



# **AGENDA**

## **Ordinary Council Meeting Wednesday, 1 March 2023**

**I hereby give notice that an Ordinary Meeting of Council will be held on:**

**Date: Wednesday, 1 March 2023**

**Time: 6.00pm**

**Location: Council Chambers, 15 Stead Street, Ballan &  
Online**

**Derek Madden  
Chief Executive Officer**



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## **1 OPENING OF MEETING AND PRAYER**

Almighty God be with us as we work for the people of the Shire of Moorabool. Grant us wisdom that we may care for the Shire as true stewards of your creation. May we be aware of the great responsibilities placed upon us. Help us to be just in all our dealings and may our work prosper for the good of all. Amen.

## **2 ACKNOWLEDGEMENT OF COUNTRY**

I acknowledge the Traditional Owners of the land on which we are meeting. I pay my respects to their Elders, past and present, and the Aboriginal Elders of other communities who may be here today.

## **3 RECORDING OF MEETING**

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

- The Moorabool News; and
- The Star Weekly

## **4 PRESENT**

## **5 APOLOGIES**

## **6 CONFIRMATION OF MINUTES**

Ordinary Council Meeting - Wednesday 1 February 2023

## **7 DISCLOSURE OF CONFLICTS OF INTEREST**

Conflict of interest laws are prescribed under the *Local Government Act 2020* (the Act) and in the Local Government (Governance and Integrity) Regulations 2020 (the Regulations). Managing conflicts of interest is about ensuring the integrity and transparency of decision-making.

The conflict of interest provisions under the Act have been simplified so that they are more easily understood and more easily applied. The new conflict of interest provisions are designed to ensure relevant persons proactively consider a broader range of interests and consider those interests from the viewpoint of an impartial, fair-minded person.

Section 126 of the Act states that a Councillor has a conflict of interest if they have a general conflict of interest or a material conflict of interest. These are explained below:

- A Councillor has a general conflict of interest in a matter if an impartial, fair-minded person would consider that the member's private interests could result in them acting in a manner that is contrary to their public duty as a Councillor.
- A Councillor has a material conflict of interest in a matter if an affected person would gain a benefit or suffer a loss depending on the outcome of the matter.

A relevant person with a conflict of interest must disclose the interest in accordance with Council's Governance Rules and not participate in the decision-making process on the matter. This means the relevant person must exclude themselves from any discussion or vote on the matter at any Council meeting, delegated committee meeting, community asset committee meeting or, if a Councillor, any other meeting conducted under the auspices of the Council. The relevant person must also exclude themselves from any action in relation to the matter, including an action taken to implement a council decision, for example, issuing a planning permit.

## **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 3.7.1 of the Council's Governance Rules.

- (a) Question time will take place during the Council Meeting as provided for in the agenda.
- (b) Questions in writing in the form prescribed by the Chief Executive Officer will be accepted up to 5pm on the day before the Meeting.
- (c) A person must not submit more than two (2) individual questions at a meeting, inclusive of all parts and variants as interpreted by the Chairperson or other person authorised for this purpose by the Chairperson.
- (d) 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 the:
  - (i) person directing the question is present in the gallery;
  - (ii) question does not relate to a confidential matter;
  - (iii) question does not relate to a matter in respect of which Council has no power to act;
  - (iv) question is not defamatory, indecent, abusive or objectionable in language or substance;
  - (v) question is not a repetition of a question already asked or answered (whether at the same or an earlier meeting); and
  - (vi) question is not asked to embarrass a Councillor, member of Council staff or member of the public.
- (e) Persons submitting questions must be present in the public gallery. If they are not present in the Gallery, the question will be held over to the next meeting only.
- (f) The Chief Executive Officer will read out each question and the Chairperson shall decide who will answer each question.

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.

## **9 PETITIONS**

Nil

## **10 PRESENTATIONS/DEPUTATIONS**

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

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.

## **11 CHIEF EXECUTIVE OFFICER REPORTS**

### **11.1 PROPOSED SALE OF LAND - 8 BOND STREET, MADDINGLEY**

**Author:** Kate Pryor, Governance Officer

**Authoriser:** Celeste Gregory, Executive Manager - Democratic Support & Corporate Governance

**Attachments:** Nil

#### **PURPOSE**

This report seeks Council's consideration to sell a portion of Council-owned land located at 8 Bond Street, Maddingley identified as Lot 1 on Plan TP952312G to DNS Investments by private treaty.

#### **EXECUTIVE SUMMARY**

The owners of 8 Bond Street, Maddingley (Lot 1 on TP 893770A) were granted a planning permit by resolution of the Development Assessment Committee on 20 July 2022 for the Development and Use of a Warehouse and Reduction in Car Parking (Three Car Spaces).

Clause 3 of the planning permit stipulates that before the development commences, Lot 1 on TP 893770A and Lot 1 on TP 952312G must be held in common ownership or a lease of Lot 1 on TP 952312G is obtained.

Lot 1 on Plan TP952312G was transferred to Council as part of the Titles Office *Unallocated Land Project* in 2013, which by instrument transferred all unallocated parcels of land to the relevant municipal council and is surplus to Council's requirements.

#### **RECOMMENDATION**

That Council resolves to:

- 1. Declare the land described as Lot 1 on Plan TP952312G (8 Bond Street, Maddingley) as surplus to Council requirements.**
- 2. Give notice under Section 114 of the Local Government Act 2020 that the land is proposed to be sold.**
- 3. Give notice under Sections 114 of the Local Government Act 2020, that any submissions made under Section 223 of the Local Government Act 1989 can be submitted not less than 28 days after the date on which the public notice is published in the local newspapers circulating within the Municipality.**
- 4. Following the completion of the public submission process, receives on Officer's report to Council for consideration.**



**BACKGROUND**

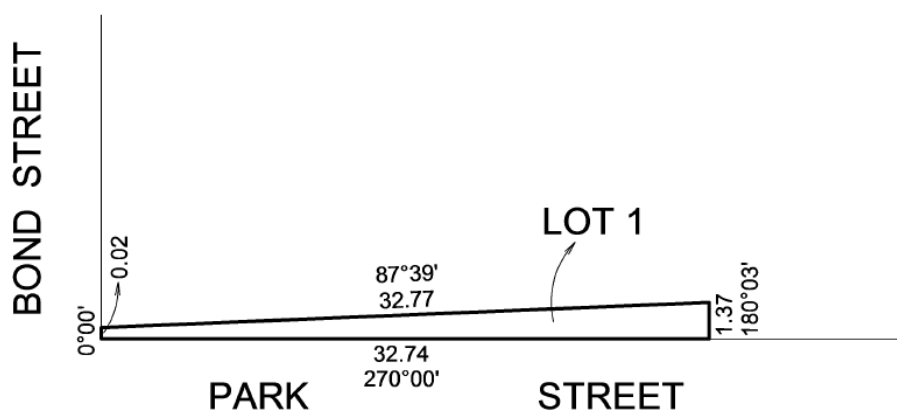
On 20 July 2022 the Development Assessment Committee resolved to make notice of a decision to grant planning permit PA2021182 to the applicant DNS Investments, who own 8 Bond Street, Maddingley (Lot 1 on TP 893770A).

