinstating sportsground fencing between summer and winter seasons.

In regards to the Draft Reserve Management Framework and Associated policies, the club indicated its support toward a standardized approach to reserve management however thought the draft fee associated with the Recreation Reserve User Fees and Charges modelling was too high.

Actions being Undertaken and Opportunities Being Considered

Council Staff discussed with Club representatives the need to have a short-medium term solution as funding is trying to be secured for the longer term vision for soccer at the Racecourse Reserve.

Council Staff explained a report was presented to the June Ordinary Meeting of Council and subsequently approved Officers to apply for Round 2 of the Community Sports Infrastructure Fund for sportsground lighting at Masons Lane.

Council Staff have had discussions with Football Federation Victoria who indicated whilst the current supply of soccer fields is not ideal, based on benchmarks there may be enough soccer pitch provision within the Shire and that fixturing may be the issue to address. A meeting with Staff, the Football Federation Victoria and the club is being organized.

Officers are also mapping the club proposal at Masons Lane and scoping the cost of removing the fencing of grounds however early investigations indicate this would be a logistical challenge and costs would be prohibitive.

2. Bacchus Marsh Little Athletics Club (BMLAC)

The key issues for the BMLAC include future development of the facilities (pavilion and shade). Whilst the majority of risk issues identified in the Council's Building Audit of the pavilion have been completed, it is acknowledged there remain building and access issues with the Western Pavilion that require addressing.

The feedback from the regarding the Draft Reserve Management Framework and associated policies supported the ideal of achieving equity across all facilities. The feedback on the fees and charges component was that the recoup percentage was too high to commence with and would raise the Athletic fees considerably. Also the proposed fee schedule would be prohibitive to club activities.

Actions being Undertaken and Opportunities Being Considered

Council Staff in partnership with the club are progressing the completion of the concept design process for the development of the facilities. Officers and an architect met with BMLAC representatives prior to the User Advisory Committee to discuss the proposed development drawings for the redevelopment of the Eastern pavilion. There is also a budget allocation of \$75,000 in next year's Draft Budget to complete the design process for the project to be ready for construction in subsequent years.

As a short term measure, Council Staff recently undertook remedial works on the toilets including painting walls and ceilings, floor treatment, replaced fixtures sinks taps and have also recently replaced the cisterns.

Council's Infrastructure unit are also in the process of evaluating hard stand shelter provision and shade sail shelter provision consistent with plans provided by the club.

3. Bacchus Marsh Dog Obedience Club (BMDOC)

The key issue raised by the BMDOC was around the Draft Reserve Management Framework and associated fees and charges policy. The club feels the policy needs flexibility to cater for the type of usage of the Dog Obedience Club and that whilst they use sportsground facilities and pavilions, their usage is different to that of regular sport club users and a lessened fee needs to apply.

Actions being Undertaken and Opportunities Being Considered

Council Staff have table the feedback provided by the BMDOC and this will be considered in the finalisation of the Reserve Management Framework and associated policies and be discussed in a workshop with the Recreation and Leisure Strategic Advisory Committee and later presented to Council.

4. Bacchus Marsh Baseball Club

The Bacchus Marsh Baseball Club raised the following issues at the meeting and with Council Staff separately:

- Maintenance processes for urgent maintenance on the Baseball Pavilion
- The use of the baseball specific area by the community for a dog off lead area and the mess that this is leaving and causing their members every time they are schedule to use the facilities to clean up
- Queries regarding whether maintenance was undertaken in the change of season period on the baseball field
- Queries around the ongoing commitment to the facilities at the baseball club, particularly the lack of irrigation infrastructure.
- The club also raised again concerns relating to the fees they are paying stating they are unfair. The club based on their previous all year round use of the facility have been levied a 12-month user fee (\$2,878) but currently only use the facilities for 6 months as they continue to build participation at their club again. The club sees strong benefits in the Draft Reserve Management Framework and associated policies including user fees and charges which will ensure a standardised model for fee apportion in the future.

Actions being Undertaken and Opportunities Being Considered

Council Staff have provided a response to each of the concerns raised. This includes actions to be undertaken regarding the management of the dogs off lead issues, options to alleviate the mess being left, confirmation of the maintenance undertaken during the change of season and clarification of how the new Reserve Framework would impact the club positively should it be adopted and implemented.

