



ORDINARY MEETING OF COUNCIL

Minutes of the Ordinary Meeting of Council
held at the Council Chamber,
15 Stead Street, Ballan
on Wednesday 7 March 2018 at 6:00 p.m.

Members:

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

Officers:

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

Rob Croxford
Chief Executive Officer

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1. OPENING OF MEETING AND PRAYER

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

2. ACKNOWLEDGEMENT TO COUNTRY

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

3. RECORDING OF MEETING

As well as the Council for its minute taking purposes, the following organisations have been granted permission to make an audio recording of this meeting of Council:

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

4. PRESENT

<i>Cr. Paul Tatchell (Mayor)</i>	<i>Central Moorabool Ward</i>
<i>Cr. David Edwards</i>	<i>East Moorabool Ward</i>
<i>Cr. Jarrod Bingham</i>	<i>East Moorabool Ward</i>
<i>Cr. John Keogh</i>	<i>East Moorabool Ward</i>
<i>Cr. Tonia Dudzik</i>	<i>East Moorabool Ward</i>
<i>Cr. Pat Toohey</i>	<i>Woodlands 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. Danny Colgan</i>	<i>General Manager Social and Organisational Development</i>
<i>Mr. Satwinder Sandhu</i>	<i>General Manager Growth and Development</i>
<i>Mr. Rob Fillisch</i>	<i>Manager Statutory Planning and Community Safety</i>
<i>Mr. Justin Horne</i>	<i>Coordinator Environmental Planning</i>
<i>Mr. Mark Lovell</i>	<i>Senior Statutory Planner</i>
<i>Ms. Michelle Morrow</i>	<i>Minute Taker</i>

5. APOLOGIES

Nil.

6. CONFIRMATION OF MINUTES

6.1 Ordinary Meeting of Council – Wednesday, 7 February 2018

Resolution:

Crs. Edwards/Keogh

That Council confirms the Minutes of the Ordinary Meeting of Council held on Wednesday, 7 February 2018.

CARRIED.

7. DISCLOSURE OF CONFLICT OF INTEREST

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

Definitions of the class of the interest are:

- a direct interest
 - (section 77A, 77B)

- an indirect interest (see below)
 - indirect interest by close association (section 78)
 - indirect financial interest (section 78A)
 - indirect interest because of conflicting duty (section 78B)
 - indirect interest because of receipt of gift(s) (section 78C)
 - indirect interest through civil proceedings (section 78D)
 - indirect interest because of impact on residential amenity (section 78E)

Time for Disclosure of Conflicts of Interest

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

Section 79(6) of the Act states:

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

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

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

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

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

7.1 Disclosure of an Indirect Conflict of Interest

Cr. Sullivan declared an Indirect Conflict of Interest (section 78B) in relation to Item 11.2.2 – Planning Permit PA2017-100 – Use and development of the land for a place of assembly and outdoor shooting range. The nature of the Conflict of Interest is due to Cr. Sullivan having previously worked as a surveyor for the applicant.

8. PUBLIC QUESTION TIME

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

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

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

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

A Councillor or Council officer may:

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

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

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

Mr. Jeremy Maddox submitted the following question.

Question:

What progress has Council made towards the achievement of energy efficiency and clean energy, and specifically how many solar panels have been installed so far on Council buildings?

Response:

In the 2016-17 budget, Council committed to the removal of existing street lights to replace with lower energy consuming LEDs. A budget of \$860,000 has been proposed under the Capital Program which will be rolled out in 2019/20 financial year. Operational changeover of lighting (e.g. when light fitting or globe has to be replaced) to more energy efficient options such as LED. Replacement of electrical goods (e.g. fridges) when at end of life, with most energy efficient models. Fleet policy updated in 2016/17 to promote purchasing of more fuel efficient vehicles. Installation of video conferencing at Ballan and Darley Offices to reduce need to travel between the two sites for meetings. Removal of surplus electrical goods (e.g. bar fridges) from kitchenettes. In relation to the question on solar panels, no solar panels have been installed so far on Council buildings. A budget bid has been made to explore opportunities in the 2019/20 budget.

9. PETITIONS

Nil.

10. PRESENTATIONS / DEPUTATIONS

The Council has made provision in the business of the Ordinary Meetings of the Council for the making of presentations or deputations to Council in relation to matters presented on the agenda for Council consideration.

Presentations or deputations are required to be conducted in accordance with the requirements contained within the **Presentation/Deputations Protocols and Procedural Guidelines**.

Persons wishing to make a presentation or deputation to Council on a matter included in the agenda shall inform Council prior to the meeting by contacting the Chief Executive Officer's office and registering their name and agenda item being spoken to.

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

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

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

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

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

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

Item No	Description	Name	Position
12.2	<i>Section 86 -Delegated Committees of Council – Reports</i>	Alice Ogilvie	Objector

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

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

Item No	Description	Name	Position
11.2.2	<i>Planning Permit 2017 100 – Use and development of the land for a place of assembly and outdoor shooting range</i>	Nigel Pettifer	Objector
11.2.2	<i>Planning Permit 2017 100 – Use and development of the land for a place of assembly and outdoor shooting range</i>	Eric Bullmore	Objector
11.2.2	<i>Planning Permit 2017 100 – Use and development of the land for a place of assembly and outdoor shooting range</i>	Gary Jones	Applicant
11.2.2	<i>Planning Permit 2017 100 – Use and development of the land for a place of assembly and outdoor shooting range</i>	Chris Sharkey	Objector
11.2.2	<i>Planning Permit 2017 100 – Use and development of the land for a place of assembly and outdoor shooting range</i>	John Beevers	Objector

11. OFFICER'S REPORTS

11.1 CHIEF EXECUTIVE OFFICER

11.1.1 Ballarat Rail Line Action Committee (BRAC)

Introduction

Author: Rob Croxford

Background

The Ballarat Rail Line Action Committee was formed in late 2015 with a brief to advance investment in the Ballarat rail line following concerns over congestion, reliability and predictions of rapid growth in passenger numbers. The Committee is a united voice for priority projects. In July 2017 the Committee met to consider priority actions and to engage consultancy Rail Futures to assist the Group to develop future priorities and advocacy material ahead of the upcoming State and Federal elections.

In early 2017 the State Government announced Stage 1 of upgrade works totalling \$518M on the Ballarat Line that will occur over the period 2018-2022.

This report addresses further studies and works required to 2030 to address future needs of the communities along the line.

Proposal

Attached (Attachment 1 and 2) are two advocacy documents that were considered by the BRAC at the meeting on 9 February, 2018.

The documents can be used in totality or in part depending on the issue and audience.

The first document recognises the unique aspects of the Ballarat line in the more urban areas of Brimbank, Melton and Bacchus Marsh.

The second document recognises the regional and rural aspects of the line. Both documents focus on passenger functions and are cross referenced.

A range of infrastructure projects have been listed in the brochures for each Council and the BRAC collectively to advocate for appropriate modern services into the future.

Of significance is the request for preparation by government of a Network Development Plan (business case) that proposes projects relating to:

- Electrification
- Duplication / Quadruplication
- Line upgrades
- Level crossing removals
- New stations
- New rolling stock
- Removal and creation of passing loops
- Park and ride station at Warrenheip
- New station at Parwan

Discussion on key issues facing Moorabool is set out below:

Electrification

In discussing the Melton / Bacchus Marsh document at the last BRAC meeting, it is evident that decisions about the extension of electrification to Melton and then to Bacchus Marsh are likely to be made in the lead up to the State election in November.

The stabling of trains will be a key issue at Melton and Maddingley.

Melton electrification has been discussed for many years now and is essential for the current and future population.

Electrification to Bacchus Marsh in 2026 is now under consideration in the total network planning that picks up urban services including Wyndhamvale, and regional services through Ballarat, Maryborough, Ararat and beyond.

The pros and cons of electrification can be summarised as follows:

Pros	Cons
Triple the carrying capacity of VLine trains (444 seats to 1500 people per train).	Slower journey when VLine gets stuck behind frequently stopping electric service.
Bacchus Marsh can become a transport interchange with electric and diesel services.	Amenity of suburban trains is poorer.
Residents will have carriage choice and more flexible destinations.	Risk of VLine trains bypassing Bacchus Marsh in peak and /or off peak timetables.
More frequent service is possible.	
Will lead to duplication of full track and quadruplication to Melton eventually.	Likelihood that a number of peak services won't stop at Bacchus Marsh.
Stabling of trains at Kerrs Road, Maddingley will enable Bacchus Marsh to be at the start of the line for morning services and resolve stabling issues in Melton.	Electric train journeys could take up to 20 minutes longer than current services.
Adequate land for stabling at Kerrs Road, Maddingley.	

It is suggested that the Council support the potential electrification to Bacchus Marsh in principle, subject to the completion of a Network Development Plan and broad community support through ongoing consultation. Further, the opportunity for Bacchus Marsh to be a transport interchange for VLine and metro services will be critical in providing flexibility and enhanced services for the community.

A Council budget bid will be prepared for local community consultation and the development of information to inform community opinion.

Removal of Passing Loops (Bungaree and Wallace loop included)

As part of the \$518M investment in the current (2018 – 2022) program, it is proposed to provide a new bypass in the vicinity of Bungaree and Wallace and discontinue the existing loop.

The Council and officers have met with the Melbourne Metro Rail Authority, VLine and written to the Minister for Transport to point out that the closure of the loop is short sighted given the potential for population growth in Bungaree and Wallace that could then lead to a transport interchange at Wallace.

The Minister has responded in writing (Attachment 3) and VLine and MMRA verbally advised that the loop will be discontinued in order to remove five level crossings and will not entertain keeping the loop open.

Officers have also met with VicTrack to discuss ongoing maintenance of the loop to avoid weed and vermin infestation and to explore other options for the loop.

VicTrack has advised that it would be willing to transfer the loop alignment to Council to manage as a committee to facilitate a rail trail or tourism activity. The use of the loop as an historic rail tourism activity was not supported given other options around the State.

A further option would be the sale of the rail alignment to adjoining property owners.

A further report will be required to advance the future of the loop.

On a related matter, discussions have also been held over the past few years on the future reinstatement of the Gordon Railway Station, particularly as the township grows as a key town in the Shire. At this stage the feedback from VLine in particular is that it is highly unlikely to be reinstated. Officers will continue to raise this matter as it forms part of Council's advocacy strategy.

New Park and Ride Station at Warrenheip

The Minister's advice re the Bungaree / Wallace loop then precludes the option of an interchange at Wallace. Work by Rail Futures suggests that the old Warrenheip Station/siding is in a strategic location that could be maximised.

Warrenheip is at the confluence of the Geelong and Ballarat lines and is ideally located for passenger services to Geelong, and as a park and ride for Ballarat commuters on the eastern side of the city and for Moorabool residents.

The concept is preliminary and would need significant work to address land use, infrastructure and traffic issues into the future. The City of Ballarat and BRAC support further investigation of this concept.

A further report could be provided on this to Council.

New Station at Parwan

The draft Bacchus Marsh Framework Plan being prepared in partnership with the VPA makes provision for the reinstatement of a station at Parwan to the south east of Bacchus Marsh.

This is a long term plan that will support future population growth and the Parwan Employment Precinct.

There are implications for timetabling and electrification for the re-introduction of this station.

A further report to Council will be required on this aspect.

Network Development Plan (NDP)

A Network Development Plan is a complex and detailed business case for the whole of the Ballarat line. It will also provide for planning scheme overlays and reservations.

Transport for Victoria, set up by Government to provide high level strategic integrated transport planning, has met with BRAC and Council officers.

The NDP is an essential step for government investment. Indications are that the Plan could cost \$20M and take at least 12 months to complete.

A key part of advocacy to government will need to be for the completion of the NDP incorporating the other projects discussed in this report.

Policy Implications

The proposed Council Plan 2017 – 2021 provides as follows:

Strategic Objective	Minimising Environmental Impact
Context	Built Environment

The proposal to advocate and plan for the future of the Ballarat Rail Line is consistent with the proposed Council Plan 2017 – 2021.

Financial Implications

The operation of the BRAC is funded largely by the City of Melton who provide secretarial services on behalf of the Group.

Project work undertaken by the Group is funded collectively by contributions on a pro rata population basis by each Council after procurement through the City of Melton.

The cost of the attached advocacy work is around \$10,000 that will be shared by the seven Councils.

A budget bid for further advocacy and strategic work will be contained in the Moorabool 2018/19 budget to provide adequate working budgets.

Risk & Occupational Health & Safety Issues

Risk Identifier	Detail of Risk	Risk Rating	Control/s
Reputational	Poor planning now could lead to a diminished reputation of Council into the future.	Low	Advocacy and preparation of strategic work by Council.

Community Engagement Strategy

There is concern that the electrification to Bacchus Marsh is a new issue that has not been exposed to community consultation and discussion.

As such it is suggested that the matter lay on the table for one Ordinary Meeting cycle to enable discussions to commence.

Level of Engagement	Stakeholder	Activities	Location	Date	Outcome
Inform and Consult	Community Groups	Meetings with affected groups within the community	Various	2018 /19	Enhanced understanding of implications for Rail Line projects. Community able to provide opinion and direction to Council.

Communications and Consultation Strategy

A communications strategy for this Council and BRAC will be developed after raising awareness in the community via the press and social media, and after an in principle position is provided by Council on electrification to Bacchus Marsh and the Network Development Plan.

Victorian Charter of Human Rights and Responsibilities Act 2006

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

Officer's Declaration of Conflict of Interests

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

Author – Rob Croxford

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

Conclusion

The BRAC has been working collaboratively with Councils along the Ballarat Rail Line, State Government and consultants to influence future works on the line for the benefit each Council's communities.

A key issue for resolution in this report is the potential for electrification of the rail line to Bacchus Marsh.

Other aspects considered important for the Council to resolve upon are set out as follows:

1. That Council supports in principle the electrification of the Ballarat Rail Line to Bacchus Marsh subject to the completion of a Network Development Plan by the State Government incorporating significant community consultation and Bacchus Marsh being recognised as a transport interchange for VLine and Metro services.
2. Notes the list of projects for the Ballarat Line to 2030 as set out in the attached brochures.
3. Requests officers to prepare a 2018/19 budget bid for ongoing BRAC advocacy and community engagement activities, to allow local conversations to be held on the current and proposed works along the Ballarat line
4. Notes the response from the Minister for Transport and VicTrack in relation to the Bungaree/Wallace bypass loop and requests a further report from officers on options for the discontinued part of the line that may include transfers to adjoining owners and a rail trail.
5. Adds the attached brochures on the Ballarat Line issues to the advocacy plan previously adopted by Council in November 2017 for use in the lead up to the State and Federal elections in 2018.
6. Requests regular updates on the activities of BRAC.

On balance it is concluded that the BRAC issues lay on the table for one meeting cycle to expose the community to the rail line issues.

It is evident, however, that a position from Council will be required as the government entertains electrification of the rail line to Melton.

Recommendation:


1. **That the report on the Ballarat Rail Line issues lay on the table for one month to enable a conversation to be commenced with the community via press and social media.**
2. **That a further report setting out a proposed Council position on BRAC issues be considered at the April Ordinary Meeting of Council.**

Resolution:**Crs. Edwards/Sullivan**

1. *That the report on the Ballarat Rail Line issues lay on the table for one month to enable a conversation to be commenced with the community via press and social media.*
2. *That officers advertise the report on the Have Your Say web page and provide a summary of responses at the next Ordinary Meeting of Council.*
3. *That a further report setting out a proposed Council position on BRAC issues be considered at the April Ordinary Meeting of Council.*
4. *That an executive summary of the BRAC Report be prepared by Council as it relates to Moorabool Shire and that this summary document form part of the community consultation.*

CARRIED.

Report Authorisation**Authorised by:**

Name: Rob Croxford 
Title: Chief Executive Officer
Date: Wednesday, 28 February 2018

11.1.2 Service Reviews – 2018/2019 Program

Introduction

File No.: 02/03/013
Author: Rob Croxford
Chief Executive Officer: Rob Croxford

The purpose of this report is to recommend that the Council endorse the review of the cleaning of public toilets, Visitor Information Centre and Governance.

Background

The Council at its meeting on the 6 April 2016, resolved to adopt a Service Review and Planning Policy and Framework.

The Service Review and Planning Policy and Framework sets out the Council's commitment to ongoing service reviews and planning to ensure that each service is aligned to the Council's strategic direction, valued by its communities, and delivered in the most responsible and sustainable manner.

In the past 12 months, a review has been undertaken in relation to park and gardens, school crossings and Aged and Disability Services. To ensure a consistent approach to service reviews and planning, the service review and planning policy and framework have been developed.

Proposal

It is proposed that a review of the cleaning of public toilets, Visitor Information Centre and Governance now be undertaken in accordance with the adopted Service Review and Planning Policy and Framework.

The reviews will address the following principles:

- Services will reflect current, future community needs and expectations balanced against the resource capacity of Council.
- Services will have regard to the strategic work of the Council to 2041.
- Services reviews will involve determining if Council is the most appropriate agency to deliver the service
- Service reviews will identify the most appropriate service model and levels of service
- In reviewing a service, the linkages between services, including internal support services, will also be considered.

The following provides a brief description of each service.

Cleaning of Public Amenities

Council is responsible for the management and maintenance of a variety of assets and seeks to provide clean, safe and attractive open space for residents and visitors of the Shire, whilst maintaining a level of service that retains the quality and condition of Council's assets.

The service provided by Council include sanitary cleaning of public facilities (including toilets and BBQs), as well as dog bag unit maintenance.

Visitor Information Centre

Council currently operates a Visitor Information Centre (VIC) which is located within Lerderderg Library at Bacchus Marsh. The VIC provides tourist information to the visitors who tour the area locally.

Due to changing visitor behaviour, growing technological demands, decreasing visitor numbers to the VIC, it is proposed that a service review be undertaken to determine the most appropriate method/role and function of a VIC to ensure relevance to visitors, the tourism industry and be able adequately serve the whole of Moorabool local community.

Governance

It is timely to review the Governance services in the context of the significant review of the Local Government Act to ensure that the Council's Governance arrangements and resourcing is best positioned to address the existing, proposed and changing statutory requirements. The review will examine the systems, policies and processes of the Governance unit. It is also timely to review the Governance services to ensure that the Council is operating effectively and making decisions in the best and long term interest of the communities of Moorabool. The review will also examine the working relationships between the Council and Council officers to ensure that an environment is created and sustained that enable good governance.

Policy Implications

The 2017 - 2021 Council Plan provides as follows:

Strategic Objective: Providing Good Governance and Leadership

Context: Our Business & Systems

The proposed Service Reviews are consistent with the Council's Service Review and Planning Policy and 2017-2021 Council Plan.

Financial Implications

The proposed service reviews will be undertaken using existing resources.

Risk & Occupational Health & Safety Issues

Risk Identifier	Detail of Risk	Risk Rating	Control/s
Environment and Community	Provision of services not in accordance with community need	Low	Application of policy and framework including identification of community needs
Financial	Rising cost of service provision making it possibly unsustainable	Moderate	Review of Services in accordance with the policy to determine future provision

Community Engagement Strategy

The Service Review will involve extensive community engagement consistent with Council's Community Engagement Policy and Framework. A Community Engagement Plan will be prepared for each service review.

Victorian Charter of Human Rights and Responsibilities Act 2006

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

Officer's Declaration of Conflict of Interests

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

Author – Rob Croxford

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

Conclusion

The proposed Service Reviews demonstrate the Council's commitment to ensuring that each service is aligned to Council's strategic direction, valued by its communities, and delivered in the most responsible and sustainable manner.

Resolution:


Crs. Sullivan/Edwards

That the Council endorse the reviews of Public Toilet Cleaning, Visitor Information Service and Governance.

CARRIED.

Report Authorisation

Authorised by:

Name: Rob Croxford 
Title: Chief Executive Officer
Date: Wednesday, 28 February 2018

11.1.3 Local Government Act Exposure Bill – Draft Submission

Introduction

File No.: 01/03/001
Author: Danny Colgan
Chief Executive Officer: Rob Croxford

Background

The Hon Marlene Kairouz MP, Minister for Local Government has released an Exposure Draft of the legislation which is proposed to become the primary piece of legislation for Local Government and replace the majority of the Local Government Act 1989 ('the 1989 Act'). Submissions about the draft legislation are due by 16 March 2018.

In 2015 the State Government announced it would conduct a first principles review of the 1989 Act to ensure that Victorian Local Government is operating within a contemporary legal framework.