Clause 3 of the planning permit states:

Before the development commences, Lot 1 on TP 893770A and Lot 1 on TP 952312G must be held in common ownership or a lease of Lot 1 on TP 952312G is obtained to the satisfaction of the Responsible Authority.

The lot (see Figure 1) was created through a series of subdivisions occurring prior to the Subdivision Act 1988 which resulted in the eventual creation of the two lots and the adjoining road being Park Street, Maddingley. The land was most likely intended to be declared as part of the road reserve, but for reasons unknown this did not occur, and it was titled as freehold land. The lot remained unallocated since the last subdivision and was subsequently transferred to Council ownership as part of the Titles Office *Land Remaining Untransferred Project* in 2013.

Figure 1



Council officers are currently in negotiations with DNS Investments to temporarily lease the land to enable them to meet the requirements of the planning permit prior to its expiry until a resolution of sale can be made. The land is surplus to Council’s requirements and provides no value to lease on an ongoing basis, and it is recommended that Council resolve to commence the statutory procedures required to sell the land to DNS Investments by private treaty.

**PROPOSAL**

Prior to making a decision to sell any Council land, section 114 of the *Local Government Act 2020* provides that Council must:

- At least 4 weeks prior to selling or exchanging the land, publish notice of intention to do so on the Council's Internet site and in any other manner prescribed by the regulations
- Undertake a community engagement process in accordance with its community engagement policy; and
- Obtain from a person who holds the qualifications or experience specified under section 13DA(2) of the Valuation of Land Act 1960 a valuation of the land which is made not more than 6 months prior to the sale or exchange

This report proposes that Council formally authorise officers to give public notice in accordance with section 114 of the *Local Government Act 2020* of the intention to sell the land and to receive public submissions in accordance with section 223 of the *Local Government Act 1989* and Council's community engagement policy.

### **COUNCIL PLAN**

The proposal is not provided for in the Council Plan 2021-2025 and can be actioned by utilising existing resources.

### **FINANCIAL IMPLICATIONS**

It is expected that Council will make a small sum from the proposed sale, subject to a valuation being undertaken. All other costs associated with administering the sale will be borne by the applicant.

### **RISK & OCCUPATIONAL HEALTH & SAFETY ISSUES**

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

### **COMMUNICATIONS & CONSULTATION STRATEGY**

<b>Level of Engagement</b>	<b>Stakeholder</b>	<b>Activities</b>	<b>Date</b>	<b>Outcome</b>
Consult	General public, abutting property owners, service utilities	Written correspondence, advertisement in the Victorian Government Gazette, advertisement on the Have Your Say Website, public notice in the local newspaper	March/April 2023	General public support on proposed sale

Under section 114 of the Act, Council is required to advertise its intentions on its website and in any other form in accordance with its community engagement policy. It is proposed to:

- Advertise on Council's Have Your Say Website and inviting public submissions;
- Publish a notice in the local newspaper, the Moorabool News;
- Publish a notice in the Victorian Government Gazette;
- Provide written notice to individual abutting landowners.

### **VICTORIAN CHARTER OF HUMAN RIGHTS & 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 130 of the *Local Government Act 2020*, officers providing advice to Council must disclose any interests, including the type of interest.

*Executive Manager – Celeste Gregory*

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

*Author – Kate Pryor*

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

**CONCLUSION**

In view of the limited use of the land, it is recommended that Council consider selling the land to DNS Investments and formally authorise officers to give public notice of its intention to sell in accordance with section 114 of the Act.

**11.2 PROPOSED DISCONTINUANCE OF A PORTION OF ROAD KNOWN AS SETTLEMENT ROAD, ELAINE**

**Author:** Celeste Gregory, Executive Manager - Democratic Support & Corporate Governance

**Authoriser:** Derek Madden, Chief Executive Officer

**Attachments:**

1. **Figure 1 : Property Location: Proposed road discontinuance in black. (under separate cover)**
2. **Plan of Crown Allotment (under separate cover)**

**PURPOSE**

To consider community responses and officer feedback from the advertisement of the proposed road discontinuance for part of a Government Road in Elaine, North of Allotment 3, Section 1, Parish of Borhoneyghurk in accordance with the *Local Government Act 1989* and determine whether the road should be discontinued.

**EXECUTIVE SUMMARY**

- Both Council and the Department of Environment Land, Water and Planning (DELWP) have received a request from an adjoining landowner for the discontinuance (legal closure) of part of a Government Road in Elaine.
- The adjoining landowner currently has an Agricultural Licence with DELWP for the land.
- If discontinued, the land from the road will vest in the Crown. Following which DELWP intends to facilitate the sale of the land by the Crown to the adjoining landowner.
- Community consultation was sought by:
  - Mailing all immediate neighbouring properties advising Council was seeking feedback from the proposed road discontinuance (twice, including once by registered post).
  - Advertised in the Victorian Government Gazette.
  - Advertised in the Moorabool News.
  - Advertised on Council's Have You Say website.
- Four responses were received from the community all requesting the proposed road discontinuance not be adopted.
- Council Officers have recommended the road discontinuance, as it has been proposed, not be adopted by Council as it would potentially land lock parcels of land should the rate payers of those properties wish to subdivide in the future.

**RECOMMENDATION**

**That Council resolves to not support the proposed road discontinuance for part of a Government Road in Elaine, North of Allotment 3, Section 1, Parish of Borhoneyghurk in accordance with the Local Government Act 1989 following feedback from community consultation and the potential for land-locking parcels of land.**

**BACKGROUND**

The owner of 154 Murphys Road, Elaine currently has a 99-year Agricultural Licence with the Department of Environment Land, Water and Planning (DELWP) over the Government Road shaded black and shown hatched over yellow in figure 1. The landowner is now seeking to acquire title to the section of road shaded black on figure 1.

The sale of any land from a Government Road is administered by DELWP. Before the land can be sold, road status must be removed from the land by way of a road discontinuance. Whilst the State Government (via DELWP) has the power under the *Land Act 1958* to discontinue and sell Government Roads, its preference/process is for the Local Council, as the local road authority, to facilitate a discontinuance under the *Local Government Act 1989* (the Act).

The applicant owns the three abutting titles to the north of the road, shown as parcels 1 to 3 in figure 1. The applicant is not seeking to have the section of road shown hatched over yellow discontinued as this may limit future access to parcels 1 and 2.

Council's powers do not, however, extend to the sale of the land from a Government Road. Accordingly, if the road is discontinued, it is the intention of DELWP to seek the Minister for Finance's approval for the sale of the land by the Crown at current market value.