It is recommended that the current usage fee be adjusted to reflect actual use of the baseball facilities and to support the club through its current challenges with increasing participation.

A meeting has also been held on site in recent weeks to discuss the outstanding issues further.

5. Bacchus Marsh Cricket Club

The Bacchus Marsh Cricket Club is based at Maddingley Park and uses Masons Lane Recreation Reserve as its secondary facility.

The key issues for the club was a request for further details of the sportsground maintenance that was undertaken during the change of seasons from summer to winter and the maintenance planned to be undertaken from winter to summer prior to their season.

In regards to the Draft Reserve Management Framework and policies the club made a formal submission indicating support for the framework raising questions around the proposed fees, especially for those with secondary facilities.

Actions being Undertaken and Opportunities Being Considered

Information was provided regarding the sportsground maintenance undertaken at Masons Lane sportsgrounds and the challenges faced with the limited supply of water and only one of the sportsground ovals having an irrigation system.

All feedback provided by the users regarding the Draft Reserve Management Framework and associated policies will be tabled for consideration as part of finalising the Framework and the policies for presentation to Council.

Policy Implications

The 2013 - 2017 Council Plan provides as follows:

Key Result Area	Community Well Being
Objective	Increase and encourage participation in a range of sport, recreation and leisure activities
Strategy	Promote community health and well-being through the provision of recreation facilities, open space, programs and activities.

Financial Implications

The Bacchus Marsh Baseball Club's current user fee proposed for 2016/17 is \$2,878. It is recommended to reduce this to a 6-month user fee to reflect usage which will be reduced to \$1,439. It is expected that the reduction will be offset through additional use of the facility.

Risk & Occupational Health & Safety Issues

Risk Identifier	Detail of Risk	Risk Rating	Control/s
Community Needs	Service gaps if the clubs are not managed and communicated with regularly	High	Council to continue to maintain regular communication with user groups as part of managing the reserve.
Financial	Funding required to progress actions required from ongoing discussions and issues	Medium	Business cases prepared for consideration in future Council budgets

Community Engagement / Communications Strategy

Officers recently held the Masons Lane User Group Advisory Committee meeting. The next meeting is scheduled for September 2016.

Officers as part of the management of the reserve will continue to discuss any outstanding or arising issues with each of the user groups as part of managing their usage at the reserve.

Council have also submitted the user group feedback to the reserve Management Framework and associated policy process to inform the finalisation of the framework and policies.

Victorian Charter of Human Rights and Responsibilities Act 2006

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

Officer's Declaration of Conflict of Interests

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

General Manager – Danny Colgan

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

Author – Troy Scoble

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

Conclusion

At the Ordinary Meeting of Council on 1 June 2016 the Council resolved that a report be provided to Council following the Masons Lane Advisory Committee meeting on Wednesday 1 June 2016, outlining any issues raised at that meeting.

Council Staff will continue to work in partnership with the user groups to manage ongoing and issues arising at the reserve.

Recommendation:

That the Council:

1. **Receive the report on the Masons Lane User Group Advisory Committee meeting and status of ongoing issues.**
2. **Apply a user fee of \$1,439 to the Bacchus Marsh Baseball Club in the 2016/17 financial year for use of Masons Lane Reserve.**

Resolution:

Crs. Dudzik/Spain

That the Council:

1. ***Receive the report on the Masons Lane User Group Advisory Committee meeting and status of ongoing issues.***
2. ***Apply a user fee of \$1,439 to the Bacchus Marsh Baseball Club in the 2016/17 financial year for use of Masons Lane Reserve.***
3. ***That Council refer the issues to an Assembly of Council.***

CARRIED.

Report Authorisation

Authorised by:



Name: Danny Colgan
Title: General Manager Social & Organisational Development
Date: Wednesday 29 June 2016

10.4 INFRASTRUCTURE SERVICES

10.4.1 Petition; Request for Children's Playground – Parkside Avenue Reserve, Essence Estate, Bacchus Marsh

Introduction

File No.: 02/06/008
Author: Corinne Jacobson
General Manager: Phil Jeffrey

Background

In February 2016, Council received a petition from a resident of Essence Estate requesting the installation of a children's playground in the Parkside Avenue Reserve in Essence Estate, Bacchus Marsh.

The construction of Essence Estate Stage 5 was completed in 2015. The reserve has been developed using existing mature trees with the inclusion of pathways, bench seating, grassed areas and plantings.



