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| **AGENDA**    **Ordinary Council Meeting**  **Wednesday, 2 March 2022**  **In accordance with s.395 of the *Local Government Act 2020*, this meeting will not**  **be available for public attendance, however will be streamed live via accessing the**  **Council Internet site.** | |
| **I hereby give notice that an Ordinary Meeting of Council will be held on:** | |
| **Date:** | **Wednesday, 2 March 2022** |
| **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 Governance Rules, the meeting will be livestreamed.

4 Present

5 Apologies

6 Confirmation of Minutes

Ordinary Council Meeting - Wednesday 2 February 2022.

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.

* 1. Question time will take place during the Council Meeting as provided for in the agenda.
  2. Questions in writing in the form prescribed by the Chief Executive Officer will be accepted up to 5pm on the day before the Meeting.
  3. 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.
  4. 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:
     1. person directing the question is present in the gallery;
     2. question does not relate to a confidential matter;
     3. question does not relate to a matter in respect of which Council has no power to act;
     4. question is not defamatory, indecent, abusive or objectionable in language or substance;
     5. question is not a repetition of a question already asked or answered (whether at the same or an earlier meeting); and
     6. question is not asked to embarrass a Councillor, member of Council staff or member of the public.
  5. 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.
  6. 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:

* + 1. immediately answer the question asked; or
    2. 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
    3. 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 Community Planning and Economic Development Reports

11.1 PA2017135 - Use and Development of an Extractive Industry (Sand Quarry) at Seereys Road, Coimadai

**Author: Jyoti Makan, Senior Statutory Planner**

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

**Attachments: 1. Proposed Plans (under separate cover)**

**Application Summary**

**Permit No: PA2017135**

**Lodgement Date: 18 July 2017**

**Planning Officer: Jyoti Makan**

**Address of the land: Seereys Road, Coimadai - Lot 8 of LP219459**

**Proposal: Use and Development of an Extractive Industry (Sand Quarry)**

**Lot size: 115ha**

**Why is a permit required? Clause 37.01 – a permit is required to use the site for an extractive industry and to carry out works.**

**Clause 42.01 – a permit is required to carry out works.**

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| **Recommendation**  **That the Development Assessment Committee, having considered all matters as prescribed by the *Planning and Environment Act 1987,* advise VCAT it supports the issue of Planning Permit PA2017135 for the Use and Development of an Extractive Industry (Sand Quarry) in accordance with endorsed plans on Lot 8 of LP219459, subject to the following planning permit conditions:**  **Amended Plans:**  **1. Prior to commencement of the use and/or development, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plan must be generally in accordance with the plans submitted, but modified to show:**  **(a) The location of any native vegetation to be removed.**  **(b) Details of the proposed rehabilitation works.**  **(c) Location of 20m buffer (works exclusion zone) along the east, north and south boundaries.**  **(d) Location of the vegetation area to be retained along the western boundary.**  **(e) The location of any areas of cultural heritage sensitivity.**  **(f) Details of proposed bunding within the 20m boundary setback. The bunding is to be planted out to provide an effective visual screen between the quarry site and adjoining properties.**  **(g) Clearly identify all sensitive receptors such as dwellings within 250m of the proposed works.**  **(h) Identify all Crown Land as exclusion zones for extraction, effluent run-off, access, defendable space and waste disposal.**  **(i) Setback from the Crown Land works and development.**  **(j) The location of Goodman Creek and the 50m buffer area from the creek and the location of the Creek’s tributaries and the 20m buffer area as well as details on how this area will be treated, maintained and protected.**  **(k) Fencing details including fencing of vegetation in the west of the site and along the other boundaries.**  **(l) Staging and its associated works and rehabilitation.**  **(m) Earthworks details of all areas where the natural topography will be altered.**  **Operating hours:**  **2. The use hereby permitted (including preparatory work and trucks arriving at or departing the site) must only operate between the following times:**  **(a) 7:00am – 6:00pm Monday to Friday.**  **(b) 9:00am – 1:00pm Saturday.**  **Trucks are not permitted to queue at the front gate out of the above hours of operation.**  **3. The Responsible Authority may give its written consent for the quarry to operate at other times for the purpose of managing or responding to equipment breakdowns or other unforeseen circumstances.**  **4. An updated Environmental Management Plan to the satisfaction of the Responsible Authority.**  **5. The use and/or development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.**  **6. The use and development must at all times be in accordance with the Work Authority (WA342), including the approved Work plan variation issued pursuant to the *Mineral Resources (Sustainable Development) Act 1990* unless otherwise conditioned in this Permit whereby the Permit conditions take precedence.**  **7. Extraction must occur in accordance with the staging plan endorsed as part of this Permit and in line with the approved Work Plan Variation WA342 – Updated Work Plan, with the whole of a single stage completed before the commencement of the next stage and rehabilitation of the completed stage undertaken to the satisfaction of the Responsible Authority within six months of completion.**  **8. No processing of extracted material is to occur on site.**  **9. Upon completion of the extractive activities, the premises must not be used as a landfill without seeking the appropriate approval from the Environmental Protection Authority (EPA).**  **10. Except with the further written consent of the Responsible Authority:**  **11. The maximum extraction must not exceed 14,871,000 tonnes.**  **12. No excavated materials, either overburden or extracted materials, are to be removed from the site via Russells Road or McMullins Lane. Extracted materials removed by vehicular transport must only be delivered to the processing areas using the internal haul road and Gisborne Road.**  **Boundary setback:**  **13. Except with a permit, no alteration may be made to the natural condition or topography of the land within 20m of the boundary of the land. This does not apply to driveways, drains, bund walls or landscaping.**  **Landscaping:**  **14. Prior to commencement of any works on site, detailed landscaping plans including layout and number and position of each species to be planted must be submitted to the Responsible Authority for approval. The landscaping plans must be in accordance with the Landscape Design Manual and should:**  **(a) Include planting along the eastern boundary and the northern boundary to buffer the view of the quarry from the adjoining land.**  **(b) Include planting of bunding as per Condition 1f).**  **(c) The location and details of permanent and temporary fencing to protect retained trees and vegetation. These fences must be erected prior to the commencement of works to the satisfaction of the Responsible Authority.**  **(d) Shrubs and trees must be planted and maintained to screen activity on the site to the satisfaction of the Responsible Authority.**  **15. Landscaping must be undertaken within six months of the commencement of the development and maintained in accordance with the endorsed plan to the satisfaction of the Responsible Authority until Stage 3 of the excavation is rehabilitated.**  **16. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased, or damaged plants are to be replaced.**  **17. Areas set aside for landscaping on the endorsed plan shall be used for no other purpose.**  **Biodiversity:**  **18. All existing native vegetation shown on the endorsed plans for retention must be suitably marked or adequately fenced to the satisfaction of the Responsible Authority before any use or development authorised by this permit starts on the site and that vegetation must not be removed, destroyed, or lopped without the written consent of the Responsible Authority.**  **19. Active weed management must be undertaken during the establishment, operation, and rehabilitation phases of the quarry in accordance with the submitted Weed Plan and the submitted Environmental Management Programme.**  **Rehabilitation:**  **20. Prior to commencement of works a revised landscape restoration plan must be submitted to the Responsible Authority, the plan must be consistent with the submitted plan by Rayment Associates Pty Ltd and modified to identify works for restoration and proposed planting.**  **21. Upon the completion of the permitted extraction works, the rehabilitation works shown on the endorsed landscape restoration plan must be undertaken to the satisfaction of the Responsible Authority.**  **Amenity:**  **22. The use and development must be managed so that the amenity of the area is not unreasonably affected, through the:**  **(a) Transport of materials, goods, or commodities on the land.**  **(b) Appearance of any buildings, works or materials.**  **(c) Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, wester water, waste products, grit or oil.**  **(d) The presence of vermin.**  **23. Mitigation measures and monitoring outlined in the Environment Management Programme submitted with the permit application must be carried out to the satisfaction of the Responsible Authority.**  **24. External lighting must be designed, baffled, and located so as to prevent any adverse effect on adjoining land to the satisfaction of the Responsible Authority.**  **25. The use and development must be designed and operated to comply with EPA publication 1411 – Noise from Industry in Rural Victoria Guidelines to the satisfaction of the Responsible Authority.**  **26. Any noise from construction activities must be in accordance with EPA publication 1254.2 – Noise Control Guidelines to the satisfaction of the Responsible Authority.**  **27. No external sound amplification equipment, loud speaker or siren shall be used on the site without the written consent of the Responsible Authority.**  **28. Any reversing alarms on mobile equipment must be broadband smart beepers that adjust beeper levels in accordance with the ambient noise environment.**  **29. Any overburden removed must, if spread or stockpiled on the land, be stabilised, and planted out to prevent any erosion or dust to the satisfaction of the Responsible Authority.**  **30. No blasting is to occur on site.**  **31. Any mobile screening or other plant used must be sited and buffered within the works area as necessary to minimise its visual and acoustic impact from outside the works area to the satisfaction of the Responsible Authority.**  **32. The property must be maintained in a neat and tidy condition to the satisfaction of the Responsible Authority.**  **33. The wheels of all trucks leaving site shall be clear of excess soil/sand so that material is not deposited on nearby roads to the satisfaction of the Responsible Authority.**  **34. All trucks travelling to and from the site must have the load covered. All loads must be suitably wetted to prevent dust/sand emissions.**  **35. All disturbed surfaces on the land resulting from the activities authorised by this permit shall be revegetated and stabilised to the satisfaction of the Responsible Authority so as to prevent any erosion or siltation on or adjacent to the land.**  **Parking and access:**  **36. Parking areas must be provided for employees’ cars and all vehicles used on the site to the satisfaction of the Responsible Authority.**  **37. A minimum of four car parking spaces must be provided on the land for the use and development.**  **38. Prior to the use commencing the access drive and car parking area on the land shall be constructed in an all-weather surface to a minimum of a fine crushed rock standard and be suitably treated to reduce dust being created. The access drive and car parking area must be maintained to the satisfaction of the Responsible Authority.**  **39. Ownership of the access way, Road R1 on Plan of Subdivision 346740C, must be resolved to the satisfaction of the Responsible Authority within two years of the issue of this permit.**  **Signage:**  **40. Only one advertising sign is permitted at the entrance to the site on Gisborne-Bacchus Marsh Road. The sign must not exceed 2sqm in area. No other promotional or business sign shall be erected on site without the written consent of the Responsible Authority.**  **Cultural Heritage:**  **41. All works on site must be undertaken in accordance with the recommendations of the approved Cultural Heritage Management Plan 15217 for the land. Protective fencing must be erected around the areas of cultural heritage sensitivity, to prevent access into those areas, and must be maintained for the duration of works on the land associated with this permit.**  **Infrastructure:**  **42. Storm water runoff from the proposed works and impervious surfaces must be retained and disposed of within the boundaries of the subject land in accordance with the Environmental Management Program detailed in Work Plan WA342, to the satisfaction of the Responsible Authority. Overflows from on-site storage systems must be directed away from any waste water disposal areas.**  **43. Sediment discharges must be restricted from any construction activities within the property in accordance with relevant Guidelines including Construct ion Techniques for Sediment Control (EPA 1991).**  **44. Unless otherwise approved by the Responsible Authority there must be no buildings, structures, or improvements located over proposed drainage pipes and easements on the property.**  **45. Prior to the commencement of the development and post completion, notification including photographic evidence must be sent to Council’s Asset Services 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.**  **Department of Transport:**  **46. All vehicles are to access the site via Gisborne Road.**  **47. The following roadworks will be required and must be completed at no cost to and to the satisfaction of VicRoads:**  **(a) Right Turn Lane.**  **(b) Left Turn Lane.**  **48. The access at Gisborne Road is to be upgraded to the satisfaction of and at no cost to VicRoads.**  **49. A truck wheel-wash must be installed at the property boundary to enable all mud and other tyre borne debris from vehicles to be removed prior to exiting the site.**  **50. Prior to the works on Gisborne Road commencing, the applicant must enter into a Works Agreement with VicRoads, confirming design plans and works approvals process, including the determination of fees and the level of VicRoads’ service obligations.**  **Department of Environment, Land, Water and Planning:**  **51. The proposed extractive activities (use, buildings and works) must:**  **(a) Not occur or encroach on adjoining Crown land.**  **(b) Not discharged effluent or run-off onto adjoining Crown land.**  **(c) Not use adjoining Crown land for temporary access or storage associated with the proposal.**  **(d) Not use adjoining Crown land as an easement or as legal access to the site.**  **(e) Not use adjoining Crown land as defendable space to satisfy any Bushfire or Wildfire Management Overlay (BMO or WMO) requirements.**  **(f) Not disposed of any waste on Crown land. Waste disposal should be consistent with local government and Environment Protection Authority requirements.**  **(g) Ensure that a suitable setback is provided from adjacent Crown land boundaries to prevent impacts upon Crown land and Crown land assets (including native vegetation).**  **Melbourne Water:**  **52. Melbourne Water conditions to be added before a Planning Permit is issued.**  **Permit Expiry:**  **53. This Permit will expire if:**  **(a) The development and Use are not started within two years of the date of this permit; or**  **(b) The development is not completed within four years of the date of this permit.**  **Permit Note:**  **Environmental Protection Authority**  **The amended *Environment Protection Act 2017* came into effect on 1 July 2021.**  **The amended *Environment Protection Act 2017* imposes new duties on individuals and/or businesses undertaking the activity permitted by this permit. If business engages in activities that may give rise to a risk to human health or the environment from pollution or waste, they must understand those risks and take action to minimise them as far as reasonably practicable.**  **For further information on what the new laws will mean for Victorian businesses go to:** [**https://www.epa.vic.gov.au/for-business/new-laws-and-your-business**](https://protect-au.mimecast.com/s/ppA0CANp90T5Aozh9juz3?domain=epa.vic.gov.au)  **For further information on what the new laws will mean for individuals and the community go to:** [**https://www.epa.vic.gov.au/about-epa/laws/new-laws/the-new-act-for-the-community**](https://protect-au.mimecast.com/s/5RXsCBNqRkTN5mOtjBRTD?domain=epa.vic.gov.au) |