The adjoining landowner has agreed to purchase the land from DELWP if the road can be discontinued by Council.

The formal procedures under the Act required Council to give public notice of its intention to discontinue the road and invite submissions from affected parties under section 223 of the Act. Public notice was given in the Moorabool News newspaper and appeared on Council's website for the duration of the 28-day 'submission period'.

In addition, surrounding property owners were advised of the proposal in writing and informed of their right to make a submission.

**PROPOSAL**

Public submissions were sought in relation to the proposed road discontinuance of a Government Road in Elaine, North of Allotment 3, Section 1, Parish of Borhoneyghurk for which four responses were received.

All four submissions were not supportive of the proposed road discontinuance for which the feedback received included:

- A resident of Bowers Lane does not support the proposed road discontinuance and understands it part of a lease so has concerns the land would be developed if sold. Residents use the paper road as a fire and emergency access point.
- Discontinuing the road would result in properties abutting the paper road not having rear access and highlights a lack of planning for the township of Elaine.
- Closure of a portion of the paper road will result in access issues for a rate payer property.
- Disagrees with the applicant's proposal and should be withdrawn as it isn't within the residents of Elaine's best interest.

Feedback from Council Officers included:

- Should the proposed discontinuance be adopted, it would need to be completed in a way in which no parcel of land is “land-locked”. There may need to be a requirement that parcels of land be consolidated, if they are in the one ownership, as part of the process and before finalisation of the sale of the “old” road reservation.
- Parcel 2029/PP2206 – this is a small parcel of land that is zoned Township Zone. It is noted that due to adjoining development any future development of this road would be limited to that as a no through road e.g. connection to the Midland Highway is not possible. Strategic has no objections to the sale of this land and removal of road status. It is noted that the land is vacant and due to its zoning is able to accommodate a dwelling (subject to a permit). Given the development opportunity of this land, DELWP may wish to sell that land by a public process to ensure highest and best value is obtained.
- Parcel 2030/PP206 – this land is zoned Township Zone and is adjacent land that is capable of further subdivision. Sale of this land and removal of road status is not supported, noting that this land may be needed should future subdivision of the land occur.

**COUNCIL PLAN**

The Council Plan 2021-2025 provides as follows:

**Strategic Objective 3: A Council that listens and adapts to the needs of our evolving communities**

**Priority 3.4: Measure performance, communicate our results and continue to improve our services every day**

The proposal to discontinue a portion of the government road north of Allotment 3 Section 1, Parish of Borhoneyghurk is consistent with the Council Plan 2021-2025.

**FINANCIAL IMPLICATIONS**

Costs associated with the proposed discontinuance of a portion of Settlement Road, Elaine will be borne by Council.

**RISK & OCCUPATIONAL HEALTH & SAFETY ISSUES**

No risks have been identified for the proposed discontinuance of government road, Settlement Road, Elaine.

**COMMUNICATIONS & CONSULTATION STRATEGY**

Level of Engagement	Stakeholder	Activities	Location	Date	Outcome
Consult (conducted and concluded)	Community	Written correspondence, website notice, public notice in newspaper and Government Gazette	Elaine district and surrounds	November 2022 (conducted and concluded)	Opportunity for consultation on the proposal to occur.

**VICTORIAN CHARTER OF HUMAN RIGHTS & 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 130 of the *Local Government Act 2020*, officers providing advice to Council must disclose any interests, including the type of interest.

*Chief Executive Officer – Derek Madden*

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

*Author – Celeste Gregory*

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

**CONCLUSION**

The proposal to discontinue a portion of the government road north of Allotment 3 Section 1, Parish of Borhoneyghurk is not supported in its current form based on feedback from the community consultation and the response from Council Officers.

### **11.3 PROPOSED DISCONTINUANCE OF A PORTION OF GOVERNMENT ROAD - HOWARDS ROAD, NAVIGATORS**

**Author:** Celeste Gregory, Executive Manager - Democratic Support & Corporate Governance

**Authoriser:** Derek Madden, Chief Executive Officer

**Attachments:** 1. Attachment A - Map of Proposed Road Discontinuance and Road Extension. (under separate cover)

#### **PURPOSE**

This report seeks Council's consideration to discontinue a portion of road reserve identified as an unsealed government road situated to the south of property, 144 Dunnstown-Yendon Road, Dunnstown and north of property 89 Ditchfield Road North, Navigators and Howards Road, Navigators, respectively.

#### **EXECUTIVE SUMMARY**

- Boral Quarries Dunnstown (Boral) received DELWP Crown Survey Approval to proceed with the purchase of Howards Road. Boral has subsequently acquired this property along with the following neighbouring properties 200 Navigators Dunnstown Road, Yendon and 62 Hewittsons Road, Navigators.
- Boral, as the proponent, requested Council to facilitate the process for road discontinuance of Howards Road and extension of Hewittsons Road for quarry expansion of the Dunnstown facility.
- Council resolved at the 5 October 2022 meeting for advertising of a potential discontinuance to receive community feedback are not disadvantaged. Although the advertising of a potential road discontinuance was undertaken, this does not guarantee the road will be closed.
- Public notice of the proposed road discontinuance was advertised through:
  - Gazetted in the Victorian Government Gazette
  - Advertising each side of Howards Road proposed road discontinuance area
  - Advertising in the Moorabool News
  - Moorabool Shire Council Have Your Say
- Public submissions were received from three respondents in relation to the proposed road discontinuance. Two of the three objections to the closure of Howards Road expressed a wish for Hewittsons Road to be extended to offset the Howards Road closure. Should Council conditions be met for the extension of Hewittson's road, the objectors are willing to withdraw their submission.
- Council officers are firming the conditions for the extension of the Hewittsons Road in accordance with the Infrastructure Design Manual (IDM) prior to the closure of Howards Road. This will also meet the community feedback who expressed concern Howards Road should not be closed until Hewittsons Road is extended to offset the closure. Should Boral meet Council's requirements for the extension of Hewittsons Road, the Objectors will remove their objection to the proposed road discontinuance.



**RECOMMENDATION****That Council:**

- 1. Resolves to receive the public submissions regarding the proposed closure of Howards Road, Navigators.**
- 2. Resolves, subject to Boral meeting the requirements for the construction of a sealed road for Hewittsons Road, Navigators, to discontinue Howards Road.**
  - (a) Hewittsons Road, Navigators is extended in accordance with the following requirements:**
    - (i) The road is sealed full length from Howards Road intersection to Ditchfield Road**
    - (ii) The road is formed with a 4.0m seal width and 1.5m unsealed shoulder both sides**
    - (iii) Table drains are included**
    - (iv) The intersection with Ditchfield Road is sealed**
    - (v) The road is designed in accordance with the relevant Austroads guidelines and a road safety audit is completed on the proposed road design demonstrating it meets the Safe System approach to road safety**
    - (vi) A pavement design (including the specified depth and quality of materials proposed) is prepared by a qualified person and submitted for approval by Moorabool Shire Council**
    - (vii) Any water course crossing to be designed by a qualified person and submitted for approval by Moorabool Shire Council**
    - (viii) No construction shall occur until Moorabool Shire Council has approved the plans and specification.**

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**BACKGROUND**

Boral Quarries Dunnstown (Boral), acting on behalf of Boral Land and Property Group, are seeking Council's consent for the discontinuation of a portion of government road identified as Howards Road currently crossing perpendicular to Navigators-Dunnstown Road/Hewittsons Road, Navigators and Ditchfield North Road, Navigators.

