



## ORDINARY MEETING OF COUNCIL

**Minutes** of the Ordinary Meeting of Council held at  
Council Chamber, 15 Stead Street, Ballan on  
Wednesday, 7 August 2019 at 6:00 p.m.

### **Members:**

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

### **Officers:**

Mr. Derek Madden	Chief Executive Officer
Mr. Phil Jeffrey	General Manager Community Assets and Infrastructure
Mr. Satwinder Sandhu	General Manager Community Planning
Ms. Sharon McArthur	Acting General Manager Community Development

***Derek Madden***  
***Chief Executive Officer***

## AGENDA

<b>1.</b>	<b>OPENING OF MEETING AND PRAYER</b> .....	<b>4</b>
<b>2.</b>	<b>ACKNOWLEDGEMENT TO COUNTRY</b> .....	<b>4</b>
<b>3.</b>	<b>RECORDING OF MEETING</b> .....	<b>4</b>
<b>4.</b>	<b>PRESENT</b> .....	<b>4</b>
<b>5.</b>	<b>APOLOGIES</b> .....	<b>4</b>
<b>6.</b>	<b>CONFIRMATION OF MINUTES</b> .....	<b>5</b>
6.1	<i>Ordinary Meeting of Council – Wednesday 03 July 2019</i> .....	5
<b>7.</b>	<b>DISCLOSURE OF CONFLICT OF INTEREST</b> .....	<b>6</b>
<b>8.</b>	<b>PUBLIC QUESTION TIME</b> .....	<b>8</b>
<b>9.</b>	<b>PETITIONS</b> .....	<b>9</b>
9.1	<i>Request for nature strip improvements – Griffith Street, Maddingley</i> .....	9
<b>10.</b>	<b>PRESENTATIONS / DEPUTATIONS</b> .....	<b>10</b>
<b>11.</b>	<b>OFFICER’S REPORTS</b> .....	<b>11</b>
<b>11.1</b>	<b>CHIEF EXECUTIVE OFFICER</b> .....	<b>11</b>
<b>11.2</b>	<b>COMMUNITY PLANNING</b> .....	<b>11</b>
11.2.1	<i>Moorabool Shire Community Local Law No.1 2019</i> .....	11
11.2.2	<i>Endorsement of the updated Community Infrastructure Planning Process for Community Consultation</i> .....	16
<b>11.3</b>	<b>COMMUNITY DEVELOPMENT</b> .....	<b>31</b>
11.3.1	<i>Consideration of Public Submissions to the proposed Discontinuance of a Portion of Government Road – Howards Road, Navigators</i> .....	31
11.3.2	<i>2017 - 2021 Council Plan - 2019 End of Year Review</i> .....	34
<b>11.4</b>	<b>ASSETS AND COMMUNITY INFRASTRUCTURE</b> .....	<b>36</b>
11.4.1	<i>Petition; Request for the Installation of a Bus Shelter (Fisken Street, Ballan)</i> .....	36
11.4.2	<i>Capital Improvement Program Quarterly Report – June 2019</i> .....	39
<b>12.</b>	<b>OTHER REPORTS</b> .....	<b>44</b>
12.1	<i>Assembly of Councillors</i> .....	44
12.2	<i>Section 86 – Delegated Committees of Council – Reports</i> .....	45
12.3	<i>Advisory Committees of Council - Reports</i> .....	45
<b>13.</b>	<b>NOTICES OF MOTION</b> .....	<b>46</b>
13.1	<i>Cr. Tatchell N.O.M: No. 285 – Notice of Rescission – Community Grants Program Round 1 (March) 2019</i> .....	46
13.2	<i>Cr. Tatchell N.O.M: No. 286 – Notice of Motion – Community Grants Program Round 1 (March) 2019</i> .....	48
13.3	<i>Cr. Keogh N.O.M: No. 281 – Notice of Rescission</i> .....	50
<b>14.</b>	<b>MAYOR’S REPORT</b> .....	<b>51</b>

<b>15.</b>	<b>COUNCILLORS' REPORTS.....</b>	<b>52</b>
<b>16.</b>	<b>URGENT BUSINESS.....</b>	<b>52</b>
<b>17.</b>	<b>CLOSED SESSION OF THE MEETING TO THE PUBLIC.....</b>	<b>53</b>
17.1	<i>C22-2018/19 Werribee Vale Rd, Maddingley - Pavement Rehabilitation &amp; Widening. ....</i>	<i>53</i>
<b>18.</b>	<b>MEETING CLOSURE .....</b>	<b>57</b>

## 1. OPENING OF MEETING AND PRAYER

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

## 2. ACKNOWLEDGEMENT TO COUNTRY

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

## 3. RECORDING OF MEETING

In accordance with Moorabool Shire Council's Meeting Procedure Local Law, the Council will be recorded this meeting.

## 4. PRESENT

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

### Officers:

Mr. Derek Madden	Chief Executive Officer
Mr. Phil Jeffrey	General Manager Community Assets and Infrastructure
Ms. Sharon McArthur	Acting General Manager Community Development
Ms. Yvonne Hansen	Manager Governance, Risk and Corporate Planning
Mr. Henry Bezuidenhout	Manager Strategic & Sustainable Development
Mr. Rob Fillisch	Manager Statutory Planning & Community Safety
Mr. Andy Gaze	Coordinator Community Health and Safety
Ms. Vanessa Osborn	Statutory Planning Project Officer
Mr. Ralph Cumming	Social Infrastructure Planner
Ms. Michelle Morrow	Minute Taker

## 5. APOLOGIES

Nil.

**6. CONFIRMATION OF MINUTES**

**6.1 Ordinary Meeting of Council – Wednesday 03 July 2019**

**Resolution:**

**Crs. Keogh / Sullivan**

***That Council confirms the Minutes of the Ordinary Meeting of Council held on Wednesday 03 July 2019.***

**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 Direct Interest – Cr. Sullivan**

*Cr. Sullivan declared a Direct Conflict of Interest in relation to Item 11.2.3 – Telecommunication Tower - PA2017-273 Sullivans Road, Millbrook. The nature of the Conflict of Interest is due to Cr. Sullivan being an abutting land owner and having also lodged a submission to this application.*

## 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.

**Nil.**



## 9. PETITIONS

### 9.1 Request for nature strip improvements – Griffith Street, Maddingley

Council has received a petition containing 54 signatures from the community of Griffith Street, Maddingley, and adjoining streets.

Their petition states:

*'We the undersigned request that Moorabool Shire Council undertake improvements to the nature strip between Griffith St and the service road from Osbourne St to Hillside street.*

*The area is in poor condition. It is uneven, exhibiting large ruts through the gravel service caused by heavy rain. It is hazardous to walk on especially when wet.*

*We request that council level out the area and compact, as an initial measure to make good.*

*We further request the shire to look to a more permanent solution. Our suggestions are:*

- *Seal the half that faces the service rd and convert into parking for the industrial estate*
- *Landscape the half facing Griffith St to enhance the look of the area and make it more inviting to local businesses*
- *Install signage board for factories to attach their logo.'*

The petition meets Council's Local Law No. 9, Meeting Procedure Local Law, Part 6 - Clause 6.7.

#### Resolution:

#### Crs. Dudzik / Edwards

1. **That the petition containing 54 signatures in relation to nature strip improvements on Griffith Street, Maddingley be received by Council.**
2. **That a report be prepared by officers for Council's consideration pertaining to nature strip improvements on Griffith Street, Maddingley.**

**CARRIED.**

## 10. PRESENTATIONS / DEPUTATIONS

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

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

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

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

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

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

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

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

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

Item No	Description	Name	Position
11.2.1	Moorabool Shire Community Local Law No. 2 1019	Stephen Kelly	Speaker
11.3.1	Consideration of Public Submissions to the proposed Discontinuance of a Portion of Government Road – Howards Road, Navigators	Blair Mather	Applicant
11.3.1	Consideration of Public Submissions to the proposed Discontinuance of a Portion of Government Road – Howards Road, Navigators	Luke Ryan	Submitter

### 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.

**Nil.**

## 11. OFFICER'S REPORTS

### 11.1 CHIEF EXECUTIVE OFFICER

Nil.

### 11.2 COMMUNITY PLANNING

Mr. Stephen Kelly addressed Council as a supporter of the recommendation to Item 11.2.1 - Moorabool Shire Community Local Law No.1 2019.

#### 11.2.1 Moorabool Shire Community Local Law No.1 2019

##### Introduction

Author: Andy Gaze  
General Manager: Satwinder Sandhu

The review process of the Local Laws is coming to an end. This report details the process to date and seeks Council's adoption of a new Community Local Law 2019 to commence on or after 1 October 2019.

##### Background

The current Moorabool Shire Council General Local Law expires on 6 October 2020. A review of the current Local Law commenced in 2017 with three (3) rounds of public consultation taking place. The Community Local Law 2019 (**Attachment 11.2.1a**) is the result of this review process.

The Community Local Law 2019 has been prepared with reference to the State Government Guidelines for the Local Laws and a review of best practice approach across Victoria. This report details the review process, details the major changes via the Community Impact Statement December 2018 (**Attachment 11.2.1b**) and recommends the future way forward. The Community Local Law 2019 has been reviewed by solicitors to ensure that it meets the drafting guidelines and does not breach the requirements of the *Local Government Act 1989*.

The Community Local Law was advertised through the 'Have Your Say' portal, by direct mail to key stakeholders and through the local press in July and August 2018. Feedback obtained through this process and further internal feedback led to the amended Community Local Law being presented to Council at an Assembly of Councillors (AOC) on 3 October 2018. At this AOC, full details of all the external comments were provided to Councillors. Further amendments were requested by Councillors which were made however this resulted in a further round of public consultation occurring between 18 December 2018 and 2 February 2019. This round of consultation resulted in a community member speaking to Council at its meeting on the 3 April 2019 which resulted in amendments to how animals and livestock were defined by removing Honey Bees from both definitions. A further round of community consultation occurred between 11 June and 14 July 2019 which resulted in one comment being received on 15 July 2019. This comment in redacted form can be seen in **Attachment 11.2.1c**. The comment is generally in support of the Local Law with regard to shipping container controls but seeks dispensation from the requirement to apply for or pay for a permit if the shipping containers are existing and comply with the requirements of the Clause 6.7.