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| **Public Consultation** | |
| Was the application advertised? | Yes. |
| Notices on site: | Yes. |
| Notice in Moorabool Newspaper: | Yes. |
| Number of objections: | 67 objections received. |
| Consultation meeting: | A consultation meeting was held on 17 February 2022. More than 10 community members attended the meeting, as well as applicant representatives and Council officers.  Information was exchanged between the parties regarding the application and clarification on the VCAT process. |

**Policy Implications**

The Council Plan 2021-2025 provides as follows:

**Strategic Objective 2: Liveable and thriving environments**

**Priority 2.4: Grow local employment and business investment**

**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 – Jyoti Makan*

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

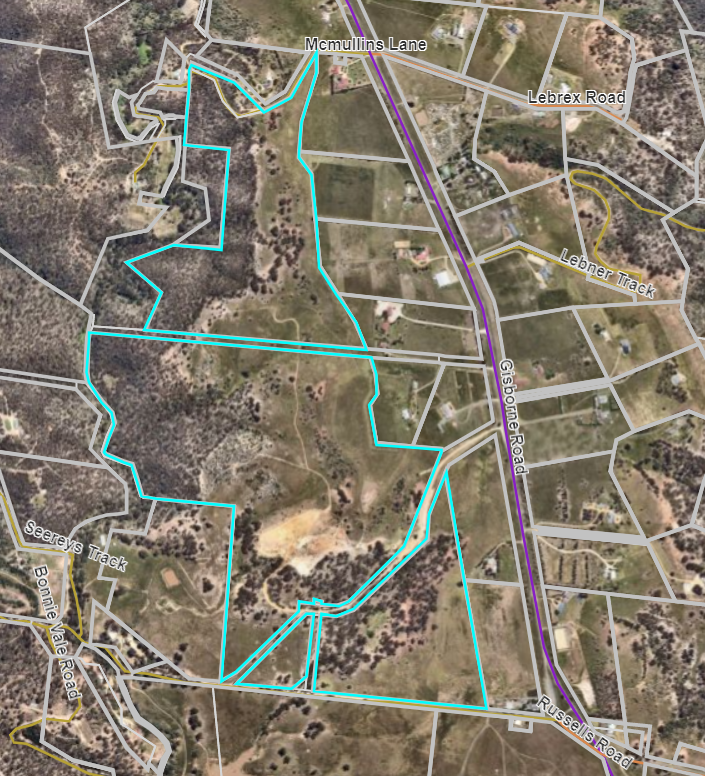
**Executive Summary**

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| Application referred? | The application was referred to Melbourne Water, Department of Transport, Southern Rural Water, Environmental Protection Authority, Department of Environment, Land, Water and Planning, Department of Jobs, Precincts and Regions (DJPR) and Council’s Infrastructure, Environmental Management, Major Developments and Strategic Planning. |
| Any issues raised in referral responses? | Amenity Impacts. |
| Preliminary concerns? | Clarification was sought of extent of works, staging, Work plan content and amenity impacts. |
| Any discussions with applicant regarding concerns? | Discussions took place with the applicant to gain an understanding on the proposal, its permit triggers, clarity on extraction activities and to get updated clear plans, reports, and Work plan to ensure that all relevant planning scheme objectives are being met. |
| Any changes made to the application since being lodged? | None except for the addition of the Cultural Heritage Management Plan (CHMP) which took the applicant four years to provide to Council. |
| Brief history. | An application was made on 24 July 2017 for the use and development of the site for an extractive industry (sand quarry) which was absent of a Cultural Heritage Management Plan (CHMP). Council was able to progress the application to the assessment stage but required an approved CHMP before a decision could be made. The original CHMP was assessed and refused by the Registered Aboriginal Party (RAP), the Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation (WWCHAC). There was a subsequent unsuccessful appeal by the applicant against the RAP refusal at VCAT. The applicant also withdrew a separate VCAT appeal on existing use rights to avoid requiring planning permission for this application.  As a result of the RAP refusal, the applicant undertook a new CHMP and gained approval from the RAP in 2021 and therefore re-submitted an amendment in process application to continue with the application on 21 July 2021. All public participation and documents submitted since 2017 are still relevant to the current amendment in process application and its assessment.  The applicant has lodged an appeal to VCAT for failure to determine the application within the prescribed time. |
| Previous applications for the site? | Planning Permit 110/92 was issued on 18 December 1992 to allow for the establishment and operation of an extractive industry at the site. This permit has since expired due to lack of continuous use of the site. |
| General summary. | An application is made for the use and development of an extractive industry for sand quarrying. A Work plan (WA342) was approved under the *Mineral Resources Sustainable Development Act 1990* on 15 April 2016. Upon consultation with the DJPR, the Work plan does not expire and does not need to be updated for the purpose of assessing the planning permit application.  Minimal processing is proposed on site as the majority of processing will be conducted at Hanson’s Quarry at the Darley site. One of the major concerns with the proposal was amenity related matters, extent of extraction, sediment discharge, safe access, and environmental damage.  The planning controls of the Special Use Zone Schedule 2 provides opportunity for earth and energy resource industries to be approved subject to conditions as per the recommendations in this report. |
| **Summary of Officer’s Recommendation** | |
| That, having considered all relevant matters as required by the *Planning and Environment Act 1987*, Council advise VCAT it supports the issue of Planning Permit PA2017135 for Use and Development of an Extractive Industry (Sand Quarry) in accordance with endorsed plans on Lot 8 of LP219459, subject to planning permit conditions. | |

**Site Description**

The site is located 65kms north-west of Melbourne’s CBD north of the Bacchus Marsh town and west of Gisborne Road. The site is located east of Goodman Creek Water Frontage within the Coimadai Township. It is located in the Special Use Zone – Schedule 2 which is designed for earth and energy resources use. Surrounding zones are Rural Living Zone, and Farming Zone. Gisborne Road links to the Western Freeway for 7.5kms south of the site. According to the Flora and Fauna Assessment compiled by Ecology and Heritage Partners (EHP), the site has several crests and hilltops that slope down towards tributaries of the Goodman Creek, which runs along the western boundary of the site and all tributaries within the area were dry during the assessment.

Remnant woodland vegetation with native vegetation is located on the western portion of the site. The site presents evidence of historic disturbance through mining, clearing, grazing and wildfires.



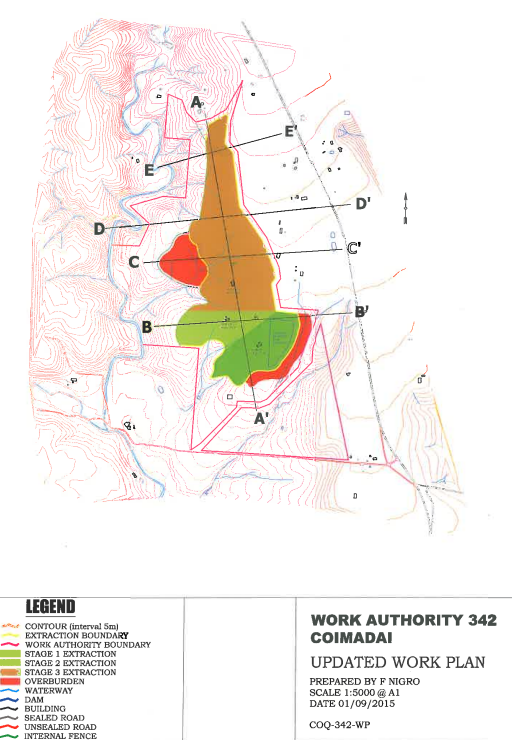
**Figure 1**: Aerial Photo of The Site – excerpt from ArcGIS, 2022.

**Proposal**

The proposal includes the extraction of sand and gravel at the site in accordance with the approved Work Plan Variation under WA 342. The material will be excavated by excavators, front end loaders and scrapers. No blasting is proposed but some areas may require bulldozers for areas overlain by weathered basalt. After extraction, raw feed will be screened using a mobile screening plant to remove any oversized material. This material will be loaded into trucks via front-end loaders and carted to Hanson’s Darley quarry approximately 1.5kms south of the site via Gisborne Road for final processing.

The proposed hours of operation are from Monday to Sunday from 6am to 6pm with no activity on public holidays.

Four staff will be employed on site and a portable amenities block will be provided. The application states that no buildings and works are proposed however the proposal is considered to trigger a permit for both use and works on the site. The proposed plans suggest extraction in three stages, as shown in Figure 2 below.



**Figure 2:** Work Plan**.**

**Background to Current Proposal and History**

Planning Permit 110/92 was issued on 18 December 1992 allowed for the establishment and operation of an extractive industry at the site. The operation commenced on a small scale then ceased operation, and since, has lost its existing use right.

An application was made in 2017 for the use and development of the site for an extractive industry (sand quarry) which was absent of a Cultural Heritage Management Plan (CHMP). The original CHMP was not approved by the Registered Aboriginal Party (RAP) Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation (WWCHAC). The applicant undertook a new CHMP and gained approval and therefore re-submitted an amendment in process application to continue with the application lodged in 2017. The application was amended on 21 July 2021 which included the approved CHMP by the applicant.

The applicant lodged a failure to determine the application within the prescribed time on 17 December 2021. VCAT have provided hearing dates for a compulsory conference to be held on 16 March 2022 and allocated seven days for a Merits Hearing in June 2022.

**Public Notice**

The application was notified to adjoining and surrounding landowners in 2017. The amendment was re-advertised with CHMP approval in November 2021 by way of a newspaper advertisement, sign on site and letters to adjoining owners and occupiers. All submissions received since 2017 are still valid and summarised below with all submissions received in 2021.