A government road is a road reserve where the land is Crown land. Council, in accordance with Section 206 and Schedule 10 Clause 3 of *Local Government Act 1989* (the Act) has the power to discontinue a road, or part of a road, by a notice published in the Government Gazette. It is noted that after discontinuation, the land in a government road becomes unalienated Crown land, owned by the Crown, to be settled by the Department of Environment, Land, Water and Planning (DELWP).

The government road is a gravel road situated to the south of, 144 Dunnstown-Yendon Road, Dunnstown and north of 89 Ditchfield Road North, Navigators and Howards Road, Navigators, respectively.

Refer to **Attachment A** for the proposed road discontinuance of Howards Road and the extension of Hewittsons Road, Navigators.

## PROPOSAL

Prior to making a decision to discontinue a road or part of a road, section 207A of the Act provides that a person may make a submission under section 223 on the proposed portion of road discontinuance being considered under schedule 10 clause 3 of the Act. This report proposes that Council formally authorise officers to give public notice in accordance with section 207A of the Act of the intention to discontinue the portion of road under section 206 and Schedule 10 clause 3 of the Local Government Act 1989.

Council advertised the proposed road discontinuance from 13 October 2022 to 11 November 2022 utilising the following methods:

- Gazetted in the Victorian Government Gazette
- Advertising each side of Howards Road proposed road discontinuance area
- Advertising in the Moorabool News
- Moorabool Shire Council Have Your Say

Public submissions from the three community members included:

- An objection against the closure of Howards Road. The road is used to get to and from the South Geelong Farmers Market which operates 2-3 times a month. The community member also travels to and from Lara (near Geelong) to pick up seasonal seedlings once a week, (September to May) and on occasion, they also use the road to pick up/off machinery and large deliveries. Because trucks are not allowed over the Navigators bluestone bridge, Howards road is the ONLY road that provides them with access to Navigators Road. The community member understands that Boral did propose to extend Hewittsons Road to Navigators Road however they drove down there and is still a dead end road. Therefore they wish to object to the closure of Howards Road.
- An objection to the proposed road closure as it will cease access to Ditchfield Road. Howards Road is used for commuting to and from the community members workplace (from Navigators to Yendon) and is used as a quiet road to safely walk/run along for leisure.

The community member requested the existing Hewittsons Road be opened up as a through road to maintain direct access to Ditchfields Road before the impending closure of Howards Road takes affect.\*

- An objection to the proposed road closure as it will interfere with the community members machinery and livestock access to the land being leased on Kielys Road. They currently move livestock and farm machinery along Howard's Road as it is the safest route being that no quarry trucks and very few cars travel on it.

A request is the proposal by Boral Quarries put forward being to change the existing Hewittsons Road to a "through road" be completed before the closure of Howards Road so we are able to maintain safe passage for all farm machinery and livestock.\*

\*Please note; The Objectors are willing to remove their objection if Boral meet the conditions stipulated by Council for the extension of Hewittson Road prior to the road discontinuance of Howards Road, Navigators.

Council Officers are seeking agreement regarding the extension of Hewittsons Road with Boral Quarries with the minimum requirements being stated as:

- The typical cross-section Council will require be based on current standards for the road classification Council adopts for the replacement roads and traffic volumes with growth accounted for. Council will request a traffic report to support the proposal. The traffic report would look at movement of traffic (i.e. origin and destination) to predict volumes on the new roads and estimate future volumes. The traffic report should also provide any advice on existing and/or new intersections in relation to their safe operation.
- All proposed new replacement roads will be required to be sealed. The Infrastructure Design Manual (IDM) is a guide to this only. Council’s default position in accordance with the IDM is 20m road reservation with the new road having a 4.0m to 6.2m seal plus shoulders and table drains, with the detail, including pavement depths, to be confirmed following identification of applicable data and community consultation. The full length of Hewittsons Road reservation (i.e. the current northern section which has an unsealed road and the southern section which is unmade) needs to be treated equally.
- Council will not be contributing to the construction of new roads as a result of Boral’s proposal.

**COUNCIL PLAN**

The Council Plan 2021-2025 provides as follows:

**Strategic Objective 3: A Council that listens and adapts to the needs of our evolving communities**

**Priority 3.2: Align services to meet the needs of the community**

The proposal for discontinuance of a portion of government road, Howards Road, Navigators is consistent with the Council Plan 2021-2025.

**FINANCIAL IMPLICATIONS**

All financial costs associated with the proposed road discontinuance and extension of Hewittsons Road will be borne by Boral.

**RISK & OCCUPATIONAL HEALTH & SAFETY ISSUES**

No risks have been identified for the proposed discontinuance of government road, Howards Road, Navigators.

**COMMUNICATIONS & CONSULTATION STRATEGY**

Level of Engagement	Stakeholder	Activities	Location	Date	Outcome
Inform	Community	Advertising the closure of Howards Road, Navigators	Victorian Government Gazette	Upon conditions being met by Boral Quarries	Closure of Howards Road, Navigators.

**VICTORIAN CHARTER OF HUMAN RIGHTS & 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 130 of the *Local Government Act 2020*, officers providing advice to Council must disclose any interests, including the type of interest.

*Chief Executive Officer – Derek Madden*

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

*Author – Celeste Gregory*

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

**CONCLUSION**

When Boral Quarries meets Council's conditions stipulated for the extension of Hewittsons Road, it is proposed Howards Road, Navigators will be discontinued.

## **12 COMMUNITY PLANNING AND ECONOMIC DEVELOPMENT REPORTS**

### **12.1 ENFORCEMENT POLICY**

**Author:** Andy Gaze, Coordinator Community Health & Safety

**Authoriser:** Henry Bezuidenhout, Executive Manager Community Planning & Development

**Attachments:** 1. Enforcement Policy (under separate cover)

#### **PURPOSE**

The purpose of this report is to provide Council with an overview of the process undertaken to develop and engage with the stakeholders and the community on the Enforcement Policy and recommend that Council adopts the Policy.

The Enforcement Policy acknowledges the shared responsibility between Council and the community to protect public health, amenities, community wellbeing and the environment.

