

SPECIAL MEETING OF COUNCIL

Notice is hereby given of a
Special Meeting of Council
to be held at the James Young Room,
Lerderderg Library, 215 Main Street,
Bacchus Marsh on
Wednesday 18 December 2013,
commencing at 5:00 p.m.

Members:

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

Officers:

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

Rob Croxford
Chief Executive Officer

AGENDA

1.	OPENING OF MEETING	3
2.	PRESENT.....	3
3.	APOLOGIES	3
4.	DISCLOSURE OF INTERESTS OR CONFLICTS OF INTEREST.....	4
5.	PRESENTATIONS/DEPUTATIONS	6
6.	BUSINESS	7
<i>6.1</i>	<i>Proposed Purchase of Portion of Land Adjoining Crown Allotment 4, Section 10 on TP531701</i>	<i>7</i>
<i>6.2</i>	<i>Blackwood Community Fire Refuge Pilot Project</i>	<i>9</i>
7.	FURTHER BUSINESS AS ADMITTED BY UNANIMOUS RESOLUTION OF COUNCIL	14
8.	CLOSED SESSION OF THE MEETING TO THE PUBLIC	15
9.	MEETING CLOSURE	16

1. OPENING OF MEETING

2. PRESENT

3. APOLOGIES

4. DISCLOSURE OF INTERESTS OR CONFLICTS OF INTEREST

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

Definitions of the class of the interest are:

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

Time for Disclosure of Conflicts of Interest

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

Section 79(6) of the Act states:

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

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

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

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

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

5. PRESENTATIONS/DEPUTATIONS

The Council has made provision in the business of the Special Meeting 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 the Council on a matter included in the agenda shall inform Council by 1pm on the Friday 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 the 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:

As listed.

6. BUSINESS

6.1 Proposed Purchase of Portion of Land Adjoining Crown Allotment 4, Section 10 on TP531701

Introduction

File No.: 199000
 Author: Shane Marr
 General Manager: Shane Marr

Background

The Lal Lal Hall Committee, which is a s86 Committee of Management of Council, has made enquiries regarding the purchase of an adjoining section of land to increase the size of the property and improve access to the hall.

Proposal

The Lal Lal Hall situated on Crown Allotment 4, Section 10 on TP531701, is a Council owned property of approximately 840 square metres. It is proposed that an additional portion of land approximately 1,600 square metres be purchased from the adjoining property.

The adjoining property owner is prepared to sell a parcel of land. The purpose of this report is to seek in principle approval to commence the process to acquire the land.

The purchase of the land will be in accordance with the requirements of s187 of the *Local Government Act 1989* and it will be necessary to obtain a planning permit for a 2 lot re-subdivision (boundary realignment).

The purchase of the land could be funded through the West Moorabool Development Reserve.

Policy Implications

The 2013 - 2017 Council Plan provides as follows:

Key Result Area	Representation and Leadership of our Community
Objective	Advocate for services and infrastructure that meets the Shire's existing and future needs
Strategy	Advocate on behalf of the community to improve services and infrastructure within the Shire

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

Financial Implications

The purchase of the land could be funded through the West Moorabool Development Reserve.

Communications Strategy

The proposal has been initiated by the Lal Lal Hall Committee of Management.

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 – Shane Marr

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

Author – Shane Marr

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

Conclusion

This report is seeking in principle support to proceed with the purchase of an additional portion of land adjoining the Lal Lal Hall known as Crown Allotment 4, Section 10 on TP531701 and that the purchase be funded through the West Moorabool Development Reserve.

Recommendation:

That Council:

- 1. provides 'in principle' support for the purchase of an additional portion of land adjacent to Crown Allotment 4, Section 10 on TP531701; and**
- 2. approves for the purchase to be funded through the West Moorabool Development Reserve.**

Report Authorisation

Authorised by:

Name: Shane Marr
Title: General Manager Corporate Services
Date: Thursday, 12 December 2013



6.2 Blackwood Community Fire Refuge Pilot Project

Introduction

File No.: 02/13/012
Author: Cherie Graham, Municipal Emergency Manager
CEO: Rob Croxford, Chief Executive Officer

Background

In the Bushfire Royal Commission Report, Recommendation Number 4 advises that the State investigate Shelter Options in areas of very high risk:

STATE SHELTER OPTIONS

The State introduce a comprehensive approach to shelter options that includes the following:

- 4.1 developing standards for community refuges as a matter of priority and replacing the 2005 Fire Refuges in Victoria: Policy and Practice*
- 4.2 designating community refuges - particularly in areas of very high risk - where other bushfire safety options are limited*
- 4.3 working with municipal councils to ensure that appropriate criteria are used for bushfire shelters, so that people are not discouraged from using a bushfire shelter if there is no better option available*
- 4.4 acknowledging personal shelters around their homes as a fallback option for individuals.*

On 7 December 2011 the Fire Services Commissioner presented at an Assembly of Council to Moorabool Shire Councillors on the proposed Community Fire Refuge pilot project for Blackwood.

A report was included in the agenda for the Ordinary Meeting of Council held on the same evening and the following was resolved:

Resolution:

Crs. Toohey/Hendry

- 1. That the Council give 'in principle support' for the Chief Executive Officer to agree to Moorabool Shire Council undertaking the pilot project for a Community Fire Refuge in Blackwood.*
- 2. That the Chief Executive Officer and Fire Services Commissioner work through details with partner agencies and in particular the Community Engagement program.*
- 3. That a further report be provided to Council to formally endorse the project.*
- 4. That no capital or recurrent funding beyond officer time be provided during the pilot project.*
- 5. That the Municipal Emergency Manager receives support from the Fire Services Commissioner's office on the implementation of this project.*

CARRIED.