The comment is not without merit however, officers believe that all shipping containers should be subject to a permit application process and whether fees are to be charged for the permit for existing complying shipping containers is something that needs to be considered by Council.

The Local Law Community Impact Statement December 2019 (**Attachment 11.2.1b**) has been amended to reflect the amendments to the definition of Animals and livestock requested by Council at the Ordinary Meeting of Council on 3 April 2019

The process to date has allowed considerable ability for the public and stakeholders to comment on the proposed Community Local Law.

The process from this stage forward is for Council to now consider the Community Local Law and if satisfied, can resolve to make the new Community Local Law 2019, revoke the existing Local Law, give public notice and a notice in the Victorian Government Gazette as well as sending a copy to the Minister for Local Government.

The Community Local Law will require a number of internal processes to be implemented prior to its introduction principally in regard to setting:

- Standards for permit applications and assessments;
- Standards with regard to compliance functions; and
- New fees and charges for new permits.

It is not proposed to implement the Community Local Law 2019 with immediate effect but look for adoption on or after 1 October 2019 (in line with the Gazettal notice process of clause 1.4 of the proposed Community Local law 2019) to allow these changes to be implemented.

This will also allow time for Council to ensure that the community and all stakeholders are fully aware of the new provisions, provide time for them to implement any actions needed, and prepare to apply for any required permits.

Under Clause 9.1 (b) of the Community Local Law 2019 Council can incorporate maps from time to time to designate areas that specify where specific types of fires can and cannot be lit. In the current General Local Law 2010 similar provisions apply. New maps have been developed (**Attachment 11.2.1d**) which now encompass all the developed areas within Bacchus Marsh, Darley and Maddingley areas and also take into account the areas of new subdivisions. The wording of the Community Local Law 2019 allows Council to incorporate maps from time to time without amending the Local law and as such allows Council to respond to the changing growth patterns within the Shire and any particular trends which may dictate additional burning controls.

## Proposal

It is proposed that Council resolve to:

- Note that one submission was received as part of the community consultation on the Community Local Law 2019 undertaken between 11 June and 14 July 2019 and authorises the CEO to write to the submitter detailing Council's reason for not amending the proposed Local Law as a result of the submission;
- Adopt the Community Impact Statement as shown in **Attachment 11.2.1b**;
- Adopts the Moorabool Shire Council Community Local Law 2019 as shown in **Attachment 11.2.1a**;

- Give public notice, and notice in the Victorian Government Gazette (on 1 October 2019 or the first Gazettal date thereafter), of the making of the Moorabool Shire Community Local Law 2019 and the effective date;
- Incorporate the maps in **Attachment 11.2.1d** into the Moorabool Shire Council Community Local Law 2019; and
- Send a copy of the Moorabool Shire Council Community Local Law 2019 to the Minister of Local Government.

### **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 review the Local Law is consistent with the Council Plan 2017 – 2021.

### **Financial Implications**

The Community Local Law 2019 contains a number of requirements for people to obtain a permit to undertake specific activities. The provision of these permits will take up resources and as such appropriate fees will need to be levied to ensure that they are provided on a cost neutral setting. It also places numerous requirements over certain activities which have to be monitored by Council staff and action taken for non-compliance. Compliance and enforcement action are by their very nature resource intensive and the introduction of these Local Laws may place additional burdens upon the Council in ensuring that the requirements are met.

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

The Community Local Law 2019 sets policy for the way forward to ensure local community and environmental wellbeing and liveability of the area over the next 10 years. If the Local Law is either too onerous, not specific enough or does not have community and business support activities can be allowed that will be detrimental to the local community, environment and the areas liveability. To ensure that the requirements of the Local Law are able to be successfully implemented it is essential that adequate resourcing be given to ensure that all residents and stakeholders are aware of the requirements and that as required action can be initiated to ensure compliance.

### **Communications and Consultation Strategy**

The community, stakeholders and internal staff have been consulted during the formulation of the Community Local Law 2019. Full community consultation was undertaken in July and August 2018 through Council's 'Have Your Say' portal. The consultation process was advertised on Council's website, within the local press media and by direct mail to major stakeholders. Further consultation occurred between 18 December 2018 and 2 February 2019 and then again between 11 June and 14 July 2019 via Council's 'Have Your Say' portal and was advertised in the local press media. All submissions received have been considered and amendments made as considered appropriate by Council staff and Councillors.

## **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 – Andy Gaze*

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

### **Conclusion**

The Community Local Law 2019 has undergone a full review process and is designed to meet the current and future needs of the Moorabool Shire. To ensure that the public can be fully informed of the new Local Law requirements and allow them time to either comply or prepare to submit applications for permits, it is deemed reasonable that the Community Local Law 2019 not be adopted till on or around 1 October 2019. This will also allow time for Council Officers to prepare internal working documents to ensure that all permits can be applied for, assessed and as required approved or rejected in an informed and transparent fashion.

### **Recommendation:**

That Council:

1. Note that one submission was received as part of the community consultation on the Moorabool Shire Council Community Local Law 2019 undertaken between 11 June and 14 July 2019 and authorises the CEO to write to the submitter detailing Council's reasons for not amending the Local Law as a result of the submission;
2. Adopt the Community Impact Statement as shown in Attachment 11.2.1b;
3. Adopt the Moorabool Shire Council Community Local Law 2019 as shown in Attachment 11.2.1a;
4. Give public notice, and notice in the Victorian Government gazette (on 1 October 2019 or the first Gazettal date thereafter) of the making of the Moorabool Shire Community Local Law 2019 and the effective date;
5. Incorporate the maps in Attachment 11.2.1d into the Moorabool Shire Council Community Local Law 2019; and
6. Send a copy of the Moorabool Shire Council Community Local Law 2019 to the Minister of Local Government.

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

- 1. Note that one submission was received as part of the community consultation on the Moorabool Shire Council Community Local Law 2019 undertaken between 11 June and 14 July 2019 and authorises the CEO to write to the submitter detailing Councils reasons for not amending the Local Law as a result of the submission;**
- 2. Adopt the Community Impact Statement as shown in Attachment 11.2.1b;**
- 3. Adopt the Moorabool Shire Council Community Local Law 2019 as shown in Attachment 11.2.1a;**
- 4. Give public notice, and notice in the Victorian Government gazette (on 1 October 2019 or the first Gazettal date thereafter) of the making of the Moorabool Shire Community Local Law 2019 and the effective date;**
- 5. Incorporate the maps in Attachment 11.2.1d into the Moorabool Shire Council Community Local Law 2019; and**
- 6. Send a copy of the Moorabool Shire Council Community Local Law 2019 to the Minister of Local Government.**
- 7. One year after the adoption of this Community Local Law, receive a report on the operation of the Local Law.**

**CARRIED**

## 11.2.2 Endorsement of the updated Community Infrastructure Planning Process for Community Consultation

### Introduction

Author: Raeph Cumming  
General Manager: Satwinder Sandhu

### Background

The 2017-2021 Moorabool Council Plan has an action to *Finalise the Community Infrastructure Framework* as directed under Strategic Objective 1, which requires Council to maintain and invest in its infrastructure to ensure that it is fit for purpose and that we deliver services to our community.

The first version of the Community Infrastructure Framework ("CI Framework") was adopted by Council in September, 2017. It comprised the following:

#### Core Documents

- Community Infrastructure Planning Policy and Planning and Design Principles;
- **Community Infrastructure Planning Process;**
- Priority Community Infrastructure Needs report; and
- Community Infrastructure Provision Standards report.

The following supporting Technical Reports (reference documents) were also included:

- Community Infrastructure Audit report;
- Community Infrastructure Needs Analysis (detailed findings);
- Summary of strategic findings;
- Results of the Quantity Assessment; and
- Results of the Travel Accessibility Assessment.

The CI Framework is a collection of documents, data sources, analysis tools, inter-departmental processes and relationships that collectively inform council's planning for community infrastructure. It is intended that the CI Framework should be updated as often as is necessary to respond to changing circumstances, new data (such as updated population forecasts), delivered projects, and the changing needs of a rapidly growing population.

The *Community Infrastructure Planning Process* is one of the key documents of the CI Framework. It articulates the methodology underpinning the Framework and explains how its various components work together.

Since adoption of the first iteration of the Framework in September 2017 further work has been undertaken and the *Community Infrastructure Planning Process* was updated. As a consequence, the supporting documentation, assessments and outputs from the Framework have also been updated. The updated documents are:

1. Community Infrastructure Planning Process (**Attachment 11.2.2**);
2. Strategic Community Infrastructure Priorities report;
3. Part A Needs Analysis: Key Findings and Recommendations main report;
4. Part A Needs Analysis: Key Findings and Recommendations report attachments;
5. Community Infrastructure Provision Standards report;
6. Community Infrastructure Audit report; and



7. Part B Needs Analysis: Detailed assessment data, comprising:
- Results of the Quantity Assessment;
  - Results of the Utilisation Assessment; and
  - Results of the Travel Accessibility Assessment.

The *Community Infrastructure Planning Policy and Planning and Design Principles* remain unchanged.

### Proposal

It is proposed to make the updated *Community Infrastructure Planning Process* (**Attachment 11.2.2**) available for community consultation, together with the supporting documentation for a period of four weeks.

After the public consultation period a report will be brought back to a future Ordinary Meeting of Council. That report will take into account any submissions the Council has received with a recommendation that the Council adopt the *Community Infrastructure Planning Process* at that meeting.

### Discussion

By means of introduction, the key dates and outcomes since adopting the Community Infrastructure Framework in September 2017 are summarised below.