#### **EXECUTIVE SUMMARY**

The Enforcement Policy:

- Is a risk-based document that will guide Moorabool Council's enforcement actions.
- Is designed to ensure that all enforcement and compliance activities undertaken by Council to protect public amenities, community safety, and the environment are undertaken independently, consistently, in the public interest, with integrity, professionally and without fear, favour, or bias.
- Has undergone community consultation and a Gender Impact Assessment. One anonymous submission was received.

#### **RECOMMENDATION**

**That Council:**

- 1. Resolves to note the outcome of the community consultation.**
- 2. Resolves to adopt the Enforcement Policy.**

---

#### **BACKGROUND**

The Enforcement Policy was developed to provide guidance and information to the community, business and Council officers on how Council will act when contraventions to legislative requirements are identified.

A core principle of the Enforcement Policy is to educate business and community on their obligations and responsibilities to comply with legislative requirements. By having knowledge of these requirements, voluntary compliance is more likely resulting in reduced compliance and enforcement action and an improved environment for all.

The Enforcement Policy commits Council to undertake enforcement and compliance activities in a transparent, fair and unbiased manner using a variety of tools from education through to the instigation of legal action.

### **Overview of the Policy**

The Enforcement Policy is risk based and sets four risk levels with action ranging from education to Court proceedings. The Enforcement Policy allows Council a level of discretion about action to be taken and sets out areas that can be taken into account when exercising discretion and areas that cannot.

The Policy aims to promote compliance by informing, educating, and facilitating compliance outcomes.

The Policy is structured as follows:

- Council's approach to enforcement activities,
- Key principles to guide enforcement and compliance activities
- Methodology and options when dealing with non-compliances
- Risk matrix to inform risk analyses
- Monitoring requirement for annual reporting to Council.

As part of the Enforcement Policy there is a reporting requirement that each year a set number of matters are reviewed to ensure that Council actioned them in line with the Enforcement Policy and that the results of this audit are presented to Council. It is important to note that the policy is aligned with current statutory enforcement compliance processes.

### **Stakeholder and community consultation**

Consultation was undertaken in June/July 2022 through the 'Have Your Say' portal. We received one anonymous submission which stated:

*I am unsure why you have discretion as I have not heard/witnessed it ever been used, generally I have witnessed ridiculous comparisons, such as "this is what Melbourne City Council do"*

As the submission was anonymous it is not possible to consult with the person to discuss their comment so it can be ascertained why they have this opinion.

### **PROPOSAL**

The Enforcement Policy acknowledges:

- the shared responsibility between Council and the community to protect public health, amenities, community wellbeing and the environment to ensure local laws, acts and obligations are complied with; and
- provides the principles of proportionality, consistency, fairness and transparency and provides internal direction regarding enforcement.

### **COUNCIL PLAN**

The Council Plan 2021-2025 provides as follows:

**Strategic Objective 3: A Council that listens and adapts to the needs of our evolving communities**

**Priority 3.2: Align services to meet the needs of the community**

The adoption of an Enforcement Policy is not specifically identified within Council 2021-2025 Council Plan.

The adoption of an Enforcement Policy was a requirement within the 2017-2021 Council Plan and is a required action within the Audit Committee.

**FINANCIAL IMPLICATIONS**

By Council adopting the Enforcement Policy there will be no additional costs imposed upon Council resources.

The Enforcement Policy is designed to provide guidance on how enforcement and compliance activities are to be undertaken. However, the Policy does give an ongoing commitment to ensure that business and the public are aware of their responsibilities and that Council will take action to seek compliance where non-compliance is identified.

**RISK & OCCUPATIONAL HEALTH & SAFETY ISSUES**

Risk Identifier	Detail of Risk	Risk Rating	Control/s
<ul style="list-style-type: none"> <li>• Non compliance with the Enforcement Policy leading to:                             <ul style="list-style-type: none"> <li>○ Reduced public and community trust within Council;</li> <li>○ Challenges over Council actions.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Inadequate resourcing of enforcement and Compliance activities;</li> <li>• Inadequate staff knowledge of the enforcement policy; and</li> <li>• Inappropriate use of discretion.</li> </ul>	Medium	<ul style="list-style-type: none"> <li>• Ongoing funding through the yearly financial planning process.</li> <li>• Training of all staff on the policy.</li> <li>• Internal processes in place to monitor enforcement activities</li> <li>• Require audit and yearly reporting to Council.</li> </ul>

**COMMUNICATIONS & CONSULTATION STRATEGY**

Level of Engagement	Stakeholder	Activities	Location	Date	Outcome
Consultation through the 'Have Your Say' portal	Community and business groups	Consultation through the Have Your Say Portal	Online	June/July 2022	One submission received

**VICTORIAN CHARTER OF HUMAN RIGHTS & 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 130 of the *Local Government Act 2020*, officers providing advice to Council must disclose any interests, including the type of interest.

*Executive Manager – Henry Bezuidenhout*

In providing this advice to Council as the Executive 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 Enforcement Policy acknowledges the shared responsibility between Council and the community to protect public health, amenities, community wellbeing and the environment. At the core of the Enforcement Policy is a requirement to educate business and the community as to their obligations and responsibilities to comply with legislative requirements. Having knowledge of these requirements voluntary compliance is more likely resulting in reduced compliance and enforcement action and an improved environment for all.

The Enforcement Policy is risk-based Policy which requires increased action by Council in response to more serious compliance issues.

It is recommended that Council adopt the Enforcement Policy.



**13 COMMUNITY STRENGTHENING REPORTS**

**13.1 ADVISORY COMMITTEES OF COUNCIL - REPORTS**

**Author:** Kaylene Bowker, Executive Assistant

**Authoriser:** Leigh McCallum, General Manager Community Strengthening

**Attachments:** 1. Minutes - Lal Lal Falls Advisory Committee Meeting - 1 September 2022 (under separate cover)

**PURPOSE**

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 Council.

**EXECUTIVE SUMMARY**

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

Committee	Meeting Date	Council Representatives
Lal Lal Falls Advisory Committee	Thursday 1 September 2022	Cr Tom Sullivan Cr Ally Munari (sub)

**RECOMMENDATION**

**That Council receives the Lal Lal Falls Advisory Committee Minutes for 1 September 2022.**

**13.2 COMMUNITY ASSET COMMITTEES - REPORTS**

**Author:** Kaylene Bowker, Executive Assistant

**Authoriser:** Leigh McCallum, General Manager Community Strengthening

- Attachments:**
1. Minutes - Blacksmith's Cottage & Forge CAC - 27 September 2022 (under separate cover)
  2. Minutes - Blacksmith's Cottage & Forge CAC - 25 October 2022 (under separate cover)
  3. Minutes - Blacksmith's Cottage & Forge CAC - 15 November 2022 (under separate cover)

**PURPOSE**

Community Asset Committees are established by Council under section 65 of the *Local Government Act 2020* to manage and maintain Community Assets within the municipal district. 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 2020*. The Council cannot delegate those powers identified in section 11(2) of the *Local Government Act 2020*.