**Summary of Objections**

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

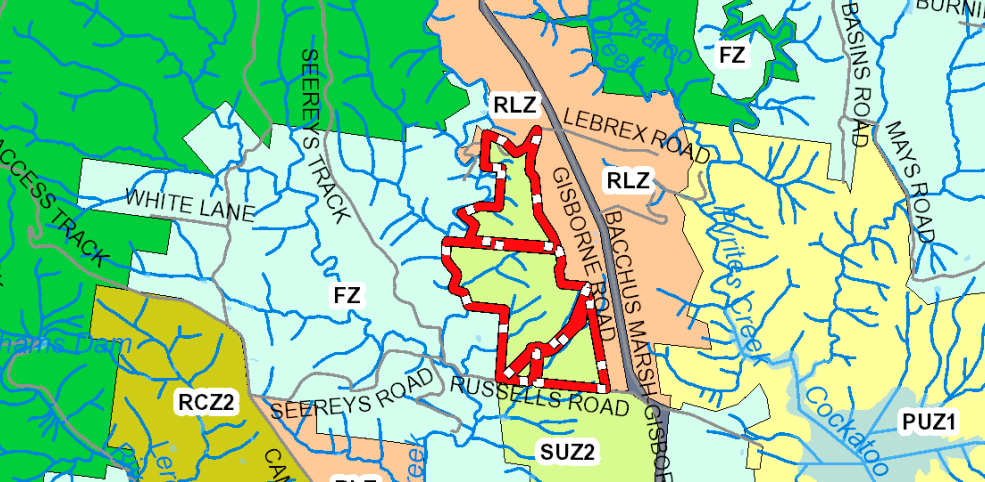
|  |  |
| --- | --- |
| **Objection** | **Any Relevant Requirement** |
| Noise |  |
| **Officer’s Response:** | |
| The EPA is one of the referral agencies who had no objections to the proposal. The Department of Jobs, Precincts and Regions were consulted about the relevance of the Work plan which included a Risk Management Plan. This Work plan does not expire and is still relevant and is discussed in the discussion section of the report. Conditions are placed under recommendations to ensure that the extraction site is well setback and fenced from sensitive uses. | |
| **Objection** | **Any Relevant Requirement** |
| Dust and pollution |  |
| **Officer’s Response:** | |
| The approved Work plan indicates lower speeds, usage of water carts, minimising exposed areas and restricting site traffic access to areas serviced by water tankers. Conditions placed on the Permit to minimise dust and pollution on site. | |

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| **Objection** | **Any Relevant Requirement** |
| Poor monitoring and control standards, inadequate rehabilitation plan. |  |
| **Officer’s Response:** | |
| The risk management plan below discusses this item further. Conditions are placed on the permit to ensure that a landscape restoration plan is submitted. | |
| **Objection** | **Any Relevant Requirement** |
| Contaminating land and waterways. |  |
| **Officer’s Response:** | |
| The applicant as part of approved works plan is required containing all works within the property boundaries and design bund walls to prevent sediment or discharge to nearby waterways. | |
| **Objection** | **Any Relevant Requirement** |
| Impact on flora and fauna, local farming, Environmental damage to nearby creeks, long term damage to the Lederberg State Park and Merrimu Reservoir. |  |
| **Officer’s Response:** | |
| The Flora and Fauna assessment and Environmental Management Programme were reviewed by DELWP who expressed no concerns. | |
| **Objection** | **Any Relevant Requirement** |
| Traffic safety concerns, speeds on Gisborne Road, upgrading Roads | Clause 18.02-4S – Roads  Clause 18.02-5S – Freight  Clause 18.01-2S – Transport system  Victorian Road Safety Strategy 2021-2030 – Department of Transport |
| **Officer’s Response:** | |
| The application was referred to the Department of Transport who provided consent subject to conditions on Gisborne Road upgrades. | |
| **Objection** | **Any Relevant Requirement** |
| Hours of operation – not to be on weekends and limited to eight hours per day, five days per week |  |
| **Officer’s Response:** | |
| The Work plan approved a seven day per week operation from 6am to 6pm. Recommended permit conditions reduce the hours for works to 7am to 6pm Monday to Friday and Saturday at 9am to 1pm and with no operations on site on Sundays. | |

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| **Objection** | **Any Relevant Requirement** |
| Decreased quality of life. |  |
| **Officer’s Response:** | |
| The proposed use is consistent with the zone objectives and permit conditions can limit amenity impacts. | |
| **Objection** | **Any Relevant Requirement** |
| Close proximity of existing housing and school – does not meet the EPA guidelines. | Clause 16.01-3 – Rural residential development  Clause 11 – Settlement  EPA publication 1518 |
| **Officer’s Response:** | |
| Four dwellings are within the 250m buffer distance; however, the EPA were consulted and did not object to the proposal. The applicant was requested to provide further detail on buffer distances on the proposed plans in accordance with Condition 1. | |

**Locality Map**

The map below indicates the location of the subject site and the zoning of the surrounding area. The site is located in the Special use Zone – Schedule 2 (SUZ2), land east of the site is within the Rural Living Zone and land west of the site is located in the Farming Zone.

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**Figure 3:** Locality map with site highlighted in red outline

**Planning Scheme Provisions**

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

The relevant clauses are:

 Clause 13.06-1S – Air Quality Management

 Clause 13.07-1S – Land Use Compatibility

 Clause 14.02-1S – Catchment planning and management

 Clause 14.03-1S – Resource exploration and extraction

 Clause 18.01-3S – Sustainable and safe transport

 Clause 18.02-4S – Roads

 Clause 18.02-5S – Freight

 Clause 19.03-2S – Infrastructure design and provision

 Clause 19.03-5S – Waste and resource recovery

 Clause 21.02 – Natural Environment

 Clause 21.01-2 – Key Issues - Economic Development

 Clause 21.04-4 – Economic Development and Employment (Industry)

 Clause 21.07 – Bacchus Marsh

**Zone**

The subject land is located within the Moorabool Planning Scheme Clause 37.01 Special Use Zone – Schedule 2 (SUZ2). The purpose of the zone is:

 To recognise or provide for the use and Development of Land for Earth and Energy Resources Industry.

 To encourage interim use of the land compatible with the use and development of nearby land.

 To encourage land management practice and rehabilitation that minimises adverse impact on the use and development of nearby land.

**Overlays**

Environmental Significance Overlay – Schedule 2

Goodman Creek which runs along the western boundary of the site is impacted by the Environmental Significance Overlay – Schedule 2 (Waterway Protection). Under the requirements of this overlay, a planning permit is required to construct a building or construct or carry out works or to remove, destroy or lop any vegetation including dead vegetation. However, the overlay exempts the removal of vegetation for extractive industries.

Bushfire Management Overlay

Purpose

 To implement the Municipal Planning Strategy and the PPF.

 To ensure that the development of land prioritises the protection of human life and strengthens community resilience to bushfire.

 To identify areas where the bushfire hazard warrants bushfire protection measures to be implemented.

 To ensure development is only permitted where the risk to life and property from bushfire can be reduced to an acceptable level.

A permit is not required for the use and development of an extractive industry.

**Relevant Policies**

The Bacchus Marsh Urban Growth Framework was implemented via amendment C81 to the Moorabool Planning Scheme which was gazetted on 6 December 2018.

Objective:

 To provide for a range of industrial development and activities in proximity to transport networks and existing infrastructure and avoid off-site impacts on residential amenity, environmental quality, or agricultural values.

Strategies:

 Support best practice management of industrial uses, to minimise offsite amenity impacts.

 Manage off-site impacts and avoid conflict with sensitive uses to realise economic development opportunities.

**Particular Provisions**

Clause 53.10 Uses and Activities with Adverse Amenity Potential

The purpose of this provision is to identify those types of uses and activities, which if not appropriately designed and located, may cause offence or unacceptable risk to the neighbourhood.

No buffer distances are provided to guide a setback for a quarry/extractive industry in Clause 53.10.

Clause 52.08 – Earth and Energy Resources Industry

This clause has the following purpose:

 To encourage land to be used and developed for exploration and extraction of earth and energy resources in accordance with acceptable environmental standards.

 To ensure that geothermal energy extraction, greenhouse gas sequestration, mining and petroleum production are not prohibited land uses.

 To ensure that planning controls for the use and development of land for the exploration and extraction of earth and energy resources are consistent with other legislation governing these land uses.

Clause 52.08-1 lists a table of exemptions and an “extractive industry”, which complies with Section 77T of the *Mineral Resources (Sustainable Development) Act 1990* does not require a planning permit for use and development under this provision.

An application to use and develop land for mining must be accompanied by:

 A copy of a Work plan or a variation to an approved Work plan that has received statutory endorsement under section 77TD of the MR Act.

 The written notice of statutory endorsement under section 77TD (1) of the *Mineral Resources (Sustainable Development) Act 1990*.

 Any conditions specified under section 77TD (3) of the *Mineral Resources (Sustainable Development) Act 1990*.

It is noted that this application does not meet the exemptions under this clause and therefore a permit is required for the use and development of the land.

Clause 52.09 – Extractive Industry and Extractive Industry Interest Areas

 To ensure that use and development of land for extractive industry does not adversely affect the environment or amenity of the area during or after extraction.

 To ensure that excavated areas can be appropriately rehabilitated.

 To ensure that stone resources, which may be required by the community for future use, are protected from inappropriate use and development.

Clause 52.09-2 states that application requirements the same as Clause 52.08 identified above.

Clause 52.09-4 provides guidance for decision making based on the following, in addition to the decision guidelines in Clause 65:

 The effect of the proposed extractive industry on any native flora and fauna on and near the land.

 The impact of the proposed extractive industry on sites of cultural and historic significance, including any effects on Aboriginal places.

 The effect of the proposed extractive industry on the natural and cultural landscape of the surrounding land and the locality generally.

 The ability of the proposed extractive industry to contain any emissions within the boundaries of the land in accordance with relevant legislation.

 The effect of vehicular traffic, noise, blasting, dust and vibration on the amenity of the surrounding area.

 The ability to rehabilitate the affected land to a form or for a use which is compatible with the natural systems or visual appearance of the surrounding area.

 The ability to rehabilitate the land so it can be used for a purpose or purposes beneficial to the community.

 The effect of the proposed extractive industry on groundwater quality and the impact on any affected water uses.

 The impact of the proposed extractive industry on surface drainage and surface water quality.

 Any proposed provisions, conditions or requirements in a Work plan that has received statutory endorsement under the *Mineral Resources (Sustainable Development) Act 1990*.

Clause 52.09-6 states the following requirements for extractive industry which the Responsible Authority should be satisfied with:

 Except in accordance with a permit, no alteration may be made to the natural condition or topography of the land within 20m of the boundary of land. This does not apply to driveways, drains, bund walls or landscaping.

 Shrubs and trees must be planted and maintained to screen activity on the land.

 Parking areas must be provided for employees’ cars and all vehicles used on the land.

**Discussion**

The proposed development generally accords with the intent, objectives and decision guidelines of the Special Use Zone – Schedule 2, which earmarks the land for Earth and Energy Resources Industry. Extractive industry is nested within the definition of Earth and Energy Resources Industry. The Works Authority issued by Earth Resources also reflects the intent of the zone. Accordingly, the approved priority list of quarry expansions, this quarry is listed as one of the strategically located quarries to resource sand/gravel. The assessment also considers overlay controls applicable to the site (which is issue specific) applicable to the site.

Planning controls:

The proposal is for the use and development of an extractive industry (sand quarry) within the Special use Zone – Schedule 2. A permit is required to use and develop land (including works) as it is a Section 2 land use.

The overlays covering the site include the ESO2 and BMO. The ESO2 exempts a permit requirement for vegetation removal but requires a permit to carry out works. The application was referred to Melbourne Water who required further flood impact assessments. To date the applicant has not responded to Melbourne Water’s response. However, at Council’s Consultation meeting on 17 February 2022, the applicant advised that it is unlikely that they will have the Melbourne Water information prior to the VCAT consultation conference to be held on 16 March 2022.

The Bushfire Management Overlay exempts an Earth and Energy Industry from any permit requirements under its provisions.