A planning permit was issued in 2011 for the development of the site.

Condition 7 of the planning permit required a Landscape Plan be submitted for each stage to the satisfaction of the Responsible Authority. The plan needed to include the following:

- a) Vegetation that is approved to be retained, removed and or lopped;
- b) Site contours and any proposed changes to existing levels including any structural elements such as retaining walls
- c) Details of surface finishes of pathways and driveways
- d) A planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity and quantities of each plant.
- e) Details of any entrance treatments
- f) Details of fencing along common boundaries and areas intended for public open space and lots within a direct sidage onto Griffith Street
- g) Location and detail of any furniture, rubbish bins and/or play equipment.

A landscape masterplan for the estate was not required as part of the planning permit however was included as part of the preparation of the development plan. In that document, a playground was mentioned. Item g) above requires details of furniture and/or play equipment however it does not mandate provision of any of these items.

Landscape plans for Stage 5 of the estate were provided to Council and endorsed. The plans did not include a playground at the Parkside Avenue Reserve. Landscape works have been completed and practical completion has been reached.

Based on Council's Recreation & Open Space Strategy 2015-21, playgrounds should be accessible within 400m of a residential property. A playground has been developed at the adjacent Stonehill Estate to the east and is within 400m of most blocks within Essence however, further development will occur to the west of the site therefore a playground at this location adjacent to the O'Leary Way extension would be a desirable outcome.

Proposal

There is no further mechanism to require the developer (Urban Land Development) to install a playground as part of the development. However, following discussions with the developer, they have committed a further \$20,000 cash contribution to assist in funding a future playground. This is over and above the development contributions they are already making.

Based on this contribution a small playground could be installed including a swing set and combination unit, soft fall and associated edging. It is therefore proposed to install a small playground using the additional contributions received.

Policy Implications

The 2013 - 2017 Council Plan provides as follows:

Key Result Area

Enhanced Infrastructure and Natural and Built Environment

Objective Ensure current and future infrastructure meets the needs of the community

Strategy Construct physical infrastructure to appropriate standards

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

Financial Implications

Based on the proposal, there would be no financial implication regarding installation of a new playground at this location for Council. Ongoing management and maintenance costs for the playground will be incurred and the playground would be added to Council's register and receive scheduled regular inspections.

Risk & Occupational Health & Safety Issues

There are no Risk or Occupational Health and Safety issues associated with the recommendation of this report.

Communications Strategy

The petition convener will be notified Council's decision. If and when the playground is constructed, adjacent residents will be notified through letter drop accordingly.

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 – Corinne Jacobson

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

Conclusion

The provision of a playground at Parkside Avenue Reserve, Essence Estate was not included as a requirement in the Planning Permit or in the endorsed landscape plan for Stage 5. Although a playground is accessible within the adjacent Stonehill Estate it is proposed to construct a small children's playground in the Parkside Avenue Reserve using the further developer contribution of \$20,000.

Resolution:

Crs. Dudzik/Cr. Edwards

That Council:

1. ***Approve the installation of a new children's playground at Parkside Avenue Reserve, Essence Estate with contribution from the developer.***
2. ***Acknowledges the additional \$20,000 contribution from Urban Land Developments towards the installation of the playground.***

CARRIED.

Report Authorisation

Authorised by:



Name: Phil Jeffrey
Title: General Manager Infrastructure
Date: Wednesday, 29 June 2016.

11. OTHER REPORTS

11.1 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 1 June 2016 – Draft Councillor Code of Conduct

Resolution:

Crs. Sullivan/Tatchell

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

- ***Assembly of Councillors – Wednesday 1 June 2016 – Draft Councillor Code of Conduct.***

CARRIED.

11.2 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
Bacchus Marsh Hall Committee of Management	14 April 2016	Cr Spain
Development Assessment Committee	8 June 2016	Cr. Comrie, Cr. Dudzik, Cr. Edwards, Cr. Tatchell

Resolution:

Crs. Tatchell/Spain

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

- ***Bacchus Marsh Hall Committee of Management meeting of Thursday, 14 April 2016.***
- ***Development Assessment Committee meeting of Wednesday, 8 June 2016.***

CARRIED.