Timeline	Actions
October 2017 to August 2018	<ul style="list-style-type: none"> <li>• <i>Community Infrastructure Planning Process</i> updated (refer to table below for details).</li> <li>• Fitness for Purpose Assessments and Utilisation Assessments conducted for in-scope facilities across Moorabool Shire.</li> <li>• Building Condition audits completed for MSC assets and results incorporated into the CI Framework Suitability Assessments.</li> <li>• Community Infrastructure Audit updated with new information.</li> </ul>
August 2018 to December 2018	<ul style="list-style-type: none"> <li>• Internal MSC service managers engaged to review updated audit data and revise Quantity and Travel Accessibility standards where required.</li> <li>• Quantity and Travel Accessibility Assessments updated to incorporate new data and updated provision standards.</li> <li>• Internal MSC service managers engaged to review updated needs analyses and key findings.</li> </ul>
January 2019 to March 2019	<ul style="list-style-type: none"> <li>• Strategic community infrastructure priorities developed.</li> <li>• Internal MSC service managers engaged to review and sign-off the strategic community infrastructure priorities.</li> <li>• Framework documentation finalised.</li> </ul>
June 2019	<ul style="list-style-type: none"> <li>• Draft update to the <i>Community Infrastructure Planning Process</i> and supporting documents presented to Assembly of Councillors.</li> </ul>

While the adopted version of the *Community Infrastructure Planning Process* made provision for assessments of Suitability and Capacity and Utilisation, the development of detailed methodology, planning standards and the carrying out of these assessments was to be conducted through an update. This update has now been completed and is discussed below.

## Updates to the Community Infrastructure Planning Process

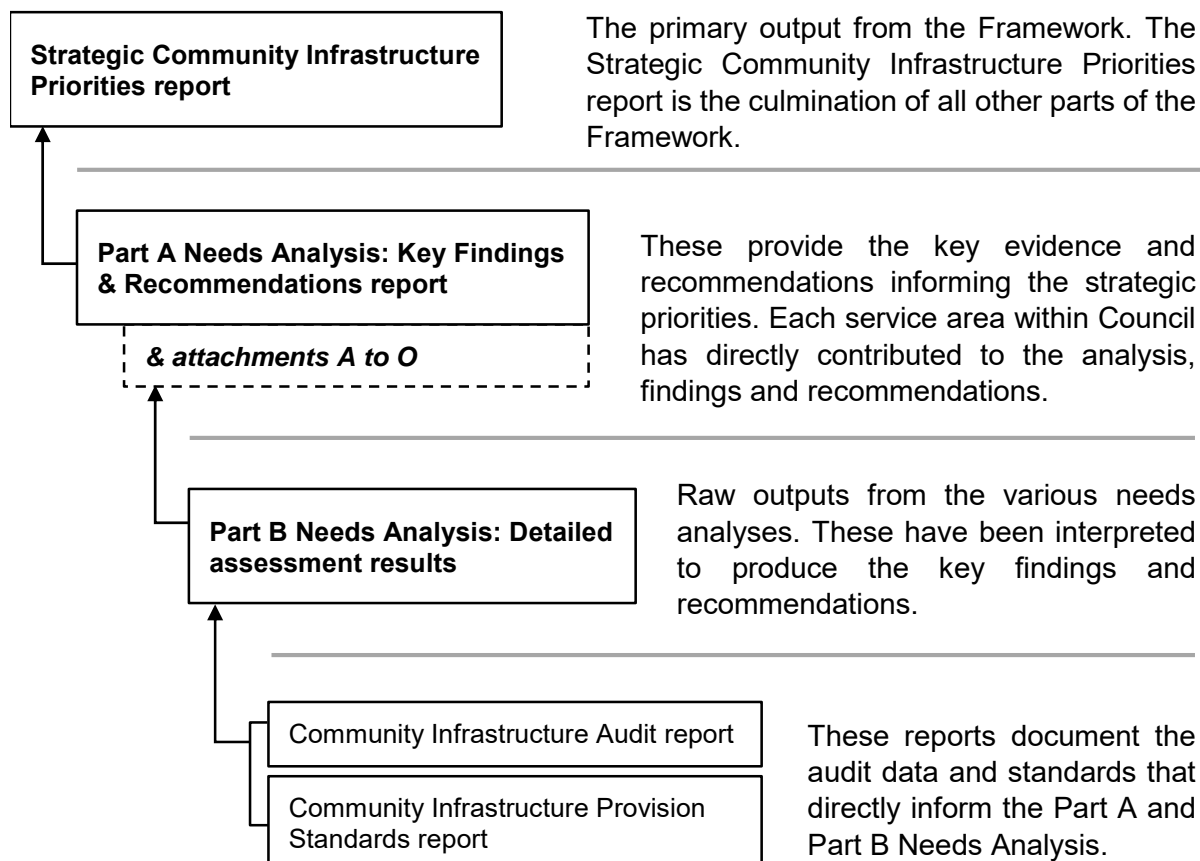
Most sections of the *Community Infrastructure Planning Process* remain unchanged. The main edits and additions made through the update are described in the table below.

Section	Page	Change type	Change
Figure 1: the Community Infrastructure Planning Process diagram.	2	Edit	Edits to diagram layout and document names.
2.1 Continuous improvement.	4	Edit	Text changed to clarify the iterative nature of how updated to the Planning Process and the Community Infrastructure Framework will be made.
2.2 Scope of 'Community Infrastructure'.	5	Edit	Added the uses 'Seniors groups' (Age and Disability Category) and 'Multipurpose community rooms' (Community Spaces and Library's category).
2.3 Integrated service and infrastructure planning.	6	New section	Identifies the key functions of Council that the Planning Process takes account of or integrates with: <ul style="list-style-type: none"> <li>• Service planning/Service review.</li> <li>• Social planning and research.</li> <li>• Strategic planning.</li> <li>• Asset management.</li> <li>• Capital Improvement Program (CIP).</li> </ul>
<i>2.3.1 Integration with the Service Planning and Service Review functions.</i>	8	New section	Describes the relationship between Community Infrastructure Planning and the Service Planning and Service Review functions.
<i>2.3.2 Integration with the Asset Management function.</i>	9	New section	Describes the relationship between Community Infrastructure Planning and the Asset Management function.
<i>2.3.3 Integration with the Strategic Planning function.</i>	9	New section	Describes the relationship between Community Infrastructure Planning and the Strategic Planning function.
<i>2.3.4 Integration with the Capital Improvement Program.</i>	10	New section	Describes the relationship between Community Infrastructure Planning and the Capital Improvement Program.
<i>2.4.1 Framework coordination.</i>	10	Edit	Additional bullet points under the role of the Framework Coordinator.
<i>2.4.3 Internal community service managers.</i>	11	Edit	Minor changes to the role of Internal community service managers.

<b>Section</b>	<b>Page</b>	<b>Change type</b>	<b>Change</b>
<i>6.5 The Suitability Assessment.</i>	26	New section	Describes the Suitability Assessment.
<i>6.5.1 Building Condition audits.</i>	26	New section	Describes how building condition audit inform the Suitability Assessment.
<i>6.5.2 Fitness for Purpose assessments.</i>	27	New section	Describes how fitness for purpose assessments will be designed and conducted and how they will inform the Suitability Assessment.
<i>6.5.3 Building Condition and Fitness for Purpose Standards.</i>	28	New section	Makes provision for the future development of minimum building condition and fitness for purpose standards.
<i>6.6 The Utilisation Assessment.</i>	28	New section	Describes the Utilisation Assessment.
<i>7. Service-based Needs Prioritisation.</i>	30	Edit	Update to the description of the Service-based Needs Prioritisation Stage.
<i>8. Strategic Project Prioritisation.</i>	30	Edit	Update to the description of Strategic Project Prioritisation Stage.
<i>Appendix A: Infrastructure type definitions.</i>	32	Edit	Various definitions amended to improve clarity.
<i>Appendix B: Example Fitness for Purpose Assessment templates.</i>	36	New appendices	Example assessment templates added for the Fitness for Purpose Assessment.

## Document Hierarchy

The various Framework documents broadly conform to the following hierarchy, with documents higher up the list having been directly informed by documents lower down the hierarchy:



## Key Findings and Priorities

The *Strategic Community Infrastructure Priorities* report is the primary and 'highest-level' output from the Framework; it is the culmination of following the updated *Community Infrastructure Planning Process*.

Every recommendation in the *Strategic Community Infrastructure Priorities* report is informed by key findings summarised in the *Needs Analysis Key Findings and Recommendations* report. Councillors are advised to refer to this report for further explanation of the evidence behind the *Strategic Community Infrastructure Priorities* report.

The key findings in the *Needs Analysis Key Findings and Recommendations* report are drawn from detailed analyses reported through a series of attachments to that report.

The other supporting documents provide the data and planning standards upon which all needs analyses have been performed.

## Policy Implications

The Council Plan 2017-2021 provides as follows:

- Strategic Objective 1:** Providing good governance and leadership
- Context 1A:** Our assets and infrastructure
- Action 7:** Finalise the Community Infrastructure Framework

The proposal to endorse the updated *Community Infrastructure Planning Process* for community consultation is consistent with the Council Plan 2017 – 2021.

## Financial Implications

No direct financial implications arise from endorsing the update to the *Community Infrastructure Planning Process*. The supporting *Strategic Community Infrastructure Priorities report* proposes projects that will need to be fully scoped and costed by the relevant Council service departments and Infrastructure Services. Capital projects will need to be prioritised and scheduled through the Capital Improvement Program.

## Risk & Occupational Health & Safety Issues

The updated *Community Infrastructure Planning Process* and supporting documents do not present any known risk or OH&S issues.

## Community Engagement Strategy

Level of Engagement	Stakeholder	Activities	Location	Date	Outcome
Consult	132 community contacts representing community organisations, sports clubs, service providers and Committees of Management	8 weeks public consultation through Council's Have Your Say website	Online	7 June 2017	2 submissions received

Other than the above public consultation, no direct community engagement on the updated *Community Infrastructure Planning Process* or other supporting documents has been conducted. However, the various assessments of community need have acquired data directly from Reserve Committees of Management, and from service strategies and plans that themselves were subject to community consultation.

## Communications and Consultation Strategy

The author has engaged extensively across Council during all stages of preparation of the update to the *Community Infrastructure Planning Process* and supporting documents, meeting several times with relevant service department managers and staff. The author also met directly with 10 committees of management to collect facilities utilisation data and conduct fitness for purpose assessments.

The update to the *Community Infrastructure Planning Process* makes changes to the methodology used to assess community needs and has produced many new findings and recommendations (as reported through the supporting documents). As such, the recommendation of this report is to conduct four weeks public consultation prior to adoption of the update.