Clause 52.09 on extractive industry and its interest areas provide decision guidelines and is assessed based on the submitted information provided on the Flora and Fauna assessment, Environmental Management Plan, Work Plan WA342, Cultural Heritage Management Plan (CHMP). The proposed documents are summarised below to guide the decision making process. Based on the submitted information, the effect on the native flora and fauna is dependent on the environmental management, construction activities, fencing and landscaping proposed to restore the site to engage habitats for existing and future species. Conditions are placed to submit a landscape restoration plan.

No blasting is proposed, and the approved Work Plan Variation 342 and Environmental Management Programme stipulate that groundwater quality, vehicular traffic, noise, dust and vibration will be mitigated.

**Risk Management Plan**

The Risk Management Plan approved under the Work Plan mitigates a number of activities on site, being:

 Altered visual amenity,

 Ground disturbance,

 Dust/Air emission,

 Erosion and sedimentation,

 Ground instability,

 Noise pollution,

 Hazardous waste.

It is noted that the DJPR do acknowledge that a final iteration of the Work plan will be required at a later date but the Work plan submitted is sufficient for Councill to assess the proposal accordingly. Furthermore, all matters addressed in the Work plan will be enforced by the DJPR.

**Environmental Management**

The EPA drafted guidelines on recommended separation distances for industrial residual air emissions – Publication number 1518 which states that a 250m buffer distance should be provided for a quarry without blasting. Four residential dwellings are located within this buffer distance. EPA’s advice stated that SEPPN1-this has been replaced by Environmental Reference Standards (ERS) [https://www.epa.vic.gov.au/about-epa/publications/1992](https://protect-au.mimecast.com/s/H02ACyojJKC35WRTZkXYj?domain=epa.vic.gov.au).

An Environmental Management Programme (EMP) was submitted in 2017 which consisted of information for environmental performance for management of the operation. This included reviews of the EMP therefore a condition is placed on the permit for an updated EMP which should include management practices in consideration with Clause 12, 13 and 21 of the Planning Scheme as well as for the well-being of the environment and its surrounds. The submitted EMP discussed dust, noise, air blast and ground vibration, surface water, groundwater, flora and fauna, rehabilitation, chemical and flammable liquid, redundant plant, noxious weeds and pests.

The recommendations of the EMP are required to be undertaken as part of the approval.

**Earth Resource Regulations (ERR) and Process**

A fundamental factor in this assessment is the consideration that this quarry is listed in the (2022, <https://earthresources.vic.gov.au/projects/extractive-industry-priority-project-list>, DJPR). The approved Work Plan Variation 342 is assessed on its merits in line with the requirements of the Mineral resources (*Sustainable Development Act 1990*, the *Mineral Resources (Sustainable Development Extractive Industries Regulations 2019* and other relevant legislation and regulations, including environment, water and other safeguards by the DJPR. A Work Plan is approved by Earth Resources Regulator before a Planning Permit is approved. Once the Planning Permit is approved the Work Plan is reviewed by Earth Resources Regulator and converted into a Work Authority.

**Cultural Heritage Management Plan**

The site is covered by cultural heritage sensitivity and a Cultural Heritage Management Plan (CHMP) was required. The proposed activity is classified as a high impact activity in accordance with the *Aboriginal Heritage Regulations 2018*, Division 1,7(b). The activity area is within 200m of a waterway i.e Goodman Creek and also falls within 50m of 13 previously registered Aboriginal Places. The CHMP studies commenced in 2017 by Ecology Heritage Partners. The CHMP 15217 was completed by new consultants, Heritage Insight and approved by the Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation in 2021.

The activity area in the CHMP is identified as approximately 55.6ha whilst the Work plan identifies the activity area at 44ha as it excludes the access road and any site facilities areas.

**Engagement Plan**

An Engagement Plan was submitted during the original submission for the extractive industry in 2017. It stated that community members will be offered the opportunity to contact Hanson directly via a range of options such as freecall 24/7, dedicated email address, completion of enquiry form on the Hanson website, calling or testing a dedicated mobile phone number.

**Amenity**

Although the site is earmarked for an extractive industry, it is important to mitigate adverse impacts and hours of operation are considered an appropriate mechanism to reduce impacts outside normal business hours. this is particularly important as the site has not been used for this particular use in recent years and since the issue of the original permit in 1991, the high quality of living rural living is expected. That being the case, Council considers it appropriate to the hours of operation to be from Monday to Friday from 7am to 6pm and Saturday 9am and 1pm.

Appropriate management plans and controls have been included in the Permit to ensure proper control and management of on and off site operations to limit offsite impacts.

A Traffic Report was undertaken by a suitably qualified consultant was provided with the application. The Department of Transport provided conditions on the Permit which included an upgrade to Gisborne Road relating to truck turning lanes.

**General Provisions**

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

Clause 66 - Stipulates all the relevant referral authorities to which the application must be referred.

**Referrals**

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| --- | --- |
| **Authority** | **Response** |
| **External Referrals** | |
| Melbourne Water | No consent provided and requested further information. Melbourne Water have advised that they will not support the application without the further information. |
| Southern Rural Water | No recent comment, previously consented. |
| Department of Transport | Consent with condition. |
| Department of Jobs, Precincts and Regions (DJPR) | No comment. |
| Environmental Protection Authority (EPA) | Consent with permit note and recommendation. No conditions. Their advice is summarised in the discussion section. |
| DELWP | Consent. |
| **Council Referrals** | |
| Strategic Planning | No objection. |
| Infrastructure | Consent with conditions. |
| Major Development | No objection. |
| Environment and Waste | No objection. |

**Financial Implications**

No financial implications arise from the proposal.

**Risk & Ocupational Health & Safety Issues**

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

**Communications Strategy**

Notice was undertaken for the application, in accordance with s.52 of the *Planning and Environment Act 1987*, and further correspondence is required to all interested parties to the application as a result of a decision in this matter. All submitters and the applicant were invited to attend this meeting and invited to address Council if required.

**Options**

 Advise VCAT it supports the application in accordance with the conditions recommended in this report.

 Advise VCAT it supports the application with conditions outside of the recommendation of this report; or

 Should Council not wish to support the application, it needs to advise VCAT and provide grounds for refusal.

**Conclusion**

The proposal to allow for the use and development of an extractive industry (sand quarry) in Schedule 2 of the Special Use Zone was assessed against the potential amenity impacts and associated risks, including the planning scheme which led to the recommendations in this report. This allows for the approval of the application subject to conditions which are designed to mitigate concerns related to environmental degradation, access, roadworks, amenity impacts. Permit conditions are designed to protect the amenity of nearby residents and include plans for final endorsement.

12 Community Strengthening Reports

12.1 Female Friendly Sport and Recreation Participation and Infrastructure Strategy

**Author: Chloe Beech, Senior Community Recreation Planner**

**Authoriser: Sally Jones, General Manager Community Strengthening**

**Attachments: 1. Female Friendly Strategy (under separate cover)**

**2. Female Friendly Strategy Community Engagement Report (under separate cover)**

Purpose

The purpose of this report is to recommend that Council adopts the Female Friendly Sport and Recreation Participation and Infrastructure Strategy.

Executive Summary

The Female Friendly Sport and Recreation Participation and Infrastructure Strategy was presented to Councillors at the December OMC. Councillors resolved to publicly exhibit the Strategy for a period of four weeks prior to adoption. The four-week exhibition period has concluded, and it is recommended the Strategy is presented for adoption at the March OMC. A summary of the public exhibition findings is outlined below.

The strategy has been developed through feedback and consultation with stakeholders with collaborative delivery and investment in mind. There is recognition that Council will work with project partners for support and delivery of actions and recommendations, acknowledging a partnership approach and collaborative effort will achieve the greatest results.

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| Recommendation  **That Council adopts the Female Friendly Sport and Recreation Participation and Infrastructure Strategy (provided as Attachment 1 to this report).** |

Background

Prior to the public exhibition of the draft plan, part of the consultation as per the project community engagement plan was to carry out a community survey. The survey was open for a period of four (4) weeks and had a positive response rate with 142 submissions received and the survey page received 1,315 views. These survey results have provided key information on the reserve which have helped inform the Strategy. Focus groups were held which saw 17 local women and girls participate including from culturally diverse backgrounds, disability, LGBTQI, women and their teenage daughters, and women in general. Furthermore, four local project ambassadors were engaged who currently participate in activities such as walking, AFL, campdrafting and weightlifting. These four women assisted in the promotion and engagement period and provided stories around their journey to being physically active.

Proposal

At the conclusion of the public exhibition period, 3 December 2021 – 4 January 2022, a total of four submissions were received via Council’s Have Your Say Engagement Portal.

Two of these submissions did not provide any comments or feedback. Of the two submissions that were provided, one response questioned why the Strategy focuses on females and disregards males, and one provided commentary around Moorabool teenagers engaging in less activity due to the time spent travelling to school due to lack of local secondary school options. The draft Strategy had 96 downloads and 101 page views. Based on the feedback and number of downloads and page views, there will be no amendments to the draft Strategy required prior to presenting to Council for adoption.

An email submission from the Victorian Pride Lobby was also received in support of the Strategy, in particular welcoming the commitment to all gender changerooms and delivery of educational sessions and developing tools that foster welcoming, inclusive and safer environments.

It is proposed that Council adopt the Female Friendly Sport and Recreation Participation and Infrastructure Strategy.

Council Plan

The Council Plan 2021-2025 provides as follows:

**Strategic Objective 1: Healthy, inclusive and connected neighbourhoods**

**Priority 1.5: Provide access to services to improve community connection in the Shire**

The proposed Female Friendly Sport and Recreation Participation and Infrastructure Strategy is consistent with the Council Plan 2021-2025.

Financial Implications

A budget bid for the 2021/2022 Council budget has been submitted to secure funds to allocate towards the implementation of the Year 1 Strategy actions.

The Strategy has identified a significant number of activities to be delivered in Years 1 to 3. External funding opportunities through various grant programs have also been identified as potential sources to leverage funds against to help deliver identified activities and actions.

Risk & Occupational Health & Safety Issues

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| --- | --- | --- | --- |
| **Risk Identifier** | **Detail of Risk** | **Risk Rating** | **Control/s** |
| Community need and reputation | Exposes Council to a number of service gaps if priorities in strategy are not implemented. | High | Budgeting and applications for future funding explored |
| Financial – Inadequate funds to implement project | Inadequate financial management | High | Close supervision and pursue external funding options |

Communications & Consultation Strategy

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Level of Engagement** | **Stakeholder** | **Activities** | **Location** | **Date** | **Outcome** |
| Consult | Local women and girls | 2 x focus group sessions held  Community survey on Council’s Have Your Say engagement portal | Online | April 2021 – October 2021 | Feedback obtained to influence Strategy |
| Consult | State Sporting Associations and Health Providers | 2 x workshops held | Darley Council Office and online | March 2021, October 2021 | Feedback obtained to influence Strategy  Commitment to partner with Council in delivering activities and actions |
| Consult | Internal Council units | 2 x workshops held | Darley Council Office and online | March 2021, October 2021 | Feedback obtained to influence Strategy |

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 – Sally Jones*

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

*Author – Chloe Beech*

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

Conclusion

The Strategy has been designed to assist Council to lead and respond to the needs of local women and girls over the next 10 years. The Strategy has been developed by InsideEdge in partnership with Council and Sport and Recreation. Input from local women and girls and broader community input has been gathered via the strong community survey response rate and focus groups.

Following the public exhibition period, the Strategy evidently has community support, and the adoption of the Strategy is welcomed by the public.

12.2 Future of Aged Care Services in Moorabool

**Author: Sally Jones, General Manager Community Strengthening**

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

**Attachments: 1. Appendix One - Principles and Values (under separate cover)**

Purpose

The report seeks Council consideration of feedback received following an in-principle decision on its future role as a provider of services under the Commonwealth Home Support Programme (CHSP) and Victorian Home & Community Care for Young People Program (HACC-PYP).