At an Assembly of Council on 20 February 2012 Councillors received a further update and information from the Fire Services Commissioner on the Blackwood Community Fire Refuge Pilot Project.

In all of these presentations Council has been assured that designation and legal liability will be undertaken and provided by the State through the introduction of new legislation.

Over the last 12 months Council Officers have been a part of the Joint Agency Working Group that has been working through the Pilot Project and also a member of the Community Working Group that has been developing the operational procedures manual.

Proposal

Council has been working through this Pilot Project and had been advised that the State would be introducing legislation and providing indemnity for the Community Fire Refuge. As these Pilot Fire Refuges are nearing completion and the State has not introduced new legislation other options have needed to be explored.

In current legislation in the Emergency Management Act 1958 and Country Fire Authority Act 1986 the Council is the only statutory body that can designate a Refuge. Council's liability would result from the Council exercising a statutory power to designate the Community Fire Refuge. There is a high risk that a Council that designates a place as a Community Fire Refuge would be sued in any negligence action relating to loss and damage suffered in connection with a Community Fire Refuge despite the Fire Services Commissioner having State authority for the identification, construction, operation and maintenance of the refuge.

Throughout the whole process both the Municipal Association of Victoria (MAV) and local governments that are undertaking these pilot projects were of the understanding that the Fire Services Commissioner (FSC) would be designating and accordingly no liability would flow to Council.

In early November, conversations through the Joint Agency Working Group and correspondence received is now indicating that the Fire Services Commissioner will endorse the completed Community Fire Refuge and advise Council in writing that this has occurred.

To finalise designation it will need to be included in Council's Municipal Emergency Management Plan.

The Municipal Association of Victoria has been working closely with the Fire Services Commissioner and the State to overcome this designation issue so that the Community Fire Refuge Pilot Project in Blackwood could be formally designated by Council on the basis of the refuge being endorsed by the FSC and a broad indemnity from the State and included in the Moorabool Municipal Emergency Management Plan as the last stage of the process.

The MAV has represented Moorabool and Yarra Ranges Shire on this matter and has advised that it is satisfied that the risk issues for council have been addressed. Council can now have confidence that the designation and liability issues associated with the CFR have been addressed. The Deed of Indemnity expires on 30 June 2014 by which time the State expects that a legislative process and protection will be in place. Accordingly it is recommended that the designation by the Council be a designation of the endorsed pilot CFR for the period from the endorsement by the FSC until 30 June 2014.

The Treasurer of the State of Victoria, Michael O'Brien MP has now provided a *Deed of Indemnity* which states that the *State will at all times indemnify and keep indemnified the Municipal Council against each and every liability and all costs (including legal costs on a full indemnity basis) that the Municipal Council may incur in relation to a Claim arising from the Municipal Council's designation of a Community Fire Refuge for the purpose of the Pilot Project PROVIDED THAT the death of or injury to the person to which the Claim relates is a direct consequence of that person, during the Indemnity Period using (including entering or leaving a Pilot Site but excluding travelling to or from a Pilot Site) a Community Fire Refuge for shelter from a fire front during a bushfire on a day (or during part of a day) when the area in which a Community Fire Refuge was located was beset, or threatened, by bushfire.*

The Deed has now been executed by the Treasurer in anticipation of execution by the Council.

Policy Implications

The 2013 - 2017 Council Plan provides as follows:

Key Result Area	Representation and Leadership of Our Community
Objective	Effective strategic and business planning for a growing community
Strategy	Plan for and manage Council's strategic and operational risks.

Financial Implications

Financial Implications will be provided by the State as per the Treasurer's Deed of Indemnity.

Risk & Occupational Health & Safety Issues

The Deed of Indemnity provided by the Treasurer of Victoria will cover the indemnity issues for the Blackwood Community Fire Refuge Pilot Project.

Communications and Consultation Strategy

Nil.

Victorian Charter of Human Rights and Responsibilities Act 2006

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

Officer's Declaration of Conflict of Interests

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

Chief Executive Officer – Rob Croxford

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

Author – Cherie Graham

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

Conclusion

The Community Fire Refuge Pilot Project in Blackwood has been a significant project for the community and the input and drive from the community itself has been very encouraging.

The community of Blackwood understands the risks of the area they live in and have encouraged and supported this Community Fire Refuge being built in the CFA building as a place of last resort if their personal bushfire survival plans fail. The continued message for areas like Blackwood is to leave early.

The building works are on track to be completed prior to the 2013/14 fire season and designation can be completed now that the Treasurer of the State has provided a Deed of Indemnity.

The Fire Services Commissioner will endorse the Blackwood Community Fire Refuge once Ministerial Direction 4 performance requirements and operational procedures are in place. To finalise designation under the CFA Act, this will need to be included in the MEMPlan once the Deed of Indemnity is signed and sealed.

Recommendation:

- 1. That Council accepts the Treasurer of Victoria, Mr Michael O'Brien MP and Moorabool Shire Council Deed of Indemnity and designates the Pilot Project Blackwood Community Fire Refuge, such designation to be effective once the Fire Services Commissioner has endorsed the Pilot Project Blackwood Community Fire Refuge from the date of the endorsement to 30 June 2014.**

2. That the Pilot Project Blackwood Community Fire Refuge Deed of Indemnity document be signed and sealed by the Mayor and Chief Executive Officer of Moorabool Shire Council.
3. That the Council authorise the Chief Executive Officer to list the Pilot Project Blackwood Community Fire Refuge into the Moorabool Municipal Emergency Management Plan 2010-2013.

Report Authorisation

Authorised by: 

Name: Rob Croxford
Title: Chief Executive Officer
Date: Friday 13 December 2013

7. FURTHER BUSINESS AS ADMITTED BY UNANIMOUS RESOLUTION OF COUNCIL

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

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

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

9. MEETING CLOSURE