Following endorsement, the updated *Community Infrastructure Planning Process* and supporting documents will be provided through Council's website. In addition, shorter summary versions of the list of proposed projects (as reported through the *Strategic Community Infrastructure Priorities* report) will be produced. These will split up the projects into those that are relevant to Darley, Bacchus Marsh and Maddingley, Ballan, and rural towns in the east and west of the Shire.

### **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 – Raeph Cumming*

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

### **Conclusion**

The proposal is to endorse the updated *Community Infrastructure Planning Process* (**Attachment 11.2.2**) for 4 weeks public consultation. Councillors should also note that the following supporting documents will also be made available to the public alongside the draft Planning Process for information purposes:

- Strategic Community Infrastructure Priorities report;
- Part A Needs Analysis: Key Findings and Recommendations main report;
- Part A Needs Analysis: Key Findings and Recommendations report attachments; and
- Community Infrastructure Provision Standards report.
- Community Infrastructure Audit report;
- Part B Needs Analysis: Detailed assessment data.

After the public consultation period a report will be brought back to a future Ordinary Meeting of Council with a proposal to adopt the updated *Community Infrastructure Planning Process*.

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

- 1. Endorse the Community Infrastructure Planning Process (Attachment 11.2.2) for four (4) weeks public consultation:**
- 2. Note that the Community Infrastructure Planning Process will be reported to a future Ordinary Meeting of Council for adoption following the public consultation.**

**CARRIED**

Cr. Sullivan declared a Direct Conflict of Interest in relation to Item 11.2.3 – Telecommunication Tower - PA2017-273 Sullivans Road, Millbrook. The nature of the Conflict of Interest is due to Cr. Sullivan being an adjoining land owner and having also lodged a submission to this application.

Cr. Sullivan adjourned from the Meeting at 6.20pm and did not participate in voting on the Item.

**11.2.3 Telecommunication Tower - PA2017-273 Sullivans Road, Millbrook****Introduction**

Author: Vanessa Osborn  
General Manager: Satwinder Sandhu

**Background**

In 2017, Moorabool Shire Council received a permit application for the development of a telecommunication facility on VicTrack land off Sullivans Road in Millbrook, Victoria. The telecommunication facility is part of the Victorian State Government Regional Rail Connectivity Project (RRCP). The application included the installation of a 30m high monopole, turret, antennas, outdoor unit and associated works.

On Wednesday 18 April, 2018 Council resolved to issue Planning Permit PA2017273 at its S86 Development Assessment Committee.

After receiving a complaint about the telecommunication tower, a motion was carried at the Moorabool Shire Council Ordinary Meeting of Council on 7 November, 2018:

*Item 13.1 Cr. Bingham: N.O.M. No. 274 – Telecommunication Tower  
Resolution: Crs. Bingham/Keogh*

- 1. Write to the Minister for Planning regarding amending Clause 52.19 – 3 which exempts the requirement of advertising planning applications for telecommunication facilities that are funded or partly funded by the Mobile Black Spot Program, or the State of Victoria.*

2. *Write to the applicant Vodafone and the landowner Victorian Rail Authority to question whether the proposed tower could be shifted at least 150m away from the closest dwelling.*
3. *That an investigation be carried out and a report be prepared detailing the information supplied by the applicant compared to the as constructed tower*  
**CARRIED.**

Following this original motion, a report was presented to Council on the 3 April, 2019. A motion was carried to defer the report with the following actions:

*Item 11.2.3 Telecommunication Tower - PA2017-273 Sullivans Road, Millbrook*

*Resolution: Crs. Dudzik/Toohey*

1. *That consideration of the Telecommunication Tower - PA2017-273 Sullivans Road, Millbrook report be deferred pending further information that gives a full briefing on the VCAT implications and the process in relation to the development of a Telecommunication Tower - PA2017-273 Sullivans Road, Millbrook.*
2. *That further discussions be held with Minister Richard Wynne and Visionstream, to gain further advice on the implications of the Victorian Charter of Human Rights with regards to the project, and Council's responsibilities under the Victorian Charter of Human Rights Act 2006.*  
**CARRIED.**

It is assumed that there is the word "and" missing from the second dot point after the first comma. It is also assumed that "Visionstream" is meant to read "Service Stream".

This report is to confirm the Officers' actions and findings to date.

### **Item 13.1 Action 1: Write to the Minister for Planning**

A letter was written to the Minister for Planning on 16 January, 2019 from the CEO of Moorabool Shire Council. In the letter, the CEO urged the State Government to review the planning considerations for telecommunication facilities and develop a method for tighter planning controls to protect the rights of community members.

Council received a response from The Minister for Planning on 1 March, 2019. The Ministers response is as follows:

*"I acknowledge your advice about the frustration of some community members resulting from the construction of telecommunications facilities close to dwellings. I am satisfied that the planning provisions are operating appropriately by enabling Victorian communities to benefit from a faster rollout of improved mobile phone coverage and by ensuring councils can assess the design and siting of facilities through the planning permit process.*

*Through Plan Melbourne 2017-2050, the Victorian Government has committed to reviewing the Code by 2021. I have asked the Department of Planning, Environment, Land, Water and Planning (DELWP) to also review the operation of Clause 52.19, including the notice and review exemptions, as part of the future Code review."*

See **Attachment 11.2.3a** for the letter from the Minister in its entirety.

### **Item 13.1 Action 2: Write to Vodafone and Victorian Rail Authority**



The CEO sent letters to both Vodafone and the Victorian Rail Authority on 16 January, 2019. These letters requested that the tower be relocated to a more suitable setback distance.

On the 10 May, 2019 Council received a response from Vodafone and Service Stream. The concluding remarks are as follows:

*“Whilst VHA is sympathetic to the concerns raised by Council, VHA has followed all processes prescribed in obtaining planning consent from Moorabool Council and has accordingly invested significant capital funds in constructing the facility. To give any consideration to a relocation would require commencing the planning process again and duplication of capital investment as these facilities cannot be reused.”*

See **Attachment 11.23b** for the letter from Vodafone and Service Stream in its entirety.

No response has been received to date from Victorian Rail Authority.

### **Item 13.1 Action 3: Investigation**

The permit application proposed to develop a telecommunications facility comprising a 30m high monopole containing the following:

- Three antennas mounted on a turret at a centre line position of 31.7m height, resulting in an overall height of 33.25m.
- One 1.2m diameter parabolic antenna mounted at a centre line of 27.5m height.
- A two-bay outdoor unit at the base of the pole on a concrete slab.
- Associated works and minor earthworks.
- A 2.4m high security compound fence and 3.0m access gates surrounding the proposed 8.4m x 12.4m compound area.
- 5.0m wide proposed access track between the site and the Sullivans Road carriageway to the south.

The planning permit was issued and plans were endorsed by Council on 18 April 2018. The endorsed plans were compared to the ‘As built plans’ as part of the investigation. From a planning perspective, the ‘As built plans’ are in accordance with the Endorsed Plans.

A site visit was carried out by the Council Building Inspector on 24 January 2019. The inspector concluded that the facility was located in the proposed location and consisted of the abovementioned proposed components. The tower constructed with steel (not specified what type). At the time of the inspection, the sun was shining on to the tower, however it was concluded that the material would not be categorised as glaring or reflective.

Based on the limited investigations carried out, it is proposed that the construction of the telecommunication tower for the regional rail project has been carried out in accordance with the endorsed site layout plan.



**Photo: The telecommunication tower off Sullivans Road in Millbrook, Victoria.**

**Breach of Planning Permit**

A further inspection was carried out by a Council Planning Enforcement Officer on 1 March 2019. It was identified that certain conditions of the planning permit have not been met. In particular, Condition 6, 8, 9, 10, 11 and 12:

- 6 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).
- 8 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.
- 9 The applicant is to upgrade the existing crossover to a sealed standard to the satisfaction of the responsible authority.
- 10 The proponent, at their cost, must construct an all-weather access track from the proposed access point on Sullivans Road to the site of the works, to the satisfaction of the responsible authority. An asset protection permit must be obtained from the responsible authority prior to the commencement of the development.
- 11 Erosion control measures must be undertaken to reduce the movement of soil from the site by rain or flowing water.
- 12 Sediment control measures must be undertaken to minimise the impacts of erosion by capturing sediment before it is discharged to the environment.

A letter was sent to Service Stream allowing 60 days for rectification. A follow up site inspection by a Council Asset Protection Officer on 7 June, 2019 found that the non-compliances had not been acted upon. A second letter was sent to Service Stream by the Enforcement team.

The Assets team and Enforcement team will work together to escalate the enforcement proceedings as required to ensure compliance with the Moorabool Planning Scheme. Although a relatively minor non-compliance, if a satisfactory outcome is not reached within the stipulated timeframe this may involve an application for an enforcement order through VCAT. This is considered a separate matter to that being addressed in this report.

### **Item 11.2.3 Action 1: VCAT implications**

It is understood that Council requested an understanding of the VCAT implications of cancelling the permit issued to build the telecommunication tower. Sections 87 and 89 of the *Planning and Environment Act 1987* provides guidelines for the cancellation and amendment of permits. The information from these guidelines are summarised.

As the Responsible Authority, Council can apply to cancel or amend the permit. However, there are certain circumstances that allow for an application can be made to cancel or amend a permit. These are:

- A material mis-statement or concealment of fact relating to the application for permit;
- A material mistake in relation to the grant of the permit;
- A material change in circumstances occurring since the grant of a permit;
- A substantial failure to comply with the conditions of the permit;
- A failure to give notice of an application for permit;
- A failure of the responsible authority to refer an application to a referral authority; or
- A failure of the responsible authority to follow the requirements of a referral authority.

Further, the Planning and Environment Act provides that the Tribunal cannot cancel or amend a permit in a variety of circumstances including:

- The permit is for the construction of a building or works, and the construction or works are completed;
- The permit is for other development, and the development is substantially carried out; or
- The permit is for subdivision or consolidation of land and the plan has been registered under the *Subdivision Act 1988*.

It is considered unlikely that the Tribunal has the power to cancel the permit in question, based on the limitations mentioned.