The in-principle decision taken by Council in December 2021 triggered engagement and consultation with clients, staff and community. This report provides feedback from these processes and an update on the national aged care reforms.

After consideration of feedback it is recommended that Council proceed to confirm that it will commence an orderly and well-managed transition out of all funded home-based and community-based services for older residents, and it will ensure that all obligations to clients, families, staff, and funding bodies are recognised and respected.

Executive Summary

Moorabool Shire Council is a long-term provider of aged and disability services for its community.

Significant Commonwealth reforms have been implemented in the past decade and these changes to the funding and operating environment have resulted in Council being ill-equipped and not suited to continuing as a provider.

The current *Commonwealth Home Support Program* (CHSP) transitions to the new *Support at Home* program after 30 June 2023 and Council has concluded that it is in the best interests of the community that it transitions out of the service delivery function. It will also seek to influence an appointment of a values-aligned local provider to build local service system capacity and improve access and outcomes for older residents.

Council has engaged with clients, staff and community and has assured all stakeholders that it will respect all service agreement and industrial obligations. Feedback received will be incorporated into planning for implementation of the Council decision.

In taking this decision Council understands it has responsibilities to clients and families, long service staff and the broader community to manage the transition effectively and to anticipate and mitigate risk.

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| Recommendation  **That Council:**  **1. Notes that since 2011 the Commonwealth has progressed implementation of a consistent and integrated national aged care service system based on increased consumer choice and control and competition between providers to drive quality improvements and service efficiencies with a final transition date of 1 July 2023.**  **2. Accepts that due to inherent service cost, financial constraints, competition policy and other structural challenges, Moorabool Shire Council along with many other Victorian Councils will not be able to play a meaningful future role in service delivery.**  **3. Confirms that it will transition out of direct service delivery roles by 30 June 2022 in the following programs, subject to negotiations with Commonwealth and State Governments:**  **(a) All funded Commonwealth Home Support Programme services**  **(i) Domestic Assistance**  **(ii) Personal Care**  **(iii) Flexible Respite**  **(iv) Centre Based Respite**  **(v) Social Support – Group**  **(vi) Social Support – Individual**  **(vii) Home and Property Maintenance**  **(viii) Home Modifications**  **(ix) Delivered Meals**  **(x) Occupational Therapy**  **(xi) Sector Support & Development**  **(b) All funded HACC-PYP services**  **(i) Domestic Assistance**  **(ii) Personal Care**  **(iii) Social Support Group**  **(iv) Centre Based Respite**  **(v) Home and Property Maintenance**  **(vi) Delivered Meals**  **(vii) Occupational Therapy**  **(viii) Volunteer Coordination**  **(c) Regional Assessment Services (RAS)**  **4. Commits to working with the Commonwealth and Victorian governments to negotiate timing and transition processes that will protect the interests of clients, their families, much valued staff, and the broader community.**  **5. Notes that under its service agreements all processes and matters related to the transition process (i.e. names of future providers) will remain confidential until the Commonwealth and Victorian governments provide consent for release of information.**  **6. Reaffirms that in taking this decision it will continue to play an active role in ensuring its community will receive high-quality aged care services and will advocate for the needs of vulnerable members of the community.**  **7. Commits to the values and principles outlined in Appendix A to underpin and support decision making through the transition process, provided as Attachment 1 to this report.**  **8. Notes that Council has undertaken an expression of interest process and has identified a potential values-aligned successor provider that it will recommend to the Commonwealth on a without-prejudice basis.**  **9. Realigns its policy direction towards future investment in age-friendly or positive-ageing initiatives and ensuring that Council’s universal services and facilities are designed to meet the needs of a growing population of older residents. Further policy work and recommended directions will be referred to the 2022/23 budget process for review and approval.**  **10. Notes that Council’s policy objective of ensuring that older adults seeking to live independently in the community will be provided with quality home support services and will not be compromised by this decision. Services will continue to be provided and Council will be able to reinvest its current ratepayer subsidy into alternative strategic priorities.**  **11. Provides delegated authority to the Chief Executive Officer, or their nominee, to undertake or commission all tasks and activities related to the implementation of this Council decision.**  **12. Appoints the Mayor and CEO as spokespersons for all matters related to the Home Support Transition process.**  **13. Approves immediate notification of its final decision to, and appropriate consultation with:**  **(a) Clients and families**  **(b) Staff and union representatives**  **(c) Media and other communications**  (d) **Broader community** |

Background

Moorabool Shire Council (the Council) has been an important provider of home and community care services to assist older people and those recovering from acute care to continue to live independently in the community.

The investment and organisational commitment to the provision of services has over time become emblematic of the supportive relationship between Local Government and its community. Investment in services was a means of expressing a strong commitment to many vulnerable members of the community: this included older people, people with a disability or mental illness and people at risk of homelessness.

The National Aged Care Reforms

Australia’s integrated national aged care program has been undergoing significant reforms over the past 10 years following Commonwealth agreement to take full responsibility for aged care in August 2011 and establishment of the National Disability Insurance Scheme at around the same time.

The key drivers for the aged care reforms included:

 the number of people in Australia requiring aged care (in some form) would increase by 350% between 2011 and 2050

 significant system weaknesses (difficult navigation, limited services, variable quality, and no consumer choice) and inefficiencies (duplication of effort, no competition, and high-cost structures) that needed to be eradicated, and

 real concern that the cost of providing adequate care for older people in future would be unaffordable as a nation.

Attributes of the current aged care model include:

 CHSP - ‘entry level’ basic home support and community-based services such as domestic assistance, personal care, shopping, etc. – this program provides services to 839,400 older Australians nationally

 Home Care - four levels of ‘packaged care’ funded from basic to high care to maintain independence – services were provided to 175,000 older Australians

 Residential Care - funded residential aged care (respite and permanent) – 310,000 older Australians nationally

In 2019/20 the total Commonwealth aged care budget for 2020/21 was $21.5 billion or $5,063 per older person; this comprised Residential Care $13.64 billion and Home Care and Home Support $6.7 billion.

Design principles for the aged care reforms have remained very consistent since initiation, these include:

 **Consumer Choice and Control** – funding is provided directly to the clients based on assessed need to support choice and control; the client purchases services from a range of providers. This has a strong human rights and philosophical basis but introduces competition and signals the end of ‘block funding’ certainty for providers in most circumstances.

 **A Simplified Gateway** – My Aged Care is the single point of entry for all Australians to access aged care services. The 2017 Legislated Review of Aged Care has recommended merging of the RAS (Home Support) and Aged Care Assessment Teams (ACAT) (Residential Aged Care) into a streamlined national assessment service.

 **Demand Driven System** – the current ‘block funded’ and supply driven system will progressively move to a ‘demand driven’ funding system to ensure consistent services are delivered to where they are needed rather than what areas funding is allocated.

 **Competition Policy** – there is a renewed national focus on competition policy to drive economic growth, productivity, and efficiency in service delivery. It is more likely than not that future program design will be based on market and competition principles meaning that Local Government will face direct market exposure and ratepayer subsidy will be in effect prohibited.

 **Monopoly Market** – the current protected market arrangements are being completely dismantled to facilitate open competition and improved efficiency. Local Government is not equipped to effectively operate under market conditions. (Block funding may be retained for some niche programs and regional and remote areas, but most of the program will likely be on a ‘most efficient’ multiple provider basis.)

 **Market Efficiencies** – the Commonwealth is seeking to reduce transaction costs by having fewer contracts with larger organisations who can operate across large geographic areas. It is unclear whether there will be direct contracts between the Commonwealth and individual Local Governments after June 2023.

 **Client Contribution** – the Commonwealth expects that all Australians will make a consistent contribution to care depending on their capacity and capability.

Recent reform decisions have reinforced the direction of the Commonwealth, the May 2021 Federal Budget announced a significant response to the Aged Care Royal Commission in its May budget and this included:

 $6.5 billion for 80,000 additional aged care packages

 $3.9 billion for improved front line residential care

 $630 million improved access for vulnerable Australians

 $365 million for better transition to residential care

 $230 million to strengthen aged care quality and compliance

 $49.4 million for aged care training

 $21 million for improved sector governance

 $13.4 million to Primary Health Networks to drive better coordination

The budget included an announcement of an extension of the CHSP program to 30 June 2023 to enable the design and roll-out of the new ‘Support at Home’ program. The original reform timing was for completion by 30 June 2018, and this has been subject of four extensions: one to 2019, then to 2020, again to 2022 and now to 2023.

The ‘Support at Home’ program will be a new integrated program commencing 1 July 2023 that combines CHSP, Home Care Packages, Residential Respite and Short-term Restorative Care. This integrated model will most likely be client-directed, offer a range of providers (i.e. a market-based model) and require that providers offer a suite of services across in-home, personal, nursing, and allied health.

The Regional Assessment Service that undertakes intake and assessment for the CHSP and HACC-PYP programs was on a pathway to a national streamlined model by 1 July 2020. This initial plan was delayed pending the outcomes of the Aged Care Royal Commission and the Commonwealth announced in May 2021 that that it will initiate a unified assessment model in 2022 and this new program will have responsibility for the new ‘Support at Home’ program from July 2023.

Key Issues

Reform Update – Support at Home

The Commonwealth released a program overview on 6 January 2022 that provides the first look at the architecture of the future Support at Home program.

This overview confirms previous advice to Council that the proposed program will be radically different from the existing CHSP program and will include:

 Individualised support plans for clients linked to funding that is based on assessed need

 A new integrated assessment tool that controls access to all aged care services, from home-based to residential-care services

 An increased reliance on technology and digital services for clients, business systems, and payment platforms.

 A service list that will better define the outputs and allow flexibility for clients.

 Clients being allowed choice and control over the time and place services are provided; this assumes multiple providers being available.

 The end of block funding and transition to payment for units of service delivered; a completely different business model.

 Introduction of regulated competition between providers.

This information release from the Commonwealth confirms that Council would not be able to effectively operate under the new Support at Home program without significant investment in changes to its operating model and reduction in operating costs.

Client and Community Feedback

6 phone calls were received from current clients, or carers of current clients requesting further clarification regarding the in-principle decision made by Council. All of these enquiries sought clarification that there was no current change to the client’s care plan, and that any future changes would be communicated in due course. These queries were responded to accordingly with clients, and carers of clients being assured that no immediate changes would occur, and that any future changes would be communicated to ensure clients were supported. No escalated matters arose during this period.

A media briefing was also held with local media representatives on 2 December 2021 to provide further information pertaining to Council’s in-principle decision. Articles regarding the in-principle decision featured in local media newspapers.

Employee Feedback

All impacted staff were required to attend an in-person briefing held on 2 December 2021 in which an overview of the reforms, competitive policy and Federal Government’s proposed future modelling was presented. Notification of Council’s in-principle decision was also provided to staff in addition to staff receiving estimated redundancy entitlements, supports available and ongoing opportunities to engage with Human Resources (HR) in relation to individual impacts. Feedback from staff at these briefings highlighted the care and commitment to clients in ensuring their wellbeing. Following the staff briefings, 8 staff sought further clarification from HR to request future support for outplacement services, consideration for redeployment or financial support for retraining should Council confirm its in-principle decision. Staff received clear communication and information in addition to Employee Assistance Program (EAP) support regarding the in-principle decision.

The Australian Services Union (ASU) was also provided with notification of Council’s in-principle decision on 2 December 2021. The ASU held two meetings with impacted members in relation to the in-principle decision in addition to a media release which was sent to local media outlets.

Expression of Interest

Council has completed an expression of interest (EOI) process to test the local and regional market of providers. The EOI sought information from providers regarding:

 Compliance and financial viability – quality standards and financial capacity.

 Service experience, capacity, and organisational form – experience in similar services and local presence.

 Employment and local economic development – fair employment and commitment to local jobs.

 Client related matters – protecting the rights and wellbeing of clients.

This process has identified a potential values-aligned successor provider that Council will recommend to the Commonwealth, noting that a successor provider will ultimately be appointment by the Commonwealth.