In December 2017, the Hon Marlene Kairouz MP, Minister for Local Government, released an Exposure Draft of the new Local Government Bill and outlined in explanatory information that the State Government is seeking to achieve the following objectives as a result of the enactment of the new legislation:

- Victorians will better understand and value the role of councils as democratically elected bodies that represent their interests; participate more as candidates, voters and citizens in council activities; and contribute to council strategic visions and plans;
- Councils will drive reform across the state by being more autonomous and outcome-orientated; and by embracing innovative and collaborative arrangements that increase organisational efficiency and deliver public value for residents;
- The Act will be a living document that tells people clearly what councils do and how to get involved, and provide a sound framework for the sector to become more efficient and enterprising in its local governance.
- The Minister has also detailed ten major reforms which underpin the new legislation which include:
 - Mayors providing greater leadership to councils by adopting more extensive responsibilities and undertaking to report to their communities on an annual basis;
 - Councils undertaking deliberative community engagement processes before adopting a four year Council Plan and four year Budget; and
 - Councils will have greater autonomy with prescriptive decision making processes replaced by a requirement to comply with high level principles requiring transparency, accountability and sound financial management.

The review of the 1989 Act has included the following stages:

1. Release in 2015 of a discussion paper about the reform of the Local Government Act 1989;
2. Release in 2016 of a Directions Paper outlining specific potential legislative reforms;
3. During 2017 held targeted consultations; and
4. Release in late 2017 of the Exposure Draft of the new Bill to replace the Local Government Act 1989.

The Council at its meeting held on the 7 September 2016 made a submission to the Direction papers. The proposal response to the Local Government Exposure Act as attached is consistent with the submission to the Directions Paper.

The Government is proposing that the Bill be enacted by the middle of 2018. The commencement date for the provisions in the Act would then be staged from mid-2018 until after the next Council election in 2020.

Proposal

The new legislation aims to provide local government with a modern, principle based legislative framework. The current 1989 Act is considered to be somewhat ambiguous and inconsistent, unnecessarily prescriptive and in some instances the provisions are redundant.

The draft Council submission contained in **Attachment 1** highlights the key changes between the 1989 Act and the Exposure Draft as detailed in the Minister's explanatory document and makes comments about Council's position on each matter.

The Exposure Draft of the Bill is easier to follow than the 1989 Act. The Bill must be read in the context of:

- the three objectives (refer cl 4) which includes that Councils are constituted as representative bodies that are accountable, transparent, collaborative, efficient and engaged with their communities;
- the role of a council is prescribed to be to provide good governance in its municipal district for the benefit and wellbeing of the municipal community (cl 7); and
- that Council must give effect to overarching governance principles and five supporting principles (cl 8) which are detailed in the Bill.

The Bill removes considerable amounts of prescription regarding the detail of how governance arrangements are to be applied. For example, the detail about the calling of Council Meetings and administrative arrangements such as advertising will be left to Councils to decide how to implement rather than being included in the new Act. Public consultation and engagement processes, currently referred to as 'section 223 process', will also be left to Councils to determine the approach taken. Such processes which relate to meeting procedures and community engagement will be required to be detailed by each Council in their own Governance Rules and specific overarching policies.

The work of the Municipal Association of Victoria (MAV) needs to be acknowledged in preparing detailed advice to Local governments on the Local Government Exposure Bill which has significantly informed the proposed draft submission from Council. The work of the MAV in continuing to advocate for the sector will be critical.

Policy Implications

The Council Plan 2017-2021 provides as follows:

Strategic Objective 1: Providing Good Governance and Leadership
Context 1B: Our People

The proposed submission on the Local Government Act Exposure Bill is consistent with the Council Plan 2017-2021.

Financial Implications

The financial implications of the enactment of the new legislation is yet to be assessed. A comprehensive implementation action plan is being prepared which will flag financial implications.

Risk & Occupational Health & Safety Issues

No Risk and Occupational Health and Safety issues apply to preparation of the submission.

Communications Strategy

The submission will be lodged with Local Government Victoria and shared through council's communication channels.

Victorian Charter of Human Rights and Responsibilities Act 2006

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

Officer's Declaration of Conflict of Interests

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

Manager – Rob Croxford

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

Author – Danny Colgan

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

Conclusion

Council's draft submission (Attachment 11.1.3) in general supports the commentary provided by the Municipal Association of Victoria (MAV). The MAV's submission highlights the current provisions under the existing Local Government Act 1989 and compares the new provisions as proposed in the Local Government Draft Bill 2018. Of the 64 listed provisions Council supports well over half of the recommendations many subject to either seeking changes to provisions or further clarification or consideration.

It is recommended that the draft submission to the Exposure Draft of the new Local Government Bill as attached to this report inclusive of any changes made at the Ordinary Meeting of Council, be submitted to the Victorian State Government prior to 16 March 2018 as scheduled.

Recommendation:

That Council endorse the submission on the Local Government Act Draft Exposure Bill.

Resolution:


Crs. Edwards/Dudzik

1. ***That Council endorse the submission on the Local Government Act Draft Exposure Bill.***
2. ***That Council endorses the following changes:***
 - ***Item 2 – Support the proposed changes***
 - ***Item 41 – Council support the proposal***

CARRIED.

Report Authorisation

Authorised by:

Name: Rob Croxford 
Title: Chief Executive Officer
Date: Wednesday, 28 February 2018

11.2 GROWTH AND DEVELOPMENT

11.2.1 Application for a fourth (4th) Extension of time for Planning Permit PA2009-088; Use and development of animal keeping and training (120 dogs) on Crown Allotment 44, Parish of Borhoneyghurk, otherwise known as 89 Jordans Lane Elaine VIC 3334.

Application Summary:	
Permit No:	PA2009 088
Lodgement Date:	19 December, 2017
Planning Officer:	Victoria Mack
Address of the land:	CA 44, Parish of Borhoneyghurk 89 Jordans Lane Elaine VIC 3334.
Proposal:	Application for a 4 th Extension of time of the permit.
Lot size:	16.30ha
Why is a permit required	Section 69 of the Planning and Environment Act 1987 – application to extend the time of a permit.
Why is this application being presented to Council?	4th extension of time. Permit originally issued on 10 March, 2010.
Public Consultation:	
Was the application advertised?	No. Applications for extensions of time for a permit are not required to be advertised.
Policy Implications:	
Strategic Objective 2:	Minimising Environmental Impact
Context 3A:	Land Use 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	
<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 – Victoria Mack</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 for the extension of a permit.
Any issues raised in referral responses?	Not applicable.
Preliminary Concerns?	<p>This is a fourth (4th) application to extend the time of the Permit.</p> <p>An application to Amend the Permit was Refused by Council at an Ordinary Meeting on 2 August 2017. See the Background section of this report.</p> <p>The applicant has lodged an application for Review with VCAT in relation to Council's Refusal to Grant an Application to Amend the Permit.</p> <p>The Hearing is scheduled for 11, 12 and 13 April, 2018.</p> <p>The Officers preliminary concerns predominately relate to whether the current application (which is being considered through VCAT) and subject to this EOT is actually sufficient for the purpose of assessment or whether the application and legislation has so substantially changed over time that a new application is required to accurately reflect the proposed development and use on site.</p>
Any discussions with applicant regarding concerns	The applicant has been advised that the Extension of Time Application will be determined by Council.
Any changes made to the application since being lodged?	There have been many changes to the application since it was first lodged. This is addressed further in this report.
VCAT history?	VCAT Application No. P2237.2017 for Review of Council's decision to Refuse to Amend the Permit is current with the Hearing scheduled for 11, 12 and 13 April, 2018.

<p>Previous applications for the site?</p>	<p>PA2009-088 (this permit) being for: <i>Development and use of an animal boarding facility (70 dogs and 50 cats) was issued on 10 March, 2010. Plans were endorsed.</i></p> <ul style="list-style-type: none"> • Application for first Extension of time (E1) issued on 24 February, 2012 for two years. • Application for second Extension of time (E2) issued on 14 February, 2014 for two years. <p>The permit was amended in 28 May, 2014 to change what the permit allowed to:</p> <ul style="list-style-type: none"> • <i>Use & Development of Animal Keeping and Animal Training (120 dogs).</i> <p>No plans were endorsed. Condition 1 of the amended permit required amended plans.</p> <p>An application to Amend the Permit was received on 1 December 2015. This application was refused by Council on 2 August, 2017.</p> <ul style="list-style-type: none"> • Application for third Extension of time (E3) issued on 23 May, 2017 for one (1) year for completion. • Application for fourth Extension of time (E4) lodged with Council on 4 January, 2018.
<p>General summary</p> <p>In 2010, a permit was granted for the use and development of the land for an animal boarding facility to house a maximum of 70 dogs and 50 cats. An Extension of Time (E1) was approved in 2012.</p> <p>In 2014, the application was amended to change what the permit allowed to <i>animal keeping (120 dogs)</i>. No plans were endorsed at the time and condition 1 of the permit required amended plans to be provided. An application for an extension of time (E2) of the permit was approved at this time. The property was sold.</p> <p>Between 2014 and 2015 the new owner of the land commenced construction of an extensive greyhound facility across the site without providing amended plan in accordance with condition 1 of the amended permit.</p> <p>When this came to the attention of Council, due to neighbour complaints, the owner submitted plans to meet the requirements of condition 1 of the permit. However, these were rejected as the scale of the works, including kennels and large dog runs across the site, was <i>not generally in accordance with the original plans</i>.</p> <p>The applicant/owner was advised that an application to amend the permit was required.</p> <p>The application to Amend the Permit was lodged with Council on 1 December, 2015 and advertised with five (5) objections being received. The primary and significant issue raised by objectors was excessive noise from barking dogs. An acoustic report was then requested by Council and this took time to be prepared. Council also undertook its own acoustic assessment. During this time Extension of Time application (E3) was approved on 23 May 2017 for one (1) for completion only.</p>	

On 2 August 2017, the application was considered by Council at an Ordinary Meeting and Council determined to Refuse the application to Amend the Permit.

An application for Review of Council's Refusal has been lodged with VCAT and the Hearing is scheduled for the 11, 12 and 13 April, 2018. This Hearing will also address enforcement action that was taken by Council for breach of the permit.

It is also noted, with details documented further in this report, that the current proposal is not generally in accordance with Clause 52.40 of the Moorabool Planning Scheme, nor in accordance with the new code of practice entitled *Planning Requirements for racing dog keeping and training (Department of Environment, Land, Water and Planning, August 2017)*. This addition to the planning scheme does not have transitional provisions. It is not considered in its current form that the proposal can meet the requirements of Clause 52.40

In considering Council's decision to refuse the application last August 2017, difficulty the proposal has faced in meeting the requirements of the planning scheme including noise emissions from the site and that legislation has so substantially changed since the original application it is recommended that the application for a fourth extension of time of the permit is not supported.

Summary Recommendation:

That, having considered all matters as prescribed by the Planning and Environment Act, Council Refuses to Extend the Time of the Planning Permit for *the Use and development of animal keeping and training (120 dogs)* on Crown Allotment 44, Parish of Borhoneyghurk otherwise known as 89 Jordans Lane Elaine VIC 3334.

Background

The application originally was for a medium sized cat and dog boarding facility where the animals would be housed in the north-west corner of the site in a purpose-built boarding facility.

As stipulated above the use was amended to allow for the land use to be 120 dogs and removing cats from the permit without changing the location of the facility. The challenge was the development that was undertaken in association to this use was not permitted as plans had not been endorsed under Condition 1 of the amended permit. and What has been constructed across the site, consisting of extensive kennels and dog runs, bears little resemblance to the originally approved facility. The owner applied to amend the permit to retrospectively approve the new layout. Five objections were received to this application when advertised.

There has been extensive discussion and negotiations with the permit applicant since the application to amend the permit was lodged. Throughout this time Council received consistent complaints from neighbours.

Council determined to refuse the application to Amend the Permit on 2 August, 2017. Enforcement action was taken by Council for breach of permit conditions (unauthorized buildings and works) prior to this decision.

The applicant has applied to VCAT for a review of Council's refusal both matters will be heard at the tribunal on 11, 12 and 13 April, 2018. As the application is due to expire on 10 March, 2018 which is prior to the application being formally considered through VCAT an extension of time has been applied for to keep this current application alive.

Public Notice

An application for an Extension of Time is not required to be advertised.

Objections to the application

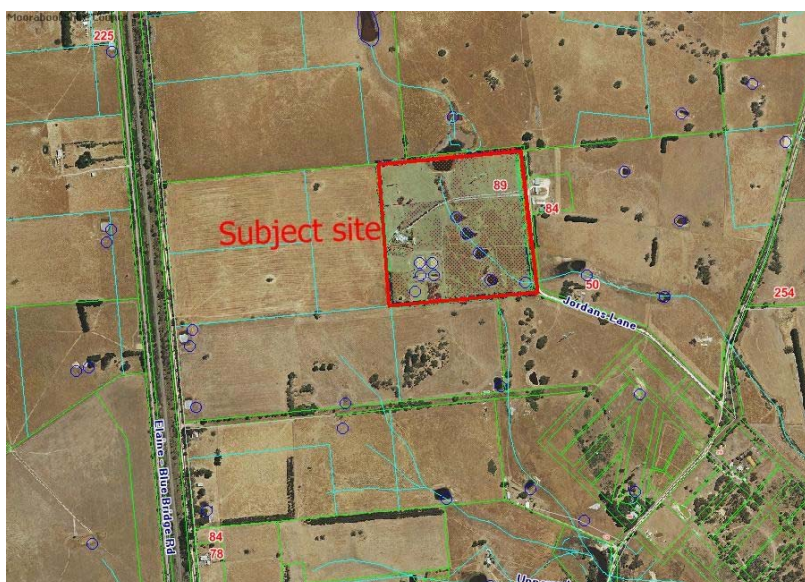
Not applicable.

Proposal

The proposal for a fourth Extension of Time of the permit.

Site Description

The aerial map below shows the location of the subject site.



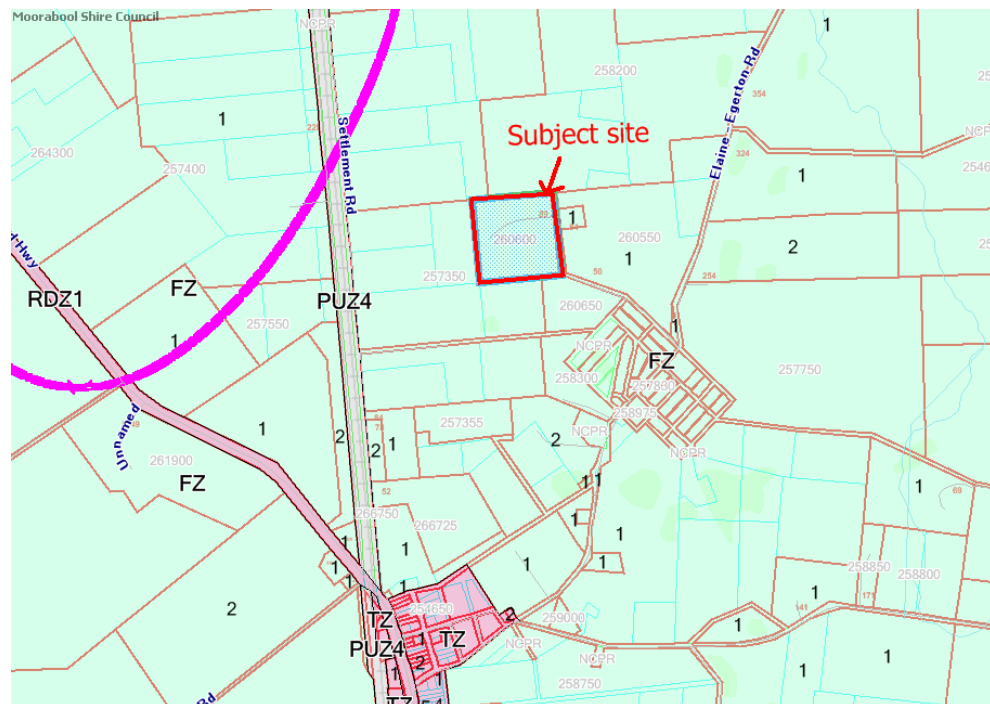
A waterway runs from approximately the centre of the north side boundary to the south-east corner of the property. A number of existing small dams have been located along this waterway to take advantage of the winter flooding that can intermittently occur along the waterway. The land has a natural fall from north and west down to south and south-east, with a flatter area around the west side boundary where the dwelling is located.

Jordans Lane is a dead-end road with the subject site being at the last property on the road on the west side. The site is located approximately 3km north-east of the township of Elaine.

The Elaine farming district is closely held pastoral country with sheep grazing being the predominant land use but also some cropping and mixed farming. Surrounding land is in the Farming Zone. Native vegetation is generally confined to roadsides and property boundary plantations.

Neighbouring lots are generally of similar size or larger than the subject land.

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



Access to the site is via Jordans Lane. The nearest neighbouring dwelling is located opposite the subject site on the east side of Jordans Lane. This dwelling is approximately 350m from the kennel complex to the west but the exercise paddocks are approximately 50m from the neighbouring dwelling.

The next nearest neighbouring dwelling is located approximately 480m south east of the kennel complex but the exercise paddocks are approximately 160m from the neighbouring dwelling.

The site has plantations of native vegetation along boundary fence lines to the north-west and west, some along the east boundary abutting Jordans Lane and a few clumps of vegetation around dams and around the dwelling. Otherwise the land is cleared grazing land.

Planning Scheme Provisions

Council is not specifically required to consider the Victoria Planning Provisions including the State Planning Policy Framework (SPPF), the Local Planning Policy Framework (LPPF) and the Municipal Strategic Statement (MSS) in extension of time applications.

The Kantor Test

The tests contained in the Supreme Court *decision Kantor v. Murrindindi Shire Council 18 AATR 285* are often cited as factors that should be considered when determining whether the life of a Permit should be extended. The *Kantor* tests are listed below with comments beside them:

- Whether there had been change in planning policy.

Comment: On 29 August 2017, Clause 52.40 was added to the Moorabool Planning Scheme which includes reference to the document *Planning requirements for racing dog keeping and training (Department of Environment, Land, Water and Planning, August 2017)*. This policy is addressed later in this report.

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

Comment: It is not considered that the applicant is warehousing the permit, there was a change in ownership in 2014 which resulted in the intensification of the greyhound business on this site since then there has been a number of application requirements which has resulted in the time delays as specified above.

- Intervening circumstances as bearing upon grant or refusal.

Comment: The application to amend the permit was refused by Council on 2 August, 2017. The applicant has applied for a Review of Council’s decision to refuse the amended permit at VCAT which does have bearing on this application.

- The total elapse of time.

Comment: The permit was originally approved in 2010. It is considered that there were contributing factors which delayed a decision on the application to amend the permit until 2 August, 2017. Delays were experienced in such matters as obtaining acoustic reports and amending plans.

- Whether the time limit originally imposed was adequate.

Comment: The time limit was adequate if the applicant had submitted plans in accordance with Condition 1 of the permit prior to commencing construction.

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

Comment: it is not considered that an economic burden has been placed on the landowner by the permit.

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

Comment: A permit would not be issued unless the application addressed all the approved measures contained in Clause 52.40 of the Moorabool Planning Scheme including: the referenced document *Planning requirements for racing dog keeping and training (Department of Environment, Land, Water and Planning, August 2017)*, the relevant Code of Practice for Greyhound establishments, the EPA noise guidelines for dog kennels, and local and State policies in relation to the keeping and training of greyhounds.

Zone

Farming Zone

The land is within the Farming Zone which is Clause 35.07 of the Moorabool Planning Scheme.

In accordance with Clause 35.07-4, a permit is required for buildings and works associated with the use of the land for animal keeping.

The purposes of the Farming Zone include to:

- Implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- Provide for the use of land for agriculture.
- Encourage the retention of productive agricultural land.
- Ensure that non-agricultural uses, including dwellings, do not adversely affect the use of land for agriculture.
- Encourage the retention of employment and population to support rural communities.
- Encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.

It is considered that greyhound establishments are best suited to the Farming Zone provided the amenity impacts of nearby residents are adequately managed and addressed.

Overlays

Environmental Significance Overlay – Schedule 1

In accordance with Clause 42.01 and Schedule 21 of the Moorabool Planning Scheme a permit is required for buildings and works.

The statement of environmental significance states that the purpose of the ESO1 is:

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

Design and Development Overlay – Schedule 2

In accordance with Clause 43.02 of the Moorabool Planning Scheme a permit is required if the external cladding of buildings or works are constructed using reflective materials. As the cladding for the various kennels has not been nominated a permit would be required if reflective materials were to be used. However, permit conditions would be used to ensure that the kennels cannot be constructed with reflective materials.

Relevant Policies

Moorabool Planning Scheme - Clause 22.04 Animal keeping

This policy addresses key issues associated with the use and development of land for animal keeping in particular the keeping and breeding of dogs, which includes animal boarding, dog breeding and greyhound training.

Animal keeping facilities are an important local industry; however, the keeping and breeding of dogs can have an adverse effect on the extensive animal husbandry industry and can compromise the amenity of nearby residents.

Careful consideration needs to be given to the location, siting, design, and management of dog keep and breeding facilities and in this regard the policy draws from guidelines prepared by the Environment Protection Authority (Noise Control Guidelines TG 302/29).