It must also be understood that If the matter did go to VCAT and was successful, the responsible authority is, in some circumstances, liable for loss or damages if a permit is cancelled or amended as a result of the responsible authority's error.

In addition, all parties appearing in a VCAT application are normally responsible for their own costs. Costs are rarely awarded, and it is only in exceptional circumstances that the Tribunal will award costs. However, costs may be awarded if the application to cancel or amend the permit is found to be unjustified.

#### *Estimated costs for VCAT application*

Advice was sought from Macquarie Local Government Lawyers regarding an estimated cost for the VCAT application. This was the response received:

*“Assuming (and this is a ‘big assumption’ given our earlier advice that, as presently instructed, we don’t think Council would have any prospect of being successful in making an application to cancel the permit) it is possible to put together some form of ‘prima facie’ case for Council to make an application to VCAT to cancel the permit (and while a significant amount of time would need to be spent in considering this threshold issue and we presently do not know what our final views would be) (**threshold issue**), the broad costs which – by way of ‘rough guesstimate’ only and as best we can presently do and on the basis that the threshold issue can be overcome – we put around the outcomes set out in your earlier email are as follows –*

- *For preparation/application to VCAT – \$8,000*
- *For VCAT hearing (assuming 1 day) – \$5,500*
- *For follow up actions – \$4,000*
- *For potential costs if Council were to lose (including the costs of the permit holder, if and assuming legally represented, otherwise if not legally represented, say \$15,000 – \$30,000.*

*While wanting to be as helpful as we can, we nonetheless reiterate that these estimates are extremely rough, and may and in all likelihood would be subject to upward variations. A protective buffer should therefore be factored in.”*

#### **Item 11.2.3 Action 2: Further discussions with Minister and Service Stream**

The Minister was clear and final in the response provided. More direction is required if these discussions are to be taken further. A Council Officer has been communicating with the Project Manager for Telecommunication Infrastructure in the policy team for the Department of Jobs, Precincts and Regions. He has advised that the local member of parliament has raised the issue with the Minister for Innovation. The advice from that office confirms the message from the Minister for Planning.

Since the original motion was carried in November 2018, a letter was sent to Service Stream in January 2019. A response was received in May 2019 (**Attachment 11.2.3b**). Their response was also clear, stating that they followed the correct procedure and has no intention in moving the tower as it would come at significant cost.

#### **Item 11.2.3 Action 2: Gain further advice on the implications of the Victorian Charter of Human Rights with regards to the project, and Council’s responsibilities under the Victorian Charter of Human Rights Act 2006**

To respond to this action, Council Officers requested legal advice. This was the response:

*Relevantly, clause 52.19 of the Moorabool Planning Scheme provides for planning controls with regard to telecommunications facilities within the municipality.*

*More specifically, clause 52.19-3 provides for an exemption from the notice requirements of section 52 of the Planning Environment Act as well as an aggrieved person’s review rights under section 82 of the Planning and Environment Act.*

*The Moorabool Planning Scheme provides –*

*“An application under any provision of this scheme to use or develop land for a Telecommunications facility is exempt from the notice requirements of section 52(1)(a), (b) and (d), the decision requirements of section 64(1), (2) and (3) and the review rights of section 82(1) of the P&E Act if the Telecommunications facility is funded, or partly funded, by:*

- *The Commonwealth through the Mobile Black Spot Program; or*
- *The State of Victoria.”*

*Whilst this exemption appears inconsistent with the Charter (as it restricts an aggrieved person’s review rights), and section 38(1) of the Charter makes it unlawful for a Council (as a public authority) to act in a way that is incompatible with a human right, section 38(2) provides that sub section (1) does not apply in circumstances where, as a result of a statutory provision, a Council could not reasonably have acted differently or made a different decision (for example, where Council is acting to give effect to a statutory provision that is incompatible with a human right).*

*Further, section 82(3) of the Act provides that if a planning scheme exempts a decision of an application for a permit from the review rights of an objector then an application for review cannot be made in respect of that decision.*

*Therefore, even if the relevant provision of the Moorabool Planning Scheme were deemed to be inconsistent with a human right, Council remains protected by the ambit of section 38(2) of the Charter.*

### **Financial Implications**

There are no financial implications involved with preparing this report or carrying out the actions stipulated by the two Council resolutions. However, there are significant financial implications associated with applying to VCAT to cancel the permit (as discussed).

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

There are no risk and occupational health and safety issues involved with preparing this report or carrying out the actions stipulated by the two Council resolutions.

### **Community Engagement Strategy**

Community engagement for planning matters are undertaken in accordance with the *Planning & Environment Act 1987*. As previously indicated notice was exempt for this application.

### **Communications and Consultation Strategy**

There is no communication and consultation strategy involved with preparing this report or carrying out the actions stipulated by the two Council resolutions.

### **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.

For more detail, see the legal advice provided to Council in Item 11.2.3 Action 2.

### **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 – Vanessa Osborn*

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

**Conclusion**

In response to the three actions in the Council resolution dated 7 November, 2018:

- 1) A letter was sent to the Minister for Planning requesting a review of Clause 52.19 – 3 which exempts the requirement of advertising planning applications for telecommunication facilities that are funded or partly funded by the Mobile Black Spot Program, or the State of Victoria. A response was received stating that the review will be included in the Code review by 2021.
- 2) A letter was sent to the applicant Vodafone and the landowner Victorian Rail Authority to request the proposed tower to be shifted at least 150m away from the closest dwelling. A response was received from Vodafone (via Service Stream) stating the correct procedure was followed and has no intention in moving the tower as it would incur significant cost. No response has been received from Victorian Rail Authority.
- 3) An investigation was undertaken, based on the 'As built plans' provided by the applicant and the site inspection by the Council Building Inspector, it is concluded that the construction of the telecommunication tower for the regional rail project has been carried out in accordance with the planning permit and endorsed site plans.

An inspection was carried out by the Enforcement Team found that certain conditions of the planning permit have not been met. The Assets team and Enforcement team will work together to escalate the enforcement proceedings as required to ensure compliance with the Moorabool Planning Scheme. Although a relatively minor non-compliance, if a satisfactory outcome is not reached within the stipulated timeframe this may involve an application for an enforcement order through VCAT. This is considered a separate matter to that being addressed in this report.

In response to the actions in the Council resolution dated 3 April 2019:

- 1) The VCAT implications for cancelling the permit was outlined and estimated costs provided. In summary, Council is a body that can apply to VCAT for the cancellation of the permit. However, it is unlikely the case would be seen by VCAT due to the reasoning for the application to cancel. It is also unlikely that the decision would be favourable based on the limitations discussed. Further, if the application was approved to go to VCAT, Council may be liable for all associated costs.
- 2) Further discussions with the Minister and Service Stream do not seem appropriate based on the responses received.
- 3) Legal advice was sought with regards to the Victorian Charter of Human Rights. It was advised that Council was not in breach of the Charter due to the Planning Scheme Clause 52.19-3.

**Resolution:****Crs. Edwards / Bingham**

**That Council receive this report as a response to the two Council resolutions in relation to the Telecommunication Tower Application PA2017-273 and that the matter regarding the notification of the application and location of the tower is now closed.**

**DIVISION****Councillors voting for the resolution:**

Crs. Edwards, Bingham, Keogh and Tatchell.

**Councillors voting against the resolution:**

Crs. Dudzik and Toohey.

**CARRIED**

**11.3 COMMUNITY DEVELOPMENT**

Mr. Peter Head and Mr. Blair Mather addressed Council in support of the proposed discontinuance of a portion of Government Road – Howards Road, Navigators.

Mr. Luke Ryan addressed Council in support of his public submission to the proposed discontinuance of a portion of Government Road – Howards Road, Navigators.

**11.3.1 Consideration of Public Submissions to the proposed Discontinuance of a Portion of Government Road – Howards Road, Navigators****Introduction**

Author: Michelle Morrow  
General Manager: Sally Jones

**Background**

On Wednesday 1 May 2019, Council resolved for officers to give public notice of its intention to discontinue a portion of road reserve identified as Howards Road, Navigators and to seek public submissions under section 207A of the *Local Government Act 1989*.

In accordance with section 223 of the Act, Council is required to formally consider any submissions received and allow any submitter to address Council in relation to their submission should they request to do so.

**Proposal**

This report is presented to Council at the end of the public submission period which concluded on Monday 17 June 2019.

Three submissions have been received by Council with one submitter requesting to be heard in support of their submission at the Ordinary Meeting of Council. The submissions have been attached to this report for consideration. (**Attachment 11.3.1**)

## Policy Implications

The 2017 - 2021 Council Plan provides as follows:

**Strategic Objective 1A:** Providing Good Governance and Leadership

**Context 1A:** Our Assets and Infrastructure

The proposal to consider submissions in relation Council's intention to discontinue a portion of government road identified Howards Road, Navigators is consistent with the 2017-2021 Council Plan.

## Financial Implications

There have been no financial implications identified as a result of the submissions received by Council.

## Risk & Occupational Health & Safety Issues

There are no perceived risks or occupational health and safety issues related to this proposal.

## Community Engagement Strategy

Level of Engagement	Stakeholder	Activities	Location	Date	Outcome
Public submissions	General public and property owners	Public notice in newspaper and Council website	Moorabool district	May/June 2019	General public supported to submit submissions

## Communications and Consultation Strategy

Under section 207(A) of the Act, a person has the right to make a submission under section 223 of the Act in respect of Council proposing to discontinue a road within its municipality under Schedule 10 clause 3 of the Act.

Section 223 of the Act requires Council to advertise its intentions in a newspaper circulating generally within the Municipality inviting public submissions for a period of no less than 28 days after the date of the publication of the public notice in the newspaper and on Council's website.

Advertising was undertaken in accordance with section 223 of the Act in the regional (Ballarat Courier) newspaper on Saturday 18 May and on Tuesday 21 May 2019 in the local (Moorabool News) newspaper inviting public submissions on the proposed road discontinuance being considered.

## 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 limit, restrict or interfere with any human rights issues. The matter was advertised in accordance with statutory process under section 207A and 223 of the Act.

