



# **AGENDA**

## **Special Council Meeting Wednesday, 21 December 2022**

**I hereby give notice that a Special Meeting of Council will be held on:**

**Date: Wednesday, 21 December 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 PRESENT**

## **4 APOLOGIES**

## **5 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.

## **6 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.

## 7 CHIEF EXECUTIVE OFFICER REPORTS

### 7.1 DOMESTIC ANIMAL MANAGEMENT PLAN

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

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

**Attachments:**

1. Domestic Animal Management Plan 2021-2025 (under separate cover)
2. Domestic Animal Management Plan Community Consultation (under separate cover)

#### PURPOSE

To seek Council adoption of the Domestic Animal Management Plan 2021-2025.

#### EXECUTIVE SUMMARY

The *Domestic Animals Act 1994* ('the Act') requires that each municipal Council prepare a Domestic Animal Management Plan every four years and review annually.

The Domestic Animal Management Plan 2021-2025 (DAMP) (Attachment 1) has been developed in accordance with the legislative requirements.

The DAMP allows Council to:

- Undertake a consistent approach to animal management issues (dogs and cats) throughout the Shire; and
- Provides a strategic planning focus to the activities undertaken by Council in relation to domestic animal management.

#### RECOMMENDATION

**That Council:**

1. Resolves to adopt the Domestic Animal Management Plan 2021-2025.
2. Notes that Council officers will submit the Domestic Animal Management Plan 2021-2025 to the Secretary (State Government).

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#### BACKGROUND

Under the provisions of 68A of the *Domestic Animals Act 1994* (the Act), all Councils in Victoria are required to develop a Domestic Animal Management Plan (DAMP) which is to be reviewed and renewed every four years, with a new Plan to be submitted to the Secretary (State Government) by 4 December 2021. Council officers were granted by government an extension of 12 months to submit its DAMP.

The DAMP:

- Promotes responsible pet ownership and the welfare of dogs and cats in the community.
- Protects the community and the environment from nuisance dogs and cats.
- Identifies a method to evaluate whether the animal management services provided by Council are adequate.
- Outlines the training programs for Council's Authorised Officers to ensure these officers are capable in administering and enforcing the provisions of the Act.

The DAMP provides information on the daily operation of the Council, its current programs in place and the policies it has adopted for the following standards of animal management to:

- Promote and encourage responsible domestic pet ownership.
- Ensure that the community comply with the Act, the regulations and any other related legislation.
- Minimise the risk of dog attacks.
- Address over- population and high euthanasia rates.
- Encourage domestic pet registration and identification.
- Minimise the potential for domestic pets to create nuisance.
- Effectively identify all dangerous, menacing and restricted dog breeds in the Shire and ensure that those dogs are kept in compliance with the Act and the Regulations.
- Identify any other specific animal management issues within the Shire.

Council reviews the plan annually and publishes an evaluation of the implementation of its DAMP in Council's Annual Report.

The DAMP seeks to ensure that animals are managed within the community in a way that is beneficial to all. There is an increasing public view that punitive enforcement of laws alone will not result in lasting voluntary changes in behaviour. Therefore, enforcement of the Act and Council's Local Law No. 1 (2019) should be balanced with media and public education material for responsible animal management.

## **PROPOSAL**

In developing the DAMP, Council officers sought to balance the competing needs of animal owners, the broader community and the domestic animals that share people's lives. Council also recognises the positive health and wellbeing outcomes that arise from domestic animal ownership.

It is expected over the life of the DAMP there will be measurable improvements in animal welfare, responsible pet ownership and compliance with relevant legislation. The programs and activities set out in the DAMP have therefore been developed with the aim to encourage more people to enjoy the pleasure derived from animal companionship, within a framework of responsible ownership.

Consultation was undertaken with all stakeholders in July 2022 where Council received considerable input (34 responses) into the issues that people are facing and the priority areas they believe Council should be addressing.

The DAMP was developed to address these needs and priorities.

**COUNCIL PLAN**

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

**FINANCIAL IMPLICATIONS**

The DAMP is not designed to add additional costs to Council's Animal Management Service.

**RISK & OCCUPATIONAL HEALTH & SAFETY ISSUES**

The DAMP does not increase the level of risk faced by Council.

**COMMUNICATIONS & CONSULTATION STRATEGY**

A consultation plan was developed in accordance with the Moorabool Shire Council Community Engagement Framework.

The community were invited to provide their feedback and were able to do so through Council's "Have your Say" portal between 4 July 2022 to 18 July 2022. Thirty-four responses were received.

Council staff and service units were also provided to provide input during this process.

The results from the community engagement can be found at Attachment 2.

**VICTORIAN CHARTER OF HUMAN RIGHTS & RESPONSIBILITIES ACT 2006**

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

**OFFICER'S DECLARATION OF CONFLICT OF INTERESTS**

Under section 130 of the *Local Government Act 2020*, officers providing advice to Council must disclose any interests, including the type of interest.