The objective of the policy is to ensure that animal keeping establishments are appropriately located, sited, designed, and managed so they will not have an adverse effect on the environment, the amenity of nearby residents, and the operation of surrounding animal husbandry enterprises.

It is policy to:

- *Discourage the keeping and breeding of dogs in areas that are:*
 - *Predominantly used for extensive animal husbandry;*
 - *Have a significant number of dwellings in close proximity; and*
 - *Adjacent to significant wildlife habitats.*

- *Require the following measures to be applied in the siting and design of dog keeping and breeding establishments:*
 - *Facilities should be located at least 500 metres away from residential areas and a substantial proportion of this buffer must be provided within the boundary of the subject site;*
 - *Facilities should be sited to use the surrounding topography to reduce noise;*
 - *Facilities should be fully contained by appropriate fencing including a fully enclosed or acoustically baffled area to house particularly noisy animals at a ratio of 1:15;*
 - *Facilities should be constructed or landscaped as appropriate to visually screen stimuli from other dogs, animals, traffic or passers-by; and*
 - *Kennels should be constructed in materials that reduce the emission of noise;*

- *Electronic masking or other noise suppressing measures may be required to reduce audible stimuli to the dogs.*
- *Reference the EPA Guidelines (TG302/92) (replaced by Publication 1254 October 2008) in applying conditions relating to the management, control of noise and the siting and design of kennels.*
- *Ensure adequate effluent treatment facilities are provided to contain, treat, and dispose of effluent within the boundaries of the site; to prevent the pollution of any surface or ground water; and to prevent the emission of offsite odours.*

Comment: The original permit had the two closest dwellings 350m to the east and 480m to the south-east respectively from the location of the kennel complex. The occupiers of both properties are objectors to this application.

As the site and structures currently lay no noise suppressing measures have been implemented, nor have acoustically baffled kennels been constructed. Amended plans however, were provided to address acoustic issues as identified in the acoustic report and included in the amended permit application, which was refused.

It is considered that waste from dogs particularly when housed in the outdoor runs, if not collected regularly, could pose an ongoing risk to the waterway.

Particular Provisions

Clause 52.40 – Racing Dog Keeping and Training - Gazetted 29 August, 2017

Background: The applicant initially responded to the key management requirements contained within the *Code of Practice for the Operation of Greyhound establishments* which was included with the amendment application and stated that all requirements would be met. The Audit undertaken by Greyhound Racing Victoria showed that the establishment was compliant in part, and identified matters that needed to be addressed. All of these matters were rectifiable.

However, in August 2017 a new Particular Provision was added to the Moorabool Planning Scheme, being Clause 52.40 with details as follows:

52.40 RACING DOG KEEPING AND TRAINING

Purpose

To ensure the use and development of land for racing dog keeping and racing dog training is consistent with orderly and proper planning.

52.40-1 Requirement

An application to use land, or construct a building or construct or carry out works, for racing dog keeping or racing dog training under a provision of a rural zone must comply with Planning requirements for racing dog keeping and training (Department of Environment, Land, Water and Planning, August 2017).

For large greyhound establishments, the reference document entitled **Planning Requirements for racing dog keeping and training** must meet all of the objectives of Clause 4.0 and should meet all of the approved measures of this clause which includes the following key areas:

- 4.1 Facility scale objective.
- 4.2 Setback objective from property boundary and neighbouring dwellings.
- 4.3 Visual amenity objective.
- 4.4 Landscaping objective.
- 4.5 Fencing and gates objective.
- 4.6 Screening objective.
- 4.7 Site Management objective.
- 4.8 Noise objective.

From this document the areas where the proposed greyhound facility is likely to not comply includes as follows:

- 4.1 The objective is to ensure the scale of a racing dog facility does not adversely impact the amenity of the surrounding area. The approved measures include that the number of racing dogs must not exceed 50 in the Farming Zone.
- 4.2 Setback objective for more than 20 dogs:
The minimum distance from a dwelling in separate ownership (measured from the external edge of the racing dog facility to the external edge of the dwelling) must be at least 100m.
- 4.3 Visual amenity – none relevant to this application
- 4.4 Landscaping objective – landscaping has been proposed in this application but nothing planted.

- 4.5 Fencing and gates objective – neighbours have reported dogs that have escaped and this objective would need to be demonstrated.
- 4.6 Screening objective – screening to minimise barking as a result of external activity. No screening has yet been proposed and would be required.
- 4.7 Site management objective – includes setback distances from any dwelling in separate ownership for feeding and training of 500m if outside a secure building. A secure building has been proposed by the applicant but only as a result of the objections to the application and associated acoustic reports.
- 4.8 Noise objective – relates to the construction of kennels to minimise noise impacts on adjoining properties or built to listed specifications for walls, roofing, cavity insulation, external doors, glazing and ventilation. The application to amend the permit that was refused by Council did not meet all of the approved measures for construction as specified or the 500m setback.

It is considered that the application, as currently proposed, would not comply with Clause 52.40 requirements.

Discussion

This application is to extend the permit for the fourth time. An extension of time would allow the permit to be completed should it be determined to be approved through the VCAT process. It has been determined that the permit has commenced albeit not in accordance with permit conditions.

Council determined to refuse an application to amend the permit on 2 August, 2017. The application requested that amended development plans be approved.

The applicant has subsequently applied to VCAT for a Review of Council's decision. The date for this Hearing has been scheduled for the 11, 12 and 13 of April, 2018.

What this application is about is whether permit should be extended until such time as the VCAT determination is known.

Since first issued the subject use/Permit has been modified substantially. Clause 52.40 requirements have been recently updated within the Scheme requiring a much more detailed assessment of greyhound facilities to which currently the site does not comply. The site has been constructed without endorsed plans. The permit conditions were initially set for a dog and cat boarding facility. The permit has been tweaked to accommodate a greyhound facility but due to recent changes to planning controls the permit is now not fit for purpose.

General Provisions

No General provisions are applicable to an application to extend the time of a permit.

Referrals

No referrals were required to be made for an application to extend the time of a permit.

Financial Implications

The recommendation of refusal of this application may represent a financial implication for Council. The applicants have already lodged an application at VCAT for Review of Council's decision to Refuse to amend the permit. If the extension of time is refused then this is likely to be added to the VCAT Hearing.

Risk and Occupational Health and Safety Issues

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

Communications Strategy

Notice was not required to be undertaken for the application to extend the time of the permit.

Options

An alternative recommendation would be to issue an Approval to Grant an Extension of Time to the Permit.

Conclusion

The proposal must meet the requirements of Clause 52.40 of the Moorabool Planning Scheme, the Code of Practice for the Operation of Greyhound Establishments, acoustic standards SEPP-N1 and NIRV, and the requirements of the Moorabool Planning Scheme. It is not considered that the application in its current form can meet all of these requirements. It is the Officer recommendation to Council that it is better to refuse the extension of time with the intent of getting a complete new application for this site which can accurately reflect current standards and requirements.

Therefore, based on the above is recommended that the application for a 4th Extension Time of the Permit is not supported.

Recommendation:

That, having considered all matters as prescribed by the Planning and Environment Act, Council Refuses to Extend the Time of the Planning Permit for *the Use and development of animal keeping and training (120 dogs) on Crown Allotment 44, Parish of Borhoneyghurk, otherwise known as 89 Jordans Lane Elaine VIC 3334 on the following grounds:*

- 1. The current use and development on site is substantially modified from the original permit.**
- 2. There have been substantial changes to relevant policy that applies to greyhound facilities Clause 52.40 requirements of Moorabool Planning Scheme.**

Resolution:**Crs. Dudzik/Sullivan**

That, having considered all matters as prescribed by the Planning and Environment Act, Council advises VCAT that it would not support Extension of Time of the Planning Permit for the Use and Development of Animal keeping and training (120 dogs) on Crown Allotment 44, Parish of Borhoneyghurk, otherwise known as 89 Jordans Lane Elaine VIC 3334 on the following grounds:

- 1. The current use and development on site is substantially modified from the original permit.*
- 2. There have been substantial changes to relevant policy that applies to greyhound facilities Clause 52.40 requirements of Moorabool Planning Scheme.*

CARRIED.

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

Satwinder Sandhu

Title:

General Manager Growth and Development

Date:

Wednesday, 28 February 2018

Cr. Sullivan declared an Indirect Conflict of Interest (section 78B) in relation to Item 11.2.2 – Planning Permit PA2017-100 – Use and development of the land for a place of assembly and outdoor shooting range. The nature of the Conflict of Interest is due to Cr. Sullivan having previously worked as a surveyor for the applicant.

Cr. Sullivan adjourned from the meeting at 6.10 pm and did not participate in voting on the Item.

Consideration of Presentations

Mr. Nigel Pettifer addressed Council as an objector to the granting of a planning permit for the application.

Mr. Eric Bullmore addressed Council as an objector to the granting of a planning permit for the application.

Mr. Gary Jones addressed Council as the applicant in favour of the granting of a planning permit for the application.

Mr. Chris Sharkey addressed Council as an objector to the granting of a planning permit for the application.

Mr. John Beevers addressed Council as an objector to the granting of a planning permit for the application.

The business of the meeting then returned to the agenda.

11.2.2 Planning Permit PA2017 100 – Use and development of the land for a place of assembly and outdoor shooting range.

Application Summary:	
Permit No:	PA2017 100
Lodgement Date:	16 June, 2017
Planning Officer:	Mark Lovell
Address of the land:	Crown Allotments 133, Parish of Balliang 392 Moretons Road Balliang East.
Proposal:	Use and development of the land for a place of assembly and outdoor shooting range.
Lot size:	115.20 hectares.
Why is a permit required	Clause 35.07-1 - Farming Zone - Use of land for a place of assembly and an outdoor shooting range Clause 35.07-4 Farming Zone - Works associated with a use in Section 2 Clause 52.06 – Car Parking

Why is this application being presented to Council?	Previous application was determined by Council and seven objections have been received on the current application.
Public Consultation:	
Was the application advertised?	Yes.
Notices on site:	Yes.
Notice in Moorabool Newspaper:	No.
Number of Objections:	
Consultation meeting:	Seven objections. Compared to the previous application where there was a consultation meeting with applicant and objectors, there is no change to the noise levels generated by the gun shots except that the days and operating times are reduced. The applicant and objectors had further separate meetings/discussions with Council officers but the primary concern with noise has not been resolved. Council has consulted with the EPA regarding the unresolved noise issue. Council has met with the objector twice and has had a number of discussions with both the applicant and objectors since Council's Deferral in December.
Policy Implications:	
Strategic Objective 2:	Minimising Environmental Impact
Context: 2A and 3A	Natural Environment and Land Use 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	
<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?	The application was referred to DELWP, EPA, Melbourne Water, AusNet Services and Council's Infrastructure section
Any issues raised in referral responses?	Yes, Melbourne Water raised some concerns with the impact on a nearby waterway. The applicant has provided the additional information.
Preliminary Concerns?	No.
Any discussions with applicant regarding concerns	No.
Any changes made to the application since being lodged?	No.
VCAT history?	No.
Previous applications for the site?	PA2016132 was issued 19 August, 2016 for the development of a shed ancillary to an existing dwelling. Planning application PA2016155 was refused on 1 February, 2017 for the development and use of the land for an outdoor shooting range and associated earthworks.
General summary (Pro's/Con's of the proposal)	The applicant has restricted the shooting range component of the application to reduce amenity impacts to nearby residents and now includes a place of assembly which will have minimal noise and other associated impacts. The applicant has provided adequate on site car parking to meet current and future demand due to the large land area available.
Summary Recommendation:	
<p>That, having considered all relevant matters as required by the Planning and Environment Act 1987, Council issue a Notice of Decision to grant a permit for the use and development of the land for a place of assembly and an outdoor shooting range at Crown Allotments 133, Parish of Balliang otherwise known as 392 Moretons Road, Balliang East.</p>	

Background

At its Ordinary Meeting on 1 February 2017, Council resolved to issue a refusal to grant a planning permit for the development and use of the land for an outdoor shooting range and associated earthworks. The grounds of refusal were:

1. The proposal does not comply with Clause 13.04 (Noise Abatement) of the Moorabool Planning Scheme by not ensuring minimal noise impacts with surrounding sensitive land uses.
2. The proposal does not comply with Clause 14.01 (Agriculture) of the Moorabool Planning Scheme, by adversely impacting upon the continuation of primary production on adjacent or nearby land.
3. The shooting range is incompatible with the surrounding land uses due to the hours of operation.
4. The proposed use does not represent the orderly planning of the area.

There was no appeal lodged against this decision with VCAT. The applicant instead has lodged a fresh planning application.

At its Ordinary Meeting on 6 December 2017, Council decided to defer making a decision until there was further negotiations between the parties, advice sought on whether a Conceptual Site Model (CSM) report was required by the EPA and a further assessment of the impact of the proposal on the continuation of primary production on adjacent or nearby land.

What are the differences between the original application and the current application now being considered by Council?

The previous proposal involved seven days a week shooting up to 10pm at night. The current operation proposes a non-shooting place of assembly (social club) two days a week, two days a week shooting up to 6pm using sub sonic ammunition and three days a week shooting up to 6pm using normal ammunition.

The applicant proposes to construct a perimeter reflection mound 2 metres in height and 6 metres in width. The mounds will be vegetated. The applicant also proposed an internal reflection mound in an arc formation located in the north-east corner of the site. These mounds are designed to further limit noise impacts and screen the site from public view.

The shooting range moves further to the north, to create 1 kilometre separation distance with the dwelling at 444 Moretons Road, Balliang East.

Public Notice

The application was notified to adjoining and surrounding landowners by mail and by placing a large notice on site for a period of fourteen days. Notification included the owners and occupiers within the boundaries of Wyndham City Council located to the east of the subject land and within the boundaries of the City of Greater Geelong located to the south of the subject land.

Summary of Objections

The objections received are detailed below with officer's comments accompanying them:

Objection	Any relevant requirements
Impact on Moretons Road/Ballieng Creek Crossing on Sharkeys Road/Traffic Management	
Officer's response – The site is accessed by a local Council roadway that are constructed with gravel. Ongoing maintenance and removal of pot holes will still be a Council requirement. The applicant anticipates a small number of shooters at any one time with number of around a dozen shooters. This should not adversely affect the daily usage of the roadways.	
Impact upon on livestock/ farming businesses in the area/Biosecurity.	
Officer's response – Subject to restrictions to shooting hours, livestock should not be adversely affected. EPA has consented to the application and the applicant has completed a CSM report demonstrating minimal environmental impacts to the subject land and to adjoining properties. The proposed shooting range will not affect surrounding agricultural activities.	
Acoustic report results/ request further testing/noise affecting breeding pigs/Acoustic results can be altered	Clause 13.04-1 Noise Abatement
Officer's response – Several objections have questioned the accuracy of the noise readings recorded by the acoustic engineer and have requested to be present when testing is undertaken. A comprehensive acoustic report was submitted with the application which tested a total of 70 gunshots at two locations. The report included types of ammunition and wind speeds.	
The acoustic engineers are a reputable acoustic firm who have acted for another Council as an expert witness for a shooting range VCAT review application. It has been suggested that acoustic reports including those that have gone before VCAT can have incorrect data and have not used modelling such as Nordtest Method. EPA reviewed the acoustic report submitted and did not object subject to two days a week using unrestricted weapons during daytime hours and remaining days using rifles/lower noise ammunition. The applicant is not operating seven days a week and instead four days. Under the EPA consent, the applicant could operate weapons seven days a week.	
There is no evidence that the results have been altered or falsified. Acoustic reports are the accepted method of evaluating noise emissions on site rather than using modelling. The Nordtest Method is not part of the EPA Guidelines and is not a reference document in the planning scheme. An objector has engaged their own acoustic engineers using different location which has produced different results. Council have also engaged acoustic engineers which have peer reviewed both the applicant's and the objector's acoustic reports which did identify any concerns. Ultimately should Council determine to grant approval for this application it would be subject to conditions and endorsed plans. Should it be deemed that there is a non-compliance the applicant will be at risk of enforcement and possible prosecution for contravening the permit conditions.	
The proposal is considered acceptable despite exceeding the maximum requirement at location 1 with reference to EPA Guideline 'Noise from Outdoor Shooting Ranges'.	
Cumulative impact of second shooting range/ there is already an existing shooting range	
Officer's response - Cumulative effect of two shooting ranges side by side with excessive hours of operation was a valid concern in the previous the planning application. Reducing the shooting days, reducing the shooting times and restrictions to the type of ammunition will lead to an acceptable arrangement.	

Objection	Any relevant requirements
Winchelsea Gun Club Inc. had a recent refusal issued by Surf Coast Shire Council.	
Officer's response – Each shooting range has to be assessed on its own planning merits and based on its own site context.	
Geelong Sporting Clays conduct competitive events on the Bullmore property and adequately services the needs of the shooting fraternity in the area.	
Officer's response – There are no planning restrictions on competing venues or attracting members from two shooting clubs in the similar location. This is not a valid planning ground.	

Proposal

It is proposed to use the north-east corner of the property for an outdoor shooting range. The shooting range is proposed to consist of a fixed traps line area with reclamation mound, two shooting bunkers that total 100 metres in length and 100 metres in width with dirt side walls and 2 metres high bulka bag walls.

The place of assembly would be contained in a clubroom building located 290 metres north of existing dwelling on the land. The building would be 20 metres in width and 34 metres in length with an external decking area 6 metres in width and 34 metres in length. The clubrooms are proposed to be an open plan area with male and female toilets. No elevation plans of the clubroom have been provided at this stage. Ammunition will be stored in a transportable shipping container. There is a large car park area located to the north of the proposed clubroom.

The place of assembly (social club) would operate seven days a week from 10am to 10pm on Monday to Saturday and 12pm to 10pm on Sunday. There is no application to serve liquor as part of the social club activity.

The shooting use will operate from Wednesday to Saturday 10am to 6pm and Sunday 12pm to 6pm. The applicant accepts that no shooting activities will be permitted outside of the shooting times and the clubrooms will only be used as a social gathering of club members.

The clay targets proposed to be used as part of this use are made of biodegradable products while projectiles will be made of brass, lead, and steel. Lead and steel will be used in the shot gun ammunition.

The operator is Balliang East Shooting Range Inc. and is described as a not for profit club.

Site Description

The subject site is located on the western side of Moretons Road, south of Sharkey Road, Balliang East. The lot is triangular in shape with a maximum length of 1854 metres and a maximum width of 1204.40 metres for a total land area of 115.2 hectares. The site is comprised of two detached residential dwellings with associated outbuildings and farm shedding concentrated in the south-east part of the site. The site has a relatively flat topography. There are some established trees covering the dwellings. The site has been used as a sheep farming property.

There is a major electricity transmission line traversing through the south-east corner of the site and is protected by an easement on title. The southern boundary of the property is Balliang Creek which connects into Little River.

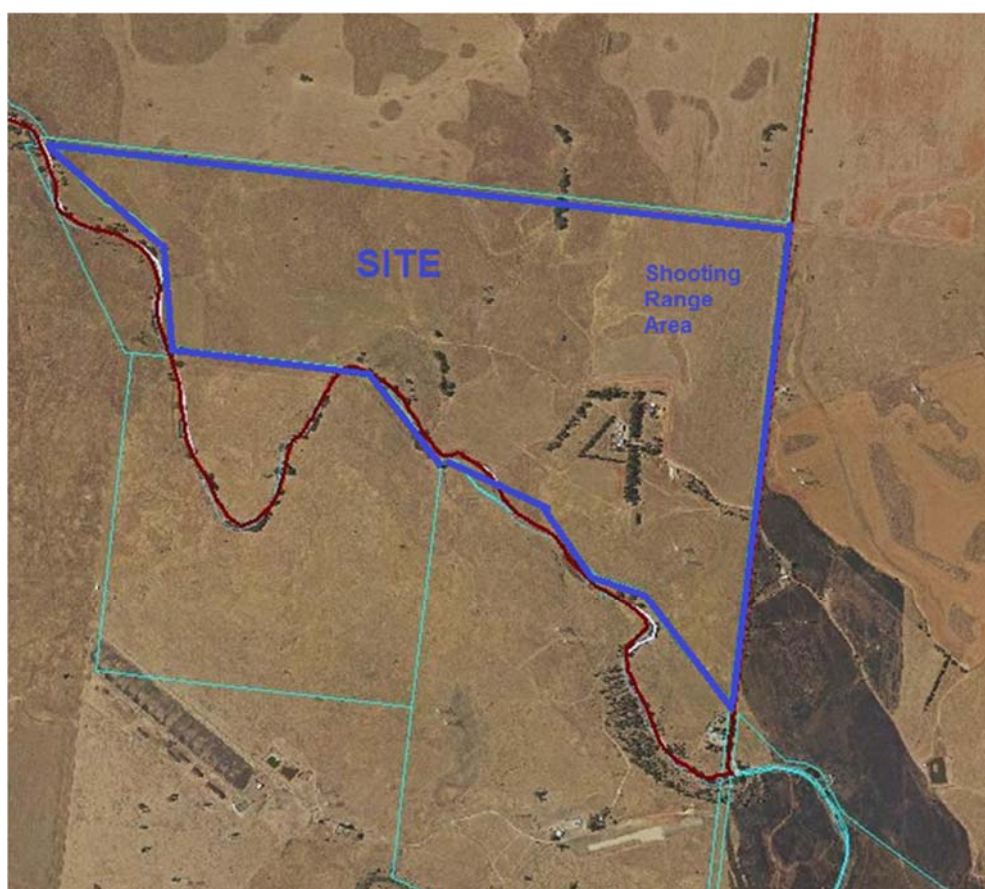
The property is located in the south-east corner of the municipality, with the adjacent properties to the south within the City of Greater Geelong and the adjacent properties to the east within Wyndham City Council.