### **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 – Sally Jones*

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

*Authors –Michelle Morrow*

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

### **Conclusion**

Council has received three submissions as part of the section 223 statutory process and has provided submitters with the opportunity to address Council in relation to their submission. At the conclusion of this public submission process a report will be presented to the Ordinary Meeting of Council in September 2019 whereby Council will consider the submissions received and make its determination in relation to the discontinuation of Howards Road, Navigators under section 206 and Schedule 10 clause 3 of the Act.

### **Resolution:**

**Crs. Toohey / Bingham**

**That Council:**

- 1. Receive the submissions as presented in this report as a result of undertaking the statutory public submission process in accordance with sections 207A and 223 of the Local Government Act 1989 pertaining to Council's intention to discontinue a portion of government road identified Howards Road, Navigators.**
- 2. Receive a further report at its Ordinary Meeting of Council to be held 4 September 2019 to consider the discontinuation of a portion of government road identified as Howards Road, Navigators.**

**CARRIED**

### **ADJOURNMENT OF MEETING - 6.50pm**

**Crs. Sullivan/Edwards**

**That the meeting now stand adjourned for a period of 5 minutes.**

**CARRIED**

**RESUMPTION OF MEETING – 6.55pm****Crs. Sullivan/Edwards****That the meeting now be resumed.****CARRIED****11.3.2 2017 - 2021 Council Plan - 2019 End of Year Review****Introduction**

Author: Yvonne Hansen  
 Acting General Manager: Sharon McArthur

**Background**

The 2017 – 2021 Moorabool Shire Council Plan (Council Plan) sits within the Council's planning framework and identifies the main priorities and expectations over a four-year period.

The Four Strategic Objectives outlined in the Council Plan and that guides new initiatives and continuing services are:

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

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

Quarterly performance reporting allows Council to effectively measure, monitor, review and report on its performance, while providing open and transparent reporting to the community. This report presents the end of year review of performance against the actions set for the 2018/19 financial year.

**Proposal**

The 2017 – 2021 Moorabool Shire Council Plan - 2019 End of Year Review is provided as **Attachment 11.3.2**.

Overall there were 70 actions to be achieved this financial year.

Of these actions, 31 actions having reached 90% or greater of their target for the period, 32 actions having achieved between 60% and 90% of their target and 25 actions remain at less than 60% of their target.

The following table summarises the status of those actions set to be achieved in the 2018/19 financial year:

<b>Strategic Objective</b>	<b>Completed</b>	<b>In Progress</b>	<b>Deferred</b>	<b>Total</b>
Providing Good Governance and Leadership	14	16	1	31

Minimising Environmental Impact	2	11	0	13
Stimulating Economic Development	2	8	3	13
Improving Social Outcomes	4	7	0	11
Rolled over from previous Council Plan	1	1	0	2
<b>Totals</b>	<b>23</b>	<b>43</b>	<b>4</b>	<b>70</b>

### **Policy Implications**

The 2017 - 2021 Council Plan provides as follows:

**Strategic Objective 1A:** Providing Good Governance and Leadership

**Context 1C:** Our Business and Systems

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

### **Financial Implications**

There are no financial implications from this report.

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

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

### **Community Engagement Strategy**

Due to the nature of this report, it does not require a Community Engagement Strategy.

### **Communications and Consultation Strategy**

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

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

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

### **Officer's Declaration of Conflict of Interests**

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

*Acting General Manager – Sharon McArthur*

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

*Author –Yvonne Hansen*

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

## **Conclusion**

Progress is being made on all actions of the Council Plan. Overall, there are 70 actions being reported in the last quarter of the 2018/19 financial year.

## **Resolution:**

**Crs. Dudzik / Sullivan**

**That Council resolve to receive the 2017-2021 Moorabool Shire Council Plan – 2019 End of Year Review.**

**CARRIED**

## **11.4 ASSETS AND COMMUNITY INFRASTRUCTURE**

### **11.4.1 Petition; Request for the Installation of a Bus Shelter (Fisken Street, Ballan)**

#### **Introduction**

Author: John Miller  
Acting General Manager: Ewen Nevett

#### **Background**

At the Ordinary Meeting of Council on Wednesday 3 April 2019, Council considered a petition containing 284 signatures, requesting the construction of a bus shelter in Fisken Street, Ballan where the following was resolved:

#### ***Crs. Sullivan/Toohey***

- 1. That the petition containing 284 signatures in relation to the construction of a bus shelter in Fisken Street, Ballan be received by Council.***
- 2. That a report be prepared by officers for Council's consideration pertaining to the construction of a bus shelter in Fisken Street, Ballan.***

**CARRIED.**

The existing stop on the east side of Fisken Street, between Inglis and Steiglitz Streets, is currently utilised to pick up and drop off up to 30 children, by a number of school buses. The west side of Fisken Street is also utilised as a drop off point, although there is no formal arrangement in place (e.g. a bus parking zone). These locations are indicated below.



### Proposal

Given the prominent location and number of children utilising particularly the stop on the east side of Fiskin Street, it is recommended as part of this report that a shelter be installed, however there are a number of items that are required to be resolved to achieve the best outcome.

The nature strip on the east side of Fiskin Street has a large street tree within it and is narrow, therefore the standard shelter design may be unsuitable for installation at this specific location.

It is officer's view that an assessment of the existing parking arrangements along this section of road should also be undertaken in conjunction with the shelter considerations and that consultation with surrounding property owners would also be appropriate.

### Policy Implications

The Council Plan 2017-2021 provides as follows:

**Strategic Objective 1:** Providing good governance and leadership

**Context 1A:** Our assets and infrastructure

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

### Financial Implications

It is recommended within this report that Council pursue opportunities for external funding of the shelter and if this is not able to be ascertained, that the shelter be installed within existing budgets.

## Risk & Occupational Health & Safety Issues

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

## Community Engagement Strategy

Level of Engagement	Stakeholder	Activities	Location	Date	Outcome
Consult	Adjacent property owners	Contact with stakeholders to discuss proposal	N/A	August 2019	Resolve location and design of shelter installation

## 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.

*Acting General Manager – Ewen Nevett*

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

A petition requesting the installation of a bus shelter in Fiskin Street, Ballan, has been received by Council.

Given the prominent location and number of children utilising particularly the stop on the east side of Fiskin Street, it is recommended that a shelter be installed, with the resolution of the location and design.

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

- 1. Approve the installation of a bus shelter in Fisken Street, Ballan at a location to be determined by officers following an assessment of the most appropriate location and design, including consideration of the existing nature strip layout, parking arrangements and suitable community engagement.**
- 2. Request officers seek external funding to assist in delivering the project in the first instance.**

**CARRIED****11.4.2 Capital Improvement Program Quarterly Report – June 2019****Introduction**

Author: Tristan May  
Acting General Manager: Ewen Nevett

**Background**

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

**Proposal**

This quarterly report provides Council with an overview of the progress of Council's 2018/2019 Capital Improvement Program to 30 June 2019.

**Implementation of the 2018/2019 Capital Improvement Program**

The 2018/2019 Capital Improvement Program currently consists of 46 projects, of which there are 3 that are 'on hold' and are outside Council's control. Therefore, the table below reports on the 43 active projects in terms of percentage.

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

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

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

The Engineering Services Unit nominates 6 key stages of the project delivery process and will report with reference to these stages in regard to the overall program status. The table below summarises the overall program status as at 30 June 2019:

CIP Program Delivery Stage	Actual as of 30 June 2019	
	No. of Projects	%
'On hold' Projects	3	
Not Commenced	0	0.0
Documentation/Design Preparation	1	2.3
Tender/Quote Stage	1	2.3
Project Awarded – Waiting Commencement	0	0.0
In Progress/Under Construction	6	14.0
Complete	35	85.3
<b>TOTAL</b>	<b>43 (41)*</b>	<b>100.00</b>

\*Note: Two projects (Bacchus Marsh Racecourse Recreation Reserve & Griffith Street – Roundabout) are considered 'Multi Year' projects and have been excluded from the end of year performance calculations.

The attached report (**Attachment 11.4.2**) details the proposed timeframe and progress of each individual project. In addition, the report also provides specific comments in relation to each project and its status.

#### Program Status and Financial Year Performance

Of the 46 projects, there are 3 projects that are deemed to be 'On Hold' due to funding issues or other factors that are outside council officer's control. These projects have not been included in the overall end of year performance calculations with an overview of these projects and a comment on the status included in the attached report.

Of the 43 projects that could be completed, there are 8 projects that will be carried forward into the 2019/20 CIP. Of the 8 projects that will be carried forward, 2 are considered 'multi-year projects and have also been excluded from the end of year performance calculations.

The table below outlines each of these projects and their current status;

Project Name	Project Status
Clarks Road, Glen Park – Road Rehabilitation	This project has been carried out by Council's operations unit. Construction commenced in March 2019 with the pavement ready for sealing in May 2019. Due to the above average May rainfall and nature of the site, sufficient dry back of the pavement has not been achieved to allow sealing works to be completed. The road will be held as a crushed rock pavement over the winter months and will be prepared and sealed in September/October 2019 when there are warmer conditions.
Main Street, Gordon – Streetscape Project	This project is being carried out by Butler Excavation Pty Ltd. Construction commenced in May 2019 and expected to be completed in August 2019. The project has not progressed as quickly as predicted due to unfavourable weather, unexpected subgrade material and scope increase from other agencies facilitating work through this contract.



Maddingley Park – Tennis Court Reconstruction	This project is being carried out by Turf One Pty Ltd. Construction commenced in May 2019 and expected to be completed in August 2019.
Council Buildings – Energy efficiency upgrades	This project is currently in the design and documentation phase. It is intended to go out to tender in July 2019 with installation works in late 2019.
Haddon Drive, Ballan – Road Rehabilitation	This project was recently tendered and is currently in the evaluation phase. The project had been on-hold pending the funding outcome from Regional Development Victoria. Works are now expected to commence in September 2019.
Darley Park, Darley	This project has been awarded to DeAraugo & Lea Electrical Contractors Pty Ltd at Council's May OMC. This project had been delayed due to funding issues which have now been resolved and the project is expected to be complete by end of September 2019.
Griffith St, Maddingley – Roundabout Construction (Multi-Year Project)	This project was awarded to Rustel Pty Ltd at Council's April OMC. This project was set to be delivered in 2019/20 although Council brought the project forward to expedite all the construction activity within the West Maddingley area. The project commenced onsite in May 2019 and is expected to be finalised in August 2019.
Bacchus Marsh Racecourse Recreation Reserve – Active Sports Precinct Design & BMX Track (Multi-Year Project)	The design consultancy services was awarded to Group GSA Pty Ltd. Bulk earthworks commenced on site in March 2018 and completed in July 2018. The Sports Oval contract was awarded to Hume Turf and Machinery. Construction on the oval commenced in January 2019 and is scheduled for completion in July 2019. The Cross Country Course commenced in January 2019 and was completed in February 2019. Works on the BMX Track are continuing and anticipated for completion in July 2019. The Civil Works & Services tender was awarded to Avarad Civil Pty Ltd and is anticipated to commence in July 2019 and completed in December 2019.