*Executive Manager – Henry Bezuidenhout*

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

*Author – Andy Gaze*

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

**CONCLUSION**

The Domestic Animal Management Plan 2021-2025 seeks to improve the management of domestic animals within the community and recognises the important role domestic animals play in supporting the overall health of our community.

It is recommended that Council adopt the Domestic Animal Management Plan 2021-2025.

## **8 COMMUNITY STRENGTHENING REPORTS**

### **8.1 BACCHUS MARSH RACECOURSE RECREATION RESERVE LEASE AND LICENCE AGREEMENT UPDATE**

**Author:** Chloe Beech, Coordinator Sport and Active Recreation

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

**Attachments:** Nil

#### **PURPOSE**

The purpose of this report is to provide an update on the status of the leases and licence agreements for users of Bacchus Marsh Racecourse Recreation Reserve (BMRRR).

#### **EXECUTIVE SUMMARY**

BMRRR is a Council managed Reserve on Department of Environment, Land, Water and Planning (DELWP) land. All leases and licence agreements for users of the Reserve are between the stakeholder and Council and are executed by the Minister.

The status of executed leases and licence agreements for users of the Reserve are as follows:

- Bacchus Marsh Pony Club lease and licence agreement
- Bacchus Marsh BMX Club lease and licence agreement
- Bacchus Marsh Campdraft Club licence agreement
- Bacchus Marsh Cricket Club licence agreement
- Bacchus Marsh Soccer Club licence agreement
- Bacchus Marsh Harness Racing Club have an existing lease
- Bacchus Marsh West Golf Club (BMWGC) have an existing lease

The status of leases and licence agreements currently outstanding for users of the Reserve are as follows:

- Footscray and District Poultry Club Inc, and Bacchus Marsh and Melton Poultry Club Inc joint licensees licence agreement

#### **RECOMMENDATION**

**That Council:**

- 1. Approves officers to continue to work with all other stakeholders towards the amendment and execution of existing BMRRR leases and licence agreements.**
- 2. Approves offers to enter into and execute a joint licensee licence agreement with Footscray and District Poultry Club Inc, and Bacchus Marsh and Melton Poultry Club Inc.**

## BACKGROUND

Officers are working with stakeholders of the Reserve to execute outstanding licence agreements and leases. The status of the outstanding leases and licence agreements is as follows:

- Footscray and District, and Bacchus Marsh Melton Poultry Clubs do not currently have a lease or licence agreement to occupy their facilities. Council has sought legal advice on the most appropriate user agreement for the clubs and advice is recommending a joint licensee licence agreement for both Poultry Clubs. A licence agreement would provide Council flexibility to manage the public reserve and to enable broader community use into the future, should it be required.
- Bacchus Marsh Harness Racing Club have an existing lease. An amendment to the lease is being sought to include the requirement of community access to the proposed future development of the car park within the leased boundary and outlining the Club's responsibility for maintenance of the car park.
- Bacchus Marsh West Golf Club (BMWGC) have an existing lease. Officers are continuing to work with the BMWGC on potentially updating the terms of this existing lease agreement

## PROPOSAL

It is proposed Council note the report and approve officers to continue working with stakeholders to have all leases and licence agreements for use of BMRRR executed. Ongoing meetings with user groups and dialog with the landowner (DEWLP) will continue to ensure the agreements provided are consistent and in line with landowner expectations and external legal advice.

As the current land manager, Council has appointed an Advisory Committee for BMRRR made up of members from all user groups on site. The objective of this Advisory Committee is to provide advice to Council on matters relating to usage, operations, maintenance, and future development of the site. It is proposed that officers will work with stakeholders to review participation of user groups on this committee who do not have an executed lease or licence agreement.

## 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 3.1: Listen, analyse and understand community needs**

## FINANCIAL IMPLICATIONS

Executed leases and licence agreements outline the associated fee for the stakeholder's use of the Reserve. Without an executed lease or licence agreement in place an agreeable fee for use cannot be enforced.

Furthermore, legal fees associated with development of documents and advice on possible amendments or alterations to documents come at a cost to Council.

**RISK & OCCUPATIONAL HEALTH & SAFETY ISSUES**

Risk Identifier	Detail of Risk	Risk Rating	Control/s
Insurance risk	Stakeholders using the Reserve without an executed agreement in place pose an insurance risk to Council should a claim be required	High	Execution of all leases and licence agreements
Financial – Legal fees	Significant cost to Council in legal advice and fees on outstanding agreements	Medium	Execution of all leases and licence agreements
Reputation	Risk of stakeholders using media or political outlets to disclose contents of leases and licence agreements	Medium	Execution of all leases and licence agreements

**COMMUNICATIONS & CONSULTATION STRATEGY**

Level of Engagement	Stakeholder	Activities	Location	Date	Outcome
Consult	BMRRR stakeholders	Stakeholders issued with draft lease or licence agreement. Meeting arranged to discuss contents and allow opportunities for questions	In person/ Microsoft Teams	October 2021 – July 2022	Execution of some leases and licence agreements.