Council has considered the outcomes from the EOI process and recommendations in a separate confidential report.

Council Plan

The Council Plan 2021-2025 provides as follows:

**Strategic Objective 1: Healthy, inclusive and connected neighbourhoods**

**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

This report has significant financial implications for Council.

The ongoing ratepayer subsidy (approximately $220,000 in recent years) will no longer be able to subsidise the delivery of Commonwealth policy objectives of an integrated aged care program to support older people to live independently in the Moorabool community, due to the requirements of Competitive Neutrality principles.

Council will commit resources to support an effective transition process, this is estimated to be around $100,000 over the next 12 to 18 months.

Industrial obligations to staff in the form of redundancy payments have been incorporated into long-term financial planning.

It is recommended that Council’s Audit Committee receive a review report at the end of the transition process that summarises all costs and addresses lessons learnt.

Risk & Occupational Health & Safety Issues

A comprehensive risk and community impact analysis has been completed for Moorabool Shire Council; the high-level risks associated with this decision were incorporated into the previous report to Council.

No additional risks have been identified but in making this decision, Council is committed to ensuring that transition related risks are identified on an ongoing basis and addressed in a timely and responsive manner.

Communications & Consultation Strategy

Significant consultation with the Community has identified that supporting our ageing population is an important priority for the Moorabool community.

Council officers have engaged with Commonwealth and Victorian government agencies to provide notice and advice of the decision-making process.

Council by taking this confirming decision will trigger a comprehensive communications and consultation exercise and this will include:

 Clients and families will be informed of Council’s decision and will be provided with information and a priority contact number to raise any questions or concerns during the process.

 A proactive media engagement strategy to explain the rationale for Council’s decision, the transition process, and long-term benefits for the community.

 Staff and union, acting as the industrial representatives of staff will be advised of the determination on this matter. Ongoing communication and opportunities to meet with staff will be facilitated.

 Council officers will provide ongoing information to the general community following Council’s determination on this matter.

 A comprehensive ‘Frequently Asked Questions’ document will be updated and made available via Council’s website and customer service centres.

Legislation and Policy

Commonwealth Policy

The Commonwealth took full policy, funding, and commissioning responsibility for an integrated aged care program in August 2011 and has proceeded to implement a range of reforms based on very consistent design principles. The Commonwealth is seeking to design and deliver a nationally consistent consumer centred, integrated, and flexible aged care system that meets the needs of all older Australians.

National Competition Policy

A constraint on Council decision making is the application of National Competition Policy to Local Government in Victoria. The Commonwealth is more than likely to apply market principles to a future Home Support service model and that National Competition Policy and Competitive Neutrality Principles would therefore apply to Local Government operations.

Competitive Neutrality Principles apply to the significant business activities of Councils and not to non-business or non-profit activities. The concept of ‘significance’ is defined on a case-by-case basis looking at the importance of competition in a specific market.

Given the Commonwealth is moving to a market-based model for delivery of future services, it is reasonable to assume that there will be a high degree of focus on ensuring the market is not distorted or disrupted by government subsidised activity.

There is a mandated ‘public interest test’ that must be undertaken if Council wishes to continue to provide services that are subsidised in competition with other ‘not-for-profit’ and ‘for-profit’ providers. There is no viable or significant public interest in Council continuing to be a provider in competition with more efficient and more effective non-government providers.

Industrial Obligations

Council has satisfied its industrial obligations to staff to ensure notification of change and consultation and engagement on significant decisions that impact the workplace.

This decision to exit the funded programs will trigger redundancy provisions of the Enterprise Agreement, exploration of redeployment opportunities and payment of retrenchment packages for affected staff.

An estimate of the total transition cost has been provided to Council in a confidential report.

Human Rights

The implications of this report have been assessed in accordance with the requirements of the Victorian Charter of Human Rights and Responsibilities.

Probity and Confidentiality

The EOI process has been governed by a probity auditor and will meet the probity and confidentiality requirements of the Commonwealth. This will be an important decision criterion in any ‘without prejudice’ recommendation to be made to the Commonwealth by Moorabool Shire.

Pathway options available to council

The following options are available to Council.

Option 1 – Transition out of direct service delivery and focus on broader policy

This option is recommended as being in the public interest and aligned with Council’s broader obligations to the community.

Council accepts that Commonwealth policy is moving towards a consistent national integrated aged care system and that this will require more efficient providers who can deliver services across a broad spectrum of needs.

The decision to transition out of its long-term commitment to service delivery is a significant decision and not taken lightly. Council has an obligation to resource and support an effective transition for clients and staff.

Council will proactively manage an effective transition out of service delivery and ensure that all clients (and especially those clients that are vulnerable or at risk of social isolation) are provided with support.

Council accepts its moral and industrial obligations to all staff affected by this decision.

Council will effectively manage the transition and simultaneously shift focus from service delivery as its primary role to investment in broader age-friendly and positive ageing policy initiatives that are aligned with its health and wellbeing obligations.

Option 2 – Resolve to remain as a service provider until 30 June 2023

If Council does not resolve on the officer recommendation it will retain its service agreements and continue to deliver funded services until the new Support at Home program initiates in July 2023.

Council will therefore accept that it will transition as part of a wholesale program transition with remaining councils in 2023.

This option is not recommended as Council will:

 have less influence and control over the mode of transition to the new program

 not be able to influence the appointment of a successor provider, and

 continue to be challenged by service and business continuity challenges.

Amended program and service agreement requirements are being implemented for the 2022/23 financial year and there will be a need for additional investment in business systems and administrative support.

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.

*Authoriser – Derek Madden, CEO*

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

*Author – Sally Jones, General Manager Community Strengthening*

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

CONCLUSION

It is recognised that Commonwealth policy is moving towards a consistent national integrated aged care system and that this will require more efficient providers who can deliver services across a broad spectrum of needs.

The decision to consider transitioning out of its long-term commitment to service delivery is a significant decision. Should the officer’s recommendation be endorsed, Council will resource and support an effective transition for clients and staff to ensure the Moorabool community continue to access high quality services.

13 Customer Care and Advocacy Reports

13.1 December 2021 Quarterly Financial Report

**Author: Aaron Light, Senior Accountant**

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

**Attachments: 1. December 2021 Quarterly Report (under separate cover)**

**Purpose**

The purpose of this report is to inform Council of the financial performance for the period ending 31 December 2021, 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 2021 to 31 December 2021. 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 $18.826 million that is a $0.156 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 $9.613 million that is a $4.858 million less than budget. The variance primarily relates to the timing of contract payments, delays due to COVID lockdowns and restrictions, and the deferral of some major projects to next financial year.

 Council cash as at 31 December 2021 is $26.472 million, which was $1.543 million favourable compared to year to date budget.

 Council’s overall financial position at the end of December 2021 is considered sound and continues to be closely monitored to ensure the achievement of budgeted outcomes whilst closely monitoring the impact of the pandemic.

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| **Recommendation**  **That Council receives the Quarterly Financial Report – December 2021, provided as Attachment 1 to this report.** |

**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.





*Income Statement.*

The main changes within the Income Statement are as follows:

 Year to Date Operating Income - $1.627 million favourable.

 Favourable in “Grants - operating” ($1.269m) due to new funding received since the adoption of the budget.

 Year to Date Operating Expenses - $1.470 million unfavourable.

 Unfavourable in “Materials and services” ($1.571m). This is primarily due to unbudgeted works for Storm Recovery.

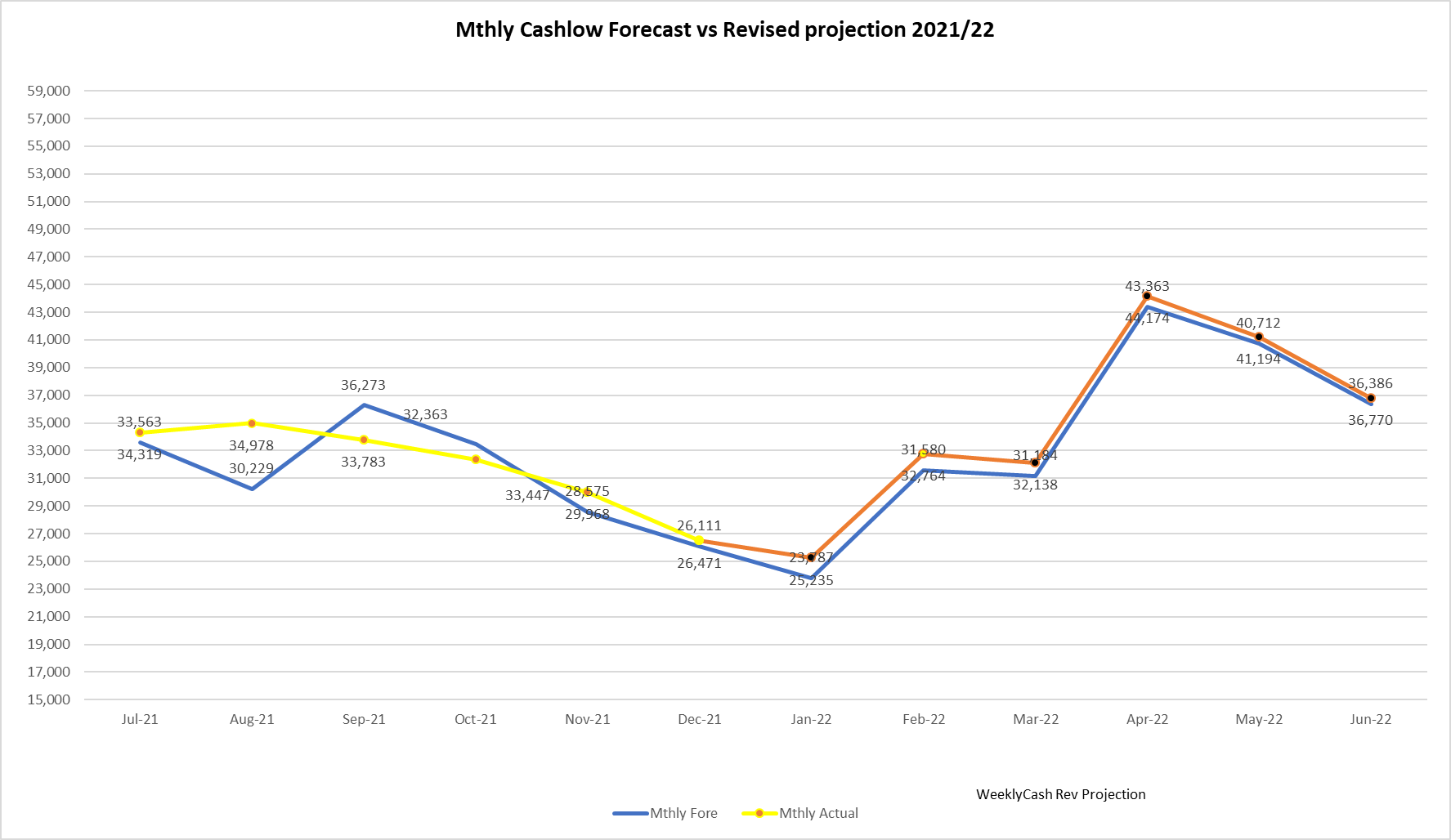
The main forecast adjustments relate to Storm Recovery works, new funding received since the adoption of the budget, and COVID-19 impacts to Council services.

*Balance Sheet and Cashflow Statement.*

The Balance Sheet reflects Council’s financial position as at 31 December 2021 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 $26.472 million, which is $1.543 million more than the year-to-date budget.

Council’s Balance Sheet continues to show a strong net position. This is represented by $696.099 million of assets which is largely made up of Council Property, Infrastructure, Plant and Equipment. Council’s total liabilities are $35.359 million, which results in net assets of $660.740 million.