Taking these into account, 35 of a possible 41 projects were completed resulting in 85.3% of the program being completed in the financial year.

#### 'On Hold' Projects

Of the 3 projects that are currently 'On-Hold', the following table provides an update to these projects;

<b>Project Description</b>	<b>Project Status</b>
Werribee Vale Rd, Maddingley	This project has been on-hold due to funding discussions with Council and the State Government's Department of Jobs, Precincts and Regions. This funding is now secured, which along with additional Council funds in the 2019/20 Capital Improvement Program will enable the project to commence in August / September 2019.

Lidgett St, Bacchus Marsh – Playground renewal and Masterplan development.	This project has been placed on hold due to further engagement to be undertaken with the community on the reserve masterplan. The 2019/20 CIP provides additional funding to supplement the 2018/19 allocation to enable further investment in reserve infrastructure to better serve the communities requirements.
Fisken St, Bacchus Marsh – Main Street Intersection Design Development	This project has been on-hold due to issues with the nominated consultant. Council are currently working through procedures to determine the agreements outputs to finalise the design project.

### Program Financial Status

A review of the financial aspect of the program has been completed through comparison of expenditure against the available budget. The final expenditure has been confirmed and the program has come in over budget by a total of \$92,279 representing a 0.58% over spend.

The predominate contributor to the budget over spend was the Maddingley Park – Tennis Court Reconstruction project which was awarded at Council's April Ordinary Meeting of Council over budget by \$144,176.

Council officers have been constantly looking at ways to minimise expenditure over the program, post awarding this contract, whilst balancing all other projects and ensuring they achieve the desired objectives.

### **Policy Implications**

The Council Plan 2017 – 2021 provides as follows:

**Strategic Objective 1** Providing Good Governance and Leadership

**Context 1A** Our Assets and Infrastructure

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

### **Financial Implications**

The 2018/19 Capital Improvement has come in over budget by a total of \$92,279 representing a 0.58% over spend.

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

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

### **Communications Strategy**

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

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

- Report to Council Quarterly

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

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

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

### **Officer's Declaration of Conflict of Interests**

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

*Acting General Manager – Ewen Nevett*

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

*Author – Tristan May*

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

### **Conclusion**

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

### **Resolution:**

**Crs. Keogh / Edwards**

**That Council receive the Capital Improvement Program quarterly report to 30 June 2019.**

**CARRIED**

## 12. OTHER REPORTS

### 12.1 Assembly of Councillors

File No.: 02/01/002

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

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

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

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

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

Council also records each Assembly of Councillors on its website at [www.moorabool.vic.gov.au](http://www.moorabool.vic.gov.au)

A record of Assemblies of Councillors is provided below for consideration:

- Assembly of Councillors – Wednesday 8 May 2019 – Draft 2019/2020 Budget
- Assembly of Councillors – Wednesday 8 May 2019 – Municipal Revaluation Update
- Assembly of Councillors – Wednesday 5 June 2019 – Presentation by the Wind Farm Commissioner
- Assembly of Councillors – Wednesday 19 June 2019 – Community Infrastructure Framework
- Assembly of Councillors – Wednesday 19 June 2019 – Review of Draft OMC Agenda
- Assembly of Councillors – Wednesday 19 June 2019 – Community Grants

#### **Resolution:**

**Crs. Keogh / Sullivan**

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

- **Assembly of Councillors – Wednesday 8 May 2019 – Draft 2019/2020 Budget**
- **Assembly of Councillors – Wednesday 8 May 2019 – Municipal Revaluation Update**
- **Assembly of Councillors – Wednesday 5 June 2019 – Presentation by the Wind Farm Commissioner**
- **Assembly of Councillors – Wednesday 19 June 2019 – Community Infrastructure Framework**
- **Assembly of Councillors – Wednesday 19 June 2019 – Review of Draft OMC Agenda**
- **Assembly of Councillors – Wednesday 19 June 2019 – Community Grants**

**CARRIED**

## **12.2 Section 86 – Delegated Committees of Council – Reports**

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

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

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

Nil.

## **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.

Nil.

**13. NOTICES OF MOTION**

The Mayor, Cr. Tatchell informed the meeting of his intention to move a motion relating to Item No. 13.1 on the Agenda. The Mayor vacated the Chair.

Cr. Keogh assumed the Acting Chair.

**13.1 Cr. Tatchell N.O.M: No. 285 – Notice of Rescission – Community Grants Program Round 1 (March) 2019**

**Resolution:**

**Crs. Tatchell / Sullivan**

That Council rescinds the following resolution concerning Item 11.3.2 - Community Grants Program Round 1 (March) 2019 as adopted by Council at the Ordinary Meeting of Council on Wednesday 3 July 2019:

*“Crs. Bingham/Keogh*

- 1. That Council allocates the following grants in the Community Arts and Culture Grant category:*

<b>Organisation Name</b>	<b>Project name</b>	<b>Amount</b>
<b><i>Ballan &amp; District Community House &amp; Adult Education Centre Inc</i></b>	<b><i>Framing Your Art for Exhibition</i></b>	<b><i>\$2,700</i></b>
<b><i>Bacchus Marsh and District Photography Club</i></b>	<b><i>Basic Photography Workshop</i></b>	<b><i>\$1,613</i></b>
	<b><i>Total</i></b>	<b><i>\$4,313</i></b>

- 2. That Council allocates the following grants in the Community Strengthening Grant category:*

<b>Organisation Name</b>	<b>Project name</b>	<b>Amount</b>
<b><i>Djerriwarrh Health Services</i></b>	<b><i>Welcoming Baby to Country in Moorabool Shire</i></b>	<b><i>\$4,977</i></b>
<b><i>BM Dementia Alliance - Djerriwarrh Health Services</i></b>	<b><i>Environmental Audits</i></b>	<b><i>\$5,000</i></b>
<b><i>Moorabool Landcare Network</i></b>	<b><i>Growth at the Landcare Nursery</i></b>	<b><i>\$4,500</i></b>
<b><i>Ballan RSL Sub-Branch Building Patriotic Fund</i></b>	<b><i>Ballan RSL Air-conditioning</i></b>	<b><i>\$2,830</i></b>
<b><i>Bacchus Marsh Bmx Club Inc.</i></b>	<b><i>Bacchus Marsh BMX Club Scorers Hut</i></b>	<b><i>\$4,840</i></b>
<b><i>Myrniong Primary School</i></b>	<b><i>Flag Pole and Indigenous Garden</i></b>	<b><i>\$1,000</i></b>
<b><i>Bacchus Marsh &amp; Melton Districts Community Theatre Incorporated</i></b>	<b><i>Moonlite Theatre Portable Lighting system</i></b>	<b><i>\$1,000</i></b>

<b><i>Ballan Shire Historical Society Incorporated</i></b>	<b><i>Air Conditioning of Ballan Old Courthouse.</i></b>	<b><i>\$1,795</i></b>
<b><i>The Lions Club of Bacchus Marsh Inc</i></b>	<b><i>Scout Hall Solar Panels</i></b>	<b><i>\$5,000</i></b>
<b><i>Ballan District Vintage Machinery and Vehicle club</i></b>	<b><i>Catch the Rain</i></b>	<b><i>\$3450</i></b>
	<b><i>Total</i></b>	<b><i>\$34,392</i></b>

3. ***That Council allocates the following grants in the Community Events Grant category:***

<b><i>Organisation Name</i></b>	<b><i>Project name</i></b>	<b><i>Amount</i></b>
<b><i>Darley Neighbourhood House and Learning Centre Inc.</i></b>	<b><i>Know Your Neighbour, Know Your Neighbourhood House</i></b>	<b><i>\$1,340</i></b>
<b><i>Moorabool Catchment Landcare Group</i></b>	<b><i>Celebrating 30 years of Landcare</i></b>	<b><i>\$2,900</i></b>
<b><i>Moorabool Light Orchestra</i></b>	<b><i>Young Peoples Concert</i></b>	<b><i>\$3,000</i></b>
<b><i>BM Running Club</i></b>	<b><i>Bacchus Marsh Recreational Running Events</i></b>	<b><i>\$1,000</i></b>
<b><i>Bacchus Marsh Aquatic Centre Community Consortium Inc</i></b>	<b><i>Bacchus Marsh Flower &amp; Garden Show</i></b>	<b><i>\$3,000</i></b>
	<b><i>Total</i></b>	<b><i>\$11,240</i></b>

4. ***That Council allocates the following grants in the Community Development Fund Grant category:***

<b><i>Organisation Name</i></b>	<b><i>Project name</i></b>	<b><i>Amount</i></b>
<b><i>Ballan Bowling Club Inc</i></b>	<b><i>Ballan Bowls Synthetic Green</i></b>	<b><i>\$100,000</i></b>
<b><i>Clarendon Recreation Reserve Committee of Management</i></b>	<b><i>Stage 2 Management Plan Clarendon Recreation Reserve</i></b>	<b><i>\$ 29,742</i></b>
	<b><i>Total</i></b>	<b><i>\$129,742</i></b>

5. ***That all applicants be notified in writing of the outcome of their application.***
6. ***That Council Staff provide feedback to unsuccessful groups and provide suggestions for alternative funding (if applicable) or how the group may choose to improve and re-develop their application for submission to the next appropriate round of the Community Grants program.***