**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 – Leigh McCallum*

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**

Officers will continue to work with BMRRR user groups that have an outstanding lease or licence agreement for use and access to the reserve, to ensure that an executed agreement is in place.

Legal advice has been obtained on each lease and licence agreement prior to the development of the documents and them being issued to stakeholders.

## 9 URGENT BUSINESS

### RECOMMENDATION

**That Council resolves to admit the item of urgent business in relation to Councillor Allowances.**

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### 9.1 COUNCILLOR ALLOWANCES

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

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

**Attachments:** Nil

### PURPOSE

To review Councillor allowances to bring them in line with the Victorian Independent Remuneration Tribunal Review.

### EXECUTIVE SUMMARY

- The Victorian Independent Remuneration Tribunal released the Allowances payable to Mayors, Deputy Mayors and Councillors (Victoria) effective from 18 December 2022.
- As a designated Category 2 Council, the current maximum Mayoral, Deputy Mayoral and Councillor Allowances are set at \$100,637, \$50,319 and \$31,353 effective 18 December 2022 inclusive of 10% superannuation, being the equivalent of superannuation guarantee contribution
- This is an increase of 1.5% on the previous year's allowances contained in the report presented to Council on 30 November 2022.
- At the recent MAV Mayoral Induction meeting it was reported that 69 of the 79 Victorian LGA's appointed a Deputy Mayor.

### RECOMMENDATION

**That Council resolves to receive the report on the updated Mayoral and Councillor Allowances noting that effective 18 December 2022 allowances are set at \$100,637pa (Mayor), \$50,319pa (Deputy Mayor) and \$31,353pa (Councillors), including 10% superannuation (equivalent of superannuation guarantee contribution) until 17 December 2023.**

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### BACKGROUND

Councillor allowance payments are paid monthly in advance between the period of 18 December to 17 December annually. At the Annual Statutory Meeting of Council held on 30 November 2022,

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Council resolved on the allowance payable to each Councillor and Mayor. In addition, a report was requested for Council within 3 months detailing the Victorian Independent Remuneration Tribunal Review dated 18 December 2022, including benchmarking against similar Councils. Since the presentation of this report an updated allowance schedule has been developed by the Victorian Independent Remuneration Tribunal and Council has investigated the practice of adopting a Deputy Mayor with the payment made in line with the Tribunal's recommendation.

### **PROPOSAL**

The Determination is the allowance payable to Mayors, Deputy Mayors and Councillors (Victoria) Determination No. 01/2022 and is made under Part 3 of the Victorian Independent Remuneration Tribunal and Improving Parliamentary Standards Act 2019 (Vic) by the Victorian Independent Remuneration Tribunal.

### **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 3.5: Be recognised for demonstrating a culture of excellence, creativity and inclusiveness**

### **FINANCIAL IMPLICATIONS**

Provision for the application of Mayoral and Councillor allowances has been made in Council's Annual Budget.

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

There are no identified Risks or OH&S implications as a result of presenting this report.

### **COMMUNICATIONS & CONSULTATION STRATEGY**

<b>Level of Engagement</b>	<b>Stakeholder</b>	<b>Activities</b>	<b>Location</b>	<b>Date</b>	<b>Outcome</b>
Consult	Other Councils	Review of Annual Reports and direct contact with other local Councils	Various	December 2022	Conclusion was that majority of Councils contacted paid the Deputy Mayor Allowance

### **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.

*CEO – Derek Madden*

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

*Author – Dianne Elshaug*

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

**CONCLUSION**

It is recommended that Council note the prevailing Mayoral, Deputy Mayoral and Councillor allowances.

## 10 CLOSED SESSION OF THE MEETING TO THE PUBLIC

### RECOMMENDATION

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

#### **10.1 Australia Day Award Selection Panel Recommendations**

This matter is considered to be confidential under Section 3(1) confidential information - (f) 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 personal information, being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs.

#### **10.2 C09-2022/2023 Taverner Street, Bacchus Marsh Road Reconstruction Contract**

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

#### **10.3 C20-2022/2023 Bacchus Marsh Racecourse Recreation Reserve Stage 2 – Play Space Construction Contract**

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

#### **10.4 C15-2022/2023 Bacchus Marsh Shared User Path (Aqualink) Landscaping and Signage Contract**

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

**10.5 C08-2022/2023 Collection and Transportation of Kerbside Garbage, Recyclables and Green Waste Services Contract**

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

**10.6 C23-2022/2023 West Maddingley Early Years & Community Hub Construction Services Contract**

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

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## **11 MEETING CLOSURE**