**EXECUTIVE SUMMARY**

The following Community Asset Committees present the following reports of the Committee Meetings for Council consideration.

Committee	Meeting Date
Blacksmith's Cottage & Forge Community Asset Committee	27 September 2022 25 October 2022 15 November 2022

**RECOMMENDATION**

**That Council receives the Blacksmith's Cottage & Forge Community Asset Committee Minutes for 27 September 2022, 25 October 2022 and 15 November 2022.**

## **14 CUSTOMER CARE AND ADVOCACY REPORTS**

### **14.1 DECEMBER 2022 QUARTERLY FINANCIAL REPORT**

**Author:** Aaron Light, Senior Accountant

**Authoriser:** Caroline Buisson, General Manager Customer Care and Advocacy

**Attachments:** 1. December 2022 Quarterly Financial Report (under separate cover)

#### **PURPOSE**

The purpose of this report is to inform Council of the financial performance for the period ending 31 December 2022, in accordance with Section 97 of the Local Government Act 2020.

#### **EXECUTIVE SUMMARY**

- This Quarterly Report provided in Attachment 1 outlines the year-to-date financial position of Council for the period from 1 July 2022 to 31 December 2022. It also contains a comparison between the adopted budget and the year-end forecast.
- The Income Statement reports the year to date adjusted underlying result is a surplus of \$20.467 million that is a \$1.855 million favourable when compared to budget. The adjusted underlying result extracts the impact of the non-recurrent capital income items, including one-off capital grants, donated assets from subdivisions, and developer contributions.
- The Statement of Capital Works reports year to date expenditure of \$23.020 million that is \$8.731 million less than budget. The variance primarily relates to the timing of contract payments, and also projects being carried over to next financial year.
- Council's cash balance as at 31 December 2022 is \$27.914 million, which is \$12.933 million favourable compared to year-to-date budget.
- Council's overall financial position at the end of December 2022 is considered sound and continues to be closely monitored to ensure the achievement of budgeted outcomes.

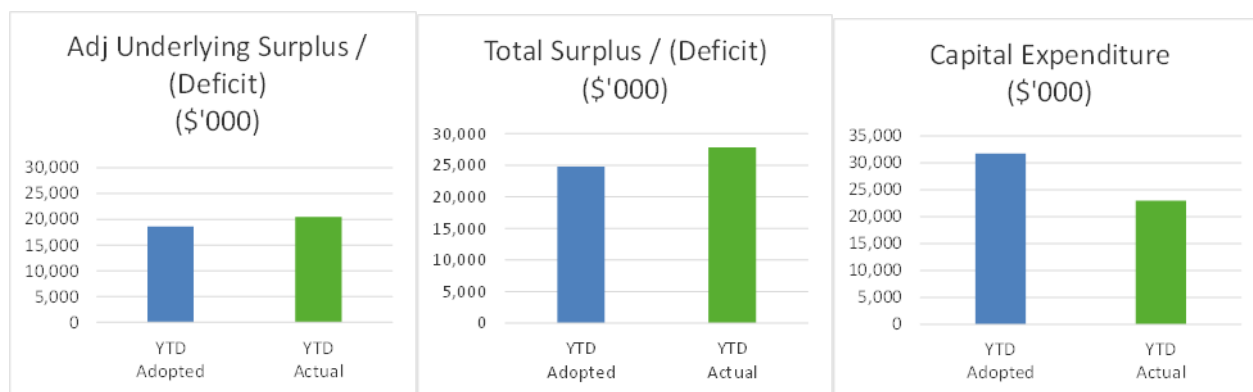
#### **RECOMMENDATION**

**That Council receives the Quarterly Financial Report – December 2022, provided as Attachment 1 to this report.**

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#### **BACKGROUND**

The attached Quarterly Financial Report provides an explanation of the Income Statement, Balance Sheet, Cash Flow Statement and Capital Works Statement with the year-to-date actuals compared to the year-to-date budget, with reference to the annual budget. It also contains a comparison of the adopted budget and the year-end forecast.



	Year to Date				Annual			
	YTD Adopted \$'000	YTD Actual \$'000	Variance		Adopted Budget \$'000	Forecast \$'000	Variance	
			\$'000	%			\$'000	%
Operating Income	47,308	47,995	687	1%	57,913	63,296	5,383	9%
Operating Expenses	28,696	27,529	1,167	4%	57,846	63,451	(5,605)	-10%
<b>Adj Underlying Surplus / (Deficit)</b>	<b>18,612</b>	<b>20,467</b>	<b>1,855</b>	<b>10%</b>	<b>67</b>	<b>(155)</b>	<b>(222)</b>	<b>-330%</b>
Capital / Non-recurrent income	6,192	7,377	1,185	19%	22,537	41,971	19,434	86%
<b>Total Surplus / (Deficit)</b>	<b>24,805</b>	<b>27,843</b>	<b>3,038</b>	<b>12%</b>	<b>22,604</b>	<b>41,816</b>	<b>19,212</b>	<b>85%</b>
<b>Capital Expenditure</b>	<b>31,751</b>	<b>23,020</b>	<b>(8,731)</b>	<b>-27%</b>	<b>61,482</b>	<b>63,142</b>	<b>1,660</b>	<b>3%</b>

*Income Statement*

The main changes within the Income Statement are as follows:

- Year to Date Operating Income - \$0.687 million favourable
  - Favourable in “Grants - operating” (\$0.313m). This is mainly due to new funding received since the adoption of the budget. These include Council Flood Support Fund and Parwan IFF Network Planning.
- Year to Date Operating Expenses - \$1.167 million favourable
  - Favourable in “Materials and services” (\$0.688m). This is due to timing issues with contract payments for Waste Services, Building Maintenance, Corporate Software, and Storm Recovery.

*Balance Sheet and Cashflow Statement*

The Balance Sheet reflects Council’s financial position as at 31 December 2022 and is prepared in compliance with the Australia Accounting Standards. The Cashflow Statement captures Council’s cash movement for the period.

Council is showing a cash position of \$27.914 million, which is \$12.933 million more than the year-to-date budget.

Council’s Balance Sheet continues to show a strong net position. This is represented by \$759.693 million of assets which is largely made up of Council Property, Infrastructure, Plant and Equipment. Council’s total liabilities are \$51.439 million, which results in net assets of \$708.253 million.

### *Capital Improvement Program (CIP)*

Total capital expenditure at the end of December 2022 is \$23.020 million, which is \$8.731 million less than the year-to-date budget. This is mainly due to timing variances with contract payments. There are also a number of projects that will be incomplete at year end and will be carried over to next financial year. These include; Bacchus Marsh Indoor Recreation Facility, Bowls Club Pavilion and Bowling Green, and West Maddingley Early Years Hub.