***Councillor Sullivan called for a Division.***

***Councillors voting for the Resolution:***

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

***Councillors voting against the Resolution:***

***Cr. Sullivan  
Cr. Tatchell***

***The amendment was determined to be CARRIED.”***

**CARRIED**

**13.2 Cr. Tatchell N.O.M: No. 286 – Notice of Motion – Community Grants Program Round 1 (March) 2019**

**Resolution:**

**Crs. Tatchell / Sullivan**

**That the Council determines in the following manner in relation to the Community Grants Program Round 1 (March) 2019:**

- 1. That Council allocates the following grants in the Community Arts and Culture Grant category:**

<b><i>Organisation Name</i></b>	<b><i>Project name</i></b>	<b><i>Amount</i></b>
<b><i>Ballan &amp; District Community House &amp; Adult Education Centre Inc</i></b>	<b><i>Framing Your Art for Exhibition</i></b>	<b><i>\$2,700</i></b>
<b><i>Bacchus Marsh and District Photography Club</i></b>	<b><i>Basic Photography Workshop</i></b>	<b><i>\$1,613</i></b>
	<b><i>Total</i></b>	<b><i>\$4,313</i></b>

- 2. That Council allocates the following grants in the Community Strengthening Grant category:**

<b><i>Organisation Name</i></b>	<b><i>Project name</i></b>	<b><i>Amount</i></b>
<b><i>Djerriwarrh Health Services</i></b>	<b><i>Welcoming Baby to Country in Moorabool Shire</i></b>	<b><i>\$4,977</i></b>
<b><i>BM Dementia Alliance - Djerriwarrh Health Services</i></b>	<b><i>Environmental Audits</i></b>	<b><i>\$5,000</i></b>
<b><i>Moorabool Landcare Network</i></b>	<b><i>Growth at the Landcare Nursery</i></b>	<b><i>\$4,500</i></b>
<b><i>Ballan RSL Sub-Branch Building Patriotic Fund</i></b>	<b><i>Ballan RSL Air-conditioning</i></b>	<b><i>\$2,830</i></b>
<b><i>Bacchus Marsh BMX Club Inc.</i></b>	<b><i>Bacchus Marsh BMX Club Scorers Hut</i></b>	<b><i>\$4,840</i></b>
<b><i>Myrniong Primary School</i></b>	<b><i>Flag Pole and Indigenous Garden</i></b>	<b><i>\$1,000</i></b>
<b><i>Bacchus Marsh &amp; Melton Districts Community Theatre Incorporated</i></b>	<b><i>Moonlite Theatre Portable Lighting system</i></b>	<b><i>\$1,000</i></b>
<b><i>Ballan Shire Historical Society Incorporated</i></b>	<b><i>Air Conditioning of Ballan Old Courthouse</i></b>	<b><i>\$1,795</i></b>
<b><i>The Lions Club of Bacchus Marsh Inc</i></b>	<b><i>Scout Hall Solar Panels</i></b>	<b><i>\$5,000</i></b>



<b>Ballan District Vintage Machinery and Vehicle Club</b>	<b>Catch the Rain</b>	<b>\$3450</b>
	<b>Total</b>	<b>\$34,392</b>

3. ***That Council allocates the following grants in the Community Events Grant category:***

<b>Organisation Name</b>	<b>Project name</b>	<b>Amount</b>
<b>Darley Neighbourhood House and Learning Centre Inc.</b>	<b>Know Your Neighbour, Know Your Neighbourhood House</b>	<b>\$1,340</b>
<b>Moorabool Catchment Landcare Group</b>	<b>Celebrating 30 years of Landcare</b>	<b>\$2,900</b>
<b>Moorabool Light Orchestra</b>	<b>Young Peoples Concert</b>	<b>\$3,000</b>
<b>BM Running Club</b>	<b>Bacchus Marsh Recreational Running Events</b>	<b>\$1,000</b>
	<b>Total</b>	<b>\$8,240</b>

4. ***That Council allocates the following grants in the Community Development Fund Grant category:***

<b>Organisation Name</b>	<b>Project name</b>	<b>Amount</b>
<b>Ballan Bowling Club Inc</b>	<b>Ballan Bowls Synthetic Green</b>	<b>\$100,000</b>
<b>Clarendon Recreation Reserve Committee of Management</b>	<b>Stage 2 Management Plan Clarendon Recreation Reserve</b>	<b>\$ 29,742</b>
	<b>Total</b>	<b>\$129,742</b>

5. ***That all applicants be notified in writing of the outcome of their application.***
6. ***That Council Staff provide feedback to unsuccessful groups and provide suggestions for alternative funding (if applicable) or how the group may choose to improve and re- develop their application for submission to the next appropriate round of the Community Grants program.***

**CARRIED**

The Mayor resumed the Chair for the remainder of the Meeting.

**13.3 Cr. Keogh N.O.M: No. 281 – Notice of Rescission****Resolution:****Crs. Keogh / Dudzik**

1. That Council rescind the following resolution adopted by Council at the Ordinary Meeting of Council on Wednesday 3 April 2019:

*Resolution: Crs. Toohey/Edwards*

*That Council:*

1. *Pursuant to Section 29 of the Planning and Environment Act 1987, adopt Amendment C86 in the form provided at Attachment 11.2.2b and 11.2.2c.*
2. *Pursuant to Section 31 of the Planning and Environment Act 1987, submit the adopted Amendment, together with the prescribed information, to the Minister for Planning for approval.*
3. *That Heritage Overlay number H024 apply only to the building (140 Inglis St), rather than the whole site.*

**CARRIED**

**Resolution:****Crs. Edwards / Keogh**

2. That the original recommendation put forward by Officers in the report be moved:

**That Council:**

1. Pursuant to Section 29 of the Planning and Environment Act 1987, adopt Amendment C86 in the form provided at Attachment 11.2.2b and 11.2.2c.
2. Pursuant to Section 31 of the Planning and Environment Act 1987, submit the adopted Amendment, together with the prescribed information, to the Minister for Planning for approval.

**CARRIED**

**14. MAYOR'S REPORT**

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

<b>Cr. Paul Tatchell – Mayor's Report</b>	
<b>Date:</b> 7 August, 2019	
<b>26 June</b>	<ul style="list-style-type: none"> <li>• <b>Councillor Briefing – Audit of Closed Landfills</b></li> <li>• <b>Councillor Briefing – Urban Amenities</b></li> <li>• <b>Special Meeting of Council</b></li> </ul>
<b>3 July</b>	<ul style="list-style-type: none"> <li>• <b>Ordinary Meeting of Council</b></li> </ul>
<b>7 July</b>	<ul style="list-style-type: none"> <li>• <b>NAIDOC Week Smoking Ceremony and Welcome to Country</b></li> </ul>
<b>17 July</b>	<ul style="list-style-type: none"> <li>• <b>Councillor Briefing – Confidential Item</b></li> <li>• <b>Councillor Briefing – Review of the Draft OMC Agenda</b></li> <li>• <b>S86 Development Assessment Committee Meeting</b></li> </ul>
<b>31 July</b>	<ul style="list-style-type: none"> <li>• <b>SES Storage and Training Facility (Pick my Project) Project Update and Site Inspection</b></li> </ul>
<b>6 August</b>	<ul style="list-style-type: none"> <li>• <b>Positive Ageing Advisory Committee Meeting</b></li> </ul>
<b>7 August</b>	<ul style="list-style-type: none"> <li>• <b>Councillor Briefing – Beverley McArthur, Member for Western Victoria</b></li> <li>• <b>S86 Economic Development Taskforce Advisory Committee Meeting</b></li> <li>• <b>Ordinary Meeting of Council</b></li> </ul>

**Resolution:**

**Crs. Bingham / Keogh**

**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:*

<b>Cr. Bingham</b>	
<b>August 2019</b>	
<b>6 August</b>	<b><i>Bacchus Marsh District Trails Advisory Committee Meeting</i></b>

<b>Cr. Keogh</b>	
<b>July &amp; August 2019</b>	
<b>7 July</b>	<b><i>NAIDOC Week – Smoking Ceremony and Welcome to Country</i></b>
<b>7 August</b>	<b><i>Youth Action Group – Pick My Project YOUth Mental Health Matters in Moorabool</i></b>

<b>Cr. Dudzik</b>	
<b>July &amp; August 2019</b>	
<b>7 July</b>	<b><i>NAIDOC Week – Smoking Ceremony and Welcome to Country</i></b>
<b>5 August</b>	<b><i>Moorabool Health and Wellbeing Advisory Committee meeting</i></b>
<b>7 August</b>	<b><i>Youth Action Group – Pick My Project YOUth Mental Health Matters in Moorabool</i></b>
<b>6 August</b>	<b><i>Butterfly Foundation in partnership with Youth Services presentation on Children and Teen Body Confidence</i></b>

**Resolution:**

**Crs. Sullivan / Bingham**

**That the Councillors' reports be received.**

**CARRIED**

**16. URGENT BUSINESS**

**Nil.**

**ADJOURNMENT OF MEETING – 7.23pm**

**Crs. Bingham / Toohey**

**That the meeting now stand adjourned for a period of 5 minutes.**

**CARRIED**

**Cr. Toohey left the meeting at 7.23pm.**

**RESUMPTION OF MEETING – 7.49pm****Crs. Sullivan / Dudzik**

That the meeting now be resumed.

**CARRIED****17. CLOSED SESSION OF THE MEETING TO THE PUBLIC**

<b>17.1 C22-2018/19 Werribee Vale Rd, Maddingley - Pavement Rehabilitation &amp; Widening.</b>	
<b>Directorate:</b>	Community Assets and Infrastructure
<b>General Manager:</b>	Ewen Nevett
<b>Author:</b>	Tristan May
<i>Section 89(2)d – contractual matters</i>	

**Resolution:****Crs. Sullivan / Dudzik**

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

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

**CARRIED**

Pursuant to the provisions of Section 89(2) of the Local Government Act 1989, Item 17.1 is a confidential item and therefore not included as part of these Minutes.

**RETURN TO OPEN SESSION – 7.34pm**

**Crs. Edwards / Sullivan**

**That the Meeting now return to Open Session.**

**CARRIED**

**18. MEETING CLOSURE**

The meeting closed at 7.34pm.

**Confirmed.....Mayor.**