The site and surrounds are located within a Farming Zone while the properties to the east are located within a Rural Conservation Zone.

Surrounding properties are comprising of grazing and livestock farms with scattering of detached shed buildings and residential dwellings. The distance to the nearest dwellings are approximately 850 metres to the south and 2.5 kilometres to the north. The property to the immediate south comprises of an outdoor shooting range and a residential dwelling. The outdoor shooting range was initially refused by Council (City of Greater Geelong) and then by VCAT on review (VCAT reference 2000/041857). A further application was made to use the land for an outdoor shooting range confined to a particular individual with limited hours of operation, limited number of shooters and restrictive expiry dates which was granted a permit on review by VCAT (VCAT reference P1768/2002). There were two further application for review to alter restrictive permit conditions (VCAT references P1681/2012 and P816/2013).

Locality Map

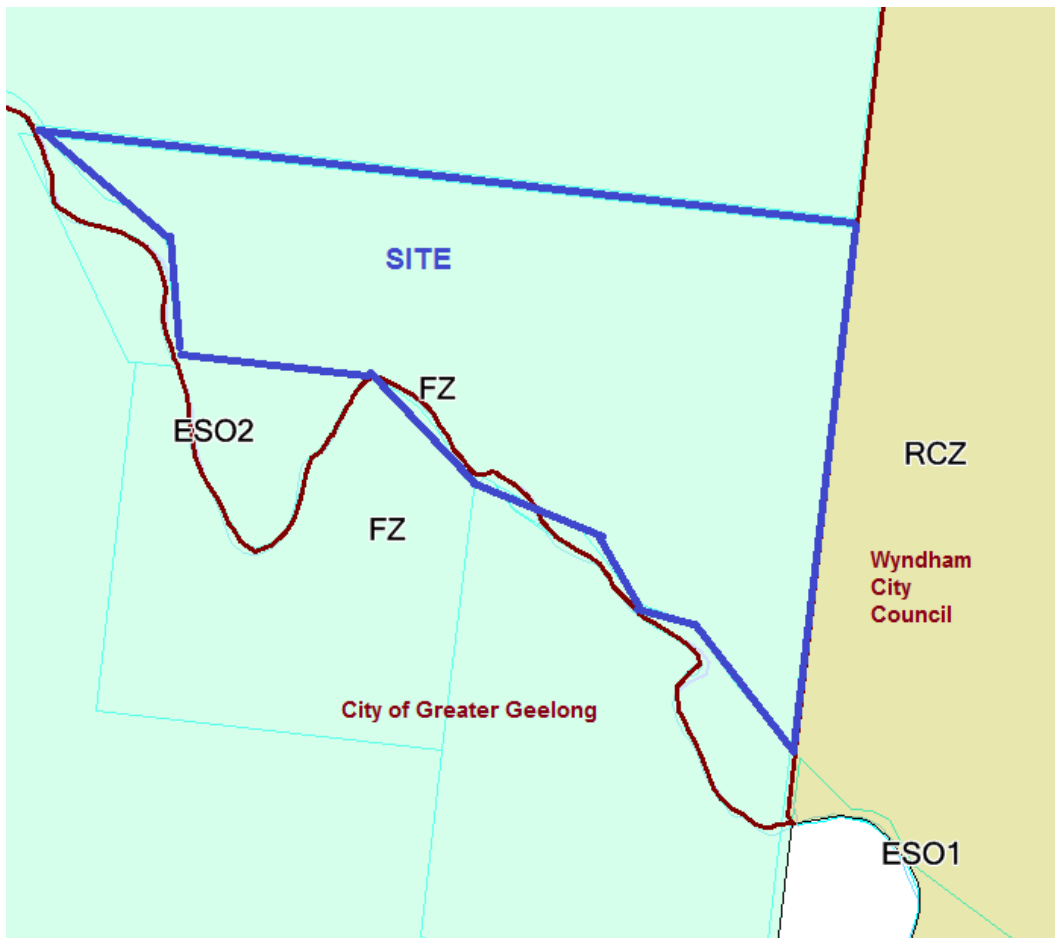
The map below indicates the location of the subject site and the zoning of the surrounding area.



The red line is the municipal boundary.



Site map showing adjacent properties in the City of Greater Geelong.



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:

1. Clause 11.07-1 Regional Victoria.
2. Clause 13.04-1 Noise Abatement.
3. Clause 14.02-1 Catchment Planning and Management.
4. Clause 14.01-1 Protection of Agricultural Land.
5. Clause 17.01-1 Business.
6. Clause 21.02-3 Water and Catchment Management.
7. Clause 21.03-2 Urban Growth Management.
8. Clause 21.04-2 Agriculture.
9. Clause 21.05-2 Water Supply.

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 13.04-1	Noise Abatement	The proposal can have the potential to cause noise impacts. The applicant has submitted an acoustic report which identifies a number of noise abatement measures. Subject to conditions to control the hours of operation and construction of reflection mounds around the entire shooting range should limit noise emissions to adjacent properties to an acceptable level.

Zone

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

The purpose of the Farming Zone is:

1. To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
2. To provide for the use of land for agriculture.
3. To encourage the retention of productive agricultural land.
4. To ensure that non-agricultural uses, including dwellings, do not adversely affect the use of land for agriculture.

5. To encourage the retention of employment and population to support rural communities.
6. To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provisions.

The decision guidelines under general issues has the following objectives:

7. The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
8. Any Regional Catchment Strategy and associated plan applying to the land.
9. The capability of the land to accommodate the proposed use or development, including the disposal of effluent.
10. How the use or development relates to sustainable land management. Whether the site is suitable for the use or development and whether the proposal is compatible with adjoining and nearby land uses.
11. How the use and development makes use of existing infrastructure and services.

Overlays

The subject site is in the Environmental Significance Overlay Schedule 2 and partly in Environmental Significance Overlay Schedule 7, the provisions of Clause 42.01 apply.

The purpose of the overlay is:

12. To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
13. To identify areas where the development of land may be affected by environmental constraints.
14. To ensure that development is compatible with identified environmental values.

Under Part 2 of Schedule 2 of the overlay has the following environmental objectives to be achieved:

15. To protect the habitat significance of vegetation.
16. To provide for appropriate development of land within 100 metres of either side of a waterway.
17. To prevent pollution and increased turbidity of water in natural waterways.
18. To prevent increased surface runoff or concentration of surface water runoff leading to erosion or siltation of waterways.
19. To conserve existing flora and fauna habitats close to waterways and to encourage generation and regeneration of habitats.

Under Part 2 of Schedule 7 of the overlay has the following environmental objectives to be achieved:

20. To prevent a decline in the extent and quality of native vegetation and native fauna habitat of the Victorian Volcanic Plain.
21. To enhance the environmental and landscape values of the area.
22. To avoid the fragmentation of contiguous areas of native vegetation or native fauna habitat.
23. To ensure that any use, development or management of the land is compatible with the long-term conservation, maintenance and enhancement of the grasslands.
24. To avoid the destruction of habitat for native fauna resulting from the modification of land form and disturbance of surface soils and rocks.
25. To enable areas of environmental significance, due to their native vegetation or habitat values, to be identified.

Under Clause 42.01-2 a planning permit is required to carry out works.

Particular Provisions

52.06 Car Parking

An Outdoor Shooting Range is not listed in the use table of Clause 52.06-5. Under Clause 52.06-5A states where a use of land is not specified in Table 1 or where a car parking requirement is not specified for the use in another provision of the planning scheme or in a schedule to the Parking Overlay, before a new use commences or the floor area or site area of an existing use is increased, car parking spaces must be provided to the satisfaction of the responsible authority.

Before deciding that a plan prepared under Clause 52.06-7 is satisfactory, the responsible authority must consider, as appropriate:

26. The role and function of nearby roads and the ease and safety with which vehicles gain access to the site.
27. The ease and safety with which vehicles access and circulate within the parking area.
28. The provision for pedestrian movement within and around the parking area.
29. The provision of parking facilities for cyclists and disabled people.
30. The protection and enhancement of the streetscape.
31. The provisions of landscaping for screening and shade.
32. The measures proposed to enhance the security of people using the parking area particularly at night.
33. The amenity of the locality and any increased noise or disturbance to dwellings and the amenity of pedestrians.
34. The workability and allocation of spaces of any mechanical parking arrangement.
35. The design and construction standards proposed for paving, drainage, line marking, signage, lighting and other relevant matters.

36. The type and size of vehicle likely to use the parking area. Whether the layout of car parking spaces and access lanes is consistent with the specific standards or an appropriate variation.
37. The need for the required car parking spaces to adjoin the premises used by the occupier/s, if the land is used by more than one occupier.
38. Whether the layout of car spaces and accessways are consistent with Australian Standards AS2890.1-2004 (off street) and AS2890.6-2009 (disabled).
39. The relevant standards of Clauses 56.06-2, 56.06-4, 56.06-5, 56.06-7 and 56.06-8 for residential developments with accessways longer than 60 metres or serving 16 or more dwellings.
40. Any other matter specified in a schedule to the Parking Overlay.

The use of land would also include a place of assembly where the car parking requirement is 0.3 spaces to each patron. The applicant has stated in their written submission that will have 200 members which equates to a car parking rate of 60 spaces. The large land available can easily provide all of the parking spaces on site. The applicant has nominated a large car park area to the north of the clubrooms assessed by the internal single lane driveway. The plans will need to nominate 60 spaces and that number should also adequately service the combined place of assembly and the outdoor shooting range uses. This will be addressed through the submission of revised plans.

Discussion

Use of the land

The use of firearms by farmers is a typical activity on farming zoned land to manage livestock and remove vermin/ferals. The zoning of the land does not prohibit an outdoor shooting range where a number of shooters can operate at the one site using specific ammunition in a controlled environment. The issue is to examine the location of the site in relation to sensitive land uses such as dwellings and impact it will have on surrounding land uses. The site is an open field without natural barriers such as screen trees and is readily visible and exposed from a public roadway, Moretons Road. There are scattering of dwellings in the area such as Sharkeys Road to the north and Moretons Road to the south.

The adjacent southern property has planning permission issued by the City of Greater Geelong for an outdoor shooting range.

The applicant proposes a reflecting mound along the entire shooting range to a height of two metres. This will create a visual barrier from the public realm and assist in reducing noise impacts.

This current application compared to the previous refusal on the same parcel of land is less intensive and contains a more passive use with the place of assembly. The predominant use of the land would be a place of assembly in the form of a social club. This activity is confined to a detached clubroom that is well separated from nearby dwellings on adjacent properties. The large car park area and toilet facilities will ensure the use does not affect the amenity of the surrounding area. The shooting use is restricted to five days a week, is restricted with the type of ammunition used on certain days and is restricted to daylight hours. The shooting use subject to conditions which are enforced can be an acceptable use on farming zoned land without adversely impacting surrounding farming businesses or surrounding dwellings that are scattered in Balliang East.

The use of the land as a shooting range with its associated waste is not considered to cause any adverse impacts to surrounding agricultural land as demonstrated from the results of the CSM report undertaken by Landserv Environmental.

The use is considered to comply with the objectives of Clause 14.01, Agriculture.

Development works

The mounds can be vegetated and DELWP has provided a listing of suitable plant species. There will be a permit condition that works are maintained including the removal of any evasive weed species. The perimeter mound would create a visual barrier for surrounding properties that have an outlook to the site.

The clubrooms are proposed to be located to the north of the two existing dwellings on the land and will have no impact upon the Moretons Road frontage due to the large separation distance. The applicant would be required to submit revised plans as no elevation plans of the clubrooms have been provided at this stage.

Noise Impacts

The applicant has provided an acoustic report prepared by Renzo Tonin Associates. The report acknowledges there is no legislation covering noise controls on shooting ranges. There is an EPA Guideline called 'Noise from Outdoor Shooting Ranges' which is designed to assist Councils and the EPA when assessing noise complaints and provides recommended noise levels.

The acoustic report determined that the adjacent dwelling to the south was a commercial property however noise readings were taken which showed 48db(a)l², which is 3db above the recommended maximum requirement of 45db for a planned shooting range. The reading taken to the north showed noise levels were within the acceptable levels to the dwelling at 320 Sharkey Road at 34db(a)l² or 11db below the recommended maximum level. The acoustic report acknowledged the readings were taken on open ground and would be reduced with the proposed mounds along the shooting range borders.

With the southern adjacent property containing an operating shooting range, the exceedance by 3db as specified by the EPA Guidelines is considered acceptable. There should be on going noise monitoring and results taken every twelve months to ensure noise levels do not exceed 48db(a)l² to the south. This can be enforced by permit conditions that requires results to be provided to Council each year and for these results to be publicly available if they need to be reviewed by any interested parties. Ongoing noise testing with a set limit of 48db(a)l² protects the amenity of all surrounding properties. The site provided it is managed correctly and in accordance with all of the proposed permit conditions can complement the surrounding land uses and not create negative amenity impacts including to residents that are located on farming zone land.

Subject to conditions, the proposed place of assembly and an outdoor shooting range use with restricted operating hours is appropriate for this area.

Car Parking

Due to the lot size, the required 60 bays can be accommodated on the site. There will be requirement for revised plans to show more detailed car parking plans that ensure car space and internal accessways comply with design standard 1 and 2 of Clause 52.06-9.

Environmental Management

Council at its Ordinary Meeting of Council on 6 December, 2017 deferred making a decision until further advice be sought on whether a CSM is required by the EPA and if so that the recommendation ensures that it occurs.

EPA advised that it was not mandatory but is helpful to provide a CSM which is a Conceptual Site Model used to assess the risk an activity has on receptors on and off site. EPA does not review the results of a CSM and instead it is completed to assist the applicant in managing their site. The applicant engaged LandServ Environmental who prepared a CSM Report. The report examined different types of wastes generated from the activity and the risk to land, surface water and groundwater. The report detailed the potential exposures such as inhalation of dust particles, inhalation of vapour, dermal contact, ingestion of ground water and direct contact with groundwater. The report found all sources would achieve a 'low likelihood' both to the subject land and to adjacent land. There were no recommendations to alter the type of activity or change the location of the activity.

Separate from the CSM Report, the applicant is still required to provide a Site Environmental Management Plan (SEMP) to manage sediments from entering the nearby waterways in accordance with Melbourne Water's requirements.

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
Melbourne Water	Consent with conditions
EPA	Consent with conditions
AusNet	Consent
DELWP	Consent with conditions
Infrastructure	Consent with conditions
Environmental Health	Consent with conditions

Financial Implications

The recommendation to approve this application would not represent any financial implications for Council.

Risk and Occupational Health and Safety Issues

The recommendation of approval of this use and 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 further correspondence is required to all interested parties to the application as a result of a decision in this matter. All submitters and the applicant were invited to attend this meeting and invited to address Council if desired.

Options

An alternative recommendation would be to refuse the application on the ground that it does not comply with the planning scheme provisions and creates an unacceptable amenity impacts including noise to nearby properties.

Refusing the application may result in the applicant lodging an application for review of Council's decision with VCAT.

Conclusion

The proposed place of assembly and an outdoor shooting range with restricted hours of operation and other restrictions to the type of ammunition will ensure the amenity of surrounding properties is not adversely affected by the combined uses. The subject land is in the Farming Zone which is considered to be the most appropriate zone for this type of use.

It is recommended should Council grant an approval, permit conditions be imposed to ensure the proposed uses are operated correctly and there will be a requirement for ongoing noise monitoring to prevent noise emissions exceeding an agreed level.

It is recommended that Council approve this application subject to the recommended conditions below.

Recommendation

That, having considered all matters as prescribed by the Planning and Environment Act, Council issue a Notice of Decision to Grant a Permit, application number 2017-100 for the use and development of the land for a place of assembly and outdoor shooting range at Crown Allotments 133, Parish of Balliang otherwise known as 392 Moretons Road, Balliang East subject to the following conditions:

Amended plans

- 1. Before the use and/or development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans submitted with the application or some other specified plans but modified to show:**
 - a. Remove any light tower area from the shooting bunkers;**
 - b. Elevation plans of the clubrooms;**
 - c. Dimensioned car spaces and accessways in accordance with Clause 52.06 of Moorabool Planning Scheme. The car park area must allow for the parking of 60 vehicles;**

- d. **An approved Melbourne Water SEMP in accordance with condition 33 contained herein;**
- e. **Detail measures to prevent any livestock from accessing the shooting range;**
- f. **a plan detailing the overshoot range;**
- g. **Waste Management Plan generally in accordance with the plan submitted with the application documents but modified to include a section covering record keeping of the volumes and types of shooting waste generated and modified to state that broken clay targets will be removed and disposed of at an approved facility and not left to biodegrade on the land; and**
- h. **Complaint investigation and handling procedure which includes the procedures for responding to complaints, notifying relevant parties, and process to investigate and engage external consultants and/or experts to the satisfaction of the Responsible Authority.**

Unless otherwise approved in writing by the Responsible Authority, all buildings and works are to be constructed and or undertaken in accordance with the endorsed plans to the satisfaction of the Responsible Authority prior to the commencement of the use.