\*graph is prepared on a weekly basis and not a fixed month end

*Capital Improvement Program (CIP).*

Total capital expenditure at the end of December 2021 is $9.613 million, which is $4.858 million less than the year-to-date budget. This is mainly due to timing variances with contract payments and delays due to COVID lockdowns and restrictions. The major items of expenditure so far are: Ballan Depot Relocation, Reseal Program, Old Geelong Road, Preplanning for Bacchus Marsh Indoor Recreation Facility, and Aqualink Stage 1.

**Proposal**

That Council receives the Quarterly Report – December 2021.

**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 2021 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 2 March 2022, and to the Audit and Risk Committee meeting on 9 February 2022.

**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 2021 is considered sound and Council note the December Quarterly Report.

13.2 Consideration of intent to seek a rate cap variation for 2022/23

**Author: Steve Ivelja, Chief Financial Officer**

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

**Attachments: Nil**

Purpose

The purpose of this report is for Council to resolve the matter of whether it seeks to apply for a rate cap variation for the 2022/23 budgeting and planning cycle.

Executive Summary

 For each of the last 5 financial years, Council elected not to apply for further rate cap variations. The decision to not apply for a rate cap variation reflects the Council’s desire to work within the rate cap.

 There is a necessity for Council to resolve the matter of whether it plans to apply for a rate cap variation to enable adequate lead time for Officers to develop a project plan if necessary.

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| Recommendation  **That Council resolves to not apply for a rate cap variation for the 2022/23 financial year.** |

Background

For each of the last 5 financial years, Council has elected to not apply for a rate cap variation. The decision to not apply for a rate cap variation reflects the Council’s desire to work within the established rate cap.

On the 29th of December 2021, the Minister for Local Government announced that the Fair Go Rates Cap for 2022/23 will be set at 1.75%. With the continuing impact of the Coronavirus pandemic, cost of living pressures and the ongoing economic recovery, it is recommended that Council do not seek a rate cap variation for the 2022/23 financial year. It is noted that inflation is currently running at 3.5% (as of December 2021).

Proposal

That Council resolve the matter of whether it seeks to apply for a rate cap variation for the 2022/23 budgeting and planning cycle.

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 is consistent with the Council Plan 2021 – 2025.

Financial Implications

Depending on whether Council elects to apply for a rate cap variation for the 2022/23 year and beyond, there will a disparity in the level of funds it will have at its disposal to invest for the benefit of the community.

Risk & Occupational Health & Safety Issues

The financial stability of Council is identified in Councils Strategic Risk profile. Based on Council rates being capped at 1.75% in 2022/23 and projected CPI for future years, Council has currently assessed its ongoing financial sustainability as a medium risk. Several controls are in place to manage the ongoing financial sustainability of Council.

| **Risk Identifier** | **Detail of Risk** | **Risk Rating** | **Control/s** |
| --- | --- | --- | --- |
| Financial stability of Council | Limited funding or significant changes in funding sources limiting ability to deliver on Council’s objectives. | Medium | Long term financial plan in place to document and review Council’s financial position and assist with strategic management of Council’s finances.  Regular financial reporting to Audit & Risk Advisory Committee aligns with Council reporting.  Adherence to financial metrics as identified by VAGO and the LGPRF.  Focus on advocacy to support achievement of identified community needs.  External audits of financial accounts undertaken on annual basis for annual  report and received an unqualified audit result.  Service Review and Planning Policy and Framework implementation.  Each service undertaking a review of their services every three to five years.  Linking asset plans, community infrastructure plans and service plans to  Council’s Long-Term Financial Plan.  Borrowing funds within a sound financial management framework as a mechanism to finance major projects, as it spreads the payments for such assets across the generations who benefit.  Cost control and identifying opportunities to increase revenue streams.  Applying for a rate cap variation where required. |

Communications & Consultation Strategy

The communication and consultation strategy are contingent upon Council’s decision as to whether it resolves to apply for a variation.

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 – Steven Ivelja*

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

Conclusion

The rate cap for the 2022/23 financial year has been set 1.75%. In the context of the current coronavirus pandemic, it is recommended that Council do not seek a rate cap variation over the established rate cap of 1.75%.

Council may need to consider or re-assess its position in future years especially where the continued maturity in Council’s Asset Management Systems indicate the existence of assets backlogs and/or insufficient funding to satisfy asset renewal demand.

Equally, if the Council wishes to expand or increase its levels of services and infrastructure beyond the constraints of the current strategic financial plan, it may need to consider the option of applying for a rate cap variation in future years, especially if external funding is not available.

14 Community Assets & Infrastructure Reports

14.1 Capital Improvement Quarterly Report - 31 December 2021

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

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

**Attachments: 1. CIP Attachment - Project Status Summaries**  **(under separate cover)**

Purpose

To provide Council with an overview of the progress of Council’s 2021-2022 Capital Improvement Program to 31 December 2021.

Executive Summary

The delivery of the 2021-2022 Capital Improvement Program is on schedule with 52.4% of the projects are either completed, underway, soon to commence or in procurement stage.

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| Recommendation  **That Council receives the Capital Improvement Program Quarterly Report to 31 December 2021.** |

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 2021-2022 Capital Improvement Program to 31 December 2021.

Implementation of the 2021/2022 Capital Improvement Program

The 2021-2022 Capital Improvement Program currently consists of 106 projects reported to Council. This number may be adjusted throughout the year as other projects become active. 12 No. projects have already been added to the 2021-2022 program since 1 July 2021.

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

 Projects carried forward from 2020-2021 program.

 2021-2022 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 2021:

|  |  |  |
| --- | --- | --- |
| **CIP Program Delivery Stage** | **Actual as of**  **31 December 2021** | |
| **No. of Projects** | **%** |
| Not Commenced (inactive/on hold) | 9 | 8.5 |
| Not Commenced | 14 | 13.2% |
| Documentation/Design Preparation | 27 | 25.5% |
| Tender/Quote Stage | 14 | 13.2% |
| Project Awarded – Waiting Commencement | 12 | 11.3% |
| In Progress/Under Construction | 13 | 12.3% |
| Complete | 17 | 16.0% |
| **TOTAL** | 106 | 100.0 |

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.

Program Status

At this stage of the financial year the program is on schedule and within budget. There are 9 projects “On Hold” either due to unsuccessful/pending grant funding applications or awaiting finalisation of various master planning and community engagement activities. 52.8% of the projects are either completed, underway, soon to commence or in procurement stage, with a further 25.5% at design or document preparation stage.

5 of the 105 projects are behind program at this stage:

 Griffith Street (Maddingley), upgrade design – A concept design has been completed after considering challenges of access to various industries and catering for large trucks, managing storm water design, integrating with DoT planning for Grant Street/Griffith Street upgrades and local access control

 Fisken Street (Ballan), kerb replacement – Design complete which protects “significant” tree issue. Works will be deferred and combined with the proposal to upgrade the Fisken Street/Steiglitz Street intersection in 2022-2023

 Mason Lane Pavilion and Storage shed (Bacchus Marsh), renovation and renewal – delayed due redesigns and alterations to shed locations combined with timing of works to avoid interrupting user groups use. Work scheduled to commence 4 April 2022

 Jonathan Drive (Darley), Playground renewal - Community Engagement underway with construction scheduled for July 2022

 Sports Field Lighting program – Fifth and final oval lighting project was deferred pending the Ballan Oval Pavilion design. These lights have now been installed and final commissioning is due in early 2022.

15 projects are classified as “multi-year” with delivery dates beyond 30 June 2021, many of which are projects funded under the Commonwealth Government’s Local Roads and Community Infrastructure Programs with completion times of 31 December 2022 and 30 June 2023.

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; accordingly, there are no additional financial implications. At this point in time, the program is within budget parameters.

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 letter drops.

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 first half of the 2021-2022 period for the information of Councillors.

14.2 Draft Naturestrip Policy and Naturestrip Guidelines

**Author: Bivish Ghimire, Asset Management Coordinator**

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

**Attachments: 1. Draft Nature Strip Policy (under separate cover)**

**2. Draft Nature Strip Guidelines (under separate cover)**

Purpose

Following initial presentation to the Ordinary Meeting of Council in July 2021 and a subsequent public exhibition process, the purpose of this report is to provide a summary of the submissions received and present the Draft Nature Strip Policy and Guidelines for formal adoption.

Executive Summary

 Council’s Draft Nature Strip Policy and Nature Strip Guidelines are operational documents that provide an overview of Council’s and residents management and maintenance practices and responsibilities.

 Development of this draft policy and guideline have been undertaken by Council staff and was based upon community consultation, professional experience and learnings, and benchmarking against other Councils.

 Following initial presentation at the Ordinary Meeting of Council in July 2021 a public exhibition period has been undertaken. During the exhibition period twenty-two submissions were received, and a summary of those submissions as well as recommended amendments to the plan is outlined within this report.

 The policy and guidelines will apply to all nature strips in Bacchus Marsh and Ballan townships, within residential zoned land from 01 July 2022. Applications for nature strip alterations outside of these areas will be considered on a case by case basis.

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| Recommendation  **That Council:**  **1. Adopts the updated Draft Nature Strip Policy and Draft Nature Strip Guidelines provided as attachments to this report.**  **2. Requests a copy of the Nature Strip Policy and Nature Strip Guidelines be placed on Council’s website.** |

Background

A nature strip is the portion of land located within the road reserve, between a property boundary and the adjacent roadway. Nature strips add to the amenity of the local area, facilitate pedestrian movement, and also provide a space for assets such as footpaths, trees, street furniture and lights and utilities such as gas, water, telecommunications and electricity to be located.

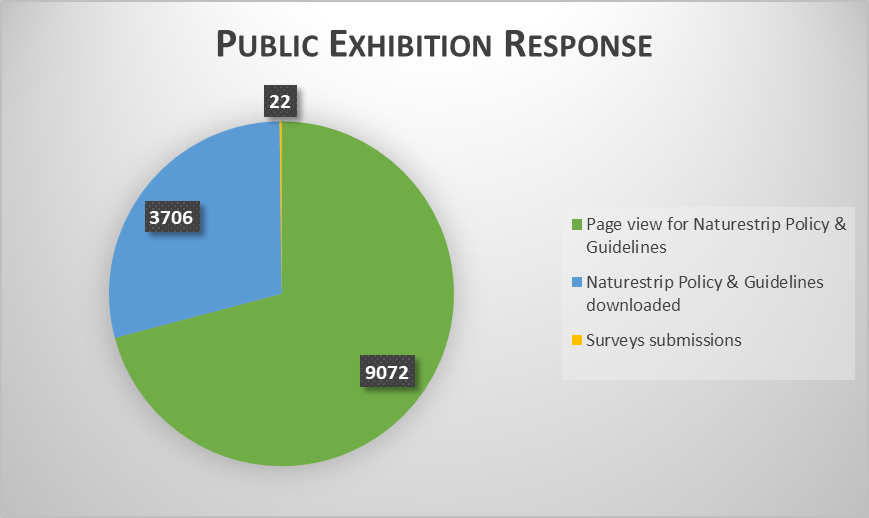
Whilst Council is the authority that manage the road reserve, it is the expectation that the adjacent landowner or occupier will undertake maintenance of the nature strip area to ensure it is maintained in a neat and tidy condition. Council undertakes maintenance of nature strips only along town entrances and in high-profile areas such as the CBD and are also responsible for the street trees planted within the nature strip.