11.3 Advisory Committees of Council - Reports

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

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

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

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

Committee	Meeting Date	Council Representative
Moorabool Recreation and Leisure Strategic Advisory Committee`	16 February 2016 3 May 2016	Cr. Dudzik, Cr. Edwards, Cr. Spain
Bacchus Marsh and District Trails Advisory Committee	3 May 2016	Cr Spain

Resolution:

Crs. Spain/Sullivan

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

- ***Moorabool Recreation and Leisure Strategic Advisory Committee meetings of Tuesday, 16 February 2016 and Tuesday, 3 May 2016.***
- ***Bacchus Marsh and District Trails Advisory Committee meeting of Tuesday, 3 May 2016.***

CARRIED.

12. NOTICES OF MOTION

Nil.

13. MAYOR'S REPORT

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

Cr Allan Comrie – Mayor's Report	
Date: 6 July 2016	
7 June	Community Grants Presentation Evening, Ballan
8 June	S86 Development Assessment Committee Meeting
10 June	Rowsley Crossing Loop – Project Update, Rowsley
14 June	Bacchus Marsh Racecourse & Recreation Reserve CoM Meeting
17 June	Central Highlands Mayors & CEOs Meeting, Ballarat Darley Neighbourhood House & Learning Centre, Installation of Mosaic Art Project
20 June	Launch of Sarah's Space, supporting Bacchus Marsh Youth
22 June	Special Meeting of Council
23 June	Federal Election Candidates Forum, hosted by Moorabool News
28 June	Blacksmiths Cottage & Forge Special Committee Meeting
29 June	Assembly of Councillors – Gisborne Road/Grant Street Capacity Improvements Special Meeting of Council Special Meeting of Council
3 July	NAIDOC Week Flag Raising Event, Ballan
6 July	Ordinary Meeting of Council, Ballan

Resolution:

Crs. Tatchell/Dudzik

That the Mayor's report be received.

CARRIED.

14. COUNCILLORS' REPORTS

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

Cr. Sullivan	
<i>June 2016</i>	
<i>27 June</i>	<i>MAV Rural South Central Meeting, Clunes</i>

Cr. Dudzik	
<i>July 2016</i>	
<i>3 – 10 July</i>	<i>NAIDOC Week – Cr. Dudzik thanked staff for working with the NAIDOC Week Committee and the Mayor for attending the Flag Raising Ceremony.</i>

Resolution:

Crs. Spain/Sullivan

That the Councillors' reports be received.

CARRIED.

15. URGENT BUSINESS**15.1 Shade Sails and Structure at Masons Lane Reserve**

Resolution:

Cr. Dudzik/Spain

That Council:

- 1. Allocates \$16,345.00 in total from the East Moorabool Ward Fund towards replacement of the existing shade sails and structure and the creation of two additional shade sails.***
- 2. Remove the existing shade sails and structure and install 5 new shade sails with that to occur as soon as practicable and prior to the commencement of the Little Athletics season in consultation with Bacchus Marsh Little Athletics Club.***
- 3. Writes to Bacchus Marsh Little Athletics Club and advises them of the Council contribution allocated towards the replacement of shade sails and the structure.***
- 4. Requires the Bacchus Marsh Little Athletics Club to contribute \$10,230.00 to the project.***

CARRIED.

15.2 Tourism Event Grant Program

Resolution:

Cr. Tatchell/Sullivan

That a report be brought to the next Ordinary Meeting of Council in relation to the Flavours of Moorabool event and the Tourism Event Grant Program.

CARRIED.

15.3 Tracks and Trails – Walking/Cycling Track

Resolution:

Cr. Edwards/Dudzik.

That Council write to the Tracks and Trails Committee to reaffirm its support for a walking / cycling track along the North / South irrigation channel with this information to be sent to Southern Rural Water for their information.

CARRIED.

ADJOURNMENT OF MEETING – 6.13PM

Crs. Sullivan/Edwards

That the meeting now stand adjourned for a period of 6 minutes.

CARRIED.

RESUMPTION OF MEETING – 6.19PM

Crs. Sullivan/Spain

That the meeting now be resumed.

CARRIED.

16. CLOSED SESSION OF THE MEETING TO THE PUBLIC**16.1 Confidential Report**

Resolution:

Crs. Sullivan/Spain

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

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

CARRIED.

Item 16.1 is a confidential item and
therefore not included
as part of these Minutes.

17. MEETING CLOSURE

The meeting closed at 6.20pm.

Confirmed.....Mayor.