Hours of operation

2. **The place of assembly (non shooting) use must only operate Monday to Saturday 10am to 10pm and Sunday 12.00pm to 10.00pm.**
3. **The shooting use can only operate Wednesday to Thursday 10.00am to 6.00pm using sub ammunition loads only and Friday to Saturday 10.00am to 6.00pm and Sunday 12.00pm to 6.00pm using normal ammunition. No special shooting events beyond these times will be permitted.**
4. **No shooting may take place on any day where a Total Fire Ban has been declared or is in force.**

Amenity

5. **The subject use and development must operate in accordance with the recommendations of the current approved acoustic report at all times.**
6. **The amenity of the area must not be detrimentally affected by the use or development, through the:**
 - a. **Transport of materials, goods or commodities to or from the land;**
 - b. **Appearance of any building, works or materials;**
 - c. **Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil;**
 - d. **Presence of vermin; and**
 - e. **Any other way.**

7. **Unless with the written consent of the Responsible Authority, within the first three months of operation and on each anniversary of the issue of the permit, the owner must submit an updated acoustic report demonstrating that gun shoot noise levels does not exceed 48db(a)^{L₂} or to an approved level determined by the Responsible Authority, from two locations to the nearest to the dwellings at 444 Moretons Road and 320 Sharkeys Road.**
8. **Any shooting activity on the land must be organised in association with and carried out under the supervision of a registered shooting club or shooting association, to the satisfaction of the Responsible Authority.**
9. **Before any shooting activity commences, the reflection mounds around the shooting range perimeter must be completed to the satisfaction of the Responsible Authority.**
10. **No shooting activity can be conducted beyond the mounded perimeter of the shooting range.**
11. **Unless with the written consent of the Responsible Authority, no more 200 persons may occupy the entire site at any one time.**
12. **A secondary containment system must be provided for liquids which if spilt are likely to cause pollution or pose an environmental hazard, in accordance with the EPA Publication 347 Bunding Guidelines or as amended.**
13. **Stormwater contaminated with waste must not be discharged beyond the boundary of the premises.**
14. **No environmental weeds shall be planted on the site or allowed to invade the site to the satisfaction of the responsible authority.**
15. **The site must be maintained to the satisfaction of the Responsible Authority.**
16. **Waste including spent ammunition must be removed in accordance with the approved Waste Management Plan.**
17. **All complaints about the use of land as a place of assembly and outdoor shooting range must follow the approved complaints investigation and handling procedure.**

Infrastructure

18. **Prior to the use commencing, the proponent must submit a Traffic Management Plan to the Responsible Authority for approval, detailing the measures to control the flow of traffic entering and exiting the site. The TMP should also include a plan showing the locations and types of advanced warning and directional signs on the approaches to the site.**

- 19. The existing crossing on Moretons Road must be upgraded to a two lane rural standard vehicle crossing with culvert to the satisfaction of the Responsible Authority.**
- 20. Storm water drainage from the proposed buildings and impervious surfaces must be retained and disposed of within the boundaries of the subject land to the satisfaction of the Responsible Authority. Overflows from on-site storage systems must be directed away from any waste water disposal areas.**
- 21. Sediment discharges must be restricted from any construction activities within the property in accordance with relevant Guidelines including Construction Techniques for Sediment Control (EPA 1991).**
- 22. Unless otherwise approved by the Responsible Authority there must be no buildings, structures, or improvements located over proposed drainage pipes and easements on the property.**
- 23. Prior to the commencement of the development and post completion, notification including photographic evidence must be sent to Council's Asset Services department identifying any existing damage to council assets. Any existing works affected by the development must be fully reinstated at no cost to and to the satisfaction of the Responsible Authority.**
- 24. Any existing works affected by the development must be fully reinstated at no cost to and to the satisfaction of the Responsible Authority.**
- 25. Prior to the use commencing, the car park areas must be constructed with an all -weather surface, markings and drainage to the satisfaction of the responsible authority, and shall incorporate the following:**
 - a. Parking bays and aisle widths of the car park shall comply with Australian Standard AS 2890.1:2004 Off-Street car parking. Disabled Parking bays shall comply with Australian Standard AS2890.1:2009 Off-Street Parking for People with Disabilities.**
 - b. The parking areas shall be provided with an all-weather surface and associated drainage.**
 - c. Kerbing of a minimum height of 150mm must be provided between landscaped areas and areas provided for parking and the passage of vehicles.**
- 26. The building shall be provided with disabled access in accordance with the provisions of AS1428 – Design for Access and Mobility.**

Environmental Health

- 27. An onsite waste water management system must be installed for the clubrooms.**
- 28. The wastewater management system including all effluent must be wholly contained within the property boundaries at all times.**
- 29. The effluent disposal area must be kept free of buildings, driveways, vehicular traffic and services trenching.**
- 30. All setback distances must be adhered to as dictated by Table 5 of the Code of Practice, Onsite Wastewater Management, EPA Publication Number 891.4**
- 31. The owner will maintain all drainage lines at all times to divert surface water and subsurface water clear of the effluent disposal field.**
- 32. Noise levels must comply with the EPA guidelines 'Noise from outdoor shooting ranges', publication number 1508 October 2012.**

Melbourne Water

- 33. Melbourne Water requires that the applicant submit a Site Environmental Management Plan (SEMP) with detailed map for Melbourne Water approval; including:**
 - a. Treatment areas for sediment control within the development site, including details of how the sediment controls prevent sediment laden soil entering the waterway; and**
 - b. Treatment areas for sediment control within the development site, including details of how the sediment controls prevent sediment laden soil entering the waterway;**
 - c. An exclusion zone for the Balliang Creek. The exclusion zone is required to mitigate the effects of the proposed development on the local hydrology, geomorphology and/or ecological values of the waterway.**
- 34. Prior to the endorsement of plans Melbourne Water requires the application to be viewed by the Environmental Protection Authority (EPA) and the response to be submitted to Melbourne Water for review.**

Environment Protection Authority

- 35. Nuisance dust must not be discharged beyond the boundaries of the premises.**

36. A secondary containment system must be provided for liquids which if spilt are likely to cause pollution or pose an environmental hazard, in accordance with the EPA Publication 347 Bunding Guidelines or as amended.
37. Stormwater contaminated with waste must not be discharged beyond the boundary of the premises.
38. Any fill material brought onto the subject land must meet the specifications contained in EPA publication IWRG621, Soil Hazard Categorisation and Management 2009 or as amended.
39. Construction and post-construction activities must be in accordance with EPA Publication 275 Construction Techniques for Sediment Pollution Control 1991 or as amended.

Permit Expiry

40. This permit will expire if one of the following circumstances applies:
 - a. The development and the use are not started within two years of the date of this permit; and
 - b. The development is not completed within four years of the date of this permit. Council may extend the periods referred to if a request is made in writing before the permit expires or in accordance with the timeframes as specified in Section 69 of the Planning and Environment Act 1987.

Environmental Health Note

A permit to install must be installed for the onsite wastewater management system.

DELWP Note:

Any re-vegetation of the subject site (including reflection mounds) should consist of plants from the following native species list:

Scientific Name	Common Name
<i>Acacia acinacea s.l.</i>	Gold-dust Wattle
<i>Acacia implexa</i>	Lightwood
<i>Acacia mearnsii</i>	Black Wattle
<i>Acacia melanoxylon</i>	Blackwood
<i>Acacia pycnantha</i>	Golden Wattle
<i>Acacia verniciflua s.l.</i>	Varnish Wattle
<i>Allocasuarina luehmannii</i>	Buloke
<i>Allocasuarina verticillata</i>	Drooping Sheoak
<i>Bursaria spinosa</i>	Sweet Bursaria
<i>Carpobrotus modestus</i>	Inland pigface
<i>Dianella revoluta s.l.</i>	Black-anther Flax-lily
<i>Einada hastata</i>	Saloop
<i>Einadia nutans</i>	Nodding saltbush

Enchylaena tomentosa Ruby Saltbush
Eucalyptus leucoxylon Yellow Gum
Eucalyptus melliodora Yellow Box
Eucalyptus microcarpa Grey Box
Eucalyptus polyanthemos Red Box
Melicytus dentatus s.l. Tree Violet
Rhagodia parabolica Fragrant Saltbush
Rytidosperma caespitosum Common Wallaby-grass
Solanum laciniatum Kangaroo Apple

Resolution:

Crs. Toohey/Edwards

That, having considered all matters as prescribed by the Planning and Environment Act, Council issue a refusal to grant a permit for the use and development of the land for a place of assembly and outdoor shooting range at Crown Allotment 133, Parish of Balliang, otherwise known as 392 Moretons Road, Balliang East based on the following grounds:

- 1. The proposal does not comply with Clause 13.04 (Noise Abatement) of the Moorabool Planning Scheme by not ensuring minimal noise impacts with surrounding sensitive land uses.***
- 2. The shooting range is incompatible with the surrounding land uses.***
- 3. The proposed use does not represent the orderly planning of the area.***

Councillor. Dudzik called for a division:

Councillors voting for the resolution:

**Cr. Toohey
Cr. Edwards
Cr. Tatchell**

Councillors voting against the resolution:

**Cr. Dudzik
Cr. Keogh
Cr. Bingham**

The resolution was determined to be CARRIED on a Casting Vote by the Mayor.

Cr. Sullivan returned to the Meeting at 7.14 pm.

Report Authorisation

Authorised by:

Name:

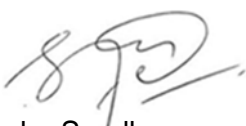
Satwinder Sandhu

Title:

General Manager Growth and Development

Date:

Wednesday, 28 February 2018



11.2.3 Planning Permit 2017-164 – 5 Frawleys Road, Leigh Creek: Building and Works Associated with Use of the Land for a Drive Thru Café, Business Identification Signage and Creation of an Access to RDZ1.

Application Summary:	
Permit No:	PA2017 164
Lodgement Date:	18 August, 2017
Planning Officer:	Mark Lovell
Address of the land:	Land in Plan of Consolidation 168341M 5 Frawleys Road, Leigh Creek
Proposal:	Building and Works Associated with Use of the Land for a Drive Thru Café, Business Identification Signage and Creation of an Access to RDZ1.
Lot size:	10.25 hectares
Why is a permit required	Clause 36.01-1 – Public Use Zone - Use of the land Clause 36.01-2 – Public Use Zone – Building and Works Clause 45.01 – Public Acquisition Overlay – Building and Works Clause 52.05 – Advertising signs – Signage Clause 52.29 – Adjacent to RDZ1 – Creation of an access.
Why is this application being presented to Council?	At the request of a Councillor.
Public Consultation:	
Was the application advertised?	Yes.
Notices on site:	Yes.
Notice in Moorabool Newspaper:	No.
Number of Objections:	Two (2)
Consultation meeting:	Yes, between the applicant and objectors. Issues discussed in detail but no resolution achieved between the parties.
Policy Implications:	
Strategic Objective: 2	Stimulating Economic Development
Context: 2A	Built Environment

Victorian Charter of Human Rights and Responsibilities Act 2006	
<p>In developing this report to Council, the officer considered whether the subject matter raised any human rights issues. In particular, whether the scope of any human right established by the Victorian Charter of Human Rights and Responsibilities is in any way limited restricted or interfered with by the recommendations contained in the report. It is considered that the subject matter does not raise any human rights issues.</p>	
Officer's Declaration of Conflict of Interests	
<p>Under section 80C of the Local Government Act 1989 (as amended), officers providing advice to Council must disclose any interests, including the type of interest.</p> <p><i>Manager – 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?	Yes, Council's Infrastructure, CFA, Central Highlands Water, VicRoads, and EPA Victoria.
Any issues raised in referral responses?	No.
Preliminary Concerns?	Yes, with the objectives of the Public Use Zone which is the management of a water supply reservoir.
Any discussions with applicant regarding concerns	Yes, the applicant responded with additional written information.
Any changes made to the application since being lodged?	No.
VCAT history?	No.
Previous applications for the site?	No.
General summary (Pro's/Con's of the proposal)	<p>The proposal provides adequate building setback to the property boundaries, a modest built form and ample onsite parking for staff and additional area for waiting vehicles.</p> <p>The zoning of the land can allow for a non-related activity to a water reservoir. The site is in an isolated position and the surrounding land uses would not be adversely affected by a small temporary commercial use.</p>

Summary Recommendation:

That, having considered all relevant matters as required by the Planning and Environment Act 1987, Council issue a Notice of Decision to Grant a Permit for building and works associated with use of the land for a drive thru café, business identification signage and creation of an access to RDZ1 on the land at 5 Frawleys Road, Leigh Creek in accordance with Section 61 of the *Planning and Environment Act 1987*.

Background

The site is controlled and owned by Central Highland Water who are responsible for the management of the Pincott Reservoir located to the north of this lot. Central Highlands Water have provided owner's consent for the applicant to lodge this use and development proposal.

Public Notice

The application was notified to adjoining and surrounding landowners by mail and placing a large on site for period of fourteen days. A statutory declaration verifying display of the large notice was received on 24 October, 2017.

Summary of Objections

The objections received are detailed below with officer's comments accompanying them:

Objection	Any relevant requirements
Vehicle access/ traffic danger/Traffic congestion/ Lack of a detailed traffic engineering assessment	Clause 52.06
Officer's response – VicRoads have consented to the access arrangement subject to conditions including a left out only egress from the site. A separate traffic engineering assessment is not required for this application.	
Lack of car parking, patrons parking has not been considered/ low parking availability	Clause 52.06
Officer's response – This application has provided a dedicated drive thru activity and subject to conditions will not provide any on site seating or access to the kitchen area by the public. The activity does not require patron parking. The proposal complies with the minimum car parking rate.	
Inappropriate use of Public Zoned land with reference to VCAT decisions	Clause 36.01
Officer's response – The Public Use Zone does allow for a variety of alternative uses including commercial uses.	
No public toilets provided	
Officer's response – Subject to conditions, there will be no dedicated seating area and therefore no public toilets need to be provided. A toilet is provided for staff use only.	

Proposal

It is proposed to construct a building for a drive thru café. The building is 16.39 metres in length and 4.39 metres in width and will be comprised of food and coffee preparation areas, coolroom, storage, office and staff toilet. The building will have a floor to ceiling height of 3.0 metres. The building will consist of cement sheet cladding with rendered finish, Alcobond feature cladding, Colorbond® roofing and aluminum framed windows. The building is proposed to be setback approximately 8.4 metres from the street frontage and well setback from the side and rear property boundaries. The proposal will include a 4.0 metres wide single lane accessway for patrons to place an order then travel around the building to a separate collection area with two side waiting bays. All vehicle access is via an internal roundabout located near the south-east corner of the site which will connect to a new double car width crossover. There would be six staff car parking spaces located adjacent to the eastern property boundary.

The café would operate from 5.00am to 6.00pm, Monday to Sunday. The applicant advised that is a temporary use and should it be approved would occupy the site for ten years.

A 3m² in area business identification sign would be placed against the southern side of the building facing towards the freeway with the words '143^o East Coffee Food'.

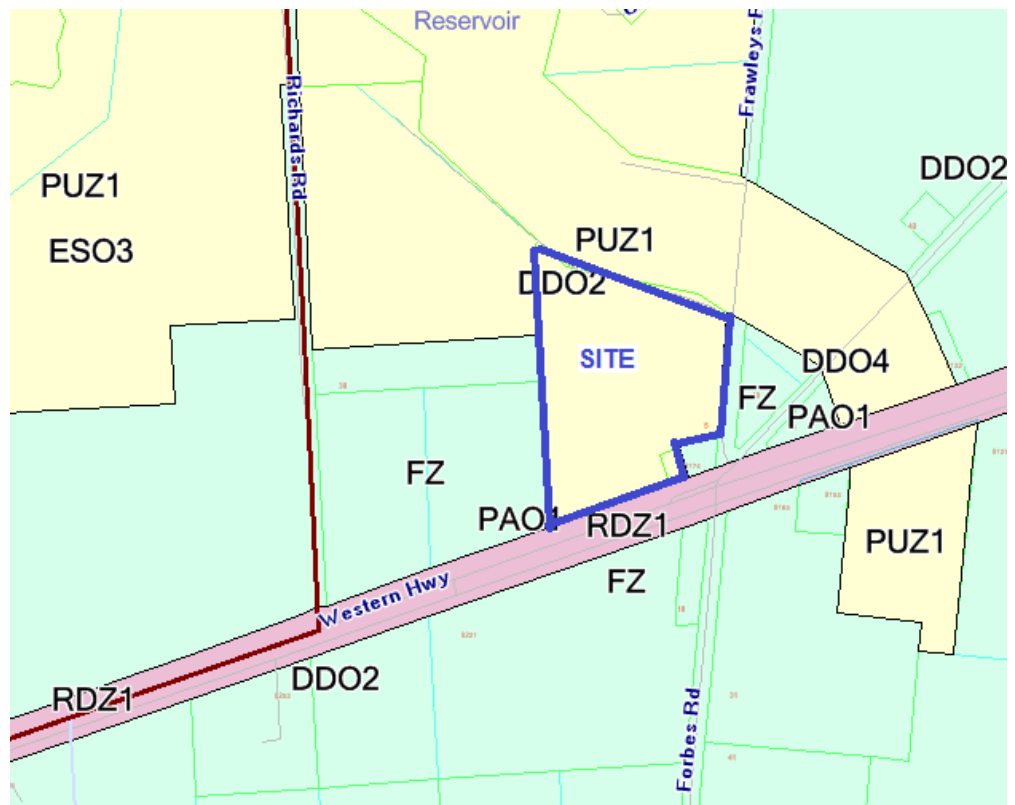
Site Description

The subject site is located on the northern side of the Western Highway and the western side of Frawleys Road, Leigh Creek. The lot is irregular in shape and does not include the immediate corner lot where the streets intersect. The lot has a total land area of 10.25 hectares. There is 51.29 metres wide electricity easement that cuts through the north-west corner of the lot. The site contains open fields and a small shed building located near the Western Freeway frontage. The land is one of many lots that are associated with Pincott Reservoir (located to the north) and are under the management control of Central Highlands Water.

The property to the immediate east is café/roadhouse with vehicle parking in gravel area adjacent to the Western Highway. Surrounding land is predominately open grazing fields with a scattering of dwellings. Visible from the site to the south is Koyal Castle, a major tourist facility. The site has convenient access to the Ballarat Activity Centre located to the west.

Locality Map

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



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:

- Clause 11.07-2 Peri-Urban areas.
- Clause 11.08 Central Highlands.
- Clause 11.06-2 A diversified economy.
- Clause 13.04-1 Noise abatement.
- Clause 17.01-1 Business.
- Clause 18.02-5 Car Parking.
- Clause 21.04-3 Commerce.

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 17.01-1	Business	A strategy of this clause is to locate commercial facilities in existing or planned activity areas. The subject site is not located within an existing or proposed commercial centre.

Zone

Public Use Zone Schedule 1

The subject site is in a Public Use Zone Schedule 1.

The purpose of the zone is:

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

Under Clause 36.01-6, a permit is not required for use and for building and works associated with service and utility. With reference to the subject land, this would be works associated with a reservoir.

The proposal requires a permit for use of the land as a café under Clause 36.01-1 and for building and works under Clause 36.01-2.

Before deciding on an application, the responsible authority should consider:

- The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- The comments of any Minister or public land manager having responsibility for the care or management of the land or adjacent land.
- Whether the development is appropriately located and designed, including in accordance with any relevant use, design or siting guidelines.

Under Clause 36.06-7, a permit is required to display a sign where the Road Zone is the nearest adjoining zone.

Overlays

Environmental Significance Overlay Schedule 1

The subject site is in the Environmental Significance Overlay Schedule 1 and the provisions of Clause 42.01 apply.

The purpose of the 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 areas where the development of land may be affected by environmental constraints.
- To ensure that development is compatible with identified environmental values.

Under Part 2 of Schedule 1 of the overlay has the following environmental objectives 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.

Under Clause 42.01-2 a planning permit is not as there is no site cut or stormwater discharge within 100 metres of a waterway.

Public Acquisition Overlay Schedule 1

The front part of the site is located within a Public Acquisition Overlay Schedule 1.

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 land which is proposed to be acquired by a Minister, public authority or municipal council.
- To reserve land for a public purpose and to ensure that changes to the use or development of the land do not prejudice the purpose for which the land is to be acquired.
- To designate a Minister, public authority or municipal council as an acquiring authority for land reserved for a public purpose.

Under Clause 45.01-1, a permit is required for building and works to a Section 1 or 2 use.

Under Clause 45.01-5 the land must not be spoiled or wasted so as to adversely affect the use of the land for the purpose for which it is to be acquired.

Under Clause 45.01 an acquiring authority is the Minister, public authority or municipal council specified in the schedule to this overlay as the acquiring authority for the land. Under Schedule 1 of the overlay, the acquiring authority is VicRoads for the purpose of the Western Highway realignment.

Bushfire Management Overlay

The subject is partly covered by a Bushfire Management Overlay but does not affect the works area. It must be noted the application was lodged before the Amendment VC132 was gazetted on 19 September, 2017. This planning scheme amendment resulted in changes to the BMO mapping and the subject site went from been fully contained with the BMO to been party covered by the BMO.

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 ensure that the development of land prioritises the protection of human life and strengthens community resilience to bushfire.
- To identify areas where the bushfire hazard warrants bushfire protection measures to be implemented.
- To ensure development is only permitted where the risk to life and property from bushfire can be reduced to an acceptable level.

Design & Development Overlay Schedule 2

The subject site is located in Design & Development Overlay Schedule 2.

The purpose of Schedule 2 is:

- 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

A permit is required to construct a building in reflective materials. A corresponding condition can ensure non-reflective materials are used to accord with this overlay provision.

Design & Development Overlay Schedule 4

The front part site is covered by Design & Development Overlay Schedule 4.

The purpose of Schedule 4 is:

- To ensure the development of land near the future alignment of the Western Freeway between Leigh Creek and Woodmans Hill is undertaken with appropriate noise attenuation measures to minimise the impact of traffic noise on noise sensitive activities

VicRoads were notified of the applicant and did not require any noise attenuation measures for this use and development.

Relevant Policies

There are no relevant Council policies.

Particular Provisions

Clause 52.05 Advertising Sign

Category 4 signage controls (sensitive areas) apply to a business identification sign in a Public Use Zone under Clause 52.05-10 on the condition that the total advertising area to each premise must not exceed 3 square metres.

The purpose of Clause 52.05 is:

- To regulate the display of signs and associated structures.
- To provide for signs that are compatible with the amenity and visual appearance of an area, including the existing or desired future character. To ensure signs do not contribute to excessive visual clutter or visual disorder.
- To ensure that signs do not cause loss of amenity or adversely affect the natural or built environment or the safety, appearance or efficiency of a road.

The purpose of Category 4 signage controls is:

- To provide for unobtrusive signs in areas requiring strong amenity control.

Decision guidelines are listed under Clause 52.05-3. VicRoads were notified of the application as the site is adjacent to a Road Zone Category 1.

Clause 52.06 Car Parking

The proposed use is a drive thru café with no seating. Under Clause 52.06-5, a food drink premise requires 4 car spaces to each 100m² of leasable floor area which equates to a requirement of 3 car spaces. The applicant has provided 6 car spaces marked as staff parking that achieves the minimum car parking rate and the layout of the car spaces and the accessways complies with the design standards of Clause 52.06-9.

Clause 52.29 – Adjacent to Road Zone Category 1

The land is adjacent to a Road Zone Category 1 which is the Western Highway.

The purpose of this particular provision is:

- To ensure appropriate access to identified roads.
- To ensure appropriate subdivision of land adjacent to identified roads.

Under Clause 52.29 a permit is required to alter access to a Road Zone Category 1.

Before deciding on an application, in addition to the decision guidelines in Clause 65, the responsible authority must consider:

- The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- The views of the relevant road authority.
- The effect of the proposal on the operation of the road and on public safety.
- Any policy made by the relevant road authority pursuant to Schedule 2, Clause 3 of the Road Management Act 2004 regarding access between a controlled access road and adjacent land.