### **PROPOSAL**

That Council receives the Quarterly Report – December 2022.

### **COUNCIL PLAN**

The Council Plan 2021 - 2025 provides as follows:

**Strategic Objective 3: A Council that listens and adapts to the needs of our evolving communities**

**Priority 3.4: Measure performance, communicate our results and continue to improve our services every day**

The proposal to adopt the Quarterly Report – December 2022 is consistent with the Council Plan 2021 - 2025.

### **RISK & OCCUPATIONAL HEALTH & SAFETY ISSUES**

There are no identified risks associated with this process.

### **COMMUNICATIONS & CONSULTATION STRATEGY**

To Council, through the Ordinary Meeting of Council on 1 March 2023, and to the Audit and Risk Committee meeting on 8 February 2023.

### **VICTORIAN CHARTER OF HUMAN RIGHTS & 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 130 of the Local Government Act 2020, officers providing advice to Council must disclose any interests, including the type of interest.

*General Manager – Caroline Buisson*

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

*Senior Accountant – Aaron Light*

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

### **CONCLUSION**

That Council's overall financial position at the end of December 2022 is considered sound and Council notes the December Quarterly Report.

**14.2 FINANCE POLICY UPDATE**

**Author:** James Hogan, Coordinator Financial Services

**Authoriser:** Caroline Buisson, General Manager Customer Care and Advocacy

**Attachments:**

1. **Borrowing Policy (under separate cover)**
2. **Fees and Charges Policy (under separate cover)**
3. **Investments Policy (under separate cover)**

**PURPOSE**

A review of Council's financial policies has been conducted and draft policies are now presented for adoption by Council.

**RECOMMENDATION**

**That Council:**

1. **Adopts the Borrowing Policy provided as Attachment 1.**
  2. **Adopts the Fees and Charges Policy provided as Attachment 2.**
  3. **Adopts the Investments Policy provided as Attachment 3.**
- 

**BACKGROUND**

A review of Council's financial policies has been conducted and the following policies are now presented for adoption by Council:

- Borrowing Policy
- Fees and Charges Policy
- Investments Policy

Draft policies were presented for consideration and review at the 10 August 2022 Audit and Risk Committee Meeting. Minor amendments suggested by the Audit and Risk Committee have been incorporated into the attached policies.

At the 2 November 2022 Ordinary Council Meeting, Council endorsed the draft policies for community consultation.

The policies were made publicly available through Moorabool's Have Your Say digital engagement platform and at Customer Service counters across Council sites.

Community consultation was made available between 14 November 2022 and 12 December 2022 for which community feedback was received.

In total 1 anonymous submission was received in relation to the Fees and Charges Policy. The submission was largely administrative in nature and has led to minor changes to the draft policy.

## **PROPOSAL**

Officers have developed the following policies to ensure council can operate in a financially responsible and sustainable manner.

### **Borrowing Policy**

Council recognises that borrowings can support intergenerational equity principles, where an 'under-use' of debt would result in intergenerational inequity in service provision and user-pays principles and an inability to meet the needs and preferences for growth of the municipality. The Borrowings Policy that specifies the framework within which Council will borrow money.

### **Fees and Charges Policy**

Fees and Charges represent an important source of income for the Moorabool Shire Council (Council). This Fees and Charges Policy provides guidance for Council's approach in setting appropriate levels of fees and charges, considering community benefit, user groups and Council Plan objectives, and to provide for regular reviews of fees and charges within the overall service and financial planning process.

The draft fees and charges policy encourages pricing that is simple to administer, equitable, easily understood, and provides value for money.

### **Investments Policy**

Council holds considerable cash assets, the Investments Policy provides guidance for the effective and responsible investment of Moorabool Shire Council's surplus cash funds to maximise earnings within approved risk parameters and to ensure the security of funds within the legislative guidelines applicable to Council, primarily Section 103 of the Local Government Act (2020).

## **COUNCIL PLAN**

The Council Plan 2021-2025 provides as follows:

**Strategic Objective 3: A Council that listens and adapts to the needs of our evolving communities**

**Priority 3.3: Focus resources to deliver on our service promise in a sustainable way**

### **FINANCIAL IMPLICATIONS**

The draft Borrowing Policy establishes objectives and principles that outline when it is appropriate for Council to undertake borrowings within a sound financial management framework consistent.

The draft Fees and Charges Policy provides guidance for Council's approach in setting appropriate levels of fees and charges, considering community benefit, user groups and Council Plan objectives, and to provide for regular reviews of fees and charges within the overall service and financial planning process.

The draft Investments Policy provides guidance for the effective and responsible investment of Moorabool Shire Council's surplus cash funds to maximise earnings within approved risk parameters and to ensure the security of funds within the legislative guidelines applicable to Council, primarily Section 103 of the Local Government Act (2020).

### **RISK & OCCUPATIONAL HEALTH & SAFETY ISSUES**

No risks have been identified in the implementation of these policies.

**COMMUNICATIONS & CONSULTATION STRATEGY**

Advice to the community via our website and social media will be released once the Policies are signed, along with release of the Policies.

**VICTORIAN CHARTER OF HUMAN RIGHTS & 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 130 of the *Local Government Act 2020*, officers providing advice to Council must disclose any interests, including the type of interest.

*General Manager – Caroline Buisson*

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

*Author – James Hogan*

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

**CONCLUSION**

A review of Council's financial policies has been conducted and the following policies are now presented for consideration and review by Council:

- Borrowing Policy
- Fees and Charges Policy
- Investments Policy

Draft policies were presented for consideration and review at the 10 August 2022 Audit and Risk Committee Meeting. Minor amendments suggested by the Audit and Risk Committee have been incorporated into the attached policies.



## **15 COMMUNITY ASSETS & INFRASTRUCTURE REPORTS**

### **15.1 CAPITAL IMPROVEMENT PROGRAM - QUARTERLY REPORT DECEMBER 2022**

**Author:** Ewen Nevett, Manager Engineering Services

**Authoriser:** Phil Jeffrey, General Manager Community Assets & Infrastructure

**Attachments:** 1. **2022-2023 CIP Project Status Update (31 Dec 2022) (under separate cover)**

#### **PURPOSE**

To provide Council with an overview of the progress of Council's 2022-2023 Capital Improvement Program to 31 December 2022.

#### **EXECUTIVE SUMMARY**

The 2022-2023 Capital Improvement Program (CIP) consists of 116 projects with the delivery principally managed by two Services Units, Engineering Services (82 projects) and Major Projects (34 projects).

Delivery of the 2022-2023 CIP is on schedule with 23.3% of projects already completed and a further 50.9% of the projects either underway, soon to commence, or soon to be awarded.

#### **RECOMMENDATION**

**That Council resolves to receive the Capital Improvement Program Quarterly Report to 31 December 2022.**

---

#### **BACKGROUND**

The delivery of the 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 2022-2023 Capital Improvement Program to 31 December 2022.