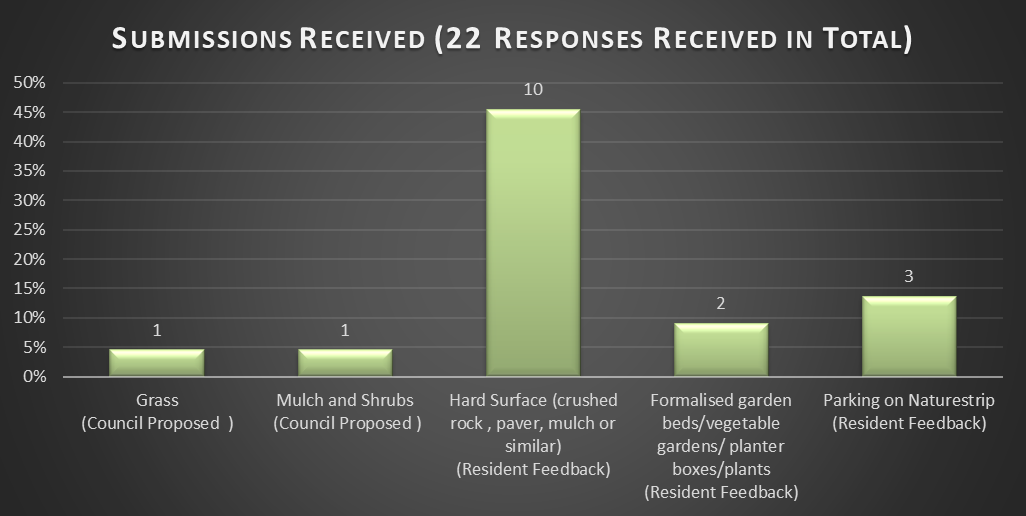
Council receives numerous requests from residents in relation to what is/is not permitted with respect to the ‘beautification’ of the nature strip adjacent to their properties. This may include requests to replace the grassed area with other materials such as crushed rock, or the installation of landscaping items such as plantings, landscape features or formalised garden beds. In addition, complaints are also received by Council in relation to nature strips that have been altered in the absence of a formal policy and/or without consent from Council.

Proposal

The Draft Nature Strip Policy and Guidelines were presented to Council at the Ordinary Meeting on 7 July 2021 where it was recommended to proceed with public exhibition, allowing the community to make submissions to the documents for consideration prior to formal adoption.

The public exhibition period was undertaken between 13 August and 9 September 2021. The survey received a very high-level of public interest on the “Have Your Say” page with 9072 views and 3706 Nature Strip Policy and Guidelines documents were downloaded. However, Council only received a very low number of submissions. A summary of the responses and key themes from the submissions is provided below:





The community interest in this policy was extremely high with over 9,000 page visits and 3,706 documents downloaded, however Council only received 22 submissions.

Residents provided feedback in their submissions on alternative options for nature strips, as shown in the graph above. Of the 22 submissions received, the highest 10 (45%) supported hard surfaces (crushed rock, pavers etc) due to low maintenance, 3 (14%) supported parking on the nature strip (due to narrow roads), 2 (9%) supported formalised garden beds (planter boxes, veggies), 1 (5%) supported mulch with shrubs and 1 (5%) supported grass.

Officers do not support formalised garden beds as it creates a potential safety risk and obstruction to pedestrian movement and vehicle occupants (exiting vehicles), however they do support the installation of grass or turf, plants/shrubs with maximum 500mm height with wood chips/mulch and compacted gravel within residential areas of Bacchus Marsh and Ballan.

Council Plan

The Council Plan 2021-2025 provides as follows:

**Strategic Objective 2: Liveable and thriving environments**

**Priority 2.2: Beautify our Shire including our parks, gardens, streetscapes, public and open spaces**

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

Financial Implications

There are no financial implications associated with implementing the proposals.

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

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| **Level of Engagement** | **Stakeholder** | **Activities** | **Date** | **Outcome** |
| Consult | Council officers | Internal working group meetings to develop a Draft Nature Strip Policy and Nature Strip Guidelines. | January – May 2021 | Developed Draft Nature Strip Policy & Nature Strip Guidelines. |
| Consult | Councillors | Briefing of Councillors to provide an overview of the Nature Strip Policy and Nature Strip Guidelines. A report to Council seeking endorsement of the public exhibition process. | July 2021 | Endorsement of the draft documents and proposed public exhibition process. |
| Consult | Community | Public exhibition of the updated draft documents to allow for review and submissions by the community, to be taken into account in finalising the Policy and Guidelines (4 weeks). | August – September 2021 | Community feedback on the draft documents. |
| Consult | Councillors | A report to Council outlining the submissions received during the public exhibition process, providing an official response and overview of any required amendments. | February 2022 | Draft document presented to Council. |
| Inform | Community | Final adopted document made available to the public on Council’s website. | February 2022 | Final adopted Nature Strip Policy and Guidelines made available and promoted. |

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 – Bivish Ghimire*

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

Conclusion

The Draft Nature Strip Policy and Nature Strip Guidelines are operational documents that provide an overview of Council’s and residents management and maintenance practices and responsibilities.

The development of the Draft Nature Strip Policy and Guidelines was undertaken and a public exhibition period completed following an initial presentation of the Draft to the Ordinary Meeting of Council in July 2021. Twenty-two submissions were received during the exhibition period, and a summary of those submissions are outlined within this report.

Based on the information contained in this report, officers recommend that the draft policy be adopted with no changes arising from the public consultation, however a clause has been inserted stating that the Policy is not retrospective and comes into effect from 01 July 2022. Complaints of non-compliance will be investigated on a case-by-case basis.

14.3 Draft Asset Management Strategy and Asset Management Plans

**Author: Bivish Ghimire, Asset Management Coordinator**

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

**Attachments: 1. Draft Asset Management Strategy (under separate cover)**

**2. Draft Asset Management Plan (Buildings) (under separate cover)**

**3. Draft Asset Management Plan (Open Space) (under separate cover)**

**4. Draft Asset Management Plan (Stormwater) (under separate cover)**

**5. Draft Asset Management Plan (Transport) (under separate cover)**

Purpose

Following an internal review process, Council’s existing Asset Management Strategy and suite of Asset Management Plans (Transport, Buildings, Stormwater and Open Space) have been revised and updated drafts prepared. In principle approval is now sought, in order to proceed with public exhibition of the draft documents.

Under the Local Government Act 2020 updated Asset Management Plans are required to be adopted by all Councils by 30 June 2022.

Executive Summary

 Council is responsible for the management of over $700M of physical infrastructure assets that support the delivery of services to the community.

 Asset Management is a core service and is at the centre of Council’s financial and strategic decision making.

 The Local Government Act 2020 requires that Councils have adequate control over their assets and mandates the development and adoption of a ten-year Asset Plan to guide the management of Council assets throughout the asset lifecycle (acquisition, maintenance, renewal, upgrade/expansion, decommissioning and disposal).

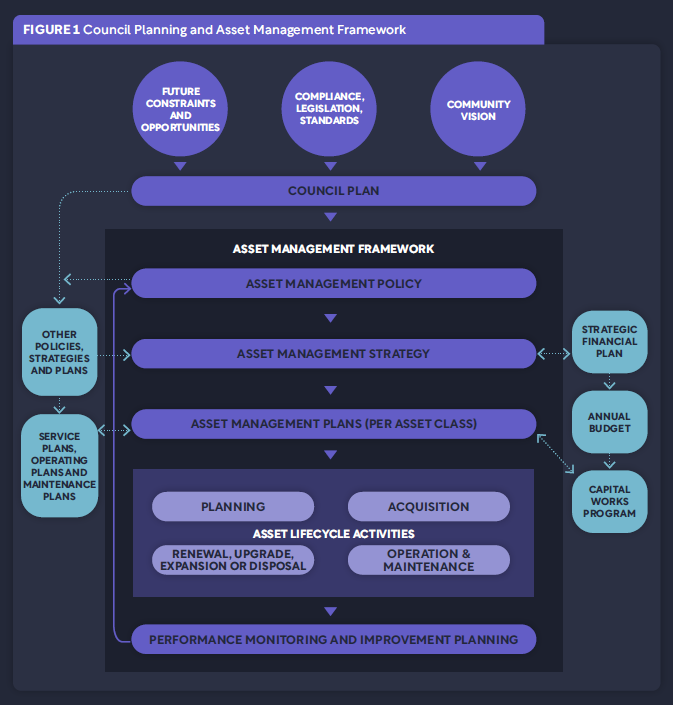
 A review of the current Asset Management Strategy has also been undertaken and proposed updates made based on current standards and guidelines, new asset data, expected growth, professional experience, utilisation of predictive modelling tools and learnings from the current strategy.

 In principle approval is now sought, in order to proceed with public exhibition of the draft documents for a period of 28 days.

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| Recommendation  **That Council:**  **1. Endorses, in principle, the** **Draft Asset Management Strategy and Asset Management Plans (4) provided as attachments to this Report, for the purpose of public exhibition.**  **2. Requests that a further report be presented to Council on completion of the exhibition process.** |

Background

Council’s infrastructure assets include, but are not limited to, the road and street network, underground drainage, buildings and facilities, and parks and recreational facilities, among others. Council seeks to ensure that these infrastructure assets are effectively managed to meet current and future service delivery goals.



The Asset Management (AM) Strategy is an integral part of Council’s planning framework (see figure 1 above) including the Council Plan, AM Policy, AM Strategy, and AM Plans for individual asset portfolios.

The Asset Management Strategy sets out the framework to assist Council to deliver sustainable and effective services and improve its Asset Management capabilities.

Asset Management Plans address all major asset groups and set out the general principles of life cycle asset management and summarise the asset management practices being implemented by Council.

Asset Management Plans have been developed for the following asset categories.

 **Transport Asset Management Plan (TAMP)**

Council’s current register contains $473.4M of roads, bridges, kerb and channels, path, car parks and traffic management devices owned and managed by Council.

 **Building Asset Management Plan (BAMP)**

Council’s current register contains $73.5M worth of buildings and structures, including halls, depots, libraries, offices, amenity blocks and shelters.

 **Stormwater Asset Management Plan (SAMP)**

Council’s current register contains $104.6M worth of water and drainage assets, including stormwater pits and pipes, bores and standpipes, tanks and dams and flood mitigation devices.

 **Open Space Asset Management Plan (OSAMP)**

Council’sw current register contains $17.05M worth of recreation and open space assets, including parks and reserves, play equipment, sports fields and courts.

Proposal

Following an internal review process, Council’s existing Asset Management Strategy and suite of Asset Management Plans (Transport, Buildings, Stormwater and Open Space) have been revised and updated drafts prepared. In principle approval is now sought in order to proceed with the public exhibition of the draft documents for a period of 28 days.

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 to provide in principle endorsement for the purpose of public exhibition is consistent with the Council Plan 2021-2025.

Financial Implications

There are no financial implications associated with the recommendation within this report.

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

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| **Level of Engagement** | **Stakeholder** | **Activities** | **Date** | **Outcome** |
| Consult | Council officers | Internal working group and Service Manager meetings to review and update documentation. | October 2021- January 2022 | Draft Asset Management Strategy and Asset Management Plans. |
| Consult | Councillors | Briefing of Councillors to provide an overview of the documentation. Report to Council seeking endorsement for public exhibition. | March 2022 | Endorsement of the draft documents. |
| Consult | Community | Public exhibition (28 days) of the updated draft documents to allow for review and feedback from the community (to be considered in finalising the plans). | March-April 2022 | Community feedback on the draft documents. |
| Consult | Councillors | Report to Council outlining the submissions received, providing an official response and overview of any recommended amendments. | June 2022 | Final draft document adopted by Council. |
| Inform | Community | Adopted document made publicly available on Council’s website. | June 2022 | Adopted documents made available. |

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 – Bivish Ghimire*

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

Conclusion

Following an internal review process, Council’s existing Asset Management Strategy and suite of Asset Management Plans (Transport, Buildings, Stormwater and Open Space) have been revised and updated drafts prepared. In principle approval is now sought, to proceed with the public exhibition of the draft documents to meet the Local Government Act requirement of adoption by 30 June 2022.

15 Other Reports

Nil.

16 Notices of Motion

Nil.

17 Notices of Rescission

Nil.

18 Mayor’s Report

18.1 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.

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| Recommendation  **That Council receives the Mayor’s Report.** |

19 Councillors’ Reports

20 Urgent Business

21 Closed Session of the Meeting to the Public

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| 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*:**  **21.1 Future of Aged Care Services in Moorabool**  This matter is considered to be confidential under Section 3(1) confidential information - (a) 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 Council business information, being information that would prejudice the Council's position in commercial negotiations if prematurely released.. |

22 Meeting Closure