VicRoads had no objection to the new access subject to conditions.

Discussion

Planning policy

The proposal involves a new commercial business which is supported by the broad State Planning Policy Framework which seeks to contribute to the economic well-being of communities and the State as a whole by supporting and fostering economic growth and development so each district may build on its strengths and achieve its economic potential.

Streetscape

The proposal has the advantage of being located on a large land area to mitigate off site impacts and the simple building form that is well setback from all property boundaries ensures minimal streetscape impacts. The proposed business identical signage is modest in scale and attached to the host building which will not cause any undue visual clutter or any distraction to passing motorists in accordance with the objectives of Clause 52.05.

Access/Car parking

The proposal development is appropriately positioned on the land to ensure vehicles can enter the site from the adjacent Western Highway without causing traffic disruptions, has a looped driveway to ensure vehicle have separate order and collection areas with waiting bays, and the front roundabout assists in reducing speeds and creates a safe exiting arrangement. Subject to condition, there will be no on site café seating and ample parking provided for staff. VicRoads have reviewed the traffic arrangements and have consented to the application subject to conditions including a left out only via the Black Swamp Road intersection to prevent vehicles immediately accessing the highway from the gravel verge at a low speed with inadequate sight lines. The car parking and access are suitable for this development proposal and it does not conflict with the Public Acquisition Overlay Schedule 1 that covers the Western Highway realignment.

Use of the land

The site is located in a Public Use Zone. These zones do allow for a variety of land uses subject to obtaining consent from the public authority or the land owner, in this instance, Central Highlands Water. A number of private commercial developments have occurred on public zoned land especially on railway land which has vast railway corridors with some locations having excellent access to services.

Central Highland Water have consented to the application and have control of a large section of land covering the Pincotts Reservoir which was constructed 1867. The proposed development site is at the southern extremity of their land holdings.

The drive thru café is not linked with the existing reservoir and is not required for the operation of the reservoir. The drive thru café is designed to capture passing freeway traffic in an area well separated from the nearest activity centre and commercial areas. With the proposed building site covered by a Public Acquisition Overlay for the Western Freeway expansion, the applicant has advised that the use would only operate for ten years. The applicant is aware the building would need to be demolished to facilitate the freeway expansion. Given the small building area and temporary arrangement, the use and development is appropriate as a short term use of currently vacant land.

The proposed use and development is considered to comply with the purpose of the Public Use Zone.

Amenity impacts

The applicant will not be providing a toilet for customer use however has shown a seating area and pedestrian access to the eastern side of the building. This could create issues for customers rather than genuine drive thru arrangement. These seats should be removed and a condition in place to prevent a 'dine in café' without adequate amenities. Food premises can generate waste and there is potential littering from customers. The applicant would be required to show the location of screened bin area and for waste to be removed from the site on a daily basis. There would be standard amenity conditions to control noise, smells and other nuisances.

General Provisions

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

- The matters set out in Section 60 of the Act.
- The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- The purpose of the zone, overlay or other provision.
- Any matter required to be considered in the zone, overlay or other provision.
- The orderly planning of the area.
- The effect on the amenity of the area.

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
Central Highlands Water (catchment authority response)	Consent with three conditions
VicRoads	Consent with four conditions
CFA	Consent with one condition
EPA Victoria	Consent with four conditions
Infrastructure	Consent with eight conditions
Environmental Health	Consent with five conditions

Financial Implications

The recommendation of approval of this application would not represent any financial implications to Council. Should Council consider refusing this application there would be costs associated with any VCAT appeal by objectors.

Risk and Occupational Health and Safety Issues

The recommendation of approval of this use and 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 further correspondence is required to all interested parties to the application as a result of a decision in this matter. All submitters and the applicant were invited to attend this meeting and invited to address Council if desired.

Options

An alternative recommendation would be to refuse the application on the basis it does not comply with the planning scheme provisions including the Public Use Zone and its commercial use not located within a defined commercial area.

Refusing the application may result in the applicant lodging for review of Council's decision with VCAT.

Conclusion

The proposed use and development are considered consistent with the objectives of the Public Use Zone by allowing for an alternative use of the land for a short term period of ten years. The proposed use and development should be supported.

Recommendation:

That, having considered all matters as prescribed by the Planning and Environment Act, Council issue a Notice of Decision to Grant a Permit for Building and Works Associated with Use of the Land for a Drive Thru Café, Business Identification Signage and Creation of an Access to RDZ1 in Land in Plan of Consolidation 168341M otherwise known as 5 Frawleys Road, Leigh Creek, subject to the following conditions:

Endorsed Plans

1. **Before the use and/or development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans submitted with the application or some other specified plans but modified to show:**
 - a. **Show the location of a secure and screened designated refuge area.**
 - b. **Remove the pedestrian access and seating area at the eastern end of the building.**

Unless otherwise approved in writing by the Responsible Authority, all buildings and works are to be constructed and or undertaken in accordance with the endorsed plans to the satisfaction of the Responsible Authority prior to the commencement of the use.

Materials and Colours

2. **All external walls and roof areas of the proposed building/s are to be clad with non-reflective materials (zincalume prohibited) to the satisfaction of the Responsible Authority.**

Amenity

- 3. The amenity of the area must not be detrimentally affected by the use or development, through the:**
 - a. Transport of materials, goods or commodities to or from the land;**
 - b. Appearance of any building, works or materials;**
 - c. Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil;**
 - d. Presence of vermin; and**
 - e. Any other way.**
- 4. Mechanical noise emanating from the premises must comply with the State Environment Protection policy N-1 'Control of Noise from Commerce, Industry and Trade.'**
- 5. External lighting must be provided with suitable baffles and located so that no direct light is emitted outside the site**
- 6. The loading and unloading of goods from vehicles must only be carried out on the land and must not disrupt the circulation and parking of vehicles on the land.**
- 7. Goods, equipment or machinery must not be stored or left exposed in a position that can be seen from the street.**
- 8. Waste materials must be securely stored in the designated bin area.**
- 9. The site must be maintained and kept in a clean state including the removal and disposal of all waste products, food wrappers, and packaging on a daily basis.**
- 10. Unless with the written consent of the Responsible Authority, no on site dining or seating is permitted.**
- 11. Unless with the written consent of the Responsible Authority, the hours of operation are from 5.00am to 6.00pm Monday to Sunday.**

Infrastructure

- 12. The property must be provided with a vehicle crossing in accordance with the standards specified by VicRoads, to the satisfaction of the responsible authority.**
- 13. The property access and the internal driveways must be constructed in accordance with the requirements specified in Table 5 of Clause 52.47-3 of the Moorabool Planning Scheme, to the satisfaction of the responsible authority.**
- 14. Storm water drainage from the proposed buildings and impervious surfaces must be disposed of within the boundaries of the site to the satisfaction of the Responsible Authority. Overflows from on-site storage systems must be directed away from any waste water disposal areas.**

15. **Prior to the use commencing, the internal driveways and car parking areas must be constructed with a sealed surface, line-marking and drainage to the satisfaction of the responsible authority, and shall incorporate the following:**
 - a. **Parking bays and aisle widths of the car park shall comply with Australian Standard AS 2890.1:2004 Off-Street car parking. Disabled Parking bays shall comply with Australian Standard AS2890.1:2009 Off-Street Parking for People with Disabilities.**
 - b. **Designated loading areas shall be shown on layout plans.**
 - c. **The parking areas shall be provided with a sealed surface and associated drainage.**
 - d. **Concrete kerb of a minimum height of 150mm must be provided between landscaped areas and areas provided for parking and the passage of vehicles.**
 - e. **The internal driveway must provide sufficient space for a service truck to enter and exit the site in a forward direction. The service truck shall comply with the Medium Rigid Vehicle detailed in AS2890.2 section 2.2. Turning templates shall be submitted for approval.**
16. **The building shall be provided with disabled access in accordance with the provisions of AS1428 – Design for Access and Mobility.**
17. **Sediment discharges must be restricted from any construction activities within the property in accordance with relevant Guidelines including Construction Techniques for Sediment Control (EPA 1991).**
18. **Unless otherwise approved by the Responsible Authority there must be no buildings, structures, or improvements located over any drainage pipes and easements on the property.**
19. **Prior to the commencement of the development and post completion, notification including photographic evidence must be sent to Council's Asset Services department identifying any existing damage to council assets. Any existing works affected by the development must be fully reinstated at no cost to and to the satisfaction of the Responsible Authority.**

CFA

20. **The bushfire mitigation measures forming part of this permit or shown on the endorsed plans, including those relating to construction standards, defensible space, water supply and access, must be maintained to the satisfaction of the responsible authority on a continuing basis. This condition continues to have force and effect after the development authorised by this permit has been completed.**

Defendable Space

21. **Defendable space for a distance of 10 metres around the proposed building or to the property boundary, whichever is the lesser, where vegetation (and other flammable materials) during the declared fire danger period will be managed in accordance with the following:**
 - a. **Grass must be short cropped.**
 - b. **All leaves and vegetation debris must be removed at regular intervals.**
 - c. **Flammable objects must not be located close to the vulnerable parts of the building**
 - d. **Shrubs must not be located under the canopy of trees.**
 - e. **Trees must not overhang or touch any elements of the building.**
 - f. **The canopy of trees must be separated by at least 2 metres.**
 - g. **There must be a clearance of at least 2 metres between the lowest tree branches and ground level.**

VicRoads

22. **The existing access at the Western Highway and the service road is to be upgraded to the satisfaction and at no cost to VicRoads.**
23. **Access from the subject site is to be a left out only, with all vehicles exiting onto the Western Highway via the Black Swamp Road intersection.**
24. **Appropriate street lighting is to be installed at the primary access point to the subject land.**
25. **Prior to the works on Western Highway commencing, the applicant must enter into a Works Agreement with VicRoads, confirming design plans and works approvals process, including the determination of fees and the level of VicRoads' service obligations.**

Environmental Health

26. **Registration under the Food Act 1984 is required prior to operating.**
27. **Submit detailed floor plans of the premises to the Health Department prior to commencing fit out for assessment against the Food Standards Code.**
28. **An onsite waste water management system with the capacity to treat effluent to a minimum of 20/30/10 (BOD/Suspended Solids and Chlorination) must be installed.**
29. **The wastewater management system including all effluent must be wholly contained within the property boundaries at all times.**
30. **All setback distances must be adhered to as dictated by Table 5 of the Code of Practice, Onsite Wastewater Management, EPA Publication Number 891.4.**

Central Highland Water

- 31. The cafe and effluent disposal system shall be located strictly in accordance with the Land Capability Assessment by Ballarat Soil Testing JM260717 dated 31 July, 2017.**
- 32. The applicant shall install a wastewater management system that provides a secondary level of treatment of wastewater and disposal of effluent in accordance with the site plan in Attachment 3 of Land Capability Assessment by Ballarat Soil Testing JM260717 dated 31 July, 2017.**
- 33. The applicant shall have any wastewater treatment facility and effluent disposal system for the dwelling inspected annually by a qualified environmental health officer (“the EHO”) and shall provide annually to both the Shire and to CHW a written report from the EHO on the condition of the wastewater treatment and effluent disposal system.**
- 34. The applicant shall have the wastewater treatment facility desludged at least once every three (3) years or as otherwise determined by the EHO and evidence of this desludging shall be provided in the EHO report referred to in Clause (a) herein.**
- 35. The Owner shall carry out any works considered necessary by the EHO to ensure the satisfactory operation of the wastewater treatment facility and effluent disposal system.**
- 36. The applicant will maintain all drainage lines at all times to divert surface water and subsurface water clear of the effluent disposal field.**
- 37. The applicant shall meet all costs of inspections, reports and works referred to in Clauses (a), (b), (c) and (d) herein and all costs of the Shire in relation to stamping and registration of this Agreement.**

EPA Victoria

- 38. Noise emitted from the premises must not exceed the recommended levels as set out in Noise from Industry in Regional Victoria (NIRV; EPA Publication 1411, 2011) or as amended.**
- 39. Offensive odours must not be discharged beyond the boundaries of the premises.**
- 40. Stormwater contaminated with waste must not be discharged beyond the boundary of the premises.**
- 41. A secondary containment system must be provided for liquids which if spilt are likely to cause pollution or pose an environmental hazard, in accordance with the EPA Publication 347 Bunding Guidelines 1992 or as amended.**

Advertising Signs

42. The location, design, content, colours and materials of all advertising signs must not be altered without the written consent of the Responsible Authority.
43. The signs must not be illuminated by external or internal light except with the written consent of the responsible authority.
44. The advertising sign must be not contain any moving parts or flashing light.
45. The sign must be constructed and maintained to the satisfaction of the responsible authority.

Permit Expiry

46. This permit will expire if one of the following circumstances applies:
 - a. The development and the use are not started within two years of the date of this permit; and
 - b. The development is not completed within four years of the date of this permit.

Council may extend the periods referred to if a request is made in writing before the permit expires or in accordance with the timeframes as specified in Section 69 of the Planning and Environment Act 1987.

Resolution:

Crs. Toohey/Bingham

1. *That Planning Permit PA2017-164 – 5 Frawley Road, Leigh Creek be deferred to the next Ordinary Meeting of Council.*
2. *That further discussions with the Applicant, Central Highlands Water and the Lessees be held pertaining to the land use and that Central Highlands Water review their conditions under the Planning Permit.*

CARRIED.

Report Authorisation

Authorised by:

Name: Satwinder Sandhu
Title: General Manager Growth and Development
Date: Wednesday, 28 February 2018



11.2.4 Moorabool Planning Scheme Amendment C86 – Errors, Anomalies and Miscellaneous Matters

Introduction

File No.: 13/06/90
Author: Geoff Alexander
General Manager: Satwinder Sandhu

Executive Summary

This report recommends that Council resolves to seek authorisation from the Minister of Planning under section 8A (3) of the *Planning and Environment Act 1987*, (the Act) to prepare and exhibit Amendment C86 to the Moorabool Planning Scheme.

The amendment will correct a number of errors and anomalies that have been identified in the planning scheme.

Background

Council officers occasionally receive queries from public authorities and private parties regarding errors and anomalies in the Moorabool Planning Scheme. Most of these are for fairly minor matters. In such cases, parties are typically advised that the matter may be eligible for inclusion in a list of errors and anomalies to be corrected via a future planning scheme amendment.

This saves Council and the public resources, because the alternative would be for large number of private planning scheme amendments to be lodged for very minor matters related to zoning, overlays or planning schedules. Combining a large number of minor matters into one amendment will minimise the impact on the resources of the Strategic Planning and Development Unit.

Currently, a number of properties are incorrectly zoned which prejudices the orderly planning, use and development of the land. In some cases privately owned land is incorrectly included in a public land zone, while in other cases publicly owned land is included in a private zone, either partially or wholly. Most of the latter cases relate to assets owned by Central Highlands Water (such as water tanks) proposed to be included under the Public Use Zone 1.

In addition to zoning errors/anomalies, there are some cases where the Heritage Overlay has also been applied to the incorrect land.

Based on the number and significance of the errors, anomalies and miscellaneous matters identified to date, officers have deemed it an appropriate time to pursue this amendment.

Proposal

Amendment C86 proposes a variety of changes to zone and overlay mapping across 20 map sheets within the Moorabool planning scheme. Maps showing the relevant changes are shown in attachment 1.

Some matters involve complexity and are appropriate for further discussion:

Rezoning of Crown Land Licensed to Private Plantation Operator

A number of Crown land parcels that are currently in the Public Conservation and Resource Zone (PCRZ) are proposed to be rezoned to the Farming Zone (FZ) under this amendment. The land is licensed indefinitely to a private plantation operator with no public access rights. The PCRZ is intended for public land under the jurisdiction of public land managers only, and imposes comprehensive restrictions on land use by private operators. Such restrictions are not appropriate for land that appears to de facto private. The private operator is, however, able to continue running legally by virtue of existing use rights. The Farming Zone (FZ) is proposed for this land, which matches the surrounding zones.

Rezoning of 249 Long Forest Road, Long Forest

A private dwelling at 249 Long Forest Road is currently situated in the PCRZ. This zone is intended for public land only and is highly restrictive for use and development by private land owners. The owners were previously offered an opportunity to have this land rezoned to Rural Conservation Zone (RCZ) under Planning Scheme Amendment C70. However, the owners requested withdrawal from the process because there was disagreement with Council officers about the zone that the land should be changed to. Council officers believed (and continue to believe) that the RCZ is the most appropriate zone, as the purpose of this zone is compatible with the heavily vegetated nature of the land, particularly given that the site adjoins the Long Forest Nature Conservation Reserve to the north, west and south. The RCZ would limit future development potential in an area with high bushfire risk and would help to preserve native vegetation in close proximity to the Long Forest Nature Conservation Reserve. If the owners do not support the proposed rezoning this time around, it is understood they will not seek withdrawal but may lodge an objection to the amendment. This could potentially result in the need for a Planning Panel if the matter cannot be resolved.

Policy Implications

The Council Plan 2017 – 2021 provides as follows:

Strategic Objective 3: Stimulating Economic Development

Context 3A: Land Use Planning

The proposed authorisation of Amendment C86 is consistent with the Council Plan 2017 – 2021.

Financial Implications

The amendment will be accommodated within the departmental budget of Strategic Planning and Development. The main cost is anticipated to be staff time. A Planning Panel will be required if objections cannot be resolved. In this event the cost of the Panel will be accommodated within the ordinary budget of the department.

Risk & Occupational Health & Safety Issues

There are unlikely to be any risk and occupational health and safety implications for Council.

Community Engagement

The amendment is straight forward and uncontroversial and it is proposed to apply for an exemption from giving direct notice, in respect of land owners and occupiers in the vicinity of land affected by mapping changes in the amendment.

The exemption application would be for direct notice only, whilst all other forms of advertising required under the *Planning and Environment Act 1987* including newspaper notices, notices to agencies and the prescribed ministers, are proposed to be pursued. Owners directly affected by changes to zone or overlay maps would also be notified.

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 – Geoff Alexander

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

Conclusion

The proposed amendment is to address errors and anomalies in the planning scheme and associated maps. Some matters to be addressed are arguably not anomalies but are nonetheless included to promote efficient use of the amendment process and combine a number of issues into one amendment. The amendment will cut red tape by ensuring the appropriate planning controls are in place.

The vast majority of mapping changes to be addressed will have no practical impact on nearby land owners and occupiers and it is therefore considered appropriate to seek a partial exemption from advertising from the Minister for Planning in the manner described in this report.

Recommendation:**That Council:**

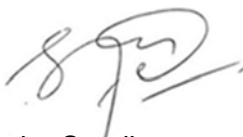
1. Requests authorisation from the Minister for Planning to prepare and exhibit Amendment C86 which seeks to amend the zone and overlay maps in accordance with Attachment 1.
2. In accordance with section 20(1) of the *Planning and Environment Act 1987*, requests that the Minister for Planning grant a partial exemption from the public notice requirements of the *Planning and Environment Act 1987*, in the manner described in this report.
3. Exhibits the Amendment in accordance with the *Planning and Environment Act 1987*, or otherwise as instructed by the Minister for Planning depending on the outcome of 2.

Resolution**Crs. Sullivan/Edwards*****That Council:***

1. ***Requests authorisation from the Minister for Planning to prepare and exhibit Amendment C86 which seeks to amend the zone and overlay maps in accordance with Attachment 1.***
2. ***In accordance with section 20(1) of the Planning and Environment Act 1987, requests that the Minister for Planning grant a partial exemption from the public notice requirements of the Planning and Environment Act 1987, in the manner described in this report.***
3. ***Exhibits the Amendment in accordance with the Planning and Environment Act 1987, or otherwise as instructed by the Minister for Planning depending on the outcome of 2.***
4. ***That affected landowners be advised of Council's decision.***

CARRIED.**Report Authorisation****Authorised by:**

Name: Satwinder Sandhu
Title: General Manager Growth and Development
Date: Wednesday, 28 February 2018



11.2.5 Moorabool Planning Scheme Amendment C78 – Small Towns and Settlement Strategy

Introduction

File No.: 13/06/62
Author: Geoff Alexander
General Manager: Satwinder Sandhu

Executive Summary

The purpose of this report is to consider the Planning Panel's report relating to Moorabool Planning Scheme Amendment C78 and to consider how to proceed with the amendment from this point.

Amendment C78 is a Council initiated amendment which seeks to implement the Moorabool Shire Small Towns and Settlements Strategy, adopted by Council in September 2016.

Consistent with the Panel's report, it is recommended that Council:

- Adopt Amendment C78 generally as exhibited, except for minor changes to the wording of Clauses 21.02 and 21.11; and
- Submit Amendment C78 to the Minister for Planning for approval.