#### Implementation of the 2022/2023 Capital Improvement Program

The 2022-2023 CIP currently consists of 116 projects reported to Council. This number may be adjusted throughout the year as other projects become active. Five projects have already been added since the 2022-2023 Budget was adopted.

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

- Projects carried forward from 2021-2022 program
- 2022-2023 Council funded projects
- Grant funded projects

The Community Assets & Infrastructure Directorate 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 at 31 December 2022:

CIP Program Delivery Stage	Actual as of 30 September 2022			
	No. of Projects			%
	Capital Works	Major Projects	Total	
Not Commenced - inactive/"On Hold"	2	5	7	6.0
Not Commenced	0	2	2	1.7
Documentation/Design Preparation	12	9	21	18.1
Tender/Quote Stage	7	1	8	6.9
Project Awarded – Waiting Commencement	21	4	25	21.6
In Progress/Under Construction	15	11	26	22.4
Complete	25	2	27	23.3
<b>TOTAL</b>	<b>82</b>	<b>34</b>	<b>116</b>	<b>100.0</b>

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

As at 31 December 2022, the combined Capital Works and Major Projects current budget is \$72.14M with an anticipated carry forward from multi-year projects and projects "On Hold" of \$14.34M. The final outcome will be dependent on the physical progress of projects, including supply chain issues with materials and ongoing impacts from the above average rainfall in 2022.

Program Status

*Capital Works*

At this stage of the financial year the program is on schedule for completion by 30 June 2023.

82.9% of the capital works projects are either completed, underway, soon to commence or soon to be awarded, with a further 14.6% at design or document preparation stage.

Of the project "On Hold", one is due to third party input from Melbourne Water (Connor Court Drainage) and the other requires an alternative treatment following geotechnical investigations and is deferred to the 2023-2024 budget process (Riversdale Crescent Reconstruction).

18 capital works projects are behind the original scheduled delivery timeframes; however all are expected to be completed in 2022-2023. Delay in deliver relates to availability of design resources, availability of material supplies (pipes) and/or required retendering due to tender price.

*Major Projects*

Given the time frame to deliver major projects, the projects being delivered this year are a mixture of projects finishing this year and over the next two financial years.

In total there are 34 projects, 18% of projects in the design phase, 22% of projects in construction and four projects in the procurement phase for construction services.

There are five projects behind the original scheduled delivery time frames. design issues with the Darley Community Pavilion and the Moorabool Aquatic & Recreation Centre; inclement weather and material supply issues for two projects at the Racecourse Recreation Reserve and the Ballan Depot, and internal resourcing constraints with the Navigators Community Hub, Aqualink and the Millbrook Community Centre (roof works). Given the time required to complete these projects, we are unable to implement strategies to get the projects back on schedule.

## **COUNCIL PLAN**

The Council Plan 2021-2025 provides as follows:

**Strategic Objective 3: A Council that listens and adapts to the needs of our evolving communities**

**Priority 3.3: Focus resources to deliver on our service promise in a sustainable way**

The proposal is consistent with the Council Plan 2021-2025.

## **FINANCIAL IMPLICATIONS**

Reporting of the Capital Improvement Program has been resourced as part of Council's budget. At this point in time, the program is at risk of being delivered over budget due to higher than anticipated tender prices on a number of projects. The program is being closely monitored to identify areas for savings to offset the increase in pricing. Current projection is for a carryover budget to 2023-2024 FY of \$13.06m for multi-year projects with the delivery dates beyond 30 June 2023 or that are currently 'on hold'.

## **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 & CONSULTATION 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 letters.

## **VICTORIAN CHARTER OF HUMAN RIGHTS & 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 130 of the *Local Government Act 2020*, officers providing advice to Council must disclose any interests, including the type of interest.

*General Manager – Phil Jeffrey*

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

*Author – Ewen Nevett*

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

**CONCLUSION**

This report provides a summary of the progress of the Capital Improvement Program for the second quarter of the 2022-2023 period for the information of Councillors.

**16 OTHER REPORTS**

Nil

## **17 NOTICES OF MOTION**

### **17.1 NOTICE OF MOTION - GREEN WASTE MONTH, MAY 2023**

**Attachments:** Nil

I, Councillor Moira Berry, give notice that at the next Ordinary Meeting of Council to be held on 1 March 2023, I intend to move the following motion:

#### **MOTION**

**That Council:**

- 1. Allocate a second free Green Waste Month for the month of May 2023 (2022/23 financial year) per tenement to drop off green waste at both Ballan and Bacchus Marsh Transfer Stations.**
- 2. Advertise the second free Green Waste Month for May 2023 on Council's website and social media sites during the month of April 2023.**
- 3. Confirm that rates notices must be presented at the Transfer Station/s to be eligible for the second free Green Waste Month, May 2023.**

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#### **RATIONALE**

Residents have been contacting me to ask for another free green waste month as the first free green waste month in this financial period was during a period of heavy rains. Grass continued to grow out of control and left residents with as much green waste as had accumulated prior to the first green waste drop off.

The uptake for the first free green waste month this financial year (2022/23) was smaller than anticipated, utilising less than 50% of the budget allocated for that free green waste drop off.

The surplus of budget means that there is capacity to hold a second free green waste month this financial year in May 2023. This second free green waste month would assist with fire prevention in the Moorabool Shire.

I commend this Notice of Motion to Council.

**18 NOTICES OF RESCISSION**

Nil

## **19 MAYOR'S REPORT**

### **19.1 MAYOR'S REPORT**

**Author:** Dianne Elshaug, Co-ordinator CEOs Office

**Authoriser:** Derek Madden, Chief Executive Officer

**Attachments:** Nil

#### **PURPOSE**

To provide details to the community on the meetings and events attended by the Mayor since the last Ordinary Meeting of Council.

#### **EXECUTIVE SUMMARY**

That the Mayor's Report be tabled for consideration at the Ordinary Meeting of Council.

#### **RECOMMENDATION**

**That Council receives the Mayor's Report.**

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**20 COUNCILLORS' REPORTS**

**21 URGENT BUSINESS**

## 22 CLOSED SESSION OF THE MEETING TO THE PUBLIC

### RECOMMENDATION

That Council considers the confidential report(s) listed below in a meeting closed to the public in accordance with Section 66(2)(a) of the *Local Government Act 2020*:

**22.1 C21-2022/2023 Asphalt and Pavement Rehabilitation Works (Bacchus Marsh, Darley and Ballan)**

This matter is considered to be confidential under Section 3(1) confidential information - (g) of the Local Government Act, and the Council is satisfied that discussion of this matter in an open meeting would, on balance, be contrary to the public interest as it deals with private commercial information, being information provided by a business, commercial or financial undertaking that (i) relates to trade secrets; or

(ii) if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage.

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**23 MEETING CLOSURE**