Background

In September 2016, Council adopted the Moorabool Shire Small Towns and Settlements Strategy, which is a component of Moorabool 2041 The Strategy is a blueprint for future planning and infrastructure delivery across the Shire's small towns and settlements. Subsequently, Council staff prepared an amendment to the Moorabool Planning Scheme (known as C78) to implement the strategy.

The amendment was exhibited between 25 May and 25 June 2017 and six submissions were received including four objections. Two objections were later withdrawn, leaving two outstanding objections (from the CFA and a resident). Officers proposed minor terminology changes on the basis of the CFA objection but believed the remainder of the submission, together with the other unresolved submission, was irrelevant to the amendment and that no further changes should be made.

At its Ordinary Meeting on 4 October 2017, Council resolved to refer the unresolved submissions to an independent Planning Panel. A Planning Panel Directions Hearing was conducted on 13 November, 2017 at Council's offices in Darley. At this hearing, the Panel resolved to review the submissions "on the papers" rather than holding an in-person hearing.

A report from the Planning Panel was received on 19 January, 2018. The report was entirely in agreement with Council's position and recommended no further changes to Amendment C78, concluding that:

"The Panel concludes that the Amendment is supported by, and implements, the relevant sections of the State and Local Planning Policy Framework, and is consistent with the relevant Ministerial Directions and Practice Notes. The Amendment is well founded and strategically justified, and the Amendment should proceed."

The Amendment

Amendment C78 seeks to insert the Small Towns and Settlements Strategy as a reference document under Clause 21.11 of the Moorabool Planning Scheme, as well as update the Municipal Strategic Statement (MSS) to include key content from the Strategy.

The updated MSS includes a long term work program for Council (as detailed in the Small Towns and Settlements Strategy), which varies based on the circumstances and strategic opportunities present in particular towns. In most cases, the future actions are town specific but there are also a limited number of overarching strategies applying to all settlements.

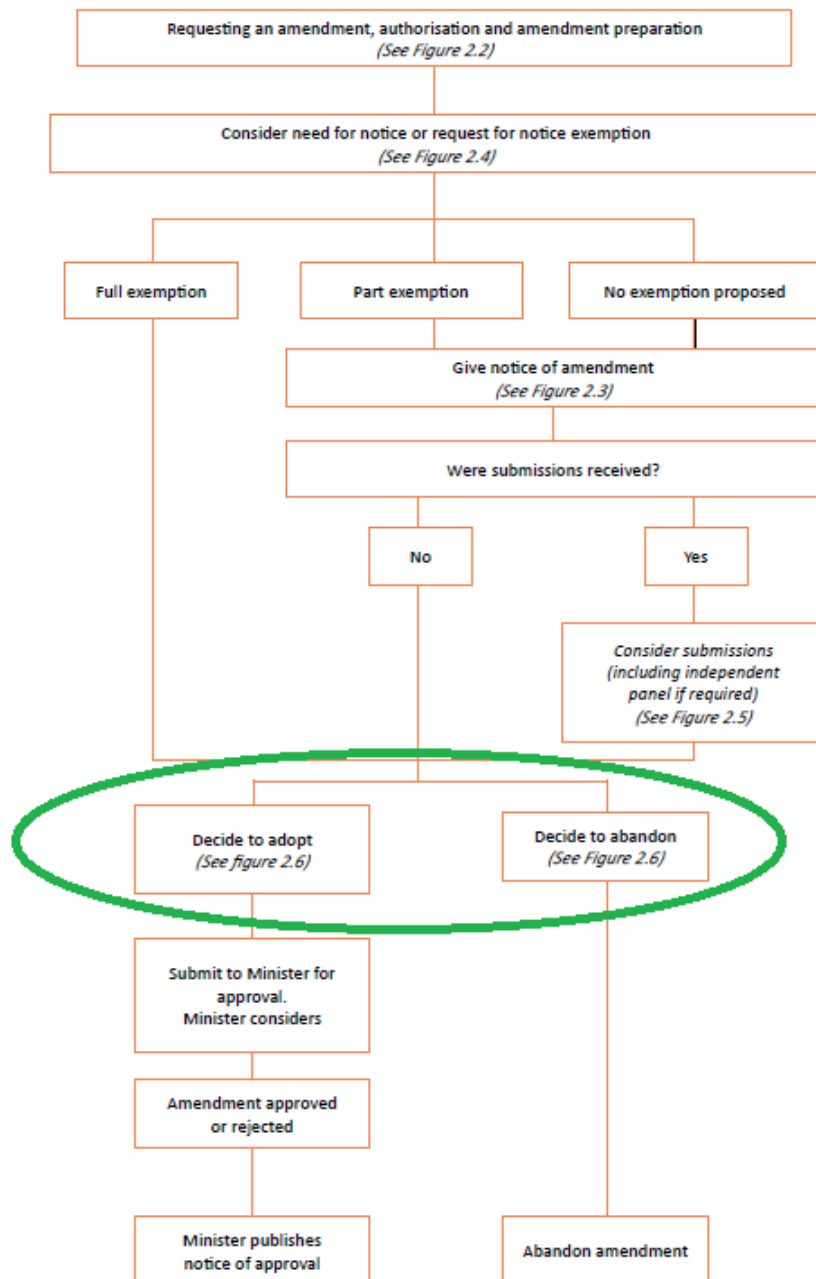
Specifically, the amendment proposes updates to Clause 21.01 (Municipal Context), Clause 21.02 (Natural Environment) and Clause 21.03 (Settlement and Housing) of the Moorabool Planning Scheme to bring them into consistency with the Strategy. Clause 21.09 (Small Towns) is proposed to be updated to include the vision, context and key recommendations from the Small Towns Strategy. Clause 21.11 (Reference Documents) is proposed to be updated to include the Small Towns and Settlements Strategy as a reference document to the Moorabool Planning Scheme.

Stage in the Amendment Process

The flow chart below (from the DELWP guide “Using Victoria’s Planning System 2015”) depicts how far the amendment has progressed in terms of the amendment approval process through to the current stage (circled in green).

Should Council decide to adopt the amendment, it will be in a position to apply to the Minister for Planning for approval.

Figure 2.1: Outline of the planning scheme amendment process



Proposal

It is proposed to adopt Planning Scheme Amendment C78 in the form it was exhibited to the public, with the exception of two small changes based on the CFA submission.

The changes include:

- Using the word “Bushfire” instead of “Wildfire” in Clause 21.02 (Natural Environment); and
- Updating the name of a reference document in Clause 21.11 (Reference Documents) from *Moorabool Municipal Fire Prevention Plan* to *Moorabool Municipal Fire Management Plan*.

These changes do not affect the substance of the amendment.

The proposed planning scheme ordinance documentation is included at Attachment 1 to this report.

Policy Implications

The Council Plan 2017 – 2021 provides as follows:

Strategic Objective 3: Stimulating Economic Development.

Context 3A: Land Use Planning.

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

Financial Implications

The continued processing of the amendment has been undertaken in-house by Council staff and has therefore generated only limited costs to date. Little further processing of the amendment is required and costs from this point are expected to be negligible.

All costs attached to the amendment process will be covered within the existing budget allocation for 2017/18.

Risk & Occupational Health & Safety Issues

There are no identified risks associated with the amendment.

Communications and Consultation Strategy

Implementation of the amendment has included statutory notification processes.

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 – Geoff Alexander

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

Conclusion

The Moorabool Shire Small Towns and Settlements Strategy presents Council with an opportunity to develop a more consolidated and coordinated plan for the small towns and settlements within the Shire. Amendment C78 seeks to implement the strategy and ensure that it is given due consideration in future planning decisions as relevant.

Amendment C78 and objections to the amendment were recently considered by an independent Planning Panel. The Panel had no additional changes beyond two minor administrative changes based on CFAs submission that Council had put to the Panel.

As per the *Planning and Environment Act 1987*, Council must now decide whether to adopt or abandon the Amendment. If the amendment is adopted, Council will also need to apply to the Minister for Planning for approval before it can become part of the Moorabool Planning Scheme. Having been tested through public exhibition and a Planning Panel, it is recommended that Council adopts the amendment with changes to Clauses 21.02 and 21.11 as detailed above.

Resolution:

Crs. Sullivan/Bingham

That Council:

- 1. Pursuant to Section 29 of the Planning and Environment Act 1987, adopts Amendment C78 in the form provided at Attachment 1.***
- 2. Pursuant to Section 31 of the Planning and Environment Act 1987, submits the adopted amendment, together with the prescribed information, to the Minister for Planning for approval.***

CARRIED.

Report Authorisation

Authorised by:

Name: Satwinder Sandhu
Title: General Manager Growth and Development
Date: Wednesday, 28 February 2018

11.2.6 Bald Hill Activation Project - Background and Scoping Report

Introduction

Author: Justin Horne
General Manager: Satwinder Sandhu

Executive Summary

The Bald Hill Activation Project Background Paper and Scoping Document has been produced by Council staff in response to a Council resolution from an Ordinary Meeting of Council held on 6 December, 2017.

The resolution was as follows:

OMC - 06/12/2017 - Item 13.2 Cr. Bingham: N.O.M. No. 269– Bald Hill Future Planning.

Crs. Bingham/Toohey.

That Council Officers prepare a report which includes:

- *A scoping document for the project outlining potential uses i.e. scenic lookout, horning riding trails, walking tracks, picnic areas etc. and opportunities for the site and the potential resultant benefits for Council and the wider community.*
- *Investigate potential funding streams with Sports and Recreation Victoria, RDV and other funding bodies.*
- *An investigation into any portions of land at Bald Hill that could be sold.*

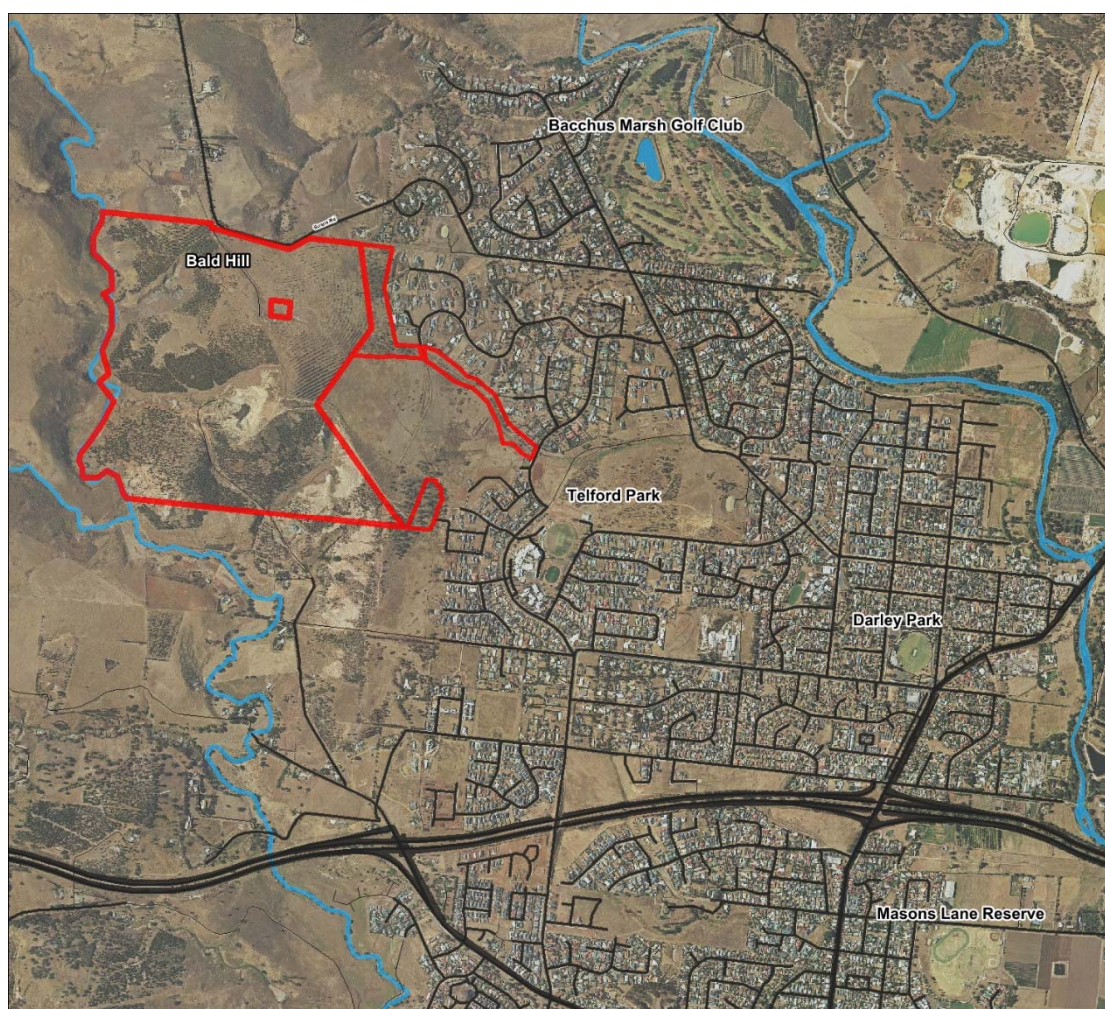
The key findings of the report were:

- The site has various topographical, access and planning control constraints that make development for residential and organised sport difficult, however, the site is well suited for a range of alternative uses.
- Active Victoria - A strategic framework for sport and recreation in Victoria 2017–2021, found that adult Victorians spend 736 million hours a year on physical recreation, exercise and sport. 80% of these hours are spent in active recreation (leisure time, non-competitive or co-ordinated, physical activity).
- The most popular active recreation activities for Victorians include walking, cycling and running.
- There is a growing market within Victoria and Australia of day visitation for mountain biking and trail running, with visitors estimated to spend on average \$77 per person per day.
- The State Government has provided funding for the development of similar sites in Harcourt (\$2 million) and Creswick (\$2.56 Million) in response to the trends in active recreation aimed at attracting higher visitation to these towns.

- The site has potential to be developed as a Regional Level facility that caters for:
 - Recreational walking, running, horse riding and cycling;
 - Higher intensity Trails running and fitness; and
 - Mountain bike facility.
- Funding is available from the State Government to undertake a feasibility study into recreation and economic benefits of developing the site for active recreation purposes.
- While constrained under State and Local Planning Studies, there is potential for the northern edge of the reserve adjacent to Swans Road to be considered for inclusion in the future non-urban investigation area (subject to funding).

Background

Bald Hill is a 120ha reserve located on the western edge of Darley in Bacchus Marsh, Victoria. It is characterised by significant gullies and ridge lines and provides a green western edge backdrop to the residential areas of Bacchus Marsh and Darley and provides great views to Port Phillip Bay, Melbourne, the surrounding farming land and the Lerderderg State Park.



Map 1: Bald Hill location

The reserve is easily accessible to local Bacchus Marsh residents, via both the local road and shared path networks, and is well connected to the Western Highway and the Bacchus Marsh Train Station.

Development of similar sites has been undertaken at Harcourt and Creswick, with local government taking the primary lead on these projects.

Since 2001, there has been a significant effort made by Moorabool Shire Council to rehabilitate the site to assist in the control of serrated tussock, rabbits and erosion. This has involved the planting of trees and shrubs both for ecological and commercial purposes via State Government funding.

Approximately 70ha of the reserve is leased to a local nursery to assist reduce Councils management costs. This lease will expire in 2027, with approximately 60% of this planted vegetation is to be harvested for commercial purposes.

Despite its close proximity to the residential area of Darley and regionally to Melbourne, Ballarat and Geelong, Bald Hill is currently underutilised as a community recreational space for activities such as walking, cycling and horse riding by locals and visitors.

Due to the lack of passive surveillance, the reserve has become a location for illegal dumping of building and household rubbish, trail bikes and shooting.

It is estimated that over a three year period between 2015 and 2017, Council spent between 9 and 13.5 days investigating and responding to resident complaints relating to these activities on Bald Hill.

The Bald Hill Activation Scoping report, investigates future regional growth impacts, current and emerging trends regarding exercise amongst Victorians and examples of similar sites across Victoria.

The reserve has the potential for providing the 80% of Victorians who participate in non-organised activities, such as walking, running and cycling (Active Victoria 2017-2021).

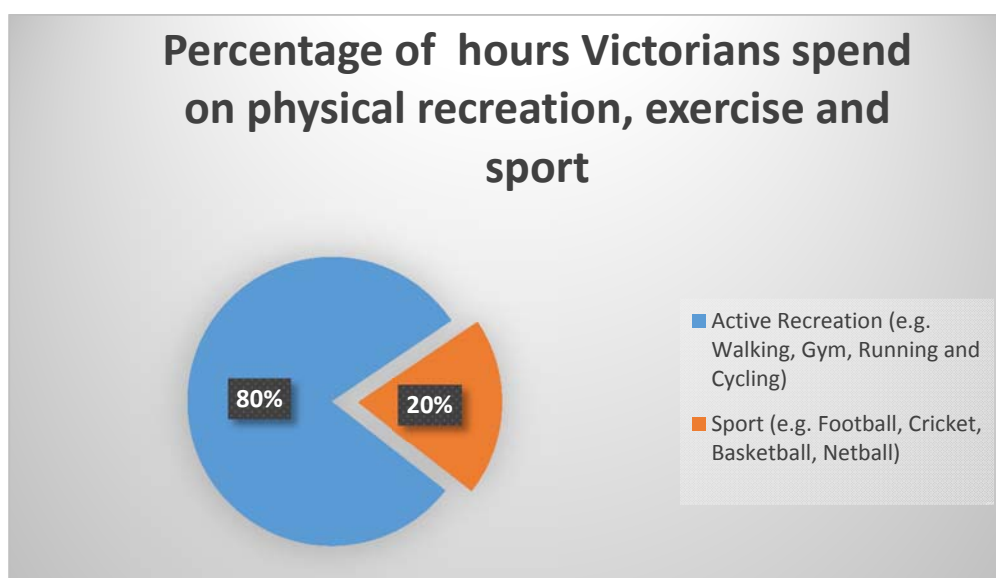


Figure 1: Percentage of hours Victorians spend on physical recreation, exercise and sport (Active Victoria 2017-2021).

Due to the importance that the eastern slopes of the reserve provide as a visual backdrop for Bacchus Marsh, residential development of the site is not supported in several State and Local Strategies, including the Bacchus Marsh Urban Growth Framework. However, the area along the north of the reserve along Swans Road, should be considered as part of future non-urban land use planning study to be undertaken by Council (subject to future funding support).

Proposal

1. The site has the potential has the potential to become a Regional Level facility for active recreation through the development of three active recreation precincts which should be further investigated:
 - Shared trails that consider universal access for walking, running, horse riding and cycling trails that include:
 - Art and interpretational signage;
 - Trail, higher intensity running and fitness;
 - Lookout and viewing locations; and
 - Lower intensity cycling options.
 - Mountain bike facility.
2. The northern edge of the reserve adjacent to Swans Road should be considered for inclusion in the future non-urban investigation area as identified in the Bacchus Marsh Urban Growth Framework (subject to future funding support).
3. Delivery of the project is proposed to be undertaken in a series of stages, commencing with seeking funding to complete a Feasibility Study (including community consultation) in 2018/19.
4. Funding for the development of the feasibility study and any subsequent plans or construction of the tracks, trails and lookouts may be provided by:
 - Sports and Recreation Victoria;
 - Regional Development Victoria;
 - Developer Contribution Plans (DCPs); and
 - Council Capital and Recurrent budgets (to compliment alternate funding sources).

Policy Implications

The Council Plan 2017 – 2021 provides as follows:

Strategic Objective 4: Improved Social Outcomes

Context 4A: Health & Wellbeing

Recreation and Leisure Strategy: Develop a plan to improve, update and beautify our neighbourhood, passive, recreation and other open spaces.

The proposal to seek State Government funding for the development of a Feasibility Study is consistent with the Council Plan 2017 – 2021.

Financial Implications

There are no immediate financial implications associated with the consideration of this report.

However, it is estimated that a feasibility study would cost approximately \$60,000. Funding is available from State Government to develop this study, with a financial contribution required from Council.

It is proposed that state government grants are applied for and a funding contribution by Council be considered as part of the 2018/19 budget process.

Subject to the findings of the feasibility study, additional financial implications may arise for further planning, construction and maintenance. These costs would need to be considered by Council as part of future recurrent budget proposals, capital improvement programs or through external funding (e.g. state or federal government grants).

Risk & Occupational Health & Safety Issues

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

Community Engagement Strategy

Subject to Council's agreeing with proceeding with the proposal of the development of a Feasibility Study, it is proposed that Council staff meet with the Section 86 Bacchus Marsh Tracks and Trails Advisory Committee, Pentland Hills Landcare Group and Rotary to discuss the proposal.

Level of Engagement	Stakeholder	Activities	Location	Date	Outcome
Consult	Bacchus Marsh Tracks and Trails Section 86 Advisory Committee Pentland Hills Landcare Group Rotary	Meetings with groups	Various	March/ April 2018	Groups to provide feedback on the scoping report to assist in the development of the application for funding for the feasibility study.

Communications and Consultation Strategy

In developing the Bald Hill Activation Project - Background and Scoping Report Council staff met with the following:

Level of Engagement	Stakeholder	Activities	Location	Date	Outcome
Consult	Sports Recreation Victoria	Meeting with staff	Ballarat	February 2018	Discuss funding opportunities
Consult	Regional Development Victoria	Meeting with staff	Ballarat	February 2018	Discuss funding opportunities

Victorian Charter of Human Rights and Responsibilities Act 2006

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

Officer's Declaration of Conflict of Interests

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

General Manager – Satwinder Sandhu

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

Author – Justin Horne

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

Conclusion

The site has the potential to become a Regional Level facility for active recreation through the development of three active recreation precincts for walking, running and horse riding and to provide a complimentary exercise experience for local residents to that being provided through the development of the Bacchus Marsh Racecourse Recreation Reserve.

These precincts should include shared trails that allow for universal access and incorporate art and interpretational signage.

While residential development is not supported under State and Local planning strategies, the northern edge of the reserve adjacent to Swans Road should be considered for inclusion in the future non-urban investigation area as identified in the Bacchus Marsh Urban Growth Framework.

Funding for the development of the Feasibility Study and any subsequent plans or construction of the tracks, trails and lookouts may be provided by:

- Sports and Recreation Victoria; and
- Regional Development Victoria.

As part of the 2018/19 Council Budget process a funding allocation of \$30,000 for contribution towards the completion of the feasibility study has been proposed. The \$30,000 would be utilised to seek further funding from State Government.

The feasibility study would provide detailed assessment of the site for active recreation, while considering the potential tourism benefits and non-urban development.

Recommendation:

That Council:

- 1. Receives the Bald Hill Activation Project - Background and Scoping Report for the purposes of preliminary Community and Stakeholder Consultation for a period of 4 weeks.**
- 2. Requests a further report be provided to Council S86 Urban Growth Committee following the consultation.**
- 3. Delegates the CEO to instruct staff to continue discussions with Sports Recreation Victoria with the aim of applying for funding to complete feasibility study that identifies the potential benefits for increased participation and the local economy.**

Resolution:**Crs. Bingham/Dudzik*****That Council:***

1. ***Receives the Bald Hill Activation Project - Background and Scoping Report for the purposes of preliminary Community and Stakeholder Consultation for a period of 4 weeks.***
2. ***Explores funding opportunities such as the Public Safety Infrastructure Fund and the Community Safety Fund issued by the Department of Justice and Regulations and any other state government streams of funding.***
3. ***Directly engages with the General Manager, Community Services Grampians Region, Department of Regulations as a partner in delivering this project for the community.***
4. ***Requests a further report be provided to Council S86 Urban Growth Committee following the consultation.***
5. ***Delegates the CEO to instruct staff to continue discussions with Sports Recreation Victoria with the aim of applying for funding to complete feasibility study that identifies the potential benefits for increased participation and the local economy.***

CARRIED.

Report Authorisation**Authorised by:**

Name: Satwinder Sandhu
Title: General Manager Growth and Development
Date: Wednesday, 28 February 2018

11.2.7 Development Assessment Committee (DAC) – Appointment of Councillor to a vacancy

Introduction

Author: Satwinder Sandhu
General Manager: Satwinder Sandhu

Background

At the last Ordinary Meeting of Council held on 7 February, 2018, Cr. Toohey resigned from the Section 86 Development Assessment Committee (DAC) which has left one vacancy on this committee.

Proposal

The purpose of this report is to seek appointment of a Councillor to the vacant position.

Policy Implications

The Council Plan 2017 – 2021 provides as follows:

Strategic Objective 1: Providing Good Governance and Leadership

Context 1C: Our Business and Systems

The proposal to seek appointment of a Councillor to comply with the DAC Terms of Reference.

Financial Implications

No additional financial implications.

Risk & Occupational Health & Safety Issues

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

Communications and Consultation Strategy

No formal community consultation is required other than Councillors. The terms of reference requires five (5) Councillors to be in the DAC, which are appointed by 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 – Satwinder Sandhu

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

Conclusion

As per the Terms of Reference, Council is required to appoint an additional Councillor to join the Section 86 Development Assessment Committee.

Recommendation:

That Council:

1. **Appoints Cr _____ to the current Section 86 Development Assessment Committee.**

Resolution:

Crs. Keogh/Bingham

That Council appoints Cr. Edwards to the current Section 86 Development Assessment Committee.

CARRIED.

Report Authorisation

Authorised by: 

Name: Satwinder Sandhu

Title: General Manager Growth and Development

Date: Wednesday, 28 February 2018

11.3 SOCIAL AND ORGANISATIONAL DEVELOPMENT

Nil.

11.4 INFRASTRUCTURE

11.4.1 Asset Capitalisation Policy

Introduction

Author: John Miller
General Manager: Phil Jeffrey

Background

As part of the Council Plan 2017-2021 under strategic objective "Providing Good Governance and Leadership", an action is listed to Review Asset Management Policy and Strategy including Capitalisation and Valuation and Revaluation policy.

Proposal

The purpose of this Policy is to provide consistent guidelines, in accordance with relevant Accounting Standards and State Government Policy, regarding which Council assets are to be capitalised (as opposed to expensed).

Consideration

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

Policy Implications

The 2017 - 2021 Council Plan provides as follows:

Strategic Objective 1	Providing Good Governance and Leadership
Context 1A	Our Assets and Infrastructure
Action	Review Asset policy and strategy including Capitalisation and Revaluation policy

The Asset Capitalisation Policy is consistent with the 2017-2021 Council Plan.

Financial Implications

There are no financial implications in relation to the adoption of this policy.

Risk & Occupational Health & Safety Issues

There are no risk or occupational health and safety issues associated with the adoption of this policy.

Communications and Consultation Strategy

The Asset Capitalisation policy will be made available to the public via Council's web site and staff via the intranet. This Policy has been developed in consultation with the Finance Team.

Victorian Charter of Human Rights and Responsibilities Act 2006

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

Officer's Declaration of Conflict of Interests

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

General Manager – Phil Jeffrey

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

Author – John Miller

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

Conclusion

The Asset Capitalisation Policy was previously adopted in May 2012 and has undergone significant review to make it more relevant, concise and easy to follow. It has been reviewed by a third party and has been benchmarked with similar Councils.

Resolution:

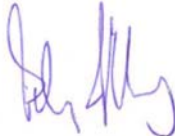
Crs. Sullivan/Keogh

1. ***That Council receives the revised Asset Capitalisation Policy.***
2. ***That in accordance with Moorabool Shire Council Policy Protocol, 'Consideration of Items which affect beyond the Current Year', the Asset Capitalisation Policy as attached, now lay on the table for further consideration at the April Ordinary Meeting of Council.***

CARRIED.

Report Authorisation

Authorised by:

Name: Phil Jeffrey 
Title: General Manager Infrastructure
Date: Wednesday, 28 February 2018

11.4.2 Asset Valuation and Revaluation Policy

Introduction

Author: John Miller
General Manager: Phil Jeffrey

Background

As part of the Council Plan 2017-2021 under strategic objective “Providing Good Governance and Leadership”, an action is listed to Review Asset Management Policy and Strategy including Capitalisation and Valuation and Revaluation policy.

The Asset Valuation and Revaluation Policy specifies Moorabool Shire Council's approach, in accordance with relevant Australian Accounting Standards and other State Government requirements, to undertaking financial valuations of non-current assets.

Proposal

The purpose of this Policy is to satisfy Council's obligations regarding financial valuations of non-current assets, in accordance with relevant Australian Accounting Standards and other State Government requirements.

It provides direction for the development of Guidelines for the financial valuation of assets, under the control of Council, including the initial recognition, valuation and subsequent revaluation together with the frequency of revaluation of those assets.

The Policy's associated guidelines are to assist Council's commitment to sustainable long-term financial planning.

Consideration

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

Policy Implications

The 2017 - 2021 Council Plan provides as follows:

Strategic Objective 1	Providing Good Governance and Leadership
Context 1A	Our Assets and Infrastructure
Action	Review Asset policy and strategy including Capitalisation and Revaluation policy

The Asset Capitalisation Policy is consistent with the 2017-2021 Council Plan.

Financial Implications

There are no financial implications in relation to the adoption of this policy.

Risk & Occupational Health & Safety Issues

There are no risk or occupational health and safety issues associated with the adoption of this policy.

Communications and Consultation Strategy

The Asset Valuation and Revaluation Policy will be made available to the public via Council's web site and staff via the intranet. This Policy has been developed in consultation with the Finance Team.

Victorian Charter of Human Rights and Responsibilities Act 2006

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

Officer's Declaration of Conflict of Interests

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

General Manager – Phil Jeffrey

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

Author – John Miller

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

Conclusion

The existing policy was previously adopted in May 2012 and has undergone significant review to make it more relevant, concise and easy to follow. It has been reviewed by a third party and has been benchmarked with similar Council's.

Resolution:

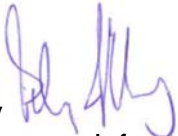
Crs. Dudzik/Bingham

- 1. That Council receives the revised Asset Valuation and Revaluation Policy.***
- 2. That in accordance with Moorabool Shire Council Policy Protocol, 'Consideration of Items which affect beyond the Current Year', the Asset Valuation and Revaluation Policy as attached, now lay on the table for further consideration at the April Ordinary Meeting of Council.***

CARRIED.

Report Authorisation

Authorised by:

Name: Phil Jeffrey 

Title: General Manager Infrastructure

Date: Wednesday, 28 February 2018

11.4.3 Asset Management Strategy

Introduction

Author: John Miller
General Manager: Phil Jeffrey

Background

As part of the Council Plan 2017-2021 under strategic objective "Providing Good Governance and Leadership", an action is listed to Review Asset Management Policy and Strategy including Capitalisation and Valuation and Revaluation policy.

Proposal

The purpose of this Asset Management Strategy is to provide a framework that assists Council to deliver sustainable and effective services and the necessary actions to improve its AM capabilities.

Consideration

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

Policy Implications

The 2017 - 2021 Council Plan provides as follows:

Strategic Objective 1.	Providing Good Governance and Leadership
Context 1A	Our Assets and Infrastructure
Action	Review Asset policy and strategy including Capitalisation and Revaluation policy

The Asset Capitalisation Policy is consistent with the 2017-2021 Council Plan.

Financial Implications

There are no financial implications in relation to the adoption of this strategy.

Risk & Occupational Health & Safety Issues

The respective Asset Management Plans, developed under the Asset Management Policy and Strategy, present a robust risk management framework in respect of the various areas of asset management.

Communications and Consultation Strategy

The Asset Management Strategy will be made available to the public via Council's web site and staff via the intranet. This Policy has been developed with consultation with the Finance Team.

Victorian Charter of Human Rights and Responsibilities Act 2006

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

Officer's Declaration of Conflict of Interests

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

General Manager – Phil Jeffrey

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

Author – John Miller

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

Conclusion

The strategy was previously adopted by Council in 2012. The strategy has been extensively reviewed to ensure that it is consistent with current requirement and is concise and easy to follow. It has been reviewed by a third party and benchmarked with similar Councils.

Resolution:

Crs. Sullivan/Bingham

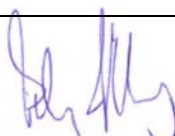
- 1. That Council receives the revised Asset Management Strategy;***
- 2. That in accordance with Moorabool Shire Council Policy Protocol, 'Consideration of Items which affect beyond the Current Year', the Asset Management Strategy as attached, now lay on the table for further consideration at the April Ordinary Meeting of Council.***

CARRIED.

Report Authorisation

Authorised by:

Name: Phil Jeffrey
Title: General Manager Infrastructure
Date: Wednesday, 28 February 2018



12. OTHER REPORTS

12.1 Assembly of Councillors

File No.: 02/01/002

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

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

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

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

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

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

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

- Assembly of Councillors – Wednesday 31 January, 2018 – Councillor and Mayoral Allowances
- Assembly of Councillors – Wednesday 31 January, 2018 – Rating Strategy
- Assembly of Councillors – Wednesday 7 February, 2018 – Meeting Venue and Concept Designs
- Assembly of Councillors – Wednesday 7 February, 2018 – Reportable Conduct Scheme Policy & Child Safety Policy
- Assembly of Councillors – Wednesday 7 February, 2018 – Flood Studies Peer Review Presentation
- Assembly of Councillors – Wednesday 21 February, 2018 – Ballan Recreation Reserve Draft Masterplan
- Assembly of Councillors – Wednesday 21 February, 2018 – Splash Park Timing and Proposed Indoor Aquatic Centre
- Assembly of Councillors – Wednesday 21 February, 2018 – Indoor Recreation Sports Facility Feasibility Plan
- Assembly of Councillors – Wednesday 21 February, 2018 – Asset Management Strategy

Resolution:**Crs. Sullivan/Keogh*****That Council receives the record of Assemblies of Councillors as follows:***

- ***Assembly of Councillors – Wednesday 31 January, 2018 – Councillor and Mayoral Allowances***
- ***Assembly of Councillors – Wednesday 31 January, 2018 – Rating Strategy***
- ***Assembly of Councillors – Wednesday 7 February, 2018 – Meeting Venue and Concept Designs***
- ***Assembly of Councillors – Wednesday 7 February, 2018 – Reportable Conduct Scheme Policy & Child Safety Policy***
- ***Assembly of Councillors – Wednesday 7 February, 2018 – Flood Studies Peer Review Presentation***
- ***Assembly of Councillors – Wednesday 21 February, 2018 – Ballan Recreation Reserve Draft Masterplan***
- ***Assembly of Councillors – Wednesday 21 February, 2018 – Splash Park Timing and Proposed Indoor Aquatic Centre***
- ***Assembly of Councillors – Wednesday 21 February, 2018 – Indoor Recreation Sports Facility Feasibility Plan***
- ***Assembly of Councillors – Wednesday 21 February, 2018 – Asset Management Strategy***

CARRIED.

Consideration of Presentation.

Ms. Alice Ogilvie addressed Council as an objector to the recommendation in relation to Section 86 - Delegated Committee of Council reports.

The business of the meeting then returned to the Agenda.

12.2 Section 86 – Delegated Committees of Council – Reports

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

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

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

Committee	Meeting Date	Council Representative
Rural Growth Strategy Committee <i>To download a copy of the minutes, go to the MSC website:</i> https://www.moorabool.vic.gov.au/my-council/council-meetings/council-committees-2018	Wednesday, 14 February 2018	Cr. Tatchell Cr. Sullivan Cr. Toohey

Recommendation:

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

- **Rural Growth Strategy Committee meeting held on Wednesday, 14 February 2018.**

The CEO advised that the Rural Growth Meeting of 14/2/18 had not been advertised correctly.

Resolution:

Crs. Sullivan/Edwards

That Council:

- 1. Notes the report of the Rural Growth Strategy Committee meeting held on Wednesday, 14 February 2018, with outcomes brought back to the next Ordinary Meeting of Council.***
- 2. Ensures 7 days' notice is provided for future meetings, as required, for Section 86 - Delegated Committees of Council.***

CARRIED.

12.3 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
Bacchus Marsh & District Trails Advisory Committee	Tuesday, 6 Feb 2018	Cr. Bingham

Resolution:

Crs. Edwards/Bingham

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

- ***Bacchus Marsh & District Trails Advisory Committee meeting held on Tuesday, 6 February 2018.***

CARRIED.

13. NOTICES OF MOTION**13.1 Cr. Bingham: N.O.M. No. 271 – Installation of Wire Rope Barriers -Western Freeway**

Resolution:

Crs. Bingham/Edwards

That Council:

- 1. Write to VicRoads North West Metro requesting what the future strategy for the Western Highway through Melton and Rockbank is and whether the installation of wire rope barriers impacts future upgrades.***
- 2. Requests that further community engagement be undertaken for the project to ensure comments by the community can be considered throughout the delivery of the project.***

CARRIED.

13.2 Cr. Bingham: N.O.M. No. 272 – Pedestrian Crossings, Main Street, Bacchus Marsh**Motion**

That Council:

1. Write to VicRoads Western Region requesting a safety audit of the existing pedestrian crossings in Main Street, Bacchus Marsh with an analysis of the warrants for pedestrian operated signals and any associated traffic impacts.
2. Requests lowering of the speed limit in Main Street, Bacchus Marsh between Young Street and Gisborne Road to 40km/hr.
3. Requests that the outcomes of the investigation be circulated to Councillors when completed.

Resolution:

Crs. Bingham/Edwards

That Council:

1. ***Write to VicRoads Western Region requesting a safety audit of the existing pedestrian crossings in Main Street, Bacchus Marsh with an analysis of the warrants for pedestrian operated signals and any associated traffic impacts.***
2. ***Investigates if the lowering of the speed limit in Main Street, Bacchus Marsh between Young Street and Gisborne Road to 40km/hr is warranted.***
3. ***Requests that the outcomes of the investigation be circulated to Councillors when completed.***

CARRIED.

14. MAYOR'S REPORT

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

<i>Cr Paul Tatchell – Mayor's Report</i>	
<i>7 March, 2018</i>	
<i>21 February</i>	<ul style="list-style-type: none"> • <i>S86 Development Assessment Committee</i>
	<ul style="list-style-type: none"> • <i>Congratulate the Vintage Museum, on their efforts at the Tractor Pull</i> • <i>Congratulate the Deputy Mayor for standing in due to Mayoral absence</i>

Resolution:

Crs. Sullivan/Edwards

That the Mayor's report be received.

CARRIED.

15. COUNCILLORS' REPORTS

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

Cr. Edwards	
February/ March 2018	
23 February	Peri Urban Group of Rural Council's Meeting. Thank you to Paula Lawrence for her work on the Peri Urban Group

Cr. Bingham	
February/ March 2018	
March 2018	Meeting with Department of Justice and Regulation

Cr. Dudzik	
February/ March 2018	
26 February	Bacchus Marsh R&SL Afternoon Tea
5 March	Attended sod turning of the Gisborne Road/Holts Lane upgrades
	High praise to the emergency staff for their excellent response, relief and recovery processes following the Maddingley explosion.

Cr. Keogh	
February/ March 2018	
11 February	Polo tournament at Yaloak
18 February	Vintage Rally and Tractor Pull and opening of Ronaldson Tippet Museum
23 February	Official Commonwealth Grant Announcement by the Hon. Catherine King MP towards the upgrade of the Playground at the Ballan Recreation Reserve
27 February	2017 Community Grants Presentation
29 Feb	Ballan and District Historical Society AGM
26 February	Bacchus Marsh R&SL Afternoon Tea
1 March	Grampians and Central West Waste and Resource Recovery Group Forum
5 March	Attended sod turning of the Gisborne Road/Holts Lane upgrades

	<p><i>High praise to the emergency staff for their excellent response, relief and recovery processes following the Maddingley explosion.</i></p> <p><i>Congratulations extended to Cr. Sullivan being appointed as the Chair of the Committee.</i></p>
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<i>Cr. Sullivan</i>	
<i>February/ March 2018</i>	
<i>19 February</i>	<i>MAV Rural South Central Meeting</i>
<i>1 March</i>	<i>Grampians and Central West Waste and Resource Recovery Group Forum</i>

Resolution:

Crs. Toohey/Edwards

That the Councillors' reports be received.

CARRIED.

16. URGENT BUSINESS**16.1 Letter of Thanks to Ms Paula Lawrence – PeriUrban Group of Councils**

Resolution:

Crs. Edwards/Bingham

That Council writes to Ms Paula Lawrence to thank her for commitment to the PeriUrban Group of Councils and the Moorabool Shire Council.

CARRIED.

16.2 Letter to Victoria Police addressing hoon behaviour

Resolution:

Crs. Edwards/Bingham

That Council writes to Victoria Police requesting that they provide additional resources to address hoon behaviour along Halletts Way, O'Learys Way and McCormicks Road.

CARRIED.

16.3 Review of the Urban Growth and Rural Growth Strategy S86 Committees

Resolution:

Crs. Dudzik/Keogh

- 1. *That a report on reviewing the Urban Growth and Rural Growth Strategy S86 Committees be provided to the next Ordinary Meeting.***
- 2. *That items to be evaluated include:***
 - *Ensuring all Councillors are given the same opportunity for input into the Growth Strategy across Moorabool Shire***
 - *Ensuring all Councillors have the same voting rights on Growth issues across Moorabool Shire.***
 - *Advertising these meetings through the Council website, Facebook and newspapers to the public so that residents can attend and speak to items, if they desire.***

LOST.

16.4 S86 Urban Growth and Rural Growth Committees - Review of Framework

Resolution:

Crs. Dudzik/Keogh

That the S86 Urban Growth and S86 Rural Growth Committees be put on hold pending the review of the appropriate framework for these Committees.

LOST.

17. CLOSED SESSION OF THE MEETING TO THE PUBLIC

Nil.

18. MEETING CLOSURE

The meeting closed at 8:34PM.

Confirmed.....Mayor.